

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF DONAVON INDOVINO CAWLEY REGARDING THE VOTE DUCKWORTH (ZACH) COMMITTEE

On October 30, 2020, the Campaign Finance and Public Disclosure Board received a complaint submitted by Donavon Indovino Cawley regarding the Vote Duckworth (Zach) committee. Vote Duckworth (Zach) is the principal campaign committee of Zach Duckworth, a candidate for Minnesota Senate District 58. The complaint alleges multiple violations of Minnesota Statutes Chapter 10A.

The complaint alleges that the Duckworth committee ran a Facebook advertisement supporting Seth Lewis, an Illinois House of Representatives candidate. The complaint includes a screenshot indicating that the advertisement began running on October 26, 2020, and included the language "Paid for by Vote Duckworth" in the disclaimer. The complaint alleges that the advertisement was a contribution from the Duckworth committee to a candidate in a different state made in violation of Minnesota Statutes section 10A.27, subdivision 9.

The complaint next alleges that the Duckworth committee failed to disclose several expenditures or noncampaign disbursements. Failure to disclose all expenditures and noncampaign disbursements is a violation of the reporting requirements in Minnesota Statutes section 10A.20. The complaint specifically claims that the committee failed to disclose expenditures made for Facebook advertisements in August, September, and October of 2020. The complaint includes screenshots indicating that in addition to the Lewis advertisement referenced above, the committee began running separate Facebook advertisements on September 8 and September 15, 2020. The screenshots reflect that the Facebook advertisement that began running on September 15, 2020, cost at least \$2,000. The committee's 2020 pre-general report of receipts and expenditures, which covers the time period from January 1 through October 19, 2020, only disclosed expenditures paid to Facebook of \$500 on June 15 and \$199.99 on June 30.

The complaint alleges that the Duckworth committee failed to report the amount paid for Mr. Duckworth's filing fee. The complaint also claims that the committee held a fundraising event and an ice cream social but did not disclose any expenditures or other disbursements accounting for the costs incurred for those events. The complaint includes screenshots indicating that the fundraising event was held July 19, 2020, and included appetizers and drinks, and the ice cream social was held on September 13, 2020.

The complaint also alleges that the Duckworth committee failed to report expenditures for rebar, posts, and wood frames used to display the committee's campaign signs. The complaint includes a photograph of a sign containing the committee's logo which appears to be secured to

a wooden frame. The committee's 2020 pre-general report disclosed expenditures of \$358.87 and \$1,245.33, each paid to the same vendor, that were described as "lawn signage" and "signage," respectively.

In addition to the general reporting allegations, the complaint also specifically alleges that by failing to report expenditures or noncampaign disbursements accounting for the cost or value to the committee of the Facebook advertisements, the filing fee, food and beverages provided at its campaign events, and rebar, posts, and wood used to display the committee's signs, the Duckworth committee violated Minnesota Statutes section 10A.13. That provision requires that a treasurer keep accounting records for each expenditure, as well as for each contribution received in excess of \$20.

Lastly, the complaint alleges that the Duckworth committee failed to timely disclose the cost of the committee's website. The committee's 2020 pre-general report disclosed a single \$700 expenditure dated August 17, 2020, paid to NationBuilder and described as "database management." The complaint includes a screenshot of the website's registration data, which indicates that the website is hosted by NationBuilder and was created in August 2018. The complaint also includes a hyperlink to NationBuilder's website, which lists the company's standard plans and pricing. NationBuilder's website lists plans with a minimum cost of \$29 per month. The complaint alleges that the \$700 expenditure does not match the pricing plans offered by NationBuilder. In addition to the general reporting allegation, the complaint also specifically claims that by disclosing a single \$700 expenditure related to its website dated August 17, 2020, the committee violated Minnesota Statutes section 10A.18, which requires vendors to bill principal campaign committees within 60 days after goods or services are provided to the committee.

Determination

Contribution to Another Candidate

Minnesota Statutes section 10A.27, subdivision 9, paragraph (d), states that a "candidate or the treasurer of a candidate's principal campaign committee must not make a contribution from the principal campaign committee to a candidate for political subdivision office in any state." The complaint alleges and provides evidence that the Duckworth committee ran a Facebook advertisement supporting a candidate for Illinois House of Representatives. The chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 10A.27, subdivision 9.

Accounting

Minnesota Statutes section 10A.13 requires that the treasurer of a principal campaign committee "keep an account of" various transactions including "the name and address of each source of a contribution made to the committee ... in excess of \$20, together with the date and amount of each" and "each expenditure made by the committee ... together with the date and

amount.” Minnesota Statutes section 10A.13 also requires that a treasurer “obtain a receipted bill, stating the particulars” for each expenditure made to a vendor if the total amount of expenditures made to that vendor exceeds \$100. The complaint does not allege that the Duckworth committee failed to keep any accounting records required by Minnesota Statutes section 10A.13. The chair therefore concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.13.

Timely Rendering of Bills

Minnesota Statutes section 10A.18 states that a vendor owed money by a principal campaign committee “must render in writing to the treasurer of the committee ... the bill, charge, or claim within 60 days after the material or service is provided.” That provision does not impose any obligation on a principal campaign committee and the complaint does not allege that any vendor failed to timely bill the Duckworth committee for goods or services provided to the committee. The chair therefore concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.18.

Reporting

Minnesota Statutes section 10A.20, subdivision 3, requires that a principal campaign committee’s periodic campaign reports disclose, among other items, each contributor that has given contributions in excess of \$200 and each vendor to which expenditures or noncampaign disbursements have been made in excess of \$200, along with the date and amount of each of those contributions, expenditures, and noncampaign disbursements. Minnesota Statutes section 10A.20, subdivision 3, also requires that periodic reports disclose the sum of all contributions, expenditures, and noncampaign disbursements made by the committee during the reporting period.

The complaint alleges and provides evidence that the Duckworth committee made expenditures for Facebook advertisements in excess of \$200 that were not itemized as required within its 2020 pre-general report. The complaint alleges that someone paid a \$100 filing fee in order for Mr. Duckworth to appear on the ballot. Whether paid directly by the committee or by someone else, which would constitute an in-kind contribution to the committee, a filing fee should be classified as a noncampaign disbursement pursuant to Minnesota Statutes section 10A.01, subdivision 26, paragraph (a), clause (15). The committee did not disclose any noncampaign disbursements on its 2020 pre-primary or pre-general reports aside from payment processing fees. The complaint also alleges and provides evidence that the committee made expenditures related to its website prior to August 17, 2020, the date provided for the \$700 expenditure made to NationBuilder itemized on the committee’s 2020 pre-general report. The chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 10A.20, subdivision 3, with respect to the committee’s Facebook advertisements, payment of Mr. Duckworth’s filing fee, and the cost of the committee’s website.

The complaint alleges and provides evidence that the Duckworth committee held a fundraising event and an ice cream social, and that costs were incurred to provide food and beverages at those events. However, the complaint does not provide any evidence indicating that the appetizers, beverages, and ice cream served at the events were not in-kind donations of \$20 or less that do not have to be reported under Minnesota Statutes section 10A.13. In addition, the committee's 2020 pre-general report disclosed \$334.38 in non-itemized cash expenditures, which could account for the food expenses. Similarly, the committee's 2020 pre-general report itemized \$1,604.20 in expenditures related to its campaign signs, which likewise could include the cost of the rebar, posts, and frames. Because these allegations require speculation to support the assertion that a violation occurred, the chair concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.20, subdivision 3, with respect to the two events referenced in the complaint and materials used to display the committee's campaign signs.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, this prima facie determination is made by a single Board member and not by any vote of the entire Board. This prima facie determination does not mean that the Board has commenced, or will commence, an investigation or has made any determination of a violation by any of the individuals or entities named in the complaint.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, within 45 days of the date of this determination, the Board will make findings and conclusions as to whether probable cause exists to believe that the violations of Minnesota Statutes sections 10A.27, subdivision 9, and 10A.20, subdivision 3, alleged in the complaint warrant a formal investigation. The complainant and the respondent named in this prima facie determination will be given an opportunity to be heard by the Board prior to any decision on probable cause.

Until the Board makes a public finding or enters into a conciliation agreement, this matter is subject to the confidentiality requirements of Minnesota Statutes section 10A.022, subdivision 5.

/s/ Gary Haugen
Gary Haugen, Chair
Campaign Finance and Public Disclosure Board

Date: November 10, 2020