

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE COMPLAINT OF JAMES C. PARSONS REGARDING THE THEIS (TAMA) FOR SENATE COMMITTEE

Background

On November 4, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by James Parsons regarding the Theis (Tama) for Senate committee, Board registration number 18895. Theis (Tama) for Senate is the principal campaign committee of Tama Theis, a candidate for Minnesota Senate District 14.¹ The complaint alleged, and provided evidence, that the Theis committee purchased thousands of dollars of radio advertisements that should have been, but were not, included within the Theis committee's 2022 pre-general report of receipts and expenditures. On November 21, 2022, the Board chair determined that the complaint stated a prima facie violation of the reporting requirements under Minnesota Statutes section 10A.20, subdivision 3. The Board chair determined that the complaint did not state a prima facie violation of Minnesota Statutes section 10A.025, subdivision 2, because it did not allege that Ms. Theis certified a report knowing that it was false or omitted required information.

On November 23, 2022, the Board received a supplemental complaint submitted by Mr. Parsons. The supplemental complaint alleged that Ms. Theis certified her committee's original 2022 pre-general report of receipts and expenditures knowing that it was false or omitted required information. This allegation is based on a large amount of contributions and expenditures disclosed on the committee's amended pre-general report that were not included on the pre-general report initially filed by the committee. On November 28, 2022, the Board's vice chair determined that the supplemental complaint stated a prima facie violation of Minnesota Statutes section 10A.025, subdivision 2, by Ms. Theis. The original and supplemental complaints are referenced herein collectively as the complaint.

The 2022 pre-general report covers the period from January 1 through October 24, 2022. The Theis committee's original 2022 pre-general report was filed the day that it was due, October 31, 2022, and an amended 2022 pre-general report was filed two days later on November 2, 2022. Each report was certified and filed by Ms. Theis, who was the committee's treasurer and has been listed as the committee's treasurer within its registration and statement of organization since the committee registered with the Board in April of 2022.

The complaint alleged that the Theis committee purchased radio advertisements from Townsquare Media that aired during the period from September 12, 2022, through the date the

¹ While Ms. Theis has a separate principal campaign committee, Tama Theis for Minnesota House, Board registration number [17635](#), all references herein to the Theis committee concern the Senate committee.

original complaint was filed. The complaint asserted that the expenditures related to those advertisements should have been, but were not, included within the Theis committee's original or amended 2022 pre-general report of receipts and expenditures. The complaint alleged that the Theis committee thereby violated the reporting requirements within Minnesota Statutes section 10A.20, subdivision 3.

The complaint contained hyperlinks to the FCC public inspection files of five radio stations, including KZRV-FM (96.7 The River),² WJON-AM (AM 1240),³ KMXX-FM (Mix 94.9),⁴ WWJO-FM (98.1 Minnesota's New Country),⁵ and KXSS-AM (AM 1390 Granite City Sports).⁶ The FCC public inspection files pertain to radio advertisements that were scheduled to run from September 12 through November 5 or 7, 2022. The FCC public inspection files include five invoices totaling \$2,603 for the amounts billed for advertisements that aired through September 30, 2022. Each invoice reflects that the amount billed was paid on or before October 25, 2022. The billing address on each invoice appears to match the address that Ms. Theis provided for herself when the Theis (Tama) for Senate committee was registered with the Board in April 2022. The FCC public inspection files also include five contracts signed by Ms. Theis on June 29, 2022, with the radio stations listed above, each of which is owned by Townsquare Media. The Theis committee's 2022 pre-general report, as amended on November 2, 2022, does not include expenditures or advances of credit paid or payable to Townsquare Media.

The amended pre-general report filed on November 2, 2022, includes \$46,856.28 in campaign expenditures that were not included within the original report that was filed two days earlier. The amended report includes campaign expenditures totaling \$60,228.75, meaning that 77.8% of the campaign expenditures included within the amended report were not included in the original report, despite those reports covering the same time period. The amended report also includes \$1,300 in contributions received that were not included within the original report.

Some of the expenditures that were included in the amended report, but not the original report, were reportedly made in July, August, or September, weeks or months before the 2022 pre-general report was due on October 31, 2022, and some of those expenditures were for several thousand dollars. The complaint asserted that "it is not reasonable to believe" that those expenditures "were not known to the candidate and treasurer (the same person, in this case) at the time the pre-General report was submitted."

On December 5, 2022, the Board received a statement from R. Reid LeBeau II, legal counsel for the Theis committee. Mr. LeBeau argued that Mr. Parsons "has not submitted sufficient

² publicfiles.fcc.gov/fm-profile/KZRV/political-files/2022/state/theis-tama/d8d266da-8670-8462-8c25-af083dc36ed6

³ publicfiles.fcc.gov/am-profile/WJON/political-files/2022/state/theis-tama/d390da1f-01bd-661a-be45-ee613ea02061

⁴ publicfiles.fcc.gov/fm-profile/KMXX/political-files/2022/state/theis-tama/7226f4c1-8fae-cdff-db87-c465012f1d56

⁵ publicfiles.fcc.gov/fm-profile/WWJO/political-files/2022/state/theis-tama/2c283e17-93c8-c413-df6b-03064f910760

⁶ publicfiles.fcc.gov/am-profile/KXSS/political-files/2022/state/theis-tama/87013e08-1fca-d9c2-ef12-feed2ac1e53a

evidence to support that any alleged omission was made knowingly,” and requested that the “Board find that no probable cause exists to conduct a formal investigation of the matter.”

The Board considered this matter at its meeting on December 15, 2022. Mr. Parsons appeared before the Board and provided a written statement summarizing his comments to the Board. The Board determined that there was probable cause to believe that the Theis committee violated the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, and that Ms. Theis violated both the false certification provision within Minnesota Statutes section 10A.025, subdivision 2, and the requirement to promptly amend a report after becoming aware of an inaccuracy under Minnesota Statutes section 10A.025, subdivision 4.

On January 4, 2023, the Board issued an amended probable cause determination correcting an error within the original probable cause determination regarding who appeared before the Board during its December 2022 meeting.

On December 19, 2022, Board staff sent a letter seeking additional information from Mr. LeBeau. On January 11, 2023, Mr. LeBeau provided a response. Mr. LeBeau stated that

Representative Theis did certify the pre-general report knowing the information was omitted. However, Representative Theis did not become aware of any omission until the evening the reports were due. Since she did not want to be late in reporting, Representative Theis submitted the reports and contacted Melissa Stevens as soon as possible because Representative Theis did not have time to immediately fix the issue.

Mr. LeBeau explained that until September of 2022, another individual entered most of the Theis committee’s receipts and expenditures within the Campaign Finance Reporter software. Mr. LeBeau stated that when that individual experienced health issues, Ms. Theis took over “and did not understand that the expenditures were missing from the report.” Mr. LeBeau said that Ms. Theis “was greatly struggling with the loss of her mother, who passed away in June,” and the reporting problems “were not intentional and were a result of emotional turmoil she was facing at the time, coupled with health issues within her staff.”

Mr. LeBeau noted that Ms. Theis contacted Board staff on November 1, 2022, stating that “[t]here was a miscommunication between my treasurer and myself regarding my report. I will be filing an amendment tonight or tomorrow.” On November 2, 2022, Board staff assisted Ms. Theis with correcting one of the committee’s receipts. Later that day, Ms. Theis emailed Board staff stating “I noticed that my treasurer had entered charge payments that I had not paid yet, so I turned them to 0.00. That gave me the negative balance and I couldn’t complete the report.” Board staff emailed Ms. Theis back minutes later, explaining “I think that you still need to enter them but show them as unpaid. After they are paid you can change them to paid. Try this and see if this fixes the problem.” Ms. Theis filed her committee’s amended 2022 pre-general report later that same day.

Mr. LeBeau stated that

Representative Theis did purchase radio advertisements on or before October 24, 2022 that were broadcasted on stations owned by Townsquare Media of St. Cloud, Inc. However, Representative Theis reported those expenditures in the same manner that she reported charged payments in her business, per instructions by her CPA. Representative Theis was not aware she reported these incorrectly. The expenses were paid by credit cards because her bank did not allow her to use debit cards for large purchases. The total cost was \$7,006.00.

...

Representative Theis has not filed an amendment because she does not understand what the Board is requiring with the amendment. Representative Theis had cash flow challenges and did not feel she should enter expenses that had not left her checking account. Representative Theis intends to call for verification about how to proceed with an amendment. Likewise, Representative Theis will likely have to take out a personal loan to cover these costs.

On January 31, 2023, Ms. Theis filed a 2022 year-end report that includes a \$7,006 expenditure dated August 31, 2022, paid to Townsquare Media for radio advertisements. The Board considered this matter at its meeting on February 8, 2023.

Analysis

False Certification

Minnesota Statutes section 10A.025, subdivision 2, provides that “[a]n individual shall not sign and certify to be true a report or statement knowing it contains false information or knowing it omits required information.” Ms. Theis has acknowledged certifying her committee’s original 2022 pre-general report knowing that it omitted required information. False certification is a serious violation, and is particularly serious in this instance. The pre-general report is filed shortly before the general election and is reviewed and often relied upon by political opponents, the media, and members of the public, particularly when the election is expected to be competitive, as was the case with Ms. Theis and her opponent. Also, the total value of the transactions that were omitted from the Theis committee’s original 2022 pre-general report is substantial.

However, Ms. Theis contacted Board staff the day after the original 2022 pre-general report was filed explaining that she needed to amend the report, she worked with Board staff to address problems that she encountered, and an amended report was filed two days after the report was due. Mr. LeBeau also explained significant mitigating factors that contributed to Ms. Theis initially filing an inaccurate report, including grief regarding the loss of her mother and

miscommunication following a transition in who was responsible for entering transactions within the Campaign Finance Reporter software.⁷

Reporting

Minnesota Statutes section 10A.01, subdivision 3, defines advance of credit to mean “any money owed for goods provided or services rendered.” Minnesota Statutes section 10A.20, subdivision 3, requires that a principal campaign committee’s periodic campaign reports include all expenditures made, advances of credit incurred, and contributions and other receipts received through the end of the applicable reporting period. Paragraph (j) of that subdivision provides that a “report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven.” That is accomplished within the Board’s Campaign Finance Reporter software by entering an expenditure using the date the expense was incurred and labeling the expenditure as an unpaid bill.⁸

Minnesota Statutes section 10A.20, subdivision 13, provides that when a report includes an itemized campaign expenditure “that is a reimbursement to a third party,” the report must include

the purpose of each expenditure or disbursement for which the third party is being reimbursed. In the alternative, the reporting individual or association may report individually each of the underlying expenditures being reimbursed. An expenditure or disbursement is a reimbursement to a third party if it is for goods or services that were not directly provided by the individual or association to whom the expenditure or disbursement is made. Third-party reimbursements include payments to credit card companies and reimbursement of individuals for expenses they have incurred.

Minnesota Statutes section 10A.179, subdivision 1, paragraph (b), provides that

(b) When a committee reimburses an individual or association for an expenditure or noncampaign disbursement that requires itemization on a report of receipts and expenditures and chooses under section 10A.20, subdivision 13, to report the expenditure or noncampaign disbursement as a reimbursement to a third party, the committee must disclose the following information on the report:

(1) the name and address of the individual or association to which reimbursement was made;

⁷ The Board most recently imposed civil penalties for false certification via findings issued in 2019, available at cfb.mn.gov/pdf/bdactions/1495_Findings.pdf. In that instance the Board imposed a civil penalty of \$150 against the treasurer, and a civil penalty of \$750 against the committee, which is the amount of the late fee the committee would have incurred had a false report not been filed, stopping the accrual of the late filing fee. The circumstances in that instance were different in that the report in question was the year-end report of a candidate who was not on the ballot during the year in question, and the total amount of omitted transactions was less than \$10,000.

⁸ An advance of credit is more commonly referred to as an unpaid bill, and those terms are used interchangeably.

- (2) the name and address of the vendor supplying the good or service for which reimbursement was made;
- (3) the date of the expenditure or noncampaign disbursement for which reimbursement was made;
- (4) the date of the reimbursement;
- (5) a description of the specific good or service purchased; and
- (6) if the reimbursement was for a noncampaign disbursement, the specific noncampaign disbursement category in section 10A.01, subdivision 26, that is applicable to the good or service for which reimbursement was made.

Minnesota Rules 4503.0600, subpart 2 provides that

A treasurer who reimburses a credit card company for campaign expenditures or noncampaign disbursements that require itemization on a report of receipts and expenditures under Minnesota Statutes, section 10A.20, must disclose the purpose and the name and address of the vendor supplying the good or service for which payment is made.

Because itemized expenditures made using a credit card require a committee to disclose the name and address of the underlying vendor, many committees choose to report expenditures made using a credit card via the alternative method permitted by Minnesota Statutes section 10A.20, subdivision 13. When a personal credit card is used and the credit card bill has yet to be paid, the cardholder should be listed within the Campaign Finance Reporter software as the entity to whom the unpaid bill is owed.

Failure to amend

Minnesota Statutes section 10A.025, subdivision 4, provides that “[m]aterial changes in information previously submitted and corrections to a report or statement must be reported in writing to the board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy.”

Ms. Theis was provided a letter from Board staff, a copy of the original complaint, and the first prima facie determination on November 22, 2022. The prima facie determination stated that “[t]he complaint alleges and includes evidence that the Theis committee did not include expenditures or advances of credit paid or payable to Townsquare Media for radio advertisements that aired during the period from September 12 through October 24, 2022, within its original or amended 2022 pre-general report.” The letter stated that “if you become aware of an inaccuracy within a previously filed report, an amended report must be filed within ten days pursuant to Minnesota Statutes section 10A.025, subdivision 4.”

Ms. Theis was provided a letter from Board staff, a copy of the supplemental complaint, and the second prima facie determination on November 29, 2022. The letter stated that “if you become aware of an inaccuracy within a previously filed report, an amended report must be filed within ten days pursuant to Minnesota Statutes section 10A.025, subdivision 4.” Board staff spoke with Ms. Theis by phone that same day and explained that purchases made using a credit card

must be reported as having occurred on the date that the expense was incurred, regardless of when the credit card bill is paid, and that unpaid expenses should be reported as unpaid bills.

The probable cause determination made in this matter, which was provided to counsel for the Theis committee on December 16, 2022, refers to contracts signed by Ms. Theis on June 29, 2022, for radio advertisements purchased from stations owned by Townsquare Media of St. Cloud, and states that the “complaint alleges, and Board records reflect, that the Theis committee’s 2022 pre-general report, as amended, does not include expenditures or advances of credit paid or payable to Townsquare Media.”

According to the Theis committee, it incurred \$7,006 in expenses for radio advertisements purchased from Townsquare Media of St. Cloud prior to October 24, 2022, the end of the reporting period included within the 2022 pre-general report. Those expenses were billed to a credit card and the credit card bill was not paid in 2022. Therefore, Ms. Theis was required to include one or more advances of credit accounting for the \$7,006 in advertisements purchased from Townsquare Media of St. Cloud within the Theis committee’s 2022 pre-general report. After Ms. Theis became aware that the amended 2022 pre-general report omitted the cost of the radio advertisements purchased from Townsquare Media of St. Cloud, and was informed that unpaid bills must be reported as having occurred on the date that the expense was incurred, irrespective of when payment is made, Ms. Theis was required to file an amended 2022 pre-general report correcting that omission. The omission was corrected when the Theis committee’s 2022 year-end report was filed on January 31, 2023.

Based on the above background and analysis, the Board makes the following:

Findings of Fact

1. Theis (Tama) for Senate is the principal campaign committee of Tama Theis, a candidate for state senator. Ms. Theis was first elected to the Minnesota House of Representatives in 2013.
2. Throughout the time that the committee has been registered with the Board, Ms. Theis has served as the Theis committee’s treasurer.
3. The Theis committee’s original 2022 pre-general report of receipts and expenditures, filed on October 31, 2022, omitted approximately \$46,856.28 in expenditures, \$7,006 in advances of credit, and \$1,300 in contributions received on or before October 24, 2022.
4. Ms. Theis signed and certified the Theis committee’s original 2022 pre-general report to be true knowing it omitted required information.
5. Ms. Theis contacted Board staff one day after filing the original 2022 pre-general report, stated that she needed to amend the report, and filed an amended report on November 2, 2022, which included the transactions referenced in paragraph 3 above, except for \$7,006 in advances of credit.

6. Ms. Theis was experiencing grief following the loss of her mother and there was miscommunication after an individual who was assisting the committee with its reporting obligations experienced health issues in September of 2022. Those factors contributed to Ms. Theis's decision to certify the original 2022 pre-general report as true, rather than wait until she was able to correct the problems and incur a late filing fee.
7. The Theis committee purchased \$7,006 in radio advertisements from Townsquare Media of St. Cloud. Although not all of the radio advertisements aired on or before October 24, 2022, the last day included within the reporting period covered by the 2022 pre-general report, all of the advertisements were purchased on or before October 24, 2022.
8. On November 2, 2022, Board staff explained to Ms. Theis by email that expenses that have not yet been paid need to be classified as unpaid bills within the Campaign Finance Reporter software, rather than being zeroed out. The Theis committee's amended 2022 pre-general report, filed that same day, did not include advances of credit accounting for \$7,006 in radio advertisements purchased from Townsquare Media of St. Cloud.
9. The first prima facie determination made in this matter, which was provided to Ms. Theis on November 22, 2022, stated that the Theis committee did not include expenditures or advances of credit paid or payable to Townsquare Media for specific radio advertisements within its 2022 pre-general report, as amended. Letters that accompanied that prima facie determination, and a second prima facie determination provided to Ms. Theis on November 29, 2022, notified Ms. Theis in general terms of the need to file an amended report if she became aware of an inaccuracy.
10. On November 29, 2022, Board staff explained to Ms. Theis by phone that purchases made using a credit card must be reported as having occurred on the date that the expense was incurred.
11. The original probable cause determination made in this matter, which was provided to counsel for the Theis committee on December 16, 2022, stated that Board records reflect that the Theis committee's 2022 pre-general report, as amended, omitted expenditures or advances of credit paid or payable to Townsquare Media of St. Cloud.
12. On January 31, 2023, Ms. Theis filed a 2022 year-end report that includes a \$7,006 expenditure accounting for the radio advertisements purchased from Townsquare Media of St. Cloud.

Based on the above analysis and findings of fact, the Board makes the following:

Conclusions of Law

1. Tama Theis violated Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), when she signed and certified to be true the Theis (Tama) for Senate committee's original 2022 pre-general report of receipts and expenditures, filed on October 31, 2022.
2. The Theis committee failed to include a variety of expenditures made, advances of credit incurred, and contributions received, within its original 2022 pre-general report of receipts and expenditures, filed on October 31, 2022, in violation of Minnesota Statutes section 10A.20, subdivision 3. With the exception of \$7,006 in advances of credit, those omissions were remedied by the amended 2022 pre-general report filed on November 2, 2022.
3. Ms. Theis violated Minnesota Statutes section 10A.025, subdivision 4, when she failed to file an amended 2022 pre-general report for the Theis committee within 10 days after being notified that the report, as amended, omitted specific expenses paid or payable to Townsquare Media of St. Cloud. The evidence in the record does not establish that this violation was willful.

Based on the above findings of fact and conclusions of law, the Board issues the following:

Order

1. A civil penalty of \$500 is assessed against Tama Theis for violating Minnesota Statutes section 10A.025, subdivision 2, paragraph (b). This civil penalty may be paid by the Theis (Tama) for Senate committee or by Ms. Theis using her personal funds
2. A civil penalty of \$100 is assessed against the Theis committee pursuant to Minnesota Statutes section 10A.025, subdivision 2, paragraph (e). This penalty is assessed due to the violation of Ms. Theis, the committee's treasurer, and because the committee would have incurred a late filing fee of \$100 if the original 2022 pre-general report of receipts and expenditures had not been filed on October 31, 2022.
3. The Board declines to impose a late filing fee pursuant to Minnesota Statutes section 10A.025, subdivision 4, for failing to promptly amend the Theis committee's amended 2022 pre-general report to include advances of credit incurred for advertisements purchased from Townsquare Media of St. Cloud.
4. Payment of the civil penalties must be made within 30 days of the date of this order by check or money order payable to the State of Minnesota.

5. If Ms. Theis and the Theis committee do not comply with this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
6. The investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ George W. Soule
George W. Soule, Chair
Campaign Finance and Public Disclosure Board

Date: February 8, 2023