

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF MATT STEVENS REGARDING THE DUFF (ALAN) 4 HOUSE COMMITTEE, THE MN TEA PARTY ALLIANCE, AND THE NEW LEADERSHIP PAC

On August 1, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Matt Stevens regarding the Duff (Alan) 4 House committee, the MN Tea Party Alliance, and the New Leadership PAC. The Duff 4 House committee is the principal campaign committee of Alan Duff in his bid for a seat in the House of Representatives for district 31A. The other two respondents are general purpose political committees registered with the Board.

The complaint alleges the following violations:

1. Certain expenditures reported by the political committees as independent expenditures did not meet the statutory requirements to constitute independent expenditures and, thus, constitute contributions to the candidate's principal campaign committee;
2. The aforementioned contributions exceed the limit on contributions that each political committee may make to a candidate's committee;
3. The subject contributions are improperly reported on the political committees' reports as independent expenditures when they should be reported as contributions to the candidate;
4. The contributions are not reported by the candidate;
5. Because the subject communications were not independent expenditures, the political committees' representations that they were independent expenditures are false; and
6. If the subject communications constitute independent expenditures, then at least some of them fail to include the required independent expenditure disclaimer language.

Determination:

The complaint is based on allegations that relationships between the respondents preclude the subject communications from meeting the statutory requirements for independent expenditures.

The complaint further alleges that because the expenditures were not independent, "they are in fact campaign contributions to Duff (Alan) 4 House that exceed the contribution limits established by law."

Based on the reports filed by the political committee respondents, it is clear that the subject expenditures were made to third parties rather than being monetary contributions made directly

to the Duff committee. If the subject expenditures were not made entirely independently of the Duff committee they constitute contributions in the form of approved expenditures.

Pursuant to Minnesota Statutes section 10A.01, subdivision 4, an approved expenditure is

an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

Conversely, subdivision 18 of the same section requires that to be an independent expenditure, the expenditure must be made

without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent.

The chair has carefully reviewed the complaint and its exhibits and concludes that the allegations and evidence submitted set forth sufficient evidence on which to make a prima facie determination that the complaint states a violation and should proceed to the probable cause determination stage.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (1), 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, paragraph (2), within 45 days of the date of this determination the Board will make findings and conclusions as to whether probable cause exists to believe the violations alleged in the complaint warrant a formal investigation. The complainant and the respondents 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/ Daniel Rosen
Daniel N. Rosen, Chair
Campaign Finance and Public Disclosure Board

Date: 8/9/2016