

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JEFFREY J. TAYLOR REGARDING THE SCOTT SANDERS FOR REPRESENTATIVE COMMITTEE

On January 24, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jeffrey Taylor regarding the Scott Sanders for Representative Committee. The Scott Sanders for Representative Committee is the principal campaign committee of Scott Sanders for the special election in District 23B. The complaint alleged the following violations:

1. The committee failed to report the cost of producing and mailing two campaign mailers on the committee's pre-primary report of receipts and expenditures which was filed with the Board on January 22, 2018. Failure to include all expenditures made by the campaign committee during the reporting period is a violation of Minnesota Statutes section 10A.20, subdivision 3.
2. The committee inaccurately reported the cost of radio advertisements as an unpaid bill. The complainant states that radio stations require prepayment for political advertising. Inaccurately reporting the payment status of a campaign expenditure would not comply with the reporting requirements of Minnesota Statutes section 10A.20, subdivision 3.
3. The committee treasurer certified the pre-primary report of receipts and expenditures as complete and accurate knowing that there were errors and omissions on the report. A treasurer that knowingly submits an incomplete and inaccurate report is in violation of Minnesota Statutes section 10A.025, subdivision 2.

On February 1, 2018, the vice chair made a determination that the complaint and its supporting attachments stated a prima facie allegation of a violation of the reporting requirements for the production and mailing of the campaign literature, and of knowingly filing an inaccurate or incomplete report. The vice chair further determined that the allegation that the committee inaccurately reported radio advertisement expenditures as unpaid obligations was based on speculation, and therefore did not state a prima facie violation of Minnesota Statutes section 10A.20.

The prima facie determination was provided to the complainant and the committee. On February 5, 2018, Mr. Taylor e-mailed the Board to acknowledge receipt of the prima facie determination and to state that he had confirmed with the radio station that political advertisements must be paid for in advance. On February 9, 2018, Amy Sanders, treasurer for the committee, contacted Board staff to discuss the prima facie determination and to ask for clarification on the proper reporting of expenditures. On February 13, 2018, Ms. Sanders, submitted a response for consideration at this hearing and an amended pre-primary report.

Analysis

Minnesota Statutes section 10A.022, subdivision 3, paragraph (2), provides that when a member of the Board makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred.

The pre-primary report for the special election in District 23B covered the period from December 4, 2017, through January 15, 2018. Minnesota Statutes section 10A.20, subdivision 2, provides that a campaign committee must report all campaign expenditures that occurred during the reporting period. Minnesota Statutes section 10A.01, subdivision 9, provides that a campaign expenditure takes place when the committee "...incur[s] an obligation to pay for goods and services." Therefore, the committee was required to disclose the purchase of any campaign literature ordered by the committee prior to the January 15, 2018, report cutoff date. If an invoice for a purchase was not received by the report cutoff date, the treasurer should have disclosed an unpaid bill for the best estimate of the purchase cost provided by the vendor when the goods or services were ordered.

Ms. Sanders acknowledges that the committee's pre-primary report did not meet this requirement. Ms. Sanders states, "...the original report included all invoices that I had received by January 15 as well as expenses that were paid by a personal credit card...I honestly believed that expenditures were supposed to be reported when the invoice was received. I apologize for my lack of knowledge in this area but I can promise you this was just a mistake on my part." Ms. Sanders provided copies of invoices issued for the production and mailing of the subject campaign literature. All invoices were issued by the vendor after January 15, 2018. The amended report submitted by Ms. Sanders discloses \$9,720.01 in paid and unpaid bills for the cost of producing and mailing campaign literature. Based on the treasurer's admission and the amended report, the record here is sufficient to find probable cause to believe that the committee did not file a complete report as required by Minnesota Statutes section 10A.20.

When a committee becomes aware of an error or omission in a report previously filed with the Board Minnesota Statutes section 10A.025, subdivision 4, requires the committee to file an amended report within ten days of becoming aware of the inaccuracy. Submission of an amended report that accurately corrects the error or omission resolves a violation of the reporting requirements in Minnesota Statutes section 10A.20. The amended report submitted by the Sanders committee now accurately reports the cost of producing and mailing the campaign literature identified in the complaint.

The statement provided by Ms. Sanders and the date of the invoices related to the campaign literature provide no basis to believe that the treasurer knowingly omitted the expenditures from the pre-primary report. Therefore, the record here does not establish probable cause to believe that the pre-primary report was falsely certified in violation of Minnesota Statutes section 10A.025, subdivision 2.

Order

1. The allegation that the Scott Sanders for Representative Committee filed an incomplete and inaccurate pre-primary report of receipts and expenditures for the special election in District 23B is dismissed because although there is probable cause to believe that this violation occurred, no further investigation is warranted due to the committee's filing of an amended report.
2. The allegation that the treasurer of the Scott Sanders for Representative Committee knowingly certified an inaccurate or incomplete report in violation of Minnesota Statutes section 10A.025, subdivision 2, is dismissed for lack of probable cause.

/s/ Carolyn Flynn
Carolyn Flynn, Chair
Campaign Finance and Public Disclosure Board

Date: March 7, 2018