

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF MARC ASCH REGARDING THE REPUBLICAN PARTY OF MINNESOTA

On September 1, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Marc Asch regarding the Republican Party of Minnesota. The Republican Party of Minnesota is the state central committee of the political party of the same name.

The complaint alleges that the Republican Party of Minnesota operated a booth at the Minnesota State Fair in 2019, 2021, and 2022. The complaint asserts that the party received political contributions consisting of payment for items sold at the booth, including hats, shirts, and other merchandise. The complaint states that the Republican Party of Minnesota failed to inform individuals purchasing merchandise at the booth that their purchases were political contributions to the Republican Party.

Mr. Asch provided photographs of the booth taken during the 2022 Minnesota State Fair. Photographs provided via fax with the complaint were unclear so Mr. Asch provided digital copies of the photographs on September 13, 2022. The photographs show that there was a notice that appears to state “Contributions to the Republican Party of Minnesota will be used in connection with federal elections and subject to the limitations and prohibitions of federal law . . . State Law requires us to collect and report the name, mailing address, occupation and employer of individuals whose contributions exceed . . . per calendar year.” The threshold amount requiring itemized reporting cannot clearly be determined based upon the pictures provided. The notice was posted on a wall behind where staff would stand and process transactions. Customers making purchases appear to have been several feet from the notice as there was a counter between the customer and the sales personnel, space for the sales staff, and a counter with additional merchandise between the sales staff and the wall. The notice was printed upon what appears to be a standard 8.5-inch by 11-inch piece of office paper. The complaint asserts that the notice was “virtually impossible to read from the point of sale and often totally blocked from view by the sales personnel behind the counter.” The complaint alleges that the Republican Party of Minnesota violated Minnesota Statutes section 10A.271 due to the failure to disclose to potential customers that the proceeds from purchases were political contributions by verbally informing them or through the prominent display of a sign.

The complaint further states, “A review of the 2021 reports shows no reported contributions for matching the amounts of the items they have been selling. A photo of the booth’s pricing sign is included. Every hat, \$35, and every t-shirt, \$30, is priced at a point requiring collecting personal information required by Minnesota Statute and Campaign Finance regulations.” Mr. Asch provided a photograph purporting to show the 2022 pricing. While not explicitly alleging a

violation of Minnesota Statutes sections 10A.13 or 10A.20, based upon the language of the complaint and the documentation provided, a violation of these sections appears to be alleged.

Determination

Minnesota Statutes section 10A.271, subdivision 1 provides that a “political party unit . . . that raises funds through the sale of goods or services must disclose to potential customers that the proceeds from the purchase are a political contribution and to whom the contribution is made. The notice may be provided verbally at the time of purchase, or through the prominent display of a sign providing notice in immediate proximity to the point of sale at the location where the goods or services are sold.”

The complaint alleges that verbal notice was not given to customers of the merchandise booth at the time of purchase. The complaint provides evidence that while there was a notice posted, it may not have been prominent and in immediate proximity to the point of sale to the extent required by statute. Because there is a question as to whether the notice provided at the Republican Party of Minnesota’s merchandise booth was in immediate proximity to the point of sale and prominently displayed, the chair concludes that the complaint states a prima facie violation of Minnesota Statutes section 10A.271.

Minnesota Statutes section 10A.13, subdivision 1 requires the treasurer to keep an account of, “the name and address of each source of a contribution made to the committee, fund, or party unit in excess of \$20, together with the date and amount of each.” The complaint alleges that staff selling merchandise at the booth did not collect the required information when selling items. The complainant provides evidence the pricing of certain merchandise was at an amount requiring collecting the name and address of the contributor. Because there is a question as to whether required information was collected by the Republican Party of Minnesota’s staff selling merchandise at the booth, the chair concludes that the complaint states a prima facie violation of Minnesota Statutes section 10A.13.

Minnesota Statutes section 10A.20 requires political party units to file reports with the Board. Subdivision 3, paragraph (c), of that statute requires that reports include the name, address, and employment information of contributors who have contributed more than \$200 to a given party unit within a calendar year.

The complaint alleges that contributions consisting of payment for items sold at the Republican Party of Minnesota’s merchandise booth do not appear in the Republican Party of Minnesota’s 2021-year end report. This allegation is based upon the amounts of the items sold at the merchandise booth not appearing on the party’s year-end report. However, contributions of \$200 or less, in aggregate, from any one source within the year would not be itemized within the report. All non-itemized contributions are grouped together as one amount and shown on the report as a one number after the itemized contributions. Therefore, the fact that the Republican Party of Minnesota’s 2021 year-end report does not include itemized contributions matching specific amounts of less than \$200 is not evidence that those amounts are not included in the report. The

complaint does not allege nor does it contain evidence that a specific individual purchased more than \$200 of merchandise or a purchase was made by an individual whose aggregate contributions totaled more than \$200. The chair therefore concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.20.

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 violations of Minnesota Statutes sections 10A.13 and 10A.271 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.

A handwritten signature in black ink, appearing to read 'F. Rashid', written over a horizontal line.

Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: September 19, 2022