

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

**PRIMA FACIE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA DEMOCRATIC FARMER LABOR PARTY  
REGARDING THE JIM SCHULTZ FOR MINNESOTA ATTORNEY GENERAL COMMITTEE AND THE  
MINNESOTA FOR FREEDOM POLITICAL FUND

On October 18, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Charles Nauen, attorney representing the Minnesota Democratic Farmer Labor party regarding the Jim Schultz for Minnesota Attorney General committee and the Minnesota for Freedom political fund. Jim Schultz for Minnesota Attorney General committee (Schultz committee) is the principal campaign committee of James Schultz. Minnesota for Freedom (MN Freedom) is an independent expenditure political fund. The Republican Attorneys General Association is the supporting association of MN Freedom.

The complaint asserts and provides evidence that MN Freedom bought over \$800,000 in television advertisements during September and October of 2022. The content of the advertisements is alleged to be against the reelection of Attorney General Keith Ellison. Independent expenditure political funds may make independent expenditures for or against candidates, but may not make contributions to, or approved expenditures on behalf of, candidates. Minn. Stat. § 10A.121. The complainant alleges that the advertisements purchased by MN Freedom were not made independently of the Schultz committee, and instead were approved expenditures made in coordination with the Schultz committee.

The complaint alleges that coordination is shown by comparing the political broadcast agreement form submitted by American Advocacy & Media Group for an advertisement bought on behalf of the Schultz committee, to five political broadcast agreement forms submitted by Red Eagle Media for advertisements bought on behalf of MN Freedom, copies of which were included with the complaint. The political broadcast agreement form submitted by American Advocacy & Media Group for an advertisement bought by the Schultz committee is signed by Steve Syckes, who is identified as “agent for Jim Schultz for Minnesota Attorney General”. Three of the political broadcast agreements submitted by Red Eagle Media for advertisements bought on behalf of MN Freedom appear to be signed by the same Steve Syckes, as representative for MN Freedom. Two of the political broadcast agreements submitted by Red Eagle Media for advertisements bought on behalf of MN Freedom do not appear include a signature or name of an agent for MN Freedom, but the complaint alleges that those agreements pertained to the same content as the agreements signed by Mr. Syckes.

The complaint states that because Mr. Syckes is an agent for the Schultz committee he cannot also provide services placing the MN Freedom advertisements without coordination. The complaint states that the coordination eliminated the independence of the advertisements purchased by MN Freedom. The complaint also states that MN Freedom should not be allowed

to claim the exception provided in Minnesota Statutes section 10A.176, subdivision 4, paragraph (b) that allows a candidate's committee and an independent expenditure fund to use the same consulting services without coordination because that exception does not apply if the same person is providing consulting services to both the candidate committee and the independent expenditure fund.

The complaint further alleges that because of Mr. Syckes involvement with both the Schultz committee and MN Freedom, there was coordination between the Shultz committee and MN Freedom. The complaint alleges that because of that coordination, the television advertisements purchased by MN Freedom were impermissible approved expenditures on behalf of the Schultz committee. Minn. Stat. § 10A.121, subd. 2.

The complaint further alleges that because an approved expenditure is a type of contribution to the candidate, the value of the television advertisements purchased by MN Freedom exceeds the \$2,500 individual contribution limit for attorney general candidates.

Finally, the complaint asserts and Board records confirm that MN Freedom received funding from the Republican Attorneys General Association. The complaint asserts and provides evidence that the Republican Attorneys General Association accepted contributions from corporations. Therefore, the complaint alleges, the approved expenditures made by MN Freedom on behalf of the Schultz committee were made with corporate funds in violation of Minnesota Statutes section 211B.15.

## **Determination**

Minnesota Statutes section 10A.01, subdivision 18, defines the term independent expenditure, in relevant part, as follows:

"Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate or local candidate, if the expenditure is 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 or any local candidate or local candidate's agent. An independent expenditure is not a contribution to that candidate or local candidate.

Minnesota Statutes section 10A.01, subdivision 4, states that

"Approved expenditure" means an expenditure made on behalf of a candidate or a local candidate by an entity other than the candidate's principal campaign committee or the local 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 or local candidate, the candidate's principal campaign committee, or the candidate's or local candidate's

agent. An approved expenditure is a contribution to that candidate or local candidate.

Minnesota Statutes section 10A.01, subdivision 18b, defines independent expenditure political fund as “a political fund that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.”

Minnesota Statutes section 10A.121, subdivision 1, provides that independent expenditure political funds may make independent expenditures, while subdivision 2 provides penalties for certain actions by an independent expenditure political fund. The statute provides that

a) An independent expenditure political committee or independent expenditure political fund is subject to a civil penalty of up to four times the amount of the contribution or approved expenditure if it does the following:

(1) makes a contribution to a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund; or

(2) makes an approved expenditure.

(b) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

Minnesota Statutes section 10A.175, subdivision 2, provides that the term agent “means a person serving during an election segment as a candidate's chairperson, deputy chairperson, treasurer, deputy treasurer, or any other person whose actions are coordinated.”

Minnesota Statutes section 10A.175, subdivision 3, states that the term candidate “means a candidate as defined in section 10A.01, subdivision 10, the candidate's principal campaign committee, or the candidate's agent.”

Minnesota Statutes section 10A.175, subdivision 4, provides that

"Consulting services" means the following services involving campaign strategy: polling, communications planning and design, advertising, and messaging. Consulting services does not mean printing or mailing campaign material, legal services that do not involve campaign strategy, accounting services, or costs for the use of a medium for communications purposes.

Minnesota Statutes section 10A.175, subdivision 5, provides that the term coordinated “means 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. A coordinated expenditure is an approved expenditure under section 10A.01, subdivision 4.”

Those definitions apply to Minnesota Statutes sections 10A.175 to 10A.177, which further distinguish coordinated and noncoordinated expenditures.

Minnesota Statutes section 10A.176, provides that an expenditure described in the statute that expressly advocates for the election of the candidate or the defeat of the candidate's opponent is a coordinated expenditure and is not an independent expenditure. Subdivision 4 of this section provides that

(a) An expenditure is a coordinated expenditure if the expenditure is made during an election segment for consulting services from a consultant who has also provided consulting services to the candidate or the candidate's opponent during that same election segment.

(b) This subdivision does not apply when the following conditions are met:

(1) the consultant assigns separate personnel to the spender and the candidate;

(2) the consultant has a written policy that describes the measures that the consultant has taken to prohibit the flow of information between the personnel providing services to the spender and the personnel providing services to the candidate;

(3) the written policy has been distributed to all personnel and clients covered by the policy, including the candidate and the spender;

(4) the consultant has implemented the measures described in the written policy; and

(5) no information has been shared between the spender and the personnel that provided services to the spender and the candidate and the personnel providing services to the candidate.

Minnesota Statutes section 211B.15 permits the use of corporate funds for independent expenditures, but generally prohibits corporations from making contributions to candidates. Subdivision 2 of this statute provides that

(a) A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.

(b) A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a).

Minnesota Statutes section 211B.15, subdivision 3, provides that

A corporation may not make an expenditure or offer or agree to make an expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office, unless the expenditure is an independent expenditure. For the purpose of this subdivision, "independent expenditure" has the meaning given in section 10A.01, subdivision 18.

The complaint alleges and provides evidence that Mr. Sykes has been represented as an agent for the Schultz committee when the committee purchased a television advertisement. The complaint also alleges and provides evidence that Mr. Sykes was authorized to sign agreements that purchased airtime for MN Freedom's advertisements against Attorney General Keith Ellison, who is Mr. Schultz's opponent. Coordination between an agent for a candidate and an independent expenditure political fund defeats the independence of expenditures by the fund that benefit the candidate. If an expenditure that supports a candidate by advocating the defeat of that candidate's opponent is coordinated and thereby not independent, it is an approved expenditure on behalf of the candidate. An independent expenditure political fund may not make approved expenditures on behalf of a candidate. The vice chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 10A.121, subdivision 2, by MN Freedom.

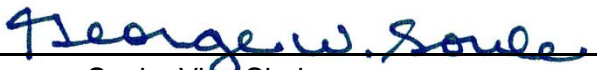
The complaint alleges and provides evidence that the value of the advertisements purchased by MN Freedom exceeded the \$2,500 individual contribution limit for the office of attorney general. The vice chair therefore concludes that the complaint states a prima facie violation of the individual contribution limit for the office of attorney general as provided in Minnesota Statutes section 10A.27, subdivision 1, by MN Freedom and the Schultz committee.

The complaint asserts that the advertisements purchased by MN Freedom were funded through money raised from corporations, and because those advertisements were contributions to the Schultz committee, there was an indirect violation of the prohibition on corporate contributions found in Minnesota Statutes section 211B.15. However, the complaint does not name any corporation that allegedly violated this provision. The evidence provided shows that the Republican Attorneys General Association accepted donations from corporations. However, the complaint does not provide evidence that corporate donations were made to the Republican Attorneys General Association for the purpose of directly or indirectly making a contribution to a Minnesota candidate. It is impossible for a principal campaign committee to accept a contribution in violation of Minnesota Statutes section 211B.15, subdivision 2, paragraph (b), unless a corporation was prohibited from making that contribution pursuant to paragraph (a) of that subdivision. The vice chair therefore concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15.

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.121 and 10A.27 alleged in the complaint have occurred and warrant a formal investigation. The complainant, the Schultz committee, and MN Freedom 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.

  
George Soule, Vice Chair  
Campaign Finance and Public Disclosure Board

Date: October 26, 2022