

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF ADAM STRAUSS REGARDING KURT DAUDT:

The undersigned Chair of the Minnesota Campaign Finance and Public Disclosure Board has made a determination that the complaint submitted in the aforementioned matter is insufficient to state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction.

The complaint alleges that respondent, Rep. Kurt Daudt, violated § 10A.071, Subd. 2, of the Minnesota Statutes, a section prohibiting certain gifts made by lobbyists and principals, for the following reasons:

1. A news media investigative report revealed that Rep. Daudt was a defendant in certain lawsuits.
2. Rondell Reid LeBeau II defended Rep. Daudt in these lawsuits.
3. Rep. Daudt has not provided evidence that he paid Mr. LeBeau's full market rate for his legal services.
4. If Rep. Daudt did not personally pay Mr. LeBeau's full market rate for his legal services, Rep. Daudt violated Minnesota's ban of gifts from a lobbyist to a legislator.

Determination:

Minnesota Statutes section 10A.071, Subd. 2, provides the following:

A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

Minnesota Statutes section 10A.071, Subd. 1, provides the following:

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

Minnesota Statutes section 10A.01, Subd. 35, clarifies the definition of “public official” by providing that it means, among other things, a “member of the legislature.” Rep. Daudt is a member of the legislature and therefore considered a public official for the purposes of Chapter 10A. Likewise, Mr. LeBeau is a lobbyist registered with the Board. Therefore, if Rep. Daudt received services from Mr. LeBeau without providing consideration of equal or greater value in return, a prohibited gift under Minn. Stat. § 10A.071, Subd. 2, would result.

The complaint does not include any allegations derived from the complainant’s own knowledge. Instead, the complainant restates items from two news articles. Thus, the allegations of the complaint consist of media reports that are publicly available online. As a result, the Chair includes those sources in determining whether the allegations of the complaint are sufficient to state a prima facie violation of the cited statute.

The complainant asserts that the news articles establish an attorney-client relationship between Rep. Daudt and Mr. LeBeau. In fact, in one article Rep. Daudt implicitly acknowledged that legal services were provided when he stated that he “personally had paid the attorney.” The Minnesota district court record for cases involving Rep. Daudt in Isanti District Court, of which the Board takes official notice, shows that Mr. LeBeau served, and continues to serve, as counsel of record in at least one case for Rep. Daudt.

The sole issue raised by the complaint is whether Mr. LeBeau was compensated at his regular rate for all hours worked in providing legal services and representation to Rep. Daudt. The complainant states that:

“Speaker Daudt has not provided evidence that he paid Mr. LaBeau’s [sic] full market rate for his legal defense services. In fact, initially Daudt’s spokeswoman [sic] ‘pointed to campaign finance forms showing the House Republican Campaign Committee, the main campaign arm for the House GOP, paid attorney Reid LeBeau nearly \$21,000 last year.’”

The fact that Rep. Daudt has not provided evidence that he paid Mr. LeBeau for his legal services is irrelevant to whether a violation has occurred. While the MPR News article provided with the complaint states that “it isn’t clear who has paid for [Mr. LeBeau’s] fees in Daudt’s . . . cases”, another article also provided as part of the complaint contradicts this statement, reporting that:

“Later Tuesday, Daudt said he personally had paid the attorney, who regularly works for the campaign committee on election matters.”

The complaint fails to state a prima facie violation because it does not allege any facts that, if true, would constitute a violation. Rather, the allegations in the complaint are mere speculation. The Board has previously discussed at a public meeting the standard for making a prima facie determination and concluded that mere speculation, without some supporting facts, is

insufficient for a complaint to allege a prima facie violation of a statute or rule under the Board's jurisdiction.

Based on the above analysis, the Chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction. The complaint is dismissed without prejudice.

/s/ Christian A. Sande
Christian A. Sande, Chair
Campaign Finance and Public Disclosure Board

Dated: 3/21/2016