Campaign Finance &

Public Disclosure Board 190 Centennial Office Building, 658 Cedar St, St Paul, MN 55155



Complaint for Violation of the **Campaign Finance and Public Disclosure Act**

All information on this form is confidential until a decision is issued by the Board. A photocopy of the entire complaint, however, will be sent to the respondent.

Information about complaint filer			
Name of complaint filer Christine Fischer			
Address 604 Minnesota Ave E	Email address christinefischer@live.com		
City, state, and zip Glenwood, MN 56334	Telephone (Daytime) 320-491-8083		
Identify person/entity you are co	mplaining about		
Name of person/entity being complained about Torrey Westrom/Westrom, Torrey N Senate Committee - 17373			
Address 4951 W Lake Mary Dr SW			
City, state, zip Alexandria, MN 56308			
Title of respondent (If applicable) Senator/Candidate			
Board/Department/Agency/District # (If legislator) SD12			
Ristine Mischer Signature of person filing complaint	11/7/2022 Date		

Send completed form to:

Campaign Finance & Public Disclosure Board 190 Centennial Office Building 658 Cedar Street St. Paul, MN 55155

If you have questions:

Call 651-539-1189, 800-657-3889, or for TTY/TDD communication contact us through the Minnesota Relay Service at 800-627-3529. Board staff may also be reached by email at cf.board@state.mn.us.

Give the statutory cite to the section of Chapter 10A, Chapter 211B, 211B.12 or Minnesota Rules you believe has been violated:

You will find the complete text of Chapter 10A, Chapter 211B, and Minnesota Rules chapters 4501 - 4525 on the Board's website at www.cfboard.state.mn.us.

Nature of complaint

Explain in detail why you believe the respondent has violated the campaign finance and public disclosure law Attach an extra sheet of paper if necessary. Attach any documents, materials, minutes, resolutions, or other evidence to support your allegations.
Please see attached document, pages 3-
7. 0

Minnesota Statutes section 10A.022, subdivision 3, describes the procedures required for investigating complaints. A full description of the complaint process is available on the Board's website.

Briefly, the Board will notify you when it has received your complaint. The Board must send a copy of the complaint to the respondent. Complaints and investigations are confidential. Board members and staff cannot talk about an investigation except as required to carry out the investigation or to take action in the matter. After the Board issues a decision, the record of the investigation is public.

The law requires a complaint to go through two stages before the Board can begin an investigation: a prima facie determination and a probable cause decision. If the complaint does not pass one of the stages, it must be dismissed.

The Board has 10 business days after receiving your complaint to determine whether the complaint is sufficient to allege a prima facie violation of the campaign finance laws. If the Board determines that the complaint does allege a prima facie violation, the Board has 45 days to decide whether probable cause exists to believe a violation that warrants a formal investigation has occurred. Both you and the respondent have the right to be heard on the issue of probable cause before the Board makes this decision. The Board will notify you if the complaint moves to the probable cause stage.

If the Board determines that probable cause does not exist, the Board will dismiss the complaint. If the Board determines that probable cause exists, the Board will start an investigation. The Board will send you monthly updates regarding the status of the investigation. At the end of the investigation, the Board will offer you and the respondent the opportunity to be heard before the Board makes a final decision.

In most cases, the Board will issue findings, conclusions, and an order as its decision. For a spending or contribution limits violation, the Board can enter into a conciliation agreement with the respondent instead of issuing findings, conclusions, and an order. The Board's final decision will be sent to you and posted on the Board's website.

Nature of Complaint

According to Torrey Westrom's 2022 Pre-General campaign finance report (Exhibit 1, Westrom Pre-General Campaign Expenditure information from Campaign Finance Board Website), Torrey Westrom spent \$1,000 on October 24, 2022 with vendor name Matthew P. Franzese for the purpose of "Legal services: harassment restraining order for protection". This was a personal expense of his wife's. Senator Westrom was not a party to this suit in any way. His wife filed the application, his wife was the only Petitioner listed on the suit and Senator Westrom was not involved in the hearing as a witness or party. (See Exhibit 2, Order and Memorandum Court File No. 21-CV-22-1503). This was a personal expense of Senator Westrom's wife and is not permitted under Minnesota campaign finance law.

STATE OF MINNESOTA COUNTY OF DOUGLAS

IN DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Anna Froese Westrom.

Court File No. 21-CV-22-1503

Petitioner,

VS.

ORDER AND MEMORANDUM

Ashley Jo Klingbeil,

Respondent.

Anna Froese Westrom,

Court File No. 21-CV-22-1504

Petitioner.

VS.

Christine Marie Fischer.

Respondent.

Filed in District Court State of 1 ()-mounts

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The above-entitled matter came on for evidentiary hearing on September 19, 2022, before the Honorable Timothy M. Churchwell, Judge of District Court, at the Douglas County Courthouse in Alexandria, Minnesota, for consideration of two Petitions for a Harassment Restraining Order filed August 22, 2022. This is a civil proceeding pursuant to Minn. Stat. § 609.748.

Petitioner appeared together with her attorney, Matthew Franzese.

Respondent Klingbeil appeared without an attorney.

Respondent Fischer appeared without an attorney

At the hearing, the Court heard testimony from the parties and received into evidence fifteen (15) exhibits. The Court took the matter under advisement at the end of the hearing.

Based upon the testimony, exhibits, and relevant law, together with all of the file and record herein, the Court hereby makes the following:

ORDER

1. Petitioner's requests filed August 22, 2022, for Harassment Restraining Orders are hereby, GRANTED as follows:

Respondents, Ashley Klingbeil and Christine Fischer, may not enter upon the premises located at 4951 West Lake Mary Drive, Alexandria, Minnesota, or 26353 County Road 20, Elbow Lake, Minnesota. Respondents may not post any photographs or video footage depicting Petitioner, Anna Westrom, or her children as identified in the petitions, on the internet. This restraining order shall remain in effect until December 15, 2022.

2. The attached Memorandum of Law is incorporated by reference.

It is so ORDERED this 19th day of October, 2022.

Hon/Timothy M. Churchwell

Judge of District Court

MEMORANDUM

Introduction

Petitioner requests Harassment Restraining Orders (HRO) against Respondents for conducting intrusive visual and video surveillance of Petitioner, Petitioner's children, and her two residences. Respondents do not deny surveilling the residences, but contend their actions are protected political speech in furtherance of an election challenge of Petitioner's spouse.

Facts

Background

Petitioner and her family previously resided in Elbow Lake, Minnesota. Petitioner's spouse, Torrey Westrom, currently serves as the Minnesota State Senator representing District 12.

Senator Westrom is running for re-election this year, Following redistricting in February 2022, the boundary lines for District 12 changed and the Westrom residence located in Elbow Lake was no longer within the boundaries of District 12.

The Westroms decided to move to Alexandria, Minnesota, to maintain Senator Westrom's eligibility for the District 12 Senate seat. The Westroms purchased a home near Lake Mary in April 2022 and moved there in May 2022. The home is within the present boundary lines for District 12. Exhibit 12.

Respondent, Ashley Klingbeil (Klingbeil), is a District 12 Senate Candidate challenging Senator Westrom. Respondent, Christine Fischer (Fischer), is Klingbeil's campaign treasurer. Generally, Respondents do not deny Petitioner's allegations, but assert their surveillance of the Westrom residences was for purposes of filing an election challenge. Specifically, Respondents contend Senator Westrom did not properly nor timely establish a residence within District 12.

In July and early August 2022, Klingbeil and Fischer took photographs and video of the Westrom residences in Elbow Lake and Alexandria, Minnesota. On July 19, 2022, Respondent Fischer admittedly entered upon the Lake Mary premises. Respondent Fischer did not have permission to enter upon the property. Respondent Fischer looked through windows and tried to open a door. Respondent Fischer admittedly entered upon the Lake Mary property several other times without permission. While upon the premises, Respondent Fischer took photographs and video footage of the interior of the Lake Mary residence.

On July 17, 2022, Respondent Klingbeil went to the Elbow Lake residence. Although Respondent Klingbeil did not enter upon the property, she observed it from a public street. Respondent Klingbeil returned to the Elbow Lake residence additional times in July and August. On August 2, 2022, Respondent Klingbeil was monitoring the Elbow Lake residence. She took video footage of the residence. At the time, Petitioner's minor son was outside in the yard and captured on the video. Exhibit 2.

Post-Surveillance

Respondents posted recorded video footage online, including the video depicting Petitioner's son. The video footage was approximately one hour or less in total. Petitioner acknowledges the last time Respondents took any video footage or monitored the Westrom residences was on August 2, 2022. Respondent Fischer additionally posted comments on Facebook about the children's bus stop. Exhibit 15.

Respondents filed their residency election challenge petition on August 8, 2022. Respondents' petition was denied on September 27, 2022. Fischer, et al. v. Simon, et al., A22-1112 (Minn. Sept. 27, 2022).

On August 12, 2022, the Douglas County Sheriff issued "no trespass" notices to Respondents concerning the Lake Mary residence. There is no allegation Respondents have violated the notices.

Petitions

Petitioner filed separate HRO petitions on August 22, 2022, on behalf of herself and her three children. Specifically, Petitioner alleges Respondents took pictures without permission of her and her children and posted them on the internet. Petitioner alleges she and the children's privacy has been violated by Respondents causing them to feel anxious, particularly her son. In response, Respondents contend they had no intent to harass Petitioner or her children. They promptly removed the video upon learning of Petitioner's concern. Further, Respondents contend their actions are protected political speech and activity.

Analysis

Harassment Restraining Order - Standards

Harassment consists of repeated, intrusive, or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another. Minn. Stat. § 609.748 subd.

1. The statute requires (1) repeated intrusive or unwanted acts, words, or gestures, and (2) a substantial adverse effect or an intent to adversely effect the safety, security, or privacy of another.

Dunham v. Roer, 708 N.W.2d 552, 566 (Minn. App. 2006). The statute requires both objectively unreasonable conduct or intent on the part of the harasser, and an objectively reasonable belief on the part of the person subject to harassing conduct. **Dunham, 708 N.W.2d at 567. The determination of whether certain conduct constitutes harassment may be judged from both an objective standard, when assessing the effect the conduct has on the typical victim, and a subjective standard, to the extent the court may determine a harasser's intent. **Kush v. Mathison, 683 N.W.2d

841, 845 (Minn. App. 2004). Even lesser levels of conduct may still support an order when calculated to harass a fragile person, such as a child. Id.

At the hearing, Respondents made three specific admissions: they (1) surveilled Petitioner's Elbow Lake home from a public roadway multiple times, took photographs and video footage, and posted the materials online; (2) entered the Lake Mary premises without permission, looked through windows, took photographs and video footage of the interior of the residence, and posted the materials online; and (3) posted video footage of Petitioner's son on the internet and made a comment about the children's bus stop. Respondents noted they posted the materials on a private URL page as opposed to an open website, However, this does not diminish the nature of their actions. Based upon their admissions, there is a threshold basis to find Respondents engaged in repeated intrusive and unwanted acts.

As to the second element, it is evident Respondents' actions had a substantial adverse effect
upon Petitioner and her children. Correspondingly, Respondents implicitly acknowledge their
actions had a substantial adverse effect upon Petitioner's son as evidenced by immediately taking
down the footage depicting her son upon learning of Petitioner's concerns. In response,
Respondents argue they had no intent to harass Petitioner or her children. Although the Court
accepts this explanation, case law allows the Court to consider the objective effect the conduct has
on Petitioner and her children. Here, Petitioner claims Respondents' actions violated their
individual and collective sense of privacy.

When one evaluates the objective effect this conduct had on Petitioner and her family the Court is led unequivocally to only one conclusion: the behaviors were a violation of privacy. Two individuals watched a family's home, peeked in windows, took videos of the home and a family member, and then posted the material on the internet. This is a quintessential violation of privacy.

Without any further circumstances or context, it is intrusive and violative of a family's sense of privacy. Here, the effect is magnified when the Court considers Respondent's admission they intended to post the materials online to create a groundswell of public review regarding Petitioner's spouse, the children's father. Posting the information online was intended to do more than inform the public: it was intended to generate public criticism. While posting information intended to draw public and political criticism may be appropriate if directed solely at a public figure, here Senator Westrom, it becomes indefensible to direct the content at family members with the intent of creating public criticism or further harassment.

Accordingly, the Court finds Petitioner has met her initial burden to demonstrate Respondents engaged in repeated intrusive and unwanted acts which objectively were harassing to Petitioner and her children. The Court now turns to the issue of whether Respondents' actions are nevertheless allowed as protected speech.

Protected Speech

The U.S. Constitution, Amend. I prohibits the United States from abridging the freedom of speech. The freedom of speech is among the fundamental personal rights and liberties which are secured to all persons by the Fourteenth Amendment against abridgment by a State. Thornhill v. Alabama, 310 U.S. 88, 95 (1940). Freedom to engage in effective political expression, in untrammeled discussion and debate, is at the heart of the rights protected by the First Amendment.

Mills v. Alabama, 384 U.S. 214, 218–19 (1966). The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment, which was designed to secure the widest possible dissemination of information from diverse and antagonistic sources, and to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people. Buckley v. Valeo, 424

U.S. 1, 48-49 (1976). The Constitution protects political association as well as individual political expression. Minnesota Fifth Cong. Dist. Indep-Republican Party v. State ex rel. Spannaus. 295 N.W.2d 650, 652 (Minn. 1980). However, the United States Supreme Court has held that speech integral to criminal conduct is a category of speech for which "the prevention and punishment... [has] never been thought to raise any Constitutional problem." United States v. Stevens, 559 U.S. 460, 468-69 (2010) (citing Chaplinsky v. New Hampshire, 315 U.S. 568, 571-72 (1942)).

Initially, Respondents assert their surveillance of Petitioner's homes falls within the category of constitutionally protected political speech based upon the subsequent election challenge filed with the Minnesota Supreme Court. Although this could be true in some respects, there is a clear delineation of protected activity from unprotected activity when criminal conduct is alleged. Here, Respondents moved into unprotected speech when they engaged in criminal conduct by intentionally trespassing upon the Lake Mary home. Respondents, particularly Respondent Fischer, admit they entered upon the property without permission, looked through windows, tried a door handle, and took photographs and video of the interior of the home. Notwithstanding their politically motivated intentions, Respondents' actions were criminal in nature. Once the political activity transcends into criminal conduct, the constitutional protection no longer applies, and government restrictions are constitutionally permissible and justified.

Secondarily, Respondents claim the restrictions sought by Petitioner as part of the HRO would violate constitutionally protected speech. Petitioner seeks the following restrictions: (1) no contact between Respondents and Petitioner and her children; (2) 1000-foot restriction regarding the Lake Mary home; (3) 1000-foot restriction regarding the Lake Elbow home; (4) restriction from entering Petitioner's workplace located in Elbow Lake; and (5) removal of all video containing Petitioner's son from the internet. Respondents argue the no contact restriction would

unreasonably impede their ability to publicly campaign at events attended by Petitioner and/or her children.

The Court finds it difficult to precisely separate protected activity from unprotected activity. Because political speech and activity is highly protected by the Constitution, the Court is obligated to narrowly tailor the requested remedies. First, the no contact provision between Respondents and Petitioner and her children is impermissible under the circumstances. Petitioner acknowledged she, and occasionally her children, are at community and other events connected to her spouse's political campaign, The Court agrees with Respondents that a no contact restriction would effectively bar them from appearing at the same events and is an unreasonable restriction of political speech. Second, a provision barring Respondents from entering upon Petitioners' residential properties is appropriate and reasonable. In response to the trespass at the Lake Mary home, law enforcement issued formal "no trespass" notices to Respondents. The notices were appropriate given the criminal conduct. The notices do not prohibit Respondents from being in the area, they only prohibit them from entering upon the premises. The prohibition is narrowly tailored and thus a constitutionally permissible limitation on freedom of political speech. Third, there is no allegation the contact or behavior extended to Petitioner's place of employment. Therefore, the third requested restriction is inappropriate and the Court declines to grant it. Fourth, it is reasonable and appropriate to order Respondents to not post photographs or video footage depicting Petitioner or her children on the internet.

In sum, the Court grants Petitioner's request to bar Respondents from physically entering upon the property and from posting photos or videos of her or her children on the internet. This remedy is narrowly tailored to address the harassing behaviors. However, because both parties

agree the behaviors ceased on August 2nd, and because the election prompting the behavior is only a few weeks away, the Court will impose the restrictions for a short period.

TMC

Committee Committee name	Entity type	Entity sub-type
17373 Westrom, Torrey N Senate Committee	PCC	
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Vendor address 1 Vendor address 2 Vendor name **Appleton Press** 115 30th Ave E **Broadway Ballroom Broadway Ballroom** 115 30th Ave E Cenex - Garfield Cenex - Garfield Cenex - Garfield China Buffet 4721 State Hwy 29 S Downtowner 253 7th St W **Echo Press** PO Box 549 **Echo Press** PO Box 549 **Echo Press** PO Box 549 PO Box 549 **Echo Press Echo Press** PO Box 549 **Echo Press** PO Box 549 PO Box 549 **Echo Press Echo Press** PO Box 549 **Echo Press** PO Box 549 Fleet Farm - Alex 310 50th Ave W Fleet Farm - Alex 310 50th Ave W Fleet Farm - Alex 310 50th Ave W Franzese, Matthew P PO Box 807 JacobsonMagnusonAnderson& Halloran PC 180 East Fifth Street, Suite 940 JacobsonMagnusonAnderson& Halloran PC 180 East Fifth Street, Suite 940 **KASM Radio** 35223 238th Ave **KDIO** Radio 47 2nd St KIKV Radio 604rd Ave W 1605 S. 1st Street KKLN/KBMO Radio **KMGK Radio** PO Box 241 46671 State HWY 28 **KMRS Radio** KXRA Radio - Leighton Broadcasting PO Box 69 1312 Broadway St PO Box 9887 Liberty Business Systems Monitor New - Benson 101 12th Street S Monitor New - Benson 101 12th Street S Ortonville Independent 789 US Highway 75 Pilot Pilot Pope County Tribune PO Box 157 Pope County Tribune PO Box 157 Pope County Tribune PO Box 157 Post Office 1st Ave SE Post Office 1st Ave SE Postmaster 1056 Hwy 96 E

Postmaster 1056 Hwy 96 E
Rapit Printing 1415 1st Ave NW
Rapit Printing 1415 1st Ave NW
Sam's Club - St Cloud 207 Co Rd 120

Star Publications522 Sinclair Lewis AveStar Publications522 Sinclair Lewis AveStar Publications522 Sinclair Lewis Ave

Stevens County Times 607 Pacific Ave
Stevens County Times 607 Pacific Ave
USPS 519 Elm St

Wallace Carlson Printing 10825 Greenbrier Rd

Vendor city	Vendor state	Vendor zip	Amount	Unpaid amount	Date
Appleton	MN		260	0	10/17/2022
Alexandria	MN	56308	272.39	0	6/30/2022
Alexandria	MN	56308	510	0	6/30/2022
Garfield	MN		45.8	0	7/4/2022
Garfield	MN		72.74	0	7/30/2022
Garfield	MN		86.42	0	8/6/2022
Alexandrtia	MN	56308	56.6	0	2/24/2022
Alexandrtia	MN	56308	45	0	3/25/2022
Alexandrtia	MN	56308	50.68	0	4/7/2022
Alexandrtia	MN	56308	40	0	6/25/2022
Alexandrtia	MN	56308	50.45	0	10/8/2022
St. Paul	MN	55102	400	0	1/25/2022
Alexandria	MN	56308	386.25	0	7/6/2022
Alexandria	MN	56308	386.25	0	7/6/2022
Alexandria	MN	56308	225	0	8/7/2022
Alexandria	MN	56308	300	0	9/13/2022
Alexandria	MN	56308	375	0	9/29/2022
Alexandria	MN	56308	272.5	0	10/2/2022
Alexandria	MN	56308	400	0	10/13/2022
Alexandria	MN	56308	945	0	10/20/2022
Alexandria	MN	56308	190	0	10/21/2022
Alexandria	MN	56308	65.89	0	6/16/2022
Alexandria	MN	56308	110.9	0	8/14/2022
Alexandria	MN	56308	38.61	0	10/3/2022
Wheaton	MN	56296	1000	0	10/24/2022
St Paul	MN	55101	10000	0	10/24/2022
St Paul	MN	55101	27183.28	27183.28	10/24/2022
Albany	MN	56307	760	0	10/16/2022
Ortonville	MN	56278	614	0	10/19/2022
Alexandria	MN	56308	1237.6	0	10/21/2022
Willmar	MN	56201	1066.32	0	10/20/2022
Glenwood	MN	56334	300	0	10/15/2022
Morris	MN	56267	1443	0	10/21/2022
Alexandria	MN	56308	1439	0	10/10/2022
Fargo	ND	58103	275.18	0	4/19/2022
Benson	MN	56215	278.46	0	8/7/2022
Benson	MN	56215	1144.6	0	9/29/2022
Ortonville	MN	56278	210	0	8/7/2022
Alexandria	MN	56308	115.74	0	7/7/2022
Alexandria	MN	56308	85	0	8/2/2022
Glenwood	MN	56334	78.73	0	7/18/2022
Glenwood	MN	56334	360	0	10/19/2022
Glenwood	MN	56334	450	0	10/20/2022
Elbow Lake	MN	56531	580	0	6/19/2022
Elbow Lake	MN	56531	580	0	7/6/2022
St Paul	MN	55127	1174.89	0	6/24/2022

St Paul	MN	55127	1174.9	0	6/24/2022	
New Brighton	MN	55112	1642.84	0	7/16/2022	
New Brighton	MN	55112	1642.84	0	7/16/2022	
St Cloud	MN	56303	233.11	0	7/13/2022	
Sauk Centre	MN	56378	90	0	7/22/2022	
Sauk Centre	MN	56378	158	0	8/7/2022	
Sauk Centre	MN	56378	11910	0	10/24/2022	
Morris	MN	56267	37.5	0	7/22/2022	
Morris	MN	56267	554	0	10/20/2022	
Alexandria	MN	56308	246	0	5/31/2022	
Minnetonka	MN	55305	2106.96	0	10/24/2022	

Purpose	Year Type	In-kind descr
Advertising - Print: ads	2022 Campaign Expenditure	
Food and Beverages	2022 Non-Campaign Disbursement	
Facility Rental	2022 Non-Campaign Disbursement	
Automobile Expense: gas	2022 Campaign Expenditure	
Automobile Expense: gas	2022 Campaign Expenditure	
Automobile Expense: gas	2022 Campaign Expenditure	
Food and Beverages: constituent mtg	2022 Non-Campaign Disbursement	
Food and Beverages	2022 Non-Campaign Disbursement	
Food and Beverages: mtg w/ leg.	2022 Non-Campaign Disbursement	
Food and Beverages	2022 Non-Campaign Disbursement	
Food and Beverages	2022 Non-Campaign Disbursement	
Food and Beverages	2022 Non-Campaign Disbursement	
Mailing / Voter List Rent/Purchase: mail wrap flye	2022 Campaign Expenditure	
Miscellaneous: send out wrap flyer	2022 Non-Campaign Disbursement	
Advertising - Print: fair paper	2022 Campaign Expenditure	
Advertising - Print: ads	2022 Campaign Expenditure	
Advertising - Print: ads	2022 Campaign Expenditure	
Advertising - Print: ad	2022 Campaign Expenditure	
Advertising - Print: ad	2022 Campaign Expenditure	
Advertising - Print: ads	2022 Campaign Expenditure	
Advertising - Print: ads	2022 Campaign Expenditure	
Automobile Expense: gas	2022 Campaign Expenditure	
Food and Beverages: parade candy	2022 Campaign Expenditure	
Automobile Expense: gas	2022 Campaign Expenditure	
Legal Services: harassment restraining order for p	2022 Non-Campaign Disbursement	
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Postage/ Delivery: mail wrap flyer

Printing and Photocopying: print wrap flyers Printing and Photocopying: print wrap flyers Other Miscellaneous spending: parade candy

Miscellaneous: insert wr flyer Advertising - Print: fair ad

Advertising - Print: print & mail flyer Miscellaneous: insert wrao flyer

Advertising - Print: ads Rent: PO Box rent

Advertising - Print: post cards

2022 Non-Campaign Disbursement

2022 Campaign Expenditure

2022 Non-Campaign Disbursement

2022 Campaign Expenditure

In-kind? Affected cc Affected committee reg num No No

No

No

No

No

No

No

No

No

No

No No