

STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

PROBABLE CAUSE
DETERMINATION

IN THE MATTER OF THE COMPLAINT OF CHANTAL OECHSLE REGARDING THEIS (TAMA) FOR SENATE

On September 14, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Chantal Oechsle regarding the Theis (Tama) for Senate committee (Theis committee). Theis for Senate is the principal campaign committee of Representative Tama Theis, a candidate for Senate District 14.

The complaint alleges that the Theis committee has been running radio advertisements without providing a transcript of the advertisements on the campaign's website, in violation of Minnesota Statutes section 10A.38.

On September 29, 2022, the Board's chair determined that the complaint stated a prima facie violation of the transcript requirement. On October 20, 2022, the Board received a response letter from Representative Theis. In her response, Representative Theis stated that the radio advertisements began airing on July 12, 2022. Representative Theis acknowledged that the committee initially forgot to post the transcripts on the committee's website, but said that the committee updated the website with the transcripts on the same day that she became aware of the error. The letter also provided the URL where the transcripts can be found.¹ By separate response the committee clarified that the transcripts were added to the website on September 30, 2022.

Analysis

When the Board chair 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. Minn. Stat. § 10A.022, subd. 3 (d). A probable cause determination is not a complete examination of the evidence on both sides of the issue. Rather, it is a determination of whether a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.

If the Board finds that probable cause exists, the Board is required to determine whether the alleged violation warrants a formal investigation, considering the type and magnitude of the alleged violation, the knowledge of the respondent, any benefit to be gained from a formal investigation, the availability of Board resources, and whether the violation has been remedied. Minn. R. 4525.0210, subp. 5. If the Board finds that probable cause exists but does not order a formal investigation, the Board is required to either dismiss the complaint or order a staff review. Minn. R. 4525.0210, subp. 6.

¹ tamatheismn.com/radio-ads-tama-theis

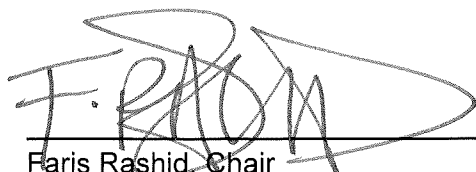
Minnesota Statutes section 10A.38 states that “[a] campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate’s website a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so.” This requirement applies only to candidates who have signed a public subsidy agreement with the Board.

Board records show that Representative Theis filed a signed public subsidy agreement with the Board for her Senate committee on July 19, 2022 for the 2021-2022 election segment. The Theis committee’s 2022 pre-primary report of receipts and expenditures shows an expenditure in the amount of \$3,720 on July 8, 2022, paid to Leighton Broadcasting for “Radio: Primary Advertising.” Representative Theis acknowledges that the Theis committee’s website did not include transcripts for the committee’s radio advertisements until September 30.

Chapter 10A does not provide for the imposition of a civil penalty for a violation of Minnesota Statutes section 10A.38. The Theis committee has acknowledged the violation and although Representative Theis has signed a public subsidy agreement during each election cycle since 2013, there is no reason to believe that the violation was willful. The Board has limited resources and it is unclear what new information would be gained by conducting a formal investigation. Considering the foregoing factors, the Board concludes that a formal investigation is not warranted, but there is probable cause to believe that the transcript requirement was violated. A staff review is ordered to further the investigation.

Order:

1. Although probable cause exists to believe that the Theis committee failed to provide a transcript for the subject radio advertisements on its website, in violation of Minnesota Statutes section 10A.38, a formal investigation is not warranted.
2. The Board’s executive director is directed to initiate a staff review regarding this matter pursuant to Minnesota Rules 4525.0320 for the purpose of concluding the investigation by conciliation agreement with the Theis committee. If the investigation cannot be resolved by conciliation agreement, the executive director is directed to prepare findings to resolve this matter.



Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: 11/14/22