

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JEANNE NEWSTROM REGARDING ITASCANS FOR LIBERTY

On October 30, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jeanne Newstrom regarding Itascans for Liberty. The complaint includes a printout of information from a statement of organization filed with the Federal Election Commission (FEC) in September 2024, which states that Itascans for Liberty “is an independent expenditure-only political committee (Super PAC).”¹ Itascans for Liberty is not registered with the Board.

The complaint alleges a violation of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint includes a photograph of a billboard with the following text:

Some of
~~We~~ the People
Are Tired Of The Lies
Vote REPUBLICAN
PAID FOR BY ITASCANS FOR LIBERTY

The complaint states that the billboard is located on U.S. Highway 2 west of Grand Rapids, Minnesota. The complaint asserts that the disclaimer on the billboard is incomplete because it lacks contact information for Itascans for Liberty.

The complaint also includes a printout of information from the website of Pro Publica indicating that Itascans for Liberty has raised \$7,125 and spent \$6,210 during the 2024 election cycle.² The complaint asserts that Itascans for Liberty was required to register with the Board because it has spent more than \$750. The complaint refers to Itascans for Liberty as a “super PAC” but does not specify whether it was required to register with the Board as a political committee, a political fund, or some other type of entity.

Determination

Minnesota Statutes section 211B.04 generally requires political committees and funds to include a disclaimer on their campaign material. The required format for the disclaimer varies depending on whether the material is an independent expenditure. All non-broadcast campaign material that requires a disclaimer, including billboards, must include a disclaimer with the address of the entity that paid for the material. “The address must be either the entity’s mailing address or the entity’s website, if the website includes the entity’s mailing address.” Minn. Stat. § 211B.04, subd 2 (a). However, the disclaimer requirement “does not apply to an

¹ docquery.fec.gov/cgi-bin/forms/C00888891/1815331/

² projects.propublica.org/itemizer/committee/C00888891/2024

individual or association that is not required to register or report under chapter 10A or 211A.”
Minn. Stat. § 211B.04, subd. 3.

Minnesota Statutes section 10A.14 sets forth the thresholds at which political committees and funds must register with the Board. A general purpose political committee or fund must register with the Board shortly after raising or spending more than \$750. An independent expenditure political committee or fund must register with the Board shortly after raising or spending more than \$1,500. Minnesota Statutes section 10A.12 includes additional provisions requiring certain spending by associations that are not political committees to be conducted via a political fund. Minnesota Statutes section 10A.20 requires political committees and funds that are required to register with the Board to file periodic campaign finance reports.

Minnesota Statutes section 10A.022, subdivision 3, authorizes the Board to investigate alleged or potential violations of Minnesota Statutes Chapter 10A. The same statute authorizes the Board to investigate alleged or potential violations of Minnesota Statutes sections 211B.04, 211B.12, and 211B.15 “by or related to a candidate, treasurer, principal campaign committee, political committee, political fund, or party unit, as those terms are defined in” Chapter 10A.

Minnesota Statutes section 10A.01 defines the terms “expenditure,” “candidate,” “local candidate,” “independent expenditure political committee,” “independent expenditure political fund,” “political committee,” and “political fund,” in relevant part, as follows:

Subd. 9. Campaign expenditure. "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or a local candidate or for the purpose of promoting or defeating a ballot question.

Subd. 10. Candidate. "Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge.

...

Subd. 10d. Local candidate. "Local candidate" means an individual who seeks nomination or election to:

- (1) any county office in Hennepin County;
- (2) any city office in any home rule charter city or statutory city located wholly within Hennepin County and having a population of 75,000 or more; or
- (3) the school board in Special School District No. 1.

...

Subd. 18a. Independent expenditure political committee. "Independent expenditure political committee" means a political committee that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Subd. 18b. Independent expenditure political fund. "Independent expenditure political fund" means a political fund that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

...

Subd. 27. Political committee. "Political committee" means an association whose major purpose is to influence the nomination or election of one or more

candidates or local candidates or to promote or defeat a ballot question, other than a principal campaign committee, local candidate, or a political party unit.

Subd. 28. Political fund. "Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or local candidates or to promote or defeat a ballot question.

The Federal Election Campaign Act and regulations promulgated by the FEC "supersede and preempt any provision of State law with respect to election to Federal office." 52 U.S.C. § 30143. An FEC regulation regarding preemption provides, in relevant part, that:

- (b) Federal law supersedes State law concerning the—
 - (1) Organization and registration of political committees supporting Federal candidates;
 - (2) Disclosure of receipts and expenditures by Federal candidates and political committees; and
 - (3) Limitation on contributions and expenditures regarding Federal candidates and political committees. 11 C.F.R. § 108.7 (b).


A Super PAC "is a PAC that makes only independent expenditures and cannot contribute to candidates." *McCutcheon v. FEC*, 572 U.S. 185, 193 n.2 (2014) (citing *SpeechNow.org v. FEC*, 599 F.3d 686, 695-96 (D.C. Cir. 2010)). A Super PAC registered with the FEC is the federal equivalent of an independent expenditure political committee registered with the Board. When a Super PAC registers with the FEC its treasurer must file a statement of organization stating that the committee being registered is an independent expenditure-only political committee (Super PAC). Under federal law the term independent expenditure is defined, in relevant part, to mean an expenditure "expressly advocating the election or defeat of a clearly identified candidate." 52 U.S.C. § 30101 (17). Under federal law the term candidate is defined, in relevant part, to mean "an individual who seeks nomination for election, or election, to Federal office" and the term Federal office is defined to mean "the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress." 52 U.S.C. § 30101 (17)-(18).

The complaint asserts and provides evidence that Itascans for Liberty is a Super PAC that is registered, and files campaign finance reports, with the FEC. The complaint does not allege or provide evidence that Itascans for Liberty has made a contribution to, or expenditure supporting or opposing, any particular candidate or local candidate, as those terms are defined by Minnesota Statutes Chapter 10A. The complaint instead supports the conclusion that Itascans for Liberty is a Super PAC that is registered with the FEC pursuant to federal law.

Because federal law preempts state law concerning the registration of, and reporting by, committees supporting federal candidates, and the complaint does not contain evidence that Itascans for Liberty is a political committee or fund within the meaning of Minnesota Statutes Chapter 10A, rather than a Super PAC required to register with the FEC, the complaint does not state a prima facie violation of Minnesota Statutes sections 10A.14, 10A.12, or 10A.20. Minnesota Statutes section 211B.04 "does not apply to an individual or association that is not

required to register or report under chapter 10A or 211A” and the facts alleged within the complaint do not support the conclusion that Itascans for Liberty is required to register or report under state law. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.04.

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. Pursuant to Minnesota Statutes section 10A.022, subdivision 3, this prima facie determination is made by the Board chair and not by any vote of the entire Board. The complaint is dismissed without prejudice.



David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: November 12, 2024