

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

**FINDINGS REGARDING A COMPLAINT AGAINST
REPRESENTATIVE GREG DAVIDS**

Procedural Background

On September 17, 2004, Harlin Taylor filed a complaint against the People for (Gregory) Davids Committee ("the Committee"), alleging that the Committee violated Minnesota Statutes, Chapter 10A.

Mr. Taylor alleged that the Committee underreported campaign expenditures on its Report of Receipts and Expenditures for the period covering January 1, 2004, through August 23, 2004, in two ways; by not disclosing any campaign expenditures for mileage and by categorizing \$15,058.59 in campaign expenditures as noncampaign disbursements.

By letter dated September 20, 2004, Board staff notified Representative Davids of the complaint and afforded him an opportunity to respond. Representative Davids responded on October 1, 2004.

In response to Mr. Taylor's allegation that the committee did not disclose any campaign expenditures for mileage, Representative Davids submitted an amendment to his report that disclosed a campaign expenditure of \$189 for mileage.

In response to Mr. Taylor's allegation that there was insufficient description for a May 10, 2004, \$618.28 noncampaign disbursement to Kelly Printing, Representative Davids stated that this expense was for business cards that are perforated attachments to postcards that he gives to constituents who might want to mail in suggestions for legislation. Representative Davids stated that he incurred the expense because he ran out of his allotment of business cards printed at the Legislature's expense. Representative Davids provided a copy of these business/postcards with his response.

In response to Mr. Taylor's allegation that all postage costs disclosed by Representative Davids as noncampaign disbursements were campaign expenditures, Representative Davids stated that he sent "two large informational mailings to constituents" in which he did not "solicit campaign funds or ask for votes."

In response to the Board's inquiry regarding a campaign fund solicitation sent in January 2004, Representative Davids indicated that the postage for this mailing was purchased and reported as a campaign expenditure in 2003. Board records indicate that the Committee reported incurring postage costs in December 2003.

In response to Mr. Taylor's allegation that \$522 in mileage costs disclosed as noncampaign disbursements were campaign expenditures, Representative Davids stated that these funds were used to "travel back to the district midweek for meetings with individuals or groups over legislative matters and to pick up and process constituent mail."

In response to Mr. Taylor's allegation that \$5,172.81 in noncampaign disbursements for solicitations for suggestions published in newspapers were campaign expenditures, Representative Davids stated that the purpose of these solicitations was to "survey constituents to better understand their views on issues that may come before the Legislature."

In response to Mr. Taylor's allegation that \$4,888.32 in noncampaign disbursements for office equipment, phone, rent, utilities and supplies were campaign expenditures, Representative Davids stated that he has operated a small constituent services office in his district for several years. Representative Davids stated that the "office and its equipment are used solely for responding to constituents" and indicated that he reported all costs for the office incurred during session as noncampaign disbursements, half of all costs incurred for the first 60 days after session as campaign expenditures, and all costs incurred thereafter as campaign expenditures.

In response to Mr. Taylor's request that the \$325.59 reimbursement for lodging costs be reclassified as campaign expenditures, Representative Davids stated that his \$1,100 per month housing allowance provided by the legislature did not cover all of his lodging costs.

In response to Mr. Taylor's request that \$300.19 in noncampaign disbursements paid to two printing companies and a newspaper company be reclassified as campaign expenditures, Representative Davids stated that these expenditures were made for inserting his session wrap up in their publications and because these costs were incurred during the 60 days following session he reported them as 50% campaign expenditures and 50% noncampaign disbursements.

On October 1, 2004, Mr. Taylor submitted an addendum to his complaint in which he suggested two additional reasons why the solicitations for suggestions published in the newspaper should have been disclosed as campaign expenditures rather than noncampaign disbursements. First, Mr. Taylor noted that Representative Davids expended more money on these solicitations in an election year than in a non-election year. Second, Mr. Taylor stated that in 2002, Representative Davids ran the suggestion solicitations in newspapers that had a general distribution area that was outside of Representative Davids's pre-redistricting district.

On October 8, 2004, Representative Davids replied to the addendum to the complaint and stated that he ran more solicitation notices in an election year because "it is important to receive more input in the second year as the Legislature nears sine die." Representative Davids further stated, "I want to make sure that my constituents have a last say before session closes for the biennium."

In response to Mr. Taylor's statements regarding the distribution area of the suggestion solicitation notices, Representative Davids stated, "by placing ads in these newspapers, my committee was soliciting input from the easternmost part of the old district using newspapers that cover much of the area in eastern Fillmore County."

This matter was considered by the Board in executive session in its meeting on October 15, 2004. The Board's decision was based upon the complaint, the documents provided in support of the complaint, the addendum to the complaint, the responses, and Board records.

Based on the record before it, the Board issues the following:

EVIDENTIARY FINDINGS

1. There is evidence that Representative Davids did not disclose campaign expenditures for the use of his vehicle on his Report of Receipts and Expenditures for the period covering January 1, 2004, through August 23, 2004.
2. Minn. Stat. §10A.01, subd. 26 (9), provides that payment of expenses incurred by a candidate for serving in public office, other than for personal use, should be disclosed as a noncampaign disbursement. There is evidence that Representative Davids has provided sufficient information to determine that the portion of the disclosed \$618.28 noncampaign disbursement to Kelly Printing that was for business cards was correctly classified as a noncampaign disbursement.
3. Minn. Stat. §10A.01, subd. 26 (6), provides that payments for services for a constituent by a member of the legislature performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held are considered noncampaign disbursements. The statute further provides that half the cost of constituent services performed from adjournment sine die to 60 days thereafter are considered noncampaign disbursements. Minnesota Rules 4503.100, subp. 6, defines services for a constituent as "service performed by an incumbent legislator... for the benefit of one or more residents of the official's district." There is no evidence that the suggestion solicitation postcard portion of the disclosed \$618.28 noncampaign disbursement to Kelly Printing meets the definition of noncampaign disbursement.
4. There is evidence that Representative Davids has provided sufficient information to determine that the \$3,231.71 in noncampaign disbursements for postage was correctly classified as a noncampaign disbursement.
5. There is no evidence that the \$5,172.81 disbursement for the suggestion solicitation notices in newspapers and on the radio meets the definition of constituent services as provided for by Minn. Stat. §10A.01, subd. 26 (6), or Minnesota Rules 4503.100, subp. 6.
6. The cost for any correspondence Representative Davids may have sent to constituents who responded to the suggestion solicitation notices should be classified as noncampaign disbursements.
7. There is evidence that Representative Davids has now provided sufficient information to determine that \$4,888.32 in noncampaign disbursements for office equipment, phone, rent, utilities and supplies were correctly classified as noncampaign disbursements.
8. Payment for lodging costs in excess of the amount allotted by the legislature does not meet the definition of either campaign expenditure or noncampaign disbursement.
9. There is evidence that Representative Davids has provided sufficient information to classify \$300.19 paid to two printing companies and a newspaper company as noncampaign disbursements.

Based on the above Statement of the Evidence, the Board makes the following:

FINDINGS CONCERNING PROBABLE CAUSE

1. There is probable cause to believe that Representative Davids inadvertently violated Minn. Stat. §10A.20, subd. 3 (g), by failing to disclose campaign expenditures for mileage on his Report of Receipts and Expenditures for the period covering January 1 through August 23, 2004. However, because Representative Davids has amended his report for this period there is no probable cause to believe this reporting violation continues to exist.
2. There is no probable cause to believe that Representative Davids violated Minn. Stat. §10A.20, subd. 3 (g), by reporting the business card portion of the \$618.28 disbursement to Kelly Printing as a noncampaign disbursement.
3. There is probable cause to believe that the primary purpose of the suggestion solicitation portion of the \$618.28 disbursement to Kelly Printing does not meet the definition of a "constituent service" as defined by Minnesota Rules, 4503.0100, subp. 6, and thus the postcard portion of this disbursement should have been disclosed as a campaign expenditure on Representative David's Report of Receipts and Expenditures.
4. There is no probable cause to believe that Representative Davids violated Minn. Stat. §10A.20, subd. 3 (g), by reporting \$3,231.71 in disbursements for postage as noncampaign disbursements.
5. There is probable cause to believe that the primary purpose of the suggestion solicitation notices placed in newspapers and on the radio does not meet the definition of a "constituent service" as defined by Minnesota Rules 4503.0100, subp. 6, and thus these disbursements should have been disclosed as campaign expenditures on Representative Davids's Report of Receipts and Expenditures.
6. There is probable cause to believe that Representative Davids inadvertently violated Minn. Stats. §10A.20, subd. 3 (g), by reporting the cost of the suggestion solicitation notices as a noncampaign disbursement.
7. There is no probable cause to believe that Representative Davids violated Minn. Stat. §10A.20, subd. 3 (g), by reporting the \$4,888.32 in disbursements for his office equipment, phone, rent, utilities, and supplies as noncampaign disbursements.
8. There is probable cause to believe that Representative Davids made an inappropriate expenditure when he used campaign funds to pay for the additional costs of his lodging.
9. There is no probable cause to believe that Representative Davids violated Minn. Stat. §10A.20, subd. 3 (g) by reporting \$300.19 in disbursements to two printing companies and a newspaper company as noncampaign disbursements.

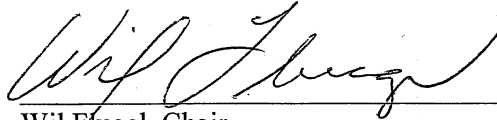
Based on the above Findings, the Board issues the following:

ORDER

1. Representative Davids has corrected the reporting violation regarding campaign mileage for the period covering January 1 through August 23, 2004, by amending his report to disclose campaign expenditures for mileage. The Board orders Representative Davids to review his Reports of Receipts and Expenditures for calendar years 2001, 2002, and 2003, and to report any additional campaign expenditures for mileage for those years. Any necessary amendments should be filed within thirty days of receipt of this order.
2. The complaint alleging that Representative Davids violated Minn. Stat. §10A.20, subd. 3 (g), by reporting the business card portion of the \$618.28 disbursement to Kelly Printing as a noncampaign disbursement is dismissed in its entirety. However, Representative Davids is directed to report the suggestion solicitation postcard portion of this disbursement as a campaign expenditure on his Report of Receipts and Expenditures for the period covering January 1 through August 23, 2004. If there are any postage costs for sending these postcards, these postage costs should also be reported as campaign expenditures. In addition, the Board orders Representative Davids to review his Reports of Receipts and Expenditures for calendar years 2001, 2002, and 2003, and to report any additional campaign expenditures for these solicitations. Any necessary amendments should be filed within thirty days of receipt of this order.
3. The complaint alleging that Representative Davids violated Minn. Stat. §10A.20, subd. 3 (g), by reporting the \$3,231.71 in disbursements for postage as noncampaign disbursements is dismissed in its entirety.
4. Because the suggestion solicitation newspaper and radio notices do not meet the definition of constituent service, Representative Davids is ordered to report the cost of these expenditures as campaign expenditures on his Report of Receipts and Expenditures for the period covering January 1 through August 23, 2004. In addition, the Board orders Representative Davids to review his Reports of Receipts and Expenditures for calendar years 2001, 2002, and 2003, and to report any additional campaign expenditures for these solicitations.
5. The complaint alleging that Representative Davids violated Minn. Stat. §10A.20, subd.3 (g), by reporting the \$4,888.32 in disbursements for his office equipment, phone, rent, utilities, and supplies as a noncampaign disbursements is dismissed it its entirety.
6. Representative Davids is ordered to reimburse the Committee for his additional lodging costs and to provide the Board with a copy of the check reimbursing the committee within thirty days of receipt of this order. Representative Davids is directed to review his Reports of Receipts and Expenditures for calendar years 2001, 2002, and 2003, and to reimburse his committee for any lodging costs paid for during those years.
7. The complaint alleging that Representative Davids violated Minn. Stat. §10A.20, subd. 3 (g), by reporting the \$300.19 in disbursements to two printing companies and a newspaper company as noncampaign disbursements is dismissed it its entirety.

8. If the amendments required by the Orders One, Two, and Four listed above cause the Committee to exceed any year's campaign expenditure limits, the Committee is directed to enter into the conciliation process with the Board.
9. The Board's investigation into this matter is hereby made part of the public records of the Board pursuant to Minn. Stat. §10A.02, subd. 11, and upon receipt of amended Reports of Receipts and Expenditures and a copy of the check reimbursing the Committee for additional lodging costs, this matter is concluded.

Dated: 10-15-04



Wil Flugel, Chair
Campaign Finance and Public Disclosure Board