

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

**PROBABLE CAUSE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF NANCY BARSNESS REGARDING THE CITIZENS FOR JEFF BACKER JR HOUSE COMMITTEE AND STATE REPRESENTATIVE JEFF BACKER

On August 9, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Nancy Barsness regarding the Citizens for Jeff Backer Jr House committee and State Representative Jeff Backer. The Citizens for Jeff Backer Jr House committee is the principal campaign committee of Jeff Backer for the seat in the House of Representatives for district 12A.

The complaint alleged that: (1) Rep. Backer distributed campaign literature that did not include the required disclaimer, in violation of Minnesota Statutes section 211B.04; and (2) The campaign literature was mailed using a postal permit paid for by the Minnesota House of Representatives. The committee did not report either an in-kind contribution from the Minnesota House of Representatives for the cost of the postage or an expenditure to the Minnesota House of Representatives to pay for the use of the postal permit. By failing to report the mailing cost for the campaign literature on its 2016 pre-primary-election Report of Receipts and Expenditures the Backer committee is in violation of the reporting requirements in Minnesota Statutes section 10A.20.

On August 23, 2016, the chair made a determination that the complaint and its attachments stated a prima facie allegation of a violation of the disclaimer and reporting requirements. On September 21, 2016, Rep. Backer submitted a response for consideration at this hearing.

**Analysis**

The subject literature is a 2016 legislative report that discusses the developments of the previous legislative session. The piece does not ask for campaign contributions, encourage constituents to vote for or oppose Rep. Backer or any other candidate, or mention the 2016 election in any manner. The Board has historically and consistently classified these types of legislative wrap-ups as constituent services because they serve to benefit constituents in the incumbent's district.

Minnesota Rules 4503.0950, Subpart 2, states that "constituent services provided by an incumbent as a part of the duties of serving in office and paid for with state funds designated for that use are not reportable under Minnesota Statutes, chapter 10A." Rep. Backer, in his response, states that the subject literature was prepared and disseminated on his behalf by the House Republican Caucus. On this point, complainant appears to agree. She states that the Office of Administrative Hearings, in a prior iteration of the complaint, "concluded that the Report was sent by US Mail with postage paid by the Minnesota House of Representatives." A copy of the envelope in which the report was received is provided as an attachment to the complaint. The postage is marked as "Presort Standard US Postage Paid Twin Cities, MN Permit No 171." Permit No 171 is the State of Minnesota's mailing permit.

Because the subject literature was "provided by an incumbent as part of the duties of serving in office and paid for with state funds designated for that use" it does not result in a reportable incident under Chapter 10A. Therefore, no probable cause exists to believe that the committee violated the reporting requirements of Minnesota Statutes section 10A.20.

In addition, because neither the committee nor Rep. Backer paid for, prepared, or disseminated the legislative report, which was prepared and disseminated by the House Republican Caucus, a disclaimer

stating that the material was prepared and paid for by Rep. Backer's committee or Rep. Backer, himself, would have been inappropriate. For that reason, there is no probable cause to believe that the committee or Rep. Backer violated the disclaimer requirement of Minnesota Statutes section 211B.04.

**Order**

There is no probable cause to believe that the Citizens for Jeff Backer Jr House committee or State Representative Jeff Backer violated the disclaimer and reporting requirements in Minnesota Statutes sections 10A.20 and 211B.04 to the extent that the House Republican Caucus disseminated to constituents 2016 legislative reports. The complaint is dismissed without prejudice.

/s/ Daniel N. Rosen\_\_\_\_\_

Date: October 5, 2016

Daniel N. Rosen, Chair  
Campaign Finance and Public Disclosure Board