

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF CHRISTINE FISCHER REGARDING THE WESTROM (TORREY)
FOR SENATE COMMITTEE

On November 9, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Christine Fischer regarding the Westrom (Torrey) for Senate Committee. The Westrom (Torrey) for Senate Committee is the principal campaign committee of Senator Torrey Westrom, a candidate for Minnesota Senate District 12.

The complaint alleges, and Board records reflect, that the Westrom committee paid \$1,000 to Matthew P. Franzese for legal services. Within the committee's 2022 pre-general report of receipts and expenditures, that expense is dated October 24, 2022, and is classified as a noncampaign disbursement with the explanation "harassment restraining order for protection of candidates family." The complaint alleges a violation of Minnesota Statutes section 211B.12, asserting that "[t]his was a personal expense of Senator Westrom's wife and is not permitted under Minnesota campaign finance law."

The complaint includes photographs of a copy of an order and memorandum dated October 19, 2022, issued by Seventh Judicial District Judge Timothy M. Churchwell. The order and memorandum address two related actions, Anna Froese Westrom v. Ashley Jo Klingbeil, court file number 21-CV-22-1503, and Anna Froese Westrom v. Christine Marie Fischer, court file number 21-CV-22-1504. The order and memorandum state that Ms. Westrom filed petitions for harassment restraining orders on August 22, 2022, and an evidentiary hearing was held on September 19, 2022. The order and memorandum explain that like Senator Westrom, Ashley Klingbeil is a candidate for Minnesota Senate District 12, and that Ms. Fischer is Ms. Klingbeil's campaign treasurer. The order and memorandum say that following redistricting in February 2022, the Westroms decided to move in order "to maintain Senator Westrom's eligibility for the District 12 Senate seat." The order and memorandum state that in July and early August of 2022, Ms. Klingbeil and Ms. Fischer took photographs and video of the old residence and new residence of the Westroms. The order and memorandum state that Ms. Fischer admitted to looking through windows, attempting to open a door, and taking photographs and video of the interior of the new residence. The order and memorandum state that Ms. Klingbeil visited the old residence several times, took video, and on one occasion captured the minor child of Ms. Westrom on video. The order and memorandum state that the video footage was posted online.

The order and memorandum explain that Ms. Klingbeil and Ms. Fischer filed an errors and omissions petition based on their surveillance on August 8, 2022, pursuant to Minnesota Statutes section 204B.44, asserting that Senator Westrom did not satisfy the residency requirement in Article IV, Section 6, of the Minnesota Constitution, and in Minnesota Statutes section 204B.06, subdivision 4a. The errors and omissions petition was denied on

September 27, 2022, by the Minnesota Supreme Court.¹ According to the photographs of the order and memorandum included in the complaint, Ms. Westrom's petitions for harassment restraining orders against Ms. Klingbeil and Ms. Fischer were granted in part and a restraining order remains in effect through December 15, 2022.

Determination

Minnesota Statutes section 211B.12 provides, in relevant part, as follows:

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

(1) salaries, wages, and fees;

...

(7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

Minnesota Statutes section 10A.01, subdivision 26, paragraph (a), provides a list of purchases and payments that, when made by a principal campaign committee, are noncampaign disbursements. That list includes a "payment for accounting and legal services." The list also includes "total payments of up to \$3,000 for security expenses for a candidate, including home security hardware, maintenance of home security hardware, identity theft monitoring services, and credit monitoring services" during each two-year election cycle segment. Minnesota Rules 4503.0900, subpart 3, provides that the "[i]temization of an expense which is classified as a noncampaign disbursement must include sufficient information to justify the classification."

The Board has previously concluded that a principal campaign committee may not pay for legal fees unless the legal services provided benefit the committee.² Prior to the Board having jurisdiction over Minnesota Statutes section 211B.12, it issued advisory opinions stating that the cost of civil litigation that is not related to a candidate's election or to the candidate's principal campaign committee may not be classified as a noncampaign disbursement.³ In one instance in which a candidate incurred legal fees that were necessary to defend the candidate against allegations regarding the candidate's conduct while serving in office, that "had the potential to affect the future service of the candidate as an elected official and the public perception of the integrity of the candidate," the Board concluded that the candidate's principal campaign

¹ *Fischer v. Simon*, 980 N.W.2d 142 (Minn. 2022).

² Findings, Conclusions, and Order in the Matter of the complaint of Steve Drazkowski regarding the Neighbors for Ilhan (Omar) committee (June 6, 2019).

³ Advisory Opinion 318 (Oct. 13, 1999); Advisory Opinion 314 (Oct. 13, 1999).

committee could pay for the legal fees as a noncampaign disbursement.⁴ However, the Board cautioned that a principal campaign committee may not pay “for legal services of a candidate if the services were for the personal benefit of the candidate.”

The noncampaign disbursement category for security expenses for a candidate was created by the legislature in 2021 and the Board has not had the opportunity to address whether fees paid to obtain a restraining order fall within that category.

The complaint alleges that the expense in question was a personal expense of Senator Westrom’s spouse, and it is not apparent from the Westrom committee’s 2022 pre-general report how the legal services provided benefited the Westrom committee. Moreover, the description of the expense within the report does not explicitly refer to the expense as a security expense of the candidate. The chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 211B.12.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, this prima facie determination is made by a single Board member and not by any vote of the entire Board. This prima facie determination does not mean that the Board has commenced, or will commence, an investigation or has made any determination of a violation by any of the individuals or entities named in the complaint.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, within 45 days of the date of this determination, the Board will make findings and conclusions as to whether probable cause exists to believe that the violation of Minnesota Statutes section 211B.12 alleged in the complaint warrants a formal investigation. The complainant and the respondent named in this prima facie determination will be given an opportunity to be heard by the Board prior to any decision on probable cause.

Until the Board makes a public finding or enters into a conciliation agreement, this matter is subject to the confidentiality requirements of Minnesota Statutes section 10A.022, subdivision 5.



Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: November 29, 2022

⁴ [Advisory Opinion 328 \(June 26, 2001\)](#).