

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF MATT WERDEN REGARDING ACTION 4 LIBERTY AND THE DR. NEIL SHAH FOR GOVERNOR COMMITTEE

On May 4, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by counsel for Matt Werden regarding Action 4 Liberty and the Dr. Neil Shah for Governor committee. Action 4 Liberty is a nonprofit 501(c)(4) association not registered with the Board. Action 4 Liberty PAC is a political committee registered with the Board. Dr. Neil Shah for Governor is the principal campaign committee of Dr. Neil Shah.

The complaint alleges that Action 4 Liberty violated Minnesota Statutes section 211B.15, subdivision 2, by making prohibited corporate contributions to the Shah committee, and the Shah committee violated the same statute by accepting those contributions. The complaint asserts that during the time period of August 6 through November 3, 2021, at least eight emails were sent by or on behalf of the Shah committee from the email address neil@electneil.com (Shah emails). The complaint alleges and contains evidence that those emails each included five or more hyperlinks that routed internet traffic to or through the internet domain action4liberty.com. The complaint includes copies of the Shah emails as well as lists of the URLs contained within the hyperlinks in each email. The URLs each begin with https://www.action4liberty.com/, then contain additional characters, which the complaint alleges consist of Urchin Tracking Module (UTM) parameters and identifiers. The complaint alleges and contains evidence that some of the hyperlinks contained within the Shah emails routed users through Action 4 Liberty's internet domain, and then automatically redirected them to the Shah committee's donation page.¹

The complaint further asserts that during the time period of July 27, 2021, through February 21, 2022, at least four emails mentioning Dr. Shah were sent by or on behalf of Action 4 Liberty using the email address jake@action4liberty.com (Action 4 Liberty emails). The complaint includes copies of the Action 4 Liberty emails as well as lists of the URLs contained within the hyperlinks in each email. The complaint argues that one of the emails, dated August 3, 2021, constituted an endorsement of Dr. Shah's candidacy for governor. The complaint alleges and contains evidence that the August 3 email included a hyperlink that routed users to the action4liberty.com domain, then automatically redirected them to the website of the Shah committee.² The complaint alleges and contains evidence that the Action 4 Liberty emails each included hyperlinks with URLs with the same UTM parameters and identifiers as those contained within the Shah emails.

¹ secure.anedot.com/50abec70-246e-4f71-b4a2-c868366ab853/electshahjd

² electneil.com

The complaint notes that both the Shah emails and the Action 4 Liberty emails each contained text at the bottom stating “Created with NationBuilder, software for leaders.” The complaint also states that the Shah committee did not report any itemized expenditures within the 2021 calendar year paid to NationBuilder or to Action 4 Liberty. The Shah emails and the Action 4 Liberty emails included with the complaint each contain text toward the bottom stating “To stop receiving emails, click here.” The phrase “click here” is hyperlinked and when selected, the user is ultimately directed to the same URL,³ regardless of whether the email is one of the Shah emails or one of the Action 4 Liberty emails. The complaint argues that the emails show that Action 4 Liberty is providing the Shah committee “with its membership email lists and/or access to its membership.”

The complaint further argues that similarities between the emails and use of the action4liberty.com domain within the hyperlinks in the Shah emails demonstrates that the Shah emails were created by or for Action 4 Liberty, were controlled by Action 4 Liberty, were paid for by Action 4 Liberty, and were utilized for the exclusive use of Action for Liberty and the Shah committee. The complaint alleges and provides evidence that none of the Action 4 Liberty emails contained a disclaimer identifying them as campaign material paid for by the Action 4 Liberty PAC or as independent expenditures. The complaint notes that the Action 4 Liberty PAC filed no-change statements covering all of 2021 and the first quarter of 2022, stating that no contributions were received, and no disbursements were made, by the committee during those periods.

Determination

Corporate Contributions

Minnesota Statutes section 10A.01, subdivision 9, defines the term contribution, in relevant part, to mean “money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, local candidate, or party unit.” Minnesota Statutes section 10A.01, subdivision 13, defines the term donation in kind to mean “anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in kind.”

Minnesota Statutes section 10A.01, subdivision 9, defines the term expenditure, in relevant part, to mean “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 for the purpose of promoting or defeating a ballot question.”

Minnesota Statutes section 211B.15, subdivision 1, defines the term corporation to mean “(1) a corporation organized for profit that does business in this state; (2) a nonprofit corporation that carries out activities in this state; or (3) a limited liability company formed under chapter 322C,

³ action4liberty.com/unsubscribe?

or under similar laws of another state, that does business in this state.” Minnesota Statutes section 211B.15, subdivision 2, provides that:

- (a) A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.
- (b) A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a).
- (c) For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.

A corporation that has violated the prohibition on corporate contributions is subject to a civil penalty imposed by the Board. Minn. Stat. § 211B.15, subd. 7. An individual representative of a corporation who has violated the prohibition while acting on behalf of the corporation is likewise subject to a civil penalty imposed by the Board. Minn. Stat. § 211B.15, subd. 6. An individual or other entity that has accepted a contribution or an offer or agreement to make a contribution prohibited by Minnesota Statutes section 211B.15 is also subject to a civil penalty imposed by the Board. Minn. Stat. § 10A.34, subd. 4.

The complaint alleges that Action 4 Liberty is registered as a Minnesota nonprofit corporation. The complaint alleges and contains evidence that Action 4 Liberty made a contribution to the Shah committee by providing or paying for services related to the Shah committee’s emails. The chair therefore concludes that the complaint states a prima facie violation of the corporate contribution prohibition in Minnesota Statutes section 211B.15, subdivision 2, as to Action 4 Liberty and the Dr. Neil Shah for Governor committee.

Reporting

Minnesota Statutes section 10A.20, subdivision 3, requires candidate committees to report all contributions received and expenditures made on their campaign finance reports, including in-kind contributions that exceed \$20. The complaint and the Board’s records reflect that the Shah committee has not reported receiving any in-kind contributions from Action 4 Liberty or making any corresponding in-kind expenditures. The chair therefore concludes that the complaint states a prima facie violation of the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, as to the Dr. Neil Shah for Governor committee.

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 violations of Minnesota Statutes section 10A.20 and Minnesota Statutes section 211B.15, alleged in the complaint have occurred and warrant a formal investigation. The complainant and the respondents 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.

A handwritten signature in black ink, appearing to read 'F. Rashid', written over a horizontal line.

Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: May 12, 2022