

**BEFORE THE IOWA
ETHICS AND CAMPAIGN DISCLOSURE BOARD
Pursuant to Chapter 17A and Chapter 68B**

IN THE MATTER OF:)
)
DANIEL OAKLEY) Case No. 2005 IECDB 10
In His Capacity as the De Facto Chair)
of the WAYST? (Where Are Your Sales,) **PROPOSED DECISION and ORDER**
Taxes?) organization,) **of the PRESIDING OFFICER**
RESPONDENT.)

A hearing was held on November 18, 2005 at the offices of the undersigned. The Board’s legal counsel, Charles Smithson, and the Respondent Daniel Oakley were present. The hearing was conducted in open session and the parties agreed to proceed informally. Evidence was presented, including evidence from Sharon Wright in the office of this Board. Also in the course of the hearing it was agreed by the parties to contact telephonically Tonia Ryan, the Cedar Rapids Gazette Classified Advertising Manager, who gave her testimony by speaker telephone. The hearing was to determine if Daniel Oakley, acting on his own or on behalf of an organization called WAYST, had violated Section 68A.405(1)(e) of the Code of Iowa [Allegation 1]; Section 68A.201 of the Code of Iowa [Allegation II]; and Section 68A.402 of the Code of Iowa.

Findings of Fact

The Respondent, Daniel Oakley, was very cooperative and open about the one essential fact that has a bearing on the Allegations. He stated he did in fact pay for the publication of an advertisement in the Cedar Rapids Gazette newspaper on September 13, 2005. He stated that he paid \$633.06 in cash for this ad. Copies of the ad itself were admitted without objection as Exhibits #1 and #2. The ad carries the attribution, “Paid for WAYST? (Where Are Your Sales Taxes?)”.

The Respondent was unable to produce a receipt, and because the payment was in cash, there is no cancelled check or bank record available. Counsel for the Board called Board staff person Sharon Wright, who confirmed that she had made contact with the Cedar Rapids Gazette on or about September 16, 2005, and learned that Daniel Oakley, in fact, purchased the ad and that the cost of the ad was \$764.95. Witness Sharon Wright also testified to her repeated attempts to reach Respondent, including telephone calls to his correct telephone number and messages left on his answering machine.

The undersigned then requested the consent of the parties to contact the Gazette to elicit the state of facts directly. Witness Tonia Ryan testified that the ad in question was originally supposed to cost \$633.06, but when the Respondent saw the proof he decided he wanted it to be larger and the additional cost was \$131.89. The total paid for the ad was therefore, \$764.95. This amount was further supported by a fax from the Gazette, which was marked Exhibit #3.

Of course the important point for the purposes of Allegations II and III, is that Iowa law applies to political advertising from non-candidate entities, i.e. "committees", if it makes expenditures in the amount of \$750.00, i.e. "financial activity threshold". The Respondent's expenditure was in excess that threshold by \$14.95.

Such an amount may seem trivial, if only the dollar and cents issue were all that is important. There is a more important issue, and that is the public's awareness of who in particular is making the expenditure and responsible for the ad. This ad is without question "express advocacy" as that term is defined in Section 68A.102. Even if the expenditure were under the financial activity threshold, the public under Iowa law would be entitled to know by way of an attribution statement the identity of the person and entity responsible for the ad. In this case there is no question that the threshold was crossed, but more importantly no one was identified as the individual or individuals that were

involved with WAYST. This would be an entirely different matter, if the attribution statement had met the requirement of Section 68A.405(1)(c). In other words, if under the “Paid for by: WAYST” there appeared an address for the organization and the name “Daniel Oakley, President (or Treasurer).” It also would have possibly been an entirely different matter, if Respondent had returned any one of the three telephone calls from the staff of the Board because the issues possibly could have been resolved short of this hearing.

It is also somewhat alarming that the transaction was in cash so that there was not a paper trail. There are good reasons for organizations to have records, if they are going to act in the political arena, hence the requirement of law for reporting actual contribution and disbursements and reconciliation of bank statements.

The undersigned is not convinced that the Respondent at the time understood the requirements of the Iowa Statutes and Rules regarding his activities. For that reason the violations found herein were not necessarily premeditated. On the other hand from the ad itself it appears that the Respondent presumes to have a level of sophistication concerning the operation of governmental matters. He should have made inquiry and done research before taking the steps he did take. If so, he would have found the need for the address and his name to appear in the attribution statement, and he would have known about the financial activity threshold. A simple check with the candidate he was attempting to assist would have probably made him aware of these issues.

Conclusions

ALLEGATION I. It is clear on the face of the two copies of the ads that the Respondent, by a preponderance of the evidence, failed to meet the requirements of Section 68A.405(1)(e), which requires, in addition to the name of the organization, requires the address of the

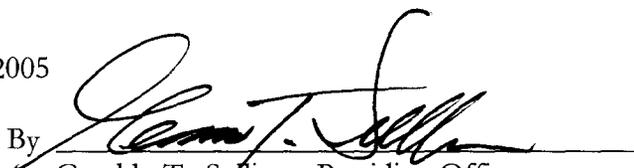
organization and the name of one officer of the organization. By the authority granted in Section 68B.32D(1)(h) the Respondent should be ordered to pay a civil penalty of \$131.89.

ALLEGATION II & III. Although the Respondent maintains that the ad cost was under \$750.00, the preponderance of the evidence establishes that his expenditure was in excess of the \$750.00 financial activity threshold. As such the Respondent was deemed to have organized a committee under Section 68A.201(1) as of September 13, 2005. No Statement of Organization was filed and no campaign disclosure report required under Section 68A.402 was filed. By the authority granted in Section 68B.32D(1)(h) the Respondent should be ordered to pay a civil penalty of \$100.00 for the violations asserted in these two Allegations and hearing costs herein of \$75.00.

Disposition

Pending final approval by the Iowa Ethics & Campaign Disclosure Board, it is ordered that Daniel Oakley pay a fine of \$200 (Allegation I) and a fine of \$131.89 (Allegations II and III). The organization: "WAYST ? (Where Are Your Sales Taxes?)" is not at this time an organization recognized by this Board. If the Respondent wishes to organize this committee or another political committee, he is urged apprise himself of the requirements and, if appropriate, to file a statement of organization and make timely and accurate reports as required by the laws and rules of the State of Iowa.

Dated this 19TH day of December, 2005

By 
Gerald T. Sullivan, Presiding Officer

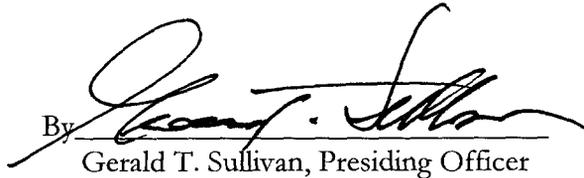
(Exhibits #1, #2 and #3 are filed with original of this decision.)

Post Decision Procedure

Pursuant to rule 351—11.26, within 14 days of the issuance of this proposed order either party may serve a statement of exceptions including supporting arguments by delivering the original and 5 copies to the Board’s office and by serving a copy to the opposing party. With the filing of exceptions, either party may also request an oral argument before the Board. After the Board reviews this proposed decision and any filed exceptions, it will enter a final order. Pursuant to rule 351—11.27, either party may file an application for rehearing from that final order.

IT IS SO ORDERED.

Dated this 19th day of December, 2005

By 
Gerald T. Sullivan, Presiding Officer

Copies to:

W. Charles Smithson
510 E. 125th Street, Suite 1A
Des Moines, IA 50319

Daniel Oakley
6700 Milburn Rd.
Cedar Rapids, IA 52411-7933

What you should know before you vote for School Board

We have watched the Cedar Rapids School Board with more than a passing interest the last 4 years because we have worked for the CRSD and others in the surrounding area for many years. We have worked in every building the CRSD owns. WE have helped them bandage up projects until the money was available to do it right. We've seen the best and worst of times with them. On a positive note we have a new Superintendent (Dr. Markward) that seems to be establishing himself quite well. Overall we have good people willing to make it all work given the everyday burdens they seem to encounter. But sadly there is a dark side to this blissful picture.

It involves incompetence, greed, and a total disregard for the good people of this school district. We the people have been victimized by an orchestrated system that has cost us millions in taxpayer dollars. It is important that you know how things have been handled the last four years before you reinstate any School Board Members or vote for further Sales Option Taxes.

Before the Sales Option Tax was presented to the Taxpayers, a local Architect Firm that did design work for the CRSD had an employee from the Firm run for the Cedar Rapids School Board. Her campaign was paid by donations by coworkers and owners of the firm. After being elected and seated on the Board this person was positioned to do the Firm a lot of business. The Firm was put in charge of designing all CRSD projects, deciding how much money CRSD needed to do them, campaigning for the Sales Option Tax funds (which amounted to 54 Million Dollars), solicit the bids, oversee the construction, and report back to a Firm controlled Construction Oversight Committee. While all of this was transpiring the former employee, now School Board Member went to work for the University of Iowa. She now employs the Firm on University projects along with a very lucrative CRSD contract. In our book that makes her Ex-Employee of the Century. It parallels the Dick Cheney and Halliburton situation that we are also paying for. The Firm's employees that work on CRSD projects are based at the Firm's Iowa City office and also work for the former employee, now CRSD Board member.

This could have worked and gone unnoticed had it not been for poor designs, intentional escalated costs, disregard of Value Engineering by experienced tradesmen, neglected advice of school workers, attempts to undermine corrections, and blatant bullying tactics toward Contractors. Certain individuals within the CRSD are guarding this secret pork barrel. They have taken measures to guarantee that this boat doesn't get rocked. I think we need to know why out of 54 Million Dollars the Firm received 8 Million Dollars paid from four separate accounts over four years. Someone within CRSD told us the books looked better paid out from four separate accounts. But we can't find out why 8 Million Dollars was paid to this Firm.

We have uncovered numerous excuses of why this happened. The "Super Store One Stop Shop" mentality is one reason. This makes everyone's job easier if someone else does it all. The "Ostrich Approach", which entails putting your head in the sand so you can't see it. Some have chose the "Tud" approach, feeling threatened that their authority is being questioned when asked about it. Some are "Scared" and don't want to be punished. And Finally we have the "Not My Problem". Those who just don't want to get involved.

The Firm has infiltrated the CRSD to an alarming rate. We believe Dr. Markward is intentionally being kept out of this loop, as have the taxpayers. Dr. Markward unknowingly inherited the problem when he came on board. He is capable of fixing the problem if he know the facts.

We offer these suggestions for voters, CRSD, and Dr. Markward.

1. Ann Rosenthal must resign the School Board immediately and not seek reelection due to her affiliations and conflict of interests.
2. Susan McElmeel must be voted in to correct the problems.
3. The CRSD must reevaluate their relationship with the Firm and start a fair bidding practice with other capable Architect Firms in our area.
4. The CRSD must hire a "Construction Manager" (with no Architect Firm or School Board affiliation) to oversee all projects funded with the Sales Option Taxes. This person or company should report directly to a new Construction Oversight Committee.
5. The "Construction Manager" should act as a third party interest accepting bids from various Firms and Contractors and acting as a mediator. This will insure that all Engineer Firms will be held accountable for poor performance as contractors are held accountable for theirs. This will level the playing field and break the hold that the current Firm has on the CRSD.
6. We must engage our new and well-respected Chamber of Commerce President, (Lee Clancey) to establish a non-partisan committee to investigate this matter and recommend to the CRSD a course of action to Safeguard future projects. The CRSD is very biased and incapable of investigating itself right down to the "Firm controlled Construction Oversight Committee".

Now is the time to make the necessary changes and build a better future. The taxpayers of Linn County must feel confident they are getting fair and honest performance for their money. Right now we cannot say that they are. Your "Knowledge is your power". We cannot attain power, nor can we bestow it, until we know the truth. The truth will lead to change and in this matter change is desperately needed. **"PLEASE VOTE for Susan McElmeel and stop the waste".**

Paid for by: WAYST? (Where Are Your Sales Taxes?)

To
Dan Oakley
Fax: 395-7135

From
Michelle

Phone: 398-8231
Fax: 398-8265

EXHIBIT #1

Very n
bath, fr, 3 stall, pet ok
1396 E. Murdoch Dr. NE \$695

3 bedroom, garage, air, finished basement, pet ok
2695 14th Ave. Marlon \$645

4 bedroom, 2 stall, pet ok
2312 B AVE. NE \$645

FOR RENT
\$695/mo. 3 bedroom, great SW location, no pets.
Call Ken 360-0047

FRANKLIN MIDDLE SCHOOL
Duplex, 1935 B Ave NE
2 bedroom, 2 bath, rec room and garage. \$650/mo.
Very nice location!
MOE 389-0302
Skegman Realty

LARGE SE 3 bedroom, 1 bath with fenced yard.
No pets. \$630/mo. 521-0804

LOOKING for a 2 bedroom home? \$425-\$600. 365-6956
frce.com • Tucker Realty

NE, 4 bedroom, 2 bath, 1 car. \$1050. SE, 3+ bedroom \$700. Rent to Own or low down contract. 360-7139.

NEW PROPERTY
3 BEDROOM, 2.5 baths, roomy basement, 2 car, air, new paint, carpet, close to Taft. \$745. 5105 E Ave. N.W. La Plata 241-7251

NICE NE 4 bedroom, 2 bath, large garage, central air, no pets/smoking. \$850 plus deposit. 393-3394.

NORTH Liberty 4 bedroom, 1.5 bath, fenced yard, lots of space, good neighborhood. \$975 + utilities. Ready Oct. lat. Call Larold 896-4730, 265-8606.

NW House for rent. 3404 Rogers Rd. 2 story, 2-3 bedrooms, 1.5 baths, no pets, no appliances. Utilities separate. \$650, 396-1504

SHARP 3 bedroom ranch, finished basement, appliances, patio, no pets, deposit. \$775. 607 36th St. SE Koch 365-5566

UPDATED 2 bedroom, 1+ bath, fenced, garage, \$695
RentalSolutions 364-8478

WESTDALE area, clean 3 bedroom, garage, family room, air, appliances, no pets. \$825. 863-5314.

garage & storage 663
10X10 all sizes 11x30, Cedar Rapids Marlon, Petio. Heated/unheated. 981-3182

10 X 20 GARAGE SW \$50.00/month 390-7600, 396-1865

ALL SIZES. ON SITE MANAGERS. Low rates, Open 8-5. 16th Ave. Self-Storage, 1550 16th Ave. SW. 343-0232

Edgewood Rd. Storage
CALL 329-2985 or 654-8300.

FULLY Enclosed Security fence/locks. Open 7 Days. Starting at \$30 month. Superland Rentals 373-4316

GARAGES AVAILABLE \$35
366-8039, 533-4586 EQUIT

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houses for sale **702**

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www.grawerealestate.com

2514 Ellis, 200' to boat, 1400' shop near golf/boat, 4 bedroom, \$195K. 858-350-3277

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JACK DUNKIN 373-8329
Grawe Real Estate 377-1310
www.grawerealestate.com

4 bedroom, Colosse Community, Open Sat-Sun 2-4. \$125,000. 319-270-8743.
See Photos online at Iowa.com

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Iowa Mortgage and Consulting

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REAL ESTATE
totalaccessrealestate.com

All real estate advertised herein is subject to the Federal Housing Act called Title VIII; and the State of Iowa Civil Rights Act Chapter 216 in the "Code of Iowa"; and the City of Cedar Rapids Municipal Code, Chapter 69. These laws make it illegal to advertise any preference, limitation or discrimination based on race, color, creed, religion, sex, national origin, mental/physical handicap/disability, familial status, presence of children, age, and sexual orientation, or the intention to make any preference, limitation or discrimination. This newspaper will not knowingly accept any advertising for real estate which is in violation of these laws. All persons are hereby informed that all dwellings advertised are on an equal opportunity basis.

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Paid for by: WAYBT? (Where Are Your Sales Taxes?)

Kris Rep, who handled the ad.
398-8236

FAX

Date 11/18/2005

Number of pages including cover sheet 2

TO: Jim Sullivan

FROM: Tonia Ryan
Gazette Communications

Phone

Fax Phone 364-1370

Phone

Fax Phone 319-368-8834

Re: Advertisement # 254956

REMARKS: Urgent For your review Reply ASAP Please Comment

EXHIBIT 3

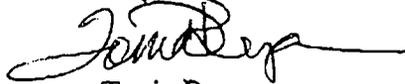
November 18, 2005

RE: Advertisement # 254956

Dear Mr. Sullivan:

At the request of Dan Oakley and yourself, I am faxing you the amount paid for the advertisement referenced. The total amount paid was \$764.95.

Regards,

A handwritten signature in black ink, appearing to read 'Tonia Ryan', with a long horizontal flourish extending to the right.

Tonia Ryan
Gazette Classified Advertising Manager

Cc: Dan Oakley