

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

IN THE MATTER OF: McCarthy for Sheriff, a county candidate's committee	Case No. <u>2012 IECDB 13</u> DISMISSAL
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On this 26rd day of September, 2012, a complaint filed against McCarthy for Sheriff came before the Iowa Ethics and Campaign Disclosure Board. For the reasons that follow, the Ethics Board hereby dismisses the complaint.

BACKGROUND

Bill McCarthy is a candidate for Polk County Sheriff. On September 11, 2012, David Funk filed a complaint with the Ethics Board alleging Mr. McCarthy's committee, McCarthy for Sheriff, had campaign signs on government property in violation of Iowa Code section 68A.406. The complainant included several street addresses.

After receiving a copy of the complaint, Mr. McCarthy's committee filed a response with the Ethics Board. The committee claimed it did not have knowledge of the placement of these signs. Nevertheless, a volunteer with the committee visited the locations listed in the complaint and moved any signs that were arguably in the right-of-way.

ANALYSIS

The Ethics Board must first determine whether the complaint is legally sufficient. A legally sufficient complaint must allege all of the following:

- a. Facts that would establish a violation of a provision of chapter 68A, chapter 68B, section 8.7, or rules adopted by the Ethics Board.
- b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.
- c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

Iowa Code § 68B.32B(4). If the Ethics Board determines the complaint is legally sufficient, it shall order an investigation. *Id.* § 68B.32B(6). If the Ethics

Board determines none of the allegations contained in the complaint are legally sufficient, the complaint shall be dismissed. *Id.*

The complaint alleges conduct that occurred this year. Mr. McCarthy and the McCarthy for Sheriff committee are subject to the Ethics Board's jurisdiction as a candidate and candidate's committee. *Id.* § 68B.32(1). The only remaining question is whether the complaint alleges facts that would establish a violation of chapter 68A.

Iowa Code section 68A.406 prohibits the placement of campaign signs on "[a]ny property owned by the state or the governing body of a county, city, or other political subdivision of the state, including all property considered the public right-of-way." The complaint alleges the McCarthy for Sheriff committee has campaign signs on government property. Therefore, because the complaint alleges facts that would establish a violation of section 68A.406, the Ethics Board finds the complaint is legally sufficient.

The Ethics Board finds it is unnecessary to order an investigation since the committee has already reviewed the sign placements and moved signs that may have been in the right-of-way. The Ethics Board receives numerous calls concerning campaign signs and the staff's protocol is the following: (1) contact the candidate or candidate's committee, (2) ask the candidate or committee to review the sign in question and move the sign if it violates any provision of 68A.406, and (3) report to the Ethics Board's staff the action taken. The Ethics Board is satisfied with the actions taken by the McCarthy for Sheriff Committee in response to the complaint. The complaint is hereby dismissed.

By direction of the Ethics Board



James Albert, Chair
John Walsh, Vice Chair
Saima Zafar
Carole Tillotson
Jonathan Roos
Mary Rueter

CERTIFICATE OF SERVICE

The undersigned hereby certified this order was sent by first class mail, address service requested, on November 28, 2012, to:

McCarthy for Sheriff Committee
Attention: Sheriff William McCarthy
5201 SE 32nd Street
Des Moines, IA 50320

Mr. David Funk
Co-Chair of the Polk County Republican Party
1228 8th Street
West Des Moines, IA 50265

By: Megan Tooker
Megan Tooker, Executive Director for the Board