

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

IN THE MATTER OF:

Case No. 2012 IECDB 12

Mullen for Senate, a legislative  
candidate's committee

ORDER

On this 26<sup>rd</sup> day of September, 2012, a complaint filed against Mullen for Senate came before the Iowa Ethics and Campaign Disclosure Board. For the reasons that follow, the Board hereby dismisses the complaint.

BACKGROUND

Jeff Mullen was a candidate for the Iowa Senate. On June 5, 2012, Robert A. Simons filed a complaint alleging Mr. Mullen's committee, Mullen for Senate, violated the attribution statement requirements found in Iowa Code section 68A.405. The complainant attached an eight page newspaper-style advertisement entitled "DM Metro Today." Every article in the "newspaper" was either critical of Mr. Mullen's opponent or favorable to Mr. Mullen's candidacy. The last page was marked "Political Advertisement" and included the attribution statement "Paid for by Jeff Mullen for Senate."<sup>1</sup> The complaint alleged the attribution statement was fraudulent because it insinuated that the committee was only responsible for the last page of the "newspaper" rather than the entire document.

ANALYSIS

The Ethics Board must initially determine whether a 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.

---

<sup>1</sup> Mr. Mullen's committee is actually "Mullen for Senate."

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 Board also has the power, on its own motion, to initiate an investigation into matters that the Board believes may be subject to the Board's jurisdiction. *Id.* § 68B.32B(7).

The complaint alleges conduct that occurred this year. Mr. Mullen and the Mullen for Senate 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.405 requires an attribution statement on published material, including direct mailing, brochures, and "any other form of printed general public political advertising" that is designed to expressly advocate the nomination, election, or defeat of a candidate for public office. Iowa Administrative Code rule 351—4.39(3) states that published material consisting of more than one page need only have the attribution statement on one page. The "newspaper" contained an attribution statement on the last page which is all that is required under the rule. The Board found the complaint was not legally sufficient because the "newspaper" complied with section 68A.405 and rule 351—4.39(3).

Nevertheless, the Board on its own motion (at its August 23, 2012 meeting) ordered its staff to investigate whether the "newspaper" violated Iowa Code section 68A.503. That section prohibits a candidate or candidate's committee from using funds from a prohibited contributor<sup>2</sup> to publish a "sham newspaper" that promotes the candidacy of a person for any public office. The Board's staff contacted Mr. Mullen who said he used only his committee's funds to pay for the design, printing and mailing of the "newspaper." He provided a copy of the invoice and proof of payment. The Board is satisfied that no prohibited contributor paid in whole or in part for the "newspaper." Therefore, the complaint is dismissed.

---

<sup>2</sup> Prohibited contributors are insurance companies, savings and loan associations, banks, credit unions, and corporations.

By direction of the Ethics Board



---

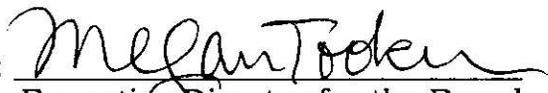
James Albert, Chair  
John Walsh, Vice Chair  
Saima Zafar  
Carole Tillotson  
Jonathan Roos  
Mary Rueter

CERTIFICATE OF SERVICE

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

Mr. Jeffrey Mullen  
2628 NW 160<sup>th</sup> Street  
Clive, IA 50325

Mr. Robert A. Simons  
1433 NW 105<sup>th</sup> Street  
Clive, IA 50325

By:   
Megan Tooker, Executive Director for the Board