



REPUBLICAN PARTY OF MINNESOTA

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Tony Sutton
State Chair

December 11, 2009

Mr. Gary Goldsmith, Executive Director
Campaign Finance & Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155-1603

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CAMPAIGN FINANCE BOARD
PUBLIC DISCLOSURE BOARD

Dear Mr. Goldsmith,

We are writing to file a formal complaint regarding DFL gubernatorial candidate and Speaker of the House Margaret Anderson Kelliher.

News accounts from the St. Paul *Pioneer Press* and Minnesota Public Radio raise deeply troubling questions about Speaker Kelliher's campaign finance activities and potentially illegal campaign coordination.

Minnesotans deserve a full and complete accounting of the following outstanding questions:

- When were the donations referenced by the *Pioneer Press* and Minnesota Public Radio made to Speaker Kelliher?
- By whom were the donations made?
- What were the amounts of said donations?

According to the *Pioneer Press*, "At issue are donations made on behalf of Kelliher, apparently after her campaign reached its limit for nonelection-year donations. Money was given to the DFL, bypassing Kelliher to help buy a pricey database — called a Voter Activation Network, or VAN — of Democratic voters for her campaign's use."

"Under state campaign finance rules, candidates in non-election years can raise \$500 each from lobbyists, political action committees and individuals. Once they reach \$95,800, however — and Kelliher and several other DFL candidates appear to have hit that mark — they can no longer accept donations from lobbyists and PACs. However, candidates may still raise donations from individuals of up to \$250 apiece. The Kelliher campaign asked individuals to help buy the VAN, which one source said costs \$13,000. [DFL Chair Brian] Melendez wouldn't confirm that figure but said it was 'in the ballpark.' Such coordinated donations should count against a candidate's fundraising cap," the *Pioneer Press* further reported.

You were also quoted telling the *Pioneer Press*: "If there's a coordination like that, it would still be considered a contribution to a candidate."

"The donations also may run afoul of state rules against 'earmarked' donations, or donations made to a campaign committee with the express or implied purpose of being redirected to a specific candidate," the *Pioneer Press* added.

Speaker Kelliher's fellow DFL gubernatorial candidates have raised concerns regarding potential illegality. "I think there's some questions to be asked. Number one, I don't think it's legal. But also it seems like one candidate is getting preferential treatment," state Senator Tom Bakk told the *Pioneer Press*.

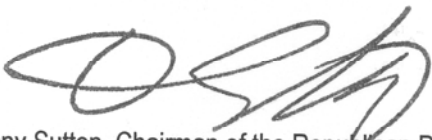
"If the allegations are true it's really upsetting. The issue would be the party playing favorites, but also it's apparently a campaign violation. ... Why in the heck would somebody think that that's OK to do?" state Senator John Marty told the paper.

Senator Marty further told Minnesota Public Radio: "I can't think of any reason you would say 'If you want to help me give it to somebody else.' The only reason I can think one wants to do that is if they're approaching the limits on how much we can accept from that source of money. In other words, to circumvent the contribution limits and that's what I'd be extremely concerned about."

"It's the responsibility of both Speaker Kelliher and the party to play by the rules. I hope going forward that we have a fair process because that's what the people deserve," State Representative State Rep. Paul Thissen told MPR.

Thank you for your attention to this very serious matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tony Sutton', written in a cursive style.

Tony Sutton, Chairman of the Republican Party of Minnesota

A handwritten signature in black ink, appearing to read 'Michael Brodtkorb', written in a cursive style.

Michael Brodtkorb, Deputy Chairman of the Republican Party of Minnesota

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Opponents taking issue with Kelliher campaign move

by Tom Scheck, Minnesota Public Radio

December 10, 2009

St. Paul, Minn. — Some DFL opponents of House Speaker Margaret Anderson Kelliher in the race for governor are crying foul over a move that may have violated campaign finance laws, but officials with Kelliher's campaign and the DFL Party say it was an honest mistake that they reconciled.

The issue revolves around a voter database that the candidates for governor can use to raise money and build support for the party endorsement. Some of the campaigns paid the state DFL party for the right to use the database, but Margaret Anderson Kelliher's campaign asked to do something different, and that's where the story gets complicated.

Kelliher wasn't available to comment but her campaign manager Jaime Tincher said she contacted the DFL Party a few months ago to see whether it was OK for donors to pay for Kelliher's access to the file.

"The legal reading from the party to me was that we could 'donor direct' to pay for the voter file and then they got back to me and said 'actually, after further review we can't do that,'" Tincher said.

"It's the responsibility of both Speaker Kelliher and the party to play by the rules."

- State Rep. Paul Thissen

DFL Party Chair Brian Melendez said party officials initially thought the process was legal. But he said he asked attorneys to look into it after another candidate, state Rep. Tom Rukavina, confronted him about it. Melendez said party attorneys then told him that it was, in fact, illegal.

"What we've done is unwound those transactions," Melendez said. "The speaker has now replaced the donor money with money directly from her campaign treasury so she's fully paid up on her fees for the voter file and we're refunding the money to the donors who gave it to us."

Kelliher's campaign manager Jaime Tincher, who worked for the DFL Party during the 2006 and 2008 elections, said the campaign is now paying for the use of the file with campaign funds.

Several of the other DFL candidates for governor say they are upset about the situation. State Sen. Tom Bakk of Cook said he's concerned that party officials are picking favorites before DFL activists endorse a candidate next year.

"We're all out working really hard everyday, by going to all kinds of forums and contacting delegates and trying to raise money," Cook said. "I think the assumption on everybody's part is that we all have an equal chance to secure the endorsement. If you don't, and the process is rigged, why would you make the commitment to abide by the endorsement if it's not a fair process."

Bakk also wants to know how many donations the party gave back as a result of the mistake. The DFL's Brian Melendez said he didn't know and wouldn't give out the information if he did know. Jaime Tincher, with Kelliher's campaign, said "a couple of people" contributed to the fund but didn't offer any more specifics.

Another DFL candidate, state Sen. John Marty, said he wants to know why Kelliher's campaign would direct donors to pay for its use of the voter file instead of accepting the funds and paying for it on their own. He said state law limits the candidates for governor to accept only \$100,000 from Political Action Committees and lobbyists in non-election years.

"I can't think of any reason you would say 'If you want to help me give it to somebody else,'" Marty said. "The only reason I can think one wants to do that is if they're approaching the limits on how much we can accept from that source of money. In other

words, to circumvent the contribution limits and that's what I'd be extremely concerned about."

Tincher, with Kelliher's campaign, said the campaign wasn't circumventing the limit. She said they gave donors a range of options to contribute.

State Rep. Paul Thissen said party officials and Kelliher's campaign should have known better.

"It's the responsibility of both Speaker Kelliher and the party to play by the rules," Thissen said. "I hope going forward that we have a fair process because that's what the people deserve."

For his part, DFL Party Chair Melendez said the party isn't picking favorites and said it was a "cheap shot" for any candidate to suggest it. He said the party gave Kelliher's campaign advice only after they asked for it.

"The fact that they say 'Can we do this?' We give them a yes or no answer. It's not our job to coach them about strategy," Melendez said. "That's their job. We just tell them whether they can do it or not. In this case, it turned out we couldn't so we had to tell everybody no."

"We thought we could and when we were under that misimpression, we would have told everybody yes. But it's not our job to tell them what questions to ask or what things they should try to do," he said.

Melendez said he doesn't think that the issue will taint the endorsement for governor. But, he said some of the candidates who lose the endorsement may use it as an excuse.

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Kelliher in middle of campaign funding flap

DFL rivals accuse party of playing favorites in the race for governor

By Jason Hoppin
jhoppin@pioneerpress.com

Updated: 12/11/2009 07:36:47 AM CST



House Speaker Margaret Anderson Kelliher

It took the coldest week of this season so far for sparks to fly on the Democratic gubernatorial campaign trail.

An issue involving campaign donations funneled from supporters of House Speaker Margaret Anderson Kelliher to the state Democratic-Farmer-

Labor Party has several campaigns fuming, roiling the crowded field as candidates work to drum up support and distinguish themselves from one another.

"I think there's some questions to be asked," said state Sen. Tom Bakk, DFL-Cook, one of Kelliher's rivals. "Number one, I don't think it's legal. But also it seems like one candidate is getting preferential treatment."

At issue are donations made on behalf of Kelliher, apparently after her campaign reached its limit for nonelection-year donations. Money was given to the DFL, bypassing Kelliher to help buy a pricey database — called a Voter Activation Network, or VAN — of Democratic voters for her campaign's use. Both the Kelliher campaign and the DFL said the money has since been returned.

DFL Chairman Brian Melendez blamed the arrangement on an error; he said he thought the party had received a 2006 campaign finance opinion that it was legal. But party officials learned from subsequent legal advice that it was not.

"The campaign is now paying for it out of their treasury," Melendez said.

Kelliher's staff confirmed that version.

"We decided, when we found out we couldn't do that, we decided to pay for the VAN," campaign manager Jamie Tincher said. "It was a miscommunication from the party."

Under state campaign finance rules, candidates in non-election years can raise \$500 each from lobbyists, political action committees and individuals.

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Once they reach \$95,800, however — and Kelliher and several other DFL candidates appear to have hit that mark — they can no longer accept donations from lobbyists and PACs.

However, candidates may still raise donations from individuals of up to \$250 apiece.

The Kelliher campaign asked individuals to help buy the VAN, which one source said costs \$13,000. Melendez wouldn't confirm that figure but said it was "in the ballpark."

Such coordinated donations should count against a candidate's fundraising cap.

"If there's a coordination like that, it would still be considered a contribution to a candidate," said Gary Goldsmith, executive director of the Minnesota Campaign Finance and Public Disclosure Board.

The donations also may run afoul of state rules against "earmarked" donations, or donations made to a campaign committee with the express or implied purpose of being redirected to a specific candidate.

While the DFL Party has returned the donations, the feelings of many of Kelliher's rivals haven't been soothed.

"If the allegations are true it's really upsetting," said state Sen. John Marty, DFL-Roseville, who is making his second run for governor. "The issue would be the party playing favorites, but also it's apparently a campaign violation. ... Why in the heck would somebody think that that's OK to do?"

" 'Disappointing' would be a modest word," he

added.

A similar arrangement wasn't offered other campaigns, leading some to charge that the DFL has already anointed its candidate before delegates meet in April to vote on an endorsement.

Numerous sources reported an animated confrontation between candidate Tom Rukavina — a vociferous lawmaker from the Iron Range town of Virginia — and Melendez after this week's DFL debate at Macalester College.

Rukavina, however, did not want to say much about the encounter Thursday.

"My issues are resolved," Rukavina said. "My goal is to get delegates at the state convention. That's my concern and that's what I'm working on."

Melendez said the party doesn't operate by asking all campaigns if they want to do what one campaign is doing. He also said it was not backing any one candidate at this point.

The DFL endorsement is key because most of the party's 11 candidates have vowed to withdraw from the race if they don't win it. Two candidates, former House Minority Leader Matt Entenza and former U.S. Sen. Mark Dayton, have said they will run in the primary regardless of whether they get the endorsement.

Several campaigns contacted were aware of the issue but did not want to comment.

Part of the undercurrent of frustration could be Kelliher's emergence as a likely front-runner.

This week, she announced the endorsement of the

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International Brotherhood of Electrical Workers Minnesota State Council, adding a fourth piece of union backing to what had been a balkanized union endorsement process. Several other key unions had thrown their weight behind other candidates.

Kelliher also announced the support of former DFL Gov. Wendell Anderson, who joined a list of some 1,000 supporters. And on Wednesday, the campaign won the backing of Emily's List, an influential group focused on electing women to office. During the last election cycle, Emily's List raised \$43 million for women candidates nationwide, the group said — cash to which Kelliher would have access.

Bakk said his staff asked for a meeting with the DFL to discuss the matter. A source who asked not to be identified because the person was not authorized to speak on behalf of the source's candidate also said there have been e-mails among campaigns about a possible joint letter to be sent to the DFL.

When asked whether the issue would make it less likely that candidates follow their promises to abide by the DFL endorsement, Bakk said: "It begs the question. If it's not going to be a fair process, why would a campaign abide by it?"

Other DFL candidates include former state Sen. Steve Kelley; Ramsey County Attorney Susan Gaertner; Rep. Paul Thissen, DFL-Minneapolis; Minneapolis Mayor R.T. Rybak; and artist Ole Savoir.

Seven candidates are vying to be the Republican nominee.

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