

# SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS ELECTION COMMISSION

Complainants: Aaron Payment and Betty Freiheit

May 2, 2024

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## BACKGROUND

On March 25, 2024 the Election Commission received a complaint filed by Candidate Aaron Payment and a Complaint filed by Unit Director Betty Freiheit. The Complaints allege: 1. Commissioner Minton has a financial conflict of interest for receiving Cultural Enhancement Funds from Director Lana Causley-Smith for providing certain cultural events and 2. Commissioner Minton violated 10.104(9) for supporting Incumbent Candidate Lana Causley-Smith in a Facebook post.

More specifically, the complaints allege that the Ms. Minton receiving Cultural Enhancement funds from Unit Director Causey-Smith raises a conflict of interest and that Ms. Minton could not objectively rule on any complaints involving Director Causley-Smith and may cause Ms. Minton and Unit Director Causley-Smith to use these cultural events to enrich Commissioner Minton's income to fund candidate Causley-Smith's campaign.

The Complaints allege further that on April 1, 2024 Facebook post by Commissioner Minton was campaigning in support of Candidate Causley-Smith. The post in question was a picture of Ms. Minton and Director Causley-Smith with the caption, "I'm so proud of my BFF-together we support and walk with each other through the good times and the struggles. Prayers always get us where we need to be 🙏."

**Documentation Provided.** A copy of what appears to be an accounting of the Cultural Enhancement Funds paid to Ms. Minton from 2019-2024 and copies of her April 1, 2024 Facebook post as described above.

The complaint requested the following relief:

1. Find that Commissioner Minton has a conflict of interest.
2. Find Commissioner Minton in violation of Chapter 10.104(9);

All Election Commission members shall refrain from making any public comment regarding the election procedures unless authorized by the Election Commission. Election Commission members shall refrain from campaigning on behalf of, or in opposition to, any Candidate or referendum issue. It shall be cause for removal from the Election Commission by the Board of Directors if any member violates this Chapter.

On April 24, 2024 the Election Commission held an open meeting pursuant to Tribal Code 10.121(1) to review the grounds alleged in the complaint. The allegation of Commissioner Minton having conflicts of interest is dismissed under 10.121(2)(a) as being without merit. Under Tribal Code 10.121(2)(c) the Election Commission hereby renders this written decision finding Commissioner Minton in violation of 10.104(9) for campaigning on behalf of Incumbent Candidate Lana Causley-Smith.

### **ANALYSIS**

This Commission is keenly aware of the pitfalls that accompany trying to regulate political speech or otherwise on today's social media platforms. It is, in most cases, an effort in futility. However, there will arise specific instances where due to the nature of the facts and issues that a violation must be rendered based on a social media post. To determine whether the social media post placed on Facebook on April 1, 2024 by Commissioner Minton is in violation of Chapter 10.104(9) it must first be determined whether the post at issue constitutes campaigning for Incumbent Candidate Causley-Smith. Under 10.103(4) "Campaigning" shall mean all efforts designed to influence Members to support or reject a particular Candidate, including without limitation, advertising, rallying, public speaking, or other communications with Members."

This definition of campaigning is purposefully very broad. This Commission has recently read this definition broadly as has the Tribal Court of Appeals. Commissioner Minton posted a photo of herself with incumbent candidate Causley-Smith with words of support. This post went live, and tagged Lana Causley-Smith, on April 1, 2024 which is the same day that candidates were able to pick up and start circulating for signature their nominating petitions. The post appears, on its face, to be an effort designed to influence members to support a particular candidate in line with the definition of campaigning.

The nature of the post and the timing of the post raise little doubt that this was at the very least, an ill-advised decision or at worst, a not so subtle showing of support to Director Causley-Smith. This Commission must strive to hold itself to a higher standard and knowingly posting a photo of this nature falls short of that standard.

### **FINDINGS**

The Election Commission, by majority vote, makes the following finding:

1. Based on the complaint filed and the documentation provided, there are sufficient facts to support the allegation that Commissioner Minton violated the provision of 10.104(9) by campaigning on social media for an incumbent candidate. A written finding that there was a violation is reasonable under 10.121 2(c).

**ORDER**

NOW, THEREFORE BE IT ORDERED, that the Election Commission makes the determination pursuant to 10.121(2)(c) that Commissioner Minton violated the provision of 10.104(9) and therefore results, under the published sanction schedule, a Notice of Violation, no fine, and direction to not violate the provision further. This order shall be published according to 10.121(2)(c).

May 2, 2024

Election Commission Chairman

A handwritten signature in black ink, appearing to read "Boyd Ingle". The signature is written in a cursive style with a large, looping initial "B".

**NOTICE OF APPEAL RIGHTS**

This decision may be appealed to the Tribal Court of Appeals by filing a notice of appeal within five days of receipt of this decision. That appeal shall be governed by Tribal Code Chapter 82 Subchapter II: Appeals from the Election Committee. A notice of appeal must be filed within five (5) business days of the Appellant receiving this order and the publication of this order.