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FEDERAL ELECTION COMMISSION

JANUARY 25, 2024 5:21 PM

OFFICE OF GENERAL COUNSEL

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January 25, 2024

Confidential**MUR 8205**

Office of General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: Complaint about improper mailings by CA State Senator David Min

Dear Madam or Sir:

This is a complaint filed by the undersigned ("Complainant") on behalf of Joanna Weiss for Congress ("the Committee"), the campaign committee of Joanna Weiss who is running against Sen. David Min for the Democratic Party nomination for the 47th Congressional District seat in California.¹

It has come to Complainant's attention through materials gathered by the Committee that Sen. Min recently caused two different mailings to be distributed. The first is a holiday mailer containing express reference to and promotion of his current U.S. House race. The mailer envelope used Sen. Min's state senate office return address (2151 Michelson Dr., Ste. 258, Irvine, CA 92612).² This strongly suggests the production and distribution costs also were paid using state senate public funds. A copy of the mailing and the return envelope is attached as Exhibit 1.³ This mailing appears to constitute a violation of 52 U.S.C. § 30125(f)(1) and 11

¹ The undersigned's law firm, Blank Rome LLP, has been serving as counsel for the Committee since the beginning of its operations. The Commission may note that the Committee was represented by a different law firm in connection with a complaint filed against the Committee and WAVE PAC in MUR 8163. Blank Rome facilitated these arrangements to avoid any conflict of interest concerns in that matter while it represented WAVE PAC, a client of Blank Rome before the Committee became a client.

² Sen. Min's official Senate District 37 website lists this address as the "Irvine Office." See <https://sd37.senate.ca.gov/contact>.

³ The name and street address of the addressee of this particular mail piece is redacted to protect against potential retaliation by Sen. Min. FEC personnel should note that the city referenced in the address falls outside Sen. Min's

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C.F.R. §§ 300.70 – 300.72 which prohibit a state-level public official or agent thereof spending funds for a public communication that refers to and promotes a federal candidate if the funds are not subject to the limitations, prohibitions, and reporting requirements of the federal campaign finance laws.

The second mailing by Sen. Min appears to have been sent using his state campaign committee resources. See Exhibit 2.⁴ Its content is devoted to various claims that Sen. Min “secured” or “brought home” various state funding resources or “delivered for the 37th District,” features his image prominently, uses his state campaign committee as the return address, and indicates it was “Paid for by Dave Min for State Senate 2024.” Sen. Min is not a candidate for re-election to the California Senate,⁵ and the funds expended from this mailing appear to have come from his 2020 senate election committee, which actually is named “Min for State Senate 2020” and is listed as “terminated” on the California Secretary of State website.⁶ It is worth noting that the particular mailing provided as Exhibit 2 also was addressed to a person living outside Sen. Min’s state senate district.⁷ It thus appears that Sen. Min was using his state campaign committee funds to support his congressional campaign effort, thereby violating the same provisions cited above.

Regarding the first mailing, the only reasonable conclusion is that it is a publicly distributed promotion piece regarding his congressional campaign. It is distributed using a postal permit designed for broad mailings and contains extensive ‘puffery’ about Sen. Min (“working hard in the State Senate to safeguard women’s rights, end gun violence, fight for a livable planet, improve our public schools, and so much more” and “passed another 11 bills into law and brought back over \$40 million in direct appropriations to Orange County”). It then veers immediately into his congressional campaign, its goals, and likely future requests for help (“As you may have heard, earlier this year, we made the decision for Dave to run for California’s 47th Congressional District. He’s ready to take on the big fights in Washington, DC, to protect our basic rights and most cherished values. But that means he’s been hard at work, including maybe calling you for your help ...”). The campaign-related nature of the messaging is unmistakable.

Regarding the second mailing, it specifies that Sen. Min’s state campaign committee

senate district. This suggests that this was not a mailing designed solely to update his state senate constituents about legislative matters.

⁴ As with the other Exhibit, the name and street address of the addressee of this particular mail piece is redacted to protect against potential retaliation by Sen. Min.

⁵ Ballotpedia lists the status of the race for the senate district currently held by Sen. Min:

https://ballotpedia.org/California_State_Senate_District_37.

⁶ See <https://cal-access.sos.ca.gov/Campaign/Candidates/Detail.aspx?id=1414942&session=2023>.

⁷ Aliso Viejo, CA is outside Senate District #37 according to this official governmental link: <https://sd37.senate.ca.gov/district>.

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funds were used. He is not a candidate for re-election to the state senate. The mailing used a postal permit, indicating it was widely distributed, and it was mailed outside Sen. Min's senate district.⁸ It goes on and on praising Sen. Min ("championing" and "standing up" and "protecting"). The only plausible explanation is that this widely distributed mailing was designed at least in significant part as a mailing to promote Sen. Min's congressional race.

Both mailings appear to have been paid for using sources not subject to the limitations, prohibitions, and reporting rules applicable to a U.S. congressional campaign. Of course, the public resources used for the first mailing would fall outside the applicable constraints. And a cursory review of the contribution data related to Sen. Min's state senate campaign in 2020 reveals union contributions and contributions above the applicable \$3,300 primary contribution limit for the current congressional race for the CA-47th seat.⁹ None of the state senate campaign committee receipt and disbursement data has been reported under the federal campaign finance reporting system.

Complainant seeks enforcement action by the FEC not only to vindicate the purpose of the laws in place, but also so that Sen. Min is not allowed to tap for his congressional race two additional pots of money in a way that would upset the level playing field that opposing federal candidates are supposed to use.

⁸ If nothing else, the "Your State Senator Dave Min" reference at the top of the mailer therefore is inaccurate regarding any mailings that were distributed outside Senate District #37.


⁹ See <https://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1414941&session=2019&view=received>.

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If the Commission would like any follow-up, please feel free to contact me.¹⁰

Respectfully submitted,



Scott E. Thomas
Partner, Blank Rome LLP

Exhibits

Jurat

District of Columbia

Signed and affirmed before me on Jan. 25, 2024 by Scott E. Thomas
(Date) (Name of individual making statement)

Charlotte E. Spencer

(Signature of notarial officer)

Seal

Professional Assistant

(Title of office)

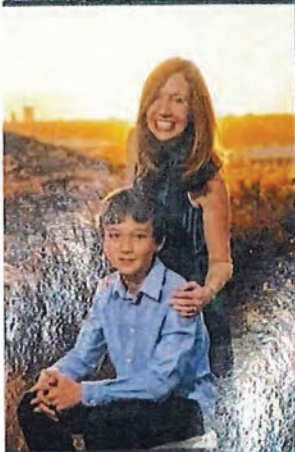
My commission expires: 6/30/2024

¹⁰ The notarization format was used at the urging of Office of General Counsel personnel. The undersigned had hoped to be able to use the more streamlined declaration under penalty of perjury approach. The federal statute at 18 U.S.C. § 1746 seems to expressly authorize a declaration under penalty of perjury in this situation.

What a year! Dave has been working hard in the State Senate to safeguard women's rights, end gun violence, fight for a livable planet, improve our public schools, and so much more. He passed another 11 bills into law and brought back over \$10 million in direct appropriations to Orange County, even in a down-budget year! As you may have heard, earlier this year, we made the decision for Dave to run for California's 47th Congressional District. He's ready to take on the big fights in Washington, DC, to protect our basic rights and most cherished values. But that means he's been hard at work, including maybe calling you for help... sorry!

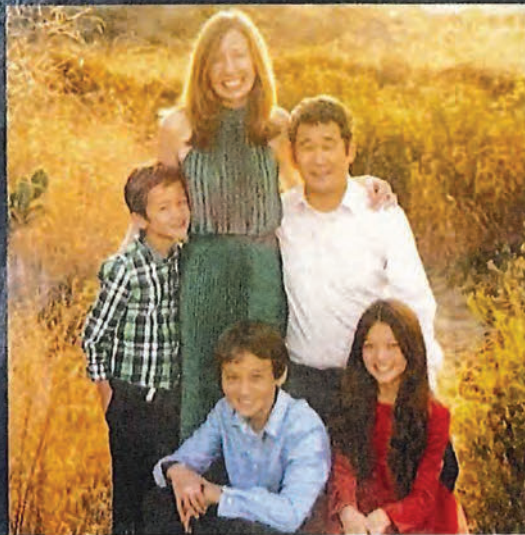
Jane continues to love her work at UC Irvine School of Law, representing abuse survivors through the UCI Law Domestic Violence Clinic she runs and the Initiative to End Family Violence that she directs. She is not only an incredible law professor, she's been instrumental in helping to advance critical policies that have saved the lives of countless survivors of domestic abuse, including eight (!!!) bills that have been authored by State Senator Dave Min.

Teddy (13), Emmy (11), and Paxton (8) are growing up too fast. Teddy is playing club soccer and continues to show his drive and talent when it comes to the violin, piano, and (too many) video games. Emmy lived out her wildest dream of seeing Taylor Swift's Eras Tour this year, and has spent endless hours making friendship bracelets and learning Taylor Swift songs on the piano. Paxton continues to love Sonic the Hedgehog, superheroes, and lots and lots of hugs. Coming out of a difficult few years for our community, country, and world, we're reflecting on just how fortunate we are to be back in person with many of you. This is the season for counting blessings, and we've been doing just that. It has been an honor and a privilege for our family to serve Orange County this year, and we are so grateful for your support and friendship. Please have a safe and relaxing holiday season, and we look forward to seeing you soon!



happiest
HOLIDAYS

Love, the Min & Stoever Family



The Min & Stover Family
2151 Michelson Dr., Ste 258
Irvine, CA 92612

PRSR STD
U.S. POSTAGE
PAID
SANTA ANA, CA
PERMIT # 4833


SAN JUAN CAPISTRANO, CA 92675-1915


Dave Min for State Senate 2024
PO Box 5959
Irvine, CA 92616

PRSR STD
U.S. Postage
PAID
DS

Aliso Viejo CA 92656-1615

MIN23029

Paid for by Dave Min for State Senate 2024

“State Sen. Dave Min (D-Irvine) secured nearly \$10 million for local priorities in the 2023-24 state budget...”

Los Angeles Times 11/14/23

State Senator Min has also brought home:

\$20M for the Jeffrey Open Space Trail (JOST) in Irvine

\$16.95M for the Orange County Fire Authority

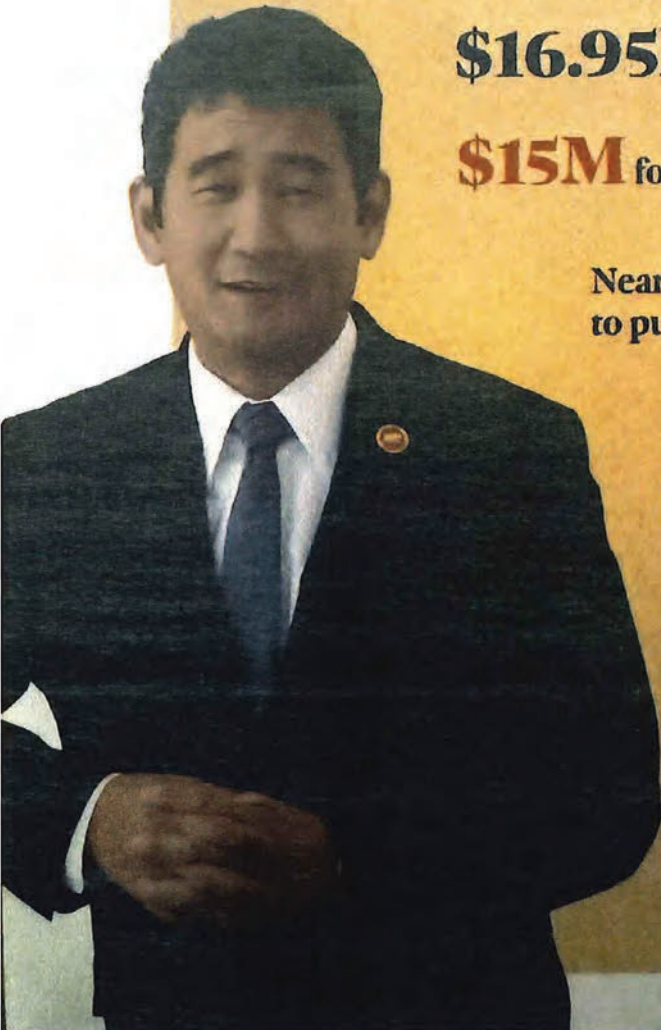
\$15M for the ALERT Wildfire Camera Program statewide

Nearly **\$1M** for the Irvine Police Department to purchase vehicles

\$1.6M for the City of Newport Beach for a trash interceptor for the San Diego Creek

\$1.225M for the City of Laguna Beach for the rehabilitation of the Moss Street Beach Access

\$2M for the Pacific Symphony Education and Community Enrichment Programs



Your State Senator Dave Min:

Legislative Update for the 37th District

State Senator Dave Min is working hard for OC families, passing 28 bills into law. He's fought to protect abortion rights, taken on the gun lobby, been a champion on climate rescue, and stood up to local extremists who have tried to enact book bans and voter suppression efforts.



In the State Senate, Dave has delivered for the 37th District by:

- ✓ **Championing abortion rights.** He was an author of Proposition 1 in 2022, which successfully amended California's constitution to guarantee access to abortion and contraception.
- ✓ **Enacting strong legislation to prevent gun violence.** He's taken on the NRA and gun lobby and pushed through first-in-the-nation legislation to end gun shows on all state property (SB 915), as well as to require gun dealers to have appropriate safety measures in place to prevent fraudulent sales and theft (SB 1384 and SB 241).
- ✓ **Holding polluters accountable** by authoring key legislation to help end our reliance on fossil fuels and preserve our open spaces. As Chair of the Senate Natural Resources and Water Committee, Senator Min has authored legislation to end offshore drilling and expand our protected open spaces across the state. He was also an author of the landmark bills passed this past year to require key climate-related disclosures from major businesses.
- ✓ **Standing up against the extremists who have taken over our local school boards and city councils.** Senator Min has not only spoken out loudly and consistently against the book bans and voter suppression efforts that local elected officials have tried to enact, he is also proposing legislation to put a stop to these radical efforts.
- ✓ **Protecting survivors of domestic violence,** passing eight bills that expand and protect the rights of domestic violence survivors.
- ✓ **Bringing in over \$70 million to Orange County** for infrastructure projects and improvements, like \$20 million for the Jeffrey Open Space Trail (JOST) in Irvine.

For a full list of Senator Dave Min's work for our District, scan here:

