

**SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS
ELECTION COMMISSION**

Complainant: Edward Furton

April 9, 2024

BACKGROUND

On March 25, 2024 the Election Commission received a complaint filed by Tribal Member Edward Furton. The Complaint alleges that Candidate Aaron Payment violated Chapter 10 Section 10.113(9) by endorsing candidates for reelection Chairman Lowes and Unit 1 Director Betty Freiheit in his full-page campaign ad on page 10 of the tribal newspaper, *Win Awenen Nisitotung*. The complaint was accompanied by written documentation substantiating the claims.

The complaint alleges that the following text in Candidate Payments advertisement under the heading of **OUR TOP TRIBAL PRIORITIES FOR OUR FUTURE** is in violation of 10.113(9); “Will Work with Chairman Lowes, Betty, & New Board.” The allegation is that this language is an endorsement of Chairman Lowes and Unit 1 Director Betty Freiheit, both candidates for reelection, which requires under 10.113(9):

Any campaign advertisement that **endorses or opposes more than one Candidate must be endorsed by the Candidates** or the Non-Candidate Registrants responsible for the advertisement as well as by any other Candidates endorsed by the campaign advertisement. The endorsement shall specifically state: “[Candidate’s or Non-Candidate Registrant’s name] endorses this advertisement.”

Mr. Furton alleges that because this language endorses both Chairman Lowes and Director Freiheit the endorsement should have stated that those candidates also support this advertisement.

Documentation Provided. A copy of the advertisement was submitted as evidence along with a copy of the relevant code provisions of Chapter 10.

The complaint requested the following relief:

1. Find Candidate Payment in violation of Chapter 10.113(9);
 - a. All campaign advertisement material must have placed upon its face in a conspicuous manner the endorsement of the Candidate or the Non-Candidate Registrant responsible for the advertisement. Any campaign advertisement that endorses or opposes more than one Candidate must be endorsed by the Candidates or the Non-Candidate Registrants responsible for the advertisement as well as by any other Candidates endorsed by the campaign advertisement. The endorsement shall specifically state:

“[Candidate’s or Non-Candidate Registrant’s name] endorses this advertisement.”

On April 3, 2024 the Election Commission held an open meeting pursuant to Tribal Code 10.121(1) to review the grounds alleged in the complaint. Under Tribal Code 10.121(2)(c) the Election Commission hereby renders this written decision finding Candidate Payment in violation of 10.113(9).

ANALYSIS

To determine whether the advertisement language placed in the paper by Candidate Payment is in violation of Chapter 10.113(9) it must be determined whether the language at issue constitutes an “endorsement” of Chairman Lowes and Director Freiheit. “Endorse” is not a defined term in Chapter 10 so we look to it’s generally understood use. Meriam Websters defines “endorse” as “to approve openly” or “to express support or approval of publicly and definitely.” See “Endorse.” Merriam-Webster.com Dictionary, Merriam-Webster. This definition encompasses two elements, 1. approval/support and 2. doing so in public.

In looking at the advertisement taken out by Candidate Payment, the advertisement starts with:

My entire career has been in service to Our Sault Tribe People and to benefit all Indian people. I am prepared to word hard to support a team effort with Chairman Lowes, Treasurer Isaac McKechnie, Board Members Betty Freiheit, Rob McRorie and the rest of the New and Improved Board...

See Payment Advertisement Page 10 Tribal Paper (emphasis in original). Specifically naming certain Board of Directors while not naming others supports a reasonable interpretation of support or endorsement of the named individuals. Further, the top left portion of the advertisement includes a photo of Candidate Payment, Director Freiheit, and Chairman Lowes presenting a check for the Sault Tribe Golf Scholarship with the caption reading in relevant part, “Austin and Betty are partners in giving.” Naming two candidates that are running for reelection as “partners” also indicates support of those candidates. Additionally, the Tribal Newspaper is certainly a public medium as it is distributed to the Sault Tribe membership both electronically and in print. It would appear that Candidate Payment is endorsing Chairman Lowes and Director Freiheit as determined under the definition established.

It is further considered by this Election Commission that the Tribal Newspaper has an internal procedure that is given to all candidates at the outset of the election that states in relevant part, “During the election cycle, we will not consider publishing photo submissions including candidates, which may be viewed as use for promotional/publicity purposes.” Indeed, it was reported to the Election Commission that the Tribal paper recently denied publishing a photo submission by a Unit Director that pictured the Director with Chairman Lowes and Director Freiheit because it gave the appearance of an endorsement in violation of Chapter 10.

Setting aside the issue of why the paper denied the Unit Director's submission while allowing Candidate Payments, the photos both picture an individual (one a candidate and one a unit director) with the two incumbents running for reelection. It is a reasonable conclusion that they would have the same effect on a member of the public, namely that they are used for publicity purposes and the showing support (ie endorsement) of specific candidates.

Finally, Candidate Payment lists under the heading of **OUR TOP TRIBAL PRIORITIES FOR OUR FUTURE**: "Will Work with Chairman Lowes, Betty, & New Board." This presumes that should Candidate Payment win his election, both Chairman Lowes and Director Freiheit will win theirs, it also displays support for those individuals. This advertisement is certainly done in a public forum and the above language taken in context with the entirety of the advertisement is a strong indication of support/endorsement of Chairman Lowes and Director Freiheit. Candidate Payment did add his endorsement to the ad, but should have sought and added the endorsement of Chairman Lowes and Director Freiheit.

FINDINGS

The Election Commission, by unanimous vote, makes the following findings:

1. Based on the complaint filed and the documentation provided, there are sufficient facts to support the allegation that Candidate Payment violated the campaigning provision of 10.113(9) by failing to get the endorsement of Chairman Lowes and Director Freiheit. A written finding that there was a violation would be 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 Candidate Payment violated the campaigning provision of 10.113(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).

April 9, 2024

Election Commission Chairman



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.