

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:

Ben Hardin,)
Complainant,)
)
v.) Case # 22 CD 032
)
People Who Play By The Rules PAC,)
Dan Proft, Bailey for Illinois, and Darren Bailey,)
Respondents.)

NOTICE OF PUBLIC HEARING

TO: Dylon Busser Jonathan Berkon
dbusser@elias.law jberkon@elias.law

Joseph Vanderhulst Jeffrey A. Meyer
joseph@langdonlaw.com jmeyer@kleinstoddard.com

Please take notice that in accordance with the Order of the State Board of Elections, dated and entered on February 24, 2023, and pursuant to Article 9 of the Election Code (10 ILCS 5/9-1 *et seq.*) and rules and regulations adopted pursuant thereto, the Public Hearing to be conducted in the above captioned matter is set for **Monday, April 17, 2023, at 10:00 AM at 69 W. Washington St., Suite LL08 Chicago, IL 60602.**

The Complainant and Respondents may be represented by counsel at the Public Hearing.

Any party involved in any proceeding has the right to the presence and participation of additional persons, in addition to, or instead of an attorney, in order to provide technical assistance and consultation.

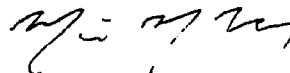
DATED: February 27, 2023

/s/ Jim Tenuto

Jim Tenuto, Hearing Officer

CERTIFICATE OF SERVICE

The undersigned of the Illinois State Board of Elections hereby certifies that copies of the Notice of Appointment of Hearing Officer and Notice of Public Hearing were served upon counsel of record at the addresses listed on the notices via email on this 27th day of February, 2023.



Marni M. Malowitz

STATE OF ILLINOIS)
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COUNTY OF COOK)

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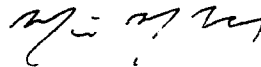
NOTICE OF APPOINTMENT OF HEARING OFFICER

TO: Dylon Busser Jonathan Berkon
 dbusser@elias.law jberkon@elias.law

 Joseph Vanderhulst Jeffrey A. Meyer
 joseph@langdonlaw.com jmeyer@kleinstoddard.com

You are hereby notified that pursuant to the provisions of Article 9 of the Election Code (10 ILCS 5/9-1 *et seq.*) and rules and regulations adopted pursuant thereto, the following person is hereby appointed Hearing Officer to conduct a Public Hearing concerning the above-captioned matter, such hearing to be conducted at such time and place as shall be designated by the Hearing Officer upon separate notice:

NAME: Jim Tenuto
ADDRESS: 1205 N. Anvil Ct.
CITY/STATE: Addison, IL 60101
TELEPHONE: (630) 776-2981
E-MAIL: jamestenuto@gmail.com



DATED: February 27, 2023

Marni M. Malowitz, General Counsel

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

STATE BOARD OF ELECTIONS
 STATE OF ILLINOIS

IN THE MATTER OF:

Ben Hardin,)
 Complainant,)
 vs.) Case # 22 CD 032
)
 People Who Play By The Rules PAC,)
 Dan Proft, Bailey for Illinois, and Darren Bailey,)
 Respondents.)

ORDER ON COMPLAINT

This matter coming to be heard this 22nd day of February, 2023 following a Closed Preliminary Hearing of a Complaint filed pursuant to Article 9 of the Illinois Election Code (10 ILCS 5/9-1 *et seq.*), alleging Respondents violated 10 ILCS 5/9-1.4, 9-1.8, 9-8.5, 9-8.6, and 9-10. Specifically, Complainant alleges Dan Proft, an officer of the independent expenditure committee People Who Play By The Rules PAC, coordinated with Darren Bailey and his candidate committee, Bailey for Illinois, to make prohibited coordinated expenditures which, in turn, resulted in People Who Play By The Rules PAC to have allegedly violated contribution limits for independent expenditure committees and Bailey for Illinois to have accepted in-kind contributions from an independent expenditure committee in violation of contribution limits for political committees and failing to report those in-kind contributions from People Who Play By The Rules PAC. The State Board of Elections reading the recommendation of the General Counsel and now being fully advised in the premises:

THE BOARD FINDS:

1. With respect to Respondent’s alleged violation of 10 ILCS 5/9-1.4 and 10 ILCS 5/9-1.8, the Hearing Officer and General Counsel recommend finding that the complaint was not filed on justifiable grounds, as Sections 9-1.4 and 9-1.8 of the Election Code are definitions and, as such, cannot be violated; and
2. With respect to the alleged violation of 10 ILCS 5/9-8.5, the General Counsel recommends clarifying the Hearing Officer’s recommendation with the following:
 - a. As to Respondents People Who Play By The Rules PAC and Dan Proft, the complaint was not filed on justifiable grounds as Section 9-8.5 of the Election Code does not apply to independent expenditure committees, and
 - b. As to Respondents Bailey for Illinois and Darren Bailey, the complaint was filed on justifiable grounds as Complainant provided some evidence which may indicate coordination between all Respondents on expenditures which would have caused the contribution limits for candidate committees to be exceeded thereby in violation of Section 9-8.5 of the Election Code.

3. With respect to the alleged violation of 10 ILCS 5/9-8.6, the General Counsel recommends clarifying the Hearing Officer's recommendation with the following:
 - a. As to Respondents Darren Bailey and Bailey for Illinois, the complaint was not filed on justifiable grounds as Section 9-8.6 of the Election Code does not apply to candidates or candidate committees.
 - b. As to Respondents Dan Proft and People Who Play By The Rules PAC, the complaint was filed on justifiable grounds as Complainant provided some evidence which may indicate coordination between all Respondents on expenditures which would have caused an impermissible contribution from an independent expenditure committee to a candidate committee in violation of Section 9-8.6 of the Election Code; and
4. With respect to the alleged violation of 10 ILCS 5/9-10, the Hearing Officer and General Counsel recommend the following:
 - a. With regard to Sections 9-10(a), (b), and (d)-(g) of the Election Code and all Respondents, the complaint was not filed on justifiable grounds as Complainant did not provide evidence or information to show either Committee failed to comply with the filing requirements required therein; and
 - b. With regard to Section 9-10(c) of the Election Code and Respondents People Who Play By The Rules PAC and Dan Proft, the complaint was not filed on justifiable grounds as Complainant did not provide evidence or information to show People Who Play By The Rules PAC failed to timely report a contribution of \$1,000 or more; and
 - c. With regard to Section 9-10(c) of the Election Code and Respondents Bailey for Illinois and Darren Bailey, that the complaint was filed on justifiable grounds as Complainant provided some evidence which may indicate coordination between Dan Proft and People Who Play By The Rules PAC and Darren Bailey and Bailey for Illinois which would then require Respondent Bailey for Illinois to report contributions of \$1,000 or more therefrom pursuant to Section 9-10(c) of the Election Code.


IT IS ORDERED:

1. The recommendations of the Hearing Officer as modified by the General Counsel are adopted; and
2. In regard to allegations 1 and 4(a) above, regarding violations of 10 ILCS 5/9-1.4, 9-1.8, and 9-10(a), (b), and (d)-(g) by all Respondents, the complaint was not filed on justifiable grounds and these allegations are dismissed for all Respondents;
3. In regard to allegations 2(a) and 4(b) above regarding violations of 10 ILCS 5/9-8.5 and 9-10(c) by Respondents Dan Proft and People Who Play By The Rules PAC, the complaint was not filed on justifiable grounds and is dismissed for Respondents Dan Proft and People Who Play By The Rules PAC; and
4. In regard to allegation 3(a) above regarding a violation of 10 ILCS 5/9-8.6 by Respondents Darren Bailey and Bailey for Illinois, the complaint was not filed on justifiable grounds and is dismissed for Respondents Darren Bailey and Bailey for Illinois; and
5. In regard to allegation 2(b) above, that Respondents Bailey for Illinois and Darren Bailey violated 10 ILCS 5/9-8.5, allegation 4(c) above, that Respondents Bailey for Illinois and Darren Bailey

violated 10 ILCS 5/9-10(c), and allegation 3(b) above, that Respondents Dan Proft and People Who Play By The Rules PAC violated 10 ILCS 5/9-8.6, the complaint was filed on justifiable grounds and shall proceed to a public hearing; and

6. The effective date of this Order is February 24, 2023; and

DATED: 02/24/2023



Ian Linnabary, Chair

CERTIFICATE OF SERVICE

The undersigned of the Illinois State Board of Elections hereby certifies that the foregoing order was served upon each of the addresses listed below by enclosing the same in an envelope prepaid and depositing the envelope in a U.S. mailbox in Springfield, Illinois on this 24th day of February, 2023.

Dylon Busser
250 Massachusetts Ave. NW,
Ste. 400
Washington, DC 20001

Jeffrey A. Meyer
2045 Aberdeen Ct.
Sycamore, IL 60178

Dan Proft
People Who Play By The
Rules PAC
467 Conners Ave.
Naples, FL 34108

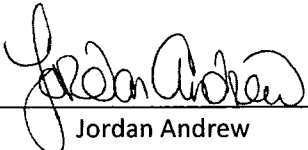
Jonathan Berkon
250 Massachusetts Ave. NW,
Ste. 400
Washington, DC 20001

Tyler Hagenbuch
250 Massachusetts Ave. NW,
Ste. 400
Washington, DC 20001

Darren Bailey
Bailey for Illinois
154 S. Church
P.O. Box Drawer D
Louisville, IL 62858

Joseph Vanderhulst
1201 Main St., Ste. 2
Cincinnati, OH 45202

Ben Hardin
P.O. Box 641466
Chicago, IL 60664



Jordan Andrew

STATE OF ILLINOIS
COUNTY OF COOK

BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS

Ben Hardin

Complainant

Vs.

Board File # 22 CD 032

People Who Play By The Rules PAC #37277

Dan Proft

Bailey for Illinois #34092

Darren Bailey

Respondents

REPORT OF HEARING OFFICER

This hearing was held as a result of a Complaint filed pursuant to Article 9 of the Illinois Election Code (10 ILCS 5/9-1, *et seq.*) alleging that the Respondent violated 10 ILCS 5/9-1.4, 5/9-1.8, 5/9-8.5, and 5/9-10. Specifically, Dan Proft, an officer of the independent expenditure committee People Who Play By The Rules PAC, coordinated with Darren Bailey and his campaign. As a result of this coordination, People Who Play By The Rules PAC made illegal coordinated expenditures that supported Bailey's campaign, which in turn causes People Who Play By The Rules PAC to be in violation of contribution limits and Bailey for Illinois to have accepted in-kind contributions from an independent expenditure committee in violation of contribution limits, and lastly, since Bailey for Illinois failed to report the in-kind contributions from People Who Play By The Rules PAC, they in turn failed to timely report contributions of \$1,000 or more. *Ben Hardin vs. People Who Play By The Rules PAC, Dan Proft, Bailey for Illinois, and Darren Bailey*, see attached.

To be made a part of this report, a copy of the D-4, Complaint for Violation of the Campaign Disclosure Act, filed on November 9, 2022 at the Board's Chicago office, 69 W. Washington, Pedway LL-08, Chicago, IL 60602; Notice and Summons regarding the Complaint; Notice of the Closed Preliminary Hearing to be conducted in the matter, Thursday, December 29, 2022, at the Illinois State Board of Elections Office, 69 W. Washington, Pedway LL08, Chicago, IL, 60602, and via Zoom.

COMPLAINANT'S CASE-IN-CHIEF

The Complainant, Ben Hardin, was represented by attorney Tyler J. Hagenbuch at the closed preliminary hearing. Mr. Hagenbuch participated in the hearing via Zoom.

Mr. Hagenbuch stated that this case involves unprecedented circumvention of contribution limits, and the Board's regulations on coordinated expenditures by People Who Play By The Rules PAC (hereafter referred to as PWPBTR), Dan Proft, Bailey for Illinois, and Darren Bailey. As for naming Mr. Bailey as a Respondent, Mr. Hagenbuch indicated it is his understanding Section 125.230 of the Rules and Regulations requires a complaint to be directed to a candidate or officer of a political committee against whom the complaint is directed. Therefore, he believes Mr. Bailey should continue to be named as a party to this proceeding as long as it endures. Through this complaint, the Complainant believes they will show that the tens of millions of dollars PWPBTR reported spending on independent expenditures in opposition to Governor JB Pritzker should not be considered to be independent but rather illegal in-kind contributions to the Bailey Campaign, and both the PWPBTR and Bailey for Illinois should be found to be in violation of contribution limits. Section 5/9-1.15 of the Election Code says for an independent expenditure (hereafter referred to as IE) to be independent it must not be made in connection, consultation, or concert with or at the request or suggestion of the candidate, the

candidate's political committee or campaign or agent of the candidate or political committee or campaign. Similarly, Section 5/9-1.4 states an electioneering communication that is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate's committee or any of their agents is a contribution to the candidate and it is not an IE. Therefore, since PWPBTR is an IE committee they are prohibited from being allowed to coordinate with Mr. Bailey or his campaign, and all of their expenditures must be "independent". The Complainant contends Mr. Proft's involvement in the Bailey Campaign indicates some level of coordination, which the Board can't overlook.

Mr. Hagenbuch explained that the expenditures PWPBTR were making should be considered to be coordinated in two separate ways. The first way is established because not only is Mr. Proft an officer of PWPBTR, but the Complainant believes Mr. Proft's actions also qualify him to be an agent of Bailey for Illinois. As previously mentioned, under the Election Code an expenditure is not independent if it is coordinated with an agent of a candidate or a candidate's campaign. The Illinois Courts recognize multiple kinds of agency relationships. Mr. Hagenbuch indicated there can be an agent relationship based on granting express or implied actual authority to act; however, Illinois law also recognizes apparent authority to act as an agent even in the complete absence of actual authority. According to Mr. Hagenbuch, the case law established regarding apparent authority can be found in two cases that were heard by Illinois Appellate Courts. The first is *Curto vs. Illini Motors Inc*, 940 N.E.2d 229. The second is *Kulchawik vs. Durabla Mfg.* 864 N.E.2d 744. These two cases say an agency relationship exists if an agent exercises authority if the principle's words or conduct indicate consent to that exercise of authority. Consent does not need to come in the form of affirmative gratification, as it is enough to establish an agency relationship if the principle acquiesces the exercise of authority over time. Here in this case, the Complainant contends there is evidence of agency in the form of apparent conformity, as we know from public reporting that Mr. Proft had information about a confidential legal matter happening inside the Bailey Committee which seemingly could only have come from the Bailey campaign, and he acted on that information for the benefit of the Bailey Committee. We know further that Mr. Bailey knew of Mr. Proft's exercise of authority because Bailey's campaign spokesperson spoke to the Chicago Tribune about this matter, but there is no evidence that Mr. Bailey did anything to explain the agency relationship between his campaign and Mr. Proft even though he had a clear chance to do so when he was contacted by the Chicago Tribune. So, to summarize, an IE committee's expenditures made in concert with a campaign's agent are contributions to that campaign and they are not IEs. Therefore, the Complainant contends that Mr. Proft's actions and Mr. Bailey's acquiescence to those actions have made Mr. Proft an agent of the Bailey Campaign as a matter of law. That means all of PWPBTR's expenditures opposing Governor Pritzker are contributions to the Bailey Committee in what amounts to a huge violation of the Election Code and contribution limits. Secondly, even if Mr. Proft wasn't considered to be an agent of Bailey for Illinois, the issue of coordination in this case in their opinion goes far beyond what would normally be seen in a coordination complaint. Never have we seen an IE committee meddling in a candidate's confidential legal affairs as we see here and the extensive amount of direct communication is just unheard of.

The Complainant provided the following as examples of how Mr. Proft and PWPBTR have acted in connection, consultation, or concert with Mr. Bailey and his campaign:

- Mr. Proft co-hosts a radio show in which Mr. Bailey was a frequent guest. Between 12/14/21 – 11/3/22, Mr. Bailey appeared on Mr. Proft's radio show at least seven times (the Hearing Officer has not verified this number). During these publicly-aired shows, Mr. Proft and Mr. Bailey discussed topics at issue in the gubernatorial race, including issues that later became the focus of advertisements made by PWPBTR. After hearing the Respondent's argument that things said in a public forum can't be the basis for coordination, Mr. Hagenbuch argued this can't be the case because neither the statute nor the Rules and Regulations have any such distinction. The idea that anything said in a public forum is off limits for coordination would frustrate the entire purpose of having a coordination standard. You would end up in a place where candidates and IE committees would be completely free to coordinate as long as they stand up on a stage and they agree on an ad strategy in front of a crowd, which he says just doesn't make sense. In any case, the only things we know are the things that were said in a public

forum, we need to know what else was said off the air, in text messages, emails, and the private conversations that were likely occurring both before and after the interviews. Lastly on this public forum point, Mr. Hagenbuch argued there is a difference between just any listener hearing something and learning a campaign's message from a public setting, and a direct conversation between a candidate and someone who runs an IE committee.

- The Complainant believes coordination was established from the public record. During the show that aired on 6/29/22, Mr. Bailey discussed his campaign strategy. Mr. Bailey said to Mr. Proft, "I continue to do what I've done against him, what I did four years ago with your help" (referring to Mr. Proft). A bit later in that same show, Mr. Bailey told Mr. Proft they need to get the message out that Chicago isn't a safe place to live. Subsequently, after receiving these direct instructions on what message Mr. Bailey wanted, PWPBTR produced advertisements that feature violent crime in Chicago:
 - "The Summer of Joy" was published on 8/15/22 <https://youtu.be/VIFVPhKtnKM>
 - "Lakeview Scream" was published 9/7/22 <https://youtu.be/C8aUWa1w6M8>
 - "Oh, My God" was published 9/27/22 <https://youtu.be/xKCEyRdp-pl>
- During the show that aired on 9/8/22, Mr. Proft stated during his introduction to Darren Bailey that in the interest of full disclosure, "I supported Darren Bailey through the Super PAC that I run in the primary and I'm supporting him through the Super PAC that I run in the general too." He also stated that he has spent millions of dollars supporting Mr. Bailey.
<https://facebook.com/MorningAnswer/videos/411715784364373>
- Mr. Proft attempted to intercede in a potential legal matter on behalf of Mr. Bailey when Brett Corrigan sought a legal settlement from the Bailey Campaign regarding what was described to be an "internal HR matter." Mr. Corrigan worked for the Bailey Campaign for more than a year. The Complainant questions Mr. Proft's awareness and involvement in Bailey's Campaign considering he was somehow aware of a confidential internal campaign matter, and he also questions why Mr. Proft would have contacted Mr. Corrigan's attorney other than in an effort to quash the matter because it could become public and hurt Bailey. (Exhibits B and C)
- Another matter is suspected coordination, in which an IE committee features and pays somebody for consulting and appearing in one of its ads when, according to that same person, he was working for the candidate the ad supported. If this is true, this raises questions on what if any information this individual may have obtained from either Bailey's campaign or PWPBTR and shared with the other. From tweets that were made by journalist Dan Mihalopoulos (Exhibit D), journalist Charles Thomas said on 9/20/22 "I'm working for Darren Bailey".
 - At or around that same time, Mr. Thomas was paid \$50,000 by PWPBTR for "consulting work" according to a B-1 that was filed by PWPBTR on 9/22/22 (Exhibit E). Mr. Thomas appeared in the "I Can Trust This Guy" advertisement that was published 10/4/22 by PWPBTR. <https://youtu.be/GyFJV6drnWI>
 - Mr. Bailey's running mate, Stephanie Trussell, on 10/5/22 said former political reporter Charles Thomas "is actually working with our PAC and he filmed a commercial."
<https://www.facebook.com/StephanieTrussellIL/videos/463622269074907>
- In addition to being an officer of PWPBTR Mr. Proft is also the principal of the company that owns the Chicago City Wire publication and other companies that have produced similar "newspapers". These companies' articles primarily oppose Governor Pritzker and support Mr. Bailey. Articles about these "newspapers" were provided in Exhibits F and G.
 - In a video Mr. Bailey posted on 9/28/22 he said, "Everything in those Newspapers is actual Facts and truth. And they got a problem with it because they kind of got outsmarted and, uh, *we've got a way of*, uh, you know, the people that are doing this have a way, finally of getting the truth in the hands of people to where they're looking at it and paying attention to it." (emphasis added)
<https://www.facebook.com/BaileyforIllinois/videos/1398212697371588>

- A 10/6/22 article from the Chicago City Wire (Exhibit H) confirms an agent of Mr. Proft's Chicago City Wire had nonpublic communications with Mr. Bailey. A reporter from Mr. Proft's Chicago Wire indicated he interviewed Mr. Bailey. Mr. Hagenbuch said this means an agent of an organization that is closely connected to an IE committee had direct contact with a candidate behind closed doors. He believes this in itself should raise enough questions and concerns for this matter to proceed to public hearing.
- To the extent there may be more evidence out there that could prove coordination that hasn't been presented, Mr. Hagenbuch said we need to keep in mind that this is only a preliminary hearing, which is not an adjudication. The purpose of the closed preliminary hearing is to elicit evidence to determine whether the complaint was filed on justifiable grounds and has some basis in fact and law. Furthermore, the Code itself in 5/9-20 says as far as the complaint is concerned, it simply needs to state the nature of the alleged violation, it does not need to establish all of the facts. The Rules also have it set up so that after the preliminary hearing stage there are procedures for discovery through subpoenas.

Mr. Hardin also plead that not only are IE committees (PWPBTR) not allowed to make contributions to candidate committees, but candidate committees (Bailey for Illinois) are not allowed to accept contributions from an IE committee (PWPBTR). From this it is alleged:

- PWPBTR should be assessed a fine equal to the amount of contributions it received in the preceding 2 years that exceeds the contribution limits for a political action committee.
- The SBE should start the assessment process for Bailey for Illinois for accepting contributions in excess of contribution limits, because a candidate committee cannot accept contributions from IE committees.
- Bailey for Illinois failed to timely report the receipt of in-kind contributions of \$1,000 or more within 2 or 5 business days.

Mr. Hagenbuch also said it is important to keep in mind Mr. Proft's recent history in that he wants to coordinate, and he filed a case in Federal Court [Verified Complaint for Declaratory and Injunctive Relief in Proft v. Madigan, 340F.Supp.3d 683 (N.D. IL 2018)] {Exhibit I} claiming it was unconstitutional that his IE committee couldn't coordinate with the candidates he supported because he believed that doing so would make his communications and the candidate's communications to the public more effective.

Near the conclusion of his closing remarks, Mr. Hagenbuch indicated that based on the Hearing Officer's request for clarification he is adding the statutory provision of 5/9-8.5 to the identified statutory provisions that were provided on the form D-4. Both Respondents allegedly violated contribution limits. He also indicated in his closing remarks that he believes he has shown millions of dollars in illegal contributions were made by PWPBTR to Bailey for Illinois in the form of coordinated expenditures. Imposing the coordination standard is one of the only tools the Legislature has to prevent corruption in the political process. The State Legislature here has chosen to impose a coordination standard and the Federal Courts have found that the Legislature had the constitutional right to do that. When viewed through the important anticorruption lens, this matter presents instances of impermissible coordination that we just don't see every day. We don't see candidates going on radio shows that are hosted by someone who has an IE committee, explicitly suggesting which issues and messages are most important in their race. We don't see candidates giving interviews to media outlets that are controlled by a person that has an IE committee, and we never see someone who has an IE committee meddling in confidential campaign legal matters. With this level of coordination already aired in public, the Board has to continue this matter to learn what other coordination might have occurred in private. The Board can't fulfil the Legislature's anticorruption interests in prohibiting coordination if it doesn't fully endeavor to determine and discover whether coordination took place. The Complainant respectfully urges the Board to find that this complaint meets the justifiable grounds standard, and the violations described have a basis in both fact and law and they vote a public hearing is necessary to investigate the full extent of the violations that have occurred.

Complainant's Additional Supporting Evidence:

Affidavit of Christopher Allen

Exhibit A – Is a copy of PWPBTR's Statement of Organization filed on 3/9/22

Exhibit J – Are copies of PWPBTR's Schedule B-1s filed 7/15/22 – 11/21/22

Exhibit K – Is a copy of PWPBTR's Q3 Quarterly Report that was filed on 10/17/22

Exhibit L – Are copies of PWPBTR's Schedule A-1s filed 7/7/22 – 10/7/22

RESPONDENT'S CASE-IN-CHIEF

The Respondents, Dan Proft and PWPBTR were represented by attorney Joseph Vanderhulst. Mr. Vanderhulst participated via Supreme Court Rule 707 as an Out-of-State Attorney in the closed preliminary hearing via Zoom. The Respondents, Dan Bailey and Bailey for Illinois were represented by attorney Jeffrey Meyer. Mr. Meyer participated in the hearing via Zoom. Jose Durbin, the treasurer of Bailey for Illinois, did not participate in the hearing but he did listen in via Zoom.

Mr. Vanderhulst indicated that since he hasn't had a chance to review the Affidavit of Christopher Allen or the Exhibits, since they were only provided shortly before the hearing and his email spam filter intercepted the email so that he didn't learn about them until the hearing had commenced, he would like an opportunity to review that material. As for the complaint itself, it is their position the Complainant has failed to state sufficient facts to establish a proclamation claim that coordination occurred in relation to PWPBTR's expenditures. They contend the Complainant has only provided in the complaint two factual statements of actual circumstances. The first one was the posting on the radio show, which they contend doesn't indicate any kind of coordination regarding the IEs that were made. Mr. Vanderhulst said this is because the statute doesn't clearly prohibit public communication between an IE committee and a candidate or a campaign. It also doesn't prohibit an IE committee from using publicly-available information to make their advertisements or IEs under Illinois Law, and he noted that the Federal Law specifically allows for this. They believe that since that information was publicly available, it became fair game for anyone to use, including IE committees such as PWPBTR. They also contend that it is only private information that would be at issue, and it is their belief nothing has been stated and there are no facts presented that show coordination was made relating to the content or timing of any of the IEs that were made. Also, in terms of the radio programming and the public versus any potential private conversations, Mr. Vanderhulst added that if the Board were to go along with what it appears Mr. Hagenbuch has implied should happen, a respondent in a coordination complaint is always going to be put in a position of having to prove a negative (which is impossible), so all coordination complaints would therefore have to move past a closed preliminary hearing to a public hearing, which they don't believe was the intent of the Legislature. As for the second example the Complainant provided in the complaint relating to the alleged interceding of an agent on behalf of a campaign, they contend the complaint lacks any information or facts to indicate there was coordination or that the matter was confidential. It is their position Mr. Proft was acting on public rumors on not-confidential information about the campaign when he reached out relating to that HR matter.

Mr. Vanderhulst also indicated that Illinois does not have laws like other states that explicitly say someone making IEs can have zero contact or communication with a campaign or a candidate they are supporting. Therefore, the Respondents assert Illinois allows for some level of contact and communication but there just can't be any coordination with regard to specific expenditures, and that in this case there have been no facts or evidence offered to show there was coordination on any specific expenditures.

As for the 1st Amendment case Mr. Proft filed in 2018, Mr. Vanderhulst stated that the fact that someone made a 1st Amendment claim in Federal Court related to a specific statute shouldn't be considered relevant since that case was filed in good faith and because regulated speech cases are filed all the time.

So, in summary, without having an opportunity to review the submitted Affidavit, Mr. Vanderhulst said based on the complaint itself, they contend there aren't sufficient facts to establish a prima facie case that there has been a violation of the coordination rule because they believe any coordination has to be related to the communications or ads themselves. It appears to Mr. Vanderhulst that the Complainant is on a fishing expedition relating to what could have been discussed, when this directly contradicts PWPBTR's campaign disclosure reports that contain a sworn statement that there was no coordination related to the ads themselves, and it's the Respondent's belief that nothing in the complaint contradicts that.

Mr. Meyer joined in on the arguments that were made by Mr. Vanderhulst and he requested those arguments be carried over to his clients; however, he noted that he doesn't believe Mr. Bailey should have been identified as a Respondent in this matter. He believes Section 125.230 of the Rules and Regulations indicates to whom a complaint should be directed, which is the equivalent of saying you serve the summons on a corporate officer but the complaint isn't against that person, it is against the corporation. Furthermore, he noted that there was no allegation in the complaint that there was any coordination or communication with Mr. Bailey in his individual capacity, nor any expenditure made on behalf of Mr. Bailey in his individual capacity. Instead, there were only allegations at best that would be colored as claims against his committee, not against Mr. Bailey himself. For those reasons, he requests a finding be made that there is no justifiable basis to say there has been a valid complaint made against Mr. Bailey in his individual capacity.

Mr. Meyer added that none of the three examples Mr. Hagenbuch touched upon that supposedly show prohibited coordination on expenditures appeared expressly in the complaint that was filed. He said they only appear in the Affidavit that was tendered to him around 20 minutes prior to the hearing's 10:00 AM start. Therefore, he indicated that he has not had an opportunity to investigate these examples and he contends they are beyond the scope that was pled in the complaint. He does acknowledge the complaint did contain a conclusionary remark about the coordination examples being endless, but since none of the provided examples appeared in the complaint itself and since the Respondents were only provided the examples shortly prior to this hearing, he believes there wasn't due process consideration given. Therefore, he doesn't believe the Respondents have been given an adequate opportunity to be able to prepare and respond for this hearing. With that being said, he indicated for there to be a prima facie violation of the code when it comes to coordination related to IEs, there are two prongs that both have to be met, as coordination on its own is not sufficient because there also has to be coordination on the expenditure. He indicated two of the examples that were given fail because they don't allege any funds were spent. In relation to Mr. Proft saying while Mr. Bailey was on his public radio show that his IE committee has spent money supporting Bailey in the primary and he plans on supporting him in the general too, Mr. Meyer said this example fails because there was no coordination on an actual expenditure itself. This doesn't pass the two-prong test because you have to have coordination or suggestion up front and there needs to be coordination on the expenditure that is made. In this example, there is no allegation or any evidence that there was any anteceded review of the content of the messages that were sent out by the PWPBTR or any communication between the parties regarding the amount that should be spent, where the money should be spent, or where the messages should be run. He also contends there was no allegation nor evidence that there was actual coordination on the expenditures themselves. He said the second item that fails the two-prong test is in relation to the supposed intervention by Mr. Proft in some HR matter related to Bailey's campaign. He said this example fails because there is no allegation that there was any actual money being spent after the "alleged" communication would have taken place. Mr. Meyer indicated that even if the Board were to consider there to have been some kind of coordination or suggestion of communication between Mr. Proft and the Bailey campaign, there is no coordination on an expenditure, so no prima facie claim. He said these are the only examples that were pled in the complaint and there has certainly been no prima facie showing violation of the Election Code based on those two allegations of supposed coordination on expenditures.

Adding to Mr. Vanderhulst's argument on agency, Mr. Meyer indicated that even under apparent agency the essence is control. In this case, he contends that the Complainant has not only failed to provide any evidence

whatsoever but he hasn't even alleged through his cursory review of the Affidavit that the Bailey campaign had any control over any of Mr. Proft's actions, either individually or in his capacity as an officer of his IE committee. He believes absent of any control, there is no agency. He said this is true even in an apparent agency situation, so he certainly doesn't think any prima facie showing as to agency has been given that could support a finding there was coordination, even if there was some coordination on an expenditure.

Mr. Meyer noted that this is not the first time this Board has been called on to answer the question of coordination on alleged IEs by campaign committees. In *Kay vs. Liberty Principles PAC*, 16 CD 096, the Board heard a case that had allegations of an interview between the committee and a candidate and that being a basis for a finding of coordination. From his recollection of that matter, the Board found the complaint was founded but not filed on justifiable grounds and it did not warrant any further proceeding in the matter. In his reading and understanding of that case, there was not sufficient basis to establish coordination. Mr. Meyer believes these two cases are very similar in that both involve an interview as part of the coordination argument and he contends that an interview alone does not establish there is coordination that would warrant a finding of justifiable grounds to establish a violation of the election code for making impermissible IEs, at least based on the actions the Board took in 16 CD 096. Mr. Meyer also noted there were a couple other cases around that time that all had similar fact patterns.

For all of the provided reasons, Mr. Meyer requests the Board make a finding that there is no good faith basis and certainly no necessity for further proceedings in this matter concerning the allegations that were provided on the D-4 form itself. Additionally, he added that he doesn't believe it would be appropriate if the Complainant is allowed to add a violation of 5/9-8.5 during the final minutes of this hearing, as this fundamentally changes the entire nature of the complaint pending before the Board. Even if Mr. Hagenbuch is correct, that they only need to state the general nature of the complaint that is being alleged, we are now not only talking about coordination but also about a violation of contribution limits. This would expand the scope of the complaint, which he doesn't believe is permissible at this point even given a generous interpretation of the code allowing for the general nature to be stated, and then you can bring forth all kinds of facts you have not specifically plead in the complaint.

SUGGESTED FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS

Prior to any of the parties presenting their arguments for this case, the Hearing Officer instructed the Complainant's attorney to specifically identify during his presentation if there were any statutory provisions that are being alleged to have been violated beyond the three that were identified on the form D-4 itself. This clarification was requested because the pages that were attached to the complaint contained many additional statutory provisions, and the Hearing Officer didn't want any ambiguity on whether any of those additional statutes were being alleged to have been violated or not.

10 ILCS 5/9-1.4 Allegation

This Section provides a definition of a contribution. The Complainant alleges the Respondents violated this Section.

Recommendation

It is the opinion of the hearing officer that this Section cannot be violated. I do not believe a definition (of the word contribution) can be violated, nor do I believe examples of what a contribution does not include can be violated. Therefore, I recommend this allegation be found **not to have been filed upon justifiable grounds**, and it be **dismissed**.

10 ILCS 5/9-1.8 Allegation

This Section provides definitions for each of the political committee types. The Complainant alleges the Respondents violated this Section.

Recommendation

It is the opinion of the hearing officer that this Section cannot be violated. I do not believe a definition (of committee types) can be violated. Therefore, I recommend this allegation be found **not to have been filed upon justifiable grounds**, and it be **dismissed**.

10 ILCS 5/9-10 Allegation

This Section deals with political committee requirements for reporting contributions and expenditures.

- (a) requires reports to be filed on forms prescribed or approved by the Board.
- (b) deals with the requirement of having to file quarterly reports.
- (c) deals with the requirement of having to report contributions of \$1,000 or more within either 2 or 5 business days.
- (d) provides a definition on when a contribution is considered to be received.
- (e) deals with the requirement of having to report IEs of \$1,000 or more within either 2 or 5 business days.
- (e-5) requires IE committees to file a written disclosure with the SBE within 2 business days if they, in Aggregate, spend in excess of \$250,000 in a statewide race or in excess of \$100,000 for any other elective office.
- (f) requires a copy of each report or statement must be preserved by the person filing it for a period of two years from the date of the filing.
- (g) provides the SBE the authority to assess civil penalties for any violation to this Section.

The Complainant alleges this Section was violated.

Recommendation

5/9-10(a)

I recommend this allegation be found **not to have been filed upon justifiable grounds**, and this allegation be **dismissed**. The Complainant didn't provide any evidence or information to show either committee filed campaign disclosure reports on anything other than forms that were prescribed or approved by the Board.

5/9-10(b)

I recommend this allegation be found **not to have been filed upon justifiable grounds**, and this allegation be **dismissed**. The Complainant didn't provide any evidence or information to show either Committee has failed to timely file a quarterly report.

5/9-10(c)

I recommend this allegation be found **not to have been filed upon justifiable grounds**, and this allegation be **dismissed** against PWPBTR. The Complainant didn't provide any evidence or information to show this Committee failed to timely report a contribution of \$1,000 or more.

Prior to being able to make a recommendation on whether Bailey for Illinois has failed to report a contribution of \$1,000 or more, we must first look at whether Mr. Profit's actions as alleged by the Complainant were made in connection, consultation, or concert with or at the request or suggestion of Darren Bailey, his candidate committee or his campaign, or the agent or agents of Mr. Bailey, his candidate committee, or his campaign.

It is the opinion of the Hearing Officer that it is rather difficult to determine what constitutes “in connection, consultation or concert with or at the request or suggestion of” considering neither the statute nor the Rules and Regulations further define these terms or provide any further guidance on this topic. However, in my opinion it is clear that Mr. Proft and the IE committee he oversees supported Mr. Bailey. This was specifically made clear by Mr. Proft when he said on one of his radio shows, on which Mr. Bailey was a guest, “I supported Darren Bailey through the Super PAC that I run in the primary and I’m supporting him through the Super PAC that I run in the general too”. The FEC and many states have guidelines and exemptions on what constitutes an IE and what doesn’t; however, the State of Illinois doesn’t, so I believe we have to look at the plain language of the statute. Section 5/9-8.1(f) states in part that an IE committee is, *“formed for the exclusive purpose of making independent expenditures...”* and Section 5/9-1.15 defines IEs in part as *“not made in connection, consultation or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate or political committee or campaign.”* I realize this then becomes somewhat subjective when it comes to what is considered to be coordinated, but a decision has to be made based on what we have before us. For a closed preliminary hearing, the burden of proof is on the complainant, and they have to show the complaint was filed on justifiable grounds and has some basis in fact and law. In this case, the Complainant has presented and raised many concerns regarding different aspects of how coordination could have occurred; however, I believe only one of these concerns has to be shown to have been filed on justifiable grounds with some basis in fact and law for a determination to be made on whether some form of coordination has occurred. Since there is no exception in the statute regarding the use of information that has been gathered in or from a public setting, like a radio show, I believe when Mr. Bailey discussed a message he specifically wanted to get out with an individual who is an officer of an IE committee, and then that same IE committee went out and had at least 3 videos published on that specific topic, can and probably should be considered coordination. It also appears between the wording that was used by Stephanie Trussell and Charles Thomas himself, they both thought Mr. Thomas was or had worked for both Mr. Bailey and PWPBTR. The last example I’m going to mention may not have resulted in any direct expenditures being made, but I could see an argument that could be made that any negative publicity regarding Mr. Bailey’s internal HR matter could mean additional money would be needed to be spent to counteract any potential negative publicity, so I am going to include this topic. How is it that Mr. Proft specifically found out about this “HR” matter? I know the Complainant has provided additional examples of alleged coordination, but I am of the opinion that between these three examples enough has been introduced for there to be a determination in a closed preliminary setting this allegation should be found to have been **filed upon justifiable grounds** and that **this matter can proceed to a public hearing** to flesh out the coordination issue. However, I will also note that in my reading of plain language of an IE, the coordination aspect can be met or covered by the wording “at the request or suggestion of a candidate.” I believe it is clear Mr. Bailey provided Mr. Proft with a message he wanted to get out and Mr. Proft complied with that request or suggestion when PWPBTR published “The Summer of Joy”, “Lakeview Scream” and “Oh, My God” advertisements. In the alternative, if the Board believes enough information has already been introduced to determine coordination or suggestion has occurred without the need of a public hearing this could bring Sections 5/9-8.6(d), 5/9-8.5(d) and 5/9-8.5(b) into play. However, as Mr. Meyer pointed out, the Board has in the past determined coordination had been made by an IE committee that Mr. Proft ran in cases that were heard in 2016 (16 CD 096, 16 CD 098, and 16 CD 105), although I believe his recollection on what the Board actually ruled in those cases may have been slightly off. However, I believe the end result was the same - the Board did not send any of those matters to public hearing, and they did not impose a penalty for a violation of contribution limits. However, I will note that those cases didn’t contain an allegation that contribution limits were violated, as I believe this case does. Continuing the alternative recommendation, I further recommend that if the Board determines coordination occurred, the Board should order PWPBTR to provide Bailey for Illinois with in-kind notifications related to the expenses it made that either opposed Governor Pritzker or supported Mr. Bailey, and Bailey for Illinois shall report the receipt of those in-kind contributions.

What follows is a summary of the Board’s actions in the three previously-noted cases:

16 CD 096 Board Action 1. - In regard to the allegation that the Respondent failed to include the proper attribution of source in political communications as required by 10 ILCS 5/9-9.5, the complaint was filed on justifiable grounds. 2. - In regard to the allegation that the Respondent took part in electioneering communications with candidates in violation of 10 ILCS 5/9-8.6 prohibition of such coordination by IE committees, the complaint was filed on justifiable grounds. It is hereby Ordered: 1. - The recommendation of the Hearing Officer and the General Counsel is adopted in part, to the extent that the Hearing Officer and General Counsel have recommended that Liberty Principles PAC be admonished to ensure that all future political literature and communications identify the PAC as payor. 2. - The PAC shall include a proper attribution of source on all future materials, and any repeat violation of section 9-.5(a) may subject the PAC to a civil penalty not to exceed \$5,000. 3. - Neither issue raised shall proceed to public hearing.

16 CD 098 Board Action 1. - In regard to the allegation that the Respondent failed to include the proper attribution of source in political communications as required by 10 ILCS 5/9-9.5, the complaint was filed upon justifiable grounds. 2 - In regard to the allegation that the Respondent took part in electioneering communications coordinated with candidates in violation of 10 ILCS 5/9-8.6 prohibition of such coordination by IE committees, the complaint was filed on justifiable grounds. It is hereby Ordered: 1. – The recommendation of the Hearing Officer and the General Counsel is adopted in part, to the extent that the Hearing Officer and General Counsel have recommended that Liberty Principles PAC be admonished to ensure that all future political literature and communications identify the PAC as payor. 2 – The PAC shall include a proper attribution of source on all future materials, and any repeat violation of section 9.5(a) may subject the PAC to a civil penalty not to exceed \$5,000. 3 – Neither issue raised shall proceed to public hearing.

16 CD 105 Board Action 1. – In regard to the allegation that the Respondent failed to include the proper attribution of source in a political communication as required by 10 ILCS 5/9-9.5, the complaint was filed on justifiable grounds. 2. – In regard to the allegation that the Respondent took part in electioneering communications coordinated with candidates in violation of 10 ILCS 5/9-8.6’s prohibition of such coordination by IE committees, the complaint was filed on justifiable grounds. It is hereby Ordered: While filed on justifiable grounds, the complaint is dismissed and further action is required.

5/9-10(d)

It is the opinion of the hearing officer that this Section cannot be violated. I do not believe a definition (of when a contribution is considered received) can be violated. Therefore, I recommend this allegation be found **not to have been filed upon justifiable grounds, and it be dismissed.**

5/9-10(e)

I recommend this allegation be found **not to have been filed upon justifiable grounds, and this allegation be dismissed.** The Complainant didn’t provide any evidence or information to show either Committee failed to timely report IEs of \$1,000 or more.

5/9-10(e-5)

I recommend this allegation be found **not to have been filed upon justifiable grounds, and this allegation be dismissed.** The Complainant didn’t provide any evidence or information to show either Committee failed to notify the SBE it spent in aggregate more than \$250,000 in a statewide race or in excess of \$100,000 for any other elective office. Furthermore, this subsection only would apply to PWPBTR because Bailey for Illinois is a candidate political committee. Lastly, on this allegation the complaint itself doesn’t go into any detail regarding this specific allegation, other than a general allegation that 5/9-10 was violated, and Mr. Hagenbuch didn’t talk about or even mention this specific subsection.

5/9-10(f)

I recommend this allegation be found **not to have been filed upon justifiable grounds, and this allegation be dismissed.** The Complainant didn’t provide any evidence or information to show the person filing a report or

a statement for either Committee has not preserved a copy of that filing for a period of two years from the date of a filing.

5/9-10(g)

It is the opinion of the hearing officer that a Committee cannot violate this Section as it provides the SBE with the authority to assess civil penalties. Therefore, I recommend this allegation be found **not to have been filed upon justifiable grounds**, and it be **dismissed**.

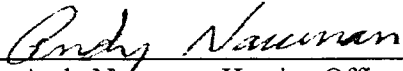
10 ILCS 5/9-8.5 Allegation

This Section specifies how much different political committee types can receive and how contributions in excess of contribution limits should be dealt with. The Complainant alleges the Respondents violated this Section.

Recommendation

Before I go into my recommendation on this statutory provision, I will note that I believe the Board should consider this allegation to be part of the complaint. Even though this specific statutory provision was not identified on the D-4 form itself, I believe the attached pages to the complaint and the Complainant's attorneys' presentation clearly allege that the both Committees violated contribution limits. I will also note that 10 ILCS 5/9-8.6, which was identified in the additional pages of the complaint, specifically covers what happens when an IE committee violates contribution limits. It essentially enacts the contribution limits of a political action committee, which is contained in 10 ILCS 5/9-8.5. For this reason I am going to consider this connection in my recommendation as I believe the Complainant's intention of alleging contribution limits was clearly made. The additional pages of the complaint contained an entire paragraph about contribution limits being violated and what happens when contribution limits are violated for both an IE committee and a candidate committee.

For the reasoning provided in my recommendation for allegation 5/9-10(c) regarding coordination and request and suggestion, and my reading of the plain language of the law, I recommend this allegation be found to have been **filed upon justifiable grounds** and this matter **proceed to a public hearing** to flesh out the coordination issue to determine if both committees violated contribution limits or not. Again, in the alternative if the Board believes enough information has already been introduced to determine coordination or suggestion occurred without the need of a public hearing, then I recommend the Board start the process for assessing PWPBTR for violation of contribution limits and PWPBTR be ordered to provide Bailey for Illinois with in-kind notifications. Then Bailey for Illinois will need to report the receipt of those in-kind contributions and the Board can then start the assessment process for violation of contribution limits.



Andy Nauman – Hearing Officer
January 5, 2023



FORM
D-4

COMPLAINT FOR VIOLATION OF
THE CAMPAIGN DISCLOSURE ACT

Complainant Name, Address, Telephone Number, and E-Mail Address:

Ben Hardin (217) 546-7404
PO Box 641466 bhardin@ildems.com
Chicago, IL 60664

RECEIVED

NOV 9 2022

State Board of Elections
Chicago Office

vs.

No. 22C.D032

Name and Address of Respondent (provide Telephone Number and/or E-Mail Address, if available):

Dan Proft, People Who Play By The Rules PAC,

467 Connors Avenue, Naples, FL 34108

Darren Bailey, 6121 Xenia Iola Road, Xenia, IL 62454

Section 1. Has Respondent filed a Statement of Organization (Form D-1) as a Political Committee with The State Board of Elections? Yes No

Section 2. Statutory Provisions: State the portion(s) of The Campaign Disclosure Act (10 ILCS 5/9) that have been violated. (Use additional plain sheets if necessary and refer to this Section.)

10 ILCS 5/9-1.4; 1.8; 10

Section 3. State the nature of the offense(s) or violation(s). (Use additional plain sheets if necessary and refer to this Section.)

People who Play By The Rules PAC's expenditures supporting the Bailey Campaign are coordinated contributions in violation of the Code. The Bailey Campaign violated the Code by accepting such illegal contributions.

Both parties have violated the Code by failing to report such coordinated expenditures as in-kind contributions.

Section 4. Attach all statements, schedules, or other documents relevant to this complaint.

VERIFICATION

I DECLARE THAT THIS COMPLAINT (INCLUDING ANY ACCOMPANYING SCHEDULES AND STATEMENTS) HAS BEEN EXAMINED BY ME AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS A TRUE AND CORRECT COMPLAINT AS REQUIRED BY ARTICLE 9 OF THE ELECTION CODE. I UNDERSTAND THAT THE PENALTY FOR WILLFULLY FILING A FALSE COMPLAINT SHALL BE A FINE NOT TO EXCEED \$500 OR IMPRISONMENT IN A PENAL INSTITUTION OTHER THAN THE PENITENTIARY NOT TO EXCEED 6 MONTHS, OR BOTH FINE AND IMPRISONMENT.

11/4/22

DATE

SIGNATURE OF COMPLAINANT

(If Complainant is a corporation, then Verification MUST be signed by an authorized Officer and attested to by the Secretary)

Proof of Service

I, Ben Hardin Hereby swear or affirm that I served a copy of the foregoing complaint upon the following:

a) Name(s) and Address(es) of person(s) served:

Dan Proft; People Who Play By The Rules PAC, 467 Conners Avenue, Naples, FL 34108
Darren Bailev, 6121 Xenia lola Road, Xenia, IL 62454

b) By personally delivering the same on the _____ day of _____, 20__ at ___ o'clock ___ m.

(List Name and Title of person - or if Name is unknown, a physical description including race, sex, and approximate age in the space below): or

c) By placing a copy thereof in the United States Postal Service, proper postage prepaid, registered or certified, to the above indicated Address(es), on the 4th day of November, 2022, at the mail box or postal station located at:

Finance Station E, 100 W. Randolph, Chicago, IL 60601

Signature of Complainant or Agent

Subscribed and sworn to before me

This 4 day of November, 2022

Notary Public



Instructions

1. This form is used to file complaints for violations arising out of An Act to Regulate Campaign Financing (IL Compiled Statutes, Chapter 10, Art. 9-1 Et Seq.). See Rules and Regulations of The State Board of Elections for the filing and hearing of complaints.
2. The filing and hearing of complaints are governed by rules and regulations adopted by the Board. The Complainant must serve a copy of the complaint upon all Respondents prior to the time of filing with the Board, and the Proof of Service section above must be completed. Copies of the Rules and Regulations are available upon request.
3. Following the filing of a complaint, the State Board of Elections will send notice via certified mail to all parties, regarding the time and location of the closed preliminary hearing.
4. Complaints must be filed by mail or in person at either of the following locations:

State Board of Elections
2329 S MacArthur Blvd
Springfield, IL 62704-4503

State Board of Elections
69 W Washington St, Suite LL-08
Chicago, IL 60602-3026

OFFICIAL SEAL
JACOB VANDERBILT
1852 JAN 10

November 4, 2022

Illinois State Board of Elections
2329 S. MacArthur Blvd.
Springfield, IL 62704

Darren Bailey
Bailey for Illinois
154 S. Church
PO Box Drawer D
Louisville, IL 62858

Dan Proft
People Who Play By The Rules PAC
467 Conners Avenue
Naples, FL 34108

To Whom it May Concern:

I submit this verified complaint to the Illinois State Board of Elections (“**Board**”) because I believe Darren Bailey’s gubernatorial campaign committee, Bailey for Illinois (the “**Bailey Campaign**”), and People Who Play By The Rules PAC (the “**PAC**”) have violated Article 9 of the Illinois Election Code (the “**Code**”). Pursuant to Article 9, Section 20 of the Code, this complaint is directed to candidate Darren Bailey and the PAC’s chair and treasurer, Dan Proft.

I. Factual Background

The PAC is registered with the Board as an independent expenditure committee.¹ Since its organization, it has spent over \$26 million dollars in support of the Bailey Campaign or in opposition to Mr. Bailey’s opponent, Governor JB Pritzker.² By law, those expenditures must be “independent.” If they are not, the PAC has made an illegal in-kind contribution, and Mr. Bailey and his campaign have accepted one. Mr. Proft’s pervasive involvement in the Bailey Campaign indicates some level of coordination, such that these expenditures are *not* independent and are instead illegal in-kind contributions to the Bailey Campaign.

Mr. Proft has consistently acted in “cooperation, consultation, or concert” with the Bailey Campaign. The examples are endless. For example, Mr. Proft co-hosts a conservative radio show in which Mr. Bailey has been a frequent guest. In one instance, Mr. Proft talks about the millions he has spent supporting the Bailey Campaign, with Mr. Bailey on the line, saying that he

¹ People Who Play By The Rules PAC, *Statement of Organization* (Mar. 9, 2022), *available at* <https://www.elections.il.gov/CampaignDisclosure/CDPDFViewer.aspx?FiledDocID=JmQkjgcm34iS0AWI0YDIPg%3d%3d&DocType=y4%2bQAKnRNtkuIDOSzITByg%3d%3d>.

² *See generally* People Who Play By The Rules PAC, *Committee Details*, <https://www.elections.il.gov/CampaignDisclosure/CommitteeDetail.aspx?ID=meYU8YumQ1UjlydtUJRv9w%3d%3d> (last visited Nov. 4, 2022).

“supported Darren Bailey through the super PAC that I run in the primary. And I’m supporting him through the super PAC that I run into the general too.”³

Recently, Mr. Proft even tried to intercede in a potential legal matter on behalf of Mr. Bailey. Brett Corrigan, who worked for the Bailey Campaign for more than a year, sought a legal settlement from the Bailey Campaign for an “internal HR matter.”⁴ During confidential negotiations between Mr. Corrigan and the Bailey Campaign, Mr. Proft contacted Mr. Corrigan’s attorney, “apparently in an effort to quash the filing of a possible lawsuit in the matter that could become public and hurt Bailey’s chances.”⁵ Mr. Proft’s awareness of and involvement in a confidential, internal Bailey Campaign HR matter indicates that Mr. Proft is in “cooperation, consultation, or concert” with the Bailey Campaign such that expenditures made by the PAC qualify as coordinated contributions.

II. Legal Analysis

The Code defines an “independent expenditure” as “any payment, gift, donation, or expenditure of funds (i) by a natural person or political committee for the purpose of making electioneering communications or of expressly advocating for or against the nomination for election, election, retention, or defeat of a clearly identifiable public official or candidate or for or against any question of public policy to be submitted to the voters and (ii) that is *not made in connection, consultation, or concert with or at the request or suggestion of* the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign.”⁶

An “independent expenditure committee” may make independent expenditures but may not make contributions to a candidate committee.⁷ When establishing an independent expenditure committee, the committee’s chairperson must verify via the statement of organization that the committee is formed for the exclusive purpose of making independent expenditures and that all contributions and expenditures of the committee will be used for the purpose described in the statement of organization.⁸ Accordingly, a candidate political committee may not accept contributions from an independent expenditure committee.⁹

Notably, Illinois law requires that coordinated communications be reported as in-kind contributions. A political committee—including an independent expenditure committee—that makes an in-kind contribution to another political committee must, within five days of making the in-kind, provide a detailed account to the recipient committee’s treasurer of the name and address of the donor; a description and market value of the goods or services; and the date on

³ Chicago’s Morning Answer with Dan Proft and Amy Jacobson (Sept. 8, 2022), *available at* <https://www.facebook.com/MorningAnswer/videos/411715784364373>.

⁴ Jeremy Gorner & Rick Pearson, *Conservative GOP operative Dan Proft’s involvement in Bailey campaign matter raises questions about his role*, Chicago Tribune (Nov. 3, 2022), <https://www.chicagotribune.com/politics/elections/ct-illinois-election-bailey-campaign-proft-lawsuit-20221103-yjwn6vq6ragbmqq6gbhedmcdm-story.html>.

⁵ *Id.*

⁶ 10 Ill. Comp. Stat. Ann. 5/9-1.15 (emphasis added).

⁷ *Id.* 5/9-1.8(f).

⁸ *Id.* 5/9-3(d-5)(i-ii).

⁹ *Id.* 5/9-1.4(B)(g).

which the contribution was made.¹⁰ A political committee—including a campaign committee—must file a report of any contribution of \$1,000 or more electronically with the Board within 2-5 business days after receipt of the contribution (timing dependent on whether the contribution is received 30 or fewer days before the date of an election).¹¹

Failure to abide by any of these requirements constitutes a clear violation of the Code.¹² In the event that a political committee organized as an independent expenditure committee makes a contribution to any other political committee other than another independent expenditure committee or a ballot initiative committee, the State Board shall assess a fine equal to the amount of any contribution received in the preceding 2 years by the independent expenditure committee that exceeded the limits for a political action committee.¹³ If a candidate political committee receives such a contribution from an independent expenditure committee, the candidate political committee must dispose of the contribution by returning it, or an amount equal to it, to the contributor or donating the contribution, or an amount equal to the contribution or transfer, to a charity.¹⁴ An illegal contribution that is not disposed in this manner, within 30 days after the Board sends notification to the political committee of the excess contribution by certified mail, shall escheat to the General Revenue Fund and the political committee shall be deemed in violation of the Code and subject to a civil penalty not to exceed 150% of the total amount of the contribution.¹⁵ Therefore, the PAC must be fined “equal to the amount of any contribution received in the preceding 2 years by the independent expenditure committee that exceeded the limits [] a [PAC]” may accept in an election cycle,¹⁶ and the Bailey Campaign must dispose of an amount equal to the PAC’s illegal contributions in a manner provided by the Code.¹⁷

The PAC is an independent expenditure committee whose chair and treasurer is deeply involved with the inner workings of the Bailey Campaign—the same chair who verified that the PAC would remain independent of any candidate committee.¹⁸ Mr. Proft’s level of involvement indicates that the PAC is operating “in connection, consultation, or concert with or at the request or suggestion of” the Bailey Campaign, and its expenditures are coordinated contributions in violation of the Code. Moreover, the Bailey Campaign has violated the Code by accepting such illegal contributions, and both parties have additionally violated the Code by failing to report these coordinated expenditures as in-kind contributions.

I hope the Illinois State Board of Elections fully investigates these violations.

¹⁰ Ill. Admin. Code tit. 26 § 100.120(a).

¹¹ 10 Ill. Comp. Stat. Ann. 5/9-10.

¹² *Id.* 5/9-3(d-5)(iv).

¹³ *Id.* 5/9-8.6

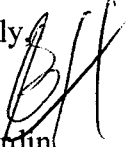
¹⁴ *Id.* 5/9-8.5(j).

¹⁵ *Id.*

¹⁶ *Proft v. Raoul*, 944 F.3d 686, 689 (7th Cir. 2019) (citing Ill. Comp. Stat. Ann. 5/9-8.6).

¹⁷ Ill. Comp. Stat. Ann. 5/9-8.5(j).

¹⁸ People Who Play By The Rules PAC, Statement of Organization, *supra* note 1.

Sincerely, 

Ben Hardin
Interim Executive Director
Democratic Party of Illinois

PO Box 641466
Chicago, IL 60664
(217) 546-7404

VERIFICATION:

I declare that this complaint (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true and correct complaint as required by Article 9 of The Election Code. I understand that the penalty for willfully filing a false complaint shall be a fine not to exceed \$500 or imprisonment in a penal institution other than the penitentiary not to exceed 6 months, or both fine and imprisonment.

By: Ben Hardin

(date of filing) 11/4/22

AFFIDAVIT OF CHRISTOPHER ALLEN

I, Christopher Allen, duly sworn under oath, do solemnly swear that:

1. I submit this affidavit to provide information regarding the complaint in Ben Hardin v. Dan Proft, People Who Play By The Rules PAC, Darren Bailey, Bailey for Illinois 22 CD 032, pending before the Illinois State Board of Elections. I have personal knowledge of the matters set forth below.
2. I viewed and downloaded a copy of the Statement of Organization for People Who Play By The Rules PAC (the "**PAC**") establishing that Mr. Proft is the Chair and Treasurer of the PAC and declaring that the PAC is an independent expenditure committee that does not make contributions to any candidate political committee. The Form D-1, signed by Mr. Proft, further affirms that making contributions to a candidate committee would deem the PAC in violation of 10 ILCS 5/9. The file, attached as Exhibit A, is a true and correct copy of the PAC's Statement of Organization.
3. I reviewed recordings of Mr. Proft's radio show, The Answer, which airs on AM 560, and heard Mr. Bailey appear on the show with Mr. Proft to discuss his race for Illinois Governor no fewer than seven times between December 14, 2021, and November 3, 2022. The publicly aired portions of these exchanges between Mr. Proft and Mr. Bailey included discussions of topics at issue in the gubernatorial race, including issues that were the focus of advertisements that the PAC sponsored in opposition to Mr. Bailey's opponent, Governor Pritzker.
4. I viewed and downloaded a copy of a Chicago Tribune article titled "Conservative GOP operative Dan Proft's involvement in Bailey campaign matter raises questions about his role" originally published on November 3, 2022, describing the fact that Mr. Proft had access to nonpublic information about Bailey for Illinois' confidential legal matter. The file, attached as Exhibit B is a true and correct copy of that Chicago Tribune article.
5. I viewed and downloaded a copy of a Chicago Tribune article titled "Illinois Democrats accuse GOP operative Dan Proft and Darren Bailey's campaign of unlawful coordination in election complaint" originally published on November 4, 2022, further confirming that Mr. Proft was attempting to interfere in confidential settlement negotiations, acting on information that seemingly could have only obtained from Bailey for Illinois. The file, attached as Exhibit C, is a true and correct copy of that Chicago Tribune article.
6. I viewed and downloaded a recording of Mr. Proft's radio show on June 29, 2022, on which Mr. Bailey discussed his campaign's strategy. At approximately 08:56 in the recording, Bailey says to Mr. Proft, "I continue to do what I've done against him, *what I did four years ago with your help [...]* *All I have to do is simply remind people of the truth: This is why your lives are in danger. This is why our streets aren't safe. This is why the man got burned alive in Chicago a few weeks after I called it a corrupt, crime-ridden, hellhole. Because somebody was out on cash-free bail and set this person on fire. This is why our streets are unsafe. [...]* We've got the message. It's truth. *We've just gotta get it out.*" (emphasis added). The file named 22.06.29 Bailey on AM560.mp4

uploaded to a Dropbox account at <https://www.dropbox.com/scl/fo/pku5uz3de5131uugoug2h/h?dl=0&preview=22.06.29+Bailey+On+AM560+.mp4&rlkey=vbyp9pcy3pu51z9kiw5hbl8ff> is a true and correct recording of Mr. Bailey's June 29, 2022 appearance on Mr. Proft's radio show.

7. Following the discussion described in paragraph 6 above wherein Mr. Bailey tells Mr. Proft they need to get out a message that Chicago isn't a safe place to live, Mr. Proft's PAC made disbursements for television advertisements featuring violent crime in Chicago and did not report corresponding in-kind contributions to Bailey for Illinois. I viewed and downloaded copies of the following three advertisements paid for and disseminated by the PAC featuring violent crime in Chicago.
 - a. The first ad, titled The Summer of Joy, was originally published on August 15, 2022, at <https://youtu.be/VlFVPhKtnKM>. The file named The Summer of Joy.mp4, uploaded to a Dropbox account at <https://www.dropbox.com/scl/fo/pku5uz3de5131uugoug2h/h?dl=0&preview=The+Summer+of+Joy.mp4&rlkey=vbyp9pcy3pu51z9kiw5hbl8ff> is a true and correct copy of the advertisement.
 - b. The second ad, titled Lakeview Scream, was originally published on September 7, 2022, at <https://youtu.be/C8aUWa1w6M8>. The file named Lakeview Scream.mp4, uploaded to a Dropbox account at <https://www.dropbox.com/scl/fo/pku5uz3de5131uugoug2h/h?dl=0&preview=Lakeview+Scream.mp4&rlkey=vbyp9pcy3pu51z9kiw5hbl8ff> is a true and correct copy of the advertisement.
 - c. The third ad, titled Oh My God, was originally published on September 27, 2022, at <https://youtu.be/xKCEyRdp-pI>. The file named Oh My God.mp4, uploaded to a Dropbox account at <https://www.dropbox.com/scl/fo/pku5uz3de5131uugoug2h/h?dl=0&preview=Oh+My+God.mp4&rlkey=vbyp9pcy3pu51z9kiw5hbl8ff> is a true and correct copy of the advertisement.
8. I am aware that on September 20, 2022, the journalist Charles Thomas stated that he was working directly for Mr. Bailey's campaign. As reported in a Tweet on October 4, 2022, by journalist Dan Mihalopoulos (@dmihalopoulos), Mr. Thomas stated at a town hall event, "*I'm working for Darren Bailey...* I've never worked on a campaign like this." (emphasis added). The original Tweet thread by Mr. Mihalopoulos detailing Mr. Thomas's statements at the town hall event is available at <https://twitter.com/dmihalopoulos/status/1577337900659884035>. I viewed and downloaded a copy of the Tweet thread. The file, attached as Exhibit D, is a true and correct copy of that Tweet thread.
9. I'm also aware that in addition to working with Mr. Bailey's campaign, Mr. Thomas was paid to appear in an advertisement sponsored by the PAC.

- a. I viewed and downloaded a copy of a political advertisement paid for and disseminated by the PAC featuring the journalist Charles Thomas wherein Mr. Thomas expresses his support for Mr. Bailey's candidacy. The file named I Can Trust This Guy.mp4 uploaded to the Dropbox account at <https://www.dropbox.com/scl/fo/pku5uz3de5131uugoug2h/h?dl=0&preview=I+Can+Trust+This+Guy.mp4&rlkey=vbyp9pcy3pu51z9kiw5hbl8ff> is a true and correct copy of that political advertisement, which was originally posted on October 4, 2022, at <https://youtu.be/GyFJV6drnWI>.
 - b. I viewed and downloaded a copy of People Who Play By The Rules PAC's Schedule B-1 filed on September 22, 2022, reporting a \$50,000 independent expenditure opposing Governor Pritzker made to Charles Thomas for consulting fees on September 16, 2022. The file, attached as Exhibit E, is a true and correct copy of that Schedule B-1.
10. I viewed and downloaded a copy of video footage posted by Mr. Bailey's running mate, Stephanie Trussell, on October 5, 2022, wherein she refers to People Who Play by the Rules PAC as the Bailey campaign's own political committee. Beginning at approximately 4:08, Ms. Trussell states, "Can I brag about that? Charles Thomas ... [is] *actually working with our PAC.*" (emphasis added). The file named Trussell Facebook Video 10-5-22.mp4 uploaded to a Dropbox account at <https://www.dropbox.com/scl/fo/pku5uz3de5131uugoug2h/h?dl=0&preview=Trussell+Facebook+Video+10-5-22.mp4&rlkey=vbyp9pcy3pu51z9kiw5hbl8ff> is a true and correct copy of that video footage, which was originally posted at <https://www.facebook.com/StephanieTrussellIL/videos/463622269074907>.
11. I am aware that in addition to being the Chair and Treasurer of the PAC, Mr. Proft also engages in partisan political activity through the outlet Chicago City Wire and other so-called "newspapers" that opposed Governor Pritzker and supported Mr. Bailey.
 - a. I viewed and downloaded a copy of an article authored by Mr. Proft, wherein his biography establishes that he is a principal of the company that owns the Chicago City Wire publication. The article, titled "Editorial: journalism is authentically better than ever" was originally published on March 24, 2017. The file, attached as Exhibit F, is a true and correct copy of that article.
 - b. I viewed and downloaded a copy of an article in the Chicago Sun-Times that further establishes Mr. Proft's involvement with and oversight of Chicago City Wire and Mr. Proft's partisan "newspapers." The article, titled "Beware of fake 'newspapers' packaged as the old-school real deal" was originally published on November 3, 2022. The file, attached as Exhibit G, is a true and correct copy of that article.
12. I viewed and downloaded a copy of video footage posted by Mr. Bailey on September 28, 2022 where he indicated his own campaign, rather than Mr. Proft, was sending out Proft's partisan political "newspapers." Beginning at approximately 2:28, Mr. Bailey states, "Everything in those newspapers is actual facts and truth. And they got a problem

with it because they kind of got outsmarted and, uh, *we've got a way of*, uh, you know, the people that are doing this have a way, finally of getting the truth in the hands of people to where they're looking at it and paying attention to it." (emphasis added) The file named Bailey Facebook Video 9-28-22.mp4 uploaded to a Dropbox account at <https://www.dropbox.com/scl/fo/pku5uz3de5131uugoug2h/h?dl=0&preview=Bailey+Fac ebook+Video+9-28-22.mp4&rlkey=vbyp9pcy3pu51z9kiw5hbl8ff> is a true and correct copy of that video footage, which was originally posted at <https://www.facebook.com/BaileyforIllinois/videos/1398212697371588>.

13. I viewed and downloaded a Chicago City Wire article posted on October 6, 2022, that confirms agents of Mr. Proft's Chicago City Wire publication had nonpublic communications with Mr. Bailey, stating "Chicago City Wire recently interviewed Illinois GOP gubernatorial candidate Darren Bailey...." The file, attached as Exhibit H, is a true and correct copy of that article.
14. I have viewed and downloaded a copy of the Verified Complaint for Declaratory and Injunctive Relief in Proft v. Madigan, 340 F.Supp.3d 683 (N.D. IL 2018). Paragraph 43 states, "Mr. Proft also would like to be able to communicate and coordinate freely with the candidates he supports because he believes that doing so would make his communications (and the candidates' communications) to the public more effective." The file, attached as Exhibit I, is a true and correct copy of the complaint.
15. I have viewed and downloaded copies of People Who Play By The Rules PAC's Schedule B-1 reports showing its expenditures in the 2022 gubernatorial election from July 13, 2022 – November 11, 2022. The copies, attached as Exhibit J, are true and correct copies of the reports.
16. I have viewed and downloaded a copy of People Who Play By The Rules PAC's Schedule D-2 report showing its receipts and expenditures from July 1, 2022 – September 30, 2022. The copy, attached as Exhibit K, is a true and correct copy of the report.
17. I have viewed and downloaded copies of People Who Play By The Rules PAC's Schedule A-1 reports showing receipts from July 6, 2022 – October 5, 2022. The copies, attached as Exhibit L, are true and correct copies of the reports.

I declare that the foregoing is true and correct.

Christopher Allen

Christopher Allen

12/28/2022

Date

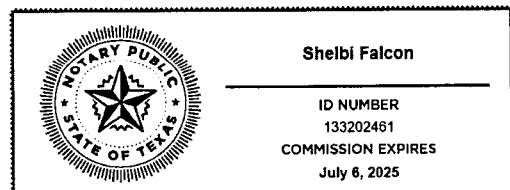
Signed and sworn to before me by Christopher Allen, who is to me personally known, on December 28, 2022

Shelbi Falcon

Notary Public, State of Texas

Notary Public

State of: Texas County of: Waller



Notarized online using audio-video communication

BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

In the Matter of:

Ben Hardin
Complainant(s),

v. Dan Proft, People Who Play

By The Rules PAC, et al.
Respondent(s).

Case No. 22 CD 032

APPEARANCE

The undersigned enters the appearance of (check one):

COMPLAINANT(S) or RESPONDENT(S)

Darren Bailey, Bailey for Illinois
(Insert name)

Check one: Attorney Pro Se

Name: Jeffrey Meyer

Address: 2045 Aberdeen Ct.

City/State/ZIP: Sycamore, IL 60178

Telephone: 815-748-0380

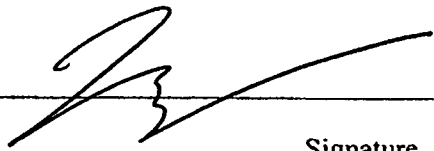
FAX No.: 815-748-4030

EMAIL: jmeyer@kleinstoddard.com

Will you accept service of documents via FAX or email transmissions?

Check one: Yes No

Email to: Imarbold@elections.il.gov


Signature

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

2329 S. MacArthur Blvd.
Springfield, Illinois 62704-4503
217/782-4141
Fax: 217/782-5959

69 W. Washington St, Suite LL-08
Chicago, Illinois 60602
312/814-6440
Fax: 312/814-6485



EXECUTIVE DIRECTOR
Bernadette M. Matthews
February 9 2023

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Casandra B. Watson, Vice Chair
William J. Cadigan
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Tonya L. Genovese
Catherine S. McCrory
William M. McGuffage
Rick S. Terven, Sr.

Bailey for Illinois
154 S Church
PO Box Drawer D
Louisville, IL 62858

NOTICE TO PARTIES

Dear Political Committee Officer/Representative,

Please be advised that your pending Complaint for Violation of the Campaign Disclosure Act, case number 22 CD 032 will be presented to the Board at its February 22, 2023 meeting. Attached for your review is a copy of the Hearing Officer's recommendation in the matter. Please be aware that the enclosed recommendation is the Hearing Officer's opinion *only*, and may not necessarily be the final decision by the Board. **Failure of the complainant to appear at the Board meeting may result in dismissal of the complaint.**

The meeting will begin at 10:30 AM on Wednesday, February 22, 2023 at the State Board of Elections, 69 W. Washington St., Chicago, IL. You can also attend the meeting via video conference at our Springfield office at 2329 S. MacArthur Blvd., Springfield IL.

If you plan on attending the meeting and would like to address the Board during the meeting, please complete a Board Meeting Appearance form (enclosed) and return it via email to Board Liaison Amy Calvin **no later than noon, Tuesday, February 21**. Appearance forms, meeting agendas and board contact information can also be found on our website at: <https://www.elections.il.gov/AboutTheBoard/Agenda.aspx>.

If you have any further questions please feel free to contact our office.

Sincerely,

Tom Newman, Director
Division of Campaign Disclosure

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People Who Play by the Rules PAC
Dan Proft
467 Conners Ave
Naples, FL 34108

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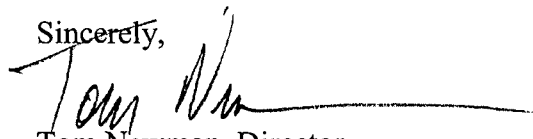
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Ben Hardin
PO Box 641466
Chicago, IL 60664

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Sincerely,

Tom Newman, Director
Division of Campaign Disclosure

BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

In the Matter of:

Ben Hardin

Complainant(s),

Vs.

Dan Proft et al.

Respondent(s)

22 CD 032

Case No. _____

APPEARANCE

The undersigned enters the appearance of (check one):

COMPLAINANT(S) or RESPONDENT(S)

Ben Hardin

(Insert name)

Check one: Attorney Pro Se

Name: Tyler J. Hagenbuch (ARDC #6303448)

Address: 250 Massachusetts Ave NW Ste. 400

City/State/Zip: Washington, DC 20002

Telephone: (202) 968-4540

Fax No.: _____

E-mail: tylerh@elias.law

Will you accept service of documents via e-mail?

Check one: Yes No

Tyler Hagenbuch

Signature

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

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EXECUTIVE DIRECTOR
Bernadette M. Matthews
January 11 2023

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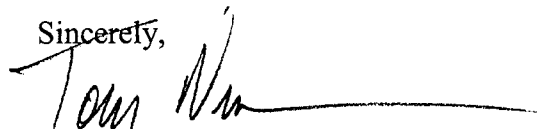
Please be advised that your pending Complaint for Violation of the Campaign Disclosure Act, case number 22 CD 032 will be presented to the Board at its January 18, 2023 meeting. Attached for your review is a copy of the Hearing Officer's recommendation in the matter. Please be aware that the enclosed recommendation is the Hearing Officer's opinion *only*, and may not necessarily be the final decision by the Board. **Failure of the complainant to appear at the Board meeting may result in dismissal of the complaint.**

The meeting will begin at 10:30 AM on Wednesday, January 18, 2023 at the State Board of Elections, 2329 S. MacArthur Blvd., Springfield IL. You can also attend the meeting via video conference at our Chicago office at 69 W. Washington St., Chicago, IL.

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Sincerely,


Tom Newman, Director
Division of Campaign Disclosure

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January 11 2023

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EXECUTIVE DIRECTOR
Bernadette M. Matthews
January 11, 2023

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Ben Hardin
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NOTICE TO PARTIES

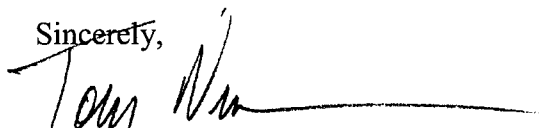
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Sincerely,

Tom Newman, Director
Division of Campaign Disclosure

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:

)	
Ben Hardin)	
Complainant(s))	
)	
Vs.)	Board File#: 22 CD 032
)	
Dan Proft, People Who Play By The)	
Rules PAC, Darren Bailey, Bailey)	
For Illinois)	
Respondent(s))	

Verified Statement of Out-of-State Attorney Pursuant to Supreme Court Rule 707

I, Joseph A. Vanderhulst, submit this Verified Statement pursuant to Illinois Supreme Court Rule 707.

1. My full name is Joseph Adrian Vanderhulst, my date of birth is October 4, 1982. The address of offices from which I practice law and related email address and telephone numbers are as follows:

Langdon Law LLC
8913 Cincinnati-Dayton Road
West Chester, OH 45069

2. I represent Dan Proft and People Who Play By The Rules PAC in 22CD032, Hardin vs. Proft, People Who Play By The Rules PAC, et al.

3(a). I have not filed any other appearance pursuant to this rule during this calendar year.

3(b). I have not yet received a registration number from the ARDC.

4(a). I list each jurisdiction of admission, including any state, territory, or commonwealth of the United States, the District of Columbia, or in a foreign country, and my full admission name and license number:

Supreme Court of Indiana, Attorney #28106-02

4(b). I attach a letter or certificate of good standing for each of the jurisdictions listed in paragraph 4(a) above.

5. I have no office or other presence in Illinois for the practice of law.
6. I submit to the disciplinary authority of the Supreme Court of Illinois.
7. I have undertaken to become familiar with and to comply, as if admitted to practice in Illinois, with the rules of the Supreme Court of Illinois, including the Illinois Rules of Professional Conduct and the Supreme Court Rules on Admission and Discipline of Attorneys, and other Illinois law and practices that pertain to the proceeding.
- (8) The full name, business address, and ARDC number of the Illinois attorney with whom I have associated in the matter is:

John Stewart Pearman
1901 Butterfield Road, Suite 120
Downers Grove, IL 60515
ARDC #6230018

9. I certify that I have served this Statement upon the following and that these parties are all entitled to service under this rule:

Ben Hardin
PO Box 641466
Chicago, IL 60664

Dan Proft,
People Who Play By The Rules PAC
467 Conners Avenue
Naples, FL 34108

Darren Bailey,
Bailey for Illinois
154 S. Church
PO Box Drawer D
Louisville, IL 62858

John S. Pearman
1901 Butterfield Road, Suite 120
Downers Grove, IL 60515

Illinois Attorney Registration & Disciplinary Commission
3161 West White Oaks Drive, Suite 301
Springfield, IL 62704

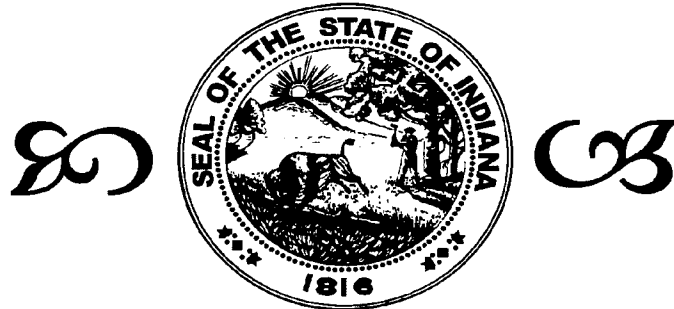
Verification

I verify the accuracy and completeness of each of the above statements.

/s/ Joseph A. Vanderhulst

Date: December 23, 2022

SUPREME COURT OF THE STATE OF INDIANA



Certification

STATE OF INDIANA:

I, Bradley W. Skolnik, Executive Director of the Office of Admissions and Continuing Legal Education, do hereby certify that

JOSEPH ADRIAN VANDERHULST

is a member of the bar of the Supreme Court of Indiana since admission on October 17, 2008, and is in good standing therein.

Given under my hand and the seal of said Court at Indianapolis, Indiana, this 23rd day of December, 2022.



Bradley W. Skolnik
Executive Director
Office of Admissions and Continuing Education
Indiana Supreme Court

**BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS**

In the Matter of:)
)
)
Ben Hardin)
Complainant(s),)
)
)
Vs.) Case No. 22 CD 032
)
People Who Play By The Rules PAC, et al.)
Respondent(s))

APPEARANCE

The undersigned enters the appearance of (check one):

COMPLAINANT(S) or **RESPONDENT(S)**

Ben Hardin

(Insert name)

Check one: **Attorney** **Pro Se**

Name: Dylon Busser

Address: 250 Massachusetts Ave NW, Ste 400

City/State/Zip: Washington, DC 20001

Telephone: 202-968-4495

Fax No.: n/a

E-mail: dbusser@elias.law

Will you accept service of documents via e-mail?

Check one: **Yes** **No**

Dylon Busser

Signature

**BEFORE THE STATE BOARD OF ELECTIONS
STATE OF ILLINOIS**

In the Matter of:

Michael Pflieger

Complainant(s),

Vs.

Dan Proft, People Who Play By The Rules PAC

Respondent(s)

Case No. 22 CD 024

APPEARANCE

The undersigned enters the appearance of (check one):

COMPLAINANT(S) or RESPONDENT(S)

Dan Proft, People Who Play By The Rules PAC

(Insert name)

Check one: Attorney Pro Se

Name: Joseph A. Vanderhulst

Address: 8913 Cincinnati-Dayton Road

City/State/Zip: West Chester, OH 45069

Telephone: 260-715-5767

Fax No.: _____

E-mail: joseph@langdonlaw.com

Will you accept service of documents via e-mail?

Check one: Yes No

/s/ Joseph A. Vanderhulst

Signature

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:

Ben Hardon)	
)	
Complainant(s))	
)	
Vs.)	Board File#: 22 CD 032
)	
Dan Proft, People Who Play By The)	
Rules PAC, Darren Bailey, Bailey)	
For Illinois)	
Respondent(s))	

Verified Statement of Out-of-State Attorney Pursuant to Supreme Court Rule 707

I, Joseph A. Vanderhulst, submit this Verified Statement pursuant to Illinois Supreme Court Rule 707.

1. My full name is Joseph Adrian Vanderhulst, my date of birth is October 4, 1982. The address of offices from which I practice law and related email address and telephone numbers are as follows:

Langdon Law LLC
8913 Cincinnati-Dayton Road
West Chester, OH 45069

2. I represent Dan Proft and People Who Play By The Rules PAC in 22CD032, Hardon vs. Proft, People Who Play By The Rules PAC, et al.

3(a). I have not filed any other appearance pursuant to this rule during this calendar year.

3(b). I have not yet received a registration number from the ARDC.

4(a). I list each jurisdiction of admission, including any state, territory, or commonwealth of the United States, the District of Columbia, or in a foreign country, and my full admission name and license number:

Supreme Court of Indiana, Attorney #28106-02

4(b). I attach a letter or certificate of good standing for each of the jurisdictions listed in paragraph 4(a) above.

5. I have no office or other presence in Illinois for the practice of law.
 6. I submit to the disciplinary authority of the Supreme Court of Illinois.
 7. I have undertaken to become familiar with and to comply, as if admitted to practice in Illinois, with the rules of the Supreme Court of Illinois, including the Illinois Rules of Professional Conduct and the Supreme Court Rules on Admission and Discipline of Attorneys, and other Illinois law and practices that pertain to the proceeding.
- (8) The full name, business address, and ARDC number of the Illinois attorney with whom I have associated in the matter is:

John Stewart Pearman
1901 Butterfield Road, Suite 120
Downers Grove, IL 60515
ARDC #6230018

9. I certify that I have served this Statement upon the following and that these parties are all entitled to service under this rule:

Ben Hardin
PO Box 641466
Chicago, IL 60664

Dan Proft,
People Who Play By The Rules PAC
467 Conners Avenue
Naples, FL 34108

Darren Bailey,
Bailey for Illinois
154 S. Church
PO Box Drawer D
Louisville, IL 62858

John S. Pearman
1901 Butterfield Road, Suite 120
Downers Grove, IL 60515

Illinois Attorney Registration & Disciplinary Commission
3161 West White Oaks Drive, Suite 301
Springfield, IL 62704

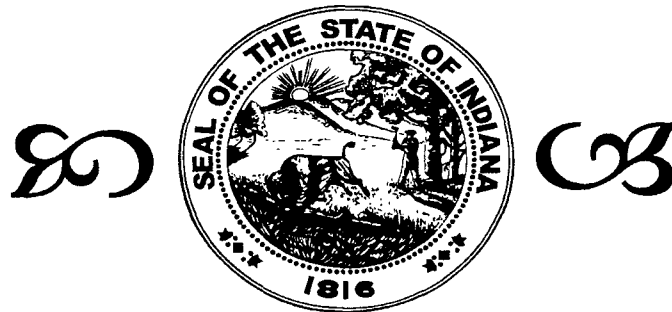
Verification

I verify the accuracy and completeness of each of the above statements.

/s/ Joseph A. Vanderhulst

Date: December 23, 2022

SUPREME COURT OF THE STATE OF INDIANA



Certification

STATE OF INDIANA:

I, Bradley W. Skolnik, Executive Director of the Office of Admissions and Continuing Legal Education, do hereby certify that

JOSEPH ADRIAN VANDERHULST

is a member of the bar of the Supreme Court of Indiana since admission on October 17, 2008, and is in good standing therein.

Given under my hand and the seal of said Court at Indianapolis, Indiana, this 23rd day of December, 2022.



Bradley W. Skolnik
Executive Director
Office of Admissions and Continuing Education
Indiana Supreme Court



STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:

Ben Hardin)
)
Complainant(s))
)
Vs.) Board File#: 22 CD 032
)
Dan Proft, People Who Play By The)
Rules PAC, Darren Bailey, Bailey)
for Illinois)
Respondent(s))

NOTICE AND SUMMONS

7021 2720 0000 3798 9319

TO: Ben Hardin Dan Proft, People Who Play By The Rules PAC Darren Bailey,
PO Box 641466 467 Conners Avenue Bailey for Illinois
Chicago, IL 60664 Naples, FL, IL 34108 154 S. Church
via certified mail via certified mail PO Box Drawer D
Louisville, IL 62858
certified mail

7021 2720 0000 3798 9302

7021 2720 0000 3798 9326

PLEASE TAKE NOTICE that a complaint has been filed against you in connection with the above-captioned matter under the Illinois Election Code, 10 ILCS 5/1-1 *et seq.* (the "Election Code"). Pursuant to Section 5/9-20 of the Election Code, any person who believes that a violation of Article 9, Disclosure and Regulation of Campaign Contribution and Expenditures, has occurred may file a verified complaint with the State Board of Elections. (10 ILCS 5/9-20.)

YOU ARE HEREBY SUMMONED TO APPEAR AT ALL HEARINGS AND CONFERENCES AS MAY BE HEREAFTER SET AT THE DATES, TIMES AND LOCATIONS SO INDICATED BY SEPARATE NOTICE.

Upon filing of a complaint, the Director of the Division of Campaign Disclosure for the Board appoints an Officer to conduct a closed preliminary hearing and notifies all parties of the time and place for the closed preliminary hearing.

The closed preliminary hearing is limited in scope to determining whether the complaint has been filed upon justifiable grounds. Your failure to appear will not prevent the closed preliminary hearing from being conducted.

If the Board determines that the complaint is filed upon justifiable grounds, a public hearing may be ordered. The General Counsel will appoint a Hearing Officer to conduct the public hearing. The Hearing Officer will notify all parties of the time and place for the public hearing. Your failure to appear will not

prevent the public hearing from being conducted. FAILURE OF THE COMPLAINANT TO APPEAR FOR ANY HEARING MAY RESULT IN THE COMPLAINT BEING DISMISSED FOR WANT OF PROSECUTION.

At both the closed preliminary hearing and the public hearing you have the right to be represented by legal counsel. In addition to, or instead of an attorney, you have the right to the presence of additional persons to provide technical assistance and consultation.

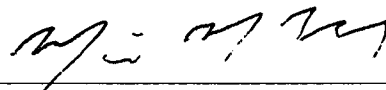
The Hearing Officer and General Counsel will submit reports upon the conclusion of the public hearing to the members of the State Board of Elections who will review their respective factual findings, conclusions of law and recommendations before rendering a final judgment or order.

Pursuant to Section 5/9-26 of the Election Code willfully failing to file or willfully filing false or incomplete information required by Article 9 of the Election Code shall constitute a business offense subject to a fine up to \$5,000; willfully filing a false complaint under Article 9 of the Election Code shall constitute a Class B misdemeanor. (10 ILCS 5/9-26.)

Furthermore, Section 5/9-26 of the Election Code enables the Board, in issuing its final judgment or order, to: (a) report such violation to the Attorney General and the appropriate State's Attorney or (b) issue such remedial order as will correct the violation or (c) a combination of (a) and (b) above.

Any and all questions you may have with respect to these matters should be directed to the appointed Hearing Officer.

DATED: November 29, 2022



Marni Malowitz, General Counsel



STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:

Ben Hardin)
)
Complainant(s))

Vs.) Board File#: 22 CD 032
)

Dan Proft, People Who Play By The)
Rules PAC, Darren Bailey, Bailey)
for Illinois)
Respondent(s))

ORDER OF CLOSED PRELIMINARY HEARING

TO: Ben Hardin Dan Proft, People Who Play By The Rules PAC Darren Bailey,
PO Box 641466 467 Connors Avenue Bailey for Illinois
Chicago, IL 60664 Naples, FL, IL 34108 154 S. Church
via certified mail via certified mail PO Box Drawer D
Louisville, IL 62858
via certified mail

You are hereby notified that pursuant to the provisions of Article 9 of the Election Code (10 ILCS 5/9-1 *et seq.*) and Rules and Regulations adopted pursuant thereto, and by the powers vested in me, the Closed Preliminary Hearing to be conducted in the above-captioned matter is set for **December 29, 2022 at 10:00 AM, via Zoom videoconference at the following link:**

<https://us04web.zoom.us/j/75605595857?pwd=HiLUT7pyjZjGjgRcil4BPi8Dxm5bUV.1>

Meeting ID: 756 0559 5857

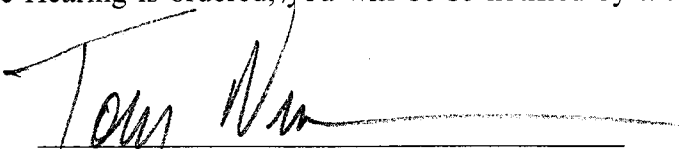
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The Complainant and Respondent may be represented by counsel at the Closed Preliminary Hearing.

Further, any party involved in any proceeding has the right to the presence and participation of additional persons, in addition to, or instead of an attorney, in order to provide technical assistance and consultation. Note, however, that the Hearing Officer may at his or her discretion restrict the number of such additional persons who may attend and participate in the proceedings.

If the Board determines that the aforementioned complaint has been field upon justifiable grounds, a Public Hearing may then be scheduled. If a Public Hearing is ordered, you will be so notified by the Board.

DATED: November 29, 2022


Tom Newman, Director, Campaign Disclosure

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

**BEFORE THE STATE BOARD OF ELECTIONS
OF THE STATE OF ILLINOIS**

In the Matter of:

Ben Hardin)
)
Complainant(s))
)
Vs.) Board File#: 22 CD 032
)
Dan Proft, People Who Play By The)
Rules PAC, Darren Bailey, Bailey)
for Illinois)
Respondent(s))

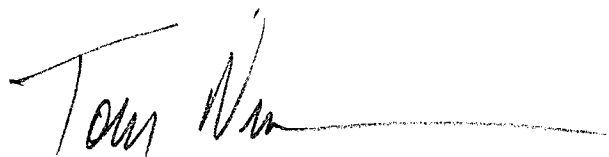
NOTICE OF APPOINTMENT OF HEARING OFFICER

TO: Ben Hardin Dan Proft, People Who Play By The Rules PAC Darren Bailey,
PO Box 641466 467 Conners Avenue Bailey for Illinois
Chicago, IL 60664 Naples, FL, IL 34108 154 S. Church
via certified mail via certified mail PO Box Drawer D
Louisville, IL 62858
via certified mail

You are hereby notified that pursuant to the provisions of Article 9 of the Illinois Election Code (10 ILCS 5/9-1 *et seq.*) and Rules and Regulations adopted pursuant thereto, the following person is hereby appointed Hearing Officer to conduct a Closed Preliminary Hearing concerning the above-captioned matter, such hearing to be conducted at such time and place as shall be designated by the Hearing Officer upon separate notice:

NAME: Andy Nauman
ADDRESS: 69 W. Washington St., Pedway LL-08
CITY/STATE: Chicago, Illinois
TELEPHONE: 312/814-6440
E-MAIL: ANauman@elections.il.gov

DATED: November 29, 2022



Tom Newman, Director, Campaign Disclosure