

The Commonwealth of Massachusetts

Report

of the

Senate Committee on Ethics

CONCERNING THE CONDUCT OF

SENATOR DEAN A. TRAN

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The Senate Committee on Ethics, to which Senate President Karen E. Spilka referred a complaint concerning the conduct of the Senator from Worcester and Middlesex, Dean A. Tran, reports as follows:

I. PROCEDURAL HISTORY

A. The Complaint

On October 30, 2019, a letter was delivered by regular mail to Senate President Karen E. Spilka's office. The envelope had no return address and contained a copy of two unsigned letters. The first was addressed to "State Ethics," apparently referring to the Massachusetts State Ethics Commission (Commission). The letter urged the Commission to "follow up with all violations and Senator Tran" and noted that "[t]his has been reported before, Senator Tran had his Boston office staff campaign every day." The letter asserted that certain Tran staffers had worked on Senator Tran's campaign on state time. In addition, the letter claimed that "[s]taff are always asked to do all fundraising, always asked to put constituents on invite fundraiser list [sic]." The letter concluded by stating that Senator Tran's 2018 reelection victory "came from complete misuse of State paid staff."

The second letter was again addressed to "Ethics," as well as to Senate President Spilka and another Senator. It reasserted some of the same ethics and campaign finance allegations contained in the first letter. For example, it claimed that Senator Tran had "hired staff part time on state pay to campaign. Some never worked in [sic] office as state job, only campaigned." It went on to assert that Senator Tran "tells his staff they can do everything in planning a fundraiser except touch the checks. He had some staff after [sic] election who did not work at all for months, but were paid." The letter also stated that a Tran staffer "only went to the campaign office every day from June until Nov[ember]. They were told by Tran to park in back. He tells his staff they have to campaign, it is part of the pay."

The second letter also made allegations concerning an amendment that Senator Tran had filed to the supplemental budget debated in October 2019. As stated below, the Committee recommends referring those allegations to the Massachusetts State Ethics Commission and the Office of Campaign and Political Finance.

B. The Referral

On November 4, 2019, Senate President Spilka referred the complaint to the Senate Committee on Ethics for further investigation under Senate Rule 12A ("The committee shall be empowered to receive . . . evidence regarding violations of Rules 10 and 10A. Until a hearing, if any, is held, the contents of such . . . evidence shall be considered confidential information,

unless the contents are already a matter of public record. If no hearing is held, such contents may be made public by the committee in a final report”).

C. HR and OSC Investigations of Senator Tran and his Office

At the time of the referral, the Senate Office of Human Resources (HR) and the Office of Senate Counsel (OSC) had already had several interactions with Senator Tran’s office, beginning almost as soon as he took office in December 2017. Indeed, over the course of Senator Tran’s tenure, staff voiced their concerns to HR and OSC multiple times. Often, those concerns centered on potential violations of the conflict of interest and campaign finance laws.

For example, in April 2018, a Tran staffer¹ reported being asked by a senior staffer to print 50 copies of Senator Tran’s campaign fundraising form, using public resources, and deliver them to a fast food restaurant in the district. In response to the ensuing HR and OSC investigation – which was discussed with Senator Tran by at least two Senate employees – the senior Tran staffer acknowledged that using public resources to conduct campaign work was “wrong.” The senior staffer also claimed it was an isolated incident and would not happen again.

Despite these assurances – and subsequent ethics training for staff – HR and OSC continued to receive complaints that Senator Tran expected his staff to perform campaign work. As recently as January 2020, for example, HR and OSC received an allegation that Senator Tran wanted to add two district aides to his staff who would work for his re-election campaign.²

D. Preliminary Investigation

After the referral, the Committee unanimously voted to authorize the OSC to open a preliminary investigation. That investigation included staff interviews, review of Senator Tran’s email records and review of information gathered by HR and OSC in previous investigations. The preliminary investigation tended to confirm the allegations in the anonymous letters.

E. Notice to Senator Tran

On January 8, 2020, following the conclusion of the preliminary investigation, OSC informed Senator Tran of both the existence of the complaint and the referral to the Committee. OSC explicitly told Senator Tran several times that the Committee process was entirely confidential and that he should discuss it with no one.

Senator Tran denied the allegations. Senator Tran also asserted that his staff was “totally autonomous.” Staff members may have attended both official and campaign events, but he claimed they had never touched any campaign fundraising.

¹ To help protect the identity of witnesses who cooperated with the Committee’s investigation, the Committee has anonymized the sources of information in this report by omitting names, official titles, and other identifying data where possible.

² Similar allegations have been raised more recently, despite Senator Tran’s knowledge of the existence and scope of this investigation. They are discussed below.

The following day, January 9, 2020, HR learned that Senator Tran had discussed the investigation with a staff member. In that discussion, the Senator allegedly acknowledged that Senate Counsel had told him not to talk with anyone about the investigation, but did so nonetheless. Among other things, Senator Tran apparently asked whether the staffer had noticed that he, personally, had never asked staff to campaign for him. The Senator then wanted to know who had asked the staffer to work on his 2018 campaign. The staffer responded with a senior staffer's name. Senator Tran reportedly said that was right: "I never asked my staff. That's what [the senior staffer] did."

Senator Tran apparently had an additional conversation about the investigation with the same staffer on January 16, 2020. During that conversation, the Senator allegedly said that a district aide – who was reported to have worked on the Senator's 2018 campaign – was an innocent kid and that the staffer had a job because of that aide. The staffer took the Senator to mean that the district aide's campaign efforts had helped secure another term for Senator Tran, thus guaranteeing the staffer's job. The Senator also reportedly warned the staffer "to be careful" about what the staffer said. The staffer took that to mean that the Senator wanted the staffer to keep quiet.³

F. Formal Investigation

Following a unanimous vote by the Committee on January 28, 2020, the OSC opened a formal investigation of the allegations against Senator Tran. That investigation included interviews with current and former Tran staffers and others, as well as review of text messages and other documents supplied by witnesses, email records for Senator Tran and his staff and personnel records.⁴ The content of the interviews and reviewed material tended to support the allegations contained in the October 2019 letters.

On February 6, 2020, OSC attempted to schedule an interview with Senator Tran and his counsel. After some delay, OSC interviewed Senator Tran on March 2, 2020. Senator Tran was accompanied by three attorneys.

G. The Committee's Meeting with Senator Tran

On March 5, 2020, the Committee invited Senator Tran and his counsel to meet on March 11, 2020. The meeting was confidential, as required by Senate Rule 12A, and limited to a presentation by Senator Tran and his counsel and follow-up questions by the Committee.

Senator Tran and his counsel both offered statements. His counsel largely attested to the Senator's compelling life story, reputation for integrity and value as a member of the Senate.

³ The Committee is concerned that these discussions reflect an effort by Senator Tran to interfere with the Committee's investigation.

⁴ In an attempt to keep the investigation confidential, as required under the Senate Rules, OSC did not reach out to many of Senator Tran's former staffers or to other, non-Senate witnesses. OSC also did not have access to the phones used by the Senator and his staffers, which generally are used to conduct the bulk of communication in modern offices.

In his statement, Senator Tran asserted that all personnel and office management issues were under “the purview” of a former senior staffer. To the best of Senator’s knowledge, all his employees performed their responsibilities appropriately, based on their job descriptions.

At no point in his tenure, the Senator maintained, had he ever asked his staff to take part in campaign matters. To the best of his knowledge, any staff work on the campaign was done of their own volition and after hours. Senator Tran denied that his staff had participated in campaign fundraising.

Senator Tran stated that a senior staffer had been responsible for monitoring his emails.⁵ The Senator noted that his office receives “countless” emails. Because of the volume, Senator Tran had developed a habit of forwarding emails. Senator Tran said he simply forwarded his emails to staff, leaving them the discretion to discard the email or handle it, as necessary. Senator Tran said he made a mistake in forwarding campaign emails to Senate addresses and he apologized for it.

Senator Tran promised the Committee that he would do more going forward to personally oversee his staff and ensure that everyone adhered to all ethical rules. He also reiterated his respect for the institution of the Senate.

Finally, Senator Tran noted that the allegations against him were contained in an anonymous complaint. He maintained that those anonymous allegations had been “levied with no merit” and commented that such allegations could be brought against anyone.

II. LEGAL FRAMEWORK

Senate Rule 10A prohibits members from employing with state funds anyone who “does not perform tasks which contribute to the work of the Senate” or whose tasks are not “commensurate with the compensation received.” If, as the complaint alleges, the Senator had his Senate employees work exclusively – or even substantially – on his 2018 re-election campaign, then he violated the rule. Employees doing campaign work on state time do not “contribute to the work of the Senate.” Even if they simply split their time between official and campaign duties, their official work would not be “commensurate with the compensation received.”

Senate Rule 12A also includes a catchall phrase allowing the Committee to impose discipline for “other misconduct.” The phrase may be sufficiently broad to sweep in violations of the conflict of interest and campaign finance laws.

Section 23(b)(2)(ii) of the conflict of interest law “prohibits the use of one’s public position to engage in political activity, because a public employee who does so is using his official position to secure for himself . . . unwarranted privileges of substantial value that are not properly available to similarly situated persons.” State Ethics Commission’s Advisory 11-1: Public Employee Political Activity (“Ethics Advisory”) at 5. Given this prohibition, a public

⁵ The Senator’s assertion contradicts other witness statements, claiming that Senator Tran did not let staff review or monitor his emails.

employee “may not engage in political activity . . . on his public work time; . . . or with the use of other public resources such as staff time, public office space and facilities, public office equipment such as computers, copiers and communications equipment.” Ethics Advisory at 5; *see also* Office of Campaign and Political Finance’s Campaign Finance Guide: Public Employees, Public Resources and Political Activity (“OCPF Guide”) at 10-13 (“[p]ublic employees, as well as other persons, are prohibited from using any public resources for political campaign purposes, including the promotion of a candidate or any political committee or party”). In fact, as an example of prohibited activity, the Ethics Commission specifically cites: “A state legislator directs his district staff, who are paid state employees, to use paid state work time to visit voters in his district, pass out his campaign literature, and urge voters to vote for him.” Ethics Advisory at 5.

That same section of the conflict of interest laws also prohibits all public employees – including elected public officials – from “directly or indirectly soliciting political contributions of any kind, including personal services, in any situation where such a solicitation is inherently coercive.” Ethics Advisory at 6-7, citing G.L.c. 268A, §23(b)(2)(ii). According to the Ethics Commission, a solicitation is inherently coercive if it is “directed by a public employee at his subordinate.” Ethics Advisory at 7. An example of an inherently coercive solicitation would be an elected official requiring a public employee to work on his campaign as a condition of employment.

The campaign finance laws are even more emphatic on this point. According to the OCPF Guide, Section 16 of General Laws chapter 55 explicitly protects public employees “from being required to make contributions or render political services in exchange for their employment and protects them from retribution for failing to do so.” OCPF Guidance at 7. Of course, public employees are free to volunteer on campaigns on their own time, during non-business hours. They simply cannot be required to “volunteer.”

III. THE COMMITTEE’S INVESTIGATION

A. Use of Public Resources for Campaign Work – 2018 Election

1. Background: Senator Tran’s Staff in 2018

During the summer and fall of 2018 – when Senator Tran was running for re-election – he had seven employees, five full-time and two part-time. Three of those employees were hired in May and June 2018. According to HR records, none of Senator Tran’s employees took significant accrued leave or a leave of absence for the period from March 1, 2018 to September 1, 2018. Indeed, the records indicate that only one employee took any time off during this period: a single personal day in August. In addition, all of these employees – with the exception of one staffer – have since left Senator Tran’s office.

2. State House Staff Work During the 2018 Campaign

- Staff Did Campaign Work on State Time in a District Campaign Office

Several witnesses asserted that almost all of Senator Tran's staff worked on his 2018 campaign during business hours, echoing the concerns raised in the October 2019 anonymous letters. Two employees apparently kept the Senator's Boston and district offices open, usually working alone. The others worked primarily on the campaign. One witness described "two different worlds" for Senator Tran's staff: an official world and a campaign world. The official world was limited to the Boston and district offices and was run by a skeleton crew. The campaign world operated out of the GOP coordinated campaign office in Fitchburg and involved the rest of the staff. Senator Tran was said to believe that the campaign world was doing the more important work. Indeed, a witness recalled Senator Tran twice commenting that the campaign world was "keeping" or "saving" the jobs of his Senate employees.

The official and campaign worlds were so intertwined for one Tran employee that the employee highlighted both in a February 2019 exit interview with HR. The employee gave HR a document reciting a number of concerns about the management of Senator Tran's office. That document included an entire section entitled "During the Campaign." In that section, the employee asserted that: a senior staffer had called the employee inexperienced in front of other campaign staff; the senior staffer had "thrown" the employee "under the bus" with the Senator about a campaign issue; and the senior staffer was "upset" with the employee for not performing certain campaign tasks. In that same document, the employee claimed to have "finish[ed] off an entire Ward in Gardner, one of our battleground cities, by myself, when everyone else was in a different town knocking."

Indeed, Senator Tran's staff was reportedly so engaged with campaign activities that there was confusion over who actually worked in the office. One staffer did not know that the three aides hired during the summer of 2018 were Senate employees, despite the fact that they had been hired to work with the staffer directly. The staffer had never worked with one of the new aides. As for the remaining two, the staffer thought one was an unpaid intern and that the other had left the office completely. Only in the course of the investigation did the staffer learn that all three were paid a Senate salary for their alleged work in the district.

Witnesses also reported seeing Tran staffers at the GOP coordinated campaign office during regular business hours.⁶ It was, apparently, an open secret that "the boys" – male members of Senator Tran's staff – were working on the campaign during business hours. Other staffers were warned by GOP volunteers "not to do what the boys are doing," and to "get those boys out" of the coordinated campaign office. One witness thought that Senator Tran had received complaints from individuals active in the GOP about his staff's campaign activity. But

⁶ Two witnesses also corroborated the allegation in the October 2019 letters that Senate staff were told not to park in front of the coordinated campaign office. They were told to park behind the building.

the Senator did not respond to those complaints because – in that witness’s opinion – “he doesn’t listen.”

In fact, a GOP official reached out to OSC to discuss Senator Tran and the “crazy stuff” that happened during his 2018 re-election campaign. The official confirmed that the GOP had a coordinated campaign office in Fitchburg, which the Senator essentially turned into his own campaign office. The official saw at least two of Senator Tran’s staff working out of the campaign office during the week. The official said that it was “widely known” in the “community” – meaning local Republican circles – that Senator Tran had staff do campaign work on state time. The official remembered warning a senior Tran staffer that Senate employees should not be working for the campaign on state time. That warning had no effect. The official then described Senator Tran as stubborn, stating that, “If it’s not Dean’s way, it’s not any way.”

Not only were Tran staffers seen at the campaign office, one of “the boys” confirmed that he had campaigned for Senator Tran from June or July 2018 until the election in November 2018, and that the campaign work was done during regular business hours. He recalls being approached by a senior staffer, who said, “I can’t really ask you this, but would you collect signatures.” He did not recall the Senator asking him to campaign, but “inferred” that the Senator was aware of his campaign work.

The staffer acknowledged that he did “massive amounts of door knocking” in addition to other campaign work. He did not work for the campaign every day, but frequently. He described the campaign as “demanding” and “all the time.” The staffer said he also did “official” work, but he did that work from the campaign office. In addition, the staffer confirmed that other Tran employees – men and women – worked on the campaign during business hours and that at least one senior staffer was a “constant presence.” He considered that senior staffer to be in charge of both the Senate staff and the 2018 campaign.

Senator Tran’s Response

In his OSC interview, Senator Tran acknowledged that virtually his entire staff “volunteered” on his 2018 campaign. He, however, insisted that – to his knowledge – none of his staff had worked on the campaign during regular business hours. Indeed, he went so far as to assert that he, himself, did not do any campaign work during regular business hours. He claimed that he only stopped by the coordinated campaign office at night and on the weekends. Senator Tran was “surprised” to hear that two of his staffers often worked alone in his Boston and district offices for the bulk of the 2018 election. He said he had expected two senior staffers to manage personnel in his Boston and district offices. Senator Tran was adamant that he had seen one district aide – who others said they had never worked with – at least once in the district office and once at a district event.

Senator Tran struck much the same note in his presentation to the Committee. He reiterated that, to the best of his knowledge, none of his staff had worked on his campaign during regular business hours. He did not see his staff at the coordinated campaign office when he occasionally stopped by during the day. He did, however, see them at the campaign office after hours.

Senator Tran also said that, to the best of his knowledge, his staff was at work in his Senate offices during regular business hours. But he added that a senior staffer was responsible for all personal and management issues, and that he got most of his updates from that staffer. Indeed, according to Senator Tran, his senior staffer had a number of responsibilities. For example, the senior staffer was tasked with coordinating staff volunteers for Senator Tran's campaign. His senior staffer was also supposed to communicate with staff about limitations on their campaign activity, including that they could not do campaign work during regular business hours. It was the senior staffer's "purview" to tell staff the rules. Senator Tran claimed that the staffer had been trained and "should know better." Senator Tran acknowledged that he did not sit down with staff to discuss these issues at any point: apparently, not even after he was notified of the Committee's investigation. Rather, Senator Tran delegated that task to staff.

- Senator Tran's Staff Did Campaign Work in Senate Offices, Including Fundraising

The work on Senator Tran's 2018 campaign was not limited to his campaign office. It also crept into the State House, and included activities related to fundraising.

To begin with, there was the April 2018 incident, discussed above, in which a Senate employee reported being asked by a senior staffer to print 50 copies of Senator Tran's campaign fundraising form, using public resources, and deliver them to a fast food restaurant in the district. That same senior staffer also delivered boxes of fundraising materials to the Senator's public office, which at least one Senate employee stuffed into envelopes. Another Senate employee delivered envelopes containing fundraising materials to people and may have helped donors fill out forms at fundraisers.

Senator Tran's employees also helped organize fundraisers. Perhaps the best illustration of this apparent practice is a series of emails between the Senator, his staff and representatives of an advocacy group interested in supporting the Senator's re-election. On March 16, 2018, a representative of the group wrote a long email addressed to Senator Tran's campaign email account. The email discussed planning for a campaign event and a fundraiser. The Senator replied to that email, stating that he was "[a]dding [two Senate employees] who will put you in touch with our fundraising volunteers." The addresses the Senator added were the Senate email addresses for those two employees.

A few months later, in June 2018, the representative engaged in a long email chain with a GOP finance consultant and others about organizing fundraising events for Senator Tran. Littered throughout the emails were apparent references to a senior Tran staffer. The fundraiser organizers, from the advocacy group, were dissatisfied with the financial consultant's level of engagement and said so in an email to a junior Tran staffer, using that staffer's Senate email address. The junior staffer forwarded the email chain to Senator Tran at his Senate email address. On July 29, 2018, the Senator replied to two of his staffers, "[w]e can't afford to make mistakes. Someone from our camp should take the lead on all fundraising events."

A few days after that, on August 2, 2018, the advocacy group reached out to Senator Tran again, pleased with a letter the Senator had written to another state official. The group suggested

a meeting to discuss possible fundraising support. Senator Tran responded with an email, stating: “I have added [two staffers] to this thread. [The first staffer] is my campaign manager⁷ and [the second staffer] is my aide. Going forward, they, specifically [the second staffer], will be the contact person.” The Senator used the staffers’ Senate email addresses.

On August 10, 2018, the advocacy group reported back to Senator Tran, copying three Senate staffers. In the email, the group stated that it had “worked closely” with one staffer and was offering to write an endorsement letter, hold fundraising events and volunteer for door knocking, sign holding and mailing.

On November 11, 2018, the group wrote to congratulate Senator Tran on his re-election win and to invite him to an event celebrating it. The group sent the email to Senator Tran’s Senate address, copying two Senate staffers.

Senator Tran’s Response

In his OSC interview, Senator Tran denied any knowledge that his Senate staff did campaign fundraising work. At most, he acknowledged that he was aware that one or two staff members would bring campaign materials to events, while one or two others had attended fundraising events on their own time. Senator Tran asserted that the person who would know was the finance consultant mentioned in the above emails. According to Senator Tran, the consultant handled all of his fundraising and was quite strict about it.

Senator Tran was shown the advocacy group emails. Senator Tran could not explain why he had forwarded the group’s emails to the Senate email accounts for several of his employees on multiple occasions. He thought that it was, perhaps, a mistake. He also thought he might not have read the emails, despite the fact that the emails contained specific instructions from him relative to their contents. Senator Tran acknowledged that a senior staffer may have worked with the consultant in the staffer’s “off-hours.”

In his Committee presentation, Senator Tran again denied that his staff did any fundraising work. He said he had simply made a mistake in forwarding campaign emails to his staff’s Senate addresses. The Senator failed to acknowledge, however, that his Senate staff should not have been engaged in fundraising at all.

B. Continued Use of Public Resources for Campaign Work: 2019 and 2020

The October 2019 anonymous letters only contained allegations concerning Senator Tran’s 2018 re-election campaign. However, the investigation revealed that Senator Tran continues to use staff and public resources for campaign purposes.

⁷ In his interview, Senator Tran denied having a campaign manager in 2018. In fact, he commented, “I would know if I had a campaign manager.” He was then shown this email and acknowledged that the staffer identified as his campaign manager had done “a lot of coordination and management of volunteers.”

- Expectations of Staff Campaign Work for 2020

Several Tran staffers acknowledged preparing for Senator Tran's 2020 re-election campaign. One staffer said that expectations that staff work the Senator's 2020 campaign had been set almost immediately. On that staffer's fourth or fifth day, the staffer attended an event with the Senator. The staffer noticed that the Senator had brought campaign materials. This led the staffer to ask about campaign expectations. Senator Tran reportedly smiled and said yes, the staffer would have to help with the campaign. He apparently added, "We all do."

In addition, three Tran staffers reported attending at least two meetings for Senator Tran's 2020 campaign. The meetings were held during the late afternoon or evening with the Senator's current campaign manager. According to two witnesses, staff objected to participating in fundraising discussions at those meetings. But Senator Tran apparently dismissed those objections – which were based, at least in part, on advice from HR, OSC and other senior Senate employees – and insisted that staff could and should participate in fundraising discussions.

Indeed, Senator Tran included one staffer on a recent group text with his campaign manager. In that text, Senator Tran asked the staffer, "[W]ill you be at tonight's meeting?" The staffer reiterated the objection to fundraising work. Senator Tran responded:

This is not a fundraising committee. This is a campaign committee to coordinate events and tasks. Coordination involved [sic] office and the chief of staff especially when it comes to nomination papers. That responsibility has always been overseen by [staffers] in every office. The nomination paper drive is critical as if they are not turned in, there is no staff.

I will need your help managing and coordinating the signature drive and if you can do that without participating in the meetings then that's fine.

On February 3, 2020, a staffer reported that Senator Tran's campaign manager had come to the Senate office. The campaign manager wanted two staffers to help on the Senator's 2020 campaign. In response, the staffer said that public employees could not be forced to do campaign work. The campaign manager allegedly retorted that the staff worked for the Senator, not the state, and that the Senator could fire employees who did not work on the campaign. This was corroborated in a text, in which a staffer reported: "I was told yesterday by someone on the committee that I can be fired for not attending fundraiser meetings. Even though I have expressed I can't."⁸

Throughout his Senate tenure, Senator Tran has been advised repeatedly against the use of his staff for campaign purposes. He received that advice – both directly and indirectly,

⁸ Since September 2019, HR and OSC have been in almost constant contact with Senator Tran's current staff, offering advice, support and assuring them that they could not be terminated because of a refusal to participate in Senator Tran's campaign. Indeed, on November 7, 2019, OSC informed Senator Tran that he could not take any employment action with respect to any of his staff without the approval of the Minority Leader's Office, the Office of Senate Counsel and the Office of the Senate President. OSC affirmed that decision in writing and through Senator Tran's counsel on March 5, 2020.

through staff – from HR, OSC and other senior Senate employees. Nonetheless, Senator Tran did not change his conduct or take any corrective steps. Indeed, one staffer remembered that Senator Tran stated that he did not believe the advice he had been given.

Senator Tran’s Response

In his OSC interview, Senator Tran flatly denied that his current staff had done any campaign work in preparation for his 2020 re-election campaign. Indeed, Senator Tran claimed that he did not have a campaign because he had only pulled nomination papers and had not formally announced that he is running for re-election.

- Staff Fundraising Work for 2020

Senator Tran also continued to use his staff and other public resources, including Senate email, to build fundraising support for his 2020 campaign. Echoing the allegations in the October 2019 letters, two witnesses claimed that Senator Tran “always” told staff to place constituents on a fundraising, or “supporters,” list if the office had done some service for them. That was the “norm” and staff did not know it was wrong. For example, in a May 28, 2019 email, a staffer reported to the Senator that a constituent’s issue with the Department of Unemployment Assistance had been resolved. Senator Tran responded, “Please do not forget that we log all of our constituents. Great help on this and, for example, this person should be added to our database of supporters and newsletter.”

Similarly, on April 20, 2019, a number of constituents contacted Senator Tran, expressing their support for mobile sports betting in Massachusetts. Senator Tran forwarded the email to two staffers, stating: “This could be a strong support base for us and we could add them to our database.” One staffer then forwarded the constituents’ emails to a Tran intern, instructing the intern to “please log these into the database. If they are not in the database, please create a new constituent and enter the address. Make sure to update each constituent’s email address.” The other staffer had earlier forwarded to “Tran Intern1” a link to the “supporters” database.

On September 16, 2019, a representative of a kennel club reached out to Senator Tran, inviting him to speak at their annual meeting. Initially, Senator Tran told staff that he was unlikely to attend the event because it was out of district and he was not sure how many of his constituents would attend. Three days later, however, Senator Tran asked a staffer, “[W]ould this group be beneficial to the ‘committee’ in any way?”⁹ The staffer did not reply. On October 21, 2019, Senator Tran followed up with the staffer, “Kennel clubs spend a lot of money and could be very good supporters of ours.” Senator Tran then explicitly told the staffer, “these people should be added to our fundraising events.”

Senator Tran’s Response

Senator Tran denied that his “supporters” database was used for fundraising purposes. He claimed the database was used strictly for constituent work and not for fundraising. When

⁹ From the context, it appears that Senator Tran was referring to his 2020 campaign committee.

shown the emails discussed above, Senator Tran explained that his office had a practice of logging anyone that his office helped or anyone who visited the office. But again, he denied the logs were used for campaign or fundraising purposes.

IV. FINDINGS

Based on the weight of the evidence in its investigation, the Committee makes the following findings:

- Senator Tran’s staff did campaign work during regular Senate business hours during the Senator’s 2018 campaign;
- Senator Tran assigned his staff campaign tasks using Senate email and was aware that his staff was performing campaign work on state time, using public resources;
- Senator Tran asked his staff to engage in inappropriate fundraising work for his 2018 campaign, using public resources;
- Senator Tran continued to expect his staff to do campaign work to prepare for his 2020 re-election campaign;
- Senator Tran often expressed the belief that campaign work was necessary to “save” or “keep” staff members’ Senate jobs;
- Consistent with that belief, Senator Tran’s current campaign manager threatened at least one staffer with termination of their Senate position if the staffer did not work on the Senator’s 2020 election campaign;
- Senator Tran received repeated advice from HR, OSC, a GOP official, his staff and others that it was inappropriate for staff to do campaign work during regular Senate business hours and for staff to participate in most fundraising activities;
- Senator Tran did not take corrective steps at any point, disregarding the advice he had been given at multiple points in the last two years;
- Instead, Senator Tran refused to change his practices and did not take responsibility for any wrong-doing, deflecting the blame to staff;
- Senate Rule 10A prohibits members from employing with state funds anyone who “does not perform tasks which contribute to the work of the Senate” or whose tasks are not “commensurate with the compensation received”;
- For significant periods during the 2018 campaign, Senator Tran’s staff did not “contribute to the work of the Senate” and their work was not “commensurate with the compensation received”;
- Because he was aware of his staff’s campaign work on state time – and likely insisted on it – Senator Tran violated Senate Rule 10A; and
- Senator Tran also likely violated various sections of the conflict of interest and campaign finance laws.

V. RECOMMENDATIONS

Senate Rule 12A permits the imposition of discipline for a violation of Senate Rule 10A, any other Senate Rule, or “other misconduct.” Pursuant to Rule 12A and based on the above findings, the Committee recommends the following:

- That Senator Tran be removed from his position as Assistant Minority Whip for the remainder of the 2019-2020 legislative session;
- That Senator Tran’s personal office be relocated to some available space in the State House for the remainder of the 2019-2020 legislative session;
- That Senator Tran be segregated from his staff – who will continue to serve constituents in Senator Tran’s current physical office – and that his contact with them only be in writing, using Senate email, and strictly limited to official Senate business for the remainder of the 2019-2020 legislative session;
- That this report, the allegations concerning Senator Tran’s October 2019 supplemental budget amendment, and any supporting materials the Committee – in consultation with Senate Counsel – deems appropriate, be referred to the Massachusetts State Ethics Commission and the Office of Campaign and Political Finance; and
- That the Senate adopt the resolution attached as Appendix A.

Respectfully submitted,

Senator Eric. P. Lesser, Chair
Senator Cynthia Creem, Vice Chair
Senator William Brownsberger
Senator Michael Barrett
Senator Cynthia Friedman
Senator Bruce E. Tarr
Senator Patrick O’Connor