UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Tayah Lackie,

Plaintiff,

vs.

Minnesota State University Student Association, Inc. d/b/a Students United; St. Cloud University; Robbyn R. Wacker, in her personal and official capacity as President of St. Cloud State University; and Larry Lee, in his personal and official capacity as Vice President for Finance and Administration at St. Cloud State University,

Defendants.

Civil File No. 24-cv-01684 (JWB/LIB)

MINNESOTA STATE UNIVERSITY STUDENT ASSOCIATION, INC. D/B/A STUDENTS UNITED'S MEMORANDUM IN SUPPORT OF MOTION TO DISMISS

Minnesota State University Student Association, Inc. d/b/a Students United (hereafter "Students United") submits this Memorandum of Law in support of its Motion to Dismiss Plaintiff Tayah Lackie's Complaint pursuant to Fed. R. Civ. P. 12(b)(6).

INTRODUCTION

Prior to graduating from St. Cloud State University, Tayah Lackie (hereafter "Lackie"), was required to pay a nominal amount of fees to and be a member of Students United, which was recognized as the one statewide student association for Minnesota state colleges and universities. Lackie disagrees with at least some of the positions advocated by Students United and, therefore, she alleges and seeks a declaration that her First Amendment speech and association rights have been violated by being forced to be a member of and subsidize Students United. She also alleges that Students United has been

unjustly enriched by receipt of her fees.

Students United, however, did not force Lackie to be a member or to pay fees to it. Instead, the legislature, pursuant to Minn. Stat. § 136F.22, requires the Board of Trustees of the Minnesota State Colleges and Universities (hereafter "Board") to recognize one statewide student association for state colleges and universities, mandates that all students enrolled in such colleges or universities be a member of the statewide association, and obligates the statewide association to set fees which are to be collected by the state college or university. The Board recognized Students United, and St. Cloud State University collected the required fees. Students United merely received the fees and student members which were required by state law.

Students United is not a proper party to this lawsuit, because there is no factual or legal basis for the claims asserted against it. The Court cannot factually or procedurally declare that Students United violated Lackie's First Amendment rights, including because such declaration would at best relate to past conduct, not address any future rights between Lackie and Students United.

Lackie's First Amendment claims also fail as Students United is a private entity, not a state actor. Lackie does not even allege Students United is a state actor, nor plead any facts showing significant entwinement between the government and Students United so as to fairly subject Students United to constitutional constraints. Students United is a private entity, comprised of students, that is governed entirely by its Board of Directors and officers, all of whom are also students, and which establishes its own bylaws, policies, and rules that are not subject to review or approval by the Board or state.

In short, Students United, as a private entity, is not constrained by the First Amendment. And its receipt of Lackie's fees was justified and lawful. Accordingly, all of her claims fail and should be dismissed.

FACTS

By statute, the Board possesses "all powers necessary to govern the state colleges and universities, which includes the need to "set tuition and fees" and "adopt suitable policies for the institutions it governs," including St. Cloud State University. Minn. Stat. § 136F.06, subd. 1; and Minn. Stat. § 136F.10. *See also* Minn. Stat. § 136F.70, subd. 2 (providing the Board "may prescribe fees to be charged students for student unions, state college and university activities, functions, and purposes").

Among the Board's policies is Board Policy 2.1, which provides that "[s]tudents at each college and university have the right to establish a student government herein referred to as a campus student association." Minn. State Bd. Policy 2.1(1). The college or university, in turn, must recognize the campus student association as the official representative of students. *Id.*

By statute, the Board must also "recognize one statewide student association for the state universities . . ." Minn. Stat. § 136F.22, subd. 1.[1] The statute requires that "[e]ach campus student association shall be affiliated with its statewide student association and all students enrolled on those campuses shall be members of their respective statewide association." *Id.* The statute further provides that:

[1] The Board is likewise to recognize one statewide association for the community and technical colleges.

> Each statewide association shall set its fees to be collected by the board and shall submit any changes in its fees to the board for review. The board may revise or reject the fee change. Fees must be collected by each state college and university and shall be credited to each association's account to be spent as determined by that association.

Minn. Stat. § 136F.22, subd. 2. *See also* Minn. State Bd. Policy 5.11(5) (listing the statewide student association fee among the "five required fees," which all colleges and universities are required to charge per Minnesota statues, board policies, and system procedures).

Per Board Policy 3.7, adopted and implemented in 1994, the Board recognized Students United as the one statewide student association for state universities. *See* Minn. State Bd. Policy 3.7(1). The Board Policy reaffirms the association, enrollment, and fee requirements set forth in Minn. Stat. § 136F.22 and notes that "[f]ees must be forwarded by the college or university to the statewide student association whether or not the college or university has received payment for fees." Minn. Stat. Bd. Policy 3.7(1) and (3).[2]

Students United is a private, independent, non-profit organization established in 1967, which describes itself as "the inclusive voice for all future, current, and former students" that works to "represent and support Minnesota State University students and advocate at a local, system, state, and federal level of higher education policies that make

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[2] The policy also provides that recognition of the statewide association "must continue until such recognition is repeated by the board and succeeded by an appropriately constituted association representing the same groups of students." Minn. State Bd. Policy 3.7(4). Repeal of the Board's recognition must occur if two-thirds of the existing statewide student association vote no confidence, or two-thirds of the campus student associations submit a petition to the Board indicating no confidence. *Id.*

a positive impact for our students and communities."[3]

Students United is governed by a Board of Directors, which is comprised of seven voting members, generally the student body presidents of the Minnesota State universities, and three non-voting officers, all of whom are also students. *Id*. The Board of Directors, in turn, hires some non-student staff to help execute the Board of Directors' vision and agenda. *Id*. Students United operates pursuant to its own governing documents, which includes a Student Platform, Bylaws, Policies and Procedures, and Financial Policies.[4]

According to the Complaint, Lackie attended St. Cloud State University (hereafter "SCSU") from the Fall of 2021, while she was still a high school student, through graduation on May 3, 2024. *See* Complaint, ¶¶11, 37-39. Lackie alleges that shortly before graduating, she learned that she had been required to pay fees to Student United in addition to her tuition for the 2023-2024 academic year, which totaled $21.60 (or $0.80 per credit) per her itemized school account statements. *Id.*at ¶¶21, 41.[5]

Lackie asserts that she was unaware of Students United or any of its activities. *Id*. at ¶43. Lackie, however, asserts that she disagrees with certain positions advocated by Students United, including its advocacy for the abolition of student debt. *See e.g. id*. at ¶¶23-33. Lackie therefore objects to being forced to pay for any political speech by

[3] See https://www.studentsunited.org/about

[4] See https://www.studentsunited.org/governing-documents

[5] As the Complaint acknowledges, the per credit rate charged to students at SCSU for Students United is set forth on the university's website. *See* https://www.stcloudstate.edu/businessservices/student-services/cost-of-attendance.aspx

Students United and to being forced to be a member of Students United as a condition of attending SCSU. *Id*. at ¶49. She contends that but for the Board's policy, she would not have joined or paid any money to Students United. *Id*. at ¶50.

In the Complaint, Lackie asserts three counts: 1) that Defendants violated her First Amendment rights by requiring her to pay fees to Student United; 2) that Defendants violated her First Amendment rights by requiring her to be a member of Students United; and 3) unjust enrichment. *Id*. at ¶¶51-71. She seeks a declaration that her First Amendment rights were violated and an award of damages or restitution for the fees she was required to pay and/or nominal damages for alleged dignitary harm. *Id*. at ¶¶58, 65, 71 and Prayer for Relief.

LAW AND ARGUMENT

I. Legal Standard for Dismissal Under Fed. R. Civ. P. 12(b)(6).

Under Fed. R. Civ. P. 12(b)(6), a defendant may move for dismissal of a lawsuit for failure to state a claim upon which relief may be granted. Dismissal under this rule "serves to eliminate actions which are fatally flawed in their legal premises and designed to fail, thereby sparing litigants the burden of unnecessary pretrial and trial activity." *Wells v. Schnick*, 2008 WL 4110697, at *3 (D. Minn. 2008) (citing *Neitzke v. Williams*, 490 U.S. 319, 326-27 (1989)).

To survive a motion to dismiss, a complaint must "state a claim to relief that is plausible on it face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft*

v. Iqbal, 556 U.S. 556 U.S. 662, 678 (2009). The factual allegations in the complaint must be sufficient to "raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555.

In assessing the sufficiency of the complaint, the Court need not consider legal conclusions couched as factual allegations. *Iqbal*, 556 U.S. at 678-79. The Court, however, must accept as true all factual allegations and draw all reasonable inferences in the plaintiff's favor. *See Gomez v. Wells Fargo Bank, N.A.*, 676 F.3d 655, 660 (8th Cir. 2012).

While the presentation of matters outside the pleadings generally will require a motion to dismiss to be treated as a motion for summary judgment, the Court may consider materials that are part of the public record, necessarily embraced by the complaint, and any exhibits attached to the complaint without converting it into a summary judgment motion. *See e.g. Zean v. Fairview Health Servs.*, 858 F.3d 520, 526 (8th Cir. 2017); and *Wells*, 2008 WL 4110697, at *3 (citations omitted).

II. Students United Is An Improper Party.

Although Lackie disagrees with some of the issues for which Students United advocates, she does not dispute Student United's right to speak about such issues, including on behalf of its student members. Instead, her objections are to the fact that by enrolling in a state university, here SCSU, she was required: 1) to become a member of Students United; and 2) obligated to pay a fee that helps fund Students United's advocacy.

However, contrary to the assertions set forth in Counts I and II of the Complaint, it is not Students United that required or compelled Lackie (or any student) to become a member or to pay fees. Instead, as Lackie otherwise acknowledges, "[t]he **Board** . . .

mandates that every student who attends a school in that system be a member of, and pay [fees] to, a group called Students United" and "[e]very university in the Minnesota State university system, including [SCSU], enforces the **Board's policy** by collecting dues to Students United." Complaint, ¶¶1, 4 (emphasis added). Or, as Lackie further recognizes and asserts, "her fees were only authorized to be deducted pursuant to the **Board's policy** and [SCSU's] enforcement of that policy" and "[b]ut for the **Board's policy** forcing her to be a paying member, and [SCSU's] enforcement of that policy, she never would have joined or paid any money to Students United." *Id*. at ¶¶44, 50 (emphasis added).

The Board's issuance of the applicable policy and SCSU's collection of fees, however, was done pursuant to Minn. Stat. § 136F.22. Notably, Lackie does not seek a determination that the applicable statute is unconstitutional, only that the Court "[d]eclare that Defendants' forcing Plaintiff to associate with and subsidize the political activity and speech of Students United as a condition of her enrollment at [SCSU] violated Plaintiff's First Amendment rights." Complaint, Prayer for Relief, ¶1. However, based on the facts, including as asserted by Lackie in the Complaint, the Court cannot possibly declare – either factually or procedurally - that Defendants, including Students United, forced her to associate with or pay fees to Students United.

Factually, the legislature, **not** Students United, mandates membership and the payment of fees to a statewide student association. Students United, as the statewide student association recognized by the Board, is merely the recipient of the fees and student members required by the legislature.

Procedurally, "declaratory judgment is meant to define the legal rights and

obligations of the parties in anticipation of some future conduct, not simply to proclaim liability for a past act." *Justice Network, Inc. v. Craighead County*, 931 F.3d 753, 764 (8th Cir. 2019). Thus, "[a] complaint 'seeking . . . a declaration of past liability' . . . does not satisfy the definition of 'declaratory judgment' and renders declaratory relief unavailable." *Id. See also Hageman v. Minnesota Dept. of Corrections*, 2021 WL 3476780, at *7 (D. Minn. April 26, 2021) (finding the plaintiff was improperly seeking a declaration of past liability).

Here, Lackie is likewise seeking a declaration that her First Amendment rights were violated based on past conduct, not for any conduct that may occur between her and Defendants in the future. Lackie, in fact, has graduated, so she is no longer enrolled as a student, nor does she allege she will be enrolled in the future. Therefore, at no point in the future will she be required to pay a fee or be a member of Students United.

Ultimately, while Students United has some interest in the issues raised by Lackie, it is not a proper party to the lawsuit. "A party is considered 'improperly joined' if there 'exists no reasonable basis in fact and law supporting a claim against the . . . defendant." *Alliance Energy Services, LLC v. Kinder Morgan Cochin, LLC*, 80 F.Supp.3d 963, 972 (D. Minn. 2015) (quoting *Karnatcheva v. JP Morgan Chase Bank, N.A.*, 871 F.Supp.2d 834, 838 (D. Minn. 2012) *aff'd* 704 F.3d 545 (8th Cir. 2013)).

Here, neither the facts alleged nor the law, including as discussed below, provide a reasonable basis for supporting a claim against Students United. Lackie's issues are really with the legislature, which mandates membership in a statewide student association and payment of fees thereto, not Students United, which is merely recognized as the statewide

student association that the legislature requires.

III. The First Amendment Claims Fails As To Students United Because It Is A Private Entity, Not A State Actor.

Even if Students United, rather than the legislature or Board, forced Lackie to be a member and pay fees to it, Lackie's First Amendment speech and association claims fails as to Students United because it is not a state actor. The First Amendment's protections govern only state or government actions, not private actions or entities. *See e.g., Manhattan Comm. Access Corp. v. Halleck*, 587 U.S. 802, 808 (2019); *Wickersham v. City of Columbia*, 481 F.3d 591, 697 (8th Cir. 2007).

In certain circumstances, however, the government may become so entangled in private conduct that "the deed of an ostensibly private organization or individual is treated . . . as if a State has caused it to be performed." *Wickersham*, 481 F.3d at 597 (quoting *Brentwood Acad. v. Tenn. Secondary Sch. Ath. Ass'n*, 531 U.S. 288, 295 (2001)). To ascertain whether there is state action, the Court must determine "whether the conduct at issue is 'fairly attributable' to the state." *Id.* (quoting *Lugar v. Edmonson Oil Co.*, 457 U.S. 922, 937 (1982)).

The "fair attribution" inquiry requires consideration of two questions: 1) whether the claimed deprivation was "caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the state or by a person for whom the state is responsible;" and 2) whether the party charged with the deprivation is "a person who may fairly be said to be a state actor." *Lugar*, 457 U.S. at 937. The second inquiry must be satisfied because "[w]ithout a limitation such as this, private parties could face

constitutional litigation whenever they seek to rely on some state rule governing their interactions with the community surrounding them." *Id*.

The Complaint alleges that "Students United exercises a right or privilege having its source in state authority when it collects mandatory fees from [SCSU] and students such as Plaintiff." Complaint, ¶22. As discussed above and elsewhere in the Complaint, Students United does not, in fact, collect fees from students but merely receives the funds that SCSU collects pursuant to Board policy and state law. Even if this assertion were true, however, it would, at most, only satisfy the first part of the state action analysis. But "[a]ction by a private party pursuant to [a] statute without something more, [is] not sufficient to justify a characterization of that party as a 'state actor.'" *Lugar*, 457 U.S. at 939.

The Supreme Court has found that a private entity can qualify as a state actor in a few limited circumstances, including: 1) when the private entity performs a traditional, exclusive public function; 2) when the government compels the private entity to take a particular action; or 3) when the government acts jointly with the private entity. *See Manhattan Comm. Access Corp.*, 587 U.S. at 809. Ultimately, "state action may be found if, though only if, there is such a 'close nexus between the State and the challenged action' that seemingly private behavior 'may be fairly treated as that of the State itself.'" *Brentwood Academy*, 531 U.S. 295 (quoting *Jackson v. Metropolitan Edison Co*., 419 U.S. 345, 351 (1974)). And "[n]o such nexus exists where a private party acts with the mere approval or acquiescence of the state." *Wickersham*, 481 F.3d at 597 (citing *Blum v. Yaretsky*, 457 U.S. 1991, 1004-05 (1982)).

Lackie acknowledges that Students United is a private entity, and yet she fails to allege any basis upon which Student's United can be determined to be a state actor for purposes of the First Amendment. *See* Complaint, ¶¶1, 16. That is, she fails to assert the "something more" needed to maintain a First Amendment claim against Students United.

Seemingly, Lackie might argue that the Board's recognition of Students United as the statewide student association and subsidization through mandatory fees allows for this private entity to be considered a state actor. Similar arguments, however, have previously failed.

As discussed in *Manhattan Comm. Access Corp.*, 587 U.S. at 805-06, the Cable Communications Policy Act of 1984 authorized state and local governments to require cable operators to set aside channels on their cable systems for public access. The New York State Public Service Commission regulated cable franchising in New York, and it required cable operators, such as Time Warner, to set aside channels for public access. *Id.* at 806. New York City, in turn, designated a private, non-profit corporation, Manhattan Neighborhood Network (MNN), to operate Time Warner's public access channels in Manhattan. *Id.*

Halleck and Melendez produced public access programming in Manhattan, which included a film about MNN's alleged neglect of the East Harlem community. *Id.* Although MNN aired the film, after it received several complaints about it, MNN first temporarily suspended Halleck from using the public access channels; and then after another dispute with MNN, MNN suspended Halleck and Melendez from all MNN services and facilities. *Id.* at 806-07. The producers sued MNN alleging their First Amendment free speech rights

were violated when MNN restricted their access to the public access channels because of the content of their film. *Id*. at 807.

MNN moved to dismiss the First Amendment claim on the basis that it was not a state actor. *Id*. In response, the producers argued, in part, that MNN was a state actor because New York City designated MNN to operate the public access channels on Time Warner's cable system, and New York State heavily regulated MNN with respect to the public access channels. *Id*. at 814. The Supreme Court, however, rejected this argument, explaining that:

> New York City's designation of MNN to operate the public access channels is analogous to a government license, a government contract, or a government-related monopoly. But as the Court has long held, the fact that the government licenses, contracts with, or grants a monopoly to a private entity does not convert the private entity into a state actor – unless the private entity is performing a traditional exclusive public function. . . The same principle applies if the government funds or subsidizes a private entity.
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> Numerous private entities in America obtain government licenses, government contracts, or government-granted monopolies. If those facts sufficed to transform a private entity into a state actor, a large swath of private entities in America would suddenly be turned into state actors and be subject to a variety of constitutional constraints on their activities. As this Court's many state-action cases amply demonstrate, that is not the law. Here, therefore, the City's designation of MNN to operate the public access channels on Time Warner's cable system does not make MNN a state actor.

Id. at 814-15 (internal citations omitted).

Likewise, the Board's recognition of Students United as the one statewide student association for state colleges and universities and the subsidization of Students United, not directly through state funds, but through mandatory student fees, does not make Students United a state actor. Nor is there anywhere close to the same level of entwinement between

the government and Students United as in *Brentwood Academy*, a case involving a statewide athletic association which was found to be engaging in state action.

At issue in *Brentwood Academy* was Tennessee Secondary School Athletic Association ("Association"), a non-profit membership corporation organized and designated to regulate interscholastic sport among public and private high schools in Tennessee. *See Brentwood Academy*, 531 U.S. at 291-92. Although no school was forced to join, without any other authority regulating interscholastic athletics, almost all of the state's public high schools were members; in fact, 84% of the Association's voting members were public schools and just 16% private schools. *Id*. at 291.

The Association had a legislative council and board, the voting members of which were limited to high school principals, assistant principals, superintendents, and public school administrators. *Id*. Although member schools paid dues to the Association, the bulk of its revenue came from gate receipts from member sporting events. *Id*. The Association had a constitution, bylaws, and rules; however, the State Board of Education reviewed and approved the Association's rules and regulations, including the recruiting rule at issue in the case. *Id*. at 291-92.

The Supreme Court found that "[t]he nominally private character of the Association is overborne by the pervasive entwinement of public institutions and public officials in its composition and workings, and there is no substantial reason to claim unfairness in applying constitutional standards to it." *Id*. at 298. In reaching this decision, the Supreme Court considered that:

The Association is not an organization of natural persons acting on their own,

> but of schools, and of public schools to the extent of 84% of the total. Under the Association's bylaws, each member school is represented by its principal or a faculty member, who has a vote in selecting members of the governing legislative council and board of control from eligible principals, assistant principals, and superintendents.
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> Although the findings and prior opinions in this case include no express conclusion of law that public school officials act within the scope of their duties when they represent their institutions, no other view would be rational . . .
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> . . . The mechanism is an organization overwhelmingly composed of public school officials who select representatives (all of them public officials at the time in question here), who in turn adopt and enforce the rules that make the system work. . . . and that public schools have largely provided for the Association's financial support. A small portion of the Association's revenue comes from membership dues paid by the schools, and the principal part from gate receipts at tournaments among the member schools. Unlike mere public buyers of contract services, whose payments for services rendered do not convert the service providers into public sectors . . . the schools here obtain membership in the service organization and give up sources of their own income to their collective association . . . . the Association does not receive this money from the schools, but enjoys the schools' moneymaking capacity as its own.
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> * * *
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> To complement the entwinement of public school officials with the Association from the bottom up, the State of Tennessee has provided for entwinement from the top down. State Board members are assigned ex officio to serve as members of the board of control and legislative council . . .

Id. at 298-300. *See also McGee v. Virginia High School League, Inc.*, 2011 WL 4501035 at *2 (noting that because statewide athletic associations are almost entirely comprised of and governed by government entities and representatives, the Supreme Court deemed them to be state actors in *Brentwood Academy*).

When such government involvement is not present, however, courts considering

Brentwood Academy have found a private entity to not be a state actor. In *Logiodice v. Trustees of Main Central Institute*, 296 F.3d 22, 24 (5th Cir. 2002), the local government agency responsible for schooling children in certain Maine communities did not operate its own public high school and, instead, contracted with Maine Central Institute ("MCI"), a privately operated high school in the district. By contract, MCI agreed to accept and educate all students in the district in high school grades in exchange for tuition payments by the school district. *Id*. at 24-25. A question arose as to whether MCI was required to comply with state law with regard to its discipline of a student. *Id*. at 25.

The Fifth Circuit considered *Brentwood Academy* and noted that there were certainly connections between the state, school district, and MCI, including that the state regulated the school in various aspects, most of MCI's students were sponsored by the school district, and the school district contributed about half of MCI's budget. *Id*. at 27-28. The court, however, found the association at issue in *Brentwood Academy* distinguishable from MCI, including because MCI was run by private trustees and not public officials, and it ultimately found MCI was not a state actor. *Id*. at 28.

Likewise, in *Robertson v. Red Rock Canyon School*, LLC, 2006 WL 3041469, at ** 1, 5 (D. Utah Oct. 24, 2006), the court found that the plaintiffs' allegations were insufficient to establish state action against a private, specialized boarding school for at-risk youth. The court noted that the only assertion in the complaint regarding state action was that the school received significant amounts of government money to sustain its operation, but the plaintiffs failed to allege that Red Rock "was managed by an entity or individual directly associated with a government entity." *Id*. at **3, 5.

Here, while Students United is a statewide association, unlike in *Brentwood Academy*, Students United is a private entity comprised entirely of private individuals; specifically, student members. Students United is not governed by any government entity or actors. Instead, Students United is governed by its Board of Directors and Officers, all of whom are students, not public officials. And Students United operates pursuant to its own bylaws, policies and procedures, which are not subject to review or approval by the Board or state. Although Students United receives a large portion of its funding through student fees, which are mandated by statute, the fees are not funds that would otherwise be paid to the colleges or universities, nor does the Board or state dictate how such fees are to be used. By statute, such fees are to be spent as determined by the recognized statewide association.

In short, Lackie has not alleged that Students United is a state actor, nor can she plead facts necessary to satisfy that part of the state action analysis. That the Board recognized Students United as the one statewide student association for state colleges and universities, and Minnesota law requires student fees to be collected and paid to it, is simply not enough of an entwinement between government and Students United so as to fairly apply constitutional standards to what is undisputedly a private entity.[6]

IV. The Unjust Enrichment Claim Against Students United Fails As The Fees It Received Were Legally Justified.

Lackie also alleges that it would be unjust for Students United to retain the fees she

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[6] If Students United could be deemed a state actor, however, then the First Amendment claims asserted against it should still fail due to sovereign immunity, as discussed in the Memorandum filed by SCSU and incorporated herein.

paid, however, her contention that doing so would be inequitable is insufficient. Unjust enrichment is an equitable doctrine that allows a plaintiff to recover a benefit conferred upon a defendant when retention of the benefit is not legally justifiable. *See Caldas v. Affordable Granite & Stone, Inc.*, 820 N.W.2d 826, 838 (Minn. 2012). *See also ServiceMaster of St. Cloud v. GAB Business Servs*., 544 N.W.2d 302, 306 (Minn. 1996) (explaining that, "[t]o establish an unjust enrichment claim, the claimant must show that the defendant has knowingly received or obtained something of value for which the defendant 'in equity and good conscience' should pay"). It is not enough that one party benefits from the efforts or obligations of others but, rather, it must be shown that a party was unjustly enriched in a manner that is illegal or unlawful. *Id*. (citing *First Nat'l Bank of St. Paul v. Ramier*, 311 N.W.2d 502, 504 (Minn. 1981)).

Here, the fees that Lackie paid to Students United were collected and provided to Students United pursuant to Minnesota law. Thus, Students United did not receive these fees in a manner that was illegal, unlawful, or legally unjustifiable. While Lackie may believe the collection of fees from her was in violation of the First Amendment, the fees were unquestionably collected and paid to Students United pursuant to a statute, which was at the time, and currently, valid. Nor, in fact, does Lackie challenge the statute's validity or constitutionality.

CONCLUSION

Because there is no plausible basis upon which Lackie can be awarded the relief she seeks, the First Amendment and unjust enrichment claims asserted against Students United should be dismissed.

Respectfully submitted,

COUSINEAU MALONE, P.A.

Dated: July 15, 2024

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