

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Brian Hanna,

Complainant,  
vs.

ORDER OF DISMISSAL

Senator Julianne Ortman,

Respondent.

On August 1, 2006, Brian Hanna filed a Complaint with the Office of Administrative Hearings alleging a violation of Minn. Stat. § 211B.13 by Senator Julianne Ortman.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on August 2, 2006, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint and attachments were sent by email as a PDF attachment on August 1, 2006, and by United States mail on August 2, 2006.

After reviewing the Complaint and attachments, the Administrative Law Judge finds that the Complaint does not state prima facie violations of Minn. Stat. § 211B.13.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

**IT IS ORDERED:**

That the Complaint filed by Brian Hanna against Senator Julianne Ortman is DISMISSED.

Dated: August 3, 2006

/s/ Steve M. Mihalchick  
STEVE M. MIHALCHICK  
Administrative Law Judge

## NOTICE

Under Minn. Stat. § 211B.36, subd. 5, this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. § § 14.63 to 14.69.

## MEMORANDUM

Julianne Ortman is a Minnesota State Senator representing District 34 (Carver and northwestern Scott Counties). She was first elected in 2002 and is running for re-election this year. On her campaign website, Senator Ortman has set up a link to a site called "Minnesota Hero of the Week."<sup>1</sup> As of August 2, 2006, the link included a picture of Sergeant Brent Koch, a member of the Minnesota National Guard who was killed in Iraq on June 16, 2006. Underneath Sergeant Koch's picture was the following statement:

CLICK TO READ MORE

Submit your Minnesota Hero:

CLICK HERE to send an email.

If your Hero is chosen, you'll win a DQ gift certificate!<sup>2</sup>

By clicking on the top link, a visitor was sent to a page entitled "Minnesota Hero of the Week." As of August 2, 2006, the site had a framed photograph of Sergeant Brent Koch followed by several paragraphs of information describing Koch and his military service. At the conclusion of the information, visitors were invited to click on another link to send an email to Senator Ortman to nominate someone as a Minnesota Hero. As of August 1, 2006, the site informed visitors that if their Hero was chosen, they would win a gift certificate to Dairy Queen.

The Complainant alleges that Senator Ortman is essentially running a contest with a small monetary award on her campaign website in violation of Minn. Stat. § 211B.13.

Minn. Stat. § 211B.13 provides as follows:

A person who willfully, directly or indirectly, advances, pays, gives, promises, or lends any money, food, liquor, clothing, entertainment, or other thing of monetary value, or who offers, promises, or endeavors to obtain any money, position, appointment, employment, or other valuable consideration, to or for a person, in order to induce a voter to refrain from voting, or to vote in a particular way, at an election, is guilty of a felony. This section does not prevent a candidate from stating publicly preference for or support of another candidate to be voted for at the same primary or election. Refreshments of food or nonalcoholic beverages of

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<sup>1</sup> The web address of this site is: <http://julianneortman.org/hero.html>.

<sup>2</sup> DQ stands for Dairy Queen. As of August 2, 2006, references to the DQ gift certificate were removed from Senator Ortman's websites.

nominal value consumed on the premises at a private gathering or public meeting are not prohibited under this section.

The key issue is whether there has been a promise or giving of money, food, liquor or other thing of monetary value to a person “in order to induce a voter to refrain from voting or to vote in a particular way” at an election.

After reviewing the Complaint and the attached materials, the Administrative Law Judge concludes that the Complaint fails to allege facts to support a claim that Senator Ortman is giving something of monetary value to persons in order to induce them to vote in a particular way in the upcoming election. Instead, the facts as alleged indicate that Senator Ortman is seeking nominations for her “Minnesota Hero of the Week” web page and compensating those persons whose nominees are selected with a Dairy Queen gift certificate. In essence, Senator Ortman is offering to pay some people for their submissions. If a person’s nominee is selected for the “Hero of the Week” web page, Senator Ortman provides that person with a Dairy Queen certificate. While the overall purpose of the website is to encourage support of her candidacy, the promised certificates are meant to induce people to nominate “Minnesota heroes;” not to vote for Senator Ortman.<sup>3</sup> Because there are no facts alleged in the Complaint that suggest that Senator Ortman is giving away Dairy Queen certificates to people in order to induce them to vote for her or to vote in a particular way in the upcoming election, the Complaint fails to allege a prima facie violation of Minn. Stat. § 211B.13 and must be dismissed.

S.M.M.

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<sup>3</sup> See *Wyckoff and Laine v. Peterson and Williams*, OAH Docket No. 6-6301-16405-CV (Order dated April 25, 2005) (Candidate violated Minn. Stat. § 211B.13 by donating chicken dinners and soft drinks to senior apartment complex following his campaign visit there.)