

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Dennis Schneider,

Complainant,

vs.

**ORDER OF DISMISSAL**

Citizens for Charron and Mike Charron,

Respondents.

On October 30, 2006, Dennis Schneider filed a Complaint with the Office of Administrative Hearings alleging that Citizens for Charron and Mike Charron violated Minn. Stat. § 211A.02, subd. 2 (3) by failing to timely file a pre-general election campaign financial report.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on October 30, 2006, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint and attachments were sent by United States mail to the Respondent on October 30, 2006.

After reviewing the Complaint and attachments, the Administrative Law Judge finds that the Complaint does not state a prima facie violation of Minn. Stat. § 211A.02. The penalty for failing to file a statement required by Minn. Stat. § 211A.02 is set forth in Minn Stat. § 211A.05, subd. 2, which requires a ten day notice of the failure to file before a campaign complaint can be filed. The Complaint fails to allege that the Respondents have been notified of the failure to file pursuant to Minn Stat. § 211A.05, subd. 2.

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 Dennis Schneider against Citizens for Charron and Mike Charron is DISMISSED.

Dated: November 1, 2006

/s/ Bruce H. Johnson  
BRUCE H. JOHNSON  
Administrative Law Judge

## MEMORANDUM

Minn. Stat. § 211A.02, subd. 1, requires candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year, to file financial reports with the “filing officer”<sup>1</sup> for that office. In addition to other required reports, the statute requires that a candidate or committee file a report “ten days before the general election or special election.”<sup>2</sup> However, that statute only establishes the filing requirements, it does not address the consequences of failing to file a required financial report. To determine the consequences of not meeting those reporting requirements, one must look at another statute — Minn. Stat. § 211A.05. Subdivision 2 of that statute provides:

Subd. 2. **Notice of failure to file.** If a candidate or committee fails to file a report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. *If a report is not filed within ten days after the notification is mailed*, the filing officer shall file a complaint under section 211B.32. [Emphasis supplied.]

In other words, before any penalty can be imposed for failing to file a required financial report, the Legislature clearly intended that the candidate or committee must be given written notification from the filing officer of the failure and must be given ten days to correct the deficiency. A complaint may only be considered if the report is not subsequently filed within that ten-day grace period. Minn. Stat. § 211B.32 does not distinguish between complaints filed by filing officers or citizens. However, neither a citizen nor a filing officer may file a campaign complaint alleging failure to file a financial report required by Minn. Stat. § 211A.02 until the filing officer has given the candidate or committee notice and an opportunity to file a financial report.

The Complaint alleges that Mike Charron participated in the Stillwater Lumberjack Parade on July 23, 2006 and that political candidates participating in the parade were required to pay a registration fee of \$300 prior to the date of the parade. The Complaint further alleges that the parade registration fee was not included in the campaign expense report that was filed by Citizens for Charron on August 28, 2006. However, the Complaint fails to allege that Citizens for Charron or Mike Charron received the ten day notification from the filing officer pursuant to section 211A.05, subd. 2.

For that reason, the Complaint fails to allege a prima facie violation of Minnesota Statute § 211A.02 and is therefore dismissed.

**B.H.J.**

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<sup>1</sup> Minn. Stat. § 211A.01, subd. 7, defines “filing officer” to mean the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

<sup>2</sup> Minn. Stat. § 211A.02, subd. 1(b)(2).