

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mark Deziel,

Complainant,

vs.

ORDER OF DISMISSAL

Freedom Club State PAC, Freedom Club  
Federal PAC, AbelConn, LLC, Clifford  
Olson, Christopher Tiedeman, Joe  
Weber, and Weber Company, Inc.,

Respondents.

On November 8, 2006, Mark Deziel filed a Complaint with the Office of Administrative Hearings alleging that Freedom Club State PAC, Freedom Club Federal PAC, AbelConn, LLC, Clifford Olson, Christopher Tiedeman, Joe Weber, and Weber Company, Inc., violated Minn. Stat. §§ 211B.06 and 211B.15, subds. 2 and 4. The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on November 8, 2006, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint and attachments were sent by United States mail to the Respondent on November 7, 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.06 and 211B.15. Therefore, the Complaint is dismissed.

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 Mark Deziel against Freedom Club State PAC, Freedom Club Federal PAC, AbelConn, LLC, Clifford Olson, Christopher Tiedeman, Joe Weber, and Weber Company, Inc., is DISMISSED.

Dated: November 13, 2006

/s/ Beverly Jones Heydinger  
BEVERLY JONES HEYDINGER  
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

The Complaint alleges that since April of 2001, Clifford L. Olson has operated the Freedom Club Federal PAC and Freedom Club State PAC out of the offices of Abelconn, a limited liability company, located in New Hope, Minnesota. According to the Complaint, by allowing Clifford Olson to operate the PACs out of its offices, Abelconn has contributed phone service, internet email service, and use of the company's facilities, equipment and staff to the PACs in violation of Minn. Stat. § 211B.15.

The Complaint also alleges that on or about October 28, 2006, the Freedom Club State PAC paid for the preparation and dissemination of a campaign flyer that contained false campaign material regarding Julie Bunn, a candidate for House District 56A in the November 7, 2006, General Election, in violation of Minn. Stat. § 211B.06. According to the Complaint, the Freedom Club State PAC contracted with Joe Weber of Weber Company, Inc., to create the campaign flyer and Weber in turn used Christopher Tiedeman in the creation and preparation of the campaign flyer.

### **Prohibited corporate contribution allegation**

Minn. Stat. § 211B.15 applies to for-profit corporations, nonprofit corporations, and limited liability companies doing business in Minnesota.<sup>1</sup> Subdivision 2 of this section provides as follows:

A corporation may not make a contribution or offer or agree to make a contribution, directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate.<sup>2</sup>

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<sup>1</sup> Minn. Stat. § 211B.15, subd. 1.

<sup>2</sup> *Id.*, subd. 2.

Subdivision 4 prohibits a corporation from making a contribution to a candidate or to a committee organized wholly or partly to promote or defeat a candidate.<sup>3</sup>

The Complainant alleges that AbelConn is a limited liability company organized under chapter 322B that does business in this state. The business address for AbelConn is the same as the mailing address for the Freedom Club Federal PAC and the Freedom Club State PAC. Clifford Olson, who was the Chairman of AbelConn,<sup>4</sup> identified himself as the Treasurer of the Freedom Club Federal PAC in filings with the Federal Election Commission received April 23, 2001.<sup>5</sup> Likewise, in a report of receipts and expenditures filed by the Freedom Club State PAC with the Minnesota Campaign Finance Board on January 25, 2006, Mr. Olson is listed as the Treasurer and the address given for the State PAC is the same as AbelConn's business address in New Hope.<sup>6</sup> Finally, a campaign flyer critical of Minnesota House District candidate Julie Bunn was paid for by the Freedom Club State PAC.

The Complainant alleges that AbelConn and Clifford Olson have violated Minn. Stat. § 211B.15 because AbelConn "has contributed and continues to contribute to the PAC by providing a mailing address, phone service, email service and use of the facilities, equipment and staff." However, the Complainant has alleged no facts to support this allegation other than the fact that the PACs and AbelConn share the same business or mailing address. Apparently, based on the shared address, the Complainant assumes AbelConn is contributing "money, property, free service of its officers, employees, or members, or thing of monetary value" to the Freedom Club PACs "to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office." The shared address alone is not sufficient proof that AbelConn has made contributions to the Freedom Club PACs and that these contributions were for the purpose of promoting or defeating a candidate.

In addition, the Complainant has alleged no facts to support his claim that AbelConn violated Minn. Stat. § 211B.15, subd. 4, by making a contribution to "a committee organized wholly or partly to promote or defeat a candidate." The Complaint lacks any alleged facts that would suggest that the Freedom Club PACs were organized "wholly or partly to promote or defeat a candidate." The PACs were apparently organized years before the recent election and the Complainant has not identified the stated purpose for their organization.

Based on the facts alleged in the Complaint, the Administrative Law Judge cannot conclude that AbelConn or Clifford Olson made contributions of money, property, service, or other things of monetary value to promote or defeat a candidate's election to office. Therefore, the corporate contribution allegations in the Complaint are dismissed for failure to allege prima facie violations of Minn. Stat. § 211B.15, subd. 2 and 4.

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<sup>3</sup> Minn. Stat. § 211B.15, subd. 4.

<sup>4</sup> The Complaint states that on or about November 2, 2006, a Marty Engelbretson at AbelConn informed the Complainant that Mr. Olson left the company "sometime this spring."

<sup>5</sup> Complaint Ex. B.

<sup>6</sup> Complaint Ex. E.

## False campaign material allegation

The Complainant also alleges that a campaign flyer paid for by the Freedom Club State PAC contained false campaign material that Respondents knew was false or communicated with reckless disregard of whether it was false in violation of Minn. Stat. § 211B.06.

Section 211B.06 prohibits a person from intentionally preparing or disseminating false campaign material with respect to the personal or political character or acts of a candidate that is designed or tends to injure or defeat a candidate, and which the person knows is false or communicates to others with reckless disregard of whether it is false. In *Kennedy v. Voss*,<sup>7</sup> the Minnesota Supreme Court observed that the statute is directed against the evil of making false statements of fact and not against unfavorable deductions, or inferences based on fact - even if the inferences are “extreme and illogical.”<sup>8</sup> The Court pointed out that the public is protected from such extreme and illogical inferences by the ability of other speakers to rebut these claims during the campaign process.<sup>9</sup> In addition, expressions of opinion, rhetoric, and figurative language are generally protected speech if, in context, the reader would understand that the statement is not a representation of fact.<sup>10</sup>

Campaign material is “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election.”<sup>11</sup> The campaign flyer at issue in this complaint is campaign material and it was disseminated for the purpose of influencing voters to vote against Julie Bunn, a candidate for Minnesota House District 56A, in the General Election.

The campaign flyer is two-sided. On the one side the flyer states: “When It Comes to Raising Taxes... Julie Bunn Is Very Flexible!” On the other side of the flyer is a “conversion chart” in which direct quotes from Ms. Bunn’s campaign website are interpreted by the PAC. For example, Ms. Bunn’s statement that she will “fight for fiscal responsibility” is interpreted by the PAC to mean she will “make sure we collect as much revenue as possible.” And her statement “Fair tax policy that meets the revenue needs of our state” is interpreted by the PAC to mean “I won’t be afraid to raise taxes on everybody.” A copy of this side of the flyer is scanned below:

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<sup>7</sup> 304 N.W.2d 299 (Minn. 1981).

<sup>8</sup> *Id.* at 300.

<sup>9</sup> *Id.*

<sup>10</sup> *Jadwin v. Minneapolis Star and Tribune Co.*, 390 N.W.2d 437, 441 (Minn. App. 1986), *citing Old Dominion Branch No. 496, National Assoc. of Letter Carriers v. Austin*, 418 U.S. 264, 284-86 (1974); *Greenbelt Coop. Publishing Assoc. v. Bresler*, 398 U.S. 6, 13-14 (1970). See also *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 16-17 (1990); *Diesen v. Hessburg*, 455 N.W.2d 446, 451 (Minn. 1990); *Hunter v. Hartman*, 545 N.W.2d 699, 706 (Minn. App. 1996);

<sup>11</sup> Minn. Stat. § 211B.01, subd. 2.



Bunn said she would never tie herself to such a (No New Taxes) pledge, primarily because it would eliminate a lawmaker's ability to respond to changing conditions and hinder flexibility regarding decision making.

- Stillwater Courier, September 26, 2006

### Julie Bunn's Flexible Conversion Chart\*\*

	"I will fight for fiscal responsibility"	=	I will make sure we collect as much revenue as possible	
	"Fair tax policy that meets the revenue needs of our state"	=	I won't be afraid to raise taxes on everybody	
	"I will be a public watchdog for the public dollar"	=	I'll Make sure we spend more money on more programs	
	"I won't pay lip service to your chief concerns during the campaign"	=	I'll raise taxes even if you don't want me to	

**Julie Bunn Refused to Sign the "No New Taxes Pledge"**

**We Can't Afford Julie Bunn's "Flexible" Attitude Towards Taxes!**

The Complainant alleges that the Respondents engaged in "false, wild and reckless interpretations" of Ms. Bunn's statements. Minn. Stat. § 211B.06 is directed against false statements of fact; not opinions, inferences, or unfavorable deductions. The interpretations of Ms. Bunn's statements are not false statements of fact. They are unfavorable inferences or deductions on the part of the Freedom Club PAC. Such inferences, even if extreme or illogical, do not come within the purview of Section 211B.06. Therefore, the Administrative Law Judge concludes that the Complaint fails to allege a prima facie violation of Minn. Stat. § 211B.06 with respect to the identified campaign material. This allegation is dismissed.

Because the Complaint has failed to allege prima facie violations of Minn. Stat. §§ 211B.06 and 211B.15 on the part of the Respondents, it is dismissed in its entirety.

B.J.H.