

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Terry Sluss,

Complainant,

vs.

MCCL State PAC and the Senate  
Victory Fund,

Respondents.

NOTICE OF DETERMINATION OF  
PRIMA FACIE VIOLATION  
AND  
NOTICE OF AND ORDER FOR  
EVIDENTIARY HEARING

**TO: Terry Sluss, 13298 Timberlane Drive, Baxter, MN 56425; MCCL State PAC, 4249 Nicollet Avenue South, Minneapolis, MN 55409; and the Senate Victory Fund, 1055 North Dale Street, St. Paul, MN 55117.**

On January 8, 2007, Terry Sluss filed a Complaint with the Office of Administrative Hearings alleging that MCCL State PAC and the Senate Victory Fund violated Minn. Stat. § 211B.06 (false campaign material). After reviewing the Complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the Complaint sets forth a prima facie violation of Minn. Stat. § 211B.06.

**THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN** that this matter will be scheduled for a telephone prehearing conference and an evidentiary hearing to be held at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, before three Administrative Law Judges. The evidentiary hearing must be held within 90 days of the date the complaint was filed, pursuant to Minn. Stat. § 211B.35. You will be notified of the date and time of the evidentiary hearing, and the three judges assigned to it, within approximately two weeks of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at [www.oah.state.mn.us](http://www.oah.state.mn.us) and [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us).

At the evidentiary hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and opposing party.

At the conclusion of the evidentiary hearing, the Administrative Law Judges will choose to: (1) dismiss the complaint, (2) issue a reprimand, (3) find a violation of 211B.06, and/or (4) impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A party aggrieved

by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: January 11, 2007

/s/ Beverly Jones Heydinger \_\_\_\_\_  
BEVERLY JONES HEYDINGER  
Administrative Law Judge

### MEMORANDUM

The Complainant, Terry Sluss, is a former Crow Wing County Commissioner. He ran in the November 7, 2006, general election as the Democratic candidate for Minnesota Senate District 12<sup>1</sup> and was defeated by the incumbent Republican candidate, Paul Koering. The Complaint alleges that just prior to the election, MCCL State PAC and the Senate Victory Fund prepared and paid for a campaign postcard that contained false campaign material designed to defeat his candidacy. The postcard was delivered to homes in the district between November 2 and November 4, 2006. The postcard generally encouraged voters to vote for Paul Koering based on his “pro-life” voting record. The postcard also included the following statement: “Terry Sluss refused to commit to any legal protection for innocent unborn babies.” The Complainant alleges that this statement is false and that the Respondents knew it was false and intentionally prepared and disseminated it in order to misrepresent his position on abortion just days before the election.

The Complainant argues that during his 10 years as an elected official, he has consistently supported programs that benefit children and babies, both born and unborn. The Complainant points out that during the Crow Wing County Commissioner election of 1996, he filled out a MCCL questionnaire in which he responded that he did support legal protection for unborn babies. In addition, the Complainant notes that while he was a Crow Wing County Commissioner, he proposed and actively sought funding for a Treatment Center for pregnant women and their unborn babies. The Complainant also maintains that he has consistently and publicly stated his “pro-life” position in radio

---

<sup>1</sup> Minnesota Senate District 12 is in central Minnesota and includes portions of Morrison and Crow Wing counties, as well as the cities of Little Falls and Brainerd.

interviews, newspaper articles, the endorsing convention, and candidate forums. Finally, the Complainant has attached to the Complaint an article that accompanied the *Brainerd Dispatch's* Voter's Guide issue, in which he responded to a question about potential legislation that would constitutionally ban all abortions by stating that, while he had not seen the language of the legislation, he was inclined to support it. For all of these reasons, the Complainant argues that the statement that he "refused to commit to any legal protection for innocent unborn babies" is false.

Minn. Stat. § 211B.06, subd. 1, prohibits intentional participation:

... [i]n the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

After reviewing the Complaint and its attachments, the Administrative Law Judge finds that the Complainant has made a prima facie showing that the Respondents violated Minn. Stat. § 211B.06 in their preparation and dissemination of the campaign material at issue. Therefore, this matter will be referred to the Chief Administrative Law Judge for assignment of a three-judge panel to consider the complaint at an evidentiary hearing.

B.J.H.