

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Roger Sween,

Complainant,

vs.

Tim Kelly and Kelly for House,

Respondent.

NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
PROBABLE CAUSE HEARING

TO: Alan W. Weinblatt, Weinblatt & Gaylord, PLC, 111 East Kellogg Boulevard, Suite 300, St. Paul, MN 55101; and Reid Lebeau, Lockridge, Grindal, and Nauen, PLLP, 100 Washington Avenue South, Suite 2200, Minneapolis, MN 55401.

On October 17, 2008, Roger Sween filed a Complaint with the Office of Administrative Hearings alleging that Tim Kelly and Kelly for House violated Minnesota Statutes § 211B.13, subd. 2. After reviewing the Complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the Complaint sets forth a prima facie violation of Minnesota Statutes § 211B.13, subd. 2.

THEREFORE, IT IS ORDERED AND NOTICE IS GIVEN that this matter is scheduled for a probable cause hearing to be held by telephone before the undersigned Administrative Law Judge at **11:00 a.m. on Friday, October 24, 2008**. The hearing will be held by call-in telephone conference. You must call: **1-888-942-8515** at that time. When the system asks for your numeric pass code, enter **"19885"** on your phone and you will be connected to the conference. The probable cause hearing will be conducted pursuant to Minnesota Statutes § 211B.34. Information about the probable cause proceedings and copies of state statutes may be found online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the probable cause hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if that choice is 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 provide to the Administrative Law Judge all evidence bearing on the case, with copies to the opposing party, before the telephone conference takes place. Documents may be emailed to Judge Sheehy at Kathleen.Sheehy@state.mn.us or faxed to 651-361-7936.

At the conclusion of the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the complaint based on a determination that the complaint is frivolous, or that there is no probable cause to believe that the violation of law alleged in the complaint has occurred; or (2) determine that there is probable cause to believe that the violation of law alleged in the complaint has occurred and refer the case to the Chief Administrative Law Judge for the scheduling of an evidentiary hearing. Evidentiary

hearings are conducted pursuant to Minnesota Statutes § 211B.35. If the Administrative Law Judge dismisses the complaint, the complainant has the right to seek reconsideration of the decision on the record by the Chief Administrative Law Judge pursuant to Minnesota Statutes § 211B.34, subdivision 3.

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 P.O. Box 64620, St. Paul, MN 55164-0620, or call 651-361-7900 (voice) or 651-361-7878 (TDD).

Dated: October 20, 2008

/s/ Kathleen D. Sheehy
KATHLEEN D. SHEEHY
Administrative Law Judge

MEMORANDUM

Respondent Tim Kelly is a candidate for Minnesota House of Representatives District 28A. Respondent Kelly for House is his registered campaign committee. The Complaint alleges that Respondents accepted a corporate contribution from P. Hanson Marketing, Inc. (PHMI). The Complaint alleges that PHMI, a for-profit corporation in Cannon Falls, Minnesota, publishes two magazines, *Generations of Today (Today)* and *The Ag Reporter (Reporter)*, which are distributed within and around District 28A. The Complaint specifically alleges PHMI published, free of charge, a five-page advertisement for Respondent Kelly's campaign in the September 2008 issue of *Today*, and a one-page advertisement for Respondent Kelly's campaign in the October/November issue of the *Reporter*.

Minn. Stat. § 211B.15 prohibits corporations from making contributions, directly or indirectly, to an individual to promote the individual's candidacy or election to political office. Minn. Stat. § 211B.13, subd. 2, prohibits a person from knowingly accepting or receiving money or anything of monetary value that is a prohibited corporate disbursement under section 211B.15.

The Administrative Law Judge finds that the Complainant has alleged a prima facie violation of Minn. Stat. § 211B.13, subd. 2, against Respondents. This matter will proceed to a probable cause hearing as scheduled by this Order.

K.D.S.