

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

Patrick J. Nesler,

Complainant,

**NOTICE OF AND ORDER FOR
EVIDENTIARY HEARING**

vs.

Rhonda Klapperich,

Respondent.

On October 11, 2013, Patrick Nesler filed a Campaign Complaint with the Office of Administrative Hearings alleging that Rhonda Klapperich violated Minn. Stat. § 211B.11 in connection with the November 2012 mayoral election in Ostrander, Minnesota. On October 23, 2013, Administrative Law Judge Jeanne Cochran determined that the Complaint set forth a *prima facie* violation of Minn. Stat. § 211B.11.

A prehearing scheduling conference was conducted by telephone conference call on November 13, 2013. On November 14, 2013, Judge Cochran issued the First Prehearing Order establishing deadlines for filing pre-marked exhibits and witness lists, and setting the date for the evidentiary hearing.

NOTICE IS NOW GIVEN that this matter has been assigned to a panel of three Administrative Law Judges for an evidentiary hearing. The assigned Administrative Law Judges are: Jeanne M. Cochran (Presiding Judge), Barbara J. Case, and Timothy J. O'Malley. The Office of Administrative Hearings is located at 600 North Robert Street, in St. Paul. All mail to the Office should be addressed to: Office of Administrative Hearings, P.O. Box 64620, St. Paul, MN 55164-06120. The Administrative Law Judges may be reached at 651-361-7900. The Office's fax number is 651-361-7936.

IT IS FURTHER ORDERED AND NOTICE IS HEREBY GIVEN that this matter is scheduled for an evidentiary hearing to be held on **Monday, January 6, 2014**, commencing at **10:00 a.m.**, at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, MN 55101.

Pursuant to the First Prehearing Order, the parties shall file with the Office and serve on each other copies of their pre-marked exhibits and witness lists by **4:30 p.m.** on **Monday, December 30, 2013**. The parties shall provide three copies of their witness lists and pre-marked exhibits to Presiding Judge Jeanne Cochran by 4:30 p.m. on December 30, 2013.

The hearing has been ordered pursuant to the authority granted to the Chief Administrative Law Judge by Minn. Stat. § 211B.35, subd. 1. The hearing will be

conducted pursuant to Minn. Stat. §§ 211B.35 and 211B.36. Information about the evidentiary hearing and copies of state statutes and rules may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us. The Office of Administrative Hearings conducts proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court.

HEARING PROCEDURES

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 Judges. The panel may consider any evidence and argument submitted until the hearing record is closed. The panel may continue a hearing to enable the parties to submit additional testimony. All hearings must be open to the public.

WITHDRAWAL OF COMPLAINT

At any time before an evidentiary hearing begins, a complainant may withdraw a complaint. After the evidentiary hearing begins, however, a complaint filed may only be withdrawn with the permission of the panel.

COSTS

If the panel determines the complaint is frivolous, it may order the complainant to pay the respondent's reasonable attorney fees and to pay the costs of the office in the proceeding in which the complaint was dismissed.

BURDEN OF PROOF

The burden of proving the allegations in the complaint is on the complainant. The standard of proof is a preponderance of the evidence.

DISPOSITION OF COMPLAINT

At the conclusion of the evidentiary hearing, the panel must determine whether the violation alleged in the complaint occurred and must make at least one of the following dispositions:

- (1) The panel may dismiss the complaint.
- (2) The panel may issue a reprimand.
- (3) The panel may impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.
- (4) The panel may refer the complaint to the appropriate county attorney.

The panel must dispose of the complaint within 14 days after the hearing record closes, if an expedited probable cause hearing was not required by section 211B.33.

JUDICIAL REVIEW

A party aggrieved by a final decision on a complaint filed under section 211B.32 is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Dated: November 20, 2013

s/Tammy L. Pust

TAMMY L. PUST
Chief Administrative Law Judge

cc: Administrative Law Judge Jeanne Cochran
Administrative Law Judge Barbara Case
Administrative Law Judge Timothy O'Malley
Diane Nordstrom, Docket Clerk