

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Brad Cedergren

v.

Jillian Hendrickson

**ORDER FINDING NO  
PRIMA FACIE VIOLATION  
AND DISMISSING COMPLAINT**

**TO: Parties**

On October 30, 2014, Brad Cedergren, a candidate for election to the office of Mayor of Albertville, Minnesota, filed a campaign complaint with the Office of Administrative Hearings.

The complaint alleges that Jillian Hendrickson, the incumbent Mayor of Albertville, and a candidate for re-election, violated Minn. Stat. § 211B.15, subd. 17. Specifically, the Complaint asserts that Ms. Hendrickson violated the law by asking for the votes of members of the STMA Youth Hockey Association in a posting to the Association's Facebook webpage.<sup>1</sup>

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge pursuant to Minn. Stat. § 211B.33.

After reviewing the Complaint and the attached documents, and for the reasons set out in the attached Memorandum, the Administrative Law Judge finds that the Complaint fails to set forth a *prima facie* violation of the Fair Campaign Practices Act.

**ORDER**

**IT IS ORDERED THAT:**

The Complaint filed by Brad Cedergren against Jillian Hendrickson is **DISMISSED**.

Dated: November 3, 2014

s/Eric L. Lipman

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ERIC L. LIPMAN  
Administrative Law Judge

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<sup>1</sup> COMPLAINT, at 1-2.

## NOTICE

Under Minn. Stat. § 211B.36, subd. 5, this Order is the final decision in this matter. A party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

## MEMORANDUM

### Factual Background

The complaint filed by Mr. Cedergren makes the following assertions:

On October 8, 2014, the STMA Youth Hockey Association, a non-profit 509(a)(2) corporation, posted on their Facebook page the following sentence: "Jillian Hendrickson, current Mayor of Albertville is seeking reelection. She is a strong hockey proponent and supporter of an expansion for a second rink."

Jill Hendrickson acknowledged this post, which is a violation of a charitable organization, on October 15 and asked for people's vote ....

As detailed in the attachments accompanying the complaint, Ms. Hendrickson made the following subsidiary comment to the posting on the Association's Facebook page:

We are going out now each night this week from 5:30-dark and collecting food for the local food shelf. If anyone would like to help please give me a call ... I definitely could use some additional hands! I am happy also to talk with anyone who has city questions or concerns. I definitely want to respectfully earn your reelection vote on Nov. 4th.

Let me know how I can help you all as well!!

...

Please also, visit my [Facebook] site (Chris hyperlinked it above) and invite your friends in town to do so as well. I have been very active in supporting business development in our town as well as doing what's best for residents. I enjoy serving the Albertville community hope to continue on for two more years. Happy MEA week!

To assert a prima facie violation of the Fair Campaign Practices Act, the Complainant must allege sufficient facts to show that a violation of law has occurred.<sup>2</sup>

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<sup>2</sup> Minn. Stat. § 211B.32, subd. 3.

To set forth a prima facie case that entitles a party to a later hearing, the party must either submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minnesota Statutes chapters 211A or 211B.<sup>3</sup>

For purposes of a prima facie determination, the tribunal must accept the facts that are alleged in the Complaint as true without further proof.<sup>4</sup>

A complaint must be dismissed if it does not include evidence or allege facts that, if they were accepted as true, would prove a violation of Minnesota Statutes chapters 211A or 211B.<sup>5</sup>

### **Corporate Contributions - Safe Harbor Provision (Minn. Stat. § 211B.15, subd. 17)**

Minn. Stat. § 211B.15, subd. 17 provides that:

It is not a violation of this section for a nonprofit corporation to provide administrative assistance to one political committee or political fund that is associated with the nonprofit corporation and registered with the Campaign Finance and Public Disclosure Board under section 10A.14. Such assistance must be limited to accounting, clerical or legal services, bank charges, utilities, office space, and supplies. The records of the political committee or political fund may be kept on the premises of the nonprofit corporation.

The administrative assistance provided by the nonprofit corporation to the political committee or political fund is limited annually to the lesser of \$5,000 or 7-1/2 percent of the expenditures of the political committee or political fund.

This law permits nonprofit corporations to provide some administrative support to political action committees and political funds that are affiliated with the corporation, without violating Minnesota's ban on corporate political contributions. This safe harbor provision permits entities such as "Planned Parenthood Minnesota, North Dakota, South Dakota Action Fund" and the "Minnesota Chamber of Commerce Leadership Fund," for example, to receive modest amounts of administrative support from their corporate affiliates (Planned Parenthood and the Minnesota Chamber, respectively) without violating the state's campaign finance laws.

This is not our case here. It is not alleged that the STMA Youth Hockey Association has an affiliated political committee or political fund, nor does Mr. Cedergren maintain that his opponent, Ms. Hendrickson, provided too much administrative assistance to such a fund.

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<sup>3</sup> *Barry, et al., v. St. Anthony-New Brighton Independent School District, et al.*, 781 N.W.2d 898, 902 (Minn. App. 2010).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

More problematic still, the basis for Mr. Cedergren's claim that Ms. Hendrickson may not lawfully acknowledge complimentary Facebook posts about her is not made clear in the filings. The cited statute, Minn. Stat. § 211B.15, subd. 17, does not bar such acknowledgements.

Even if the complaint could be read to challenge the Hockey Association's assertion that Ms. Hendrickson is "a strong hockey proponent and supporter of an expansion for a second rink," the complaint still fails to state a proper claim for relief.

First, and significantly, Mr. Cedergren does not name the Hockey Association as a party-respondent. The complaint names Ms. Hendrickson as the Respondent. A complaint against Ms. Hendrickson does not provide the Hockey Association with fair notice of any claims for relief that Mr. Cedergren may have against it.<sup>6</sup>

Further, in 2010, the United States Supreme Court held that the First Amendment prohibited governmental entities from restricting independent political expenditures by nonprofit corporations.<sup>7</sup> Later that same year, the Minnesota Legislature modified state law so as to permit expenditures by corporations in support of particular candidates so long as the expenditure was "made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent."<sup>8</sup>

There is no suggestion in the complaint materials that the statement regarding Ms. Hendrickson, and support for local hockey programming, was coordinated between the candidate and the nonprofit corporation. The only claim is that the statement was acknowledged by Ms. Hendrickson after it was made.

Because Mr. Cedergren does not allege any facts that could lead the tribunal to conclude that Ms. Hendrickson violated Minn. Stat. § 211B.15, the complaint is dismissed in its entirety.

**E. L. L.**

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<sup>6</sup> *Save Our Creeks v. City of Brooklyn Park*, 682 N.W.2d 639, 647 (Minn. Ct. App. 2004) *aff'd*, 699 N.W.2d 307 (Minn. 2005) ("A summons and complaint are sufficient to commence an action and confer jurisdiction over a defendant if they clearly inform the defendant that it was intended for him or her, require the defendant to answer the complaint, and give the defendant fair notice of the theory on which the claim for relief is based."); *Corporate Financers, Inc. v. Voyageur Trading Co.*, 519 N.W.2d 238, 241 (Minn. Ct. App. 1994) ("Pleadings serve to give fair notice to the adverse party of the incident giving rise to the claim and the theory upon which the claim for relief is based") (citing cases).

<sup>7</sup> *Citizens United v. Federal Election Commission*, 588 U.S. 310 (2010).

<sup>8</sup> Minn. Stat. § 10A.01, subd. 18; Minn. Stat. § 211B.15, subds. 2 and 3.