

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Rick Bubbers,

Complainant,

vs.

Lancer Vote Yes Committee, Teresa
O'Donnell-Ebner,

Respondents.

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
PREHEARING CONFERENCE**

TO: Parties.

On July 31, 2015, Rick Bubbers (Complainant) filed a campaign complaint with the Office of Administrative Hearings (OAH). The complaint alleges that the Lancer Vote Yes Committee and Teresa O'Donnell-Ebner, as the Committee Treasurer, (Respondents or Committee) violated Minn. Stat. ch. 211A (2014) by failing to provide full and complete campaign finance disclosure reports.

After reviewing the complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the complaint sets forth prima facie violations of Minn. Stat. § 211A.02. This determination is described in more detail in the attached Memorandum.

This matter is scheduled for a prehearing conference to be held by telephone before the undersigned Administrative Law Judge at **11:00 a.m. on Monday, August 24, 2015**. At the appointed time, the parties are directed to:

- (a) Telephone **1-888-742-5095**
- (b) Enter the Conference Code: **447-260-8685#**

At the prehearing conference, preliminary matters will be addressed such as identifying the issues to be resolved, the number of potential witnesses and exhibits should the matter proceed to hearing, possible dates for the hearing, and determining whether the matter may be disposed of without an evidentiary hearing.

Any party who needs an accommodation for a disability in order to participate in the 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 (TTY)

Dated: August 4, 2014

s/Jeffery Oxley
JEFFERY OXLEY
Administrative Law Judge

MEMORANDUM

The Respondent, Lancer Vote Yes Committee, is a campaign committee that was acting to promote the passage of the La Crescent-Hokah School District's \$25.5 million school bond referendum in the January 6, 2015, special election. Teresa O'Donnell-Ebner is the Committee's Treasurer.

The Complaint alleges that the Respondents failed to accurately report all of the Committee's campaign disbursements as required by Minn. Stat. § 211A.02. According to the Complaint, the Committee failed to report expenditures for campaign yard signs, buttons, t-shirts, brochures, and newspaper advertisements. In support of the Complaint, the Complainant has attached a newspaper advertisement prepared and paid for by the Committee that urges voters to "Vote Yes" on the school district referendum. It is not clear from the Complaint on what days the advertisement ran and in which newspapers. However, the Complainant asserts that the total cost of the newspaper advertisements was \$5,665.20. In addition, the Complainant has attached a "Business Information Form" created by the Committee that lists a number of ways that local businesses could help the Vote Yes effort, such as by displaying Vote Yes signs or brochures, suggesting that the Committee may have incurred expense in preparing such items.

The Complainant has also attached to the Complaint a copy of the Committee's November 24, 2014, Campaign Financial Report and its Certification of Filing. The campaign financial report covers the time period of October 27, 2014, through November 24, 2014. For that reporting period, the committee listed \$720 in campaign contributions and no disbursements. The Committee's January 8, 2015, Certification of Filing certifies that all of the Committee's campaign financial reports had been filed. Both the Campaign Financial Report and the Certification of Filing were signed by Ms. O'Donnell-Ebert.

Standard of Review

To set forth a prima facie case that entitles a party to a hearing, the party must either submit evidence or allege facts that, if unchallenged or accepted as true, would

be sufficient to prove a violation of chapter 211A or 211B (2014).¹ For purposes of a prima facie determination, the tribunal must accept the facts alleged as true and the allegations do not need independent substantiation.² A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.³

Minnesota Statutes section 211A.02

Under Minn. Stat. § 211A.02, subd. 1, candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year must file financial reports with the appropriate “filing officer.”⁴ In addition to an initial financial report, a candidate or committee must also file a report 30 days after a general or special election.⁵

A “disbursement” is defined as “money, property, office, position, or any other thing of value that passes or is directly or indirectly conveyed, given, promised, paid, expended, pledged, contributed, or lent.”⁶ “Disbursement” does not include payment by a county, municipality, school district, or other political subdivision for election-related expenditures required or authorized by law.⁷

Minnesota Statutes section 211A.02, subd. 2, requires campaign financial reports to include the following:

- (1) the name of the candidate or ballot question;
- (2) the printed name, address, telephone number, signature, and e-mail address, if available, of the person responsible for filing the report;
- (3) the total cash on hand designated to be used for political purposes;
- (4) the total amount of contributions and disbursements for the period from the last previous report to five days before the current report is due;
- (5) the amount, date, and purpose for each disbursement; and
- (6) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution. The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the

¹ *Barry, et al. v. St. Anthony-New Brighton Independent School District, et al.*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

² *Id.*

³ *Id.*

⁴ Minn. Stat. § 211A.01, subd. 7, defines “filing officer” to mean the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

⁵ Minn. Stat. § 211A.02, subd. 1(b)(3).

⁶ Minn. Stat. § 211A.01, subd. 6.

⁷ *Id.*

individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

The Complainant has submitted a newspaper advertisement prepared and paid for by the Committee and a "Business Information Form" that indicates the Committee had prepared other campaign material such as buttons and brochures. The one campaign financial report submitted with the Complaint lists no campaign disbursements of any kind. Based on this record, the Complaint has alleged sufficient facts to support finding a prima facie violation of Minn. Stat. § 211A.02. The Respondents will have an opportunity to respond to the Complaint during the telephone prehearing conference.

This matter shall proceed to a prehearing conference as ordered on the alleged violations of Minn. Stat. § 211A.02 and, unless otherwise disposed of, shall be set on for an evidentiary hearing before a panel of three administrative law judges pursuant to Minn. Stat. § 211B.33, subd. 2(d).

J. J. O.