

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Common Cause Minnesota,

Complainant,

ORDER OF DISMISSAL

v.

Wayne Valentine, Marcia Ward, Missy Beyers,
Concerned Taxpayers of Winona County,
Responsible Voters of Winona County,
Concerned Citizens of Winona County,

Respondents.

On August 26, 2015, Common Cause Minnesota (Complainant) filed a campaign complaint with the Office of Administrative Hearings. The Complaint alleged that the named individuals and committees (Respondents) violated Minn. Stat. § 211A.01, subds. 5 and 8 (2014). The Complaint asserts that the violations occurred during the campaigns in Winona County Commissioner Districts 1, 2 and 5, in the November 2014 general election.

For the reasons detailed in the attached Memorandum, the Administrative Law Judge concludes that the Complaint fails to state a *prima facie* violation of either Minn. Stat. § 211A.01, subd. 5 or 8.

Based upon the Complaint and the supporting filings, and for the reasons set out in the attached Memorandum,

IT IS HEREBY ORDERED THAT:

1. The Complaint filed by Common Cause Minnesota is **DISMISSED WITHOUT PREJUDICE** to refiling.
2. The Complainant may file a subsequent Complaint, properly identifying the section(s) of chapters 211A or 211B (2014) that it believes Respondents violated, without paying an additional filing fee.

Dated: August 28, 2015

s/Eric L. Lipman

ERIC L. LIPMAN
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5 this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-.69 (2014).

MEMORANDUM

As noted above, the Complaint asserts campaign practice violations by individual candidates and committees during the November 4, 2014, general election. The Complaint alleges that the three candidates, Wayne Valentine, Marcia Ward, and Missy Beyers, "acted in coordination with the three principal campaign committees in the placement of advertisements" that ran in a local newspaper shortly before the election. The Complainant maintains that the advertisements supporting the election of the three candidates are nearly identical; using similar high-resolution photographs of the candidates, graphic style and similar wording in the advertisements. The Complaint contends that the similarity of the advertisements and the fact that they ran in the same publication on the same page, demonstrates "an impermissible level of coordination between the campaigns and the ostensible independent committees."

Legal Analysis

Chapter 211A governs the campaign financial reporting requirements for candidates seeking election to county, municipal, school district, or other political subdivision office.¹ Complaints alleging violations of the Campaign Financial Reporting laws must identify the individual or entity being complained about, the statutory provision alleged to have been violated, and must detail the factual basis for the claim that a violation of law has occurred.²

The Complaint alleges that, by coordinating the campaign advertisements supporting the three candidates, the Respondents violated Minn. Stat. § 211A.01, subds. 5 and 8. Section 211A.01 governs the definitions applicable to chapter 211A. Subdivision 5 reads:

"Contribution" means anything of monetary value that is given or loaned to a candidate or committee for a political purpose. "Contribution" does not include a service provided without compensation by an individual.

Similarly, subdivision 8 reads:

An act is done for "political purposes" if it is of a nature, done with the intent, or done in a way to influence or tend to influence, directly or indirectly, voting at a primary or an election or if it is done because a

¹ Minn. Stat. § 211A.01, subd. 3.

² Minn. Stat. § 211B.32, subd. 3.

person is about to vote, has voted, or has refrained from voting at a primary or an election.

While the Complainant may have reason to believe that the Respondents did not adhere to the accounting, expenditure and disclosure requirements of state law, it has not identified the laws that it believes were broken. Minn. Stat. § 211A.01, subds. 5 and 8 define particular concepts in the law – namely, what constitutes a “contribution” and acts with a “political purpose” – but they do not proscribe any particular conduct. It is not proper to say, therefore, that Respondents “violated” a definition of statutory terms.

Because the Complainant does not identify the state law that it says the Respondents violated, the Complaint is dismissed without prejudice to re-filing.

The Complainant may re-file the complaint without payment of an additional filing fee. Complaints must be filed within one year of the occurrence of the act or failure to act that is the subject of the complaint.³

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³ Minn. Stat. § 211B.32, subd. 2.