

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Joe Fischbach,
Complainant,
vs.
Matt Erickson,
Respondent.

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

On October 15, 2015, Joe Fischbach, Cottage Grove City Clerk (Complainant), filed a campaign complaint with the Office of Administrative Hearings. The Complaint alleges that Matt Erickson (Respondent) violated Minn. Stat. § 211A.05 (2014) by failing to timely file a campaign financial report certification of filing.

After reviewing the complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the complaint sets forth a prima facie violation of Minn. Stat. § 211A.05. 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 **11:30 a.m. on Monday, November 2, 2015**. At the appointed time, the parties are directed to:

- (a) Telephone **1-888-742-5095**
- (b) Enter the Conference Code: **544-169-9282#**

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: October 19, 2015

s/Jeanne M. Cochran

JEANNE M. COCHRAN
Administrative Law Judge

MEMORANDUM

Pursuant to Minnesota Statutes § 211A.02, subd. 1 (2014), candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year must file financial reports with the “filing officer”¹ for that office.

Minnesota Statutes § 211A.05 subd. 1 (2014), also requires that candidates or committee treasurers certify to the filing officer that all financial reports required by section 211A.02 have been submitted, or certify that the candidate or committee did not receive contributions or make disbursements exceeding \$750 in the calendar year. The certification must be submitted to the filing officer no later than seven days after the general or special election.

If a candidate or committee fails to file a required financial report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file.² If the report is not filed within ten days after the notification is mailed, the filing officer is required to file a complaint under section 211B.32 (2014).³

The Respondent, Matt Erickson, ran unsuccessfully for a seat on the Cottage Grove City Council in the November 2014 general election. According to the Complaint, the Respondent failed to file a certification of filing, as required by Minn. Stat. § 211A.05 (2014).

The Complainant, Joe Fischbach, is the City Clerk and filing officer for the City of Cottage Grove. The Complaint asserts that on November 13, 2014, then City Clerk Caron Stransky, notified the Respondent by mail that the City of Cottage Grove had not received a certification of filing form from him as required by Minn. Stat. § 211A.05.⁴

¹ Minn. Stat. § 211A.01, subd. 7 (2014), 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.

² Minn. Stat. § 211A.05, subd. 2 (2014).

³ Minn. Stat. § 211A.05, subd. 2 (2014).

⁴ Complaint Exhibit (Ex.) A.

Ms. Stransky advised the Respondent that the certification of filing form was due on November 12, 2014, and she reminded him of his need to comply with the campaign reporting requirements.⁵ According to the Complaint, Ms. Stransky sent the letter by U.S. Mail to the address the Respondent had provided on his Affidavit of Candidacy form. The letter was returned to Ms. Stransky on November 25, 2014, as undeliverable.⁶

On November 21, 2014, Ms. Stransky sent an e-mail to the Respondent and again notified him of his failure to file the required certification of filing form.⁷ Ms. Stransky attached a copy of the form to the e-mail.⁸ To date, the City of Cottage Grove has not received the certification of filing form or any response from the Respondent.

Because Minn. Stat. § 211A.05 requires candidates or committee treasurers to certify to the appropriate filing officer that all financial reports required by section 211A.02 have been submitted, **or certify that the candidate or committee did not receive contributions or make disbursements exceeding \$750**, the allegation that Mr. Erickson has not filed a certification of filing form supports finding a prima facie violation of Minn. Stat. § 211A.05 (2014).

This matter shall proceed to a prehearing telephone conference as ordered. In the event Mr. Erickson files the certification of filing, the Complainant shall immediately notify the Office of Administrative Hearings.⁹

J.M.C.

⁵ *Id.*

⁶ Complaint Ex. B. (The Post Office marked the envelope: "Return to Sender – Attempted – Not Known-Unable to Forward.)

⁷ Complaint Ex. C.

⁸ *Id.*

⁹ Pursuant to Minn. Stat. § 211B.36, subd. 2, a complainant may withdraw a complaint at any time prior to the evidentiary hearing.