

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

David Meisinger,

Complainant,

PROBABLE CAUSE ORDER

v.

Patrick Armon for City Council,

Respondent.

The above-entitled matter came on for a probable cause hearing before Administrative Law Judge Jim Mortenson on September 26, 2016. This matter was convened to consider a campaign complaint filed under the Fair Campaign Practices Act by David Meisinger on September 21, 2016. The probable cause hearing was conducted by telephone conference call. The probable cause hearing record closed on September 26, 2016.

David Meisinger (complainant) appeared on his own behalf and without counsel. Patrick Armon appeared on behalf of Patrick Armon for City Council (respondent).

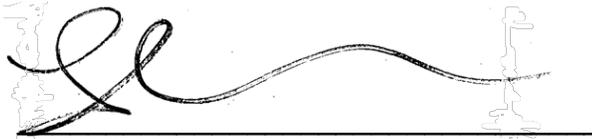
Based upon the record and all the proceedings in this matter, and for the reasons set forth in the attached memorandum incorporated herein, the administrative law judge makes the following:

ORDER

IT IS HEREBY ORDERED THAT:

1. There is probable cause to believe that the respondent violated Minnesota Statutes § 211B.04 (2016) by failing to include a disclaimer in the form required on campaign material.
2. This matter is referred to the chief administrative law judge for assignment to a panel of three administrative law judges, pursuant to Minn. Stat. § 211B.35 (2016).
3. Pursuant to the parties' agreement during the probable cause hearing to waive the evidentiary hearing, this matter shall be submitted to the assigned panel of judges based on the filings and the record created at the probable cause hearing.

4. The parties will be provided an opportunity to submit written argument regarding what penalty, if any, should be imposed if the panel concludes that a violation of Minn. Stat. § 211B.04 occurred.



JIM MORTENSON
Administrative Law Judge

MEMORANDUM

Factual Background

The complaint alleged that the respondent violated Minn. Stat. § 211B04 by failing to include a disclaimer in the required form on its campaign lawn signs and campaign Facebook page (www.facebook.com/PatArmonforWSP/.)

During the probable cause hearing, Mr. Armon admitted that his campaign committee failed to include a disclaimer substantially in the form required by section 211B.04 on his campaign signs and campaign Facebook page. Although the campaign signs have a disclaimer indicating that the signs were paid for by the Armon for City Council campaign committee, the disclaimer lacked an address. Mr. Armon stated that, since the filing of the complaint, he has corrected his Facebook page and all but two of his campaign signs by adding the proper disclaimer. Mr. Armon said he intended to have the final two signs corrected that same day.

The parties agreed during the probable cause hearing to submit this matter on the record to a panel of administrative law judges and waive the evidentiary hearing in the event probable cause was found.

Analysis

Minnesota Statutes § 211B.04 requires a person who participates in the preparation or dissemination of “campaign material” to include the name and address of the person or committee causing the material to be prepared or disseminated.¹ The disclaimer is required to provide the name and address of the candidate’s committee that prepared and paid for the signs and must read substantially as follows: “Prepared and paid for by the _____ committee _____ (address).”² Campaign material is defined in relevant part as any material disseminated for the purpose of influencing voting.³

Respondent’s campaign signs and Facebook page promote Mr. Armon’s candidacy, meet the definition of “campaign material,” and lacked a disclaimer substantially in the form required by Minn. Stat. § 211B.04.

¹ Minn. Stat. § 211B.04(b).

² *Id.*

³ Minn. Stat. § 211B.01, subd. 2 (2016).

Conclusion

Based on the record presented, the administrative law judge concludes that the complainant has demonstrated probable cause to believe that respondent violated Minn. Stat. § 211B.04 with respect to the campaign signs and Facebook page. It is reasonable to allow a panel of three administrative law judges to determine whether the respondent violated Minn. Stat. § 211B.04, and if so, what penalty is appropriate.

An order assigning this matter to a panel of administrative law judges will issue within two weeks. The matter will be submitted to the panel on the record made at the probable cause hearing and the filings. The parties will be given the opportunity to submit written argument concerning what penalty, if any, is appropriate should the panel conclude respondent violated Minn. Stat. 211B.04.

J. R. M.