

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Greg Youmans,

Complainant,

vs.

Bob Chantland,

Respondent.

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

On November 8, 2016, Greg Youmans (Complainant) filed a Fair Campaign Practices complaint with the Office of Administrative Hearings alleging that Bob Chantland (Respondent) violated Minn. Stat. § 211B.04 (2016) by failing to include a disclaimer on campaign lawn signs that he paid for and disseminated on behalf of candidate Michelle Otto.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge pursuant to Minn. Stat. § 211B.33 (2016).

After reviewing the complaint and the documents Complainant submitted in support, and for the reasons set forth in the attached Memorandum, the undersigned Administrative Law Judge finds the complaint does not support a prima facie violation of Minn. Stat. § 211B.04.

**ORDER**

**IT IS ORDERED:**

That the complaint filed by Greg Youmans against Bob Chantland on November 8, 2016 is **DISMISSED**.

Dated: November 10, 2016

  
JEANNE M. COCHRAN  
Administrative Law Judge

## NOTICE

Under Minn. Stat. § 211B.36, subd. 5 (2016), 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-.69 (2016).

## MEMORANDUM

Michelle Otto is running for mayor in the City of Montrose. The complaint alleges that Bob Chantland paid for and placed 12 campaign signs for candidate Otto, which do not include a disclaimer stating who prepared and paid for the signs. The complaint alleges Respondent violated Minn. Stat. § 211B.04 by distributing campaign material without a disclosure that meets the requirements of that statute.

According to the complaint, the candidate was notified by mail by the City of Montrose to correct, by October 24, 2016, any signs which did not bear disclaimer information. The complaint alleges that the signs placed by Chantland were not corrected and remained in place as of November 8, 2016. The complaint states that the signs are on properties that are believed to be owned by Bob Chantland or his son, Sid Chantland, with one exception.

### Standard for Prima Facie Determinations

To establish 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>1</sup> The complaining party must submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minnesota Statutes chapter 211A or 211B (2016).<sup>2</sup>

For purposes of a prima facie determination, the tribunal must accept the facts that are alleged in the complaint as true, without independent substantiation, provided that those facts are not patently false or inherently incredible.<sup>3</sup> 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.<sup>4</sup>

### Disclaimer Requirement

Minnesota Statutes, section 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.<sup>5</sup> 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

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<sup>1</sup> Minn. Stat. § 211B.32, subd. 3 (2016).

<sup>2</sup> *Barry and Spano v. St. Anthony-New Brighton Independent School District 282*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

<sup>3</sup> *Id.*

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

<sup>5</sup> Minn. Stat. § 211B.04(b).

paid for by the \_\_\_\_\_ committee \_\_\_\_\_ (address).”<sup>6</sup> Campaign material is defined in relevant part as any material disseminated for the purpose of influencing voting.<sup>7</sup>

Minnesota Statutes, section 211B.04(e) provides an exemption to the disclaimer requirement for individuals who are not required to register or report under chapter 211A. Chapter 211A governs the campaign financial reporting requirements for those seeking election to county, municipal, and other local offices.

Pursuant to Minn. Stat. 211A.02, only candidates or “committees” that receive or make disbursements of more than \$750 in a calendar year are required to report. For purposes of this statute, “committee” is defined, in relevant part, as “a corporation association or persons acting together to influence the nomination, election, or defeat of a candidate.” Based on this definition, an individual who is not a candidate and who acts alone to promote or defeat a candidate is not a “committee,” and therefore is not required to file campaign finance reports under chapter 211A. Such an individual is also not required to include a disclaimer on campaign material, under section 211B.04(e).

## **Analysis**

Accepting the facts alleged in the complaint as true, the Administrative Law Judge concludes that the complaint fails to set forth a prima facie violation of Minn. Stat. § 211B.04. The lawn signs at issue meet the definition of “campaign material” and are required to “prominently include” a disclaimer “substantially in the form” provided in Minn. Stat. § 211B.04(b) unless an exemption applies. Here the facts alleged in the complaint demonstrate that the exemption in Minn. Stat. § 211B.04(e) applies. The complaint alleges that the lawn signs at issue were paid for and disseminated solely by Respondent, Bob Chantland. There is no allegation that Mr. Chantland was working as part of a committee for Ms. Otto or that he is a candidate himself. Based on the facts alleged, the exemption set forth in section 211B.04(e) applies to Respondent, and the lawn signs in question are not subject to the disclosure requirements of section 211B.04.

The complaint filed by Greg Youmans against Bob Chantland is dismissed in its entirety.

**J. M. C.**

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<sup>6</sup> *Id.*

<sup>7</sup> Minn. Stat. § 211B.01, subd. 2.