OAH 71-0325-40421

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Corey Wright,

Complainant,

v.

Julie Laitala,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR DISMISSAL

This matter came before the following panel of Administrative Law Judges: Jessica A. Palmer-Denig (Presiding Judge), Barbara Case, and Kimberly Middendorf (collectively, the Panel), on December 4, 2024, to consider a Fair Campaign Practices Complaint (Complaint) filed on November 4, 2024. The parties agreed to waive an evidentiary hearing and to have the Panel make its final determination based upon the underlying record and final argument submitted in writing by December 2, 2024. The record closed on December 2, 2024.

STATEMENT OF THE ISSUES

1. Did Complainant demonstrate by a preponderance of the evidence that Respondent violated Minn. Stat. § 211B.04 (2024) by failing to include disclaimers on campaign material?

2. If so, what penalty is appropriate?

SUMMARY OF CONCLUSIONS

Complainant did not establish by a preponderance of the evidence that Respondent violated Minn. Stat. § 211B.04. Therefore, this matter is dismissed.

Based on the record and proceedings herein, and for the reasons explained in the accompanying Memorandum, the undersigned panel of Administrative Law Judges makes the following:

FINDINGS OF FACT

1. Respondent ran for a seat on the Independent School District No. 31 School Board in the general election held on November 5, 2024.[1]

2. Respondent promoted her campaign by using two different types of signs.[2] Respondent used a few signs that she retained from a prior election cycle.[3] Respondent's father also purchased additional campaign signs for Respondent to distribute.[4]

3. None of Respondent's signs included a complete disclaimer identifying who prepared and paid for the signs.[5] One sign lacks a disclaimer entirely.[6] The second sign states that it was paid for by Richard Chernugal, but the sign does not state who prepared the materials, nor does the sign contain an address.[7] Respondent admits that the campaign signs lacked a full disclaimer.[8]

4. Complainant filed the Complaint in this matter on November 4, 2024, alleging that Respondent violated Minn. Stat. § 211B.04.[9]

5. In response to the direction on the complaint form to "[e]xplain in detail why you believe the Respondent has violated Minnesota Statutes Chapters 211A or 211B," Complainant stated "[n]o disclaimer or incomplete disclaimer on various signs she has distributed around the district."[10] The Complaint included images of both types of signs distributed in support of Respondent's campaign.[11]

6. By Order dated November 7, 2024, the Administrative Law Judge found that the Complaint alleged a prima facie violation of Minn. Stat. § 211B.04.[12]

7. The Administrative Law Judge held a probable cause hearing on November 20, 2024.[13] By Order dated November 25, 2024, the Administrative Law Judge found that Complainant established probable cause to believe Respondent violated Minn. Stat. § 211B.04.[14]

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[1] Complaint (Compl.).
[2] *Id.*, Testimony (Test.) of Julie Laitala.
[3] Test. of J. Laitala.
[4] *Id*.
[5] Compl. at 3-4.
[6] *Id.* at 3.
[7] *Id.* at 4.
[8] Test. of J. Laitala.
[9] Compl.
[10] *Id.* at 2.
[11] *Id.* at 3-4.
[12] Notice of Determination of Prima Facie Violation and Notice of and Order for Probable Cause Hearing (Prima Facie Order) (Nov. 7, 2024).
[13] Order on Probable Cause (Probable Cause Order) (Nov. 25, 2024).
[14] *Id.*

8. At the probable cause hearing, the parties submitted testimony and other evidence, and agreed to waive the evidentiary hearing in this matter.[15] Therefore, this matter was submitted to the Panel for a decision based on the Complaint, the record created at the probable cause hearing, and the parties' final written arguments.[16]

9. Respondent submitted a letter for the Panel's consideration.[17] The Office of Administrative Hearings did not receive any final submission from Complainant.

10. Any Conclusion of Law more properly considered to be a Finding of Fact is incorporated herein.

11. Any portion of the accompanying Memorandum that is more properly considered to be a Finding of Fact is incorporated herein.

CONCLUSIONS OF LAW

1. The Panel is authorized to consider this matter pursuant to Minn. Stat. § 211B.35 (2024).

2. Complainant bears the burden to prove by a preponderance of the evidence that a violation of law occurred.[18]

3. The preponderance of the evidence standard requires that, to establish a fact, it must be more probable that the fact exists than that the contrary exists.[19] If the evidence of a fact or issue is equally balanced, that fact or issue has not been established by a preponderance of the evidence.[20]

4. Under Minn. Stat. § 211B.04, subd. 1(a), it is unlawful for a person to participate in the preparation or dissemination of campaign material that does not prominently disclose the person or committee causing the material to be prepared or disseminated when required.

5. Pursuant to Minn. Stat. § 211B.04, subd. 1(b), the required form of disclaimer is: "Prepared and paid for by the _____ committee, _____ (address)" for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the _____ committee, _____ (address), in support of _____ (insert name of candidate or ballot question)" for material prepared and paid for by a person or committee other than a principal campaign committee.

6. Minn. Stat. § 211B.01, subd. 2 (2024), defines "campaign material" to mean "any literature, publication, or material that is disseminated for the purpose of influencing

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[15] Probable Cause Hearing Digital Recording (Nov. 20, 2024) (on file with the Minn. Office Admin. Hearings).
[16] *Id.*
[17] Letter from Respondent to the Panel (Respondent Letter) (Nov. 27, 2024).
[18] Minn. Stat. § 211B.32, subd. 4 (2024).
[19] *City of Lake Elmo v. Metropolitan Council*, 685 N.W.2d 1, 4 (Minn. 2004).
[20] *Id.*

voting at a primary or other election, except for news items or editorial comments by the news media."

7. Respondent's campaign signs are campaign material within the meaning of Minn. Stat. § 211B.01, subd. 2.

8. Minn. Stat. § 211B.04, subd. 3, provides that certain materials are exempt from the disclaimer requirement. Among the exceptions, Minn. Stat. § 211B.04 "does not apply to an individual or association that is not required to register or report under chapter 10A or 211A."[21]

9. Pursuant to Minn. Stat. § 211A.02 (2024), only candidates or committees that receive campaign contributions or make disbursements of more than $750 in a calendar year are required to file campaign financial reports.

10. Complainant did not establish by a preponderance of the evidence that Respondent received campaign contributions or made campaign disbursements of more than $750 in 2024. Therefore, Complainant did not meet his burden to prove that Respondent's campaign material was required to include a disclaimer.

11. Complainant did not establish by a preponderance of the evidence that Respondent violated Minn. Stat. § 211B.04, subd. 1.

12. Any Finding of Fact more properly considered to be a Conclusion of Law is incorporated herein.

13. Any portion of the accompanying Memorandum that is more properly considered to be a Conclusion of Law is incorporated herein.

Based on the Findings of Fact and Conclusions of Law, and for the reasons stated in the Memorandum below, which is hereby incorporated, the Panel of Administrative Law Judges makes the following:

[21] Minn. Stat. § 211B.04, subd. 3(b).

ORDER

The Complaint in this matter is **DISMISSED**.

Dated: December 10, 2024

JESSICA A. PALMER-DENIG
Presiding Administrative Law Judge

BARBARA CASE
Administrative Law Judge

KIMBERLY MIDDENDORF
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 211B.36, subd. 5 (2024), this is the final decision in this case. Under Minn. Stat. § 211B.36, subd. 5, a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-.69 (2024).

MEMORANDUM

Under the Fair Campaign Practices Act, it is unlawful to prepare or disseminate most types of campaign material without prominently disclosing the name and address of the person or committee causing the material to be prepared or disseminated.[22] "Campaign material" is defined as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election.[23]

Minn. Stat. § 211B.04 provides, however, that certain campaign material is not subject to the disclaimer requirement. Under one of the exceptions, the statute does not apply to an individual or association that is not required to file campaign financial reports.[24] Pursuant to Minn. Stat. § 211A.02, only candidates or committees that receive

[22] Minn. Stat. § 211B.04, subds. 1(a), (b), 3.
[23] Minn. Stat. § 211B.01, subd. 2.
[24] Minn. Stat. § 211B.04, subd. 3(b).

contributions or make disbursements of more than $750 in a calendar year are required to make such reports.

During the earlier stages of this case, the Presiding Administrative Law Judge found that the Complaint established a prima facie violation of the law, and that the evidence was sufficient to find probable cause existed and to hold further proceedings.[25] These were preliminary determinations, and the evidentiary standard that must be applied in reaching a final determination on the merits differs substantially from the standards that applied during those earlier phases.[26] In making a final determination, the Panel must consider whether a preponderance of the evidence in the record establishes that a violation of law occurred.[27] Based upon the entire record, the facts must show that it is more likely than not that Respondent violated Minn. Stat. § 211B.04 by failing to include disclaimers on her campaign material.[28]

While Respondent's signs qualify as campaign material, Complainant has not established that Respondent was required to include a disclaimer on the signs. The Complaint alleged that Respondent's signs did not include a disclaimer, or had a disclaimer that was incomplete. The record establishes that this is true. But the Complaint did not contain any allegations regarding whether Respondent received or disbursed sufficient funds in connection with her campaign to meet the reporting requirements, and thereby become subject to the disclaimer requirement. Complainaint did not offer additional evidence on this point during the probable cause hearing and did not file any final argument for the Panel's consideration.

Respondent acknowledges that the signs did not contain a disclaimer in the form provided in Minn. Stat. § 211B.04. She argues, however, that she used five signs left over from a 2022 campaign for the same office, and that her father paid $651.00 for 50 signs that he ordered.[29] Respondent argues that the total expenses of her campaign were just $741.00.[30] Complainant did not offer any evidence on this point, so there is nothing in the record to contradict Respondent's position.

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[25] *See* Prima Facie Order, Probable Cause Order.

[26] When making a prima facie determination, the judge must accept the facts that are alleged in a complaint as true, without independent substantiation. *Barry v. St. Anthony-New Brighton Indep. Sch. Dist. 282*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010). At the prima facie stage, a respondent has not yet had an opportunity to participate in the case. If the matter advances to a probable cause hearing, the judge must determine whether there is sufficient initial evidence to demonstrate that a violation of law occurred and that further proceedings are warranted. *See Weinberger v. Maplewood Review*, 668 N.W.2d 667, 664 (Minn. 2003) ("[I]n civil cases probable cause constitutes a bona fide belief in the existence of the facts essential under the law for the action and such as would warrant a person of ordinary caution, prudence and judgment, under the circumstances, in entertaining it") (quoting *New England Land Co. v. DeMarkey*, 569 A.2d 1098, 1103 (Conn. 1990)) (internal punctuation omitted); *see also State v. Florence*, 239 N.W.2d 892, 903-04 (Minn. 1976) (explaining operation of probable cause standard in criminal context).

[27] Minn. Stat. § 211B.32, subd. 4.

[28] *City of Lake Elmo*, 685 N.W.2d at 4.

[29] Respondent Letter.

[30] *Id*.

The record contains no evidence showing that Respondent received contributions or made disbursements of over $750 in connection with her campaign in 2024. Complainant has not established that Respondent's campaign signs were required to include a disclaimer.[31] Therefore, the record does not support finding a violation of Minn. Stat. § 211B.04.

J. P. D., B. J. C., K. J. M.

[31] The Panel notes that Respondent may wish to include a full disclaimer on her campaign signs if she runs for office again. Once a candidate reaches the $750 threshold requiring reporting, campaign signs that do not include a disclaimer would run afoul of Minn. Stat. § 211B.04. Candidates may not be certain whether they will exceed that threshold during a campaign cycle, so including a disclaimer on campaign material at the outset is the safer practice.