

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Jim Martin,

Complainant,

vs.

Minnesota Consortium for Citizens with  
Disabilities,

Respondent.

ORDER FINDING  
NO PRIMA FACIE VIOLATION AND  
DISMISSING COMPLAINT

On October 4, 2010, Jim Martin filed a Complaint with the Office of Administrative Hearings alleging the Minnesota Consortium for Citizens with Disabilities (MCCD) violated Minn. Stat. § 211B.06 by preparing and disseminating false campaign material relating to the Minnesota House District 56A election contest.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on October 4, 2010, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint was sent by United States mail to the Respondent on October 4, 2010.

After reviewing the Complaint and the attached documents, and for the reasons set out in the attached Memorandum, the Administrative Law Judge finds that the Complaint fails to set forth a *prima facie* violation of Minn. Stat. § 211B.06.

**ORDER**

**IT IS ORDERED:**

That the Complaint filed by Jim Martin against the Minnesota Consortium for Citizens with Disabilities is DISMISSED.

Dated: October 6, 2010

/s/ Manuel J. Cervantes  
MANUEL J. CERVANTES  
Administrative Law Judge

## NOTICE

Under Minn. Stat. § 211B.36, subd. 5, 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 to 14.69.

## MEMORANDUM

The Complainant, Jim Martin, is a candidate for Minnesota House of Representatives District 56A in the November 2010 election. Mr. Martin is not affiliated with any political party. The Respondent, MCCD, is a coalition of organizations that advocates on behalf of people with disabilities.

According to the Complaint, Respondent MCCD advertised on its website that it was holding candidate forums throughout September for various Minnesota House and Senate races, and that “all individuals running for state office in a respective district were invited.” The MCCD candidate forum for District 56, which included District 56 Senate candidates and District 56A and 56B House candidates, was held on September 30, 2010.

The Complainant asserts that MCCD did not invite him to participate in the candidate forum. According to the Complaint, when Mr. Martin contacted MCCD about not being invited, he was informed that the forums were limited to “candidates of the recognized parties within Minnesota.”<sup>1</sup> The MCCD explained that it used the Minnesota Secretary of State’s criteria for defining a political party as one that received the support of at least five percent of those polled “in an independent, credible, district-wide professional poll.”<sup>2</sup>

The Complaint contends that by stating on its website that “all individuals running for state office in a respective district” were invited, the MCCD disseminated false campaign material in violation of Minn. Stat. § 211B.06.

Minn. Stat. § 211B.06 provides in relevant part:

A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

Campaign material is “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election.”<sup>3</sup>

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<sup>1</sup> Complaint Ex. 3.

<sup>2</sup> Complaint Ex. 3.

<sup>3</sup> Minn. Stat. § 211B.01, subd. 2.

The Administrative Law Judge concludes that the Complainant's allegation fails to state a *prima facie violation* of Minn. Stat. § 211B.06. The MCCD's website is not "campaign material" within the meaning of Minn. Stat. § 211B.01, subd. 2. It was not prepared and disseminated for the purpose of *influencing* voting. Rather, it was disseminated to promote general public education of the candidates and issues in various Minnesota races.

In addition, the statement, "all individuals running for state office in a respective district were invited," does not refer to the personal or political character or acts of Mr. Martin and was not designed to elect, injure, promote or defeat his candidacy. As such, the statement cannot form the basis of a claim under Minn. Stat. § 211B.06.

Because the Complainant has failed to allege a *prima facie* violation of Minn. Stat. § 211B.06, the Complaint is dismissed.

**M.J.C.**