

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Elizabeth Sletten,

Complainant,

vs.

RECONSIDERATION ORDER

Marvin Koppen,

Respondent.

TO: Parties

The above-entitled matter came on for a probable cause hearing before Administrative Law Judge Richard C. Luis on June 16, 2011, to consider a campaign complaint filed by Elizabeth Sletten on June 13, 2011. The probable cause hearing was conducted by telephone conference call. The record closed on June 16, 2011.

Elizabeth Sletten (Complainant) appeared on her own behalf without counsel. Jack Clinton, Attorney at Law, appeared on behalf of Marvin Koppen (Respondent).

On June 21, 2011, Complainant filed a Petition for Reconsideration. The Petition was timely filed.

Based on the record and all of the proceedings in this matter, and for the reasons stated in the attached Memorandum, the Chief Administrative Law Judge finds that there is no clear error of law and affirms the decision of the Administrative Law Judge.

ORDER

IT IS HEREBY ORDERED that the Complainant has failed to demonstrate that the ALJ in the underlying matter made a clear error of law. Accordingly, the Petition for Reconsideration is DENIED.

Dated: June 23, 2011

s/Raymond R. Krause
RAYMOND R. KRAUSE
Administrative Law Judge

NOTICE OF RECONSIDERATION AND APPEAL RIGHTS

Under Minn. Stat. § 211B.36, subd. 5, this Order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

MEMORANDUM

Minnesota Statutes § 211B.02 False Claim of Support

Minnesota Statutes 211B.02 provides, as follows:

A person or candidate may not knowingly make, directly or indirectly, a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party or party unit or of an organization. A person or candidate may not state in written campaign material that the candidate or ballot question has the support or endorsement of an individual without first getting written permission from the individual to do so.

In order to violate this provision, a person or candidate must *knowingly* make a false claim stating or implying that the candidate has a major political party or party unit's endorsement. The Administrative Law Judge concluded that the Complainant had failed to establish probable cause to believe that Mr. Koppen knowingly made a claim of false endorsement on his website in violation Minn. Stat. § 211B.02.

Mr. Koppen had been endorsed for the previous election. He failed to update his website to clearly state that he had not, as of that point in time, been endorsed for the 2011 election. There was no evidence that he failed to update willfully or had any intent to mislead. The ALJ did not make a clear error of law by finding that Mr. Koppen did not "knowingly make" a false claim of endorsement.

Similarly, the ALJ made no clear error of law by finding that Mr. Koppen was not responsible for the SD 55 DFL website's listing of him or by finding that the listing was, in any case, accurate.

R. R. K.