

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

William A. Hansen,  
Complainant,

vs.

Jason Stone,  
Respondent.

**FINDINGS OF FACT,  
CONCLUSIONS AND ORDER**

The above-entitled matter came on for an evidentiary hearing on October 26, 2005, before a panel of three Administrative Law Judges: Bruce H. Johnson (presiding judge), Richard C. Luis, and Kathleen D. Sheehy. Pursuant to an agreement of the parties, the panel made its determination based on the record created at the October 18, 2005 probable cause hearing. No additional appearance by the parties was made, and the record closed on October 26, 2005.

William Hansen, 3723 East Minnehaha Parkway, Minneapolis, MN 55417, participated in the probable cause hearing on his own behalf ("Complainant").

Jason Stone, 1708 57<sup>th</sup> Street East, Minneapolis, MN 55417, participated in the probable cause hearing on his own behalf ("Respondent").

**NOTICE**

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

**STATEMENT OF THE ISSUES**

1. Did Respondent violate Minn. Stat. § 211B.04 by failing to have a street address listed in the disclaimer on his campaign flyer?
2. Are Respondent's lawn signs "campaign material" within the meaning of Minn. Stat. § 211B.01, subd. 2?
3. If so, did Respondent violate Minn. Stat. § 211B.04(b) by failing to put disclaimers on his lawn signs?
4. What remedy, if any, is appropriate?

Based upon the record and proceedings herein, the undersigned panel of Administrative Law Judges makes the following:

## **FINDINGS OF FACT**

1. Jason Stone is a candidate for the Minneapolis Park and Recreation Board's District 5 Commissioner seat. As part of his campaign, Mr. Stone distributed a campaign flyer, which included the following disclaimer in small print: "PREPARED AND PAID FOR BY THE JASON FOR PARKS COMMITTEE, SHIREEN STONE, TREASURER." The disclaimer did not include a street address. The body of the flyer, however, included a picture of Mr. Stone along with his telephone number, email address and web site.<sup>1</sup>

2. The campaign flyer at issue was not widely distributed and was subsequently replaced with a new campaign flyer, which includes a complete disclaimer listing the name and street address of Mr. Stone's campaign committee.<sup>2</sup>

3. Mr. Stone also placed lawn signs promoting his candidacy in the District 5 area.<sup>3</sup> The lawn signs state: "Jason STONE FOR PARK BOARD." Below this statement on the sign is the phrase, "Sierra Club Endorsed." In the right hand corner of some of Respondent's lawn signs is a sticker that reads "Reform Endorsed." At the very bottom of the lawn signs in smaller print is the following disclaimer: "PREPARED AND PAID FOR BY THE JASON FOR PARKS COMMITTEE, SHIREEN STONE, TREASURER." The disclaimer does not include an address.

4. On October 14, 2005, William Hansen filed a complaint with the Office of Administrative Hearings alleging that Mr. Stone violated Minn. Stat. § 211B.04 by failing to have a complete disclaimer on his campaign flyer and lawn signs.

5. On October 17, 2005, Administrative Law Judge Bruce Johnson determined that the complaint set forth a prima facie violation of Minn. Stat. § 211B.04, and by Order dated October 21, 2005, Administrative Law Judge Johnson found that there was probable cause to believe Respondent violated Minn. Stat. § 211B.04.

Based upon the foregoing Findings of Fact, the undersigned panel of Administrative Law Judges makes the following:

## **CONCLUSIONS**

1. The Administrative Law Judges are authorized to consider this matter pursuant to Minn. Stat. § 211B.35.

2. "Campaign material" is defined to mean "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media."<sup>4</sup>

3. Campaign material must "prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in [Minn. Stat. § 211B.04(b) or (c)]."<sup>5</sup>

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<sup>1</sup> Ex. 1.

<sup>2</sup> Ex. 6.

<sup>3</sup> Exs. 2-5.

<sup>4</sup> Minn. Stat. § 211B.01, subd. 2; Minn. Laws 2004 ch. 293, art. 3 § 1.

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

4. The disclaimer requirements of Minn. Stat. § 211B.04(a) and (b) do not apply to “objects stating only a candidate’s name and the office sought, fund-raising tickets, or personal letters that are clearly being sent by the candidate.”<sup>6</sup>

5. Respondent’s lawn signs are “campaign material” and not “objects” within the meaning of Minn. Stat. § 211B.04(e).

6. Respondent violated Minn. Stat. § 211B.04(a) and (b) by failing to include the address of his campaign committee in the disclaimer on his lawn signs.

7. Respondent did not violate Minn. Stat. § 211B.04 with respect to his campaign flyer. Respondent’s partial disclaimer along with his email address substantially complies with the requirements of Minn. Stat. § 211B.04.

8. Pursuant to Minn. Stat. § 211B.35, subd. 2, the panel of Administrative Law Judges may impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.

Based on the record herein, and for the reasons stated in the following Memorandum, the panel of Administrative Law Judges makes the following:

**ORDER**

IT IS HEREBY ORDERED:

1. That by the end of the day on **Wednesday, November 2, 2005**, the Respondent remove his lawn signs or bring them into compliance by adding to the disclaimer his committee’s address as required by Minn. Stat. § 211B.04.

2. That Respondent pay a civil penalty of \$100 by November 28, 2005, for violating Minn. Stat. § 211B.04.<sup>7</sup>

Dated: October 28, 2005

/s/ Bruce H. Johnson  
BRUCE H. JOHNSON  
Presiding Administrative Law Judge

/s/ Richard C. Luis  
RICHARD C. LUIS  
Administrative Law Judge

/s/ Kathleen D. Sheehy  
KATHLEEN D. SHEEHY  
Administrative Law Judge

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<sup>6</sup> Minn. Stat. § 211B.04(e).

<sup>7</sup> The check should be made payable to “Treasurer, State of Minnesota” and sent to the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401.

## MEMORANDUM

Respondent's campaign flyer includes a partial disclaimer that identifies the name of his committee but fails to list a street address. However, the flyer also includes a picture of Mr. Stone along with his telephone number, email address, and web site. The purpose of the disclaimer requirement is to identify who or what committee prepared, disseminated and paid for the campaign material. Here, anyone reading the flyer would know that it was prepared and paid for by the "Jason for Parks Committee" and they would be able to contact Mr. Stone at his email address. The statute only requires substantial compliance with the disclaimer form provided. The panel concludes that an email address is sufficient to substantially comply with the requirement that a disclaimer include an "address." Therefore, by identifying that the flyer was prepared and paid for by his committee and by listing his email address in the body of the flyer, Respondent did substantially comply with the requirements of Minn. Stat. § 211B.04.

Like his campaign flyer, Respondent's lawn signs have a partial disclaimer that fails to include an address. Respondent stated at the probable cause hearing that he attempted to comply with the law and that his failure to include an address in the disclaimer was an inadvertent oversight. Respondent argues, however, that his lawn signs should be viewed as "objects" within the meaning of § 211B.04(e) that do not require a disclaimer. Under the statute, objects "stating only the candidate's name and the office sought" do not require a disclaimer. The panel is not persuaded by this argument. First, the lawn signs state more than just the Respondent's name and the office sought; they also state endorsements from the Sierra Club and "Reform." In addition, unlike objects, such as pencils or other items that presumably have an intrinsic value separate from their promotional message, the signs' only purpose is to promote the candidate and influence voters.<sup>8</sup> Therefore, the panel finds that Respondent's lawn signs meet the definition of "campaign material" and are not "objects" within the meaning of Minn. Stat. § 211B.04(e). As such, they are required to prominently include the name and address of the person or committee that prepared them. By failing to include an address in the disclaimer on the lawn signs, Respondent violated Minn. Stat. § 211B.04(a) and (b).

Having found that the Respondent violated Minn. Stat. § 211B.04, the panel may make one of several dispositions.<sup>9</sup> The panel may issue a reprimand, may impose a civil penalty of up to \$5,000, and may refer the complaint to the appropriate county attorney for criminal prosecution. In this case, the panel has decided to impose a civil penalty of \$100. The lawn signs did have a partial disclaimer that clearly identifies the committee responsible for preparing them and the panel is persuaded that the lack of an address was inadvertent. It is unlikely that voters were confused and Respondent has accepted responsibility for the error. For all of these reasons, the panel concludes that a penalty of \$100 is appropriate.

B.J.H., R.C.L., K.D.S.

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<sup>8</sup> See, *Kalil v. Knutson*, OAH File No. 3-6302-16119-CV (September 10, 2004 Order).

<sup>9</sup> Minn. Stat. § 211B.35, subd. 2.