

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Marvin Koppen,

Complainant,

THIRD NOTICE OF AND ORDER
FOR EVIDENTIARY HEARING

vs.

Maplewood Firefighters Association and
Erik Hjelle,

Respondents.

TO: Jay Benanav, Attorney at Law, Weinblatt & Gaylord PLC, 300 Kellogg Square, 111 East Kellogg Boulevard, St. Paul, Minnesota 55101; and Jill Clark, Attorney at Law, 2005 Aquila Avenue North, Golden Valley, MN 55427; and Maplewood Firefighters Association, 4505 White Bear Parkway, Ste 1200, St. Paul, Minnesota 55110.

On November 2, 2005, Marvin Koppen filed a complaint with the Office of Administrative Hearings alleging that the Respondents violated provisions of Minnesota Statutes Chapters 211A and 211B. On November 3, 2005, Administrative Law Judge Richard C. Luis determined that the complaint set forth a prima facie violations of Minn. Stat. §§ 211B.04, 211B.06, 211B.15, 211A.02, 211A.05, and 211A.12. By Order dated November 10, 2005, the Administrative Law Judge found that there is probable cause to believe that Respondent MFA violated Minn. Stat. §§ 211B.06, 211B.15, subd. 2, and 211A.12, and that Respondent Hjelle violated Minn. Stat. §§ 211B.06 and 211A.12.

By Order dated November 17, 2005, this matter was scheduled for an evidentiary hearing to be held on November 28, 2005. At the request of the Respondents and with the agreement of the Complainant, this matter has been continued to the date and time given below.

THEREFORE, NOTICE IS HEREBY GIVEN that this matter has been reassigned to a panel of three Administrative Law Judges for an evidentiary hearing. The assigned Administrative Law Judges are: Richard C. Luis (presiding Judge), Bruce Johnson and Barbara L. Neilson. The address of the Administrative Law Judges is 100 Washington Square, Suite 1700, 100 Washington Avenue South, Minneapolis, MN 55401-2138. The Administrative Law Judges may be reached at telephone number 612-341-7600 and the Office's fax number is 612-349-2665.

IT IS FURTHER ORDERED AND NOTICE IS HEREBY GIVEN that this matter is scheduled for an evidentiary hearing to be held on **Friday, January 27, 2006, at 9:30 a.m. at the Office of Administrative Hearings.** The parties shall exchange copies of their witness lists and any exhibits they intend to offer at the hearing by 4:30 p.m. on January 23, 2006. The parties shall provide three

copies of their witness lists and three copies of their exhibits to Presiding Judge Richard Luis by 4:30 p.m. on January 23, 2005.

HEARING PROCEDURES

At the evidentiary hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judges. The panel may consider any evidence and argument submitted until the hearing record is closed. The panel may continue a hearing to enable the parties to submit additional testimony. All hearings must be open to the public.

WITHDRAWAL OF COMPLAINT

At any time before an evidentiary hearing begins, a complainant may withdraw a complaint. After the evidentiary hearing begins, however, a complaint filed may only be withdrawn with the permission of the panel.

COSTS

If the panel determines the complaint is frivolous, it may order the complainant to pay the respondent's reasonable attorney fees and to pay the costs of the office in the proceeding in which the complaint was dismissed.

BURDEN OF PROOF

The burden of proving the allegations in the complaint is on the complainant. The standard of proof of a violation of section 211B.06, relating to false statements in paid political advertising or campaign material, is clear and convincing evidence. The standard of proof of any other violation of chapter 211A or 211B is a preponderance of the evidence.

DISPOSITION OF COMPLAINT

At the conclusion of the evidentiary hearing, the panel must determine whether the violation alleged in the complaint occurred and must make at least one of the following dispositions:

- (1) The panel may dismiss the complaint.
- (2) The panel may issue a reprimand.
- (3) The panel may find that a statement made in a paid advertisement or campaign material violated section 211B.06.

- (4) The panel may impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.
- (5) The panel may refer the complaint to the appropriate county attorney.

The panel must dispose of the complaint within three days after the hearing record closes, if an expedited probable cause hearing was required by section 211B.33; or within 14 days after the hearing record closes, if an expedited probable cause hearing was not required by section 211B.33.

JUDICIAL REVIEW

A party aggrieved by a final decision on a complaint filed under section 211B.32 is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Dated: December 6, 2005

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