

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Luke Mielke and Gabrielle Kolb,

Complainant,

ORDER FOR DISMISSAL

vs.

Jacob Frey for Our City,

Respondent.

On June 13, 2025, Luke Mielke and Gabrielle Kolb (Complainants) filed a Fair Campaign Practices Complaint (Complaint) with the Office of Administrative Hearings. The Complaint alleges that Jacob Frey for Our City (Respondent) violated Minn. Stat. §§ 211A.12(a) and 211B.15, subd. 2 (2024).

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge pursuant to Minn. Stat. § 211B.33 (2024). After reviewing the Complaint, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge finds that the Complaint does not establish *prima facie* violations of Minn. Stat. §§ 211A.12(a) and 211B.15, subd. 2.

Therefore, the Administrative Law Judge issues the following:

ORDER

The Complaint is **DISMISSED**.

Dated: June 18, 2025


JESSICA A. PALMER-DENIG
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5 (2024), 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-.69 (2024).

MEMORANDUM

Complainants contend that Respondent violated provisions of Minnesota's Fair Campaign Practices Act, which governs campaign financial reporting and practices relating to elections.¹ Respondent is a campaign committee supporting the re-election of Jacob Frey (Frey) as the mayor of Minneapolis in the election to be held on November 4, 2025.² Complainants allege that Respondent unlawfully coordinated expenditures with a nonprofit called We Love Minneapolis, to the benefit of Frey's campaign.³

I. Complainants' Allegations

Complainants allege that an individual, Andrew Minck (Minck), concurrently serves as both Treasurer for Respondent and Deputy Treasurer for We Love Minneapolis.⁴ Complainants note that Minck incorporated We Love Minneapolis on January 5, 2025.⁵ They allege that Minck filed Frey's 2024 annual candidate campaign financial report on January 31, 2025.⁶ They also point out that Minck is listed as the Deputy Treasurer of the We Love Minneapolis PAC in filings with the Minnesota Campaign Finance and Public Disclosure Board (Campaign Finance Board), and in that role Minck submitted the first quarter 2025 financial report for the We Love Minneapolis PAC to the Campaign Finance Board on April 15, 2025.⁷ Complainants allege that, as a result of Minck's dual roles, expenditures made by We Love Minneapolis were made with "at least the implied consent" of Respondent.

As additional evidence of coordination between the two entities, Complainants allege that another individual, Dana Swindler (Swindler), sent an email to a group that included Frey attaching the strategic plan for We Love Minneapolis.⁸ In her email, Swindler explains that We Love Minneapolis seeks to promote moderate candidates for election to the Minneapolis city council in the wards where seats are currently held by Democratic Socialist Aligned candidates.⁹ In response to a data request made by Complainant Mielke, staff of the Minneapolis City Clerk's office confirmed that the email

¹ Minn. Stat. §§ 211A.01-14, 211B.01-21 (2024).

² Complaint Attachment at 1-2.

³ *Id.* at 1-5.

⁴ *Id.* at 1-3.

⁵ *Id.* at Exhibit (Ex.) 3.

⁶ *Id.* at Exs. 1-2. The campaign financial report presented with the Complaint appears to be a partial filing. The document references an attached sheet, but no attachment was provided with the Complaint.

⁷ Complaint Attachment at Exs. 6-7.

⁸ *Id.* at 2-3, Ex. 4.

⁹ *Id.* at Ex. 4.

was “located in Mayor Frey’s inbox.”¹⁰ Complainants claim that having information about We Love Minneapolis allowed Frey maximize the benefits and effects of both committees’ expenditures and activities.¹¹

Finally, Complainants provide copies of campaign materials issued by both Respondent and We Love Minneapolis related to the Democratic-Farmer-Labor (DFL) caucus held on April 8, 2025.¹² The materials bear disclaimers indicating which committee prepared and paid for them. Some of the We Love Minneapolis campaign materials generally urge voters to attend the DFL caucus and become a delegate, while others support specific Minneapolis city council candidates.¹³ Respondent’s campaign materials urge voters to attend the DFL caucus and support Frey’s re-election as mayor.¹⁴ Complainants allege that these materials are evidence of coordination between the two committees.

Complainants contend that expenditures made by We Love Minneapolis were corporate contributions to Respondent and that Respondent accepted these contributions in violation of Minn. Stat. § 211B.15, subd. 2. Complainants also allege that, by accepting these expenditures as contributions, Respondent exceeded the \$1,000 contribution limit for individual donations, in violation of Minn. Stat. § 211A.12(a).¹⁵

II. Standard of Review for Prima Facie Determinations

Under Minn. Stat. § 211B.33, a complaint alleging a violation of the Fair Campaign Practices Act must undergo a preliminary review in which the assigned judge determines whether the complaint establishes a prima facie case that the law has been violated. If so, further proceedings are held in which the complainant must prove the alleged claims by a preponderance of the evidence.¹⁶ If the complaint does not establish a prima facie case, the complaint must be dismissed.¹⁷ The respondent named in the complaint does not have an opportunity to participate in this part of the process or to refute the facts considered during this preliminary review.

To establish a prima facie violation of the Fair Campaign Practices Act, a complaint must allege sufficient facts to show that a violation of law has occurred.¹⁸ The complaining party must submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.21.¹⁹

For purposes of a prima facie determination, this tribunal must accept the facts that are alleged in the Complaint as true, without independent substantiation, provided

¹⁰ *Id.* at Ex. 5.

¹¹ *Id.* at 2.

¹² *Id.* at Exs. 8-14.

¹³ *Id.* at Exs. 8-12.

¹⁴ *Id.* at Exs. 13-14.

¹⁵ *Id.* at 5.

¹⁶ Minn. Stat. §§ 211B.32, subd. 4, 211B.33, subd. 2(b)-(c) (2024).

¹⁷ Minn. Stat. § 211B.33, subd. 2(a).

¹⁸ Minn. Stat. § 211B.32, subd. 3 (2024).

¹⁹ *Barry v. St. Anthony-New Brighton Indep. Sch. Dist.* 282, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

that those facts are not patently false or inherently incredible.²⁰ In determining whether the Complaint alleges sufficient facts to state a *prima facie* case, reasonable inferences must be drawn in the light most favorable to Complainants.²¹

III. Analysis

IV. Legal Standards

Minn. Stat. § 211B.15. subd. 2(a), prohibits corporate campaign contributions, stating as follows:

A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.

It is a violation of Minn. Stat. § 211B.15, subd. 2(b) for a “political party, organization, committee, or individual” to accept a “contribution or an offer or agreement to make a contribution that a corporation is prohibited from making” under Minn. Stat. § 211B.15, subd. 2(a). For the purposes of Minn. Stat. § 211B.15, subd. 2, a “contribution” includes:

an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.²²

Corporations may lawfully make “independent expenditures.”²³ The definition of this term is imported from a different statute, Minn. Stat. § 10A.01, subd. 18 (2024), which defines an independent expenditure as:

an expenditure expressly advocating the election or defeat of a clearly identified candidate or local candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent or any local candidate or local candidate's agent. An independent expenditure is not a contribution to that candidate or local candidate. An independent expenditure does not include the act of announcing a formal public endorsement of a candidate

²⁰ *Id.*

²¹ *Abrahamson v. St. Louis Cty. Sch. Dist.*, 819 N.W.2d 129, 136 (Minn. 2012).

²² Minn. Stat. § 211B.15, subd. 2(c).

²³ Minn. Stat. § 211B.15, subd. 3.

or local candidate for public office, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under this subdivision.

Minn. Stat. § 211A.12(a) establishes limits on the campaign contributions that candidates may accept. “A candidate or a committee for an office whose territory has population over 100,000 may not accept aggregate contributions made or delivered by an individual or an association, a political committee, political fund, or political party unit in excess of \$1,000 in an election year for the office sought.”²⁴ For the purposes of Minn. Stat. § 211A.12(a), a contribution is “anything of monetary value that is given or loaned to a candidate or committee for a political purpose.”²⁵

V. Alleged Violations

Consistent with the standard of review at this stage of the case, the Administrative Law Judge has accepted Complainants’ allegations as true. Even so, Complainants have not established a *prima facie* violation of Minn. Stat. §§ 211A.12(a) or 211B.15, subd. 2.

Complainants allege that expenditures made by We Love Minneapolis directly benefit Frey’s campaign for mayor and are coordinated expenditures under Minn. Stat. § 10A.176 (2024), which states: “[a]n expenditure described in this section that expressly advocates for the election of the candidate or the defeat of the candidate’s opponent is a coordinated expenditure and is not independent.” The Office of Administrative Hearings does not have jurisdiction to adjudicate allegations of a violation of Minn. Stat. § 10A.176. Jurisdiction over alleged violations of this provision rests with the Campaign Finance Board.²⁶ Further, in the context of Minn. Stat. § 10A.176, “candidate” is defined to mean someone who seeks “nomination or election as a state constitutional officer, legislator, or judge” or that candidate’s principal campaign committee or agent.²⁷ This definition does not include Frey or Respondent.

Complainants maintain that the expenditures made by We Love Minneapolis are tainted by Minck’s dual roles, in which Minck is acting as an agent for both organizations, to Frey’s benefit. Complainants rely on the definition of “agent” found in Minn. Stat. § 10A.175, subd. 2 (2024), which defines an agent as a “person serving during an election segment as a candidate’s chairperson, deputy chairperson, treasurer, deputy treasurer, or any other person whose actions are coordinated.” But the legislature has expressly stated that this definition applies to Minn. Stat. §§ 10A.175-.177 (2024).²⁸ While Minn. Stat. § 211B.15 references definitions found in Minn. Stat. § 10A.01 (2024), it does not incorporate this definition of agent.

²⁴ Minn. Stat. § 211A.12(a).

²⁵ Minn. Stat. § 211A.01, subd. 5.

²⁶ See Minn. Stat. § 10A.022 (2024).

²⁷ Minn. Stat. §§ 10A.01, subd. 10, 10A.175, subd. 3 (2024). There is a definition for “local candidate” found in Minn. Stat. § 10A.01, subd. 10d (2024), that includes a person who seeks nomination or election to a city office, but that definition is not referenced in Minn. Stat. § 10A.175-.177.

²⁸ See Minn. Stat. § 10A.175, subd. 1.

Complainants assert Swindler's email to Frey establishes Frey is coordinating with We Love Minneapolis. Swindler's email was sent to Frey at the City of Minneapolis. While city staff found the email in Frey's inbox, there is no evidence in the record showing Frey solicited the email, opened the email, sent the email to Respondent, or took any other action related to it. Frey's receipt of the email is not evidence that Frey or Respondent accepted unlawful campaign expenditures.

Complainants also assert that campaign materials prepared and paid for by Respondent and We Love Minneapolis evidence unlawful cooperation to support Frey. None of the expenditures made by We Love Minneapolis have supported Frey, however.²⁹ The campaign material prepared and paid for by We Love Minneapolis either generally encourages recipients to attend the DFL's caucus, or promotes candidates for city council.³⁰ Respondent's materials explicitly promote Frey and encourage recipients to participate in the caucus process. The fact that both sets of materials encourage caucus participation is not sufficient to show evidence of coordination.

A prohibited corporate contribution is one made to "promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office."³¹ To establish a *prima facie* violation of Minn. Stat. § 211B.15, subd. 2, on the part of Respondent, Complainants must show that Respondent accepted a contribution from We Love Minneapolis in the form of an expenditure made to promote Frey's election or the defeat of his opponent, that was made with Frey's or Respondent's authorization or express or implied consent, or in cooperation or in concert with Frey or Respondent, or at Frey's or Respondent's request or suggestion.³²

Complainants focus on implied consent, contending that Minck's dual roles mean that he has information about expenditures and strategies for both organizations and that intent regarding the expenditures made by We Love Minneapolis can be imputed to Respondent. Complainants state that Minck's personal knowledge of each organization's finances "inherently means that any expenditure was made with at least the implied consent of Jacob Frey's principal campaign committee or agent."³³ This is a very tenuous connection. But more importantly, the Complaint skips over the first issue, which is whether the expenditure is made to promote or defeat the candidate's election for office. The Complaint does not contain any evidence that expenditures made by We Love Minneapolis have promoted Frey's election or the defeat of his opponent. Without that, Complainants cannot show Respondent accepted a prohibited contribution in violation of Minn. Stat. § 211B.15, subd. 2(b).

The Complaint also does not show that Respondent exceeded the limit for campaign contributions in Minn. Stat. § 211A.12(a). This statute provides an election-year

²⁹ Complaint Attachment at Ex. 7.

³⁰ The only candidates that can be identified in the We Love Minneapolis materials provided by Complainants are Marques Jones (Ward 9), Michael Rainville (Ward 3), and Andrea Young (Ward 5). Complaint Attachment at Exs. 9-10.

³¹ Minn. Stat. § 211B.15, subd. 2(a).

³² Minn. Stat. § 211B.15, subd. 2(c).

³³ Complaint Attachment at 1-2.

limit on contributions “for the office sought.”³⁴ A contribution is something “given or loaned to a candidate or committee.”³⁵ Complainants have not established that the expenditures made by We Love Minneapolis were contributions to Frey’s re-election campaign.

VI. Conclusion

Complainants have not provided a sufficient basis to find a *prima facie* violation of either Minn. Stat. §§ 211A.12(a) or 211B.15, subd. 2, on the part of Respondent. Accordingly, the Complaint is **DISMISSED**.

J. P. D.

³⁴ Minn. Stat. § 211A.12(a).

³⁵ Minn. Stat. § 211A.01, subd. 5.