

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JEREMY CLOUNCH REGARDING THE REED PERKINS FOR SENATE DISTRICT 1 COMMITTEE

On June 29, 2020, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jeremy Clouch regarding the Reed Perkins for Senate District 1 committee. Reed Perkins for Senate District 1 is the principal campaign committee of Reed Perkins, a candidate for Minnesota Senate District 1.

The complaint alleges violations of Minnesota Statutes section 211B.04 due to the failure to include a proper disclaimer on the Perkins committee's website and on an advertisement run via the Perkins committee's Facebook page. The complaint alleges that the website has been available since the spring or early summer of 2019. The complaint includes hyperlinks to cached versions of the Perkins committee's website showing that as of May 4, 2020, the website's home page included the text "Reed Perkins FOR STATE SENATE" as well as an email address and phone number, but did not contain a complete disclaimer. The complaint also includes a screenshot of the Facebook advertisement, which was disseminated from August 10 through August 20, 2019, and included the text "Paid for by Perkins for MN1."

On July 6, 2020, the Board vice chair determined that the complaint alleged a prima facie violation of Minnesota Statutes section 211B.04. On July 10, 2020, Mr. Perkins responded to the complaint. Mr. Perkins stated that Mr. Clouch contacted his committee on June 27, 2020, and the committee's chair then contacted Board staff "to ensure everything that is currently on our website does have all the appropriate disclaimers." The committee's website and Facebook page were modified to include a disclaimer in the format required by statute. Mr. Perkins stated that prior to being modified, the Facebook page contained the committee's email address, phone number, and website address, but not a mailing address. Mr. Perkins explained that the committee paid \$10 for the Facebook advertisement and that it was disseminated to approximately 1,094 users. During the Board meeting held on August 14, 2020, Mr. Perkins appeared before the Board to explain the actions taken to address the issue and to answer any questions.

Analysis

When the Board chair or vice chair makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred. Minn. Stat. § 10A.022, subd. 3 (d). A probable cause determination is not a complete examination of the evidence on both sides of the issue. Rather, it is a determination of whether a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.

If the Board finds that probable cause exists, the Board is required to determine whether the alleged violation warrants a formal investigation, considering the type and magnitude of the alleged violation, the knowledge of the respondent, any benefit to be gained from a formal investigation, the availability of Board resources, and whether the violation has been remedied. Minn. R. 4525.0210, subp. 5. If the Board finds that probable cause exists but does not order a formal investigation, the Board is required to either dismiss the complaint or order a staff review. Minn. R. 4525.0210, subp. 6.

Minnesota Statutes section 211B.04, subdivision 1, requires principal campaign committees to include a disclaimer on campaign material that prominently states “Prepared and paid for by the . . . committee, . . . (address).” Campaign material is defined in Minnesota Statutes section 211B.01, subdivision 2, as “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.” Mr. Perkins acknowledges in his response that the Reed Perkins for Senate District 1 committee did not comply with the disclaimer requirement when it prepared a website and Facebook advertisement that lacked some of the required disclaimer language, including the committee’s address.

Based on the complaint and the response from the Perkins committee there is probable cause to believe that a violation of the disclaimer requirement occurred. However, the Perkins committee has acknowledged the violation and modified its campaign material to include a disclaimer in the required format. The campaign material in question clearly identified the candidate and provided the means to contact the Perkins committee. The Perkins committee registered with the Board in March 2019 and has no prior violations of the disclaimer requirement. The cost of the campaign material in question was minimal. Considering those factors, the Board concludes that a formal investigation is not warranted.

Order:

1. The Board’s executive director is directed to initiate a staff review regarding the allegations contained in the complaint pursuant to Minnesota Rules 4525.0320, for the limited purpose of determining an appropriate civil penalty, if any, because although there is probable cause to believe that a violation occurred, a formal investigation is not warranted.

/s/ Gary Haugen
Gary Haugen, Chair
Campaign Finance and Public Disclosure Board

Date: August 14, 2020