

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF DALE LUECK REGARDING WAGNER (ERIN) FOR MINNESOTA

On November 2, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Dale Lueck regarding Wagner (Erin) for Minnesota. Wagner for Minnesota is the principal campaign committee of Erin Wagner for the seat in the House of Representatives for district 10B.

The complaint alleges the following violations:

1. The committee has been running a radio advertisement that does not include the required disclaimer, in violation of Minnesota Statutes section 211B.04; and
2. A transcript of the radio advertisement is not provided on the campaign's website, in violation of Minnesota Statutes section 10A.38.

Determination:

Minnesota Statutes section 211B.04 requires a disclaimer to be included in any campaign material aired on broadcast media. The required form of the disclaimer is "Paid for by the [name] committee." Campaign material is defined by statute as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election." The complaint included as an attachment a live recording of the radio advertisement. In the advertisement, the candidate states "Please vote for me, Erin Wagner, on November 8th." The advertisement did not contain a disclaimer as recorded.

Minnesota Statutes section 10A.38 states that "A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so." This requirement applies only to candidates who have signed a public subsidy agreement with the Board. Board records show that Erin Wagner signed a public subsidy agreement with the Board for the 2015-2016 election segment. The complaint included a link to the candidate's campaign website. Posted on the website were two transcripts for radio advertisements, neither of which was the advertisement submitted as a recording. The Board has no record of a statement from Erin Wagner setting forth the reasons for not posting a transcript of the subject radio advertisement on her campaign website.

Based on the above analysis, the chair concludes that the allegations and attachments submitted set forth sufficient evidence on which to make a prima facie determination that the complaint states a violation of the disclaimer requirement and the transcript requirement. The complaint should proceed to the probable cause determination stage.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (1), this prima facie determination is made by a single Board member and not by any vote of the entire Board. This prima facie determination does not mean that the Board has commenced, or will commence, an investigation or has made any determination of a violation by any of the individuals or entities named in the complaint.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (2), within 45 days of the date of this determination the Board will make findings and conclusions as to whether probable cause exists to believe the violations alleged in the complaint warrant a formal investigation. The complainant and the respondents named in this prima facie determination will be given an opportunity to be heard by the Board prior to any decision on probable cause.

Until the Board makes a public finding or enters into a conciliation agreement, this matter is subject to the confidentiality requirements of Minnesota Statutes section 10A.022, subdivision 5.

/s/ Daniel Rosen
Daniel N. Rosen, Chair
Campaign Finance and Public Disclosure Board

Date: 11/4/2016