

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

**FINDINGS, CONCLUSIONS, AND
ORDER**

IN THE MATTER OF THE COMPLAINT OF SOREN SORENSEN REGARDING THE 2ND SENATE DISTRICT DFL; TED FISKEVOLD, CHAIR; AND LON ENGBERG, TREASURER

Allegations of the complaint

On May 3, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by Soren Sorensen regarding the 2nd Senate District DFL; Ted Fiskevold, chair of the 2nd Senate District DFL; and Lon Engberg, treasurer of the 2nd Senate District DFL. The complaint alleged the following violations:

1. the 2nd Senate District DFL sent postcards to the endorsing convention delegates and alternates that did not include the required disclaimer in violation of Minnesota Statutes section 211B.04;
2. the 2nd Senate District DFL made an inappropriate charitable contribution of \$1,000 to the Red Lake Political Committee in 2016 in violation of Minnesota Statutes section 211B.12; and
3. the 2nd Senate District DFL's failure to follow the DFL's rules for local party units meant that its endorsements and expenditures were false claims of support in violation of Minnesota Statutes section 211B.02.

On May 15, 2018, the Board chair determined that the complaint did state prima facie violations of the disclaimer and charitable contribution statutes but did not state a prima facie violation of Minnesota Statutes section 211B.02 because that statute is not under the Board's jurisdiction.

In response to the prima facie determination, the party unit states that the post cards contained the statement "Paid for by the SD2 DFL" which, at the time of mailing, the party unit believed was a valid disclaimer. The 2nd Senate District DFL data secretary, chair, and treasurer subsequently attended a 2018 compliance training class conducted by Board staff. The officers state that they now understand the disclaimer requirements, including the need to use the words "prepared by" and to include the party unit's mailing address.

In response to the allegation that the party unit violated Minnesota Statutes section 211B.12, the 2nd Senate District DFL acknowledges that the party unit did donate \$1,000 to the Red Lake Political Education Committee in 2016. The 2nd Senate District DFL states that the treasurer knew that the Red Lake Political Education Committee was not registered with the Board and chose to record the contribution as a charitable contribution. The treasurer did not know that there is a \$100 annual limit on contributions to charities nor that the recipient needs to be organized under section 501(c)(3) of the Internal Revenue Code. Again, the 2nd Senate District DFL data secretary, chair, and treasurer all attended a 2018 compliance training class and state that they now understand the limit on party unit charitable contributions.

On July 11, 2018, the Board made a determination that probable cause existed to believe that the 2nd Senate DFL violated the disclaimer requirement in Minnesota Statutes section 211B.04, and that the

charitable contribution was over the allowed amount in Minnesota Statutes section 211B.12 and ordered an investigation. Respondents made a statement to the Board before the Board issued its decision.

The investigation

In its responses, the 2nd Senate District DFL admits that it caused the postcards to be sent to about 100 delegates without the full required disclaimer. The 2nd Senate District DFL also admits that it made the \$1,000 payment to the Red Lake Political Education Committee in 2016. After the probable cause determination, the chair of the 2nd Senate District DFL contacted the Red Lake Political Education Committee and explained that the \$1,000 donation was not allowed under Minnesota Statutes section 211B.012. The chair states that the Red Lake Political Education Committee has agreed to repay the \$1,000 to the 2nd Senate District DFL.

Analysis

Minnesota Statutes section 211B.04 requires a political party units to include a disclaimer with the committee's name and address on any campaign material that it causes to be prepared or disseminated. Campaign material is any material whose purpose is to influence voting at an election. Minn. Stat. § 211B.01, subd. 2. The Board may impose a civil penalty of up to \$3,000 for a violation of the disclaimer requirement. Minn. Stat. § 10A.34, subd. 4. The 2nd Senate DFL mailed about 100 postcards to delegates of the 2018 2nd Senate DFL endorsing convention that included the time, date, and place for the event. These postcards therefore were mailed for the purpose of influencing voting at an election. Although the postcards had the statement, "Paid for by the SD2 DFL," they did not include the party unit's address. Consequently, the postcards did not contain the disclaimer required by Minnesota Statutes section 211B.04. The Board notes, however, that here, the small number of postcards involved were not sent to the general public and they contained a disclaimer that partially complied with the requirements of Minnesota Statute section 211B.04.

Minnesota Statutes section 211B.12 states that the "[u]se of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement . . . [however] [t]he following are permitted expenditures . . . charitable contributions of not more than \$100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually. The 2nd Senate District DFL made a \$1,000 contribution to Red Lake Political Education Committee in 2016. Red Lake Political Education Committee is not organized under section 501(c)(3) of the Internal Revenue Code. Consequently, the donation to the Red Lake Political Education Committee was not permitted under Minnesota Statutes section 211B.12. Here, the 2nd Senate District DFL chair states that the Red Lake Political Education Committee has agreed to repay the \$1,000 to the party unit.

Findings of fact:

1. The 2nd Senate District DFL caused about 100 postcards to be prepared and disseminated without a complete disclaimer.
2. The purpose of the postcards was to influence the voting at an election by informing delegates of the time, place, and location of the 2018 2nd Senate District DFL endorsing convention. The postcards were not sent to members of the general public, rather they were sent only to the convention delegates.

3. In 2016, the 2nd Senate District DFL made a \$1,000 contribution to the Red Lake Political Education Committee. The Red Lake Political Education Committee is not registered under section 501(c)(3) of the Internal Revenue Code.
4. The 2nd Senate District DFL has worked with the Red Lake Political Education Committee to resolve the issue, and the Red Lake Political Education Committee has agreed to refund the \$1,000.
5. The chair, treasurer, and data secretary of the 2nd Senate District DFL attended compliance training in June 2018 and now understand the requirements of Minnesota Statutes sections 211B.04 and 211B.12.

Based on the foregoing findings of fact, the Board makes the following:

Conclusions of law

1. The 2nd Senate District DFL violated Minnesota Statutes section 211B.04 because the postcards that the party unit caused to be prepared and disseminated to delegates of the endorsing convention were campaign material that did not contain the full required disclaimer.
2. The \$1,000 payment made by the 2nd Senate District DFL to the Red Lake Political Education Committee violated Minnesota Statutes section 211B.12.

Based on the foregoing findings of fact and conclusions of law, the Board issues the following:

Order

1. No civil penalty is imposed against the party unit for the disclaimer violation because the postcards included a partial disclaimer and they were sent only to a very small number of people who were not members of the general public. In addition, the party unit officers have attended compliance training and now understand the disclaimer requirements.
2. The 2nd Senate District DFL is ordered to provide proof to the Board within 60 days of the date of this order that the Red Lake Political Education Committee has refunded the \$1,000 donation to the party unit.
3. If 2nd Senate District DFL does not comply with the provisions of this order, the Board's executive director may bring the matter back before the Board for enforcement.
4. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Carolyn Flynn
Carolyn Flynn, Chair
Campaign Finance and Public Disclosure Board

Date: August 16, 2018