

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF 3B HOUSE DISTRICT REPUBLICAN PARTY OF MINNESOTA
REGARDING THE MARY MURPHY VOLUNTEER COMMITTEE

On November 2, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by the MN HD3B Republicans¹ regarding Representative Mary Murphy. The Mary Murphy Volunteer Committee is the principal campaign committee of Representative Mary Murphy.

The complaint alleges that as of November 1, 2022, the Murphy committee was running radio advertisements without providing a transcript of the advertisements on the campaign's website, in violation of Minnesota Statutes section 10A.38.

On November 9, 2022, the Board's vice chair determined that the complaint states a prima facie violation of the transcript requirement. On December 2, 2022, attorney David Zoll responded to the complaint and Board staff questions on behalf of the Murphy committee. The response stated that the committee purchased three radio advertisements that aired approximately 164 times prior to the general election on November 8, 2022. The response further stated that when the committee became aware of the transcription issue on November 14, 2022, upon receipt of the complaint and prima facie determination, it posted the transcripts to the website even though the general election was over.² Mr. Zoll argued that because Minnesota Statutes section 10A.38 does not include a penalty clause, the committee has acknowledged the violation, and the Board has previously dismissed alleged violations of section 10A.38, this matter should likewise be dismissed.

Analysis

When a Board member designated by the 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

¹ This political party unit is registered with the Board as the 3B House District RPM, Board registration number [20805](#).

² marymurphy3b.com/on-the-air

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.

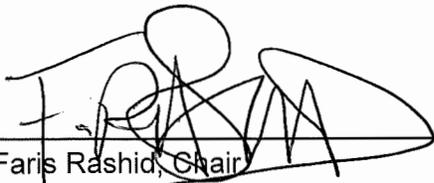
Minnesota Statutes section 10A.38 states that “[a] campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's website a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement 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 Representative Murphy filed a signed public subsidy agreement with the Board for her committee on January 2, 2021, for the 2021-2022 election cycle. The committee ran three radio advertisements approximately 164 times on four stations prior to the 2022 general election and acknowledged that its website did not include transcripts for the committee's radio advertisements until after the general election. Mr. Zoll appeared at the December 15, 2022, Board meeting on behalf of the Murphy committee.

Chapter 10A does not provide for the imposition of a civil penalty for a violation of Minnesota Statutes section 10A.38. The Murphy committee has acknowledged the violation. The Board has limited resources and it is unclear what new information would be gained by conducting a formal investigation. Considering the foregoing factors, the Board concludes that a formal investigation is not warranted, but there is probable cause to believe that the transcript requirement was violated. A staff review is ordered to further the investigation.

Order:

1. Although probable cause exists to believe that the Murphy committee failed to provide a transcript for the subject radio advertisements on its website, in violation of Minnesota Statutes section 10A.38, a formal investigation is not warranted.
2. The Board's executive director is directed to initiate a staff review regarding this matter pursuant to Minnesota Rules 4525.0320 for the purpose of concluding the investigation. If the investigation cannot be resolved, the executive director is directed to prepare findings to resolve this matter or request that the Board dismiss the matter.



Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: 12/15/22