

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF AMBER BUYSMAN REGARDING THE VOEGELI (DWAYNE) 4 HOUSE COMMITTEE

On March 2, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Amber Buysman regarding Dwayne Voegeli, a candidate for Minnesota House of Representatives District 26A. Voegeli (Dwayne) 4 House is the principal campaign committee of Dwayne Voegeli.

The complaint alleges violations of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint includes four photographs depicting each side of a postcard mailer and a handout. The front side of the mailer includes the Voegeli committee's name and address on the top left corner and states "Paid for by Voegeli4house.org" and "Lisa Radtke Treasurer" on the bottom left corner. The back of the mailer includes the committee's phone number and email and website addresses.

The front side of the campaign handout includes the text "Dwayne Voegeli for House 26A" and is written in the first-person perspective of the candidate. The back of the handout includes the text "VOEGELI for House 26A" and very small text that appears to say "Prepared and paid for by Voegeli4house.org." The complaint alleges that the handout was disseminated on February 27, 2024, the evening that precinct caucuses were held by political parties. The complaint alleges that the mailer and handout do not contain the disclaimer required in Minnesota Statutes section 211B.04.

On March 14, 2024, the Board's chair determined that the complaint states a prima facie violation of Minnesota Statutes section 211B.04 with respect to the handout, because the disclaimer printed on the handout appears to be smaller than the required 8-point font size. The Board's chair determined that the complaint does not state a prima facie violation with respect to the mailer because the mailer includes a majority of the required disclaimer text and substantially complies with the requirements of Minnesota Statutes section 211B.04.

On March 27, 2024, the Voegeli committee's treasurer, Lisa Radtke, provided a written response. Ms. Radtke acknowledged that the disclaimer on the handout was printed in a size smaller than 8-point font. Ms. Radtke explained that the committee's volunteers mistakenly believed that the statutory requirement was that the disclaimer text merely be large enough to be legible. When seeking a response from the Voegeli committee, Board staff asked the committee to provide any information indicating that recipients of the handout understood which candidate or committee was responsible for the handout. Within the committee's response, Ms. Radtke stated that the handout clearly referred to a single candidate, Wayne Voegeli, the

vast majority of the handouts were disseminated to individuals who picked them up at the Voegeli committee's table at the precinct caucuses held at Winona Senior High School on February 27, 2024, and the remaining handouts were disseminated by a volunteer wearing a "Voegeli for House 26A" button at a different precinct caucus location in the city of Dakota that same evening. Ms. Radtke said that copies of the handout not disseminated during the precinct caucuses have been discarded. The Board considered this matter at its meeting on April 10, 2024.

Analysis

When the Board 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 there are sufficient facts and reasonable inferences to be drawn therefrom to believe that a violation of law has occurred.

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 generally requires campaign material to contain a disclaimer that identifies the person or campaign committee that prepared or disseminated the material. Minnesota Statutes section 211B.04, subdivision 5, provides that with certain exceptions not applicable to the handout, the disclaimer "must be printed in 8-point font or larger." The Voegeli committee agrees that it inadvertently failed to include a disclaimer on the handout that was printed in at least 8-point font. Based on the complaint and response provided to the Board, there is probable cause to believe that a violation of the disclaimer requirement occurred.

The disclaimer in question appeared on a single piece of campaign literature disseminated on a single evening at precinct caucus locations by volunteers supporting Mr. Voegeli's candidacy. The handout includes at least 10 instances of the name "Voegeli". The front side of the handout is written in the first-person perspective of the candidate and contains a quote from Mr. Voegeli. The back of the handout includes quotes from individuals supporting Mr. Voegeli's candidacy. Each side of the handout contains the text "Voegeli for House 26A" in large print. The purpose of the disclaimer requirement is to identify who prepared, disseminated, and paid for the campaign material. Although the disclaimer was printed in smaller than 8-point font, those who received a copy of the handout likely understood which candidate or committee was responsible for the handout, and the complaint did not include evidence to the contrary.

Mr. Voegeli is an incumbent Winona County Commissioner, elected in 2022, and he previously served two terms as a Winona County Commissioner after having been elected in 2002 and 2006. He is a first-time candidate for the office of state representative. The Voegeli committee registered with the Board in February 2024 and does not have any history of past violations. It is not clear that there would be any benefit to be gained from formal findings rather than informal resolution of the matter. Considering those factors, the Board concludes that a formal investigation is not warranted.

Order:

1. Although probable cause exists to believe that the Voegeli committee disseminated a campaign handout with an improper disclaimer in violation of Minnesota Statutes section 211B.04, 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 by conciliation agreement with the Voegeli committee. If the investigation cannot be resolved by conciliation agreement, the executive director is directed to prepare findings to resolve the matter.



David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: April 10, 2024