

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF LUKE MIELKE REGARDING SAFER HENNEPIN

On February 5, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Luke Mielke regarding Safer Hennepin. Safer Hennepin (30709) is an independent expenditure political fund registered with the Board.

The complaint alleges that voters in Minneapolis Wards 5 and 10 received a mailer from Safer Hennepin that endorsed candidates for Minneapolis city council. The complaint included copies of the mailers which contain a disclaimer that reads “Prepared and paid for by Safer Hennepin, 730 N Washington Ave Ste 427, MPLS, MN 55401” and is followed by the text “MPLS Forward is a Safer Hennepin organization.” Mpls Forward (41347) is a political committee registered with the Board. The complaint states that Safer Hennepin failed to file a 2023 pre-general or year-end report, and Board records confirm that Safer Hennepin has not filed any reports of receipts and expenditures covering 2023.

The complaint also alleges that Safer Hennepin paid for digital advertisements in support of four Minneapolis city council candidates via Mpls Forward. The complaint asserts and provides evidence that the same website address, mplsforward.com, was listed on both the mailers and the digital advertisements. The complaint includes copies of five digital advertisements and estimates for the cost of publishing each advertisement on Meta’s social media platform. The digital advertisements each contained a disclaimer that reads “Paid for by Mpls Forward.” The complaint also states that if the advertisements were not independent expenditures, then they may have been approved expenditures, and the cost of the digital advertisements would have exceeded the \$600 per-candidate contribution limit applicable to Minneapolis City Council candidates. The complaint alleges that Safer Hennepin violated Minnesota Statutes section 10A.01, subdivision 18.

Determination

Minnesota Statutes section 10A.01, subdivision 18, provides the definition of independent expenditure as “an expenditure expressly advocating the election or defeat of a clearly identified candidate or local candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent or any local candidate or local candidate's agent.” That statute section provides a definition of independent expenditures, which is used to determine if advertisements are independent expenditures. Minnesota Statutes section 10A.01 does not provide a reporting requirement for independent expenditures. The complaint therefore does not state a prima facie violation of Minnesota Statutes section 10A.01, subdivision 18.

Minnesota Statutes section 10A.20 pertains to reports that are required to be filed with the Board. Minnesota Statutes section 10A.20, subdivision 7a, states that a political fund “is not required to file any statement or report for a reporting period when the association accepted no contributions into the association’s political fund and made no expenditures from its political fund since the last date included in its most recent filed report.” Safer Hennepin is an independent expenditure political fund. Safer Hennepin was not required to file any reports covering 2023 if it accepted no contributions and made no expenditures in 2023. However, the complaint alleges and provides evidence that Safer Hennepin made expenditures in 2023. Minnesota Statutes section 10A.20, subdivisions 2 and 2a, set forth the due dates for periodic reports of receipts and expenditures. Depending on the timing of any expenditures made in support of the communications referenced in the complaint, Safer Hennepin may have been required to file the 2023 pre-general report, which was due on October 30, 2023, and/or the 2023 year-end report, which was due on January 31, 2024. The complaint therefore states a prima facie violation of the reporting requirements in Minnesota Statutes section 10A.20, subdivisions 2 and 2a.

Minnesota Statutes section 211B.04 requires campaign material to include a disclaimer in the form specified in the statute. Minnesota Statutes section 211B.04, subdivision 2, provides the required form of the disclaimer on a written independent expenditure: "This is an independent expenditure prepared and paid for by (name of entity participating in the expenditure), (address). It is not coordinated with or approved by any candidate nor is any candidate responsible for it." The complaint provided evidence that Safer Hennepin’s disclaimer on the mailers was not in the required form. Specifically, the independent expenditure language and the entire second sentence of the disclaimer was missing. The complaint also provided evidence that the disclaimer on the digital advertisements was not in the required form. Specifically, the address, the independent expenditure language, and the entire second sentence of the disclaimer were missing. The complaint therefore states a prima facie violation of the disclaimer requirements of Minnesota Statutes section 211B.04, subdivision 2.

The complaint states that if the advertisements were not independent expenditures, then the advertisements may be approved expenditures that exceeded the contribution limit for Minneapolis City Council candidates. Minnesota Statutes section 211A.12 provides the contribution limits for local candidates. However, the Board does not have jurisdiction over Chapter 211A, therefore the allegation is not considered in this prima facie determination.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, 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(d), within 60 days of the date of this determination, the Board will make findings and conclusions as to whether probable cause

exists to believe that violations of Minnesota Statutes sections 10A.20 and 211B.04 have occurred and warrant a formal investigation. The complainant and the respondent 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.



David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: February 27, 2024