

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JAKOB INGALLS REGARDING THE COMMITTEE TO ELECT JOSH HEINTZEMAN

On September 16, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jakob Ingalls regarding Representative Joshua Heintzeman, a candidate for Minnesota House of Representatives District 6B. The Committee to Elect Josh Heintzeman is the principal campaign committee of Representative Heintzeman.

The complaint alleges a violation of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint alleges that the committee's Facebook page¹ "lacks a proper disclaimer as it only states, 'Prepared and paid for by the Committee to Elect Josh Heintzeman Candidate for State Representative'." The complaint alleges that the Facebook page was created on or about July 21, 2024. The complaint includes a screenshot of the Facebook page with the partial disclaimer quoted above.

On September 27, 2024, the Board's chair determined that the complaint states a prima facie violation of Minnesota Statutes section 211B.04. On October 21, 2024, the Heintzeman committee's legal counsel, R. Reid LeBeau II, provided a written response. Mr. LeBeau explained that the Heintzeman committee's old Facebook page was removed and replaced by a new page, and in the process of recreating the page the Heintzeman committee did its best to comply with the disclaimer requirement. Mr. LeBeau acknowledged that "as they tried to make adjustments some details may have gotten lost." Mr. LeBeau stated that the committee did not make "an intentional decision to not include the physical address." Mr. LeBeau also asserted that "[c]learly there is no reasonable argument that there was any confusion as to where this came from or who paid for it." On or shortly after October 21, 2024, the Heintzeman committee's Facebook page was updated to display a disclaimer that states:

Prepared and paid for by the Committee to Elect Josh Heintzeman
Candidate for State Representative
P.O. Box 33
Merrifield, MN 56465

During its meeting on November 6, 2024, the Board voted to lay this matter over to its December meeting pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (e), at the request of the Heintzeman committee. The Board considered this matter at its meeting on December 4, 2024. Mr. Ingalls appeared before the Board.

¹ facebook.com/profile.php?id=61563070770280

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 respondents, 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 principal campaign committees to include on their campaign material a disclaimer substantially in the form provided in Minnesota Statutes section 211B.04, subdivision 1. With the exception of broadcast media, campaign material must include a disclaimer in the following format: Prepared and paid for by the [committee name], [address]. “The address must be either the committee's mailing address or the committee's website, if the website includes the committee's mailing address.” Minn. Stat. § 211B.04, subd. 1.

The Heintzeman committee's Facebook page is titled “Josh Heintzeman - Campaign,” contains a profile photo depicting Representative Heintzeman and his spouse, and contains a banner photo depicting Representative Heintzeman and his family. Those elements of the page have not changed since the complaint was filed. The page includes several posts published prior to the complaint being filed that were written from the first-person perspective of Representative Heintzeman.² While the Facebook page is campaign material and requires a disclaimer, there were no paid advertisements ran from that page according to Meta's Ad Library. The page included a partial disclaimer that included the information required by Minnesota Statutes section 211B.04 with respect to who prepared and paid for the page, but did not include the Heintzeman committee's address at the time the complaint was filed. Given those factors, it is unlikely that the lack of disclaimer with an address caused significant confusion as to who prepared and paid for the Facebook page.

The Heintzeman committee registered with the Board in 2014. There is no apparent information or benefit to be gained from issuing formal findings rather than an informal resolution of the

² [facebook.com/pfbid0SCNDZGJ1sK7dAL7HmMr2R5nhFFahYwjpVdpt7feo6NCnygwmT6EvfSd1tcFkDanLI](https://www.facebook.com/pfbid0SCNDZGJ1sK7dAL7HmMr2R5nhFFahYwjpVdpt7feo6NCnygwmT6EvfSd1tcFkDanLI); [facebook.com/watch/?v=1140694897047395](https://www.facebook.com/watch/?v=1140694897047395); [facebook.com/pfbid0dwcsVWL936osG6q3BW6VcJfxu1vK5Hwz1sRoJWPppCKyH9bJXUSJMXWz1Af2Gu5fl](https://www.facebook.com/pfbid0dwcsVWL936osG6q3BW6VcJfxu1vK5Hwz1sRoJWPppCKyH9bJXUSJMXWz1Af2Gu5fl)

matter. Considering those factors, the Board concludes that a formal investigation is not warranted.

Order:

1. Although probable cause exists to believe that the Heintzeman committee prepared and disseminated campaign material without a complete 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. If the staff review establishes that no violation occurred, the staff review must be closed pursuant to Minnesota Statutes section 10A.022, subdivision 3b. If the staff review establishes that a violation occurred, the staff review may be resolved by a conciliation agreement with the Heintzeman committee. If the staff review establishes that a violation occurred and the matter cannot be resolved by conciliation agreement, the executive director is directed to prepare findings to resolve the matter.

/s/ David Asp
David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: December 4, 2024