

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF TROY SCHEFFLER REGARDING THE COMMITTEE TO ELECT JOSH HEINTZEMAN

On September 4, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Troy Scheffler 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 violations of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint alleges that as of the week of July 22, 2024, “homemade” 96-inch by 68-inch signs promoting Representative Heintzeman’s candidacy were displayed at four locations. The complaint includes photographs of those signs and states that they are located on Mill Avenue in Brainerd on a parcel owned by Brainerd Land, LLC (Exhibit 1);¹ on State Highway 210 near Logging Road on Cass County parcel 41-109-4403 (Exhibit 2); on State Highway 371 at its intersection with Northome Lane in Nisswa on Crow Wing County parcel 28250501 (Exhibit 3);² and at the intersection of Garrison Road and Elder Drive in Baxter on Crow Wing County parcel 40070605 (Exhibit 4). The complaint asserts that “[n]one of these signs prominently display any disclaimer as required by” statute.

The signs depicted in Exhibits 1 and 2 include a bumper sticker in the lower right corner. The complaint anticipates that the Heintzeman committee will argue that the

bumper stickers contain the disclaimer. However, this argument is obviously misplaced as the Court of the Appeals roundly agreed,³ as placing a small bumper sticker on an enormous sign is not “prominently” displaying the disclaimer as the disclaimer is contained on and made for a tiny sticker, 3”x 9”, and a “disclaimer” on the sticker [is] 2”x1/4” and not relative to the large sign.

The sign depicted in Exhibit 1 is also partially depicted in Exhibit 8, which appears to be a close-up photograph of the lower right corner of the same sign, at the same location, but with a wooden footer reading “VOTE AUGUST 13TH” removed. Due to the absence of the footer, a hand-written disclaimer is visible in the lower right corner stating “PREPARED AND PAID FOR BY THE COMMITTEE TO ELECT JOSH HEINTZEMAN JOSHHEINTZEMAN.COM”.

¹ [facebook.com/photo?fbid=122099388206435692](https://www.facebook.com/photo?fbid=122099388206435692)

² [facebook.com/photo?fbid=122099388146435692](https://www.facebook.com/photo?fbid=122099388146435692)

³ See *In re the Matter of Troy Kenneth Scheffler (Rosemary Franzen)*, No. A22-1797, 2023 WL 5838817 (Minn. Ct. App. Sept. 11, 2023).

The complaint alleges that photographs of the signs depicted in Exhibits 1 and 3 were posted on the Heintzeman committee's Facebook page. The sign depicted in Exhibit 3 does not display any disclaimer.

The sign depicted in Exhibit 4, like the signs depicted in Exhibits 1 and 2, includes a bumper sticker in the lower right corner. The sign depicted in Exhibit 4 also includes a hand-written disclaimer in the lower left corner stating "Prepared and Paid for by the Committee to Elect Josh Heintzeman JoshHeintzeman.com." The complaint argues that

this disclaimer is not "prominently displayed" as not only is it difficult to notice, it ... is barely legible, and is almost impossible to read and is certainly impossible to read from the street passing by in a vehicle (as there isn't even a sidewalk there; this doesn't exude "prominently displayed").

The complaint argues that Representative Heintzeman was aware of the disclaimer requirement "when placing these signs, for a number of reasons" including a complaint previously filed with the Board regarding the Heintzeman committee's "homemade" signs.⁴

The complaint further alleges that the Heintzeman committee disseminated "commercially manufactured" signs with a disclaimer that is "as obscure and inconspicuous as possible." Exhibit 5 consists of a photograph of a large lawn sign promoting Representative Heintzeman's candidacy, which appears to include a disclaimer printed in one font size, and the committee's website address printed in a larger font size.

Determination

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. "For written communications other than an outdoor sign, website, or social media page, the disclaimer must be printed in 8-point font or larger." Minn. Stat. § 211B.04, subd. 5. While the statute does not specify a minimum font size for disclaimers on outdoor signs, campaign material that requires a disclaimer must "prominently include ... a disclaimer substantially in the form provided in" statute. Minn. Stat. § 211B.04, subd. 1.

⁴ See [Order of Dismissal in the Matter of the Complaint of George Selvestra regarding the Committee to Elect Josh Heintzeman \(Nov. 14, 2022\)](#). The complaint also includes a motion for attorney's fees (Exhibit 6), and a response opposing that motion (Exhibit 7), filed with the Office of Administrative Hearings (OAH) in August 2024 concerning a related matter captioned Zinda v. Heintzeman, OAH File No. 21-0320-40204. Information in these documents was not used in making this prima facie determination.

The purpose of the disclaimer requirement is to identify the entity that paid for, prepared, or disseminated the campaign material. If campaign material includes a disclaimer that is substantially in the form required by statute, and it is visible and legible, the disclaimer is sufficiently prominent and the purpose has been satisfied. A disclaimer on an outdoor sign need not be legible from a significant distance, such as by a passing motorist, in order to be prominently included.

As the complaint acknowledges, the signs depicted in Exhibits 1-2 and 4-5 include a visible disclaimer, and the complaint does not allege that those disclaimers are not substantially in the form required by Minnesota Statutes section 211B.04, subdivision 1. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.04 as to those signs.

The sign depicted in Exhibit 3 does not appear to include a visible disclaimer. The chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 211B.04 as to that sign.

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 a violation of Minnesota Statutes section 211B.04 has occurred and warrants 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: September 12, 2024