

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

**PROBABLE CAUSE  
DETERMINATION**

**IN THE MATTER OF THE COMPLAINT OF SOREN SORENSEN REGARDING MICHAEL NORTHBIRD, GARY FRAZER, AND THE COMMITTEE TO ELECT MICHAEL NORTHBIRD FOR DISTRICT 2A:**

On March 26, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by Soren Sorensen regarding candidate Michael Northbird, committee treasurer Gary Frazer, and the Committee to Elect Michael Northbird for District 2A. The complaint states that the committee does not have the required disclaimer language on its campaign website and Facebook page.

On March 29, 2018, the Board chair concluded that the complaint was sufficient to state a prima facie violation of the disclaimer requirements. The prima facie determination was mailed to the complainant and the respondents on April 2, 2018.

On April 18, 2018, the Board received the committee's response to the complaint. The response describes and documents the candidate's work with a website developer in March 2018 to get a website and domain name set up for the campaign. On March 19, 2018, the domain name for the website was obtained and a page with the logo of the committee went live. By March 26, 2018, the candidate was in discussions with the developer to ensure that the disclaimer would be on the main page of the website and, by April 4, 2018, the website had the disclaimer on the main page and on the donate page. The candidate received the complaint from the Board on April 5, 2018, at which time he changed the Facebook page to include the disclaimer in the About section of his Facebook page. There is no evidence that the treasurer, Gary Frazer, was involved with the website or Facebook page.

On May 2, 2018, the complainant, Mr. Sorensen, appeared before the Board to explain the circumstances related to the complaint.

**Analysis**

The complaint alleges that the website and Facebook page for the candidate's committee do not include a disclaimer in the form required by Minnesota Statutes section 211B.04. Minnesota Statutes section 211B.04 requires candidates to include a disclaimer on all campaign materials that prominently states "Prepared and paid for by the . . . committee, . . . (address)." Campaign material is defined in Minnesota Statutes section 211B.01, subdivision 2, as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media." If the campaign material is produced and disseminated without cost, the words "paid for" may be omitted from the disclaimer.

The committee's website is campaign material. The website's main page includes a logo that states "Michael Northbird for District 2A." This logo shows that the website is a publication disseminated for the purpose of influencing voters in District 2A. The committee's website did not have the disclaimer on the main page; however, the main page only consisted of a logo with the words "Michael Northbird for District 2A" and a donate button. After clicking on the donate button, a website viewer was taken to the donate

page where the appropriate disclaimer was provided. Before it received the complaint, the committee added a disclaimer to the website's main page.

The committee's Facebook page also is campaign material. The Facebook page has various political articles related to the political issues important to the candidate, requests for support at the DFL endorsing convention, articles about his subsequent DFL endorsement for District 2A, and quizzes related to the district, all of which are intended to influence voters in District 2A. Therefore, the committee's Facebook page is not just a personal page, and is instead a page intended to influence the nomination or election of candidate Northbird.

A Facebook page for a candidate that is specifically related to the candidate's campaign is campaign material produced and disseminated to the public and as such is required to have a disclaimer pursuant to Minnesota Statutes section 211B.04. Although a Facebook page is free to create, a committee must still identify that it is responsible for the content of the page by placing a disclaimer on either the cover page or in the About section of the Facebook page. At the time the complaint was filed with the Board, there was a link on the committee's Facebook page to committee's website, which had a disclaimer, but no disclaimer on the Facebook page itself.

On April 5, 2018, the committee added the disclaimer to the candidate's Facebook page in the About section after receiving the complaint. This disclaimer did not comply with the statutory requirement because it did not include the committee's address. After consulting with staff on the disclaimer requirements, the committee modified the disclaimer to include the committee's address. By April 24, 2018, the Facebook disclaimer was in compliance with Minnesota Statutes section 211B.04.

Minnesota Statutes section 10A.022, subdivision 3, paragraph (2), provides that when a member of the Board 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.

When the Board determines that there is probable cause that a violation has occurred, the Board also must determine whether the violation warrants a formal investigation. Minnesota Rules part 4525.0210, subpart 5, provides that the Board must consider the following factors when making this determination:

[T]he type of possible violation; the magnitude of the violation if it is a financial violation; the extent of knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter; the availability of board resources; whether the violation has been remedied; and any other similar factor necessary to decide whether the alleged violation warrants a formal investigation.

Here, the Board concludes that no formal investigation of the disclaimer violation is warranted. Mr. Northbird's response shows that he directed the website designer to comply with the disclaimer requirement for the website, and that the website did in fact include the required disclaimer by the time the complaint was filed. The Facebook page did not include the required disclaimer at the time of the complaint, but now is in compliance with the requirements of Minnesota Statutes section 211B.04. Mr. Northbird's response also discusses that he is a new candidate and is working hard to comply with the requirements of the campaign finance statutes. There is no other evidence relevant to this violation

that could be discovered if the Board were to order a formal investigation. For these reasons, the disclaimer violation in this matter does not warrant a formal investigation.

### **Order**

1. The allegation that treasurer Gary Frazer violated the disclaimer requirements in Minnesota Statutes section 211B.04 is dismissed because there is no evidence that Mr. Frazer was involved with the committee's website or Facebook page.
2. The allegation that candidate Michael Northbird and the Northbird committee violated the disclaimer requirements in Minnesota Statutes section 211B.04, is dismissed because although there is probable cause to believe that this violation occurred, no further investigation is warranted.

/s/ Carolyn Flynn  
Carolyn Flynn, Chair  
Campaign Finance and Public Disclosure Board

Date: May 2, 2018