

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF MARJORIE J. HOLSTEN REGARDING THE MINNESOTANS FOR JULIE BLAHA COMMITTEE

On September 6, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Marjorie J. Holsten regarding State Auditor Julie Blaha, in her role as a candidate for Minnesota State Auditor. Minnesotans for Julie Blaha is the principal campaign committee of State Auditor Blaha.

The complaint alleges that the Blaha committee and State Auditor Blaha participated in the dissemination of campaign materials that did not have the correct disclaimer required by Minnesota Statutes section 211B.04. The complaint alleges that State Auditor Blaha and her campaign committee used a color two-sided brochure for a door-knocking event that did not have the Blaha committee disclaimer, but instead had a disclaimer that states “This is an independent expenditure prepared and paid for by the MN DFL Party, 255 E. Plato Blvd., St. Paul, MN 55107. It is not coordinated with or approved by any candidate nor is any candidate responsible for it.” The complaint provides photographs of both sides of the brochure and a close-up photograph of the disclaimer. The complaint provides a screenshot of a tweet from the Blaha committee’s Twitter account dated August 13, 2022, stating “We’re less than 90 days away from Election Day, which means it is time to mobilize and organize! Auditor Blaha joined volunteers in the Fifth Congressional District to talk to voters and get DFLers elected this fall. To join us for a knock, click below: blahaforauditor.org/pageg”. The complaint also provides a screenshot of a Facebook event page advertising a door-knocking event scheduled for September 10, 2022, in Senate District 35, titled “Doorknock for Education with State Auditor Julie Blaha”.

The complaint provides as evidence three photographs included in the August 13 tweet. In two of the photographs State Auditor Blaha appears to be holding the brochure identified in the complaint as an independent expenditure by the DFL Party. The other photograph is a picture of the brochure placed in a door handle.

The complaint alleges that the Blaha committee coordinated with the DFL Party in the production of the brochure because the brochure states, “Join our campaign at: www.blahaforauditor.com”. The complaint also alleges that the Blaha committee violated Minnesota Statutes sections 10A.17 and 10A.27, which pertain to expenditures and contribution limits, respectively. The complaint references Advisory Opinion 437 issued by the Board in 2014 as the basis for concluding that the brochure “violates the prohibition on independent expenditures in 10A” and that it “must be disclosed as a coordinated expenditure.”

Determination

Disclaimer

Generally, Minnesota Statutes section 211B.04 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 2, paragraph (a), specifically requires a disclaimer on written independent expenditures. Here, the brochure allegedly disseminated by State Auditor Blaha and the Blaha committee during the door-knocking event appears to have included the independent expenditure disclaimer stating that it was prepared and paid for by the MN DFL Party. The complaint provides photographic evidence of State Auditor Blaha disseminating the brochure at the door-knocking event. The chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 211B.04.

Expenditures

Minnesota Statutes section 10A.17, subdivision 4, relates to independent expenditures and requires that a party unit that makes an independent expenditure on behalf of a candidate publicly disclose the expenditure as an independent expenditure by using the disclaimer required by Minnesota Statutes section 211B.04, subdivision 2. Minnesota Statutes section 10A.17, subdivision 5, provides for the imposition of a civil penalty, stating that “[a] person who knowingly violates subdivision 3a or 4 or falsely claims that an expenditure was an independent expenditure is . . . subject to a civil penalty imposed by the board of up to \$3,000.”

The complaint alleges that Minnesota Statutes section 10A.17 was violated by the Blaha committee; however, the brochure appears to have been produced by the Minnesota DFL State Central Committee. If the complainant is alleging that the DFL falsely claimed that the brochure in question was an independent expenditure, then the Blaha committee would not be the correct respondent to the complaint. Investigation of the facts alleged in the complaint may reveal a potential violation by the Minnesota DFL State Central Committee. However, Minnesota Statutes section 10A.022, subdivision 3, provides that when an “investigation reveals other potential violations that were not included in the complaint, the board may investigate the potential violations not alleged in the complaint only after making a determination . . . that probable cause exists to believe a violation that warrants a formal investigation has occurred.” The chair therefore concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.17 against the Blaha committee.

Aggregate Party Unit and Terminating Principal Campaign Committee Limit

Minnesota Statutes section 10A.27, subdivision 2, limits the total aggregate amount that a principal campaign committee may accept from political party units and terminating principal campaign committees to ten times the amount that may be contributed to that candidate by an individual. The aggregate party unit and terminating principal campaign committee contribution

limit for a candidate for state auditor during the 2021-2022 election cycle segment is \$20,000. In 2021, the Blaha committee reported accepting \$900 in contributions from party units and terminating campaign committees. As of the pre-primary report for 2022, the Blaha committee reported accepting \$450 more in contributions from party units and terminating campaign committees. If the brochure in question was not an independent expenditure by the DFL Party and was paid for by the DFL party, then it was a coordinated, approved expenditure for the Blaha committee. An approved expenditure for a candidate is a type of in-kind contribution that counts against the applicable contribution limit. However, the production and distribution costs are unknown at this time and the Blaha committee has significant room to accept more contributions from party units, including the potential value of the brochure at question in the complaint. The chair therefore concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.27 against the Blaha committee.

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, within 45 days of the date of this determination, the Board will make findings and conclusions as to whether probable cause exists to believe that the violation of Minnesota Statutes section 211B.04 alleged in the complaint have occurred and warrant a formal investigation. Although the DFL Party was not specifically named as a responding party to the complaint, complainant's allegations center on a brochure apparently produced by the DFL Party. To further the investigation, the Board will notify both the Blaha committee and the DFL Party of the complaint and gave each an opportunity to respond. The complainant, the Blaha committee, and the DFL Party 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.

A handwritten signature in black ink, appearing to read 'F. Rashid', with a long horizontal flourish extending to the right.

Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: September 19, 2022