

**State of Minnesota  
Campaign Finance and Public Disclosure Board**

**Probable Cause Determination**

**In the matter of the complaint of Erwin Rud regarding the Committee to Elect Mike Moore; Michael Moore; and Ed Lavelle:**

On July 27, 2016, the Minnesota Campaign Finance and Public Disclosure Board received a complaint submitted by Erwin Rud regarding the Committee to Elect Mike Moore; candidate Michael Moore; and committee treasurer Ed Lavelle.

The complaint contained the following allegations: 1) the committee accepted office space and staff services from a corporation in violation of Minnesota Statutes section 211B.15; 2) the committee failed to report its expenditures on its pre-primary-report as required by section 10A.20; 3) the committee failed to include the required disclaimer on its campaign material in violation of section 211B.04; and 4) Mr. Moore and Mr. Lavelle, in their capacities as owner and editor, respectively, of a newspaper, charged higher rates for political advertising for some candidates in violation of Minnesota Statutes section 211B.05, subdivision 2.

At the prima facie determination stage, the Board chair concluded that the complaint was sufficient to state a prima facie violation with respect to the corporate contribution, reporting, and disclaimer allegations. The chair concluded that the Board did not have jurisdiction over violations of Minnesota Statutes section 211B.05, subdivision 2, and therefore dismissed the advertising rates allegation.

On September 6, 2016, the Board received a supplement to the complaint from Mr. Rud that reiterated the allegations listed above and commented on events that had occurred since the complaint was filed.

**Analysis**

Minnesota Statutes section 10A.022, subdivision 3, paragraph (2), provides that 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.

The complaint here first alleges that the building where the committee has its offices is owned by a corporation. The complaint concludes that because the committee's pre-primary-report does not disclose any expenditures, the office space must have been a corporate contribution to the committee in violation of Minnesota Statutes section 211B.15. The complaint also alleges that Mr. Moore and Mr. Lavelle work for a newspaper/printing corporation that has prepared campaign material for the committee. The complaint again concludes that given the lack of any reported expenditures, any services provided by Mr. Moore and Mr. Lavelle in the preparation of that material must have been contributions from the corporation.

In response to the complaint, Mr. Moore has submitted property tax records showing that he and his wife, as individuals, own the building where the committee's offices are located. The committee has amended its report to show that Mr. Moore as an individual has donated office space to the committee and has submitted documentation supporting the value assigned to that space. The committee also has amended its report to show an expenditure to the newspaper for the campaign material prepared for the committee. This expense includes the services provided by Mr. Moore and Mr. Lavelle in the preparation of that material.

Based on the submitted information, the Board concludes that there is no probable cause to believe that the committee accepted any corporate contributions in the form of office space. With respect to the alleged corporate contribution of professional services, the evidence is insufficient to find probable cause to believe that a corporate contribution occurred rather than a reporting error. As the reporting error has been corrected, the Board concludes that no further action is required with respect to this alleged violation.

The complaint next alleges that the committee violated Minnesota Statutes section 10A.20, subdivision 3, by not disclosing all of its contributions and expenditures. The committee's pre-primary-election report of receipts and expenditures did not disclose the in-kind contribution of office space or any expenditures made by the committee. Consequently, there is probable cause to believe that a violation of the reporting requirements has occurred. The committee, however, filed an amended report within ten business days of learning of the omissions. The amended report discloses all of the committee's transactions. Because the reporting violation has been cured through a timely amendment, it does not warrant further investigation.

Minnesota Statutes section 211B.04 requires a candidate committee to include a disclaimer on all campaign material prepared or disseminated by the committee. Campaign material is "any literature, publication, or material . . . disseminated for the purpose of influencing voting at a primary or other election." Minn. Stat. § 211B.01, subd. 2.

The Moore committee prepared two banners, 1,000 lawn signs, and a literature piece used as a handout and mailer. The committee acknowledges that a disclaimer should have been included on the banners and lawn signs and indicates that it has now added a sticker with the proper disclaimer to this material. The committee, however, argues that the literature piece fell into the exception for "personal letters . . . clearly being distributed by the candidate."

Given the acknowledgement by the committee regarding the failure to provide a disclaimer on the banners and lawn signs, there is probable cause to believe that the committee violated the disclaimer requirement when this campaign material was prepared and distributed. A determination as to whether the literature piece required a disclaimer will be made during the investigation of this matter.

## Order

1. The allegation that the Committee to Elect Mike Moore accepted corporate contributions in violation of Minnesota Statutes section 211B.15 is dismissed for lack of probable cause.
2. The allegation that the Committee to Elect Mike Moore violated the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, is dismissed because although there is probable cause to believe that this violation occurred, no further investigation is warranted due to the committee's filing of an amended report.
3. There is probable cause to believe that the Committee to Elect Mike Moore violated the disclaimer requirement in Minnesota Statutes section 211B.04. A staff review is ordered for the purpose of preparing the disclaimer matter, including the civil penalty issue, for final decision at the Board's next meeting.

/s/ Daniel Rosen  
Daniel N. Rosen, Chair  
Campaign Finance and Public Disclosure Board

Date: 9/7/2016