

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF DALE LUECK REGARDING WAGNER (ERIN) FOR MINNESOTA

On November 2, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Dale Lueck regarding Wagner (Erin) for Minnesota. Wagner for Minnesota is the principal campaign committee of Erin Wagner for the seat in the House of Representatives for district 10B.

The complaint alleges that the committee has been running a radio advertisement that does not include the required disclaimer, in violation of Minnesota Statutes section 211B.04. The complaint further alleges that a transcript of the radio advertisement is not provided on the campaign's website, in violation of Minnesota Statutes section 10A.38.

On November 4, 2016, the chair made a determination that the complaint and its attachments stated a prima facie violation of the disclaimer provision and the transcript requirement. On November 15, 2016, the Board received a response letter from the Wagner committee.

Analysis

Minnesota Statutes section 211B.04 requires a disclaimer to be included in any campaign material aired on broadcast media. The required form of the disclaimer is "Paid for by the [name] committee." Campaign material is defined by statute as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election."

The complaint included as an attachment a live recording of the radio advertisement. In the advertisement, the candidate states "Please vote for me, Erin Wagner, on November 8th." The advertisement did not contain a disclaimer as recorded.

Minnesota Statutes section 10A.38 states that "A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so." This requirement applies only to candidates who have signed a public subsidy agreement with the Board.

Board records show that Erin Wagner signed a public subsidy agreement with the Board for the 2015-2016 election segment. The complaint included a link to the candidate's campaign website. Posted on the website were two transcripts for radio advertisements, neither of which was the advertisement submitted as a recording. The Board has no record of a statement from Erin Wagner setting forth the reasons for not posting a transcript of the subject radio advertisement on her campaign website.

In her letter to the Board, Erin Wagner stated that the committee “had forgotten the disclaimer” on the radio ad. She further stated that a “disclaimer [was added] on the ad for the final two days of it running.” Regarding the transcript, Ms. Wagner provided that she “thought that [she] had put the transcript on the website, but with how busy [she] had gotten during the campaign ... [she] had not.” She further stated that “as soon as this was brought to my attention ... [the transcript was] put on [the website] immediately.”

Ms. Wagner also notes that for two of the three radio ads that she ran during the campaign, disclaimers were provided and the transcripts were listed on her campaign website. The third one “inadvertently omitted the disclaimer and the transcript.” She explains that she was “super busy campaigning at this point, this is the first campaign [she had] ever run, and it was an honest mistake.”

Order

1. Probable cause exists to believe that Wagner (Erin) for Minnesota broadcast a radio advertisement without the required disclaimer, in violation of Minnesota Statutes section 211B.04.
2. Probable cause exists to believe that Waner (Erin) for Minnesota failed to provide a transcript for the subject radio advertisement on its website, in violation of Minnesota Statutes section 10A.38.
3. An investigation is ordered. No further discovery will be conducted.
4. 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.

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

Date: January 4, 2017