

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF ANDREW SCHMITZ REGARDING BEST FAIR FOODS

On March 4, 2020, the Campaign Finance and Public Disclosure Board received a complaint submitted by Andrew Schmitz regarding Best Fair Foods. Best Fair Foods is a political fund registered with the Board. Best Fair Foods operates a mini donut stand at the Minnesota State Fair. Proceeds from the sale of donuts at the booth are contributions to the Best Fair Foods political fund.

The complaint states that the individuals purchasing mini donuts at the stand were not informed that their purchase was a political contribution. The complaint from Mr. Schmitz provided photos of the mini donut stand operated by Best Fair Foods during the 2019 Minnesota State Fair, and also included videos of four individuals who stated that they were not verbally informed that they were making a political contribution when they purchased their mini donuts. The photos provided show that there is a notice that states “[p]ursuant to Minn. Stat. § 10A.271 proceeds from the purchase of these products are a political contribution to the Best Fair Foods Committee, which donates profits to better Ramsey County.” The notice is at the bottom of an approximately 8 1/2 by 11-inch piece of paper that also includes the ingredient list of the mini donuts in larger font above the notice. The notice is posted by each of the payment windows of the booth. The complaint alleges that Best Fair Foods violated Minnesota Statutes section 10A.271 due to the failure to disclose to potential customers that the proceeds from the purchase were a political contribution and to whom the contribution was made.

Determination

Minnesota Statutes section 10A.271, subdivision 1 provides that “[a] . . . political fund . . . that raises funds through the sale of goods or services must disclose to potential customers that the proceeds from the purchase are a political contribution and to whom the contribution is made. The notice may be provided verbally at the time of purchase, or through the prominent display of a sign providing notice in immediate proximity to the point of sale at the location where the goods or services are sold.” The statute does provide exceptions for goods or services sold at fund-raising events that require the purchase of a ticket to attend or at events where the main purpose is fundraising; neither exception applies to the situation here.

The complaint provides evidence that verbal notice was not given to customers of the mini donut stand at the time of purchase. The complaint also provides evidence that there was a notice posted at each point of sale for the mini donut stand; however, the complaint alleges that the notice provided was not prominent. Because there is a question as to whether the notice provided at the Best Fair Foods’ mini donut stand was prominently displayed, the chair concludes that the complaint states a prima facie violation of Minnesota Statutes section 10A.271.

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 the violation of Minnesota Statutes section 10A.271 alleged in the complaint warrant 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.

/s/ Robert Moilanen
Robert Moilanen, Chair
Campaign Finance and Public Disclosure Board

Date: March 6, 2020