

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF MARK LIEBOW REGARDING THE MELIN (GARY) FOR MN HOUSE 26A COMMITTEE

On August 10, 2020, the Campaign Finance and Public Disclosure Board received a complaint submitted by Mark Liebow regarding the Melin (Gary) for MN House 26A committee. Melin (Gary) for MN House 26A is the principal campaign committee of Gary Melin, a candidate for Minnesota House District 26A.

The complaint alleged that Gary Melin filed to run for office in 2020 and, according to election officials, he did not file by petition. Therefore, either the Melin committee must have paid the \$100 filing fee or someone must have paid that fee on the committee's behalf. The filing period ended on June 2, 2020, and all the Melin committee's financial activities through July 20, 2020, needed to be disclosed on its pre-primary report of receipts and expenditures. The complaint stated that the Melin committee's pre-primary report, however, declared that the committee had not had any disbursements of any kind during the reporting period. The complaint therefore alleged that the Melin committee violated Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), by omitting the \$100 filing fee from its pre-primary report.

On August 17, the Board chair determined that the complaint alleged a prima facie violation of Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), and the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3. On August 31, 2020, the treasurer for the Melin committee responded by telephone to the complaint. The treasurer stated that he had not known when he filed the pre-primary report that the committee had paid the filing fee because Mr. Melin had handled this expense. After receiving the complaint, the treasurer learned of the filing fee payment. He then filed an amended pre-primary report that includes the filing fee in the committee's unitemized noncampaign disbursements.

Analysis

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. Minn. Stat. § 10A.022, subd. 3 (d). A probable cause determination is not a complete examination of the evidence on both sides of the issue. Rather, it is a determination of whether a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.

If the Board finds that probable cause exists, the Board is required to determine whether the alleged violation warrants a formal investigation, considering the type and magnitude of the alleged violation, the knowledge of the respondent, any benefit to be gained from a formal

investigation, the availability of Board resources, and whether the violation has been remedied. Minn. R. 4525.0210, subp. 5. If the Board finds that probable cause exists but does not order a formal investigation, the Board is required to either dismiss the complaint or order a staff review. Minn. R. 4525.0210, subp. 6.

Minnesota Statutes section 10A.20, subdivision 3, requires a committee to disclose all of its financial activity on its reports to the Board, including in-kind transactions. Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), provides that a person “shall not sign and certify to be true a report or statement knowing it contains false information or knowing it omits required information.” The Melin committee treasurer acknowledged that the committee had paid the \$100 filing fee and that he had omitted this expense from the pre-primary report. The omission, however, was due to the fact that he did not know about the payment when he prepared the report.

Based on the complaint and the response from the Melin committee, there is probable cause to believe that a violation of the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, has occurred. There is no probable cause to believe that there has been a violation of the certification requirements in Minnesota Statutes section 10A.025, subdivision 2, paragraph (b). There is no need for a formal investigation of the reporting violation because the Melin committee has filed an amended report disclosing the \$100 filing fee as an unitemized noncampaign disbursement.

Order

1. The allegation that the Melin (Gary) for MN House 26A committee violated the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, is dismissed without prejudice 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.
2. The allegation that the Melin (Gary) for MN House 26A committee violated the certification requirements in Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), is dismissed without prejudice because there is no probable cause to believe that this violation occurred.

/s/ Gary Haugen
Gary Haugen, Chair
Campaign Finance and Public Disclosure Board

Date: September 9, 2020