

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF LUKE MIELKE REGARDING MPLS FORWARD

On February 5, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Luke Mielke regarding Mpls Forward. Mpls Forward (41347) is a political committee that registered with the Board on November 3, 2023.

The complaint alleges that Mpls Forward paid for digital advertisements in support of four Minneapolis city council candidates. The complaint includes copies of five digital advertisements and estimates for the cost to publish each advertisement on Meta's social media platform. The complaint states, and Board records confirm, that Mpls Forward's 2023 year-end report of receipts and expenditures did not include any approved expenditures or independent expenditures. The complaint also states that if the digital advertisements were not independent expenditures, then they may have been approved expenditures, and the cost of the digital advertisements would have exceeded the \$600 contribution limit applicable to Minneapolis City Council candidates. The complaint alleges that Mpls Forward violated Minnesota Statutes section 10A.01, subdivision 18.

On February 20, 2024, the Board's chair determined that the complaint states a prima facie violation of the reporting requirements within Minnesota Statutes section 10A.20. The chair determined that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.01, subdivision 18, which defines the term "independent expenditure" and does not prohibit any conduct.

Mpls Forward amended its 2023 year-end report on February 22, 2024. Board staff spoke with Mpls Forward regarding what is needed for the amendment on February 29, 2024. On March 8, 2024, Mpls Forward filed an additional amended 2023 year-end report. On March 11, 2024, Mpls Forward responded to the complaint. The response stated that Mpls Forward had "one consultant who handled the ad creation, purchases, and website creation, we mistakenly placed the unpaid bills accrued in 2023 in general expenditures when they should have been specifically itemized in Schedule B3B, Hennepin County Independent Expenditures."

On April 24, 2024, Board staff requested further information from Mpls Forward. On May 8, 2024, Mpls Forward responded. The response stated that Mpls Forward "began as a volunteer project to inform voters and a website was initially developed without the intent to raise or spend money in political races beginning in early-October [2023]. A couple of people who saw the website wanted to contribute to advertisements that would draw voters in certain wards to the website for the purpose of influencing the upcoming city election." Mpls Forward's response also stated that on October 22, 2024, Thruline Consulting was contacted to update the website

and create digital ads for candidates that would direct to the website. The “ads began running on Meta between 10/30 and 11/1 depending on the specific ad.”

The advertisements had the following disclaimer: “Prepared and paid for by Mpls Forward. Mplsforward.com” and linked back to a landing page that, according to Mpls Forward, had a disclaimer that read: “Prepared and paid for by MPLS Forward, PO Box 581923, Minneapolis, MN 55458. Mpls Forward is an independent expenditure and its content is not prepared in coordination with or approved by any candidate nor is any candidate responsible for it.”

Mpls Forward’s amended 2023 year-end report (amendment #2) shows that it had an unpaid bill of \$944 owed to Impact Printing for “Mail Design and Postage” for an independent expenditure for Victor Martinez, who was running for Minneapolis City Council Ward 5. As part of a different complaint against Safer Hennepin, the complainant provided a copy of the independent expenditure mailer for Victor Martinez. The mailer contains a disclaimer that states “Prepared and paid for by Safer Hennepin, 730 N Washington Ave Ste 427, MPLS, MN 55401 MPLS Forward is a Safer Hennepin organization” on one side of the mailer and states “Prepared and paid for by Safer Hennepin MPLS Forward is a Safer Hennepin organization” on the other side of the mailer. Safer Hennepin’s amended 2023 year-end report (amendment #1) does not show any expenditures for a mailer for Victor Martinez.

The Board considered this matter at its meeting on June 5, 2024. Teresa Coryell House appeared before the Board on behalf of Mpls Forward.

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 there are sufficient facts and reasonable inferences to be drawn therefrom to believe that a violation of law has occurred.

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.

Reporting Issues

Minnesota Statutes section 10A.01, subdivision 18, provides the definition of independent expenditure as “an expenditure expressly advocating the election or defeat of a clearly identified

candidate or local candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent or any local candidate or local candidate's agent.” That section provides a definition of independent expenditures, which is used to determine if advertisements are independent expenditures.

Minnesota Statutes section 10A.20 pertains to reports which are required to be filed with the Board. Specifically, Minnesota Statutes section 10A.20, subdivision 3, paragraph (h) requires political committees to report:

the name, address, and registration number if registered with the board of each individual or association to whom aggregate expenditures, approved expenditures, independent expenditures and ballot questions expenditures have been made . . . within the year in excess of \$200, together with the amount, date, and purpose of each expenditure, including an explanation of how the expenditure was used, and the name and address of, and office sought by, each candidate or local candidate on whose behalf the expenditure was made . . . and in the case of independent expenditures made in opposition to a candidate or local candidate, the candidate's or local candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate or local candidate must allocate the expenditure among the candidates and local candidates on a reasonable cost basis and report the allocation for each candidate or local candidate. The report must list on separate schedules any independent expenditures made on behalf of local candidates. . . .

Minnesota Statutes section 10A.20, subdivision 3, paragraph (i) also requires political committees to report “the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.” Mpls Forward’s original 2023 year-end report of receipts and expenditures included no independent expenditures or approved expenditures and did not refer to any of the local candidates shown in the digital advertisements provided with the complaint. The original report instead included a single undated, unpaid, \$5,400 campaign expenditure payable to Thruline Consulting, described as “Mail Consulting/Web Design” . While Mpls Forward has provided amendments, there are still issues to resolve about which committee paid for certain mailers. Therefore, the Board concludes that there is probable cause to believe that Mpls Forward violated the reporting requirements in Minnesota Statutes section 10A.20.

Disclaimer Issues

Minnesota Statutes section 211B.04, subdivision 2, generally requires a committee to include a disclaimer on written independent expenditures that prominently states “This is an independent expenditure prepared and paid for by . . . (name of entity participating in the expenditure), . . . (address). It is not coordinated with or approved by any candidate nor is any candidate responsible for it.” “The address must be either the entity’s mailing address or the entity's website, if the website includes the entity's mailing address.” Minn. Stat. § 211B.04, subd. 2.

The disclaimer included on the digital advertisements stated “Prepared and paid for by Mpls Forward. Mplsforward.com” on the advertisements themselves, but the advertisements each included a hyperlink to a website that contained this disclaimer: “Prepared and paid for by MPLS Forward, PO Box 581923, Minneapolis, MN 55458. Mpls Forward is an independent expenditure and its content is not prepared in coordination with or approved by any candidate now is any candidate responsible for it.” The disclaimer on the website contains a majority of the independent expenditure disclaimer text and substantially complies with the requirements of Minnesota Statutes section 211B.04.

However, the mailer for Victor Martinez that Mpls Forward paid for does not have the required independent expenditure disclaimer. The mailer contains a disclaimer that states “Prepared and paid for by Safer Hennepin, 730 N Washington Ave Ste 427, MPLS, MN 55401 MPLS Forward is a Safer Hennepin organization” on one side of the mailer and states “Prepared and paid for by Safer Hennepin MPLS Forward is a Safer Hennepin organization” on the other side of the mailer. The mailer does not contain any statement stating the mailer is an independent expenditure and that the mailer is not coordinated with or approved by any candidate nor is any candidate responsible for it. Therefore, the Board concludes that there is probable cause to believe that Mpls Forward violated the disclaimer requirement in Minnesota Statutes section 211B.04.

Order

1. Probable cause exists to believe that Mpls Forward violated the reporting requirements in Minnesota Statutes section 10A.20.
2. Probable cause exists to believe that Mpls Forward violated the disclaimer requirements in Minnesota Statutes section 211B.04.
3. An investigation is ordered. If sufficient information is not provided voluntarily, the Board’s executive director may request authority to issue subpoenas pursuant to Minnesota Statutes section 10A.022, subdivision 2, and Minnesota Rules 4525.0500, subpart 6.



David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: June 5, 2024