

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

**PRIMA FACIE
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 contains four allegations. The first is that a corporation has donated office space and staff services to the committee in violation of Minnesota Statutes section 211B.15. The second allegation is that the committee has failed to include the required disclaimer on its campaign material in violation of section 211B.04. The third allegation is that the committee has failed to report its expenditures on its pre-primary-report as required by section 10A.20. The final allegation is that Mr. Moore and Mr. Lavelle, in their capacities as owner and editor, respectively, of a newspaper violated Minnesota Statutes section 211B.05, subdivision 2, which requires rates charged for political advertising to be the same for all candidates and no greater than regular advertising rates.

Determination:

Minnesota Statutes section 211B.15 prohibits corporate contributions to candidates for political office. A contribution is “money, a negotiable instrument, or a donation in kind.” Minn. Stat. § 10A.01, subd. 11. A donation in kind is defined as “anything of value that is given, other than money or negotiable instruments.” Minn. Stat. § 10A.01, subd. 13.

The complainant has provided information showing that the campaign shares office space with a company that is identified as a corporation in a building that is identified as owned by the candidate on his statement of economic interest. Other information provided with the complaint suggests that the committee has not paid anything for this office space. This information is sufficient to state a prima facie violation of the corporate contribution prohibition and/or the requirement that all in-kind contributions be reported.

Minnesota Statutes section 211B.04 requires candidates to put statements of attribution on any campaign material produced by their committees. The information submitted with the complaint shows that campaign material advocating for the election of Mr. Moore and posted in the committee’s headquarters does not include any disclaimer. This information is sufficient to establish a prima facie violation of the disclaimer requirement.

Minnesota Statutes section 10A.20, subdivision 3, requires candidate committees to disclose the name and address of every vendor to whom it has paid or incurred an obligation to pay

more than \$200. The pre-primary-election report of receipts and expenditures filed by the Moore committee does not show any expenditures even though the complaint alleges that committee has a website, lawn signs, and other campaign material. This information is sufficient to state a prima facie violation of the reporting requirement.

Finally, the allegation that the rates charged to Mr. Rud for political advertising violated section 211B.05, subdivision 2, is dismissed because the Board does not have jurisdiction over this provision of Chapter 211B.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (1), 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, paragraph (2), 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 violations alleged in the complaint warrant a formal investigation. The complainant and the respondents 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/ Daniel Rosen
Daniel N. Rosen, Chair
Campaign Finance and Public Disclosure Board

Date: 8/3/2016