

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF RICHARD NOVACK REGARDING DARIO ANSELMO AND STATE OF GREAT MN

On August 10, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by Richard Novack regarding Rep. Dario Anselmo and State of Great MN. The complaint included pictures of an advertisement printed in a local newspaper on August 9, 2018. The advertisement states, "Dario Anselmo Championing Tax Cuts for Edina," and refers to tax provisions that were passed by the Minnesota Legislature in 2017. The ad states that the reader may "Learn More at StateofGreatMN.org." This website lists the Coalition of Minnesota Businesses as the contact for information on State of Great MN.

The complaint first alleges that the advertisement was disseminated by Rep. Anselmo. The complaint claims that the ad therefore should have included a disclaimer from the Anselmo committee and that the Anselmo committee should have disclosed the cost of the ad on its pre-primary report. The complaint alternatively alleges that State of Great MN was responsible for the advertisement. The complaint claims that the advertisement and, possibly, the website therefore should have included an independent expenditure disclaimer and that State of Great MN or its organizers should have disclosed the cost of the ad on a pre-primary report.

Determination:

Minnesota Statutes section 211B.04 requires campaign material produced or disseminated by a candidate's committee to include a disclaimer. In this case, the complaint contains no information to support its allegation that Rep. Anselmo's committee was responsible for, or cooperated with, the preparation or dissemination of the advertisement. Instead, the advertisement suggests that State of Great MN was responsible for the communication. In addition, the website included in the ad does not refer to Rep. Anselmo in any way. Absent any evidence suggesting that Rep. Anselmo or his committee was responsible for or involved with the advertisement, the chair concludes that the complaint does not state a prima facie violation by Rep. Anselmo or his committee of either the disclaimer or the reporting requirements.

Minnesota Statutes section 10A.17, subdivision 4, requires independent expenditures to include a disclaimer. An independent expenditure is a communication "expressly advocating the election or defeat of a clearly identified candidate." Minn. Stat. § 10A.01, subd. 18.

"Expressly advocating" means that a communication clearly identifies a candidate and uses words or phrases of express advocacy.

Minn. Stat. § 10A.01, subd. 16a. The Board has concluded in enforcement actions and advisory opinions that express advocacy requires use of specific words such as "vote for," "elect,"

“defeat,” “reject,” “support,” or very similar words. See *Complaint of Novack Regarding Minnesota Majority* (December 3, 2008); Advisory Opinion 428.

In this case, neither the advertisement nor the website uses any of the specific words of express advocacy. Consequently, neither the advertisement nor the website is an independent expenditure. The chair therefore concludes that the complaint does not state a prima facie violation by State of Great MN or its organizers of the independent expenditure disclaimer or reporting requirements.

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. Based on the above analysis, the chair concludes that the complaint does not state a prima facie violation of Chapter 10A or those sections of Chapter 211B under the Board's jurisdiction. The complaint is dismissed without prejudice.

/s/ Carolyn Flynn
Carolyn Flynn, Chair
Campaign Finance and Public Disclosure Board

Date: August 16, 2018