

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF MICHAEL QUALY REGARDING THE LIBERTARIAN PARTY OF MINNESOTA AND EMILY MELLINGEN

On February 1, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by Michael Qualy regarding the Libertarian Party of Minnesota and Emily Mellingén, the party's candidate in the special election for the seat in senate district 54. The complaint alleges the following violations:

1. The party unit violated the earmarking provisions in Minnesota Statutes section 10A.16 by using a GoFundMe page to solicit and accept contributions with the express or implied condition that the contributions be directed to Ms. Mellingén's campaign.
2. The party unit circumvented the recordkeeping provisions in Chapter 10A and the prohibition against accepting anonymous contributions by not obtaining required address and employer information from people donating through the GoFundMe page.
3. The party unit violated Minnesota Statutes section 211B.04 by not including the words "Prepared and Paid for" and an address in the disclaimer on the GoFundMe page.

Determination:

Minnesota Statutes section 10A.16 provides that a party unit may not solicit or accept a contribution with the express or implied condition that the contribution be directed to a particular candidate other than the initial recipient. The complaint includes screenshots of the GoFundMe page as of January 31, 2018. The language on the GoFundMe page raises questions about whether the solicited contributions are being made directly to Ms. Mellingén's campaign or are instead being made to the party unit, which will in turn use the funds for party unit cash and/or in-kind contributions to Ms. Mellingén's campaign. The vice chair therefore makes the determination that the complaint states a prima facie violation of Minnesota Statutes section 10A.16.

The complaint next alleges that because GoFundMe does not collect address and employer information from donors, the party unit has circumvented the recordkeeping requirements in Chapter 10A by not obtaining address information from 15 people who contributed more than \$20 and employer information from one person who contributed more than \$200. The complaint further alleges that because the party unit did not obtain all required information, the party unit is retaining anonymous contributions in violation of Minnesota Statutes section 10A.15.

As the complaint recognizes, however, GoFundMe collects the name and email address of every contributor and the party unit can use this information to follow up with each contributor to obtain the missing address and employer information when required by Chapter 10A. In addition, Minnesota Statutes section 10A.15, subdivision 3, gives a party unit up to 90 days to

return an anonymous contribution without penalty. The party unit therefore has nearly three months from the date of deposit to obtain the required address and employer information or to return the contribution. Because the 90-day period for returning contributions has not yet expired, the vice chair determines that the complaint does not state prima facie violations of the recordkeeping, anonymous contribution, or circumvention provisions in Chapter 10A.

Finally, the complaint alleges that the GoFundMe page does not include a disclaimer in the form required by Minnesota Statutes section 211B.04. The screenshots of the GoFundMe page show that this page did not include the required disclaimer language or the address of the party unit. The vice chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 211B.04.

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 reporting violation and false certification alleged in the complaint warrants 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/ Margaret Leppik
Margaret Leppik, Vice Chair
Campaign Finance and Public Disclosure Board

Date: February 8, 2018