

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF KENNETH TOOLE REGARDING THE DOUGKERNHOUSE6B COMMITTEE

On July 22, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Kenneth Toole regarding Douglas Kern, a candidate for Minnesota House of Representatives District 6B. DougKernHouse6B is the principal campaign committee of Mr. Kern.

The complaint alleges violations of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint also alleges a violation of Minnesota Statutes section 211B.02, which prohibits false claims of support or endorsement.

The complaint includes a photograph of a banner that appears to have been displayed at a community event and appears to contain the following text:

Vote August 9th 2022 Primary Election
Doug Kern
House District 6B
AMERICA FIRST

The complaint includes a screenshot of a tweet¹ containing a photograph of what appears to be the same, or identical banner, being carried in a parade in Nisswa, Minnesota. The banner displayed in the photographs does not appear to include a disclaimer.

The complaint includes a screenshot of a portion of the Kern committee's website,² which includes a disclaimer stating "Prepared & Paid for by the DougKernHouse6B Campaign Committee." The disclaimer depicted in the screenshot does not include the Kern committee's mailing address.

The complaint includes a screenshot of what appears to be a portion of a Facebook post or email containing the following text:

We will be meeting for the Parade in Mission Township TOMORROW
Morning--Oak Spur Rd in Mission Township at 10:00 to set up. Here is a Link on
how to get there.

¹ twitter.com/CarrieRuud/status/1543779969066754050

² dougkernhouse6b.com

Wear your Trump Shirts/Hats, Rocks & Cows for Trump/Kern will be the theme. Come be bold & Walk or Ride with pride, we are still Blessed to be Free.

<https://goo.gl/maps/6iN6vrBXpK34VQMP7>

I AM RUNNING FOR HOUSE 6B
AND APPRECIATE YOUR VOTE AUGUST 9TH
Doug Kern for House 6B
218-820-2021

DougKernHouse6b@gmail.com

The portion of the text displayed in the screenshot does not include a disclaimer.

The complaint includes photographs of a sign displayed on a vehicle containing the following text:

Doug *** MN HOUSE 6B
KERN
FAITH*LIFE*FREEDOM
AMERICA FIRST POLICIES
AUGUST 9TH PRIMARY
VOTE KERN

The sign depicted in the photographs appears to include a disclaimer printed in very small text stating "PD BY DOUGKERNHOUSE 6B." The disclaimer depicted in the photographs does not include the Kern committee's mailing address or website address.

The complaint includes a photograph of a lawn sign containing the following text:

AUGUST 9th PRIMARY
DOUG *****
KERN
FAITH*FAMILY*FREEDOM*LIFE
MN HOUSE 6B
AMERICA FIRST
PAID BY DOUG KERN HOUSE 6B CAMPAIGN

The disclaimer depicted in the photograph does not include the Kern committee's mailing address or website address.

Lastly, the complaint includes a photograph of a billboard containing a picture of Mr. Kern and the following text:

Thank You Senator Carrie Ruud for Endorsing
AUG 9th DOUG ****
PRIMARY KERN
FAITH • FAMILY • FREEDOM • LIFE
MN HOUSE 6B
AMERICA FIRST

Paid for by Doug Kern
House 6 B

The disclaimer depicted in the photograph does not include the Kern committee's mailing address or website address.

Determination

Minnesota Statutes section 211B.04 requires principal campaign committees to include on their campaign material a disclaimer substantially in the form provided in Minnesota Statutes section 211B.04, subdivision 1. The complaint alleges and provides evidence that the Kern committee prepared or disseminated campaign material that lacked a disclaimer and campaign material that contained a disclaimer that did not include the committee's mailing address or website address. The committee's address is a required component of the disclaimer unless the campaign material is disseminated via broadcast media. The chair therefore concludes that the complaint states a prima facie violation of Minnesota Statutes section 211B.04.

Minnesota Statutes section 10A.022, subdivision 3, authorizes the Board to investigate alleged or potential violations of Minnesota Statutes Chapter 10A as well as Minnesota Statutes sections 211B.04, 211B.12, and 211B.15. Because the Board does not have jurisdiction over Minnesota Statutes section 211B.02, the Chair concludes that the portion of the complaint alleging that the Kern committee violated the prohibition on false claims of support or endorsement does not state a prima facie violation within the investigative authority of the Board.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, 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.

Minnesota Statutes section 10A.022, subdivision 3, requires the Board, within 45 days of the date of this determination, to make findings and conclusions as to whether probable cause exists to believe that the violations of Minnesota Statutes section 211B.04 alleged in the complaint have occurred and warrant 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.

A handwritten signature in black ink, appearing to read 'F. Rashid', written over a horizontal line.

Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: July 29, 2022