

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF DEL JENKINS REGARDING THE STONEWALL DFL POLITICAL ACTION COMMITTEE

On December 23, 2021, the Campaign Finance and Public Disclosure Board received a complaint submitted by Del Jenkins regarding the Stonewall DFL Political Action Committee (Stonewall DFL PAC). The Stonewall DFL PAC is a political committee that registered with the Board in 2019.

The complaint alleges a violation of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint alleges that emails sent from the email address communications@mnstonewalldfl.org are from the Stonewall DFL PAC, and do not contain a disclaimer in the form required by statute that identifies the committee that prepared and paid for the emails. The complaint includes copies of seven emails sent in 2021. The complainant subsequently provided copies of an eighth email dated December 31, 2021, and a ninth email dated January 10, 2022. Five of the emails express support for specific candidates who sought municipal or school board office in Minnesota in 2021. The emails dated December 1 and 31, 2021, do not refer to candidates by name, but seek contributions to the Stonewall DFL PAC and state that in 2022 the committee “will be working to support LGBTQ+ candidates and causes in the Gubernatorial, U.S. House, and various State House and Senate races.” The emails dated December 22, 2021, and January 10, 2022, do not refer to candidates by name, but seek contributions to support the Stonewall DFL PAC’s “work to elect and support LGBTQ+ candidates and causes.” Each email contains a disclaimer stating “Prepared and paid for by the Minnesota DFL Party, Ken Martin, Chair, www.dfl.org, and not authorized by any candidate or candidate’s committee.” Each email includes the Stonewall DFL PAC’s full name and mailing address, displayed several lines below the disclaimer.

On January 6, 2022, the Board chair determined that the complaint alleged a prima facie violation of Minnesota Statutes section 211B.04. On January 28, 2022, the Stonewall DFL PAC’s treasurer, Matt Boston, provided a written response to the complaint. Mr. Boston stated that the committee has modified the disclaimer language used within its emails and on its website to match the format required by statute. The disclaimer displayed on the committee’s website now states “Prepared and paid for by the Stonewall DFL Political Action Committee, PO Box 18032, Minneapolis, MN 55418.” The Board considered this matter at its meeting on February 2, 2022, and representatives of the Stonewall DFL PAC appeared before the Board.

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 a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.

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.

Minnesota Statutes section 211B.04, subdivision 1, generally requires that political committees include a disclaimer on campaign material that prominently states “Prepared and paid for by the . . . committee, . . . (address).” “The address must be either the committee's mailing address or the committee's website, if the website includes the committee's mailing address.” Minn. Stat. § 211B.04, subd. 1. Campaign material is defined in Minnesota Statutes section 211B.01, subdivision 2, as “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.”

Based on the complaint and emails provided to the Board, there is probable cause to believe that a violation of the disclaimer requirement occurred. Each email expressed support for specific candidates who sought municipal or school board office in Minnesota in 2021 or solicited contributions to support the committee’s work to elect candidates. Therefore, the emails were campaign material and were required to include a disclaimer. Each email contained a disclaimer stating that it was prepared and paid for by the “Minnesota DFL Party” rather than the Stonewall DFL PAC, which is an affiliated but distinct entity. The Stonewall DFL PAC is a political committee that has different officers, different membership, a different bank account, different governing documents and procedures, a different mailing address, and a different website address from those of the Minnesota DFL, which is a political party. The disclaimer in each email contained the website address www.dfl.org, which is the website address of the Minnesota DFL, while the website address of the Stonewall DFL PAC is mnstonewalldfl.org. The website www.dfl.org does not appear to contain the Stonewall DFL PAC’s mailing address. The disclaimer in each email also referred to the Minnesota DFL’s chair by name, further making it appear as though the emails were prepared and paid for by the Minnesota DFL rather than the Stonewall DFL PAC.

The Stonewall DFL PAC has acknowledged the violation and modified its campaign material to include a disclaimer in the required format. Given their content, likely audience, and format, including the prominent display of the name Stonewall DFL and its logo throughout the emails, and the fact that the emails were sent from the address communications@mnstonewalldfl.org, it is unlikely that the lack of an accurate disclaimer caused confusion as to who prepared and paid

for the emails. The emails provided recipients with the means to contact the committee by email and included the committee's mailing address and website address, separate from the disclaimer text. The Stonewall DFL PAC has no prior violations of the disclaimer requirement. Considering those factors, the Board concludes that a formal investigation is not warranted.

Order:

1. Although probable cause exists to believe that the Stonewall DFL Political Action Committee prepared and disseminated campaign material lacking a disclaimer substantially in the form required by Minnesota Statutes section 211B.04, a formal investigation is not warranted.
2. The Board's executive director is directed to initiate a staff review regarding the allegations contained in the complaint pursuant to Minnesota Rules 4525.0320 for the purpose of concluding the investigation by conciliation agreement with the Stonewall DFL Political Action Committee. If the investigation cannot be resolved by conciliation agreement, the executive director is directed to prepare findings to resolve the matter.

/s/ Faris Rashid
Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: February 2, 2022