

STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

PRIMA FACIE
DETERMINATION

IN THE MATTER OF THE COMPLAINT OF STEVEN J. TIMMER REGARDING CLAIGAN ENVIRONMENTAL

On March 29, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Steven J. Timmer regarding Claigan Environmental. The complaint alleges a violation of Minnesota Statutes section 10A.03, which requires lobbyists to register with the Board.

The complaint alleges that Claigan Environmental attempted to influence the Minnesota Pollution Control Agency (MPCA) regarding its rulemaking process concerning per-and polyfluoroalkyl substances (PFAS). The complaint includes a copy of a press release from Claigan Environmental dated January 29, 2024, and a letter submitted to the MPCA as a comment to the MPCA rulemaking process by a representative of PCB Piezotronics that references efforts by Claigan Environmental. The complaint alleges that "Claigan Environmental is acting as a lobbyist for unknown principals" and that it should be registered.

The press release provided by the complainant states that Claigan Environmental "announced a strategic project to apply for Currently Unavoidable Use (CCU) exemptions for PFAS in . . . Minnesota." The press release appears to encourage other companies to participate in Claigan Environmental's plan to participate in applying for the CCU exemptions in Minnesota. The comment provided to the MPCA as part of the rulemaking process from PCB Piezotronics states that PCB Piezotronics supports Claigan Environmental's CCU exemption proposal.

On April 1, 2024, the complainant provided a supplemental memorandum to his complaint that provided more information related to his complaint. The supplemental memorandum states that Claigan Environmental has launched a proposal to apply for CCU exemptions for PFAS and encouraged others "to become its clients in the endeavor." The supplemental memorandum alleges that Claigan Environmental's proposal to apply for CCU exemptions for PFAS and their encouragement of other companies is "an effort to influence *rulemaking*" and "is aimed at influencing the way the PCA implements the 'currently unavoidable use' provisions of Minn. Stat. § 116.943 (2023)." The supplemental memorandum provides a link to the comments submitted as part of the rulemaking process and alleges that if you search for the word "Claigan" in the database of comments, there are "234 matches by a variety of industry commenters." The supplemental memorandum alleges that many of the comments include similar language to the PCB Piezotronics comment. The supplemental memorandum also states that Claigan Environmental submitted a comment to the MPCA as part of the rulemaking process. Board staff reviewed the comments, and Claigan Environmental did submit a comment in response to the MPCA's request for public comments.

Determination

Minnesota Statutes section 10A.03, subdivision 1, requires a lobbyist to register with the Board within five days after becoming a lobbyist, or being engaged to represent a new association as a lobbyist. Minnesota Statutes section 10A.01, subdivision 21, defines the term lobbyist, in relevant part, to mean "an individual . . . engaged for pay or other consideration of more than \$3,000 from all sources in any year . . . for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials." Additionally, an individual who is employed by a business whose primary source of revenue is "derived from facilitating government relations or government affairs services if the individual's job duties include offering direct or indirect consulting or advice that helps the business provide those services to clients" will need to register as a lobbyist on behalf of the client that received those services.

The complaint alleges, and the Board's records reflect, that there are no lobbyists registered on behalf of Claigan Environmental. The complaint alleges that Claigan Environmental should be registered as a lobbyist. However, the lobbyist registration requirement in Minnesota Statutes section 10A.03, subdivision 1, applies to individuals, not associations. A complaint alleging a violation of this statute would need to allege that an individual failed to timely register as a lobbyist. The complaint therefore does not state a prima facie violation of Minnesota Statutes section 10A.03.

While not specifically stated in the complaint, the complainant appears to also allege that Claigan Environmental may need to file a lobbyist principal report for attempting to influence rulemaking by the MPCA in 2024. Minnesota Statutes section 10A.01, subdivision 33, defines the term principal to mean an individual or association that:


(1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

If these communications qualified as lobbying, then Claigan Environmental will need to file the lobbyist principal report for 2024, which is due March 17, 2025, if it spends at least \$50,000 "on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units," or if it spends more than \$500 "to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist," in 2024. The complaint includes references to two things that Claigan Environmental did to influence the MPCA rulemaking process: 1) it issued a press release that appears to be a call for other companies comment on the MPCA's PFAS rulemaking; and 2) it submitted a comment to the MPCA. Even if these

actions qualify as attempting to influence administrative rulemaking by the MPCA, whether Claigan Environmental has, or will, spend at least \$50,000 to influence administrative action in Minnesota during 2024, and whether Claigan Environmental will spend more than \$500 to engage a lobbyist in 2024, is unknown to the Board. However, regardless of whether either threshold is reached, a principal cannot be in violation of a filing requirement that has not yet occurred. Therefore, there is no reason to believe that Claigan Environmental has violated Minnesota Statutes section 10A.04, subdivision 6, by failing to file a lobbyist principal report.

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. Based on the above analysis, the Chair concludes that the complaint does not state a prima facie violation of Chapter 10A. The complaint is dismissed without prejudice.



David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: April 10, 2024