

**STATE OF MINNESOTA
CAMPAIGN FINANCE BOARD**
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

**-COMPLAINT-
for Violations of the
Campaign Finance and Public Disclosure Act**

Information about complaint filer (Complainant)

Name: TROY KENNETH SCHEFFLER

Address: 26359 Shandy Trl., Merrifield, MN 56465

Telephone Number: 763-225-7702

Email Address: troyscheffler@gmail.com

Information about the person/entity you are complaining about (Respondent)

Name: Joshua Heintzeman

Title: Minnesota House of Representatives Incumbent 6B and 2024 Candidate

Address: 10180 Tenonizer Trl, Nisswa, MN 56468

Telephone Number: 218-820-5674

Email Address: josh@joshheintzeman.com

Date(s) of violation(s): On or about July 22, 2024 – continuing daily to signing.

Date of election or ballot question: General Election Nov. 5th, 2024.

Elected office or ballot question involved: Minnesota State House of Representative
District 6B

If allowed by law, do you wish to request an expedited probable cause hearing? Yes.

Nature of Complaint

I. Violation of MN Stat. § 211B.04, subd. 1 (Campaign Signs)

211B.04 CAMPAIGN MATERIAL MUST INCLUDE DISCLAIMER.

*§Subdivision 1. Campaign material. (a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not **prominently** include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor. (b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the committee, (address)" for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the committee, (address)" for material prepared and paid for by a person or committee other than a principal campaign committee. The address must be either the committee's mailing address or the committee's website, if the website includes the committee's mailing address. If the material is produced and disseminated without cost, the words "paid for" may be omitted from the disclaimer.*

Within or about the week of July 22nd, 2024, Joshua Heintzeman did erect homemade signs and placed them in numerous locations. Locations personally witnessed by Complainant were located at:

- 1) North Street and Mill Avenue, Brainerd Minnesota (Crow Wing Parcel 42280629 Brainerd Land, LLC – Michael Higgins – Exhibit 1)
- 2) On State Highway 210 near Logging, Rd., Brainerd, MN (Cass County Parcel #41-109-4403 – Russel Heittola - Exhibit 2)
- 3) State Highway 371 at Northome Ln, Nisswa, Minnesota (Crow Wing Parcel 28250501 – William & Betty Mattson – Exhibit 3)
- 4) Garrison Road and Elder Drive, Baxter, Minnesota (Crow Wing Parcel #40070605 – William & Vicky Goers – Exhibit 4)

The known signs have dimensions of 68" x 96".

None of these signs prominently display any disclaimer as required by Minn. Stat. § 211B.04.

Mr. Heintzeman was intimately aware of campaign law, including Minn. Stat. § 211B.04, when placing these signs, for a number of reasons discussed *infra*.

That Heintzeman's commercially manufactured signs otherwise include a *prominently* displayed website address, but also redundantly includes the disclosure at the bottom as his website www.joshheintzeman.com contains the disclosure.

(Exhibit 5)

Although these signs comply with statute due to the website address (containing the full disclaimer), they clearly show that Mr. Heintzeman is aware of the disclaimer statute, but also has a clear inclination to intentionally keep the standard disclaimer as obscure and inconspicuous as possible for fashion purposes (Without the website address, these signs would not comport to statute; much like his bumper stickers). In any event, he is keenly aware and able to prominently display what he wants to, while trivializing what is otherwise mandated by law.

Furthermore, Mr. Heintzeman should know that what is good for the goose is good for the gander. During the 2022 primary, Mr. Heintzeman had his political affiliate, campaign and committee assistant, and donor, Kenneth Toole, file a complaint for violation of 211B.04 against his political opponent Doug Kern. OAH 8-0320-38554. The matter was ultimately dismissed for lack of jurisdiction.

The matter was reraised with this Board and Kern entered a conciliation agreement. *In the matter of the DougKernHouse6B committee* (18902)

Heintzeman subsequently led a coup to have Doug Kern and his wife removed from the Crow Wing County BPOU. This at a time he was subversively campaigning in Shakopee against a fellow sitting Republican House Member, Erik Mortensen. While ignoring his own constituents, Mr. Heintzeman instead was caught on video at Mr. Mortensen's home lying to his wife, not knowing this to be Mortensen's home. <https://alphanews.org/video-legislator-door-knocks-rep-mortensens-home-tells-wife-to-vote-for-his-opponent/>

Heintzeman was also aware at the time of his continued violations that a commissioner candidate during the 2022 election, one he endorsed, Rosemary Franzen, was held accountable by the Office of Administrative Hearings (OAH) for failure to prominently display a disclaimer along with other violations. Mr. Heintzeman and Rosemary Franzen consistently share the same attorney, R. Reid LeBeau II. OAH 71-0325-38723

One of the claims made, the OAH initially dismissed, as Franzen on some signage had disclaimers, but the Complainant argued that they were not prominently displayed.

Complainant appealed and the dismissal was reversed and remanded. *In re the Matter of Troy Kenneth Scheffler*, A22-1797, 2023 (Unpublished). The Court found that “prominently” was material in displaying disclaimers under 211B.04.

Surely, Heintzeman will make argument, as before, that his bumper stickers contain the disclaimer. However, this argument is obviously misplaced as the Court of the Appeals roundly agreed, as placing a small bumper sticker on an enormous sign is not “prominently” displaying the disclaimer as the disclaimer is contained on and made for a tiny sticker, 3”x 9”, and a “disclaimer” on the sticker 2”x1/4” and not relative to the large sign. This microscopic disclaimer is clearly not “prominently displayed” and nowhere near the ratio/scale as he uses on other signs; including the sticker itself (Which has miraculously managed to survive the weather for two years- Relevant below).

On July 24th, 2024, Mr. Heintzeman brazenly posted the signs in controversy onto his Facebook Page, clearly showing that he lacked prominently displayed disclaimers.

Exhibit 1 is represented on:

<https://www.facebook.com/photo?fbid=122099388206435692&set=pcb.122099388314435692>

Exhibit 3 is represented on:

<https://www.facebook.com/photo?fbid=122099388146435692&set=pcb.122099388314435692>

II. Intentional Disregard for the Law and Perjury with This Board

That on 08/09/2024, following a Prima Facie Determination of Probable Cause by the Office of Administrative Hearings for largely the same violations as made in this instant matter, *Matthew Eric Zinda vs Joshua Heintzeman* OAH 21-0320-

40204, the Complaint was ultimately dismissed based on a lack of jurisdiction; namely, it should have been filed with this Board as the Respondent is a State Official.

Zinda has stated to Complainant that he wishes Respondent be held accountable for this violation, but will not be filing with this Board and is focusing on his 1st Amendment lawsuit against Mr. Heintzeman for unlawfully deleting posts critical of Heintzeman in a public forum; Complainant now appears in his stead. (Crow Wing Dist. Crt. 18-CV-24-2821)

However, Respondent maliciously now seeks to extort \$1,750 in attorney fees (Exhibit 6) in clear retaliation for Zinda making a good faith error with jurisdiction in the OAH dismissal. Worse yet, Respondent and his wife perjured themselves (their attorney LeBeau originally concocting the false narrative) with **this Board** in an effort to avoid accountability under the law in the dismissed case they cite to justify frivolity. This Board only dismissed the case under false pretenses, e.g. perjury. (*In the Matter of the Complaint of George Selvestra Regarding the Committee to Elect Josh Heintzeman* - SCFB 8-0320-38554)

Respondent and his attorney now use the CFB dismissal of Selvestra's Complaint to argue that the matter was resolved and due to this "authority", that this justifies a finding of frivolity and attorney fees against Zinda in the OAH matter. Heintzeman's victory was clearly only had through perjury with this Board and the malice of doubling down with a lie from the outset is palpable.

Respondent's "wife" Keri Heintzeman, filed an affidavit apparently following a late-stage Board request after LeBeau absurdly asserted Respondent's disclaimer "stickers" were washed away by the weather (*Selvestra* PC Determination, P. 2, Affidavit) Obviously, this is an absurd contention considering the "weather" removing a bumper sticker would have left visible residue from the adhesive.

In her affidavit, she claimed that, "However, Mrs. Heintzeman stated under oath that disclaimer stickers were added to each of the signs when footers covering the original disclaimers were added in late July. There is nothing in the record indicating that the Heintzeman committee removed the disclaimer stickers." (*Selvestra* Dismissal Order P. 2)

Being Complainant was going to file a Complaint with this Office around the time of *Selvestra*'s, he had taken photos of the signs, but ultimately was tied up into the Franzen matter and forewent the Complaint.

It is plainly false that there ever was a "footer" covering "original disclaimers" which required the use of clearly not "prominently displayed" disclaimers. (See Exhibit 2,4,7) As this Board can clearly see, there is no footer on this sign, which belies the Respondent's claim that the reason he began using the stickers due to the footer covering the disclaimer he had from the outset when making *every* one of these signs. This is notwithstanding the fact that if the stickers were so easily washed away by the "weather", it would be reckless disregard of the law to use them.

Complainant has seen the stickers firmly held onto the signs in the same place he had put them on two years ago as obviously a **bumper sticker** is rather difficult to

remove after being placed on a material; they of course never existed before Selvestra's Complaint with this Board. Complainant can confidently state that a hose directly sprayed on those stickers would not remove them; every aspect to Respondent's defense was a lie.

Furthermore, Complainant is baffled as to why the footer had to supposedly cover the disclaimer from the outset or why Respondent couldn't have just spraypainted the disclaimer as he did the creating the entire sign rather than use some "unreliable" sticker that they "checked the signs regularly to ensure that a sticker is affixed".

It is simply not reasonable to believe that Mrs. Heintzeman was traveling around the county regularly to check if the stickers were still there... This of course belies the claim that "She did it well", considering that Selvestra was able to take pictures of the stickers missing; this even considering the story about stickers was initially believable from the outset.

As will be discussed, the Respondent started to do just that, write the permanent "disclaimer" on the footer area after, of course, Zinda filed his response in opposition to the attorney fees and showed irrefutable proof that the Respondent, his wife, and attorney lied to this Board about the "ever existing disclaimers" that were covered by the footers.

As this Office can see, during the 2022 Gubernatorial Jensen election, Heintzeman never had a disclosure until he added them with a microscopic sticker; subsequent to the cited CFB complaint by Selvestra. The Complainant's case was

merely dismissed because of a failure to provide the very evidence Complainant now provides this Board with Zinda's Response in Opposition (Exhibit 7) along with them providing a very dishonest witness that underscores the personalities involved in this instant matter; "prominently displayed". This Board never found any disclaimer was "Prominently Displayed" as it was not necessarily argued or considered as Selvestra never would have known to argue a non-existent sticker was not prominently displayed as they were not displayed at all until the Respondent and his attorney quickly concocted the story to undermine and evade justice.

If this Office needs any more compelling evidence that the Respondent's claim about the footer nonsense does violence to the truth, Exhibit 2 and 4 are pictures taken of a sign now erected, during this campaign season, but interestingly one of the original signs Heintzeman asserted to this Board always had a disclaimer.

Knowing the inevitability of this instant Complaint, Heintzeman now postures himself for yet another false claim that he can prove the so-called original disclaimer always existed by recently scribbling a new one with the lackadaisical acuity of a toddler (Exhibit 8), immediately following Zinda exposing Heintzman's lies in his Response in Opposition to Heintzeman's Motion for Attorney's Fees on 08/27/2024.

If this wasn't going to postured in this way, in an effort to compound his lies, Heintzeman would have just painted a proper and prominently displayed disclaimer as he has on his yard signs. He exudes a level of dishonesty, conniving, and indignance that cannot be tolerated from anyone, especially reprehensible conduct

from a public official that was given the public's trust and was trusted by this Board. His attorney should just simply be disbarred.

In any event, Complainant obviously argues that even this disclaimer is not "prominently displayed" as not only is it difficult to notice, it appears to have been scribbled by someone without thumbs, is barely legible, and is almost impossible to read and is certainly impossible to read from the street passing by in a vehicle (as there isn't even a sidewalk there; this doesn't exude "prominently displayed").

The Respondent's conduct is so reprehensible that he would besmirch Mr. Selvestra's good name, an elderly gentleman trying to do the right thing, to avoid a likely \$150 penalty.

Conclusion

Heintzeman has been in office for over 10 years; he knows he is deliberately breaking the law as to not adjust his homemade signs to be legally compliant and only "corrects" his deficiencies in an effort to lie to avoid responsibility to the laws he writes. He clearly knows the disclosure laws exist and how they function and the same is in a packet distributed by the county to each candidate upon filing for office. (Minn. Stat. 211B.14) Heintzeman's actions are deliberate and with intentional disregard to statute out of convenience to himself rather than respect for the law.

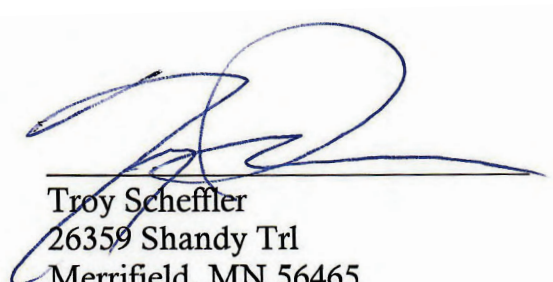
If he doesn't like the law, he can certainly attempt to repeal it as that is part of his job.

This Board must severely penalize Mr. Heintzeman as his criminal mind is clearly on display with this Complaint and has clearly exhibited a pattern that will

ensure his continued malfeasance if left unabated and by lying to this Board and now trying to extort attorney fees has shown not even a scintilla of evidence of remorse.

Oath

I, Troy Scheffler, under penalty of perjury, swear or affirm that the statements I have made in this complaint are true and correct to the best of my knowledge.



Troy Scheffler
26359 Shandy Trl
Merrifield, MN 56465
763-225-7702
troyscheffler@gmail.com

Signed within Crow Wing County, MN

09/04/2024

EXHIBIT 1

REPUBLICAN ENDORSED

JOSH  ★ ★
HEINTZEMAN

HEINTZEMAN

VOTE AUGUST 13TH



EXHIBIT 2

REPUBLICAN ENDORSED

JOSH 
HEINTZEMAN

HEINTZEMAN

EXHIBIT 3



REPUBLICAN ENDORSED

JOSH
HEINTZEMAN

VOTE AUGUST 13TH

EXHIBIT 4

REPUBLICAN ENDORSED

JOSH  
HEINTZEMAN

JOSH
HEINTZEMAN



EXHIBIT 5



joshheintzeman.com

JOSH  ★ ★
HEINTZEMAN

for Minnesota House of Representatives

Pete
STA
★ CON

EXHIBIT 6

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Matthew Eric Zinda,

Complainant,

**MOTION FOR
ATTORNEY'S FEES**

vs.

Joshua Heintzeman,

Respondent.

Introduction

The Zinda Complaint is frivolous and attorney's fees should be awarded to Representative Heintzeman.

Legal Standard

Minn. Stat. § 211B.36, subd. 3 provides that "[i]f the assigned administrative law judge or panel determines the complaint is frivolous, they may order the complainant to pay the respondent's reasonable attorney's fees [...] in which the case was dismissed." *Id.*

A frivolous claim is "one that is without any reasonable basis in law or equity and could not be supported by a good faith argument for a modification or reversal of existing law."

Maddox v. Department of Human Services, 400 N.W.2d 136, 139 (Minn. App. 1987).

Minnesota Rules of General Practice 9.06(b)(3) defines "frivolous litigant" to include:

A person who institutes and maintains a claim that is not well grounded in fact and not warranted by existing law ... or that is interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigating the claim.

FACTS

This complaint is one of three cases Mr. Zinda has lodged against Rep. Heintzeman this campaign season. The first was summarily dismissed by the Supreme Court. *See*, A24-1001 (2024). The third was pocket served earlier this month. Mr. Zinda has apparently chosen a unique strategy of campaigning through the courts, and this Office. With 2/3 of the current cases now being dismissed at their outset, it is clear that these have been brought simply for the improper purpose to harass, cause delay, and increase Rep. Heintzeman's litigation costs.

What is particularly egregious about the present case is that the dismissed complaint is nearly identical to a Campaign Finance and Public Disclosure Board Complaint that was resolved in 2022. *See* Exhibit A. In fact, this dismissed complaint involves the very same signs at issue in 2022 and the exact same alleged statutory violation. *See* Exhibit B.

In 2022 the CFB determined that the signs at issue in this case did not violate Minn. Stat. § 211B.04.

"The Board concludes that the Heintzeman committee did not violate Minnesota Statutes section 211B.04 with respect to the signs pictured in the complaint."

Exhibit C, CFB Order for Dismissal. Nov. 14, 2022 (publicly available at cfb.mn.gov/pdf/bdactions/1603_Order_of_Dismissal.pdf).

The CFB stated this in the broadest possible terms and specifically with regard to compliance with the disclaimer requirement.

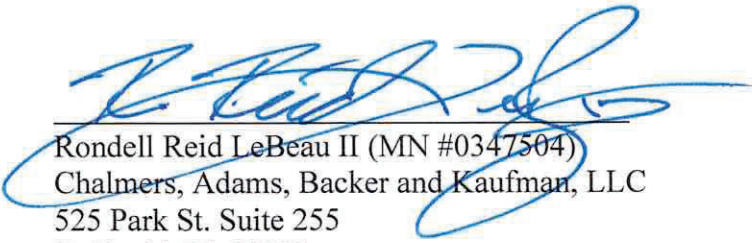
The filing of the now-dismissed complaint- alleging the very same statutory violation, over the very same signs that the CFB previous found to be legally compliant, is frivolous.

At best, Mr. Zinda is willfully ignorant of publicly available information, at worst Mr. Zinda is simply forum shopping in an effort to continue his pattern of harassing, delaying, and causing Rep. Heintzeman to incur legal expenses. Filing this now-dismissed complaint with this Office, which lacks jurisdiction over the matter, can only reasonably have been done in the hopes of getting a different legal outcome concerning the very same signs previously determined to be legally compliant by the Board with legal jurisdiction.

Conclusion

Mr. Heintzeman's legal fees in this matter total \$1,750. *See* Exhibit D. This Office should find that Mr. Zinda is required to pay those fees pursuant to its authority granted under Minn. Stat. § 211B.36, subd. 3.

Dated: August 21, 2024



Rondell Reid LeBeau II (MN #0347504)
Chalmers, Adams, Backer and Kaufman, LLC
525 Park St. Suite 255
St. Paul MN, 55103
C: 612-483-1507
E: rlebeau@chalmersadams.com

MN CAMPAIGN FINANCE BD
'22 AUG 11 AM 11:06

Campaign Finance & Public Disclosure Board

190 Centennial Office Building, 658 Cedar St, St Paul, MN 55155 cfb.mn.gov



Complaint for Violation of the Campaign Finance and Public Disclosure Act

All information on this form is confidential until a decision is issued by the Board.
A photocopy of the entire complaint, however, will be sent to the respondent.

Information about complaint filer

Name of complaint filer <u>George Selvestra</u>	
Address <u>31208 Eastwood Drive</u>	Email address <u>gjselvestra@gmail.com</u>
City, state, and zip <u>Pequot Lakes, MN 56472</u>	Telephone (Daytime) <u>218-851-5895</u>

Identify person/entity you are complaining about

Name of person/entity being complained about <u>Joshua Heintzman</u>
Address <u>P.O. Box 33</u>
City, state, zip <u>Merrifield, MN 56465</u>
Title of respondent (If applicable) <u>MN State House 10A Representative & 6B candidate</u>
Board/Department/Agency/District # (If legislator)

George Selvestra
Signature of person filing complaint

8 August 2022
Date

Send completed form to:

Campaign Finance & Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

If you have questions:

Call 651-539-1189, 800-657-3889, or for TTY/TDD communication contact us through the Minnesota Relay Service at 800-627-3529. Board staff may also be reached by email at cf.board@state.mn.us.

This document is available in alternative formats to individuals with disabilities by calling 651-539-1180, 800-657-3889, or through the Minnesota Relay Service at 800-627-3529.

Give the statutory cite to the section of Chapter 10A, Chapter 211B, or Minnesota Rules you believe has been violated:

211B.04

You will find the complete text of Chapter 10A, Chapter 211B, and Minnesota Rules chapters 4501 - 4525 on the Board's website at www.cfboard.state.mn.us.

Nature of complaint

Explain in detail why you believe the respondent has violated the campaign finance and public disclosure laws. Attach an extra sheet of paper if necessary. Attach any documents, materials, minutes, resolutions, or other evidence to support your allegations.

Large signs placed side by side in triangular form attached to Bark/Jensen signs in several locations along Hwy's 210 & 371
Same large sign displayed individually without Bark/Jensen signs.
The signs do not have information as to who put them out.
2 photos are attached

Minnesota Statutes section 10A.022, subdivision 3, describes the procedures required for investigating complaints. A full description of the complaint process is available on the Board's website.

Briefly, the Board will notify you when it has received your complaint. The Board must send a copy of the complaint to the respondent. Complaints and investigations are confidential. Board members and staff cannot talk about an investigation except as required to carry out the investigation or to take action in the matter. After the Board issues a decision, the record of the investigation is public.

The law requires a complaint to go through two stages before the Board can begin an investigation: a prima facie determination and a probable cause decision. If the complaint does not pass one of the stages, it must be dismissed.

The Board has 10 business days after receiving your complaint to determine whether the complaint is sufficient to allege a prima facie violation of the campaign finance laws. If the Board determines that the complaint does allege a prima facie violation, the Board has 45 days to decide whether probable cause exists to believe a violation that warrants a formal investigation has occurred. Both you and the respondent have the right to be heard on the issue of probable cause before the Board makes this decision. The Board will notify you if the complaint moves to the probable cause stage.

If the Board determines that probable cause does not exist, the Board will dismiss the complaint. If the Board determines that probable cause exists, the Board will start an investigation. The Board will send you monthly updates regarding the status of the investigation. At the end of the investigation, the Board will offer you and the respondent the opportunity to be heard before the Board makes a final decision.

In most cases, the Board will issue findings, conclusions, and an order as its decision. For a spending or contribution limits violation, the Board can enter into a conciliation agreement with the respondent instead of issuing findings, conclusions, and an order. The Board's final decision will be sent to you and posted on the Board's website.





STATE OF MINNESOTA

Office of Administrative Hearings

In the Matter of the Complaint of Matthew Zinda Regarding the Committee to Elect Josh Heintzeman (Joshua Heintzeman)

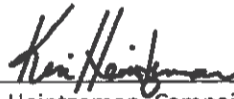
AFFIDAVIT OF KERI HEINTZEMAN

I, Keri Heintzeman ("Affiant"), being of lawful age and upon oath, under penalty of perjury, do hereby assert, affirm, and state as follows:

1. My name is Keri Heintzeman
2. I live at 10180 Tenonizer Trail, Nisswa, MN 56468.
3. I am the wife of Josh Heintzeman.
4. I work on the campaign the Committee to Elect Josh Heintzeman, as the Treasurer, Event Coordinator, and Campaign Manager.
5. I am aware of the Complaint filed by Matthew Zinda.
6. This is the third legal action he has brought against my husband and his Campaign this election cycle.
7. The first complaint, Mr. Zinda filed with the Supreme Court. It was summarily dismissed by the Court. This OAH Complaint is similar to portions of what he filed with the Court.
8. In this second of three Complaints, Mr. Zinda alleges we have violated Minn. Stat. 211B.04 due to homemade campaign signs.
9. The signs at issue in in the Matter of the Complaint of Matthew Zinda Regarding the Committee to Elect Josh Heintzeman (Joshua Heintzeman) (2024) are the exact same as in the Matter of the Complaint of George Selvestra Regarding the Committee to Elect Josh Heintzeman (2022) Minnesota Campaign Finance Board "CFB".
10. This matter was investigated and ruled on by the CFB in 2022.
11. The CFB concluded that our signs "did not violate 211B.04."
12. I attest that all signs were installed with proper disclaimers.
13. We chose to reuse the signs in the 2024 election, in part, based on the ruling by the CFB that the signs were and are legally compliant.

14. The 2022 ruling by the CFB was a matter of public record, and is and should have been discoverable to Mr. Zinda prior to filing this Complaint.
15. I am in possession of the Candidate Petition of Troy Scheffler, wherein Mr. Zinda has signed and has stated "that I do not intend to vote at the primary election for the office for which this nominating petition is made [...]"
16. Based on Mr. Zinda's sworn statement, the multiplicity of his suits, and the timing of his Complaints, I believe this petition to be frivolous, wholly without merit, and brought solely for the purpose of causing the Heintzeman Campaign (and us personally) to spend money on legal fees.
17. I request that this Office of Administrative Hearings to find this Complaint Frivolous and award attorney fees to us for defending our campaign.

Date executed: 08/11/2024



Keri Heintzeman, Campaign Manager
Committee to Elect Josh Heintzeman
P.O. Box 33
Merrifield, MN 56465

STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

ORDER OF DISMISSAL

IN THE MATTER OF THE COMPLAINT OF GEORGE SELVESTRA REGARDING THE COMMITTEE TO ELECT JOSH HEINTZEMAN

On August 11, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by George Selvestra regarding Representative Joshua Heintzeman, a candidate for Minnesota House of Representatives District 6B. The Committee to Elect Josh Heintzeman is the principal campaign committee of Representative Heintzeman.

The complaint alleged violations of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint alleged that signs promoting Representative Heintzeman's candidacy were displayed along State Highway 210 and State Highway 371 and that those signs lacked a disclaimer.

The complaint included two photographs. Each photograph depicts a sign containing the text:

REPUBLICAN ENDORSED
JOSH
HEINTZEMAN
VOTE AUGUST 9TH

The signs displayed in the photographs did not appear to include a disclaimer.

On August 15, 2022, the Board's chair determined that the complaint alleged a prima facie violation of Minnesota Statutes section 211B.04. Counsel for the Heintzeman committee, R. Reid LeBeau II, provided a written response to the complaint on September 21, 2022. Mr. LeBeau stated that "[d]uring this primary season, the sign locations were modified to include a banner and footer which stated 'Republican Endorsed' and 'Vote Aug. 9.'" Mr. LeBeau said that "[t]he signs were handmade and originally included a handwritten disclaimer at the bottom of the sign." Mr. LeBeau explained that because the "VOTE AUGUST 9TH" footer covered the original disclaimer, "at the same time as adding the banner and footer to the sign locations, the campaign affixed a sticker to all signs which included the required disclaimer."

Mr. LeBeau provided photographs of two of the signs and a close-up photograph of the disclaimer text printed on one of the stickers. Each of the pictured signs included a hand-written disclaimer as well as a sticker toward the bottom of the sign. The stickers included the text "John Heintzeman for Minnesota House of Representatives" and text stating "Prepared and Paid for by the Committee to Elect Josh Heintzeman • JoshHeintzeman.com." The committee's website¹ included a complete disclaimer that contains the committee's mailing address.

¹ joshheintzeman.com

Mr. LeBeau stated that the committee acted reasonably to ensure that the signs included disclaimers when it realized that the original disclaimers on the signs would be covered, and that there was no actual confusion regarding who prepared and paid for the signs. Mr. LeBeau stated that “[a]ll signs with the footer obstructing the pre-written disclaimer were affixed with a sticker containing the required disclaimer information.” With respect to the photographs submitted with the complaint, Mr. LeBeau said that the stickers may have been destroyed by weather conditions or removed by a person, but the committee has “checked the signs regularly to ensure that a sticker is affixed.”

The Board considered this matter at its meeting on October 5, 2022. Mr. LeBeau appeared before the Board on behalf of the Heintzeman committee. The Board found that there was probable cause to believe that a violation of the disclaimer requirement occurred and determined that a formal investigation was not warranted. The Board ordered a staff review to resolve the matter pursuant to Minnesota Rules 4525.0210, subpart 6, and 4525.0320.

On October 28, 2022, in response to a request from Board staff, Mr. LeBeau provided an affidavit signed by Keri Heintzeman, the Heintzeman committee’s campaign manager. Within the affidavit Mrs. Heintzeman stated “[o]n July 31, 2022, it was my job to add sticker disclaimers to all 9 of our plywood, homemade, campaign signs during the installation of the VOTE AUG 9TH footers.” Mrs. Heintzeman said “I attest that I did this for each of our signs, and I did it well.” The Board considered this matter again at its meeting on November 14, 2022.

Minnesota Statutes section 211B.04, subdivision 1, concerns a “person who participates in the preparation or dissemination of campaign material” without a disclaimer in the form required by that statute. Therefore, what matters is whether the signs in question contained a disclaimer in the form required by statute when they were erected or modified by the Heintzeman committee. The photographs included in the complaint indicate that at some point the disclaimer stickers were removed from at least two of the Heintzeman committee’s signs. However, Mrs. Heintzeman stated under oath that disclaimer stickers were added to each of the signs when footers covering the original disclaimers were added in late July. There is nothing in the record indicating that the Heintzeman committee removed the disclaimer stickers. Based on the foregoing analysis the Board concludes that the Heintzeman committee did not violate Minnesota Statutes section 211B.04 with respect to the signs pictured in the complaint.

Order

The investigation of this matter is dismissed and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

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

Date: November 14, 2022

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Matthew Eric Zinda,

Complainant,

**ATTORNEY'S FEES
DECLARATION**

vs.

Joshua Heintzeman,

Respondent.

DECLARATION

Rondell Reid LeBeau II, being first duly sworn on oath, declares as follows:

1. My name is Rondell Reid LeBeau II and I am counsel for the Committee to Elect Joshua Heintzeman.
2. I was born on 11/29/1979.
3. I am a resident of Anoka County Minnesota.
4. I am a member of the Minnesota bar since 2005. My attorney number is 0347504.
5. I am engaged as counsel for the Heintzeman Committee in the current pending matter.
6. In furtherance of my client's goals, I have expended sufficient time on this matter in which my fee for services is \$1,750.

I, Rondell Reid LeBeau II, declare under penalty of perjury that the foregoing is true and correct.

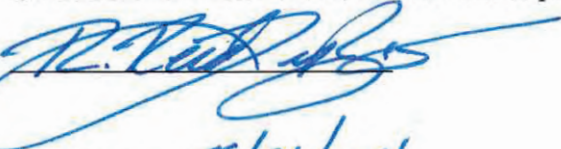

Executed on 8/21/24

EXHIBIT 7

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Matthew Eric Zinda,
Complainant,

OAH Docket # 21-0320-40204

v.

**RESPONSE IN OPPOSITION TO
RESPONDENT'S MOTION FOR
ATTORNEY'S FEES**

Joshua Heintzeman,
Respondent.

Introduction

This Response in Opposition follows Respondent's Motion for Attorney's Fees emailed to Complainant on August 21, 2024.

Respondent now moves for Attorney's Fees for reasons unclear in their instant motion as opposed to their improperly filed "motion" for Attorney's Fees on 08/12/2024 that based their entire motion on,

"Mr. Zinda's Complaint was filed with this Office in contravention of the clear statutory directive in Minn. Stat. 211B.32, subd. 1(b), that such complaints be filed with the Campaign Finance and Public Disclosure Board. It is per se frivolous to file a complaint with a body that lacks jurisdiction over the matter. Mr. Zinda, like all members of the public are charged with knowing the law, wonton ignorance of the law is not an excuse, particularly when he is the complaining party."

Being that this Office made the same error and voiced its skepticism that a jurisdictional error is "per se frivolous" by noticing the void of cited authority, it appears the Respondent has dropped this argument and replaced it with pure, unfounded, and unsupported speculation that Complainant should have, or did, know that there was a prior CFB complaint made that was dismissed.

Even if Complaint was aware, which he wasn't, Respondent's entirely unsupported "argument" fails on all measures. Complainant now responds.

I. Respondent Failed to Properly Serve His Motion Upon Complainant

Respondent's instant *motion* is not under expedited measures nor did this Office offer them leave to serve via email. Complainant never stipulated to email service, yet email was the manner the Respondent chose to disclose the motion; this is not service. See: Minn. Admin. R. 1400.5550

1400.5550 *clearly* states, "A certificate of service must be made by the person making the service. A certificate of service must bear the name of the person certifying that service has been made, but need not be signed or notarized."

"Must" is mandatory. Minn. Stat. 645.44, subd. 15a

1400.8401, Subp. 3(D) *clearly* states, "a proof of service showing that the state agency and all other parties have been served, either personally or by first class mail, with a copy of the application."

Yet, the indignance by Respondent and counsel is openly expressed by their admission of a failure to serve their motion as they boldly admit they merely emailed their lackadaisical and discombobulated two-part mess of an attachment, but also their very concerning and defiant claim to this Office, that, "There is no cert of service - as this OAH doesn't require it". (Exhibit 5)

Their Motion should be immediately rejected.

II. The Attorney Fee Application is Not Properly Sworn To

1400.8401, Subp. 3., clearly states, "The application must be signed and sworn to by the party and the attorney or other agent or representative submitting the application

on behalf of the party, showing the addresses and phone numbers of all persons signing the application.”

As this Office can see clear as day, the application (Motion) was not sworn to by either Heintzeman or LeBeau.

This certainly should have the Respondent’s Motion denied based upon the standards they wish to impose upon a pro se Complainant.

III. If the Respondent Proved this Office Lacked Jurisdiction, it Would be Inappropriate for this Office to Now Have Jurisdiction to Order Attorney Fees

It would appear if this Office lacks jurisdiction to hear a case, it also wouldn’t have jurisdiction to order attorney fees.

Regardless, Complainant searched “Google Scholar” to find any cases that would support this Office awarding attorney fees against a lay person; he found none and Respondent provided no authority.

Respondent fails with his only cite supporting 211B.36 by raising *Maddox*. Respondent hopes that this Office fails to notice his sleight of hand, but a simple reading of *Maddox* shows that it doesn’t support fees against a lay person by 211B.36 under the auspice of administrative authority. Nowhere in *Maddox* is 211B.36 even mentioned.

Although Respondent cited a statute that generally states attorney fees could be awarded by this Office if it finds a matter to be “frivolous”, this Office did not find the matter to be frivolous and instead found that the complaint established prima

facie probable cause as did prior judges in similar cases from this Office as cited in Complainant's Complaint.

Respondent failed to argue if the complaint lacked substantive merit, e.g. that Complainant alleged a falsehood or that Respondent indeed displayed a "prominently displayed" disclosure as Complainant based his claim upon, as opposed to the CFB ruling that Respondent places all his bets on where that Complainant merely asserted there was no disclaimer at all (As argued infra, there actually wasn't; the Respondent, his present attorney, and his witness were less than honest). Therefore, this Office could not possibly now find that this instant matter was frivolous without a paucity or even scintilla of rebutted facts.

Also, upon review of anything that sets a standard for attorney fees, Complainant reviewed Administrative Rules with regard to filing for attorney fees. It would appear that sound public policy prevails in the rules.

Rule 1400.8401, subp. 7(D), "whether special circumstances make an award unjust" appears to qualify in this matter and this Office appeared to agree during the probable cause hearing.

If this fails to persuade, it would also appear that the award of attorney fees only applies to actions brought by "state agencies", Subp. 3 (B).

Also, and conclusively, with regard to what was disclosed via email by the Respondent, there lacks any "full documentation of fees and expenses" or literally anything else required under Subp. 3 to apply for attorney fees. Apparently, the

attorney fees Respondent seeks are not all that important to him to even exercise a modicum of effort in seeking them.

Respondent failed to comply with rule and has exhausted the time to file according to this Office's order, despite this Office's *clear* order stating that, "Respondent may supplement his motion for an award of attorney fees, by 4:30 p.m. on August 23, 2024. Any supplement shall address whether the Judge has jurisdiction to determine whether the complaint in this matter is frivolous and shall set forth **in detail any fees expended.**"

The only "itemization" of the costs claimed (Beyond a woefully inadequate "Declaration") are delineated in the Respondent's 08/12/2024 Motion filing, "The Committee to Elect Joshua Heintzeman has been forced to expend resources to prepare a defense against this frivolous complaint, and to respond to the errant prima facie order. The Committee requests that the Office of Administrative Hearings award reasonable attorney's fees for what it has incurred in this matter."

It should not and cannot be the responsibility for a party to bear costs associated with the error in an order by this Office for a response and a probable cause hearing.

With regard to a threshold matter, 1400.8401 *clearly* states,

"A party seeking an award of expenses and attorney's fees **shall submit** to the judge an application that shows:

A. **an itemization of the amount of fees and expenses sought.** This **shall** include full documentation of fees and expenses, including an affidavit from each attorney, agent, or expert witness representing or appearing on behalf of

the applicant stating the actual time expended and the rate at which fees have been computed and describing the specific services performed. The affidavit shall itemize in detail the services performed by the date, number of hours per date, and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients for similar services during the relevant time periods.

The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided;

B. a statement that explains with specificity how or why the position of the state agency was not substantially justified;

C. if the claim for attorney's fees exceeds \$125 per hour, a statement of facts showing that the excess award qualifies under Minnesota Statutes, section 15.471, subdivision 5, paragraph (c); and

§D. a proof of service showing that the state agency and all other parties have been served, either personally or by first class mail, with a copy of the application.

Mr. Heintzeman and his attorney failed to meet even a single requirement of rule in their "Declaration" made by Rondell Reid LeBeau II.

Instead, the Respondent's attorney merely stated, "In furtherance of my client's goals, I have expended sufficient time on this matter in which my fee for services is \$1,750."

"Shall" is mandatory. See: Minn. Stat. 645.44, subd. 16. Give no quarter ask no quarter. This application for costs fails in all respects.

Respondent's attorney's "Declaration" lays out about as many requisite facts as the Respondent made to support his motion in the first place.

Furthermore, Complainant calls into question the "relationship" between Respondent and his counsel and their computation of fees generally.

It would appear that Respondent and his counsel have an arrangement to package non campaign related lawsuits to their mentioned Supreme Court case and have his unwitting donors subsidize them at a ridiculous expense of “\$9,000”; also due to the State Public Subsidy, Mr. Heintzeman is forcing the entire state’s taxpayers to pay for his legal expenses (and then some). (Exhibit 1)

There is absolutely no prayer that a single case that allowed for, at most, two days to respond, would cost \$9,000. (A24-1001 06/24/2024 Order)

In short, it is hard to believe “Heintzeman” is bearing the costs of this action as he baselessly asserts and his ability to accurately or honestly disclose the actual costs is suspect.

IV. This Office Asserted Jurisdiction Following Complainant’s Good Faith Filing of the Complaint

But for this Office initially accepting jurisdiction, there wouldn’t have been a “need” for attorney’s fees.

Complainant, as this Office recognized at the probable cause hearing, filed his complaint relying on a prior case filed with this Office. Complainant, using the search function of this Office’s website, searched under “Kenneth Toole” and the results only return with one document, this Office finding prima facie probable cause. (8-0320-38554)

It is absolutely a “reasonable basis” (*Maddox*) for the Complainant to believe that if this Office took jurisdiction in the cited case, that they would have indeed held jurisdiction by him making a complaint under the same statutory violation.

With that said, this Office in this instant matter also took jurisdiction and found prima facie probable cause. But for this office making said finding, there wouldn't have been a need from a response from the Respondent, and as such, there wouldn't have been any basis for attorney's fees.

Good faith errors occur, we are all human and the law can get complicated and the world turning at a billion miles per hour in the modern era isn't helping the matter. Courts have consistently ruled that good faith errors are exempt from attorney fees based upon public policy. If pro se complainants were expected to be perfect at all times, this would obviously have a chilling effect on the general public's willingness to hold politicians accountable.

Furthermore, Complainant clearly made a jurisdictional statement in his complaint and this office took jurisdiction. "Date of election or ballot question: Primary Aug. 8th, 2024 and General Nov. 5th, 2024. Elected office or ballot question involved: Minnesota State House of Representative District 6B". This entirely belies the assertion the matter was borne in bad faith.

Finally, Complainant filed a fee waiver with his complaint which requires this Office to instantly weigh if the complaint is frivolous before proceeding. This case proceeded following the fee waiver. This State's legislation, Heintzeman included, wrote the IFP statute with the reality that Pro Se litigants are not attorneys and make mistakes. Citing Respondent's only case since they feel it is applicable,

"Minn.Stat. § 563.01, subd. 3 (1986), authorizes in forma pauperis proceedings if the appellant is unable to pay the costs and fees of the appeal and

‘[u]pon a finding by the court that the action is not of a frivolous nature.’” *Maddox v. Department of Human Services*, 400 NW 2d 136 - Minn: Court of Appeals 1987

Respondent’s attorney is no stranger to “mistakes” as Mr. Scheffler showed in *Scheffler v Franzen*, 9th Judicial Dist. 2022, 18-cv-22-3881 where Mr. LeBeau “mistakenly” understood that motions to dismiss (made 12/16/2022) are not responsive pleadings when filing a “frivolous” motion to strike and refusing to withdraw it following a draft notice of sanctions until his partner, no longer his partner, forced the withdrawal.

Mr. LeBeau also failed against Mr. Scheffler in his absurd motion to dismiss an appeal (01/17/2023), which was roundly rejected by the Appellate Court and LeBeau also ultimately lost the appeal (Further discussed infra). *In re the Matter of Troy Kenneth Scheffler (Rosemary Franzen)*, Minn. Crt. App. A22-1797, 2023

Being Mr. LeBeau is keen on Complainant’s win/loss ratio by raising the previous Supreme Court Petition filed and denied by the Court, pending opinion, which Complainant rightfully argued that “Republican” is not a State recognized major political party, but rather Republican Party of Minnesota is, he seems to ignore that the same Court rejected his argument to remove a political candidate based on that person writing “independent” vs. “independence” on an affidavit for candidacy they he corrected within a couple weeks. Hypocrisy of the highest order, especially considering Respondent raised this case in his petition Respondent now decries as an example of frivolous litigation. *Clark v. Reddick*, 791 NW 2d 292 - Minn: Supreme Court 2010

Indeed, errors were made in this instant matter, but were a procedural and jurisdiction error made in good faith and with due diligence by reasonably searching published cases and using the OAH case search function, which exempts Complainant from attorney's fees; Respondent gives absolutely no authority to the contrary.

Obviously, Complainant accepts responsibility for his error which is why he humbled himself at the hearing and does not intend to appeal, but Respondent in his 08/12/2024 Motion, asserts that it was this office's error which allowed this matter to move forward; "The Office of Administrative Hearings (the "Office") erred in issuing the prima facie order and should have dismissed the Complaint upon it being filed for lack of jurisdiction".

It is disingenuous for him to now demand attorney fees from a matter they clearly assert that this Office had the onus to dismiss immediately.

In any event, it is absurd to believe that this filing error was anything but made in good faith as Complainant firmly wanted to hold Respondent accountable to the very statutes that people like him writes.

V. Respondent Argued the Jurisdictional Portion of the Statute Was So Clear that Anyone Should Have Known

Respondent's two motions are wildly different. In their first motion, they lambasted Complainant for not entirely grasping a statute that,

"Mr. Zinda's Complaint was filed with this Office in contravention of the clear statutory directive in Minn. Stat. 211B.32, subd. 1(b), that such complaints be filed with the Campaign Finance and Public Disclosure Board. It is per se frivolous to file a complaint with a body that lacks jurisdiction over

the matter. Mr. Zinda, like all members of the public are charged with knowing the law, wonton ignorance of the law is not an excuse, particularly when he is the complaining party.”

It would appear their argument has changed following this Office’s rightful determination that the statute isn’t clear due to the exemption of State Office holders being buried under a different section in statute. The reality, despite the Respondent’s assertion otherwise at the probable cause hearing, is that this Office commonly handles 211B.04 violations, and that Respondent failed to provide any authority that an action is “per se frivolous” simply due to a jurisdictional error, is untenable standard within a Constitutional framework.

In any event, if the statute was so clear and that this Office should have issued “judicial notice”, why would the Respondent need an attorney to make this contemporaneous argument that he himself asserts that everyone should just know?

VI. Respondent Lacks Requisite Candor by Claiming that Complainant Couldn’t Have Filed in Good Faith for Modification or Reversal of Law

Respondent’s own motion cites *Maddox* as their only authority for attorney fees. Said cite states, A frivolous claim is “one that is without any reasonable basis in law or equity and could not be supported by a good faith argument for a modification or reversal of law”.

It is difficult to follow how Respondent supports their argument other than by speculation and deception.

First, they argue that due to the Complaint allegedly filing “three cases”, that this at all establishes that, “it is clear that these have been brought simply for the

improper purpose to harass, cause delay, and increase Rep. Heintzeman's litigation costs."

Respondent fails to even cite all "three cases" nor does he support with *any* facts as to how the cases were "frivolous". Instead, he remains entirely silent as to one of the alleged cases that is very much alive, the other he asserts, merely due to the Supreme Court dismissing the case, that it was somehow frivolous.

Not that it deserves a response, the Respondent failed to inform this Office that the Supreme Court made no finding that the case was dismissed for frivolity and was less than honest in a mere claim that the matter was "summarily dismissed". The Supreme Court did in fact dismiss the petition, but stated that an opinion would follow. That opinion hasn't yet been released. It is absolutely improper to consider a matter that no party asserted was frivolous is now frivolous due to "reasons".

In any event, the Respondent wasn't even a named party to the case... Something he also fails to mention. Neither respondent, that was in fact named, claimed the petition was frivolous.

Second, the Respondent, and his attorney, lacks seriousness with the Court by asserting that a single CFB dismissal "established law", but worse yet, he failed to express requisite candor by disclosing that subsequent to the dismissal, that Mr. Heintzeman's endorsed candidate for Crow Wing County Commissioner in 2022, lost an appeal in the Minnesota Court of Appeals with regard to a 211B.04 violation.

Represented by "Rondell Reid LeBeau II", the Court of appeals reversed an OAH decision failing to opine concerning a disclosure that was displayed, but was

not “prominently” displayed. (*In re the Matter of Troy Kenneth Scheffler*, A22-1797, 2023; Unpublished) This case is far more persuasive than a single CFB case.

In the CFB case Respondent cites as authoritative, the Board failed to opine if the Respondent’s disclaimer was prominently displayed as statute requires, but instead the argument was entirely based upon if the disclaimer existed at all.

Respondent’s whole argument concerning the conclusion of the CFB case is moot considering Complainant was unaware that 211B.04 violations even existed with the CFB, because he reasonably believed, and still does, that having another agency handling such violations would establish a rather inefficient redundancy considering this Office handles the lion’s share of 211B.04 complaints and is more than competent to handle them.

VII. Respondent’s Cited CFB Case was Only Won by Perjury
In the Matter of the Complaint of George Selvestra Regarding the Committee to Elect Josh Heintzeman

Complainant certainly appreciates the Respondent referring him to the CFB search functions on its website. He has found rather interesting information related to this case and much more with relation to Mr. Heintzeman’s “unique campaigning strategy” as Respondent asserts Complainant has.

Respondent’s “wife” filed an affidavit apparently following a late-stage Board request after LeBeau absurdly asserted Respondent’s disclaimer “stickers” were washed away by the weather (Exhibit 2). In her affidavit, she claimed that, “However, Mrs. Heintzeman stated under oath that disclaimer stickers were added to each of the signs when footers covering the original disclaimers were added in late

July. There is nothing in the record indicating that the Heintzeman committee removed the disclaimer stickers.”

It is plainly false that there ever was a “footer” covering “original disclaimers” which required the use of clearly not “prominently displayed” disclaimers. (Exhibit 3) As this Office can clearly see, there is no footer on this sign, which belies the Respondent’s claim that the reason he began using the stickers due to the footer. This is notwithstanding the fact that if the stickers were so easily washed away, it would be reckless disregard for the law to use them.

Furthermore, Respondent is baffled as to why the footer had to supposedly cover the disclaimer from the outset or why Respondent couldn’t have just spraypainted the disclaimer as he did the entire sign rather than use some “unreliable” sticker that they “checked the signs regularly to ensure that a sticker is affixed”.

As this Office can see, during the 2022 Gubernatorial Jensen election, Heintzeman never had a disclosure until he added them with a microscopic sticker; subsequent to the cited CFB complaint. The Complainant’s case was merely dismissed because of a failure to provide the very evidence Complainant now provides this Office, along with providing a very dishonest witness that underscores the personalities involved in this instant matter and pressing the material portion of statute of “prominently displayed”; which the CFB *never* found as it was never argued or considered.

If this Office needs any more compelling evidence that the Respondent's claim about the footer nonsense does violence to the truth, Exhibit 4 is a picture taken of a sign now erected, as Complainant writes this response, on the corner of Elder Drive and Garrison Road in Baxter, MN.

If Complainant were at all aware of this particular case, he not only would have supplied the photo to Selvestra, but he certainly would have pointed out the dishonesty to the CFB as it would have been far more compelling by filing this instant complaint with the agency that was duped by Mr. and Mrs. Heintzeman and their attorney in the past.

In any event, despite the Respondent's claim that Respondent's complaint is basically the same as Selvestra's, they ask this Office to not believe their lying eyes comparing a hand written complaint that makes no assertion of a failure to prominently display a disclaimer as opposed to one that does.

Conclusion

It is abundantly clear that Respondent's entire motion relies on well poisoning in both memorandum and affidavit followed by pure baseless speculation with their second failed attempt to make a cognizable application for attorney fees.

Respondent insults this Office by it mistakenly finding prima facie probable cause, which does not insult a pro se Complainant with little to no experience in these matters.

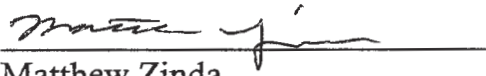
About the only cognizable argument Respondent makes, albeit disingenuously, by ignoring material differences in the cases, is that the Selvestra

dismissal conclusively proves Complainant absolutely meets the standards under *Maddox* to prove his argument is not frivolous; Mr. Scheffler's appeal grinds this disingenuous claim to a fine dust which is why Respondent, although well aware of it, does their best to ignore it with their intentional lack of candor. (R. Prof. Conduct 3.3)

Respondent demands attorney fees from a pro se party that has never filed an OAH complaint in his life, but both him and his attorney are well versed with the OAH, but absolutely refuse to follow mandatory rules and statute from start in service to finish with application without a proper itemized attorney "Declaration". **WHEREFORE**, Complainant prays that this Office deny Respondent's Motion.

Oath

I, Matthew Zinda, under penalty of perjury, swear or affirm that the statements I have made in this complaint are true and correct to the best of my knowledge.



Matthew Zinda
4943 Gull Lake Dam Rd
Brainerd, MN 56401
northcentralmnpress@gmail.com
218-838-2071

Signed in the County of Crow Wing, MN on
08/28/2024

~~EXHIBIT 1~~

Schedule B1 - NCD Non-Campaign Disbursements

Heintzeman, Joshua House of Representatives District 6B Committee

Heintzeman, Joshua

PO Box 33 Merrifield, MN 56465

Date	Specific purpose of expenditure	Paid	Unpaid	In Kind	Total
02/26/2024	NCD: Repayment of loan - Loan Payments - Principal	1,726.15	0.00	0.00	1,726.15
02/26/2024	NCD: Repayment of loan - Loan Payments - Principal	2,500.00	0.00	0.00	2,500.00
02/26/2024	NCD: Repayment of loan - Loan Payments - Principal	100.00	0.00	0.00	100.00
02/26/2024	NCD: Repayment of loan - Loan Payments - Principal	500.00	0.00	0.00	500.00
02/26/2024	NCD: Repayment of loan - Loan Payments - Principal	173.85	0.00	0.00	173.85
Total		5,000.00	0.00	0.00	5,000.00

Jacobson, Magnuson, Anderson, & Halloran, PC

180 E 5th St Ste 940 St Paul, MN 55101

Date	Specific purpose of expenditure	Paid	Unpaid	In Kind	Total
06/17/2024	NCD: Legal Services - Legal Services: Estimate for defense against removal petition	0.00	9,000.00	0.00	9,000.00

Joe's Pizza

31089 Front St Pequot Lakes, MN 56472

Date	Specific purpose of expenditure	Paid	Unpaid	In Kind	Total
07/09/2024	NCD: Food/beverages for volunteers while campaigning - Food and Beverages: Pizza for Volunteers	250.00	0.00	0.00	250.00

Notch 8

1551 Northern Pacific Rd Brainerd, MN 56401

Date	Specific purpose of expenditure	Paid	Unpaid	In Kind	Total
03/28/2024	NCD: Food, beverages and supplies for fundraising event - Food and Beverages: Endorsing convention fundraiser	682.90	0.00	0.00	682.90

	Paid	Unpaid	In Kind	Total
Total of itemized	5,932.90	9,000.00	0.00	14,932.90
Total of non-itemized	2,121.84	0.00	0.00	2,121.84
Totals	8,054.74	9,000.00	0.00	17,054.74

~~EXHIBIT 2~~

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF GEORGE SELVESTRA REGARDING THE COMMITTEE TO ELECT JOSH HEINTZEMAN

On August 11, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by George Selvestra regarding Representative Joshua Heintzeman, a candidate for Minnesota House of Representatives District 6B. The Committee to Elect Josh Heintzeman is the principal campaign committee of Representative Heintzeman.

The complaint alleges violations of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint alleges that signs promoting Representative Heintzeman's candidacy were displayed along State Highway 210 and State Highway 371 and that those signs lacked a disclaimer. The complaint states that some of the signs were attached to a sign promoting other candidates and that some of the signs were displayed individually.

The complaint includes two photographs. Each photograph depicts a sign containing the text:

REPUBLICAN ENDORSED
JOSH
HEINTZEMAN
VOTE AUGUST 9TH

The signs displayed in the photographs do not appear to include a disclaimer.

On August 15, 2022, the Board chair determined that the complaint alleged a prima facie violation of Minnesota Statutes section 211B.04. Counsel for the Heintzeman committee, R. Reid LeBeau II, provided a written response to the complaint on September 21, 2022.

Mr. LeBeau stated that "[d]uring this primary season, the sign locations were modified to include a banner and footer which stated 'Republican Endorsed' and 'Vote Aug. 9.'" Mr. LeBeau said that "[t]he signs were handmade and originally included a handwritten disclaimer at the bottom of the sign." Mr. LeBeau explained that because the "VOTE AUGUST 9TH" footer covered the original disclaimer, "at the same time as adding the banner and footer to the sign locations, the campaign affixed a sticker to all signs which included the required disclaimer."

Mr. LeBeau provided photographs of two of the signs and a close-up photograph of the disclaimer text printed on one of the stickers. Each of the pictured signs includes a hand-written disclaimer as well as a sticker toward the bottom of the sign. The stickers include the text "John Heintzeman for Minnesota House of Representatives" and much smaller, vertically-oriented text,

stating “Prepared and Paid for by the Committee to Elect Josh Heintzeman • JoshHeintzeman.com.” The committee’s website¹ includes a complete disclaimer that contains the committee’s mailing address.

Mr. LeBeau stated that the committee acted reasonably to ensure that the signs included disclaimers when it realized that the original disclaimers on the signs would be covered, and that there was no actual confusion regarding who prepared and paid for the signs.

The Heintzeman committee did not provide any photographs depicting a sign that simultaneously included the footer and a visible disclaimer. However, Mr. LeBeau stated that “[a]ll signs with the footer obstructing the pre-written disclaimer were affixed with a sticker containing the required disclaimer information.” With respect to the photographs submitted with the complaint, Mr. LeBeau said that the stickers may have been destroyed by weather conditions or removed by a person, but the committee has “checked the signs regularly to ensure that a sticker is affixed.”

The Board considered this matter at its meeting on October 5, 2022. Mr. LeBeau appeared before the Board on behalf of the Heintzeman committee.

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 a principal campaign committee to include a disclaimer on campaign material at the time that campaign material is prepared and disseminated. The disclaimer must be substantially in the form “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

¹ joshheintzeman.com

address.” Campaign material with a disclaimer that is covered or otherwise obstructed and not visible will not provide the disclosure required by this statute.

There is no dispute as to whether the signs referenced in the complaint are campaign material requiring a disclaimer. The Heintzeman committee provided evidence that the signs in question included the required disclaimer when they were produced. The committee acknowledges that when the signs were erected with the “VOTE AUGUST 9TH” footers, the original disclaimers were covered and no longer visible. To resolve that problem the Heintzeman committee stated that it applied stickers containing the required disclaimer to the signs with a footer that covered the original disclaimer. However, the complaint included photographs of signs that lacked a visible disclaimer, showing that at some point at least some of the signs did not contain a disclaimer that was visible.

The Board believes that it is possible for both the complainant and the Heintzeman committee to be accurate in their description of the signs in question. The original disclaimer painted on the signs was not visible when the “VOTE AUGUST 9TH” footer was placed on the signs. The Heintzman committee recognized that the signs were no longer in compliance with Minnesota Statutes section 211B.04, and tried to resolve that problem by placing a sticker with the committee’s disclaimer on the signs. However, the photographs provided with the complaint provide evidence that either some signs were initially disseminated without a disclaimer, or the sticker with the disclaimer became dislodged from the signs after they were erected with the “VOTE AUGUST 9TH” footer. If the stickers were placed on the signs when the footers were affixed, and the stickers were visible, then the signs were not prepared or disseminated without a disclaimer in violation of Minnesota Statutes section 211B.04. The Heintzeman committee has not provided any photographs that depict a sign with the “VOTE AUGUST 9TH” footer and a visible disclaimer, demonstrating that the stickers were visible. Further information will be needed to resolve the complaint.

Aside from the banner and footer, the signs depicted in the complaint feature the same design as other signs and graphics produced by the Heintzeman committee, including those featured on its website and within photographs on its social media pages. For that reason, it is unlikely that any lack of a visible, legible disclaimer caused significant confusion as to who prepared and paid for the signs. The committee has been registered with the Board since 2014 and has no previous violation of the disclaimer requirement. The Board has limited resources and it is unclear what new information would be gained by conducting a formal investigation. Considering the foregoing factors, the Board concludes that a formal investigation is not warranted, but that there is probable cause to believe that campaign signs documented in the complaint lacked the required disclaimer. A staff review is ordered to further the investigation.

Order:

1. Although probable cause exists to believe that campaign signs prepared and disseminated by the Committee to Elect Josh Heintzeman lacked a visible 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. If the staff review establishes that no violation occurred, the staff review must be closed. If the staff review establishes that a violation occurred and 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: October 5, 2022

~~EXHIBIT 3~~

REPUBLICAN ENDORSED

JOSH
HEINTZEMAN

JOSH
HEINTZEMAN

REPUBLICAN ENDORSED

JOSH
HEINTZEMAN

JUSTIN
EICHORN
FOR STATE SENATE

MATT
BIRK
FOR LT. GOV



DR. SCOTT
JENSEN
FOR GOVERNOR

HEAL MINNESOTA

~~EXHIBIT 4~~

REPUBLICAN ENDORSED

JOSH  
HEINTZEMAN

JOSH
HEINTZEMAN



~~EXHIBIT 5~~



Law Abiding Minnesotan <northcentralmnpress@gmail.com>

Fwd: Documents to file in OAH 21-0320-40204

Reid LeBeau <rlebeau@chalmersadams.com>

Tue, Aug 27, 2024 at 8:21 PM

To: "sarah.mezera@state.mn.us" <sarah.mezera@state.mn.us>

Cc: "northcentralmnpress@gmail.com" <northcentralmnpress@gmail.com>

There is no cert of service - as this OAH doesnt require it. Here is confirmation of the email sent on Friday

Thanks

Reid

R. Reid LeBeau II

Member

Chalmers, Adams, Backer and Kaufman, LLC

This email and its contents are protected by federal and state law concerning protected communications as well as attorney client, work product, or other privilege, and should be treated as strictly confidential by the intended recipient. If you are not the intended recipient, please disregard and delete from your inbox immediately and any forwarding or distribution to third parties is prohibited. This firm is a debt collector and any information obtained may be used for such purposes under federal law.

All matters contained herein shall be deemed strictly confidential unless otherwise stated.

Sent from my iPhone

Begin forwarded message:

From: Reid LeBeau <rlebeau@chalmersadams.com>

Date: August 23, 2024 at 2:30:23 PM CDT

To: northcentralmnpress@gmail.com

Cc: Julie Hubbell <hubbelljuliem@gmail.com>

Subject: Fwd: Documents to file in OAH 21-0320-40204

See attached documents filed with the OAH.

[Quoted text hidden]

[Quoted text hidden]

2 attachments



BRW90324B172634_002259.pdf

1024K



BRW90324B172634_002265.pdf

1250K

EXHIBIT 8



joshheintzeman.com
JOSH HEINTZEMAN
for Minnesota House of Representatives

PREPARED AND PAID FOR BY THE COMMITTEE TO ELECT JOSH HEINTZEMAN JOSHHEINTZEMAN.COM

