

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE COMPLAINT OF TROY SCHEFFLER REGARDING THE COMMITTEE TO ELECT
JOSH HEINTZEMAN

Background

On September 4, 2024, the Campaign Finance and Public Disclosure Board received a complaint submitted by Troy Scheffler 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, Board registration number 17782.¹ Mr. Scheffler was also a candidate for Minnesota House of Representatives District 6B in 2024.

The complaint alleged that the Heintzeman committee prepared or disseminated campaign material that did not include a disclaimer in the manner required by Minnesota Statutes section 211B.04. The complaint included a photograph that the complaint alleged was posted on the Facebook page of the Heintzeman committee on July 24, 2024.² The photograph depicts a sign promoting Representative Heintzeman's candidacy that was displayed along State Highway 371 near its intersection with Northome Lane in Nisswa.³ No disclaimer was visible within the photograph. On September 12, 2024, the Board's chair determined that the complaint stated a prima facie violation of Minnesota Statutes section 211B.04 with respect to that specific sign. The Board's chair determined that the complaint did not state a prima facie violation of the disclaimer requirement with respect to several other signs, because the complaint included photographs showing that those signs included a visible disclaimer and the complaint did not allege that those disclaimers were not substantially in the form required by statute.

On September 27, 2024, the Heintzeman committee's legal counsel, R. Reid LeBeau II, provided a written response. Mr. LeBeau stated that the sign contained the required disclaimer and that the photograph provided with the complaint "appears to be of poor quality and not close enough to see the disclaimer." Mr. LeBeau provided photographs of the sign showing a portion of a handwritten disclaimer. The disclaimer appeared to begin with the text "Prepared and Paid for by the" with additional words after that text. However, even within the close-up photographs provided by Mr. LeBeau, the disclaimer was not entirely legible and the photographs did not

¹ cfb.mn.gov/reports-and-data/viewers/campaign-finance/candidates/17782/

² facebook.com/photo.php?fbid=122099388146435692&set=pb.61563070770280.-2207520000;facebook.com/permalink.php?story_fbid=pfbid0SP8UrX6E4gWvbhnucjFWgRJwoUgssWaLVCsM2VWTSHvHt7TBL5zcW7QSQ1CNCxwTI&id=61563070770280

³ For ease of reference, unless otherwise noted all references to the sign depicted in the complaint refer to the sign shown in the photograph labeled Exhibit 3.

show whether the disclaimer included the committee's full name and address. The photographs initially provided by Mr. LeBeau also did not depict the sign with a footer affixed at the bottom, which was present within the photograph included with the complaint. As a result, it was unclear whether the disclaimer was visible when the footer was affixed to the sign.

In response to follow-up questions from Board staff, on September 29, 2024, Mr. LeBeau stated that the footer "didn't cover the actual disclaimer" and that "the disclaimer was written above where the footer would have covered up." When asked why the disclaimer was not visible within the photograph included with the complaint, Mr. LeBeau stated that the photograph was taken from too far away, and that Representative Heintzeman walked up to the sign to verify that the disclaimer was visible.

During its meeting on November 6, 2024, the Board voted to lay this matter over to its December 2024 meeting pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (e), at the request of the Heintzeman committee. The Board considered this matter at its meeting on December 4, 2024, and Mr. Scheffler appeared before the Board. After Mr. Scheffler appeared before the Board the Board lacked a quorum. Therefore, the Board considered this matter again at its meeting on January 13, 2025, and Mr. Scheffler and Mr. LeBeau each appeared before the Board. During its meeting on January 13, 2025, the Board determined that there was probable cause to believe that the Heintzeman committee violated Minnesota Statutes section 211B.04. The Board concluded that a formal investigation was not warranted and directed the Board's executive director to open a staff review to resolve the matter.

On January 27, 2025, Mr. LeBeau provided additional photographs of the sign. In some of the photographs the footer was affixed to the sign, as was the case with the photograph provided with the complaint, and in some of the photographs the footer was absent. In some of the photographs provided by Mr. LeBeau, the footer was affixed below a white line at the bottom of the sign, whereas in the photograph provided with the complaint the footer was affixed in a position that covered the white line. The disclaimer above the white line stated "Prepared and Paid for by the Committee to Elect Josh Heintzeman" with illegible text following the name of the committee. None of the photographs with the footer in a position that covered the white line showed a complete disclaimer that was both visible and legible.

The Board considered this matter at its meeting on February 13, 2025. Mr. LeBeau appeared before the Board on behalf of the Heintzeman committee. During its meetings in January and February of 2025, Mr. LeBeau explained that Mr. Scheffler has filed other complaints and legal petitions involving Representative Heintzeman with the Office of Administrative Hearings, the Crow Wing County District Court, and the Minnesota Court of Appeals. Additionally, Mr. Scheffler filed a response to a petition filed with the Minnesota Supreme Court in 2024 that sought to exclude Representative Heintzeman's name from the ballot. Mr. LeBeau argued that the sign depicted in the complaint is one of the same signs that was considered by the Board in

resolving a separate complaint filed with the Board in 2022.⁴ Mr. LeBeau also argued that there was no actual confusion as to who prepared the sign. The Board and the Heintzeman committee discussed entering into a conciliation agreement to resolve this matter pursuant to Minnesota Rules 4525.0320, subpart 3, but were unable to reach a mutually satisfactory agreement.

Analysis

Minnesota Statutes section 211B.04 generally requires principal campaign committees to prominently include on their campaign material a disclaimer substantially in the form provided in Minnesota Statutes section 211B.04, subdivision 1. With the exception of broadcast media, campaign material must include a disclaimer in the following format: Prepared and paid for by the [committee name], [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. While Minnesota Statutes section 211B.04, subdivision 5, generally requires that disclaimers on written campaign material “be printed in 8-point font or larger,” that requirement does not apply to “an outdoor sign” such as that depicted in the complaint. A disclaimer on a sign that omits a committee’s address, either because the address is illegible, not visible, or completely absent, is not substantially in the form required by statute.

The sign depicted in the complaint features a design that is the same as, or very similar to, the design the Heintzeman committee has used for several years, including on its lawn signs and website. Mr. Scheffler filed a complaint alleging that Representative Heintzeman erected the sign and referenced a post on the Heintzeman committee’s Facebook page, which clearly showed that the Heintzeman committee was responsible for the sign. Given those factors, it is unlikely that the absence of a complete, legible disclaimer caused significant confusion as to who prepared and paid for that sign. However, the absence of a legible address may have made it more difficult for viewers to know how to contact the Heintzeman committee.

The Board considered a complaint regarding very similar homemade signs displayed by the Heintzeman committee in 2022.⁵ The signs included hand-written disclaimers that were covered by footers very similar to that affixed to the sign depicted in Mr. Scheffler’s complaint. The Board dismissed the 2022 complaint after the Heintzeman committee provided evidence that it applied stickers with complete disclaimers to the signs. The evidence included photographs depicting the stickers on the signs and a sworn affidavit stating that the stickers were applied to the signs. The Heintzeman committee also stated that the signs were checked regularly to ensure that the stickers remained affixed to the signs.

In determining the appropriate penalty for a violation of the disclaimer requirement the Board considers multiple factors such as whether it was clear who was responsible for the campaign material and how to contact them, whether the violation has been remedied, whether there were

⁴ cfb.mn.gov/citizen-resources/the-board/board-decisions/enforcement-actions/date/616290845

⁵ cfb.mn.gov/citizen-resources/the-board/board-decisions/enforcement-actions/date/616290845

prior violations of the disclaimer requirement, the cost of the campaign material and how widely it was disseminated, whether the violation was self-reported, and whether the violation was willful.⁶

Based on the above background and analysis, the Board makes the following:

Findings of Fact

1. The Committee to Elect Josh Heintzeman was the principal campaign committee of Representative Heintzeman, a candidate for Minnesota House of Representatives District 6B.
2. The Heintzeman committee prepared or disseminated campaign material consisting of a handmade sign that in 2024 was displayed along State Highway 371 near its intersection with Northome Lane in Nisswa.
3. On or about July 24, 2024, the sign included a footer with the text “VOTE AUGUST 13TH” that covered one of two hand-written disclaimers.
4. On or about July 24, 2024, the sign included a second hand-written disclaimer that was visible, which stated “Prepared and Paid for by the Committee to Elect Josh Heintzeman” with illegible text following the name of the committee. The sign did not include a legible address for the Heintzeman committee.
5. It is unlikely that the absence of a complete, legible disclaimer caused significant confusion as to who prepared and paid for the sign, but the absence of a legible address may have made it more difficult for viewers to know how to contact the Heintzeman committee.
6. The lack of a legible address was not self-reported and came to the attention of the Board through a complaint.
7. The evidence does not support a finding that the absence of a legible address was intentional. However, the evidence demonstrates that the Heintzeman committee failed to ensure that its campaign material included a complete, legible, visible disclaimer.
8. The Heintzeman committee registered with the Board in 2014. The committee has one other violation of the disclaimer requirement that occurred at nearly the same time in July 2024 and involved the committee’s Facebook page.⁷

⁶ See Minn. Stat. § 14.045, subd. 3.

⁷ cfb.mn.gov/citizen-resources/the-board/board-decisions/enforcement-actions/date/616290946

Based on the above analysis and findings of fact, the Board makes the following:

Conclusions of Law

1. The Committee to Elect Josh Heintzeman violated Minnesota Statutes section 211B.04, subdivision 1, by preparing or disseminating the sign depicted in the complaint, which included a disclaimer that was not substantially in the form required by statute because the committee's address was illegible.

Based on the above findings of fact and conclusions of law, the Board issues the following:

Order

1. A civil penalty of \$100 is assessed against Committee to Elect Josh Heintzeman for violating Minnesota Statutes section 211B.04, subdivision 1. Payment must be made within 30 days of the date of this order by check or money order payable to the State of Minnesota.
2. If the Heintzeman committee does not comply with this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
3. The investigation of this matter is concluded 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: April 8, 2025

Photograph from Complaint Exhibit 3

