

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

**PROBABLE CAUSE  
DETERMINATION**

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

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.

The complaint alleges violations of Minnesota Statutes section 211B.04, which regulates the use of disclaimers on campaign material. The complaint alleges that as of the week of July 22, 2024, “homemade” 96-inch by 68-inch signs promoting Representative Heintzeman’s candidacy were displayed at four locations. The complaint includes photographs of those signs and states that they are located on Mill Avenue in Brainerd on a parcel owned by Brainerd Land, LLC (Exhibit 1);<sup>1</sup> on State Highway 210 near Logging Road on Cass County parcel 41-109-4403 (Exhibit 2); on State Highway 371 at its intersection with Northome Lane in Nisswa on Crow Wing County parcel 28250501 (Exhibit 3);<sup>2</sup> and at the intersection of Garrison Road and Elder Drive in Baxter on Crow Wing County parcel 40070605 (Exhibit 4). The complaint asserts that “[n]one of these signs prominently display any disclaimer as required by” statute. However, the complaint acknowledges that the signs depicted in Exhibits 1, 2, and 4 include a visible disclaimer printed on a bumper sticker on the lower right corner of each sign. The sign depicted in Exhibit 4 also includes a hand-written disclaimer in the lower left corner stating “Prepared and Paid for by the Committee to Elect Josh Heintzeman JoshHeintzeman.com.” No disclaimer is visible within the photograph labeled as Exhibit 3.

The complaint further alleges that the Heintzeman committee disseminated “commercially manufactured” signs with a disclaimer that is “as obscure and inconspicuous as possible.” Exhibit 5 consists of a photograph of a large lawn sign promoting Representative Heintzeman’s candidacy, which appears to include a disclaimer printed in one font size, and the committee’s website address printed in a larger font size.

The complaint argues that Representative Heintzeman was aware of the disclaimer requirement “when placing these signs, for a number of reasons” including a complaint previously filed with the Board regarding the Heintzeman committee’s “homemade” signs.<sup>3</sup>

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<sup>1</sup> [facebook.com/photo?fbid=122099388206435692](https://www.facebook.com/photo?fbid=122099388206435692)

<sup>2</sup> [facebook.com/photo?fbid=122099388146435692](https://www.facebook.com/photo?fbid=122099388146435692)

<sup>3</sup> See Order of Dismissal in the Matter of the Complaint of George Selvestra regarding the Committee to Elect Josh Heintzeman (Nov. 14, 2022).



On September 12, 2024, the Board's chair determined that the complaint does not state a prima facie violation of Minnesota Statutes section 211B.04 with respect to the signs depicted in Exhibits 1, 2, 4, and 5, because each of those signs included a visible disclaimer. The Board's chair concluded that if campaign material includes a disclaimer that is substantially in the form required by statute, and it is visible and legible, the disclaimer is sufficiently prominent and the purpose of the disclaimer requirement has been satisfied. The Board's chair further concluded that a disclaimer on an outdoor sign need not be legible from a significant distance, such as by a passing motorist, in order to be prominently included.

The Board's chair determined that the complaint states a prima facie violation of Minnesota Statutes section 211B.04 with respect to the sign depicted in Exhibit 3, as that sign did not appear to include a visible disclaimer based on the photograph provided with the complaint. On September 27, 2024, the Heintzeman committee's legal counsel, R. Reid LeBeau II, provided a written response. Mr. LeBeau stated that the sign depicted in Exhibit 3 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 depicted in Exhibit 3, showing a portion of a handwritten disclaimer. The disclaimer appears 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 is not entirely legible and the photographs do not appear to show whether the disclaimer included the committee's full name and address. The photographs provided by Mr. LeBeau do not include a footer affixed to the bottom of the sign depicted in Exhibit 3, stating "VOTE AUGUST 13TH," and therefore it is not clear from those photographs 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 is not visible within the photograph labeled as Exhibit 3, 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 is visible.

During its meeting on November 6, 2024, the Board voted to lay this matter over to its December 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. Mr. Scheffler again appeared before the Board, as did Mr. LeBeau.

## **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 there are sufficient facts and reasonable inferences to be drawn therefrom to believe that a violation of law has occurred.

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 respondents, 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 generally requires principal campaign committees to include on their campaign material a disclaimer substantially in the form provided in Minnesota Statutes section 211B.04, subdivision 1. 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 Exhibit 3.

The Heintzeman committee provided evidence that the sign depicted in Exhibit 3 contained a handwritten disclaimer. However, the Heintzeman committee has not provided evidence that the disclaimer satisfied the requirements of Minnesota Statutes section 211B.04. Specifically, the photographs provided by the Heintzeman committee include a disclaimer that is mostly illegible, and it is unclear whether the disclaimer included the committee’s full name or its address. Moreover, the photographs provided by the Heintzeman committee do not depict the sign with the “VOTE AUGUST 13TH” footer affixed and it is therefore unclear whether the disclaimer was visible despite the presence of the footer. While Mr. LeBeau stated that the disclaimer was visible when the footer was affixed, that statement appears to be contradicted by the photograph labeled as Exhibit 3, in which no disclaimer is visible. It may be the case that, as Mr. LeBeau has asserted, the photograph provided with the complaint was taken from too far away for the disclaimer to be visible. However, that photograph appears to be of high quality and the Heintzeman committee has not provided contrary evidence clearly showing that the disclaimer was visible when the footer was affixed. Considering the available evidence, the Board has reason to believe that a violation occurred, and further information is necessary to resolve disputed facts.

The sign depicted in Exhibit 3 features the same design as the signs depicted in Exhibits 1, 2, and 4, which is similar to the design the Heintzeman committee has used for several years, including on its lawn signs and website. The complainant filed a complaint alleging that Representative Heintzeman erected the signs, and thereby knew that the Heintzeman



committee was responsible for the signs. Given those factors, it is unlikely that any lack of a visible, legible, complete disclaimer on a single sign caused significant confusion as to who prepared and paid for that sign. The Heintzeman committee registered with the Board in 2014. There is no apparent benefit to be gained from issuing formal findings rather than an informal resolution of the matter. Considering those factors, the Board concludes that a formal investigation is not warranted.

**Order:**

1. Although probable cause exists to believe that the Heintzeman committee prepared and disseminated campaign material without a visible, legible, complete disclaimer in violation of 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 this matter pursuant to Minnesota Rules 4525.0320. If the staff review establishes that no violation occurred, the staff review must be closed pursuant to Minnesota Statutes section 10A.022, subdivision 3b. If the staff review establishes that a violation occurred, the staff review may be resolved by a conciliation agreement with the Heintzeman committee. If the staff review establishes that a violation occurred and the matter cannot be resolved by conciliation agreement, the executive director is directed to prepare findings to resolve the matter.

  
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Faris Rashid, Chair  
Campaign Finance and Public Disclosure Board

Date: January 13, 2025