

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINTS OF ERIN KOEGEL REGARDING THE ANTHONY WILDER FOR HOUSE COMMITTEE, CAPRA'S SPORTING GOODS, AND HERITAGE AUTO BODY:

On August 21, 2018, the Campaign Finance and Public Disclosure Board received three complaints submitted by Rep. Erin Koegel regarding the placement of campaign signs by the Anthony Wilder for House committee. Anthony Wilder for House is the principal campaign committee of Anthony Wilder, candidate for Minnesota House of Representatives district 37A. The complaints included photographic evidence showing that Wilder campaign signs were placed at two business locations; Capra's Sporting Goods and Heritage Auto Body. A separate complaint was filed against each of those two businesses and one was filed against the Wilder committee.

Two of the complaints allege that by allowing the Wilder committee to place campaign signs at their locations, the businesses violated Minnesota Statutes section 211B.15, subdivision 2, which prohibits corporations from making contributions to a principal campaign committees.¹ A search of the Minnesota Secretary of State's website shows that both Capra's Sporting Goods and Heritage Auto Body are corporations. The complainant contends that the contributions would be the fair market value of allowing the signs to be displayed on property controlled by the corporations. The third complaint alleges that by accepting the alleged contributions, the Wilder committee violated Minnesota Statutes section 211B.13, subdivision 2, which prohibits the knowing solicitation, receipt, or acceptance of anything of value that is a disbursement prohibited by that section or Minnesota Statutes section 211B.15. Although the complaint cites section 211B.13, it is clear from the remainder of the complaint and the attachments that the complaint is alleging that the Wilder committee also violated the corporate contribution prohibition in section 211B.15, subdivision 2.

Because the complaints involve the same alleged facts, the same candidate's committee, and essentially the same evidence, the Board chair combined the complaints for the purpose of the prima facie determination. On August 28, 2018, the Board chair determined that the complaints each alleged prima facie violations of Minnesota Statutes section 211B.15. Because Minnesota Statutes section 211B.13 is not under the Board's jurisdiction, the Board chair determined that the complaint against the Wilder committee did not state a prima facie violation of that statute.

On September 25, 2018, Mr. Wilder responded to the complaint against his committee in an email to Board staff. Mr. Wilder states that two weeks prior to the August 14 primary election, he met with Dean Capra, CEO of Capra's Sporting Goods, and Mike Knoll, CEO of Heritage Auto Body, in addition to two other businesses not included in the complaint. Mr. Wilder reports that he offered to pay each business

¹ The complaints against Capra's Sporting Goods and Heritage Auto Body allege violations of Minnesota Statutes section 211B.15, subdivision 11; however, the alleged conduct referred to in the complaints actually would violate Minnesota Statutes section 211B.15, subdivision 2.

\$25 to place a campaign sign at their location. Mr. Wilder states that this is the same amount that the committee paid for displaying campaign signs during his 2016 campaign for the same office. Mr. Wilder explains that each business accepted his offer and on August 14 he placed the campaign signs at the business locations and left a check for \$25 at each location. Mr. Wilder provided copies of the committee's checkbook register showing that checks had been written from his campaign account to the businesses. Mr. Wilder reports that he could not obtain copies of the actual checks from the bank because they had not cleared yet.

Mr. Knoll responded to the complaint against Heritage Auto Body in an email to Board staff on September 4, 2018. Mr. Knoll likewise stated that Heritage Auto Body was being paid \$25 to host a Wilder campaign sign from August 14 through the general election. Mr. Knoll also provided a copy of the check he was given for \$25 from the Wilder committee.

Capra Sporting Goods did not provide a response to Board staff.

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 (2). 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.

Minnesota Statutes section 211B.15, subdivision 2, prevents corporations from giving contributions to candidates, including signage space, and prohibits candidates from accepting contributions from corporations. Both Capra's Sporting Goods and Heritage Auto Body are corporations. Minnesota Statutes section 211B.15, subdivision 2 includes within its list of prohibited corporate contributions "any money, property, free service of its officers, employees, or members, or thing of monetary value"

The placement of Wilder campaign signs on the business property of Capra's Sporting Goods and Heritage Auto Body thereby would violate Minnesota Statutes section 211B.15, subdivision 2, unless the Wilder committee paid for the value of that signage space. The responses of Mr. Wilder and Mr. Knoll show that the Wilder committee did pay to place the campaign signs at the business locations in question. Therefore, the record does not establish probable cause to believe that the Wilder committee, Capra's Sporting Goods, or Heritage Auto Body accepted or made a corporate contribution in violation of Minnesota Statutes section 211B.15, subdivision 2.

Order:

1. The allegations that Capra's Sporting Goods and Heritage Auto Body made corporate contributions to the Anthony Wilder for House committee in violation of Minnesota Statutes section 211B.15, subdivision 2, are dismissed for lack of probable cause.

2. The allegation that the Anthony Wilder for House committee accepted corporate contributions from Capra's Sporting Goods and Heritage Auto Body in violation of Minnesota Statutes section 211B.15, subdivision 2, is dismissed for lack of probable cause.

/s/ Carolyn Flynn
Carolyn Flynn, Chair
Campaign Finance and Public Disclosure Board

Date: October 3, 2018