OAH 60-0325-38567

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Kau Guannu,

Complainant,

vs.

Teneshia Kragness,

Respondent.

PROBABLE CAUSE ORDER

This matter came before Administrative Law Judge James E. LaFave for a probable cause hearing held by telephone on August 12, 2022. The hearing addressed a campaign complaint (Complaint) filed under the Fair Campaign Practices Act by Kau Guannu (Complainant) on August 4, 2022. The probable cause hearing record closed on August 15, 2022.

Kau Guannu (Complainant) appeared on her own behalf, without legal counsel. Teneshia Kragness (Respondent) also appeared on her own behalf, without legal counsel.

Based upon the record and all the proceedings in this matter, and for the reasons set forth in the attached Memorandum incorporated herein, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED THAT:

1. There is probable cause to believe that Respondent violated Minn. Stat. § 211B.15, subd. 2(b) (2022), by accepting prohibited corporate campaign contributions.

2. This matter will be referred to the Chief Administrative Law Judge for assignment to a panel of three administrative law judges, pursuant to Minn. Stat. § 211B.35 (2022).

3. Based on the parties' agreement, this matter shall be submitted to the assigned panel for a decision based on the Complaint, the record created at the probable cause hearing, and additional evidence and argument filed by the parties without an evidentiary hearing.

4. The parties shall be given the opportunity to submit written argument regarding the penalty, if any, should the panel conclude Respondent violated the statute as alleged.

Dated: August 19, 2022

JAMES E. LAFAVE
Administrative Law Judge

MEMORANDUM

I. Background

Respondent is a candidate for the Brooklyn Center City Council.[1] Dan Jerzak is also a candidate for the Brooklyn Center City Council.[2] On June 10, 2022, Mr. Jerzak emailed the City Clerk to confirm the campaign contribution limits.[3] In an email the City Clerk responded "Yes, it is $300 per person, $600 for married couples, $600 for corporations, and if the corporations are separate business's [sic] they can each give $600."[4]

The Complaint alleges that Respondent violated Minn. Stat. § 211B.15, subd. 2(b), by accepting contributions from corporations. In support of her Complaint, Complainant attached Respondent's Campaign Finance Report dated August 1, 2022. The report covers the period of July 1, 2022, to July 31, 2022.[5] The report lists eight contributions from limited liability companies (LLCs), each in the amount of $600.[6] Of the $5,325 in contributions listed by Respondent in her Campaign Finance Report, $4,800 were made by LLCs.[7]

On August 4, 2022, Respondent refunded all the corporate campaign contributions she received.[8] Respondent also filed an Amended Campaign Finance report for the period of July 1, 2022, to July 31, 2022, which documents the absence of corporate contributions.[9]

---

[1] Complaint (Aug. 4, 2022).
[2] Testimony (Test.) of Teneshia Kragness.
[3] Ex. B.
[4] *Id.*
[5] Complaint (Aug. 4, 2022).
[6] *Id.* at Campaign Finance Report.
[7] *Id.*
[8] Test. of T. Kragness, *see* Ex. D.
[9] Test of T. Kragness, *see* Ex. C.

II. Legal Standard

The purpose of a probable cause determination is to determine whether, given the facts disclosed by the record, it is fair and reasonable to hear the matter on the merits.[10] If the judge is satisfied that the facts appearing in the record, including reliable hearsay, would preclude the granting of a motion for a directed verdict, a motion to dismiss for lack of probable cause should be denied.[11]

A judge's function at a probable cause hearing does not extend to an assessment of the relative credibility of conflicting testimony. As applied to these proceedings, a probable cause hearing is not a preview or a mini-version of a hearing on the merits; its function is simply to determine whether the facts available establish a reasonable belief that the Respondents have committed a violation. At a hearing on the merits, a panel has the benefit of a more fully developed record and the ability to make credibility determinations in evaluating whether a violation has been proved, considering both the record as a whole and the applicable evidentiary burdens and standards.

III. Fair Campaign Practices Act

Minnesota Statutes section 211B.15, subdivision 2(b), prohibits candidates from accepting political contributions from corporations, and provides:

> A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a).[12]

The referenced paragraph (a) prohibits corporations from making contributions to promote or defeat the election of an individual to public office.[13]

IV. Analysis

Respondent is a candidate for the Brooklyn Center City council. As such, she is a candidate "to a political office" within the meaning of Minn. Stat. § 211B.15 (2022). In her Campaign Finance Report covering July 1, 2022, to July 31, 2022, Respondent lists

---

[10] *State v. Florence*, 239 N.W.2d 892, 902 (Minn. 1976).

[11] *Id*. at 903. In civil cases, a motion for a directed verdict presents a question of law regarding the sufficiency of the evidence to raise a fact question. The judge must view all the evidence presented in the light most favorable to the adverse party and resolve all issues of credibility in the adverse party's favor. *See, e.g.*, Minn. R. Civ. P. 50.01; *LeBeau v. Buchanan*, 236 N.W.2d 789, 791 (Minn. 1975); *Midland National Bank v. Perranoski*, 299 N.W.2d 404, 409 (Minn. 1980). The standard for a directed verdict in civil cases is not significantly different from the standard for summary judgment. *Howie v. Thomas*, 514 N.W.2d 822 (Minn. Ct. App. 1994).

[12] Minn. Stat. § 211B.15, subd. 2(b).

[13] *Id.* at subd. 2(a). ("A corporation may not make a contribution or offer or agree to make a contribution directly or in directly, of any money … to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.").

receiving campaign contributions from eight LLCs.[14] LLCs are considered "corporations" for the purposes of the Minnesota Campaign Finance Act.[15]

Respondent argues she made a good faith effort to comply with the law.[16] She notes that on two separate occasions, prior to accepting corporate contributions, the Brooklyn Center City Clerk confirmed to others that corporate contributions up to $600 were permissible.[17] Respondent also points out that Minn. Stat. § 211A.12 (2022) states that an individual may not accept contributions from a "committee" in excess of $600.[18] And that a "committee" is defined to include a "corporation."[19] Respondent reasons those statutory definitions corroborate the information given by the City Clerk.[20]

A corporation is prohibited from contributing "anything of monetary value" to a candidate or committee to promote or defeat the candidacy of an individual for election to public office.[21] A "contribution" is defined as "anything of monetary value that is given or loaned to a candidate or committee for a political purpose…[.]"[22]

There is no requirement that an individual who receives a corporate contribution know that it is wrong to accept the contribution in order to violate Minn. Stat. § 211B.15. Instead, the statute strictly prohibits an individual from accepting corporate contributions.

In *Field v. Van Denburgh*,[23] a panel of three administrative law judges held that alleged violations of Minn. Stat. § 211A.12 must be analyzed at the point the candidate or committee accepts the contribution. The panel explained:

> The prohibition runs to the campaign's acceptance of what appears to be an excessive contribution, not that a joint account holder is willing to later signify that half of the contribution should be attributed to him.[24]

Here, even though Respondent returned the corporate contributions and filed an Amended Campaign Finance Report, after she received notice of the Complaint, the violation must be analyzed at the point she accepted corporate campaign contributions in July of 2022.[25]

---

[14] Complaint (Aug. 4, 2022).
[15] Minn. Stat. § 211B.15, subd. 1(3).
[16] Test. of T. Kragness.
[17] *Id.*
[18] Ex. A at 2.
[19] *Id.* at 3*, see* Minn. Stat. § 211B.01, subd. 4 (2022) ("'Committee' means two or more persons acting together *or a corporation* or association acting to influence the nomination, election, or defeat of a candidate.") (emphasis added).
[20] Test. of D. Jerzak.
[21] Minn. Stat. § 211B.15, subd. 2.
[22] Minn. Stat. § 211A.01, subd. 5 (2022).
[23] *Field v. Van Denburgh*, No. 0325-33798, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER at 5 (Minn. Office of Admin. Hearings Nov. 16, 2016).
[24] *See id*.
[25] Complaint (Aug. 4, 2022).

Based on the record presented, Complainant has demonstrated probable cause to believe that Respondent violated Minn. Stat. § 211B.15, subd. 2(b). Respondent's testimony and Campaign Finance Report demonstrate she accepted prohibited corporate campaign contributions.

The circumstances giving rise to the violation, the intentions of the candidate and corporate officials, and the impact, if any, the contributions had upon voters are all matters that go to the appropriate penalty if a violation is proved after the hearing record is complete. Those items are premature at this stage of the proceeding.

The Administrative Law Judge finds that it is reasonable to allow this matter to proceed to a panel of three Administrative Law Judges to determine whether Respondent violated Minn. Stat. § 211B.15, subd. 2(b), and, if so, what penalty is appropriate. The timeline for submitting additional evidence and argument will be set forth in the order from the Chief Administrative Law Judge appointing the panel.

J. E. L.