

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

**FINDINGS, CONCLUSIONS, AND ORDER IN THE MATTER OF THE COMPLAINT OF DALE LUECK
REGARDING WAGNER (ERIN) FOR MINNESOTA**

On November 2, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Dale Lueck regarding Wagner (Erin) for Minnesota. Wagner for Minnesota is the principal campaign committee of Erin Wagner for the seat in the House of Representatives for district 10B.

The complaint alleged that the committee had been running a radio advertisement that did not include the required disclaimer, in violation of Minnesota Statutes section 211B.04. The complaint further alleged that a transcript of the radio advertisement was not provided on the campaign's website, in violation of Minnesota Statutes section 10A.38.

On November 4, 2016, the chair made a determination that the complaint and its attachments stated a prima facie violation of the disclaimer provision and the transcript requirement. On November 15, 2016, the Board received a response letter from the Wagner committee. Ms. Wagner provided additional information by email on November 16, 2016. At its meeting on January 4, 2017, the Board issued a probable cause determination in the matter, finding that probable cause existed to believe that violations of the disclaimer provision and the transcript requirement had occurred and ordering an investigation.

Analysis

Minnesota Statutes section 211B.04 requires a disclaimer to be included in any campaign material aired on broadcast media. The required form of the disclaimer is "Paid for by the [name] committee." Campaign material is defined by statute as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election."

The complaint included as an attachment a live recording of the radio advertisement. In the advertisement, the candidate states "Please vote for me, Erin Wagner, on November 8th." The advertisement did not contain a disclaimer as recorded.

Minnesota Statutes section 10A.38 states that "A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so." This requirement applies only to candidates who have signed a public subsidy agreement with the Board.

Board records show that Erin Wagner signed a public subsidy agreement with the Board for the 2015-2016 election segment. The complaint included a link to the candidate's campaign website. Posted on the website were two transcripts for radio advertisements, neither of which

was the advertisement submitted as a recording. The Board has no record of a statement from Erin Wagner setting forth the reasons for not posting a transcript of the subject radio advertisement on her campaign website.

In her letter to the Board, Erin Wagner stated that the committee “had forgotten the disclaimer” on the radio ad. She further stated that a “disclaimer [was added] on the ad for the final two days of it running.” Ms. Wagner states that the committee had spent approximately \$2400 running the advertisements before the disclaimer was added.

Regarding the transcript, Ms. Wagner provided that she “thought that [she] had put the transcript on the website, but with how busy [she] had gotten during the campaign ... [she] had not.” She further stated that “as soon as this was brought to my attention ... [the transcript was] put on [the website] immediately.”

Ms. Wagner also notes that for two of the three radio advertisements that she ran during the campaign, disclaimers were provided and the transcripts were listed on her campaign website. The third one “inadvertently omitted the disclaimer and the transcript.” She explains that she was “super busy campaigning at this point, this is the first campaign [she had] ever run, and it was an honest mistake.”

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

Findings of fact

1. The Wagner (Erin) for Minnesota committee broadcast a radio advertisement without a campaign disclaimer.
2. On June 6, 2016, Erin Wagner signed a public subsidy agreement for the Wagner (Erin) for Minnesota committee covering the 2015-2016 election segment.
3. The Wagner (Erin) for Minnesota committee did not provide a transcript for a radio advertisement on its website.
4. No statement setting forth the reasons for not providing a transcript of the radio advertisement on the campaign’s website was provided to the Board prior to the advertisement’s dissemination.

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

Conclusions of law

1. Wagner (Erin) for Minnesota violated Minnesota Statutes section 211B.04 when it broadcast a radio advertisement without including the required disclaimer

2. Wagner (Erin) for Minnesota violated Minnesota Statutes section 10A.38 when it failed to provide a transcript for a radio advertisement on its website or provide the Board with a statement setting forth the reasons for not doing so prior to the advertisement airing.

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

Order

1. A civil penalty in the amount of \$300 is assessed against the Wagner (Erin) for Minnesota for violating the disclaimer requirement in Minnesota Statutes section 211B.04 and the transcript requirement in Minnesota Statutes section 10A.38.
2. The Wagner (Erin) for Minnesota is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
3. If the Wagner (Erin) for Minnesota does not comply with the provisions of 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.
4. The Board 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/ Daniel Rosen
Daniel N. Rosen, Chair
Campaign Finance and Public Disclosure Board

Date: January 4, 2017