

November 12, 2024

VIA US MAIL & EMAIL

Carol A. Overland
1110 West Ave
Red Wing, MN 55066
Overland@legalelectric.org

VIA US MAIL & EMAIL

Miller & Holmes, Inc
Attn: Scott West
2311 O'Neill Rd
Hudson, WI 54016
saw@mhstores.com

VIA US MAIL & EMAIL

Gary Iocco
1837 Woodland Dr
Red Wing, MN 55066
iocogary@gmail.com

VIA US MAIL & EMAIL

Will-Do Truckin'
27319 Hwy 61
Red Wing, MN 55066

Will-Do Truckin'
c/o Wylie Wilson Trucking
1210 Brick Ave
Red Wing, MN 55066
wylie.wilson@wyliewilsontrucking.com

Re: *In the Matter of Carol A. Overland (Gary Iocco, Miller & Holmes, Inc., and Will-Do Truckin')*
OAH 21-0325-40438

Dear Parties:

Enclosed and served upon you please find the **ORDER OF DETERMINATION OF PRIMA FACIE VIOLATION AND ORDER FOR PREHEARING CONFERENCE** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7857, nichole.sletten@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



NICHOLE SLETTEN
Legal Assistant

Enclosure
cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Carol A. Overland,
Complainant,

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION AND
ORDER FOR PREHEARING
CONFERENCE**

vs.

Gary Iocco, Miller & Holmes, Inc., and
Wylie Wilson Trucking, Inc., d/b/a Will-Do
Truckin',

Respondents.

On November 6, 2024, Carol A. Overland (Complainant) filed a Fair Campaign Practices Complaint (Complaint) with the Office of Administrative Hearings. The Complaint alleges that Gary Iocco, Miller & Holmes, Inc., and Wylie Wilson Trucking, Inc., d/b/a Will-Do Truckin' (collectively referred to herein as Respondents) violated Minn. Stat. §§ 211A.02, 211B.15, subds. 2(a) and 2(b) of the Fair Campaign Practices and Finance Acts, with respect to a campaign sign placed on the side of a semi-truck trailer located at 630 Main Street in Red Wing, MN.

Following a review of the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint establishes prima facie violations of Minn. Stat. §§ 211A.02 and 211B.15, subd. 2(a) and (b). For the reasons detailed in the Memorandum below this matter will proceed to a prehearing conference.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS GIVEN that this matter is scheduled for a prehearing conference to be held before the undersigned Judge at **2:30 p.m. on December 9, 2024**. The prehearing conference will be held by telephone, and the parties must call in for the conference. At the appointed time, the parties are directed to call **1-651-395-7448** and, when prompted, enter conference code: **303 871 041#**.

At the prehearing conference, the Judge will address issues related to the hearing, including scheduling the hearing date, identifying the issues to be resolved, and discussing the number of potential witnesses and exhibits. The Judge will also address whether the matter may be disposed of on a written record without an evidentiary hearing.

Any party who needs an accommodation for a disability to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party

requires an interpreter, the Office of Administrative Hearings must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at P.O. Box 64620, St. Paul, Minnesota 55164-0620, or call 651-361-7900 (voice) or 651-361-7878 (TDD).

A failure by any party to participate and appear by telephone at the prehearing conference may result in a finding of default, and the Complaint may be dismissed or the case disposed of pursuant to Minn. Stat. § 211B.35, subd. 2 (2024).

Dated: November 12, 2024



KIMBERLY MIDDENDORF
Administrative Law Judge

MEMORANDUM

The Complaint concerns a campaign sign that reads, “Gary Iocco for Mayor,” located on a semi-truck trailer which was parked at 630 Main Street in Red Wing, Minnesota, from October 30 to November 6, 2024.¹ Respondent Gary Iocco was a candidate for Red Wing mayor in the election that took place on November 5, 2024. The Complaint alleges that Respondent Wylie Wilson Trucking, Inc., d/b/a Will-Do Truckin’, is the owner of the sign-bearing trailer, and that Respondent Miller & Holmes, Inc. is the owner of the property where the trailer was parked.²

The Complaint asserts that Wylie Wilson Trucking, Inc., d/b/a Will-Do Truckin’, and Miller & Holmes, Inc. are “corporations,” which are prohibited from contributing to political campaigns. The Complaint further asserts that the sign on the trailer and the location of the trailer constitute in-kind donations from the corporations. Finally, Complaint asserts that these donations were not properly reported in Respondent Iocco’s campaign finance reports.

I. Standard for Prima Facie Determinations

To establish a prima facie violation of the Fair Campaign Practices Act, a complainant must allege sufficient facts to show that a violation of law has occurred.³ The

¹ Complaint at 1-3 (Nov. 6, 2024).

² Complaint at 5.

³ Minn. Stat. § 211B.32, subd. 3 (2024).

complaining party must submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.37.⁴

For purposes of a prima facie determination, this tribunal must accept the facts that are alleged in the Complaint as true, without independent substantiation, provided that those facts are not patently false or inherently incredible.⁵ In determining whether a complaint alleges sufficient facts to state a prima facie case, reasonable inferences must be drawn in the light most favorable to the complainant.⁶ A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of law.⁷

II. Prohibited Corporate Contributions (Minn. Stat. § 211B.15)

A “contribution” to a political campaign under Minnesota law is defined broadly as, “anything of monetary value that is given or loaned to a candidate or committee for a political purpose. “Contribution” does not include a service provided without compensation by an individual.”⁸

Minn. Stat. § 211B.15 prohibits corporations from contributing “anything of monetary value” to a candidate or committee “to promote or defeat the candidacy of an individual for nomination, election, or appointment to political office.”⁹ Additionally, 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” by that same statute.¹⁰

For the purposes of this prima facie determination, the Complainant has alleged sufficient facts to state a prima facie case that Respondent Iocco accepted in-kind contributions from corporations in violation of Minn. Stat. § 211B.15, subd. 2(b). The Complaint also alleges sufficient facts to state a prima facie case that Respondents Miller & Holmes, Inc., and Wylie Wilson Trucking, d/b/a Will-Do Truckin’ are corporations and made contributions to a political candidate in violation of Minn. Stat. § 211B.15, subd. 2(a).

III. Financial Reports (Minn. Stat. § 211A.02)

Minn. Stat. § 211A.02 requires any candidate “who receives contributions or makes disbursements of more than \$750 in a calendar year” to submit an initial financial report to a filing officer within 14 days after receiving the contributions or making the disbursements, and to continue filing reports, as required by the statute, until a final report

⁴ *Barry v. St. Anthony-New Brighton Indep. Sch. Dist.* 282, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

⁵ *Id.*

⁶ *Abrahamson v. St. Louis Cty. Sch. Dist.*, 819 N.W.2d 129, 136 (Minn. 2012).

⁷ *Barry*, 781 N.W.2d at 902.

⁸ Minn. Stat. § 211A.01, subd. 5.

⁹ Minn. Stat. § 211B.15, subd. 2(a).

¹⁰ Minn. Stat. § 211B.15, subd. 2(b).

is filed.¹¹ For contributions that exceed \$100 in aggregate, the report must include “the name, address, and employer of the contributor, the amount of the contribution, and the date of the contribution¹²

The Complaint alleges that none of Respondent locco’s campaign reports, as filed with the filing officer, include any contributions from Wylie Wilson Trucking, Inc., d/b/a Will-Do Truckin’, and Miller & Holmes, Inc., despite the fact that these corporations provided in-kind donations to locco’s campaign.¹³ The Judge finds that these facts, when taken as true, are sufficient to make a prima facie case for a violation of Minn. Stat. § 211A.02.

IV. Conclusion

The Complaint establishes prima facie violations of Minn. Stat. §§ 211A.02, subd. 2, and 211B.15. These claims will proceed to a prehearing conference.

K. J. M.

¹¹ Minn. Stat. § 211A.02, subd. 1(a) (2024).

¹² *Id.* at subd. 2.

¹³ Complaint at 5.