

March 7, 2025

VIA EMAIL ONLY

Carol A. Overland
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VIA EMAIL & US MAIL

Gary Iocco
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Re: *In the Matter of Carol A. Overland (Gary Iocco)*
OAH 21-0325-40437

Dear Parties:

Enclosed and served upon you please find the **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** in the above-entitled matter. The Office of Administrative Hearings' file in this matter is now closed.

If you have any questions, please contact me at (651) 361-7845, samantha.cosgriff@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,


SAMANTHA COSGRIFF
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Carol A. Overland,

Complainant,

vs.

Gary Iocco,

Respondent.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

This Fair Campaign Practices complaint (Complaint) came on for an evidentiary hearing before the following panel of three administrative law judges: Kimberly Middendorf (Presiding Judge); Megan J. McKenzie; and Jim Mortenson (collectively Panel).

Carol A. Overland (Complainant) appeared on her own behalf, without legal counsel. Gary Iocco (Respondent) appeared on his own behalf, without legal counsel.

Complainant offered exhibits numbered 1-10 and 12, which were received. Respondent offered no exhibits. The record closed on February 24, 2025, at the end of the hearing.¹

STATEMENT OF THE ISSUES

1. Did Respondent violate Minn. Stat. § 211A.02 (2024) by failing to properly report an in-kind donation of a less-than-market value lease from Dehn Oil Company on his campaign financial reports?
2. Did Respondent violate Minn. Stat. § 211B.15, subd. 2(b) (2024) by accepting a prohibited donation from a corporation?
3. If so, what penalty is appropriate?

¹ The hearing deadline was briefly extended for good cause pursuant to Minn. Stat. § 211B.35, subd. 1.

SUMMARY OF CONCLUSIONS

Complainant established by a preponderance of the evidence that Respondent violated Minn. Stat. §§ 211A.02 and 211B.15, subd. 2(b). For these violations a \$500 fine is appropriate.

Based on the record and proceedings herein, the undersigned Panel of administrative law judges now hereby make the following:

FINDINGS OF FACT

1. In 2024, Respondent was a candidate for the office of Mayor of Red Wing.²
2. In approximately July 2024, Respondent was in a gas station located next to the building at issue in this case.³ The gas station and adjoining buildings are the property of Dehn Oil Company. The company also does business in Minnesota under the name Wilson Oil Company.⁴
3. While at the gas station, someone asked Respondent if he was going to put a campaign sign on the roof of an adjoining building as past candidates had. Respondent asked Dehn Oil employee Joanne Krig whether he could place a campaign sign on one of their buildings.⁵ Krig told him he could.⁶
4. Krig prepared a lease for the building located at 2355 West Main Street, Red Wing, Minnesota, (Wilson Oil Building) where Respondent could place a campaign sign from August 1, 2024, through November 30, 2024, for the sum of \$1.⁷ On July 19, 2024, Respondent and Joanne Krig, on behalf of “Dehn Oil Company dba Wilson Oil Company,” signed the lease agreement.⁸
5. Respondent hired a company to produce a campaign sign and attach it to the roof of the building.⁹ The sign was similar in size to a typical billboard.¹⁰ Respondent paid \$800 for these services.¹¹
6. On September 11, 2024, Complainant filed a Fair Campaign Practices Act complaint against Respondent based on the rooftop sign and related campaign financial

² Complaint at 1 (Nov. 6, 2024).

³ Testimony (Test.) of Gary Iocco.

⁴ Exhibit (Ex.) 6; Test. of Mike Wilson. Wilson is the prior owner of Wilson Oil Company, which was sold in its entirety – including the right to operate in Minnesota under that name – to Dehn Oil Company prior to any of the events involved in this case. See Test. of M. Wilson.

⁵ Test. of G. Iocco.

⁶ Test. of G. Iocco.

⁷ Ex. 2; Test. of G. Iocco.

⁸ Ex. 2.

⁹ Test. of G. Iocco.

¹⁰ Ex. 4.

¹¹ Ex. 3; Test. of G. Iocco.

reporting.¹² Respondent had the rooftop campaign sign removed after receiving notice of the complaint.¹³ That complaint was eventually dismissed.¹⁴

7. Respondent's Campaign Financial Report for the period of May 31, 2024, through August 4, 2024, listed expenditures of \$1.00 for the sign lease and \$800 for the sign.¹⁵ The report does not include contributions received from Wilson Oil Company or Dehn Oil Company.¹⁶

8. The Wilson Oil Building was also leased for the same purpose – hosting a rooftop campaign sign – in 2018 for \$100.¹⁷ There is no information about the length of the lease period in 2018.¹⁸

9. Renting a free-standing billboard in the same area as the Wilson Oil Building costs between \$540 and \$600 for a four-week period.¹⁹ These highway billboards are more visible from adjacent roads than the rooftop of the Wilson Oil Building.²⁰

10. In 2019, the Minnesota Department of Transportation reported that the "daily traffic count" along Highway 61, which runs adjacent to the Wilson Oil Building, was between 24,900 and 23,100 vehicles.²¹

11. Prior to the 2024 campaign for mayor of Red Wing, Respondent ran a campaign for a County Commissioner's seat.²²

12. As of the date of the hearing, Respondent has not amended or updated any of his Campaign Financial Reports to reflect a fair-market value of the lease for the Wilson Oil Building.²³

Based upon the Findings of Fact, the Panel issues the following:

CONCLUSIONS OF LAW

1. The Panel is authorized to consider this matter pursuant to Minn. Stat. § 211B.35 (2024).

¹² *Carol A. Overland, Complainant v. Gary Iocco, Iocco for Red Wing Mayor, RJJ Redwing LLC, and Wilson Oil Co.*, No. 21-0325-40299, CAMPAIGN COMPLAINT (Minn. Office of Administrative Hearings Sep. 11, 2024).

¹³ Test of G. Iocco.

¹⁴ *Overland*, No. 21-0325-40299, ORDER DISMISSING SOME RESPONDENTS AND RESETTING PREHEARING CONFERENCE (Oct. 8, 2024), ORDER OF DISMISSAL (Oct. 16, 2024).

¹⁵ Ex. 3.

¹⁶ Ex. 3.

¹⁷ Ex. 12.

¹⁸ Ex. 12; Test. of M. Wilson.

¹⁹ Ex. 4 at 1.

²⁰ *Compare* Ex. 4 at 4-10 *with* Ex. 1 at 3. (Showing photographs of the billboards involved in the price quotes relied on by Complainant and a photograph of Respondent's rooftop campaign sign.); Test. of G. Iocco.

²¹ Ex. 5.

²² Test. of G. Iocco.

²³ Ex. 7; Test. of Carol Overland.

2. Complainant bears the burden of proving the allegations in the Complaint.²⁴ The standard of proof of a violation of Minn. Stat. §§ 211A.02 and 211B.15, subd. 2(b) is the preponderance of the evidence.²⁵

3. A candidate is defined as an individual who seeks nomination or election to a county, municipal, school district, or other political subdivision office.²⁶

4. A contribution is defined as “anything of monetary value that is given or loaned to a candidate or committee for a political purpose, not including a service provided without compensation by an individual.”²⁷

5. A corporation, for purposes of Minn. Stat. § 211B.15, includes a corporation organized for profit that does business in the state of Minnesota.²⁸

6. Contributions from a corporation of “any money, property, free services of its officers, employees, or members, or thing of monetary value 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” are prohibited.²⁹

7. Individuals, including candidates for a political office, are likewise prohibited from accepting campaign contributions from a corporation.³⁰

8. Dehn Oil Company and Wilson Oil Company are corporations for purposes of Minn. Stat. § 211B.15.³¹

9. The monetary value of the lease to place Respondent’s sign was at least \$100.

10. The difference between the fair market value of the lease and the price paid by Respondent constitutes an in-kind contribution by a corporation to Respondent’s campaign.

11. Respondent’s acceptance of this contribution violated Minn. Stat. § 211B.15, subd. 2(b).

12. A candidate who receives contributions or makes disbursements of more than \$750 in a calendar year is required to submit financial reports regarding contributions received and disbursements made.³²

²⁴ Minn. Stat. § 211B.32, subd. 4 (2024).

²⁵ Minn. Stat. § 211B.32, subd. 4.

²⁶ Minn. Stat. § 211A.01, subd. 3 (2024).

²⁷ Minn. Stat. § 211A.01, subd. 5.

²⁸ Minn. Stat. § 211B.15, subd. 1(c).

²⁹ Minn. Stat. § 211B.15, subd. 2(a).

³⁰ Minn. Stat. § 211B.15, subd. 2(b).

³¹ Minn. Stat. § 211B.15, subd. 1(a)-(c).

³² Minn. Stat. § 211A.02.

13. These reports must include a variety of information, including “the name, address, and employer, or occupation if self-employed, of any individual or entity that during the period covered by the report has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution.”³³

14. Respondent failed to report the in-kind contribution from the corporation as required by Minn. Stat. § 211A.02, subd. 2.

15. Upon determining whether the violations alleged in the complaint occurred the Panel must make at least one of the following dispositions:

- a. dismiss the complaint;
- b. issue a reprimand;
- c. find that a statement made in a paid advertisement or campaign material violated section 211B.06;
- d. impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B;
- e. refer the complaint to the appropriate county attorney.³⁴

16. For the violations of Minn. Stat. §§ 211A.02 and 211B.15, subd. 2(b), and based on the penalty matrix reflected in the memorandum below, Respondent is fined \$500.

17. Any Finding of Fact more properly considered to be a Conclusion of Law is incorporated herein.

18. Any portion of the accompanying Memorandum that is more properly considered to be a Conclusion of Law is incorporated herein.

Based on the Findings of Fact and Conclusions of Law, and for the reasons stated in the Memorandum below, which is hereby incorporated, the Panel makes the following:

ORDER

1. By **4:30 p.m. on April 14, 2025**, Respondent shall pay a civil penalty of \$500 for violating Minn. Stat. §§ 211A.02 and 211B.15, subd. 2(b).

³³ Minn. Stat. § 211A.02, subd. 2(6).

³⁴ Minn. Stat. § 211B.35, subd. 2.

2. The penalty shall be paid by check made payable to: "Treasurer, State of Minnesota," and remitted to the Office of Administrative Hearings. The docket number, 21-0325-40437, should be included on the check memo line.

Dated: March 7, 2025



KIMBERLY MIDDENDORF
Administrative Law Judge, Presiding



MEGAN J. MCKENZIE
Administrative Law Judge



JIM MORTENSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 211B.36, subd. 5 (2024), this is the final decision in this case. Under Minn. Stat. § 211B.36, subd. 5, a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-.69 (2024).

MEMORANDUM

I. Direct Contributions from Corporations to Candidates for Political Office

Minnesota generally prohibits corporations from making political contributions.³⁵ Dehn Oil Company is a private corporation doing business in Minnesota. Both parties presented relevant evidence regarding what the fair market value of Respondent's lease for the Wilson Oil Building would be. Complainant's exhibits regarding nearby billboard leases, and particularly a prior lease of the exact rooftop in question, were persuasive. At the same time, Respondent's testimony regarding the visibility of his campaign sign was credible, and comparing the photographs of the billboards pointed to by Complainant to the photograph of Respondent's sign included in the Complaint further supported it. Based on this record, the Panel concludes that Complainant has established by a preponderance of the evidence that the fair market value of the lease signed by Respondent and Dehn Oil Company is at least \$100. Here, Respondent accepted a lease from a corporation for a nominal fee, well below the fair market rental value. Respondent's acceptance of the below-market lease is a contribution accepted in violation of Minn. Stat. § 211B.15, subd. 2(b).

II. Required Campaign Financial Reports

Minn. Stat. § 211A.02 imposes a range of reporting requirements on candidates who receive contributions or make disbursements over \$750 in a calendar year. These reports must be submitted to the appropriate filing officer and are required to include information about the filer, the contributions they have received and disbursements they have made during the period of time covered by a given report.³⁶ If a single individual or entity is responsible for one or more contributions that, in the aggregate, are worth more than \$100 then the filer must include additional identifying information about the donor.³⁷

Respondent spent \$800 on the sign at issue. This expenditure alone triggered the reporting requirement. Respondent failed to report the full value of the lease and has not attempted to remedy this deficiency. As a result, Respondent violated Minn. Stat. § 211A.02.

³⁵ Minn. Stat. § 211B.15, subd. 2. The constitutionality of Minnesota's ban on contributions to political campaigns by corporations has been examined by federal courts. In *Minnesota Citizens Concerned for Life, Inc. v. Swanson*, the United States Court of Appeals for the Eighth Circuit concluded that at the federal level a "significant distinction" had been drawn between restrictions on contributions as opposed to restrictions on independent spending by corporations – with the former being afforded fewer protections than the latter. Similarly, in *Minnesota Chamber of Commerce v. Gaertner*, the Federal District Court for the District of Minnesota concluded that Minn. Stat. § 211B.15, subd. 2, was unconstitutional only "insofar as it prohibits or otherwise purports to restrict or limit [the plaintiff corporation's] acceptance of contributions for the purpose of making independent expenditures" on behalf of or in opposition to candidates for political office. Minnesota may prevent a business organization from buying a candidate's influence without offending the Constitution.

³⁶ Minn. Stat. § 211A.02, subd. 1(a)(b).

³⁷ Minn. Stat. § 211A.02, subd. 2.

III. Penalty Assessment

Pursuant to Minn. Stat. § 211B.35, subd. 2, the Panel may: (1) dismiss the complaint; (2) issue a reprimand; (3) impose a civil penalty of up to \$5,000; (4) or refer the complaint to the appropriate county attorney. The Panel finds that a civil penalty is the proper disposition in this case.

To ensure consistency in the application of administrative penalties across types of violations of the Fair Campaign Practices Act and Campaign Finance Act, the Office of Administrative Hearings uses a “penalty matrix” to guide decision-making. The matrix categorizes violations based upon the willfulness of the misconduct and the impact of the violation upon voters and is set forth as follows:³⁸

Willfulness	Gravity of Violation		
	Minimal/no impact on voters, easily countered	Some impact on several voters, difficult to correct/counter	Many voters misled, process corrupted, unfair advantage created
Deliberate, multiple violations in complaint, history of violations, clear statute, unapologetic	\$600 - 1,200	\$1,200 – 2,400 and/or Refer to County Attorney	\$2,400 – 5,000 and/or Refer to County Attorney
Negligent, ill-advised, ill-considered	\$250 - 600	\$600 - 1,200	\$1,200 – 2,400 and/or Refer to County Attorney
Inadvertent, isolated, promptly corrected, vague statute, accepts responsibility	\$0 - 250	\$400-600	\$600 - 1,200

Everyone in a democratic society is required to know and follow the law. This is not Respondent’s first time running an election campaign in Minnesota. Yet Respondent did properly report other contributions to his campaign. Respondent did correct one of the violations here, by having the sign removed. However, Respondent did not amend his campaign report to reflect the in-kind donation he received. Thus, the panel concludes the conduct here was negligent, ill-advised, or ill-considered. There is little evidence, however, of the impact of the violations. Without such evidence, the Panel finds there was minimal impact on voters, but the sign and inaccurate reporting may have had some kind of impact on voters. Thus, a penalty of \$500 is in accordance with the penalty matrix.

IV. Conclusion

Based upon these considerations, the Panel finds two violations of the Fair Campaign Practice Act and concludes that Respondent should pay a penalty of \$500 for his violations of Minn. Stat. §§ 211A.02 and 211B.15, subd. 2(b).

K. J. M., M. J. M., J. R. M.

³⁸ See Penalty Matrix (<https://mn.gov/oah/self-help/administrative-law-overview/fair-campaign.jsp>); *Fine v. Bernstein*, 726 N.W.2d 137, 149-50 (Minn. Ct. App. 2007), *review denied* (Minn. 2007).