

March 7, 2025

VIA EMAIL ONLY

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VIA US MAIL & EMAIL

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**Re: *In the Matter of Carol A. Overland (Gary Iocco)*
OAH 21-0325-40438**

Dear Parties:

Enclosed and served upon you please find the **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** 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,

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 through 10, 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 a contribution to his political campaign from Wylie Wilson Truckin', Inc.?
2. Did Respondent violate Minn. Stat. § 211B.15, subd. 2(b) (2024) by accepting a prohibited contribution from a corporation?
3. If so, what penalty is appropriate?

SUMMARY OF CONCLUSIONS

Complainant did not establish by a preponderance of the evidence that Respondent violated Minn. Stat. § 211A.02 or Minn. Stat. § 211B.15, subd. 2(b). As a result, the Complaint must be dismissed.

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

Based on the record and proceedings herein, the Panel issues the following:

FINDINGS OF FACT

1. As part of his campaign for Mayor of Red Wing in 2024 Respondent placed a campaign sign on a rented truck trailer parked on an empty lot located at 630 Main Street, Red Wing, Minnesota during the month leading up to the election.²

2. Miller & Holmes, Inc., a Wisconsin-based corporation, owns the empty lot.³

3. Miller & Holmes, Inc. originally purchased the land in approximately 2020, with the intention of opening a gas station.⁴ After difficulties involving licensing from the local government, that plan was abandoned, and the land has been vacant ever since.⁵

4. A practice of placing political campaign signs on the empty lot developed prior to Complainant's use of it, purportedly stemming from word-of-mouth or hearsay assurances of permission from the owner.⁶ The stretch of road the land abuts is heavily trafficked, and it costs upwards of \$500 per month to rent a similarly situated commercial billboard.⁷

5. The trailer is owned by Wylie Wilson Truckin', Inc.⁸ On October 28, 2024, Respondent sent a text message to Wylie Wilson, the owner of Wylie Wilson Truckin', Inc. asking about the cost of having a trailer parked on the lot to hang a campaign sign on it.⁹ Wilson replied that renting a "storage trailer" would cost \$50 per week, along with a \$50 charge for delivery of the trailer.¹⁰

6. Respondent did not discuss with Miller & Holmes, Inc, the use of its vacant lot to park his trailer-sign.¹¹

7. On November 11, 2024, Respondent sent Wilson a text message to inform Wilson that the campaign sign had been removed and that the trailer could be picked up.¹² Respondent requested an invoice for the trailer lease.¹³

² Campaign Complaint (Complaint) (Nov. 6, 2024); Exhibit (Ex.) 1.

³ Ex. 1 at 4-5.

⁴ Testimony (Test.) of Theodore Seifert.

⁵ Test. of T. Seifert.

⁶ Test. of T. Seifert; Test. of Gary Iocco.

⁷ Ex. 3 (showing Minnesota Department of Transportation "traffic count" numbers for the relevant section of Main Street in Red Wing); Ex. 2 (showing market rates and location photos for nearby billboards).

⁸ Ex. 1 at 5-6; Test. of G. Iocco.

⁹ Ex. 5 (showing Secretary of State filings listing Wylie Wilson as the Chief Executive Officer of Wylie Wilson Truckin', Inc.); Ex. 4 (showing Secretary of State filings for multiple other trucking and storage related businesses owned or operated by Mr. Wilson); Ex. 6 at 4 (showing text messages from Respondent to Wylie Wilson).

¹⁰ Ex. 6 at 4.

¹¹ Test. of G. Iocco.

¹² Ex. 6 at 3.

¹³ Ex. 6 at 3.

8. Wylie Wilson Truckin', Inc. invoiced Respondent for a total of \$207.38, with a due date of November 15, 2024.¹⁴

9. Respondent paid the invoice during the week prior to the evidentiary hearing and intends to file an updated Campaign Finance Report reflecting that disbursement once the check he wrote to Wylie Wilson Truckin' Inc. has cleared.¹⁵

Based upon the foregoing 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).

2. Complainant bears the burden of proving the allegations in the Complaint.¹⁶ The standard of proof of a violation of Minn. Stat. §§ 211A.02 and 211B.15, subd. 2(b) is the preponderance of the evidence.¹⁷

3. A candidate is an individual who seeks nomination or election to a county, municipal, school district, or other political subdivision office.¹⁸

4. A contribution is "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."¹⁹

5. A corporation, for purposes of Minn. Stat. § 211B.15 (2024), includes a corporation organized for profit that does business in the state of Minnesota.²⁰

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.²¹

7. Individuals, including candidates for a political office, are likewise prohibited from accepting contributions from a corporation.²²

8. Wylie Wilson Truckin', Inc., and Miller & Holmes, Inc., are corporations for purposes of Minn. Stat. § 211B.15.²³

¹⁴ Ex. 6 at 1.

¹⁵ Test. of G. Iocco.

¹⁶ Minn. Stat. § 211B.32, subd. 4 (2024).

¹⁷ Minn. Stat. § 211B.32, subd. 4.

¹⁸ Minn. Stat. § 211A.01, subd. 3 (2024).

¹⁹ Minn. Stat. § 211A.01, subd. 5 (2024).

²⁰ Minn. Stat. § 211B.15, subd. 1(c).

²¹ Minn. Stat. § 211B.15, subd. 2(a).

²² Minn. Stat. § 211B.15, subd. 2(b).

²³ Minn. Stat. § 211B.15, subd. 1(a)-(c).

9. Complainant did not establish by a preponderance of the evidence that Respondent violated Minn. Stat. § 211B.15, subd. 2(b).

10. 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.²⁴

11. Financial 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.”²⁵

12. Complainant did not establish by a preponderance of the evidence that Respondent violated Minn. Stat. § 211A.02.

13. 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.²⁶

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

15. 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:

²⁴ Minn. Stat. § 211A.02.

²⁵ Minn. Stat. § 211A.02, subd. 2(6).

²⁶ Minn. Stat. § 211B.35, subd. 2.

ORDER

The Complaint in this matter is **DISMISSED** with prejudice.


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. Trailer Rental from Wylie Wilson Truckin' Inc.

Minn. Stat. § 211B.15, subd. 2(b) flatly bars candidates such as Respondent from accepting contributions to their campaigns from corporations. Minn. Stat. § 211A.02 lays out specific requirements for how all contributions and expenditures made during a candidate's election campaign must be publicly reported. Complainant's task was to produce evidence establishing that these statutes were violated. Complainant failed to meet this burden.

Both alleged statutory violations in this matter – accepting a donation to a political campaign from a corporation and failing to report that contribution on campaign financial reports – flow from the same facts. That is, Respondent placed a campaign sign on a trailer at 630 Main Street, Red Wing, Minnesota. Respondent's communications with Wylie Wilson Truckin' Inc. establish their understanding that this was a financial transaction, with Respondent paying standard rates for the trailer rental. This is rendered even more credible because it occurred prior to Complainant filing her complaint. Once the total costs were finalized, Respondent requested an invoice, which the company produced. That invoice accurately reflected the initial quote the corporation gave Respondent. Respondent credibly testified that he subsequently paid the invoice in full and would be filing an updated campaign financial report reflecting this fact.

Complainant argued during the hearing that there was no proof of Respondent having paid the invoice in the record. Merely owing a debt to a corporation is not evidence of a contribution from the corporation. The evidence establishes that the corporation had an expectation of payment for the trailer it rented to Respondent. Respondent's sworn and unrefuted testimony constitutes evidence of the payment. Further, Complainant's argument shifts the burden to Respondent. The burden is on Complainant to prove by a preponderance of the evidence that Respondent failed to follow the law. Complainant failed to meet her burden.

Complainant also argued that an unpaid invoice should be considered evidence of a "contribution" from whoever produced the invoice under Minnesota's Campaign Finance and Practices laws. Complainant did not provide evidence showing that the invoice was the result of a loan given for a political purpose. Without evidence of a political purpose, the record supports the conclusion that the services provided to Complainant were transactional in nature. As a result, the Panel concludes that the record does not support a finding that Respondent accepted a contribution from a corporation, nor that he subsequently failed to properly report any such contribution on any Campaign Financial Reports.

II. Use of Vacant Lot for Campaign Sign

Complainant also alleged that Respondent accepted a contribution from a company from Wisconsin, Miller & Holmes, Inc. Complainant alleged that Miller & Holmes, Inc. which owns a vacant lot in downtown Red Wing, permitted Respondent to place his

trailer-sign on the lot for free, and that this was an illegal contribution and acceptance of an illegal contribution without reporting.

Respondent placed his trailer-sign on the vacant lot in question without the permission of the owner of the lot. Because there was no agreement between the corporate owner of the lot and Respondent, there was no contribution.

III. Complainant's Motion to Recuse Judge Mortenson

Complainant's motion for Judge Mortenson's recusal was based on an allegation of bias. Specifically, Complainant alleged Judge Mortenson had shown bias during the evidentiary hearing in OAH Case File No. 21-0325-40437, which occurred shortly before the hearing in the present matter. Judge Mortenson had asked whether the ruling in *Minnesota Chamber of Commerce v. Gaertner*,²⁷ which found portions of Minn. Stat. § 211B.15 unconstitutional, had any impact on the claims in 21-0325-40437. Complainant was not familiar with the case. In fact, between the hearings, Complainant attempted to research the case and found a different case: *Minnesota Chamber of Commerce v. Choi*.²⁸ While *Choi* was not the case Judge Mortenson inquired about, Complainant stated that she believed it was. It concerned businesses with foreign ownership, and Complainant asserted that a question based on an inapposite case demonstrated Judge Mortenson was biased. Judge Mortenson declined to recuse himself.

The Panel takes Complainant's allegation of bias during these proceedings very seriously. Administrative law judges are bound by the Code of Judicial Conduct. The Code strictly requires judges to perform their duties without bias.²⁹ Judges are also required by law to conduct hearings in a fair and impartial manner.³⁰ Attorneys are likewise subject to rules of professional conduct. Even if Complainant had not been mistaken about the case about which Judge Mortenson inquired, merely inquiring about an inapposite case does not establish bias. Based on the facts, Judge Mortenson's refusal to recuse himself was proper.

IV. Conclusion

The record does not support finding that Respondent violated either Minn. Stat. § 211A.02 or § 211B.15, subd. 2(b) when he leased a trailer and placed it with a campaign sign on land without its owner's permission. The Complaint is properly dismissed.

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

²⁷ 710 F. Supp. 2d 868, 870 (D. Minn. 2010).

²⁸ *Minnesota Chamber of Com. v. Choi*, No. 23-CV-2015 (ECT/JFD), 2025 WL 437276 (D. Minn. Feb. 7, 2025).

²⁹ Minn. Stat. § 14.48, subd. 3(d) (2024) (while these proceedings are technically not contested case proceedings controlled by Minn. Stat. ch. 14 (2024) the Panel concludes that the requirements in § 14.48 regarding the conduct of administrative law judges apply here regardless.); Code of Jud. Conduct, Rule 2.2 (requiring all judges to "perform all duties of judicial office fairly and impartially.").

³⁰ Minn. Stat. § 14.48, subd. 3(a).