STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
In the Matter of a Complaint Alleging a Violation of Minn. Stat. § 211B.13

COMPLAINANT'S MEMORANDUM OF LAW

INTRODUCTION

Complainant Dan Fiskum submits this Memorandum of Law in support of his Verified Complaint alleging that Respondent Mike Lindell violated Minn. Stat. § 211B.13 by distributing valuable merchandise to prospective voters during campaign activities conducted in support of his candidacy for Governor of Minnesota.

The material facts are straightforward. During the Delano Fourth of July Parade, Respondent personally distributed MyPillow pillows to members of the public from a parade float prominently displaying "Mike Lindell for Governor" campaign signage. Individuals walking alongside the float carried campaign signs promoting Respondent's candidacy. The pillows themselves were packaged in plastic bags bearing the words "Mike Lindell for Governor." The pillows appear to have a retail value of approximately $34.95 each.

Minnesota law prohibits a candidate from giving gifts or other consideration to induce individuals to vote. Prior decisions of the Office of Administrative Hearings make clear that a complainant need not prove that voters were actually influenced. Rather, the issue is whether the surrounding circumstances establish that the gifts were distributed with the intent to influence prospective voters. Those circumstances are present here.

ISSUE PRESENTED

Whether Respondent violated Minn. Stat. § 211B.13 by personally distributing campaign-branded pillows having substantial monetary value to prospective voters during an active gubernatorial campaign event.

GOVERNING LAW

Minn. Stat. § 211B.13 prohibits a candidate from directly or indirectly giving or promising money, gifts, rewards, or other consideration to induce an individual to vote or refrain from voting.

Because a candidate's subjective intent rarely can be established through direct evidence, intent ordinarily is determined from the objective facts and surrounding circumstances.

ARGUMENT

I. Respondent Distributed Gifts Having Significant Monetary Value.

There is no genuine dispute that Respondent distributed pillows to members of the public during the Delano Fourth of July Parade.

The pillows appear to have an approximate retail value of $34.95 each. Unlike inexpensive campaign literature or nominal promotional items, these pillows are consumer merchandise possessing substantial independent economic value. Accordingly, Respondent distributed "gifts" or "other consideration" within the meaning of Minn. Stat. § 211B.13.

II. The Gifts Were Distributed as Part of Respondent's Campaign for Governor.

The evidence demonstrates that the giveaway occurred as an integral part of Respondent's campaign.

Respondent distributed the pillows while riding on a parade float prominently displaying "Mike Lindell for Governor." Individuals accompanying the float carried campaign signs supporting Respondent's candidacy. The pillows themselves were packaged in bags bearing the same campaign slogan. Respondent personally stood in the bed of the pickup truck and threw the pillows to parade spectators.

Every objective circumstance demonstrates that the giveaway was conducted in Respondent's capacity as a candidate for Governor rather than as a private individual or business owner.

III. The Circumstances Demonstrate That the Gifts Were Intended to Influence Prospective Voters.

The Office of Administrative Hearings has already addressed this issue.
In **Harris v. Nack**, OAH No. 22-0325-38637 (Oct. 20, 2022), the panel considered whether a candidate violated Minn. Stat. § 211B.13 by conducting a drawing for $100 gift cards while campaigning at the Wilkin County Fair.

The panel held:

“Respondent used the drawing to attract fairgoers to his booth so that he could speak with them about his candidacy. Respondent intended that the drawing would allow him to initiate interactions with people and persuade potential voters to vote for him. The drawing for gift cards is inextricably linked with Respondent’s active efforts at his booth to campaign and garner votes.”

The panel further concluded:

“To prove a violation, Complainant is not required to show that the awarding of the gift cards actually induced individuals to vote for Respondent. Instead, Complainant must show only that it was more likely than not that Respondent intended the drawing … to induce voters to vote for him.”

The facts alleged here are at least as compelling as those presented in *Harris*. Like the respondent in *Harris*, Respondent distributed items of substantial monetary value while actively campaigning.

Indeed, the connection between the gifts and the campaign is even more direct. Respondent personally distributed the pillows from a campaign float bearing “Mike Lindell for Governor” signage. Campaign workers walked beside the float carrying campaign signs. The pillows themselves were packaged in campaign-branded bags. The only apparent purpose of distributing the pillows was to attract favorable attention to Respondent’s campaign and create goodwill among prospective voters.

Under the reasoning of *Harris*, the gifts were “inextricably linked” to Respondent’s efforts to campaign and garner votes. As in *Harris*, the evidence establishes that it is more likely than not that Respondent intended the distribution of the pillows to induce prospective voters to vote for him.

IV. Respondent’s Conduct Falls Squarely Within the Purpose of Minn. Stat. § 211B.13.

Minn. Stat. § 211B.13 protects the integrity of Minnesota elections by preventing candidates from influencing electoral decisions through the distribution of valuable gifts. Permitting candidates to distribute merchandise worth approximately $35 while campaigning would undermine the purpose of the statute and invite increasingly valuable giveaways so long as the candidate refrained from expressly asking recipients for their votes at the moment the gifts were distributed.

The Office rejected such a narrow interpretation in *Harris*. Instead, it recognized that intent may be inferred from the objective circumstances surrounding the distribution of valuable items during active campaign activities.
Those circumstances are present here.

CONCLUSION

Respondent personally distributed campaign-branded consumer merchandise having substantial monetary value while actively campaigning for Governor of Minnesota. The distribution occurred from a campaign float prominently displaying Respondent's campaign message, while campaign workers carried campaign signs and Respondent personally threw the pillows to prospective voters.

Under the reasoning of **Harris v. Nack**, these facts establish, by a preponderance of the evidence, that the gifts were distributed as part of Respondent's campaign and with the intent to induce prospective voters to vote for Respondent, in violation of Minn. Stat. § 211B.13.

Accordingly, Complainant respectfully requests that the Office of Administrative Hearings find that Respondent violated Minn. Stat. § 211B.13 and impose such relief as authorized by law.

Respectfully submitted,

Dan Fiskum
Complainant