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| STATE OF COLORADO ADMINISTRATIVE HEARING OFFICER 1700 Broadway #550 Denver, CO 80290 | ▲ COURT USE ONLY ▲ |
| BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, <i>in re</i> ED 2023-68 | |
| ELECTIONS DIVISION OF THE SECRETARY OF STATE, Complainant, vs. TOM GREEN Respondent. | CASE NUMBER 2023-_____ |
| COMPLAINT | |

Pursuant to § 1-45-111.7, C.R.S. (2022) and Rule 24 of the Secretary’s Rules on Campaign and Political Finance, 8 CCR 1505-6, the Elections Division of the Secretary of State files this Complaint against Tom Green (“Respondent”).

BACKGROUND

1. To foster transparency and assist voters in assessing the sources of electioneering communications, Colorado law requires any person spending one thousand dollars or more on regular biennial school electioneering communications to include a “paid for by” disclaimer on the communication. This disclaimer must clearly and conspicuously include the name of the entity paying for the communication, and if the entity is not a natural person, it must also identify the entity’s registered agent.

2. Here, the Committee paid for and distributed about \$1,013.67 worth of regular biennial electioneering communications that failed to include compliant disclaimer statements. The communications included yard signs and newspaper ads. All of the communications at issue did not include “paid for by” disclaimers.

3. Accordingly, the Division brings this complaint for appropriate relief.

PARTIES

4. Complainant is the Elections Division (“Division”) of the Colorado Secretary of State.

5. Respondent is Tom Green, a candidate registered with the Colorado Secretary of State, ID # 20195036783.

JURISDICTION AND VENUE

6. The Division has jurisdiction under § 1-45-111.7.

7. The Division files this complaint with a hearing officer consistent with § 1-45-111.7(5)(a)(IV), (6).

8. This complaint is timely filed within thirty days of the Division’s Notice of Investigation under § 1-45-111.7(5)(a)(IV).

9. Venue is proper before the hearing officer under § 1-45-111.7(5).

ALLEGATIONS

10. Tom Green was a candidate for school board director in the Brighton 27J district in 2023. He ran as a standalone candidate, without a candidate committee.

11. On November 2, 2023, the Division received a campaign finance complaint against “Tom Green”. The complaint was filed by Anna C. Smith.

12. The Smith complaint alleged signs in support of Green’s candidacy for School District Director for Brighton 27J were observed “in multiple areas around town” on October 31, 2023, and did not contain disclaimer statements. The complaint contained a photo of the sign.



13. On November 14, 2023, the Division sent Respondent a Notice of Initial Review and Investigation. The Division concluded that the Smith complaint identified one or more potential violations of Colorado campaign finance law and alleged sufficient facts to support a legal and factual basis regarding the alleged violation.

14. On November 14, 2023 the Division sent Respondent a Request for Information. Respondent provided documents concerning the communications and indicated that “In creating the message, I neglected to include a proper disclaimer that documented how the cost of the communication was paid”.

15. The Division reviewed the Committee’s reports of contributions and expenditures, and identified \$1,013.67 in expenditures that constituted regular biennial school electioneering communications, as the communications: 1) unambiguously referred to a candidate- Green; 2) were distributed during the electioneering window- 60 days before the regular biennial school election (September 8, 2023) extending through the election- November 7, 2023; and 3) was distributed to an audience that included members of the electorate for such office- residents of Brighton District 27J.

16. On December 1, 2023, the Division sent a second Request for Information to Respondent requesting further information on the communications. Respondent sent additional information per the Division’s request.

17. During the course of the campaign, the Committee distributed \$1,013.67 (100 yard signs and a newspaper ad that ran 14 days in The Daily Post) worth of regular biennial school electioneering communications that failed to include compliant disclaimer statements.

COLORADO CAMPAIGN FINANCE LAW

18. Under Colorado law, “...any person who expends one thousand dollars or more per calendar year on... or regular biennial school electioneering communications shall, in accordance with the requirements specified in section 1-45-107.5(5), state in the communication they name of the person making the communication.” § 1-45-108.3(3), C.R.S.

19. Under § 1-45-107.5(5), C.R.S. the disclaimer must include “A statement that: (I) The communication has been “paid for by (full name of the person paying for the communication)””; and (II) Identifies a natural person who is the registered agent of if the person identified in subsection (5)(a)(I) of this section is not a natural person.

CLAIM ONE
Failure to Include Sufficient Disclaimers
(§ 1-45-108.3(1), C.R.S.)

20. All preceding allegations are incorporated.

21. Tom Green was a candidate for School Board Director for Brighton J27. He appeared on the November 7, 2023 regular biennial school election ballot for Brighton 27J.

22. Between October 4, 2023 and November 7, 2023, Respondent purchased and distributed \$1,013.67 worth of regular biennial school electioneering communications.

23. Those communications did not include compliant disclaimer statements.

24. The Division is entitled to relief under Article XXVIII of the Colorado Constitution and the Fair Campaign Practices Act, § 1-45-101 *et seq.*

Respectfully submitted this 14th day of December, 2023.

PHILIP J. WEISER
Attorney General

/s/ Peter G. Baumann

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CERTIFICATE OF SERVICE

This is to certify that I will cause the within filing to be served by mail this 14th day of December, 2023, addressed as follows:

Tom Green
246 Paloma Avenue
Brighton, CO 80601
theman2c@gmail.com
Respondent

Anna C. Smith
83 CR 63
Keenesburg, CO 80643
annachristinepolson@gmail.com
Third-Party Complainant

/s/ Kerry Wade