

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 2023-52	
ELECTIONS DIVISION OF THE SECRETARY OF STATE,	CASE NUMBER 2024 AHO _____
Complainant,	
vs. CANDACE FOR DISTRICT 49	
Respondent.	
COMPLAINT	

Pursuant to § 1-45-111.7, C.R.S. (2023) 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 Candace for District 49 (“Respondent” or the “Committee”).

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 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 \$3,540.23 worth of electioneering communications that failed to include a fully compliant disclaimer statement. The communications included yard signs, banners, mailers, door hangers, a website, and texts. All communications at issue included the disclaimer: “Paid for by Candace for D49,” but none of them identified a registered agent.

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 Candace for District 49, a candidate committee registered with the Colorado Secretary of State, ID # 20235045825 in the November 7, 2023, election for the District 49 School Board in El Paso County.

JURISDICTION AND VENUE

6. The Hearing Officer 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 December 27, 2023, 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. Candace for D49 is a candidate committee registered with the Secretary of State. Its purpose is to support the candidacy of Candace Lehmann for election to the District 49 School Board in the November 7, 2023, election.

11. On October 23, 2023, the Division received a campaign finance complaint against Candace for D49. The complaint was filed by Darcy Schoening.

12. The Schoening complaint alleged that between October 1, 2023, and October 22, 2023, the Committee had failed to identify a registered agent on its yard signs. Schoening’s complaint contained a photo of the front of the sign.



13. On October 31, 2023, the Division sent Respondent a Notice of Initial Review and Opportunity to Cure and a Request for Information. The Division concluded that the Schoening 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, but also that the violations may be curable.

14. The Committee cooperated with the Division’s review and investigation, including by providing copies of the communications in question. Each communication included the disclaimer: “Paid for by Candace for D49,” but did not identify the Committee’s registered agent.

15. The Committee also worked quickly to cure the communications to add the name of the Committee’s registered agent. Respondent added stickers and handwriting to signs and banners to identify Candace Lehmann as the registered agent. Respondent also asked supporters through social media to correct signs by identifying Candace Lehmann as the registered agent.

16. The Division reviewed Respondent’s responses to the Division’s questions and the Committee’s filings in the TRACER system. The Division identified \$3,540.23 in expenditures that constituted electioneering communications, as the communications: 1) unambiguously referred to Lehmann; 2) were distributed during the electioneering window (60 days before the regular biennial school board election (November 7, 2023); and 3) were distributed to an audience that included members of the electorate for such office.

17. During the course of the campaign, the Committee distributed \$3,540.23 worth of electioneering communications. These included yard signs, banners, mailers, door hangers, a website, and texts. Even though all of the communications included the disclaimer: “Paid for by Candace for D49,” none of the disclaimers identified the Committee’s registered agent, Candace Lehmann.

COLORADO CAMPAIGN FINANCE LAW

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

20. All preceding allegations are incorporated.

21. Candace Lehmann was a candidate for the District 49 School Board. She appeared on the November 7, 2023, general election ballot in El Paso County.

22. The Committee was the candidate committee organized to support Lehmann’s candidacy.

23. For the months leading up to the election, the Committee purchased and distributed \$3,540 worth of electioneering communications.

24. Those communications did not include compliant disclaimer statements.

25. 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 26th day of January, 2024.

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 26th day of January, 2024, addressed as follows:

Candace for District 49
C/O Registered Agent Candace Lehmann
11605 Varial Grv
Peyton, CO 80831
candaceD49DD2@gmail.com
Respondent

Darcy Schoening
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Peyton, CO 80831
schoeningdarcy@gmail.com
Third-Party Complainant

/s/ Kerry Wade