

<p>STATE OF COLORADO SECRETARY OF STATE ADMINISTRATIVE HEARING OFFICER 1700 Broadway #550 Denver, CO 80290</p> <hr/> <p>BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, <i>in re</i> ED 2023-39</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>KIRK4KIDS, BOYDFORBOARD, BRIAH FOR TSD BOE, and DENISE FOR TSD,</p> <p>Respondents.</p>	<p>▲ COURT USE ONLY ▲</p> <hr/> <p>CASE NUMBER</p> <p>2024 AHO _____</p>
<p>COMPLAINT</p>	

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 Kirk4Kids, BoydForBoard, BriaH for TSD BOE, and Denise for TSD (“Respondents,” “the Committees”).

BACKGROUND

1. Under Colorado law, certain campaign communications must identify the name of the person, or persons, who paid for the communication. Where the person or persons paying for the communication are not natural persons, this disclaimer must also identify the person’s registered agent.
2. Here, the Committees ran as a slate for school board, and shared the cost of banners, rack cards, newspaper ads, and door hangers. Each of which urged voters to support each of the four candidates.
3. But the communications did not include compliant disclaimers, including, for some, failing to identify all of the Committees that helped pay for the communication.

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

PARTIES

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

6. Respondents are:

- a. Kirk4Kids, a candidate committee registered with the Colorado Secretary of State, ID # 20195036599.
- b. BoydForBoard, a candidate committee registered with the Colorado Secretary of State, ID # 20235045800.
- c. Briah For TSD BOE, a candidate committee registered with the Colorado Secretary of State, ID # 20235045782.
- d. Denise for TSD, a candidate committee registered with the Colorado Secretary of State, ID # 20235045894.

JURISDICTION AND VENUE

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

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

9. This complaint is timely filed within 30 days of the Division’s April 2, 2024, Notice of Investigation according to § 1-45-111.7(5)(a)(IV).

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

ALLEGATIONS

11. In 2023, Dawn Kirk, Stu Boyd, Briah Freeman, and Denise Chapman ran as a slate for the Thompson R2-J School Board.

12. During the election, the Committees entered into a cost sharing agreement. Under the agreement, each Committee paid one quarter of the cost for certain communications advocating for the election of all four candidates.

13. Mechanically, one of the Committees would purchase the communication, and the other Committees would reimburse that initial Committee.

14. The Committees, pursuant to this agreement purchased 15 banners, 3,500 door hangers, 2,500 rack cards, and 10 newspaper ads.

15. Each of the communications asked voters to support all four of the candidates.

16. None of the communications included compliant disclaimer statements. Specifically:

- a. Denise for TSD paid for 10 banners and was reimbursed by the other committees. These banners included the disclaimer: "Paid for by Kirk4Kids. Registered Agent Dawn Kirk."
- b. BoydForBoard paid for 5 additional banners, and was reimbursed by the other committees. These 5 banners were identical to the other 10 banners and also included the disclaimer: "Paid for by Kirk4Kids. Registered Agent, Dawn Kirk."
- c. BriaH for TSD BOE paid for 2,500 rack cards, and was reimbursed by the other committees. The rack cards included the disclaimer: "Paid for by BriaH for TSD BOE. Registered Agent: BriaH Freeman."
- d. BoydForBoard paid for 1,000 door hangers and was reimbursed by the other committees. The door hangers included the disclaimer: "Paid for by BriaHforTSDBOE, BoydforBoard, DeniseForTSD, Kirk4Kids," but did not identify registered agents.
- e. BoydForBoard paid for newspaper ads, and was reimbursed by the other committees. The ads included the disclaimer: "Paid for by BriaH for TSD BOE, Boyd for Board, Denise for TSD, Kirk 4 Kids," but did not identify registered agents.
- f. BriaH for TSD BOE paid for 2,500 door hangers and was reimbursed by the other committees. The door hangers included the disclaimer: "Paid for by BriaHforTSDBOE, BoydforBoard, DeniseForTSD, Kirk4Kids," but did not identify registered agents.

17. All together, the committees spent \$4,881.45 on these communications. None included compliant disclaimers, because none identified all four committees paying for the communications and their respective registered agents.

18. On October 10, 2023, Jamie Schuster filed a campaign finance complaint against the Committees. The Schuster complaint alleged that the Committees' communications did not include appropriate disclaimers.

19. The Committees cooperated with the Division's review and investigation of the Schuster Complaint.

COLORADO CAMPAIGN FINANCE LAW

20. Under Colorado law, "each candidate committee that shares the cost of brochures, office space, or other overhead must pay its proportionate share of the cost within 30 days of the expenditure. The reimbursing committee must report the payment as an expenditure and the reimbursed committee must report it as a returned expenditure." 8 CCR 1505-6, Rule 10.11.

21. Moreover, any person spending more than one thousand dollars per year on electioneering communications or 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).

22. Section 1-45-107.5(5), requires the disclaimer to state that it has been "paid for by (full name of the person paying for the communication)," and if the person specified is not a natural person, then it must also identify "a natural person who is the registered agent."

CLAIM ONE (All Respondents) Failure to Include Complaint Disclaimers (1-45-108.3(3))

23. All preceding allegations are incorporated.

24. In 2023, the Committees shared the cost of nearly \$5,000 in regular biennial school electioneering communications. Those communications included the names of each Committee's candidate, and were distributed to voters in the Thompson R2-J School District.

25. Because the Committees shared the cost of these communications, the “paid for by” disclaimer on the communication needed to identify each Committee.

26. And because each Committee is not a natural person under Colorado law, each communication also needed to identify each Committee’s registered agent.

27. None of the disclaimers included in the communications identified every Committee, and every registered agent.

28. 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 2nd day of May, 2024.

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/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 and/or email this 2nd day of May 2024, addressed as follows:

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