

BEFORE THE ADMINISTRATIVE HEARING OFFICER, CITY OF LAKEWOOD,
COLORADO

ORDER

In re: Complaint filed by TOM KEEFE, Complainant, against SAVE OUR LAKEWOOD, Respondent.

THIS MATTER comes before the undersigned, a duly appointed administrative hearing officer for the City of Lakewood, on a Complaint filed by Tom Keefe, an individual ("Complainant"), against Save Our Lakewood, an independent expenditure committee ("Respondent"). Having considered the Complaint and the testimony and evidence presented at a hearing on November 14, 2019 at 10:00 a.m., and being otherwise advised in the premises, the undersigned finds and orders as follows:

1. In the Complaint, Complainant presented two alleged violations of Chapter 2.54 of the Lakewood Municipal Code (the "Code"), which is the City's campaign finance ordinance. The City Clerk determined that the Complaint was not frivolous, and set the Complaint for hearing.
2. At the hearing, Lauren Stanek represented the City and appeared with Michele Millard, City Clerk. Ray Milhollin and David Wiechman appeared on behalf of Save Our Lakewood. The undersigned admitted City's Exhibits 1-7 and Respondent's Exhibit A.
3. Respondent is an independent expenditure committee registered with the City. The Complaint alleges that, on October 16, 2019, Respondent made an independent expenditure of more than \$500, but failed to report that expenditure within 48 hours as required by Code § 2.54.030(F)(4). In addition, the Complaint alleges that Respondent violated Code § 2.54.030(F)(3), because the mailed communication of October 16, 2019 did not contain the required disclaimers.
4. Respondent's representatives challenged the adequacy of the notice they received, because the Complaint refers to violations of Code §§ 2.54.030(4) and 2.54.030(3), omitting the letter "F". In response, the undersigned offered Respondent a continuance of the hearing so that Respondent could have more time to prepare for the hearing, but Respondent declined the offer and the hearing continued.
5. After agreeing to move forward with the hearing, Respondent's representatives essentially admitted the allegations in the Complaint, but alleged that the City's campaign finance ordinance and related rules are ambiguous and difficult to understand.
6. Based on all of the testimony and evidence presented, the undersigned finds a technical violation of Code § 2.54.030(F)(4) and a second technical violation of Code § 2.54.030(F)(3). First, it is clear that the mailed postcard failed to include the words "Not Authorized by Any Candidate" as required by Code § 2.54.030(F)(3). Similarly, it is clear that Respondent failed to

report the contribution within 48 hours of receipt, as required by Code § 2.54.030(F)(4). However, the undersigned finds that both violations were minor and unintentional, and agrees with Respondent's representatives that some of the language in the City's campaign finance ordinance is difficult for laypersons and nonlawyers to understand.

7. For the second violation, the Complaint requests that Respondent be fined \$5,000 pursuant to Code § 2.54.050(C)(2.2)(a), because the postcard was mailed less than 30 days prior to the November 2019 election. Code § 2.54.050(C)(2.2)(a) does not allow for a lesser penalty; nor does it allow the undersigned to suspend or waive any portion of the \$5,000 penalty. As such, the undersigned has no choice but to impose a penalty of \$5,000 for the first violation.

8. Because the penalty for the second violation is so high, and because Code § 2.54.050(C)(2)(b) provides the undersigned with discretion to determine the appropriate penalty for late reports or reports missing required information, the undersigned determines that the appropriate penalty for the first violation will be \$0.

WHEREFORE, Respondent is ordered to pay \$5,000 to the City of Lakewood pursuant to Code § 2.54.050(C)(2.2)(a), and the City Clerk shall provide notice of such penalty by certified mail pursuant to Code § 2.54.050(C)(3), in addition to the notice provided by the undersigned below.

SO ORDERED this 22nd day of November, 2019.

CITY OF LAKEWOOD, COLORADO



By

Kendra L. Carberry, Hearing Officer
Hoffmann, Parker, Wilson & Carberry, P.C.
511 16th Street, Suite 610
Denver, CO 80202

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Order was sent via electronic mail this 22nd day of November, 2019, addressed to:

Michele Millard, City Clerk
City of Lakewood
480 South Allison Parkway
Lakewood, CO 80226
via email to: micmil@lakewood.org

Tom Keefe
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Marlene Beliveau, Legal Assistant