

CITY OF SANTA FE ETHICS & CAMPAIGN REVIEW BOARD

IN THE MATTER OF: COMPLAINT
AGAINST PRE-K FOR SANTA FE
Respondent.

CASE #2017-1A/1B

ORDER OF PUBLIC REPRIMAND

THIS MATTER came before the City of Santa Fe's Ethics & Campaign Review Board ("Board") pursuant to a complaint filed by Ms. Karen Heldmeyer, and as the Board being fully advised in the premises, issued an Order of Public Reprimand for the following reasons:

Procedural Findings of Fact:

1. Pre-K for Santa Fe is a political committee participating in the May 2017 special election.
2. On March 22, 2017, Ms. Karen Heldmeyer filed a complaint with the City Clerk's Office against an anonymous party for distribution of fliers, which re-printed an editorial from the Santa Fe New Mexican, without identifying who had distributed the fliers. (Complaint 2017-1A).
3. The complaint alleged violations of SFCC 1987, Section 9-2.5(B), (D).
4. Ms. Heldmeyer subsequently learned that Respondent was responsible for the distribution of the fliers.
5. On March 23, 2017, Ms. Karen Heldmeyer filed an amended complaint with the City Clerk's Office to name Respondent in the complaint. (Complaint 2017-1B).
6. On April 3, 2017, Pre-K for Santa Fe submitted "Response of Pre-K for Santa Fe Political Committee."
7. On April 4, 2017, the Board held a hearing to determine the "legal sufficiency" of the complaint under SFCC 1987, Section 6-16.4.

8. On April 4, 2017, the Board heard testimony from Ms. Heldmeyer, Respondent and the public.
9. On April 4, 2017, the Board voted to schedule a hearing on the merits for April 19, 2017.
10. On April 10, 2017, Respondent submitted “Waiver [of Hearing] of Pre-K for Santa Fe Political Committee.”
11. On April 19, 2017, the Board heard testimony from Ms. Heldmeyer, Respondent and the public.
12. On April 19, 2017, the Board announced its oral decision.

Substantive Findings of Fact:

13. The Complaint and amendment (“Complaint”) alleged that Pre-K for Santa Fe distributed a flier without printing a tag line with the organization’s identifying information as required under SFCC 1987, Section 9-2.5.
14. On April 3, 2017, Respondent provided written defenses to the Code requirements.
15. On April 4, 2017, Respondent’s representative orally testified to the Board that “leaving out the disclosure on the Santa Fe New Mexican editorial was his mistake.” (Board minutes, p. 3 (Apr. 3, 2017)).
16. Respondent’s representative testified that it distributed approximately 200 copies prior to realizing the error.
17. Respondent’s representative testified “[w]hen informed he immediately destroyed the copies and Pre-K reprinted with the disclosure.” (Board minutes, p. 3 (Apr. 3, 2017)).
18. On April 10, 2017, Respondent submitted a “Waiver [of Hearing]” document, which stated: “Once the Committee learned that it had inadvertently omitted the disclaimer from the newspaper editorial, the Committee immediately remedied the error.”

19. It stated: “In the interest of efficiency, and to avoid a waste of the Board’s resources, the Committee will accept the determination of the Board....”

Conclusions of Law

1. The Board has jurisdiction to “enforce the provisions of the ...Campaign Code (Section 9-2 SFCC 1987)....” SFCC 6-16.2(A).
2. SFCC 1987, Section 6-16-4(A) sets four separate elements to review to determine whether a complaint is legally sufficient or whether it should be dismissed.
3. SFCC 1987, Section 6-16.4(A)(4) states “[u]pon receipt of the complaint, the board shall determine the following...[i]f the board lacks jurisdiction to adjudicate the complaint.
4. Based on Findings of Fact #1-5, the Board has jurisdiction over Respondent.
5. The Board finds that redistributing a previously published editorial in these circumstances does not fall within the press exception to the definition of campaign materials in Section 9-2.3(E).
6. Based on Findings of Fact #14-17, Respondent admitted to conduct that violated SFCC 1987, Section 9-2.3E.
7. This conduct is subject to sanctions under SFCC 1987, Section 6-16.7
8. Based on Findings of Fact #14-17, Respondent stated it corrected its violation in an expedited manner.
9. The Board has given weight to Respondent’s admission and expedited corrective actions as part of its analysis of the appropriate level of sanction(s).

ORDER

1. A Public Reprimand issued against Pre-K for Santa Fe for its violation under SFCC 1987, Section 6-16.7(B)(1).

- a. Those voting in favor: Members Amer, Lujan, McMillan, Martinez, Miller.
- b. Those absent: Member Kovnat.
- c. Those recused: Member Biderman

Justin Miller, Chairperson

Dated

CITY OF SANTA FE ETHICS & CAMPAIGN REVIEW BOARD

IN THE MATTER OF: COMPLAINT
AGAINST RIO GRANDE FOUNDATION
Respondent.

CASE #2017-4A/4B

ORDER OF PUBLIC REPRIMAND

THIS MATTER came before the City of Santa Fe’s Ethics & Campaign Review Board (“Board”) pursuant to a complaint filed by Mr. Edward Stein, and as the Board being fully advised in the premises, issued an Order of Public Reprimand for the following reasons:

Procedural Findings of Fact:

1. On April 7, 2017, Edward Stein filed a complaint with the City Clerk’s Office against the Rio Grande Foundation for failure to file campaign reports.
2. The complaint invokes alleged violations of SFCC 1987, Section 9-2.6.
3. On April 7, 2017, Mr. Paul Gessing, President, Rio Grande Foundation, filed a letter.
4. On April 13, 2017, Mr. Stein filed an amended complaint with the City Clerk’s Office against the Rio Grande Foundation for failure to file campaign reports.
5. On April 14, 2017, Mr. Paul Gessing, President, Rio Grande Foundation, filed a letter.
6. On April 19, 2017, the Board held a hearing to determine the “legal sufficiency” of the complaint under SFCC 1987, Section 6-16.4.
7. On April 19, 2017, the Board voted to schedule a hearing on the merits for April 24, 2017.
8. On April 24, 2017, the Board heard testimony from Mr. Gessing, Mr. Glen Silver (Mr. Stein’s witness) and Respondent.
9. On April 24, 2017, the Board announced its oral decision.

Substantive Findings of Fact:

10. The Complaint and its amendment (“Complaint”) alleged that Rio Grande Foundation distributed a video without complying SFCC 1987, Section 9-2.6.
11. The Rio Grande Foundation created a sub-entity called “No Way Santa Fe.”
12. On April 11, 2017, “No Way Santa Fe” started running a video on its web page.
13. The video referred to a clearly identifiable ballot proposition within sixty days before an election at which the proposition is on the ballot.
14. As of April 24, 2017, it was still running.
15. Mr. Silver testified that the video cost more than \$250.00 to make.
16. Mr. Gessing did not contest that amount.
17. Mr. Gessing stated the video was produced by a third party.
18. Mr. Gessing refused to state the name of the third party.
19. Mr. Gessing stated the third party had given the video to Rio Grande Foundation.
20. As of April 24, 2017, there were 157 “hits” viewing the video.
21. Mr. Gessing stated Rio Grande Foundation spent approximately \$200 in advertisement fees.
22. The Rio Grande Foundation had not filed any campaign filing reports with the City Clerk’s office for the May 2017 special election.

Conclusions of Law

1. The Board has jurisdiction to “enforce the provisions of the ...Campaign Code (Section 9-2 SFCC 1987)....” SFCC 6-16.2(A).
2. SFCC 1987, Section 6-16-4(A) sets four separate elements to review to determine whether a complaint is legally sufficient or whether it should be dismissed.

3. SFCC 1987, Section 6-16.4(A)(4) states “[u]pon receipt of the complaint, the board shall determine the following...[i]f the board lacks jurisdiction to adjudicate the complaint.
4. Based on Finding of Fact #1-4, the Board has jurisdiction over Respondent.
5. Rio Grande Foundation created “No Way Santa Fe”.
6. Based on Finding of Fact #15-17, a third party expended more than \$250.00 making a video.
7. Based on Finding of Fact #17-19, a third party gave the video to No Way Santa Fe.
8. Under the City Code Section 9-2.3(M), an expenditure is a form of contribution.
9. Based on Finding of Fact #15-19, No Way Santa Fe received an in kind contribution from the third party.
10. No Way Santa Fe disseminated independent sponsored campaign video communication to the voters.
11. Based on Finding of Fact #12-14, 20, the video communication referred to a clearly identifiable ballot proposition within sixty days before an election at which the proposition is on the ballot and the number of hits on the video exceed 150 contacts to Santa Fe voters.
12. In addition, No Way Santa Fe expended approximately \$200 in advertisements in this effort.

ORDER

Rio Grande Foundation has violated SFCC 1987, Section 9-2.6b by creating No Way Santa Fe as a political committee, which made independent expenditures and received contributions of items of value in amounts greater than \$250 and it failed to file a campaign report. The Board shall issue a reprimand to Rio Grande Foundation and

order a campaign report be made forthwith to fulfill the responsibilities of the Campaign Code.

- a. Those voting in favor: McMillan, Lujan, Amer, Kovnat, Biderman, Miller
- b. Those absent: Martinez
- c. Those recused:

Justin Miller, Chairperson

Dated

City of Santa Fe



INDEPENDENTLY SPONSORED CAMPAIGN REPORTING CAMPAIGN FINANCE STATEMENT SUMMARY CUMULATIVE TOTALS TO DATE CONTRIBUTIONS, EXPENDITURES, LOANS AND IN-KIND CONTRIBUTIONS

Name of Person or Entity Rio Grande Foundation

Mailing Address PO Box 40336

Email Address info@riograndefoundation.org Phone No. 505-284-6000

REPORTING PERIOD 3/23/2017 TO 4/8/2017

CUMULATIVE TOTAL OF
IN-KIND CONTRIBUTIONS TO DATE (OTHER THAN MONEY) \$7,500.00

CUMULATIVE TOTALS TO DATE:	
CONTRIBUTIONS	<u>\$250.00</u>
LOAN(S)	<u>\$0.00</u>
INTEREST EARNED	<u>\$0.00</u>
GRAND TOTAL TO DATE	<u>\$250.00</u>

CUMULATIVE TOTALS TO DATE:	
EXPENDITURES	<u>\$200.00</u>
CASH ON HAND	<u>\$50.00</u>
GRAND TOTAL TO DATE	<u>\$250.00</u>

City of Santa Fe

INDEPENDENTLY SPONSORED CAMPAIGN REPORTING CAMPAIGN FINANCE STATEMENT SUMMARY CONTRIBUTIONS, EXPENDITURES, LOANS AND IN-KIND CONTRIBUTIONS (THIS REPORTING PERIOD)

Name of Person or Entity Rio Grande Foundation

REPORTING PERIOD 3/23/2017 TO 4/8/2017

THIS REPORTING PERIOD

Total Individual Contributions	<u>\$200.00</u>
Total Business Contributions	<u>\$0.00</u>
Total In-Kind Contributions (Other than Money)	<u>\$7,500.00</u>
Total Loans	<u>\$0.00</u>
Total Interest Earned	<u>\$0.00</u>
Total Expenditures	<u>\$200.00</u>

City of Santa Fe

INDEPENDENTLY SPONSORED CAMPAIGN REPORTING CAMPAIGN FINANCE STATEMENT / CONTRIBUTIONS BY INDIVIDUALS

(See §59-2.3(J)(1) and 9-2.6(C) SFCC 1987)

Name of Person or Entity James Higdon Rio Grande Foundation *ya*

Reporting Period 3/23/2017 TO 4/8/2017

Total of Contributions this Reporting Period: \$250.00

Cumulative Total of Contributions to Date (including this Report): \$250.00

Date Received	Name, Home Address and Occupation	Cash/Check Credit Card Other	Amount	Contributor Cumulative Total
03/24/17	James Higdon P.O. Box 22153 Santa Fe, NM 87502	Check	\$250.00	\$250.00

(ATTACH ADDITIONAL PAGES AS NEEDED) Page Total \$250.00

City of Santa Fe

INDEPENDENTLY SPONSORED CAMPAIGN REPORTING CAMPAIGN FINANCE STATEMENT / IN-KIND CONTRIBUTIONS

Name of Person or Entity Interstate Policy Alliance *Rio Grande Foundation* yo

Reporting Period 3/23/2017 TO 4/6/2017

Total of In-Kind Contributions this Reporting Period: \$7,500.00

Cumulative Total of In-Kind Contributions to Date (including this Report): \$7,500.00

List any goods, materials, services, facilities or anything of value (other than money) which has been contributed and the monetary value. For in-kind contributions from individuals, list the name, home address, occupation and name of employer. For in-kind contributions from Entities, list the name, type of entity, physical address and name of President, C.E.O. or equivalent position.

Date Received	Contributor Information	Contribution Description	Value	Contributor Total
04/06/17	<u>Interstate Policy Alliance</u> <u>1090 Vermont Ave, NE #900</u> <u>Washington, DC 20005</u>	Video/website	\$7,500.00	\$7,500.00

(ATTACH ADDITIONAL PAGES AS NEEDED) Page Total \$7,500.00

City of Santa Fe

INDEPENDENTLY SPONSORED CAMPAIGN REPORTING CAMPAIGN FINANCE STATEMENT / EXPENDITURES

Name of Person or Entity Rio Grande Foundation

Reporting Period 3/23/2017 TO 4/8/2017

Total of Expenditures this Reporting Period: \$200.00

Cumulative Total of Expenditures to Date (including this Report): \$200.00

Date Expended	Name of Individual or Business Mailing Address Purpose of Expenditure	Method of Payment	Amount	**See Form CC100	
				Yes	No
03/24/17	Facebook for advertising	Credit Card	\$25.00		
03/31/17	Facebook for advertising	Credit Card	\$25.00		
04/08/17	Facebook for advertising	Credit Card	\$25.00		
04/13/17	Facebook for advertising	Credit Card	\$25.00		
04/20/17	Facebook for advertising	Credit Card	\$25.00		
04/27/17	Facebook for advertising	Credit Card	\$25.00		
05/01/17	Facebook for advertising	Credit Card	\$50.00		

(ATTACH ADDITIONAL PAGES AS REQUIRED)

Page Total \$200.00

City of Santa Fe

INDEPENDENTLY SPONSORED CAMPAIGN REPORTING CAMPAIGN FINANCE STATEMENT CERTIFICATION

This Campaign Statement has been prepared with all reasonable diligence and is true and complete in accordance with §9-2 SFCC 1987.

President, CEO, or
Equivalent Position Signature

Paul Hessing

Date 6-15-17

Treasurer's/Deputy Treasurer's Signature

Vic Brown

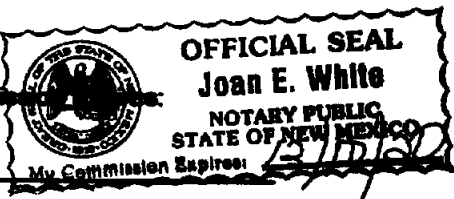
Date June 15, 17

Treasurer's/Deputy Treasurer's Address

Subscribed to and sworn before me this

15 day of June, 2017

[Signature]
Notary Public



My Commission Expires:

Received in the Office of the City Clerk at 9:45 (AM/PM) on the 20th day of June, 2017.

(SEAL)

Yolanda Y. Vigil
Yolanda Y. Vigil, CMC, City Clerk

- * A candidate or political committee that receives contributions from another entity that does not have to disclose its contributors to the City Clerk, shall indicate as such on the campaign finance statement submitted to the City Clerk pursuant to existing reporting requirements. (§9-2.12(B) SFCC 1987) (Form CC096A & CC096B)
- ** Pursuant to §9-2.6(A) the President, Chief Executive Officer or equivalent position shall certify on the filing that its expenditures were or were not made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his/her representatives or agents or the candidate's political committee. This will be indicated on the Expenditure Form by checking either the 'Yes' or 'No' fields in Form 99A and 99B (Not applicable in ballot proposition election).
- The term "contribution" does not include: a volunteer's personal services provided without compensation or the travel or personal expenses of such a campaign worker. (§9-2.3(f)(2) SFCC 1987)
- The City Clerk is authorized to reject any incomplete campaign finance statements. (§9-2.10(E) SFCC 1987)
- The City Clerk shall assess a fine of one hundred dollars (\$100) for uncouced late filing of campaign finance statements. (§9-2.10(G) SFCC 1987)