

CITY OF ALBUQUERQUE
BOARD OF ETHICS AND CAMPAIGN PRACTICES

JOAQUIN BACA,

Complainant,

v.

CASE NO. BOE 09-2021

REBECCA HAMPTON,

Respondent.

**COMPLAINANT’S EVIDENTIARY BRIEF ADDRESSING LEGAL ISSUES TO BE
CONSIDERED BY THE BOARD AT THE DECEMBER 3, 2021 HEARING**

BACKGROUND

A person or group of persons calling themselves “Stop the Stadium” created and managed by Rebecca “Bex” Hampton prepared, paid for, authorized, and distributed professionally produced yard signs, posters, small flyers, and a large banner whose cost was in excess of \$250 to oppose a measure on the November 2, 2021 ballot, but failed to register as a Measure Finance Committee; failed to attend the required Board of Ethics meeting on Friday, October 29, 2021; failed to disclose identifying sponsor information on printed materials; failed to file a copy of printed materials with the City of Albuquerque; and failed to file as many as six campaign reports. To deny this complaint would open the floodgates for any entity moving forward to raise and spend funds in support or opposition to a measure, without disclosing to voters the sources of those contributions nor any expenditures made.

LEGAL ISSUE TO BE RESOLVED BY THE BOARD

(1) Does Article XIII of Albuquerque’s City Charter pertain to the Stop the Stadium

campaign (SSC), requiring them to file as a Measure Finance Committee; attend a mandatory meeting; file regular reports of its contributions and expenditures; disclose identifying sponsor information on its printed materials; and file a copy of printed materials with the City of Albuquerque? Relevant statutes include:

Article XIII, Section 6 of Albuquerque's City Charter states (emphasis mine):

Section 6. MEASURE FINANCE COMMITTEES. (a) Each Measure Finance Committee shall register with the City Clerk **within five days of formation** by preparing and filing with the Board a statement, signed by the chairperson of the Committee...

Section 2(l) of the City Charter defines a "Measure Finance Committee" as:

...a political committee or **any person or combination of two or more persons acting jointly in...voter approval or disapproval of one or more measures on the ballot and/or the election to...when such person or people have accepted contributions in excess of \$250 or make expenditures in excess of \$250 for any of the purposes listed heretofore."**

Section 5 of the City Charter states:

CAMPAIGN MATERIALS. Each candidate and each chairperson of each Measure Finance Committee shall ensure that all campaign materials **specify the name of the campaign or committee who authorized the printing or distribution of such material and the name and address of the establishment that printed or otherwise created the campaign materials....Each candidate and each chairperson of each Measure Finance Committee shall also ensure that a copy of each campaign material used in the campaign is filed with the City Clerk's Office...**

Finally, Section 6(c) states:

It is recognized that an affirmative duty rests on the officials of any such Measure

Finance Committee to be aware of the provisions of this Election Code, and **nothing contained in this Section shall exempt a Measure Finance Committee from filing its statement of formation or existence as required herein at the earliest possible date.**

(2) Should this complaint be dismissed? Section 4(A)2(c) of the Rules and Regulations of the Board of Ethics and Campaign Practices states:

The complaint names a single Respondent. **A complaint cannot be filed against more than one Respondent.**

(3) Are the City of Albuquerque's City Charter, Rules and Regulations of the Board of Ethics and Campaign Practices, and 2021 Regulations of the Albuquerque City Clerk for the Election Code constitutional, and do they apply to Rebecca Hampton?

STATEMENT OF FACTS

SSC opposed the proposed \$50 million Stadium Bond question on November 2, 2021 Albuquerque ballot. A phone number and email on an SSC media release and flyer listed Hampton as the contact for the campaign. There was no other contact information listed on any of its printed materials.

SSC began on or about August 29, 2021 with an initial Facebook post.

On September 20, 2021, SSC canvassed neighborhoods with placards printed in color. Numerous social media posts I viewed showed residents holding up their own placard. These placards were at least 8.5" x 11"; Fedex prices them at about [\\$0.65 per colored print¹](#), depending on the quantity.

On October 2, 2021, Eli Il Yong Lee witnessed SSC handing out dozens of printed, color signs at the Albuquerque Women's March. He estimated these signs were about 12" x 12", which

¹ FEDEX, Custom Flyer Printing: Business Flyer Printing Services | FedEx Office. Retrieved November 26, 2021

Fedex lists at about [\\$0.85 per colored print²](#), based on the quantity.

On October 8, 2021 at the Albuquerque Art Walk, SSC was handing out flyers and had even more of the large color signs. Eli Il Yong Lee received a text message from a colleague who was handed one of the flyers at that event. The flyers are estimated at approximately [\\$0.14 per piece³](#), depending on the quantity.

On October 10, 2021, SSC hosted a “movie night” at the Albuquerque Center for Peace and Justice at 202 Harvard Dr SE, Albuquerque, NM 87106, in the University area, for which I saw a social media post. Either SCC rented the Center or the Center made an inkind contribution. I estimate the fair market value to be \$50 to \$250.

On October 13, SSC held a media conference. The news story by KOAT which I viewed included a shot of a large sign; a professionally made, color banner; and several large, black and white, vertically-oriented placards. On the Fedex Office website, the 4x6 banner alone would [cost a minimum of \\$160⁴](#), with the large signs estimated at [\\$15 per piece⁵](#).

October 29, SCC held a media conference at Triangle Park in Barelmas, where the Respondent identified herself as an organizer for SCC⁶.

Finally, I saw dozens of yard signs with wooden stakes in the Barelmas and downtown neighborhood, where I live; on street corners throughout Albuquerque; and at early and election day polling sites. The wooden stakes are [estimated at \\$2.99 each⁷](#); the full-color, double-sided yard signs are estimated at [\\$0.85 per piece⁸](#), for a total of \$3.84 per yard sign.

² FEDEX, [Custom Flyer Printing: Business Flyer Printing Services | FedEx Office](#). Retrieved November 26, 2021

³ FEDEX, [Custom Flyer Printing: Business Flyer Printing Services | FedEx Office](#). Retrieved November 26, 2021

⁴ FEDEX, Outdoor Banner Printing: Custom Outdoor Vinyl Banners | FedEx Office. Retrieved November 26, 2021.

⁵ FEDEX, Poster Printing | FedEx Office. Retrieved November 26, 2021

⁶ KOAT. Downtown Albuquerque resident calls out ant-stadium group (koat.com). Last Reviewed November 28, 2021.

⁷ Build A Sign, [Wooden Stakes](#). Retrieved November 26, 2021

⁸ FEDEX, Custom Flyer Printing. Retrieved November 26, 2021

None of these materials had the required disclosure on them. With extremely conservative estimated quantities, the total cost is:

Colored placards	100 x \$0.65	=	\$60.00
Women’s March signs	100 x \$0.85	=	\$85.00
Art Walk flyers	100 x \$0.14	=	\$14.00
Movie night space rental	1 night x \$50.00	=	\$50.00
Large banner	1 x \$159.99	=	\$159.99
Large color posters	10 x \$15.00	=	\$150.00
Yard signs with posts	200 x \$3.84	=	\$768.00
	Total	=	\$1,276.99

ARGUMENT

The expenditures that I and Mr. Lee witnessed were clearly in excess of the \$250 threshold required to file as a Measure Finance Committee, and perhaps substantially more. No entity is above the law. SSC should have been subject to the City Charter and all relevant rules and regulations. All those who choose to oppose or support a measure and spend \$250 or more must follow the same rules that other entities are required to follow.

This complaint should not be dismissed. Section 4(A)2(c) of the Rules and Regulations of the Board of Ethics and Campaign Practices requires that a complaint name a single Respondent. This complaint named Hampton, who is the named contact person for SSC and represented the campaign.⁹ When the complaint refers to Stop the Stadium, it means Hampton and any other individuals acting jointly with Hampton, because a Measure Finance Committee is defined, in part as “any person or combination of two or more persons acting jointly...” Hampton is responsible for the acts of the MFC. Whether others are also responsible can only be answered by Hampton or her attorney. Hampton clearly represented the campaign.

⁹ In addition to Rebecca Hampton’s contact information being listed on media releases and a flyer, she responded to numerous media outlets with a statement. For example, the Albuquerque Journal, reported on October 21, 2021: “In a written statement to the Journal, Hampton did not directly address a question about spending levels but called Stop the Stadium a ‘grassroots movement composed of individuals’ concerned the stadium would damage the Barelás and South Broadway neighborhoods — the two areas a city consultant named as ‘preferred’ stadium sites.”

On the question of whether the City of Albuquerque's rules, regulations, and laws related to elections are constitutional: The Board of Ethics and Campaign Practices does not have the authority to declare the City Election Code unconstitutional. That is a question for a court of law.

Finally, the Rules and Regulations of the Board of Ethics and Campaign Practices states in Section 4(E)(4)(e):

Prior decisions by the Board on the same issue will generally be followed and the parties are urged to refer to prior rulings on identical or similar issues.

The Board of Ethics heard nearly the same set of facts in Alex Curtas vs. Tara Shaver, Henry "Bud" Shaver, Stephen Imbarrato, and Protect ABQ (BOE Case No. 01-2015). The Board found Bud Shaver and Tara Shaver qualified as a Measure Finance Committee, and failed to comply with requirements imposed on Measure Finance Committees under both the City Charter and the Board Rules.

THE BOARD SHOULD ISSUE A REPRIMAND, A FINE COMMENSURATE WITH THE SEVERITY OF THE VIOLATIONS, AND REQUIRE A FULL ACCOUNTING

The Election Code and this Board's rules and regulations require the imposition of fines and a public reprimand for Respondent's violations of the City Charter. These violations are:

1. Failure to register as a Measure Finance Committee
2. Failure to attend the required MFC meeting on October 29, 2021
3. Failure to file Campaign Finance Report #6, due September 13, 2021 for the period August 2 through September 6, 2021
4. Failure to file Campaign Finance Report #7, due October 11, 2021 for the period September 7 through October 4, 2021
5. Failure to file Campaign Finance Report #8, due October 18, 2021 for the period October 5 through October 15, 2021
6. Failure to file Campaign Finance Report #9, due October 25, 2021 for the period October 16 through October 22, 2021
7. Failure to file Campaign Finance Report #10, due November 1, 2021 for the period October 23 through October 29, 2021
8. Failure to file Campaign Finance Report #11, due December 2, 2021 for the

period October 30 through November 26 2021 (pending at the time of this submission).

9. Failure to include the proper disclaimer on the neighborhood placard
10. Failure to include the proper disclaimer on the octagonal placard
11. Failure to include the proper disclaimer on the flyer
12. Failure to include the proper disclaimer on large banner
13. Failure to include the proper disclaimer on the black and white poster
14. Failure to include the proper disclaimer on the yellow placards
15. Failure to submit to the City Clerk the yard signs
16. Failure to submit to the City Clerk a copy of the neighborhood placard
17. Failure to submit to the City Clerk a copy of the octagonal placard
18. Failure to submit to the City Clerk a copy of the flyer
19. Failure to submit to the City Clerk a copy of the large banner
20. Failure to submit to the City Clerk a copy of the black and white poster
21. Failure to submit to the City Clerk a copy of the yellow placards
22. Failure to submit to the City Clerk a copy of the yard signs

I ask the Board of Ethics to impose fines it sees fit for these violations; issue a public reprimand for Respondent's violations of the City Charter; and require that Rebecca Hampton provide a full accounting of the contributions and expenditures of the Stop the Stadium campaign, subject to the same audit procedure that every other Measure Finance Committee completed.

CONCLUSION

For the foregoing reasons, Complainant respectfully requests that the Board determine that Respondent violated the City of Albuquerque's City Charter, Rules and Regulations of the Board of Ethics and Campaign Practices, and 2021 Regulations of the Albuquerque City Clerk; issue a fine and a reprimand; and require that Respondent to provide a full accounting of its contributions and expenditures.

Respectfully submitted,

By: /s/ Joaquin Baca

Joaquin Baca

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Complainant *Pro Se*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of November, 2021, the foregoing was sent via email to ewatson@cabq.gov, mdiemer@cabq.gov, Aschultz@rodey.com, and nrimmer@mayerllp.com.

By: /s/ Joaquin Baca

Joaquin Baca