

BEFORE THE KANSAS GOVERNMENTAL ETHICS COMMISSION
901 South Kansas Avenue
Topeka, Kansas 66612-1210

MARK SKOGLUND,)
Complainant)
vs.) Complaint No. 694
CINDY L. HOLSCHER,)
Respondent.)

COMMISSION REPORT AND ORDER
(pursuant to K.S.A. 25-4164 and K.S.A. 25-4166)

NOW on this 24th day of February 2021 the above captioned matters come before the Kansas Governmental Ethics Commission (commission) for hearing. Executive Director Mark Skoglund appears in person and by counsel, Brett W. Berry. Respondent Cindy L. Holscher appears. There are no other appearances.

THEREUPON, the commission, after hearing all the evidence, arguments, and statements of counsel, and being duly advised in the premises, FINDS that in the above captioned case jurisdiction exists over the subject matter and the respondent, a state officer and member of the Kansas Senate, who is therefore subject to the provisions of the Kansas campaign finance act.

THE COMMISSION FURTHER FINDS that the following findings of fact and conclusions of law should be adopted:

FINDINGS OF FACT

1. The Kansas Governmental Ethics Commission (“the Commission”) is an agency of the State of Kansas established pursuant to K.S.A. 25-4119a, in part for the purpose of implementing and enforcing the provisions of the Kansas campaign finance act, K.S.A. 25-4142, et seq.
2. Cindy L. Holscher is an elected member of the Kansas Senate, District 8.

3. On October 16, 2020, Sen. Holscher's campaign initiated two automated telephone calls to voters in District 8 expressly advocating for her re-election. The first call reached 1999 live-answered individuals and 2613 voicemails. The second, which was narrowed to households in the California Trail Middle School area reached 387 live-answered individuals and 570 voicemails.
4. The "paid for" attribution statement in both calls was not included at the beginning but was included at the end of the message in error.
5. These errors were self-reported by Sen. Holscher to the Kansas Governmental Ethics Commission.

CONCLUSIONS OF LAW

1. Sen. Holscher is a state officer as an elected member of the Kansas Senate, a state office as that term is defined by K.S.A. 25-2505 and 25-4143(m).
2. Sen. Holscher is a "candidate" for state office as that term is defined by K.S.A. 25-4143(a).
3. Pursuant to K.S.A. 25-4156(b)(1)(C), "...corrupt political advertising of a state or local office is: ...telephoning or causing to be contacted by any telephonic means including, but not limited to any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement which states: 'Paid for' or 'Sponsored by' followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor..."

4. Pursuant to K.S.A. 25-4156(b)(3), corrupt political advertising of a state or local office is a class C misdemeanor.
5. Pursuant to K.S.A. 25-4181, “the commission, in addition to any other penalty prescribed under the campaign finance act, may assess a civil fine, after proper notice and an opportunity to be heard, against any person for a violation of the campaign finance act by a civil fine in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation.”

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED unanimously by the commission that, the respondent has violated the Kansas campaign finance act, specifically K.S.A. 25-4156(b)(1)(C), as alleged in the complaint filed herein.

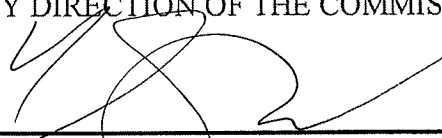
IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED unanimously by the commission, that pursuant to K.S.A. 25-4181(a), a civil fine in the amount of \$200 shall be and hereby is imposed upon the respondent for violation of K.S.A. 25-4156(b)(1)(C)—half of said civil fine shall be waived if the remaining half (\$100) is timely paid—due and payable within thirty (30) days of the date of the mailing of this order and report.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that pursuant to K.S.A. 25-4164, this order shall constitute the commission’s report of violations of K.S.A. 25-4156(b)(1)(C), a class C misdemeanor as provided in K.S.A. 25-4156(b)(3), to the Kansas attorney general and to the district or county attorney of competent jurisdiction, and, pursuant to K.S.A. 25-4166(b) the report and order shall be transmitted to the Kansas Senate due to the respondent being a duly elected member thereof, in each instance with the commission’s recommendation that no further investigation or action be taken.

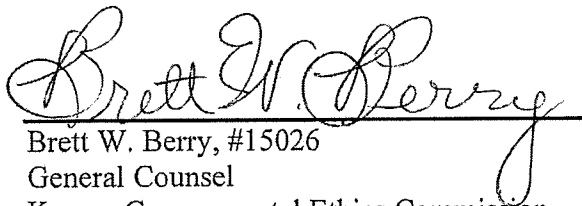
IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION

Mark Skaglund
for


Nick Hale, Chair/Presiding Officer
Kansas Governmental Ethics Commission

PREPARED AND APPROVED BY:



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NOTICE OF THE RIGHT TO APPLY FOR A REHEARING
(Pursuant to K.A.R. 19-7-15 and 19-7-16)

Any petitioner or party alleging any error in the original proceedings or report shall request a rehearing. An application for rehearing shall be filed with the commission at its office within ten (10) days after service of a commission report. Such application shall be made by motion stating specifically the grounds relied on. A copy of such application shall be served on all petitioners or parties and in conformity with K.A.R. 19-7-16.

FINAL AGENCY ACTION
(Pursuant to K.A.R. 19-7-15)

All reports and orders of the commission shall, subject to rehearing, are final.

APPEAL OF COMMISSION ORDERS
(Pursuant to K.S.A. 25-4185)

Any person aggrieved by any order of the commission pursuant to the Kansas campaign finance act, K.S.A. 25-4119e, et seq., may appeal such order in accordance with the provisions of the Kansas judicial review act, K.S.A. 77-601, et seq.

CERTIFICATE OF SERVICE

This is to certify that on the 5TH day of March, 2021 the undersigned deposited a true and correct copy of the foregoing Report and Order in the U.S. mail, first class postage prepaid, or by building mail, or by hand delivery, addressed to the following:

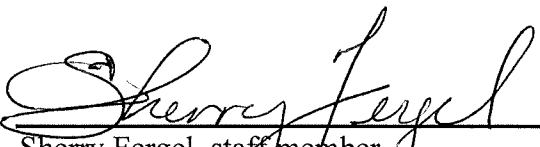
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Sherry Fergel, staff member
Kansas Governmental Ethics Commission