



Wyoming Secretary of State

March 28, 2023
Via Hand Delivery

Attorney General Bridget Hill
Wyoming Attorney General's Office
109 State Capitol
200 West 24th Avenue
Cheyenne, WY 82002

Re: Referral of Wyoming Election Complaints

Dear Attorney General Hill:

This letter pertains to four Wyoming Election Code Violation Complaints received by the Wyoming Secretary of State's Office on February 13, 2023, February 17, 2023, and February 20, 2023. After careful review and consideration, I have determined these complaints have merit, and should be referred to the Attorney General's Office for further investigation.

BRIEF FACTUAL BACKGROUND AND INVESTIGATION BY SHERIDAN COUNTY SHERIFF'S OFFICE

These complaints originate from a widely circulated mailer disseminated to residents of Sheridan and Johnson Counties prior to the 2022 primary election purporting to be paid for by a political action committee called the Wyoming in Name Only (WINO) PAC. The Wyoming In Name Only PAC is not registered as a political action committee with the Wyoming Secretary of State's Office. The front of the mailer states "HOWDY PILGRIM!" in bold letters. The back of the mailer contains the names and photographs of four individuals: Jeff Wallack, Laurie Bratten, Kristen Jennings, and Jimmy Dee Lees, stating "WANTED FOR TRYING TO TEAR OUR STATE APART." The back of the mailer also states "VOTE 'NO' ON US CONSERVATIVE IMPOSTERS." The "WANTED" language on the mailers is similar in design and typefont to the campaign literature used by Cyrus Western's primary opponent.

In August of 2022, several complaints were filed with state and local entities alleging that the mailers violated multiple provisions of the Wyoming Election Code. These complaints were ultimately referred to the Sheridan County Attorney's Office. On August 18, 2022, the Sheridan County Sheriff's Office opened an investigation into these complaints.

The mailer had a return address of 30 North Gould Street, Sheridan, WY 82801. The Sheridan County Sheriff's Office Report determined that this was a "'ghost address' commonly used for undetectable business practices and related to several reported scams."

As more fully set forth in the Deputy Report for Incident 220818S05 attached hereto, it was determined that the mailers in question were printed by West Wind Litho in Salt Lake City, Utah. It was further determined that the client who ordered the mailers was Majority Strategies based out of Jacksonville, Florida.

After an extensive investigation culminating in a search warrant, in October of 2022, the Sheridan County Sheriff's Office obtained an invoice from Majority Strategies with billing information to Wyoming In Name Only (WINO) PAC. The product and delivery was for "Western WY attack howdy" and showed a total of 7,118 pieces had been ordered for a total amount of \$5,338.50. Also contained within the email attachment was a copy of a cashier's check for \$5,388.50 from Wells Fargo Bank in Gillette, WY. The remitter name on the check was William Novotny. The envelope addressed to Majority Strategies did not have a sender's name, but did contain a return address of PO Box 175, Big Horn, WY 82833. Upon further investigation, Cyrus Western was identified as the renter of P.O. Box 175 in Big Horn, WY.

In January 2023, the Sheridan County Sheriff's Office investigation revealed that the Friends of Cyrus Western paid Future307 PAC, \$5,200 for "consulting" services. Future307 is a political action committee registered with the Wyoming Secretary of State's Office. According to the Wyoming Secretary of State's campaign finance website, Future307 has not reported any contributions from Friends of Cyrus Western.

In a letter and addendum dated January 10, 2023, the Sheridan County Attorney determined that a state legislator and a resident of Johnson County were involved in the production of the mailer.¹ As such, the Sheridan County Attorney's Office determined that it was "not the jurisdictionally appropriate agency to handle any prosecution per W.S. 22-26-121(a)."

Following the Sheridan County Attorney's letter, on February 13, 2023, the Wyoming Secretary of State's Office received a complaint from Henry T Windsor. On February 17, 2023, the Wyoming Secretary of State's Office received two complaints from Laurie Bratten. On February 20, 2023, the Wyoming Secretary of State's Office received a complaint from Jeff Wallack. Each complaint alleged violations of the Wyoming Election Code by Cyrus Western, a legislative candidate, Friends of Cyrus Western, a candidate committee for legislative office, Future307 PAC, a political action committee, and William Novotny, as chairman of the Future307 PAC. These complaints highlight the similarities between the mailers and the campaign design of Cyrus Western's primary opponent. They also identify one of the individuals targeted by the mailer as a candidate for precinct committeeman.

CONCLUSION AND REFERRAL

After a thorough review of the complaints and the Sheridan County Sheriff's Office investigation, I am deeply troubled and concerned by the use of these mailers as a means to thwart the Wyoming Election Code and violate Title 22. There is evidence to suggest that the mailers constituted an "electioneering communication," as that term is defined in WYO. STAT. § 22-25-101(d), either by virtue of its reference to a candidate for precinct committeeman paired with the language "VOTE 'NO' ON US CONSERVATIVE IMPOSTERS," or by the combination of the "VOTE NO" language and the design and typefont of the mailer, which can be reasonably interpreted as an appeal to vote against Cyrus Western's primary opponent. As such, these mailers were subject to the requirements and restrictions governing electioneering communications and campaign advertising in Title 22.

Notwithstanding the electioneering issue, several questions remain regarding the involvement, financing, and potential coordination between Cyrus Western, the Friends of Cyrus Western, and William Novotny, as chairman of the Future307 PAC as it pertains to the mailers.

¹ As a jurisdictional matter, Mr. Novotny's status as a resident of Johnson County is not applicable, as his involvement is limited to his capacity as chairman of the Future307 PAC, a political action committee registered with the Wyoming Secretary of State's Office.

Accordingly, based on the Sheridan County Sheriff's Office investigation and pursuant to WYO. STAT. § 22-26-121(a), I have determined the complaints filed on February 13, 2023, February 17, 2023, and February 20, 2023 have merit, and I am therefore referring to your office for further investigation and, if necessary, prosecution, the following suspected violations of the Wyoming Election Code by a statewide legislative candidate, committee or organization, as defined in WYO. STAT. § 22-26-121(f)(ii):

- Did Cyrus Western, the Friends of Cyrus Western, and/or William Novotny, as chairman of the Future307 political action committee, violate WYO. STAT. § 22-25-102(a)² by engaging in "direct coordination" as defined in Chapter 28, Section 3 of the Secretary of State's Election Procedures?³
- Did Cyrus Western, the Friends of Cyrus Western, and/or William Novotny, as chairman of the Future307 political action committee, violate WYO. STAT. § 22-25-110(a)⁴ by failing to properly disclose its payment for campaign advertising as defined therein?

² WYO. STAT. § 22-25-102(a) provides that "[t]he secretary of state shall promulgate rules to define direct coordination as prohibited by this section."

³ Chapter 28, Section 3 of the Secretary of State's Election Procedures provides:

For the purposes of W.S. 22-25-102(a), "direct coordination" means any of the following:

(a) Any contribution of funds, other items of value, or election assistance from a political action committee or political party to a candidate or a candidate's campaign committee resulting from an actual or implied agreement;

(b) Communication between a candidate or candidate's campaign committee and a political action committee or political party for the purpose of aiding the election of a candidate, limited to the following:

(i) Requesting or suggesting a contribution or expenditure of funds, other items of value, or election assistance by a political action committee or political party to, or on behalf of, a candidate or a candidate's campaign committee, including in-kind contributions or expenditures;

(ii) Requesting or suggesting a contribution or expenditure of funds, other items of value, or election assistance by a candidate or any officer of a candidate's campaign committee to, or on behalf of, a political action committee or political party, including in-kind contributions or expenditures;

(iii) A political action committee or political party republishing, disseminating, or distributing, in whole or part, any campaign material or advertisement created or prepared by the candidate or candidate's campaign committee;

(iv) A political action committee or political party spending funds based on non-public information that:

(A) Originated from the candidate, that candidate's campaign committee, an entity that received the non-public information from the candidate or that candidate's campaign committee, or any agent thereof; and

(B) Is used for the benefit of, or to further the candidate's interests.

(v) Any written, verbal, or electronic discussion between a candidate or officer of a candidate's campaign committee and a political action committee or political party regarding campaign strategy, campaign funding, or campaign advertising for the candidate's campaign.

⁴ WYO. STAT. § 22-25-110(a) states in part:

(a) It is unlawful for a candidate, political action committee, organization, including organizations causing an electioneering communication or an independent expenditure to be made, candidate's campaign committee, or any political party central committee to pay for campaign literature or campaign advertising without conspicuously displaying or speaking the following disclosure: "paid for by (name of candidate, organization or committee sponsoring the campaign literature or campaign advertising)."

- Did Cyrus Western, the Friends of Cyrus Western, and/or William Novotny, as chairman of the Future307 political action committee, violate WYO. STAT. § 22-25-106⁵ by failing to report contributions and/or expenditures as required by law?

⁵ WYO. STAT. § 22-25-106 provides in pertinent part:

(a) Except as otherwise provided in subsections (g) and (j) of this section and in addition to other reports required by this subsection:

(i) Every candidate, whether successful or not, shall file an itemized statement of contributions and expenditures at least seven (7) days but not more than fourteen (14) days before any primary, general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, general or special election, shall be filed as an amendment to the statement within ten (10) days after the election;

(iv) Reports under this subsection shall set forth the full and complete record of contributions including cash, goods or services and actual and promised expenditures, including all identifiable expenses as set forth in W.S. 22-25- 103. For purposes of this section, a contribution is reportable when it is known and in the possession of, or the service has been furnished to, the person or entity required to submit a statement of contributions and expenditures. The date of each contribution of one hundred dollars (\$100.00) or more, any expenditure or obligation, the name of the person from whom received or to whom paid and the purpose of each expenditure or obligation shall be listed. All contributions under one hundred dollars (\$100.00) shall be reported but need not be itemized. Should the accumulation of contributions from a person exceed the one hundred dollar (\$100.00) threshold, all contributions from that person shall be itemized. Contributions, expenditures and obligations itemized in a statement filed by a political action committee, a candidate's campaign committee or by a political party central committee need not be itemized in a candidate's statement;

(v) Statements under this subsection shall be filed with those officers as provided in W.S. 22-25-107.

(b) Reports of itemized statements of contributions and expenditures, and statements of termination shall be made with the appropriate filing officers specified under W.S. 22-25-107 and in accordance with the following:

(i) Except as otherwise provided in this section, any political action committee and candidate's campaign committee, or any political action committee formed under the law of another state that contributes to a Wyoming political action committee or to a candidate's campaign committee shall file an itemized statement of contributions and expenditures at least seven (7) days but not more than fourteen (14) days before any primary, general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, general or special election, shall be filed as an amendment to the statement within ten (10) days after the election;

(iii) All candidates and committees shall continue to make the reports required under this subsection until the committee terminates and the candidate or committee files a statement of termination with the appropriate filing officer. A statement of termination may be filed upon retirement of all debts;

(c) All reports required by subsection (b) of this section shall be signed by both the chairman and treasurer. The reports shall set forth the full and complete record of contributions including cash, goods or services and actual and promised expenditures. The date of each contribution of one hundred dollars (\$100.00) or more, any expenditure or obligation, the name of the person from whom received or to whom paid and the purpose of each expenditure or obligation shall be listed. Nothing in this subsection shall be construed to require the disclosure of the names of individuals paid to circulate an initiative or referendum petition. All contributions under one hundred dollars (\$100.00) shall be reported but need not be itemized. Should the accumulation of contributions from a person exceed the one hundred dollar (\$100.00) threshold, all contributions from that person shall be itemized. If the contributions, expenditures or obligations were for more than one (1) candidate, the amounts attributable to each shall be itemized separately.

- Did Cyrus Western, the Friends of Cyrus Western, and/or William Novotny, as chairman of the Future307 political action committee, violate WYO. STAT. § 22-25-102⁶ by distributing/accepting contributions which exceed the statutory amount as provided in WYO. STAT. § 22-25-102(m)?

Enclosed herein are the four complaints received by our office on February 13, 2023, February 17, 2023, and February 20, 2023. I have also enclosed other information pertinent to these complaints, including the Sheridan County Attorney Office's January 10, 2023 letter and the Sheridan County Sheriff's Report.

Sincerely,



Chuck Gray
Wyoming Secretary of State

Enclosures:

Election Complaint and attachments filed by Henry T Windsor, received February 13, 2023;
Election Complaints and attachments filed by Laurie Bratten, received February 17, 2023;
Election Complaint and attachments filed by Jeff Wallack, received February 20, 2023;
Letter and Addendum from Sheridan County Attorney's Office, dated January 10, 2023;
Sheridan County Sheriff's Report for Incident 220818S05

(e) If inaccuracies are found in a statement filed in accordance with this section or additional contributions or expenditures become known after filing an amendment as required by paragraph (a)(i), (b)(i) or (h)(ii) of this section, amendments to the original statements or additional statements shall be filed within a reasonable time not to exceed thirty (30) days from the time the inaccuracies or additional contributions or expenditures became known. For purposes of this subsection, any net change less than two hundred dollars (\$200.00) need not be reported.

⁶ WYO. STAT. § 22-25-102(m) provides:

(m) Except as otherwise provided in this section, no political action committee shall contribute directly or indirectly more than five thousand dollars (\$5,000.00) per election to any candidate for political office other than statewide political office. For purposes of this subsection the primary, general and special elections shall be deemed separate elections. No candidate for political office shall accept, directly or indirectly, contributions which violate this subsection. Contributions to a candidate's campaign committee shall be considered to be contributions to the candidate. This subsection does not limit political contributions by political parties, nor expenditures by a candidate from his own funds nor from his candidate's campaign committee funds.