

**STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT**

FILED  
5th JUDICIAL DISTRICT COURT  
Lea County  
11/2/2022 4:26 PM  
NELDA CUELLAR  
CLERK OF THE COURT  
Maritza Martinez

STATE ETHICS COMMISSION,

Plaintiff,

v.

WORKING FAMILIES ORGANIZATION,  
INC. d/b/a “Unemployed Workers United,”

Defendant.

No.           D-506-CV-2022-00942          

Case assigned to Stone, Michael H.

**COMPLAINT**

1. In the upcoming November election, New Mexicans will be asked to vote “yes” or “no” on a ballot question that would amend the New Mexico Constitution to authorize spending hundreds of millions of dollars from the State’s Permanent School Fund to pay for enhanced instruction for students at risk of failure, extending the school year, and increasing teacher compensation.

2. In 2019, the Legislature overhauled the Campaign Reporting Act to shine light on “dark money” in state elections, requiring more transparency from groups that fund campaign advertisements, including disclosures of their expenditures and the sources of contributions used to fund those expenditures. *See* Laws 2019, ch. 262, §§ 1–18; *see also* NMSA 1978, § 1-19-26.1 (requiring registration of political committees); § 1-19-27.3 (require disclosures related to independent expenditures); § 1-19-31 (requiring disclosures of political committees *inter alia*).

3. Defendant Working Families Organization, Inc. has spent thousands of dollars on an advertising campaign supporting the constitutional amendment described above. Despite the transparency requirements of the Campaign Reporting Act, Defendant Working Families

Organization, Inc. has taken steps to obscure its role in the advertisements described in this complaint by describing itself as “Unemployed Workers United,” and has refused to inform New Mexicans of basic facts regarding who ultimately funded the election-related advertisements that it purchased.

4. Plaintiff State Ethics Commission brings this complaint against Defendant Working Families Organization, Inc. to compel its compliance with the Campaign Reporting Act. In support of these claims, the Commission states as follows:

### **PARTIES**

5. Plaintiff State Ethics Commission is an independent state agency established by Article V, Section 17(A) of the State Constitution.

6. Defendant Working Families Organization, Inc. is a foreign non-profit corporation, incorporated in the state of New York. On information and belief, Working Families Organization, Inc. is doing business in New Mexico under the name “Unemployed Workers United.”

7. Defendant Working Families Organization, Inc. may be served through its registered agent, Corporation Service Company, 110 E. Broadway St., Hobbs NM 88240.

### **JURISDICTION AND VENUE**

8. The Court has jurisdiction for this action pursuant to N.M. Const., Art. VI, § 13.

9. Venue is proper in this judicial district.

### **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

10. In March 2021, both chambers of the Legislature approved House Joint Resolution 1, which referred an amendment to Article XII, Section 7 of the New Mexico Constitution to the ballot for the November 8, 2022 general election. *See* Laws 2021, Const. Amend. 1.

11. The ballot question corresponding to House Joint Resolution 1 proposes to amend the New Mexico Constitution to distribute one and one-fourth percent of the year-end market value

of the permanent school fund. Forty percent of the distribution would be for “enhanced instruction for students at risk of failure, extending the school year and public school teacher compensation,” and sixty percent would be for “the provision of early childhood education.” Laws 2021, Const. Amend. 1, § 1(H).

12. In September 2022, Defendant Working Families Organization, Inc., sent a series of text messages to registered voters in New Mexico urging each recipient to support the ballot question.

13. One text message advertisement reads as follows:

Hi [Recipient]. This is Yessina with Unemployed Workers United. New Mexicans will have the power to vote on the Permanent School Fund – a state constitutional amendment that will allocate an additional 1.25% more to support at-risk-students and early childhood education. That would result in about \$250 million in new funding for early childhood education, teachers, and programs to address inequities in our public schools! Can we count on you to vote yes on the permanent school fund ballot question this Nov 8th, 2022? Stop to opt-out

14. A follow-up text message advertisement reads:

Hi [Recipient]. Just wanted to see if you saw my first message? New Mexicans will have the power to vote on the Permanent School Fund – a state constitutional amendment that will allocate an additional 1.25% more to support early childhood education. Do you believe that New Mexico’s children and families will benefit from this amendment? Stop to opt out.

15. On information and belief, Defendant Working Families Organization, Inc. sent the same or substantially similar text message advertisements to registered voters who either declined to state an affiliation with a political party (so-called “independents”) or who had declared an affiliation with the Democratic Party.

16. Defendant Working Families Organization, Inc.’s aggregate payments for the targeted text message advertisements supporting passage of the constitutional amendment,

including any costs associated with a short code, short-code provisioning, software-provision, and per message costs, exceeded \$3,000.

17. On information and belief, Defendant Working Families Organization, Inc.’s aggregate payments for the targeted text message advertisements supporting passage of the constitutional amendment, including any costs associated with a short code, short-code provisioning, software-provision, and per message costs, exceeded \$9,000.

18. Despite paying for advertisements supporting the passage of a specifically identified ballot question, Defendant Working Families Organization, Inc. did not disclose that it had paid for the advertisements, and instead suggested that the advertisements were paid for by “Unemployed Workers United.”

19. Despite paying for advertisements supporting the passage of a specifically identified ballot question, Defendant Working Families Organization, Inc. did not register with the Office of the Secretary of State as a political committee.

20. On information and belief, Defendant Working Families Organization, Inc. has not submitted to the Secretary of State any disclosure reports of Defendant’s expenditures and contributions related to Defendant’s advertisements supporting passage of the ballot question described above.

21. The State Ethics Commission inquired whether Working Families Organization, Inc. intended to register or disclose expenditures and contributions related to the above-described text-message advertisements.

22. After being informed of Working Families Organization, Inc.’s advertising campaign, on September 27, 2022, the State Ethics Commission’s General Counsel, Walker Boyd, sent a letter to individuals purporting to be the Executive Director and Legal Director of

Unemployed Workers United, inquiring whether Defendant Working Families Organization, Inc. intended to disclose expenditures and contributions related to its advertisements supporting the ballot question described above. *See* Ex. 1, Ltr. from Walker Boyd, State Ethics Commission, to Jessica Bansal (Sept. 27, 2022).

23. Shortly after this letter was sent, registered voters in New Mexico began receiving text message advertisements like the one quoted above:

Hi {[Recipient]}! Yessenia here with UWU, Paid by Working Families Org. This November, New Mexicans will have the power to vote on The Permanent School Fund. This state constitutional amendment will allocate about \$250 million in new funding to support at-risk students, early childhood education, teachers, and equity programs in public schools. Do you believe New Mexico's children and families will benefit from this amendment?  
STOP to Opt Out  
Authorized by No Corporate Democrats.

24. On October 7, 2022, Neidi Dominguez, Unemployed Workers United's Executive Director, responded to the Commission's September 27, 2022 correspondence. Instead of addressing the Commission's inquiries about whether Unemployed Workers United intended to comply with the Campaign Reporting Act, Ms. Dominguez demanded that the Commission reveal who alerted the Commission about the existence of Defendant Working Families Organization, Inc.'s advertising campaign, and suggested that the Commission's inquiry was unlawful. *See* Ex. 2, Ltr. from Neidi Dominguez to Walker Boyd (Oct. 7, 2022).

**Count I**  
**Failure to disclose required advertising information under**  
**NMSA 1978, Section 1-19-26.4**

25. Plaintiff State Ethics Commission incorporates by reference the foregoing paragraphs of this complaint as though fully set forth herein.

26. The text messages sent by Defendant Working Families Organization, Inc. are communications referring to a ballot question and therefore constitute advertisements under

NMSA 1978, Section 1-19-26(A)—to wit, communications referring to a ballot question that were published, disseminated, distributed, or displayed to the public.

27. Defendant Working Families Organization, Inc. made an expenditure on advertisements in an amount that exceeds one thousand dollars (\$1,000), or in an amount that, when added to the aggregate amount of the campaign expenditures, coordinated expenditures and independent expenditures made by Defendant Working Families Organization, Inc. during the election cycle, exceeds \$1,000.00.

28. Defendant Working Families Organization, Inc.'s advertisements did not contain the name of the candidate, committee or other person who authorized and paid for the advertisements, in violation of NMSA 1978, Section 1-19-26.4 (2019).

29. Plaintiff State Ethics Commission seeks relief in the form of a civil penalty of \$1,000 for each advertisement published by Working Families Organization, Inc., up to a maximum of \$20,000, as provided in NMSA 1978, Section 1-19-34.6(C) (2021).

**Count II**  
**Failure to report independent expenditures required under**  
**NMSA 1978, Section 1-19-27.3**

30. Plaintiff State Ethics Commission incorporates by reference the foregoing paragraphs of this complaint as though fully set forth herein.

31. The text messages sent by Defendant Working Families Organization, Inc. are communications referring to a ballot question and therefore constitute advertisements under NMSA 1978, Section 1-19-26(A)—to wit, communications referring to a ballot question that were published, disseminated, distributed, or displayed to the public.

32. Defendant Working Families Organization, Inc. made aggregate expenditures in excess of at least three thousand dollars (\$3,000) to pay for the advertisements.

33. Defendant Working Families Organization, Inc.’s advertisements refer to a clearly identified ballot question and were published and disseminated to the relevant electorate in New Mexico within sixty days before the general election at which the ballot question is on the ballot. *See* NMSA 1978, § 1-19-26(N)(3)(c).

34. In the alternative, Defendant Working Families Organization, Inc.’s advertisements are “susceptible to no other reasonable interpretation than as an appeal to vote for . . . a clearly identified ballot question . . . .” NMSA 1978, § 1-19-26(N)(3)(b).

35. Defendant Working Families Organization, Inc. made independent expenditures during the current election cycle that, when aggregated with all independent expenditures made by Defendant Working Families Organization, Inc., exceed at least three thousand dollars (\$3,000).

36. Defendant Working Families Organization, Inc. therefore must file a disclosure report under NMSA 1978, Section 1-19-27.3.

37. Plaintiff State Ethics Commission seeks relief in the form of an order declaring that Defendant Working Families Organization, Inc. made independent expenditures during the current election cycle that, when aggregated with all independent expenditures made by Defendant Working Families Organization, Inc., exceed at least three thousand dollars (\$3,000); an injunction requiring Defendant Working Families Organization, Inc. to file the appropriate and required disclosure report under NMSA 1978, Section 1-19-27.3; civil penalties and forfeitures as provided by Section 1-19-34.6(C); and any other relief the Court deems proper.

**Count III**  
**Failure to report independent expenditures required under**  
**NMSA 1978, Section 1-19-27.3**

38. Plaintiff incorporates by reference the foregoing paragraphs of this complaint as though fully set forth herein.

39. This count is pled in the alternative to count II under Rule 1-008(E)(2) NMRA.

40. Defendant Working Families Organization, Inc. made aggregate expenditures in excess of nine thousand dollars (\$9,000) to pay for advertisements under NMSA 1978, Section 1-19-26(A)—to wit, communications referring to a ballot question that were published, disseminated, distributed, or displayed to the public.

41. The advertisements alleged in the preceding paragraph are “susceptible to no other reasonable interpretation than as an appeal to vote for . . . a clearly identified ballot question . . . .” NMSA 1978, § 1-19-26(N)(3)(b).

42. Defendant Working Families Organization, Inc. made independent expenditures during the current election cycle that, when aggregated with all independent expenditures made by Working Families Organization, Inc., exceed nine thousand dollars (\$9,000).

43. Defendant Working Families Organization, Inc. therefore must file a disclosure report under NMSA 1978, Section 1-19-27.3(A)-(B) & (D).

44. Plaintiff State Ethics Commission seeks relief in the form of an order declaring that Defendant Working Families Organization, Inc. made independent expenditures during the current election cycle that, when aggregated with all independent expenditures made by Working Families Organization, Inc., exceed nine thousand dollars (\$9,000); an injunction that Working Families Organization, Inc. file a disclosure report under NMSA 1978, Section 1-19-27.3(A)-(B) & (D); civil penalties and forfeitures as provided by Section 1-19-34.6(C); and any other relief the Court deems proper.

**Count IV**  
**Expenditures with an intent to conceal the true source of the funds**

45. Plaintiff incorporates by reference the foregoing paragraphs of this complaint as though fully set forth herein.

46. Defendant Working Families Organization, Inc. made expenditures on advertisements with an intent to conceal the names of the persons who are the true source of funds used to make independent expenditures or the true recipients of the expenditures, in violation of NMSA 1978, Section 1-19-34.3(B) (2019).

47. Plaintiff State Ethics Commission seeks relief in the form of a civil penalty of \$1,000 for each advertisement published by Working Families Organization, Inc., up to a maximum of \$20,000, as provided in NMSA 1978, Section 1-19-34.6(C) (2021).

### CONCLUSION

WHEREFORE, the State Ethics Commission requests the Court to enter relief as follows:

- a. An order declaring that Defendant Working Families Organization, Inc.'s payments for the above-described advertisements constitute "independent expenditure[s]" as defined by the Campaign Reporting Act;
- b. Injunctive relief ordering Defendant Working Families Organization, Inc. to comply with the reporting requirements of § 1-19-27.3;
- c. Civil penalties allowed by § 1-19-34.6(B)-(C), up to a maximum of \$20,000;
- d. Assessment of costs under NMSA 1978, § 34-6-40.1; and
- e. Such other relief as the Court deems just and proper.

Respectfully submitted: November 2, 2022,

STATE ETHICS COMMISSION

By: /s/ Walker Boyd

Jeremy Farris

Walker Boyd

800 Bradbury Dr. SE, Suite 215

Albuquerque, NM 87106

(505) 827-7800

[jeremy.farris@state.nm.us](mailto:jeremy.farris@state.nm.us)

[walker.boyd@state.nm.us](mailto:walker.boyd@state.nm.us)

*Counsel for Plaintiff*



## STATE ETHICS COMMISSION

Walker Boyd, General Counsel  
800 Bradbury Drive Southeast, Suite 215  
Albuquerque, NM 87106  
505.554.7196 | [walker.boyd@state.nm.us](mailto:walker.boyd@state.nm.us)

Hon. William F. Lang (Chair)  
Jeffrey L. Baker  
Stuart M. Bluestone  
Hon. Garrey Carruthers  
Hon. Celia Foy Castillo  
Ronald Solimon  
Dr. Judy Villanueva

Jeremy D. Farris, Executive Director

September 27, 2022

Jessica Bansal, Legal Director  
Unemployed Workers United  
1355 N Mentora Ave, #40583  
Pasadena, California 91104-2425

**Via U.S. Mail and email to:** [Jessica.b@uwunited.org](mailto:Jessica.b@uwunited.org)

Dear Ms. Bansal,

My name is Walker Boyd. I currently serve as the General Counsel of the State Ethics Commission, an independent state agency that has the authority to enforce the civil compliance provisions of the Campaign Reporting Act. *See* N.M. Const., Art. V, § 17; NMSA 1978, §1-19-34.8; NMSA 1978, § 10-16G-9(A)(1) & (F). I write to you in your capacity as Legal Director of Unemployed Workers United.

It has come to my attention that Unemployed Workers United has paid for advertisements supporting a ballot question in the upcoming general election, and as such may be under (and is currently in violation of) the Campaign Reporting Act's registration, reporting, and disclaimer provisions. One advertisement, a series of unsolicited text messages, reads as follows:

Text Message 1: Hi [Recipient]. This is Yessina with Unemployed Workers United. New Mexicans will have the power to vote on the Permanent School Fund – a state constitutional amendment that will allocate an additional 1.25% more to support at-risk-students and early childhood education. That would result in about \$250 million in new funding for early childhood education, teachers, and programs to address inequities in our public schools! Can we count on you to vote yes on the permanent school fund ballot question this Nov 8th, 2022? Stop to opt-out

Text message 2: Hi [Recipient]. Just wanted to see if you saw my first message? New Mexicans will have the power to vote on the Permanent School Fund – a state constitutional amendment that will allocate an additional 1.25% more to support early childhood education. Can we count on you to vote yes on the permanent school fund ballot question this Nov 8th, 2022?

The Campaign Reporting Act defines a “political committee” as, *inter alia*, “an association that consists of two or more persons whose primary purpose is to make independent expenditures and that has received more than five thousand dollars (\$5,000) in contributions or made independent expenditures of more than five thousand dollars (\$5,000) in the election cycle.” 1-19-26(Q)(4); *see also* 1.10.13.7(T) NMAC (defining “primary purpose”). An independent expenditure, in turn, is defined in pertinent part as:



[A]n expenditure that is . . . made to pay for an advertisement that . . . (a) expressly advocates . . . the passage or defeat of a clearly identified ballot question; (b) is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot question; or (c) refers to a clearly identified candidate or ballot question and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election at which the candidate or ballot question is on the ballot.

1-19-26(N)(3); *see also* 1.10.13.7(I) NMAC (defining “expressly advocate”).

Unemployed Workers United may be in violation of at least three different provisions of the Campaign Reporting Act.

First, the Campaign Reporting Act requires any person who spends more than \$1,000 on an advertisement supporting a ballot question (either alone or in aggregate with other campaign expenditures, coordinated expenditures, and other independent expenditures made by the same person) to include in the advertisement a statement identifying the name of the candidate, committee, or other person who authorized and paid for the advertisement. *See* NMSA 1978, § 1-19-26.4(A) (2019). It appears that Unemployed Workers United is not a “person” as defined by the Campaign Reporting Act, and is instead a “project” or d/b/a of Working Families Organized, a New York nonprofit corporation. If so, the failure to disclose that Working Families Organized paid for the text message advertisements is a violation of the Campaign Reporting Act.

Second, each text message sent by Unemployed Workers United supporting the passage of a ballot question is an “advertisement” as defined by the Campaign Reporting Act. *See* NMSA 1978, § 1-19-26(A) (2019). To the extent Working Families Organized or Unemployed Workers United has made more than \$1,000 in aggregate expenditures in this election cycle, its failure to include the required disclaimer of the identity of the person paying for the advertisement in each text message advertisement constitutes a violation of the Campaign Reporting Act’s disclaimer requirement.

Third, depending on the details of Unemployed Workers United’s expenditures related to its advertising campaigns, it might be a subject to the Campaign Reporting Act’s disclosure requirements. Under the Campaign Reporting Act, it is “unlawful for a political committee to continue to receive or to make any contribution or expenditure for a political purpose” if the committee fails to comply with the Campaign Reporting Act’s registration and disclosure obligations. Political committees are subject to reporting obligations under Sections 1-19-26.1 through 1-19-31. Furthermore, even if Unemployed Workers United is not considered a political committee, it is required to make disclosures of independent expenditures and contributions over certain thresholds as set forth in Section 1-19-27.3.

State Ethics Commission  
Ms. Jessica Bansal, Legal Director  
September 27, 2022  
Page 3 of 3

After searching the New Mexico Campaign Finance Information System, *available at* <https://login.cfis.sos.state.nm.us> (last accessed September 26, 2022), I cannot confirm that Unemployed Workers United has filed a statement of registration and filing fee with the Secretary of State. Nor can I verify whether Unemployed Workers United has made any disclosures of contributions or expenditures as required by law. As such, I am writing to request Unemployed Workers United (i) identify all of its advertisements relating to ballot questions during this election cycle, and for each advertisement identified (1) state the amount of expenditures incurred with regard to the advertisement, and (2) the number of recipients; and (ii) state whether Unemployed Workers United intends to register as a political committee and make the disclosures required by the Campaign Reporting Act. I ask that Unemployed Workers United respond to my inquiries on or before October 7, 2022.

Failure to respond to these requests might lead to investigative or enforcement actions by the State Ethics Commission.

Please do not hesitate to contact me with any questions or concerns.

Very truly yours,

/s/ Walker Boyd  
Walker Boyd  
General Counsel  
State Ethics Commission

cc: Jeremy Farris, Executive Director, State Ethics Commission (via email:  
Jeremy.Farris@state.nm.us)

Neidi Dominguez, Executive Director, Unemployed Workers United (via email:  
neidi@uwunited.org)



Walker Boyd, General Counsel  
State Ethics Commission  
800 Bradbury Drive Southeast, Suite 215  
Albuquerque, NM 87106

*Via email:* [walker.boyd@state.nm.us](mailto:walker.boyd@state.nm.us)

October 7, 2022

Dear Mr. Boyd:

We are in receipt of your letter dated September 27, 2022. Before responding to any questions, we ask that you clarify a few points from your letter.

First, you state that it has come to your attention that UWU has paid for advertisements supporting a ballot question. Could you clarify how this has come to your attention? We are not aware of any complaint made against UWU.

Second, I understand the New Mexico Administrative Code lays out hearing procedures for handling alleged violations of the Campaign Reporting Act. Can you please let me know how the Ethics Commission's General Counsel's investigation of UWU comports with those procedures?

Sincerely,

A handwritten signature in black ink, appearing to read 'Neidi Dominguez'.

Neidi Dominguez  
Executive Director  
Unemployed Workers United

