

AFFIDAVIT OF PAT WAAK

Pat Waak, having been duly sworn, states:

1. I am the Chair of the Colorado Democratic Party.
2. I am making this affidavit pursuant to C.R.S. § 1-13-101.
3. I am requesting that you investigate, and if reasonable grounds appear therefor, prosecute the Trailhead Group (“Trailhead”), a group organized under section 527 of the Internal Revenue Code, for violating C.R.S. § 1-13-109.
4. Trailhead paid for a 30-second attack ad against Democratic gubernatorial candidate Bill Ritter.
5. Attached as exhibit A is the transcript of the attack ad. Among other things, the ad states “Ritter avoided enforcing the death penalty for capital crimes.” This statement is false.
6. The plain intent of the ad is to tell voters that Mr. Ritter did not enforce the death penalty. In fact, during Mr. Ritter’s tenure as Denver’s district attorney, he sought the death penalty seven times. This information is readily available via a search of public records, or by simply speaking to Mr. Ritter himself. Trailhead apparently did neither before paying for the ad.
7. Trailhead’s sole source for the statement apparently was a single newspaper article discussing a case in which Mr. Ritter, together with district attorneys in Costilla and Otero counties agreed not to pursue the death penalty in one case, in exchange for information from the defendant related to other crimes committed by the defendant.
8. The falsity of the statement regarding Mr. Ritter’s enforcement of the death penalty was exposed by Adam Schragger on 9News. Mr. Schragger’s analysis, in which he determined that the statement is false, is attached hereto as Exhibit 2.
9. Trailhead could have and should have known of the falsity of the statement before it paid for the ad.
10. Since the ad has aired, Trailhead is aware of 9News’ analysis finding the statement false, and yet has taken no action to stop the airing of the ad.

11. I am confident that you will determine that either “knowingly...caus[ed] to be made...[a] false statement designed to affect the vote on any issue submitted to the electors...relating to any candidate for election to public office (section 1-13-109 (1)(a)) or “recklessly...caus[ed] to be made ...[a] false statement designed to affect the vote on any issue submitted to the electors...relating to any candidate for election to public office (section 1-13-109(2)(a)).

Pat Waak

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

Subscribed and sworn to before me on this _____ day of _____,
20_____, by _____.

Witness my hand and official seal.

My commission expires: _____

[SEAL]

Notary Public