

**BEFORE THE
FEDERAL ELECTION COMMISSION**

**OHIO DEMOCRATIC PARTY
340 East Fulton Street
Columbus, OH 43215**

Complainant,

MIR # 7459

v.

MICHAEL TURNER

Dayton, Ohio 54429-6064

CITIZENS FOR TURNER,

And

MICHAEL J. BERNING, TREASURER

120 W 2nd Street

Suite 1510

Dayton, Ohio 45402-1603

Respondents

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Rep. Michael Turner, Citizens for Turner (the "Committee") and Michael J. Berning, in his official capacity as Treasurer (collectively the "Respondents") for violating the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission (the "FEC" or "Commission") regulations, as described below. Respondents have failed to comply with the commission's disclaimer requirements for two television advertisements that they have approved and sponsored. As a result, the commission should immediately investigate and levy appropriate sanctions against Respondents for their failure to comply with very basic requirements the Act and commission regulations.

FACTS

Representative Turner is a candidate for re-election to Congress in the 10th district of Ohio.¹ He has been a Member of Congress since 2003.² His principal campaign committee is Citizens for Turner.³ The Committee's treasurer is Michael J. Berning.⁴ The Committee has paid for two television advertisements in support of Turner's re-election to Congress that appear to be titled "Foster Care System" and "My Daughter."⁵ Although the advertisements include an audio disclaimer spoken by Rep. Turner and a "paid for by" disclaimer at the end the ads, the ads fail to include written statements indicating that Rep. Turner has approved the communications.

LEGAL DISCUSSION

Under the Act, there are several disclaimers required whenever a political committee makes a disbursement for the purpose of financing any television advertisement or public communication.⁶ If the communication is paid for and authorized by a candidate, an authorized committee of a candidate, or agent of either, the communication must contain a disclaimer that clearly states that the communication has been paid for by the authorized political committee.⁷ Such a disclaimer must be presented in a clear and conspicuous manner to give the reader or

¹ Michael Turner, FEC Form 2, Statement of Candidacy, (April 18, 2017) available at <http://docquery.fec.gov/pdf/538/201704180300149538/201704180300149538.pdf>.

² Rep. Michael Turner, Govtrack, https://www.govtrack.us/congress/members/michael_turner/400411 (last visited July 23, 2018).

³ Michael Turner, FEC Form 2, Statement of Candidacy, (April 18, 2017) available at <http://docquery.fec.gov/pdf/538/201704180300149538/201704180300149538.pdf>; see also Citizens for Turner, FEC Form 1, Statement of Organization (June 8, 2016), available at <http://docquery.fec.gov/pdf/468/201606089017489468/201606089017489468.pdf>.

⁴ Citizens for Turner, FEC Form 1, Statement of Organization (June 8, 2016), available at <http://docquery.fec.gov/pdf/468/201606089017489468/201606089017489468.pdf>.

⁵ The advertisements are on the Committee's website here: <http://www.miketurner.com/videos.php>. These videos are titled "Foster Care and Opioid Epidemic" and "Military Sexual Harassment & Child Custody" on the website, respectively.

⁶ 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a); see *id.* § 100.26 (defining public communication).

⁷ 52 U.S.C. § 30120(a)(1); 11 C.F.R. § 110.11(b)(1).

observer adequate notice of the identity of the person or political committee that paid for the advertisement.⁸

There are additional disclaimers required for television advertisements. Specifically, a television advertisement that is authorized or paid for by a candidate or a candidate's authorized committee "must include a statement that identifies the candidate and states that he or she has approved the communication."⁹ The candidate can convey this audio statement through either (1) an unobscured, full screen view of the candidate making the statement, or (2) a voice-over by the candidate accompanied by a clearly identifiable photograph or similar image of the candidate.¹⁰ Notably, the communication must also include a written statement that identifies the candidate and indicates that he approves the communication, that "must appear in clearly readable writing" at the end of the advertisement.¹¹

These rules are designed to ensure the American people are aware of who is sponsoring political advertisements. Rep. Turner has served in Congress since 2003 and run for election eight times, including this cycle. As a veteran candidate, Rep. Turner is well-aware of the importance of these disclaimers and should be well-versed in how to comply with them. Yet, he failed to ensure that his ads conform to these simple obligations. Respondents have completely ignored the requirement to include a written statement at the end of each television advertisement that the candidate has approved the communication. Simply including a written "paid for by" disclaimer on television advertisements does not comply with the law's requirements.

⁸ 11 C.F.R. § 110.11(c)(1), (3).

⁹ *Id.* § 110.11(c)(3)(ii).

¹⁰ *Id.* § 110.11(c)(3)(ii)(A), (B).

¹¹ *Id.* § 110.11(c)(3)(iii).

The commission requires written and audio disclaimers for television advertisements in order to provide an important notice to viewers regarding the source of political advertisements. To that end, the Act and Commission regulations are clear; Respondents are required to include a specific written disclaimer at the end of their advertisements. Respondents failed to satisfy this basic requirement, in violation of the Act.

REQUESTED ACTION

As we have shown, Respondents have violated the Act and Commission regulations by failing to comply with the full written disclaimer requirements. As such, we respectfully request that the commission immediately investigate this violation and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

N. Rut

SUBSCRIBED AND SWORN to before me this 12th day of August, 2018.

J. Corey Colombo

Notary Public

My Commission Expires:

DOES NOT EXPIRE



JOHAN COREY COLOMBO
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.