

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION
25 South Stockton St., 5th Floor Trenton, New Jersey 08608
P.O. Box 185 Trenton, New Jersey 08625-0185

DOCKET: ELEC 2024-01

IN THE MATTER OF
SPADEA FOR GOVERNOR,
A SINGLE CANDIDATE COMMITTEE
FOR THE 2025 PRIMARY ELECTION

OPINION ON
AMENDED ORDER
TO SHOW CAUSE

RECITALS

WHEREAS, the Election Law Enforcement Commission (“ELEC” or “Commission”), a duly-constituted administrative agency and a body corporate and body politic of the State of New Jersey, was created and operates pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c. 83, as amended, N.J.S.A. 19:44A-1 *et seq.* and,

WHEREAS, on or about June 14, 2024, William G. (“Bill”) Spadea filed form D-1 to report the establishment of “Spadea for Governor,” a single candidate committee for the 2025 gubernatorial primary election (“Candidate Spadea”); and,

WHEREAS, since approximately 2015, Candidate Spadea hosts a four-hour radio show (“Radio Show”) that is broadcast by a licensed radio station owned and operated by Townsquare Media, Inc. (“Townsquare”), and which Radio Show addresses topics of interest in New Jersey, including politics, sports, entertainment, and community events, airing nearly every weekday on New Jersey 101.5 FM (and is simulcast and/or redistributed via other media, including the Internet); and,

WHEREAS, on or about June 19 and 21, 2024, the Commission issued and caused to be served an Order to Show Cause and an Amended Order to Show Cause¹, respectively, upon Townsquare, Spadea for Governor, and Candidate Spadea (all together, “Parties”), with a copy of same submitted to all declared candidates for New Jersey governor (“Interested Persons”); and,

WHEREAS, the Commission sought to evaluate, *inter alia*, whether a declared gubernatorial candidate’s media airtime is an “in-kind” contribution to the candidate’s campaign, and, therefore, subject to the applicable requirements for same including contribution limits; and,

WHEREAS, on or about June 28, 2024, ELEC held a duly noticed meeting and a hearing on the Amended Order to Show Cause (“ELEC Hearing”); and,

WHEREAS, each of the Parties and two of the Interested Persons (namely, Ciattarelli for Governor and Bramnick for Governor) submitted briefing to ELEC and appeared at the ELEC Hearing and presented arguments and positions;

¹ The Order to Show Cause and the Amended Order to Show Cause shall be referred to herein jointly as the Amended Order to Show Cause, the latter being issued to accommodate Parties’ counsels’ scheduling conflicts with the original ELEC Hearing date.

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey Election Law Enforcement Commission, having considered the briefing, arguments and submissions, and for good cause, issues the following findings, declarations, and determination:

1. The above-listed Recitals are incorporated herein by reference.
2. Candidate Spadea is a candidate for New Jersey governor in the 2025 primary election.
3. Candidate Spadea's 2025 election campaign, Spadea for Governor, as stated by his attorney at the ELEC Hearing, benefits from the Radio Show.
4. ELEC is troubled by reports of express and explicit communications during the Radio Show program, both in support of Candidate Spadea's candidacy for New Jersey governor and in opposition to Interested Persons and their campaigns, that have occurred following the Candidate Spadea's announcement of his candidacy.
5. Consistent with ELEC law and regulation, Candidate Spadea, Spadea for Governor and Townsquare all represented that the Radio Show will not include express advocacy in support of Candidate Spadea's campaign, in support of Spadea for Governor, or in opposition to Candidate Spadea's opponents in the 2025 primary election ("Representations").
6. Consistent with the Representations, Townsquare created "Guidelines," which have been agreed to by Candidate Spadea, with the goal of preventing Candidate Spadea from using the Radio Show to further his candidacy; a further stated goal of the Guidelines is to prevent Candidate Spadea from participating in activities during the Radio Show that would constitute contributions to or expenditures of his gubernatorial campaign.
7. The Guidelines, as developed and presented by Townsquare and Candidate Spadea/Spadea for Governor as well as Townsquare's self-enforcement of same, are insufficient and should be revisited by Townsquare and Candidate Spadea so as to strictly conform to the requirements of state law including ELEC regulations and the Representations.
8. Specifically, the "13-second delay" implemented by Townsquare can be a useful tool in achieving compliance with applicable laws and regulations, but it has not been properly utilized to date in order for Townsquare or Candidate Spadea to achieve full compliance.
9. At this time, based on the information it has received to date, the Commission does not find any violation has occurred and ELEC does not issue any ruling that precludes or prevents Candidate Spadea or Townsquare from operating the Radio Show, subject to the applicable limitations of law, regulation and the statements herein.
10. In issuing this ruling, ELEC does not consider or issue any findings concerning any content, speech, context, views, viewpoint, and/or expressive or associational rights.
11. Going forward, if ELEC receives a *bona fide* complaint of any violation, ELEC will undertake *prima facie* review and, where necessary and proper, investigate, adjudicate and

process the matter to enforcement and decision consistent with its processes and procedures.

12. If ELEC finds a violation, including that an in-kind contribution has been made, ELEC will, *inter alia*, value the contribution during the adjudication process and ELEC will hold the candidate and campaign accountable, including any impact on public financing, in addition to other remedies available at law.
13. Upon adoption, this shall constitute a final agency action of ELEC, and all Parties, Interested Persons, and staff are directed to act in conformance with same.

NEW JERSEY ELECTION LAW
ENFORCEMENT COMMISSION

A handwritten signature in blue ink, appearing to read 'THOMAS H. PROL', is written over the printed name.

Dated: July 5, 2024

BY:
THOMAS H. PROL
Chair

Statement of Reasons/Legal Analysis

Pursuant to N.J.S.A. 19:44A-3c and N.J.A.C. 19:25-1.7, Candidate Spadea is a candidate in the 2025 primary election, and is therefore subject to the requirements of the New Jersey Campaign Contributions and Expenditures Reporting Act N.J.S.A. 19:44A-1 et seq. (Campaign Act) and Commission regulations, N.J.A.C. 19:25-1 et seq. Spadea for Governor, the single candidate committee established by Candidate Spadea for his 2025 primary election candidacy, pursuant to N.J.S.A. 19:44A-9 and N.J.A.C. 19:25-4.1A, is subject to the requirements of the Campaign Act and Commission regulations.

Pursuant to N.J.S.A. 19:44A-29 and N.J.A.C. 19:25-16.6, candidates in the 2025 gubernatorial primary election are prohibited from knowingly accepting a contribution from a single source in excess of \$5,800.² A contribution of goods and services, or in-kind contribution, is a contribution. N.J.A.C. 19:25-1.7.

Communications can be contributions. A political communication is a communication that meets specific criteria making it a contribution subject to reporting and contribution limits. Pursuant to N.J.A.C. 19:25-10.10(a):

[t]he term “political communication” means any written or electronic statement, pamphlet, advertisement or other printed or broadcast matter ... containing an explicit appeal for the election or defeat of a candidate which is ... broadcast to an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the appeal is directed. Words such as “Vote for (name of candidate),” “Vote against (name of opposing candidate),” “Elect (name of candidate),” “Support (name of candidate),” “Defeat (name of opposing candidate),” “Reject (name of opposing candidate),” and other similar explicit political directives constitute examples of appeals for the election or defeat of a candidate.

Any cost of a political communication incurred by an entity other than the candidate committee is a contribution to the candidate committee if the candidate consented to or cooperated in the preparation, making or circulation of the communication. N.J.A.C. 19:25-10.11(b). Such contributions must be reported “in an amount equal to the fair market value of the goods.” N.J.A.C. 19:25-10.4.

Candidate Spadea, Spadea for Governor and Townsquare assert that Radio Show host Bill Spadea is distinct from Candidate Spadea. However, Candidate Spadea and Spadea for Governor concede that Candidate Spadea receives a benefit from the Radio Show. ELEC in no way seeks to restrain the content of speech on the Radio Show or to affect Candidate Spadea’s employment with Townsquare. Nevertheless, ELEC will fulfill its statutory mandate to enforce the provisions of the Campaign Act and Commission regulations. Any statements during the Radio Show by Candidate Spadea, cohosts, employees of Townsquare, contractors, guests or callers that include “explicit political directives” for the election of Candidate Spadea or the defeat of his opponents, as described in N.J.A.C. 19:25-10.10(a), are political communications subject to reporting pursuant to N.J.A.C. 19:25-10.11.

² At its June 18, 2024 meeting, the Commission voted 3-0 to adopt the 2025 Cost Index Report, announcing the adjustment of various gubernatorial thresholds, including the contribution limit, as required by N.J.S.A. 19:44A-7.1.