Violation

Filed By: Edward Town, Independent Candidate

Against: Vitality Party

Date Violation was Heard: March 3, 2015

N. Meloon delivers the unanimous opinion of the Commission and is joined by J. Alexander, J. Meloon, J. Hayes and J. LoBianco.

Edward Town submitted before this Commission a violation of §715.7(B) of the Election Code.

Julianne Simpson posted a negative status on Facebook in support of the Vitality Party. Mr. Town had been told by Ms. Acosta that negative campaigning was not allowed because it was considered libel. Mr. Town claims he was told something to the effect that any potentially negative opinion. This is not true, as libel requires that the statement be false. Furthermore, if the injured party is a public official, they have to show that there was actual malice in publishing the statement. As Gertz v. Welsh states, “actual malic is reckless disregard for the truth.”

Mr. Town argues that since this was posted, he should have been able to make similar posts. He states that everyone should be held to the wrong standard of what Ms. Acosta told him and that he was harmed because he could not post a similar status. Furthermore, he would like an apology from Ms. Acosta due to her erroneous statements on libel, which is not a relief that this Commission can grant.

The Supervisor of Election argues that this was not a libelous statement. They also contended that this post could not be libelous because it did not name a person or organization. Furthermore, they argued that Mr. Town lacked standing because only the injured partner can allege libel.

First, Mr. Town did not have standing to make the claim of libel. He was not injured by this claim. Even though he could not make a similar claim, he should not be able to claim libel on someone else’s behalf, especially when the post did not mention an organization or person. In addition, we would not have been able to redress his alleged injury.

Second, the statement was not libelous and was not even aimed at a person or organization. The veracity of the claim was not argued in front of this commission. Furthermore, the actual malice standard was not met.

We hereby find that this is NOT A VIOLATION of the Election Code.