



BOOTH UDALL FULLER

INTELLECTUAL PROPERTY LAW

Kenneth C. Booth

IP COACH®

Registered Patent Attorney

KBooth@BoothUdall.com

May 16, 2016

Via Certified Mail and Email (Jeremy@jeremywhittaker.com)

Jeremy Whittaker for Mesa

1811 S. 39th Street #34

Mesa, AZ 85206

Re: Infringement of Federal Trademark Rights for the City of Mesa 3-tier Logo

Owner: City of Mesa Municipal Development Corp.

Our File No. 1374.012

Dear Mr. Whittaker:

I represent the City of Mesa Municipal Development Corp ("City of Mesa") in its intellectual property matters. This letter is to inform you again that the City of Mesa owns the entire right, title and interest in the federally registered trademark shown here:



(Federal Reg. Serial No. 4,073,776 – "Trademark") as well as rights to the Mesa police department and fire department logos. Because you have continued to infringe on the City of Mesa trademark rights, after repeated friendly requests by City of Mesa personnel, including City Clerk, DeeAnn Mickelsen and Deputy City Attorney, Alfred J. Smith, I have been asked to take more formal action on the City's behalf.

City of Mesa has rights conferred upon it by common law, state law and the Lanham Act, Title 15, United States Code §§1051-1127 inuring to City of Mesa from its use of its trademarks, including, but not limited to, trademark rights, and protection against unfair competition, unfair trade practices, trade libel, false advertising and false endorsement.

We are aware that you have adopted and are continuing to display the City of Mesa 3-tier Trademark in your campaign materials and advertisements, on your Facebook posts, on your web site, and in your campaign headquarters through use of City of Mesa trademarks on your

campaign materials. A common example of your use of the Trademark in your campaign signs is shown below, which is also posted on your Facebook feed and website.



Jeremy Whittaker for Mesa City Council

March 30 · 🌐

Another yard sign pops up in Mesa!



Your use of City of Mesa trademarks in your political campaign ads, whatever your reason for including them, is trademark infringement. It implies an endorsement of your candidacy by the City of Mesa and must stop immediately. The City of Mesa does not publically endorse any candidate for Mesa City Council and has received complaints from the public and from other candidates of your improper use of the trademarks. The City hereby demands you immediately take down and replace all signs and advertisements that include City of Mesa trademarks.

Despite your assurances to Ms. Mickelsen and Mr. Smith that you would stop using the trademarks, you have continued to infringe on the trademarks and the matter has been escalated. Your continued use and willful infringement of the Trademark is intentionally misleading the public, falsely encouraging a public belief that you are endorsed by the City of Mesa, and implying that your actions and your campaign, message and efforts should be associated with the City of Mesa and it's reputation. Such use is prohibited by law and is a violation of the Lanham Act as unfair competition and false endorsement.

City of Mesa will one final time give you the option to show some good intent to cease your improper use of the Trademark on your own without resorting to more drastic enforcement of the Trademark.



Accordingly, we insist that within 14 days of the date of this letter you:

- 1) Identify and transfer to my office all advertising materials, campaign signs, informational pamphlets and any other physical materials that display any City of Mesa trademark;
- 2) Remove any and all City of Mesa trademarks and any image that displays a City of Mesa trademark from your website, your Facebook page and any other websites or social media pages you own or control;
- 3) Agree not to include an infringing trademark or other confusingly similar logo in your campaign materials in the future; and
- 4) Send a letter to City of Mesa confirming your compliance and agreement to refrain from infringement of City of Mesa's trademarks.

Absent a positive response from you, we will continue to assume that your unauthorized use of the Trademark is an intentional violation of City of Mesa's rights and may take whatever lawful action we deem appropriate to assert and protect the City of Mesa's rights in this matter.

Regards,

BOOTH UDALL FULLER, PLC

A handwritten signature in blue ink that reads "Kenneth C. Booth".

Cc: Alfred J. Smith, City of Mesa Deputy City Attorney