

STATE OF COLORADO ADMINISTRATIVE HEARING OFFICER 1700 Broadway #550 Denver, CO 80290	▲ COURT USE ONLY ▲
BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, <i>in re</i> ED 2023-34	
ELECTIONS DIVISION OF THE SECRETARY OF STATE, Complainant, vs. NO ON HH Respondent.	CASE NUMBER 2023 AHO _____
COMPLAINT	

Pursuant to § 1-45-111.7, C.R.S. (2022) and Rule 24 of the Secretary’s Rules on Campaign and Political Finance, 8 CCR 1505-6, the Elections Division of the Secretary of State files this Complaint against the No on HH issue committee (“Respondent” or the “Committee”).

BACKGROUND

1. To foster transparency and assist voters in assessing the sources of election-related communications, Colorado law requires any person spending one thousand dollars or more on communications supporting or opposing a ballot measure to include a “paid for by” disclaimer on those communications. This disclaimer must identify the person paying for the communication and—if the person is not a natural person—a natural person serving as the entity’s registered agent.

2. Here, the Committee paid for and distributed just over \$36,000 worth of Facebook advertisements opposing proposition HH. Although these advertisements included a “paid for by” disclaimer, that disclaimer originally failed to identify the Committee’s registered agent.

3. Accordingly, the Division brings this complaint for appropriate relief.

PARTIES

4. Complainant is the Elections Division (“Division”) of the Colorado Secretary of State.

5. Respondent is No on HH, an issue committee registered with the Colorado Secretary of State, ID # 20235045577.

JURISDICTION AND VENUE

6. The Division has jurisdiction under § 1-45-111.7.

7. The Division files this complaint with a hearing officer consistent with § 1-45-111.7(5)(a)(IV), (6).

8. This complaint is timely filed within thirty days of the Division’s Notice of Investigation under § 1-45-111.7(5)(a)(IV).

9. Venue is proper before the hearing officer under § 1-45-111.7(5).

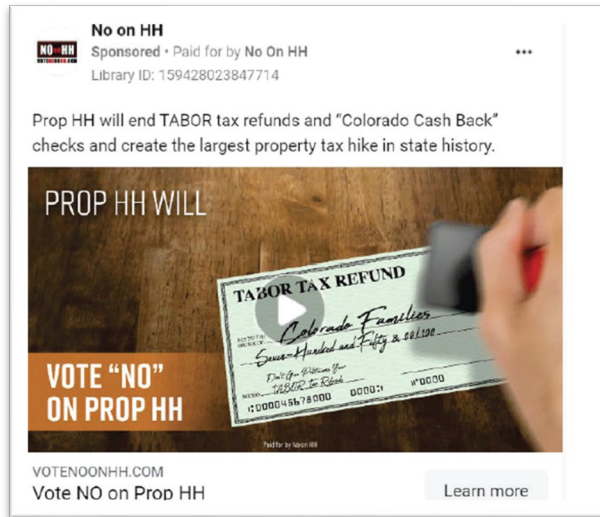
ALLEGATIONS

10. Proposition HH was a ballot measure that appeared on the statewide November 2023 ballot.

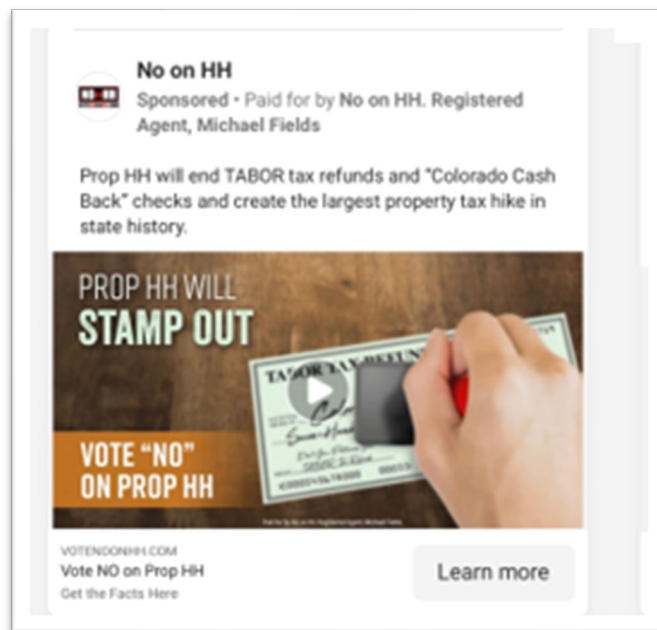
11. No on HH is an issue committee with the purpose of “oppos[ing] Proposition HH.

12. In total, No on HH reported over \$2 million in expenditures opposing Proposition HH.

13. On September 19, 2023, the Division initiated a complaint against No on HH under section 1-45-111.7(2)(a), C.R.S. The complaint identified several Facebook advertisements that included the disclaimer “Paid for by No on HH” but failed to identify the Committee’s registered agent.



14. The Division notified the Committee of the Complaint the same day it was filed. By September 26, 2023, the Committee had revised all of its Facebook advertisements to identify the Registered Agent.



15. The Committee cooperated with the Division's review and investigation by providing invoices and swiftly remedying the alleged violation.

16. Based on the invoices provided by the Committee, the Division determined that the Committee spent \$36,083.50 to run three Facebook advertisements between August 17, 2023, and September 26, 2023. Each included the disclaimer “Paid for by No on HH,” but failed to identify the Committee’s Registered Agent.

17. The Committee spent more than \$1,000 on each of the three advertisements in question.

18. Nothing in the Division’s investigation and review of the Committee’s communications—including communications other than Facebook Advertisements, suggested an intent to mislead the electorate.

COLORADO CAMPAIGN FINANCE LAW

19. Under Colorado law, an issue committee “making an expenditure in excess of or spending more than one thousand dollars per calendar year on a communication that . . . supports or opposes a ballot issue or ballot question, and that is . . . distributed shall include in the communication a disclaimer statement[.]” § 1-45-108.3(1), C.R.S.

20. That disclaimer “must conform to the requirements specified in section 1-45-107.5(5) for content, size, duration, and placement.” § 1-45-108.3(2).

21. Under § 1-45-107.5(5), C.R.S. the disclaimer must include “A statement that: (I) The communication has been “paid for by (full name of the person paying for the communication)”; and (II) Identifies a natural person who is the registered agent of if the person identified in subsection (5)(a)(I) of this section is not a natural person.

CLAIM ONE Failure to Include Sufficient Disclaimers (§ 1-45-108.3(1), C.R.S.)

22. All preceding allegations are incorporated.

23. No on HH is an issue committee registered with the Secretary of State.

24. No on HH spent over \$36,000 on Facebook advertisements opposing Proposition HH. Originally, these advertisements did not include a compliant disclaimer statement.

25. Specifically, these advertisements did not identify the Committee’s registered agent.

26. The Division is entitled to relief under Article XXVIII of the Colorado Constitution and the Fair Campaign Practices Act, § 1-45-101 *et seq.*

Respectfully submitted this 18th day of December, 2023.

PHILIP J. WEISER
Attorney General

/s/ Peter G. Baumann

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CERTIFICATE OF SERVICE

This is to certify that I will cause the within filing to be served by mail this 18th day of December, 2023, addressed as follows:

No on HH
C/O registered agent Michael Fields
6501 E. Belleview Ave.
Suite 375
Denver, CO 80111
Mikefields22@yahoo.com
Respondent

/s/ Kerry Wade