

STATE OF COLORADO
SECRETARY OF STATE
1700 BROADWAY #550
DENVER, COLORADO 80290

BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE,
ADMINISTRATIVE HEARING OFFICER

AHO Case No. _____

ED Case No. 2024-97

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

NEW DAY COLORADO FUND IEC,

Respondent.

COMPLAINT

Pursuant to § 1-45-111.7, C.R.S. (2024) the Elections Division of the Secretary of State files this Complaint against New Day Colorado Fund IEC (the “Committee” or “Respondent”).

BACKGROUND

1. To provide voters with information about the sources of election-related communications, Colorado law requires all independent expenditure committees to include “paid for by” disclaimers on their communications. Those disclaimers must accurately identify the person paying for the communication and, if the person is a non-natural person, a natural person who is the person’s registered agent.

2. Here, the Committee distributed over \$10,000 worth of mailers that erroneously included the name of a different committee on the “paid for by” disclaimer.

3. Accordingly, the Elections Division brings this action for appropriate relief.

PARTIES

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

5. Respondent is New Day Colorado Fund IEC, an independent expenditure committee registered with the Colorado Secretary of State, ID # 20245047664.

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).

8. This complaint is timely filed within 30 days of the Division’s January 23, 2025, Notice of Investigation according to § 1-45-111.7(5)(a)(IV).

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

ALLEGATIONS

10. New Day Colorado Fund IEC is an independent expenditure committee. Its purpose is to support Republicans and oppose Democrats for the Colorado State House of Representatives.

11. During the 2024 election cycle, the Committee made over \$915,000 worth of expenditures.

12. During that cycle, the Committee spent \$10,196 on a mailer supporting Dan Woog, the Republican candidate for House District 19. The mailer was distributed in October 2024 and was mailed to members of the electorate in House District 19.

13. The Committee reported the expenditure on its September 30, 2024, report of contributions and expenditures.

14. On October 25, 2024, the Division received a campaign finance complaint against the Committee. The complaint was filed by Sara Loflin.

15. The Loflin complaint alleged that the Committee had distributed the mailer, but that it had not included a compliant disclaimer. Specifically, it alleged that the disclaimer read “Paid for by Friends of D2. Katie Kennedy Registered Agent.”

16. During its investigation and review of the Loflin complaint, the Division corresponded with the Committee.

17. According to the Committee, it had approved “art” of the mailer that included a compliant disclaimer. But the consultant who had designed and distributed the mailer unknowingly swapped the compliant disclaimer for a noncompliant disclaimer identifying another—unrelated—committee.

18. The Committee obtained and provided a letter from the consultant which indicated that “after approval, while the mailing was being prepared for production, the top of the mail panel was replaced in pre-press with a template mail panel taken from a mailing for a separate and different client.”

19. The consultant further indicated that the mailing was then “inadvertently printed and mailed, unbeknownst to the client or the consultant.”

20. The Committee provided an invoice showing that it had spent \$10,196 on 10,427 copies of the mailer.

COLORADO CAMPAIGN FINANCE LAW

21. Under Colorado law, any person “making an expenditure in excess of or spending more than one thousand dollars per calendar year on a communication that must be disclosed . . . and that is . . . mailed . . . shall include in the communication a disclaimer statement” identifying the person paying for the communication. § 1-45-108.3(1), (2), § 1-45-107.5(5), C.R.S. (2024).

CLAIM ONE FAILURE TO INCLUDE A COMPLIANT DISCLAIMER (§ 1-45-110(1), C.R.S.)

22. All preceding allegations are incorporated.

23. In October 2024, the Committee distributed \$10,196 worth of mailers to members of the electorate in House District 19.

24. Those mailers did not accurately identify the person paying for the mailers.

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

PRAYER FOR RELIEF

WHEREFORE, the Elections Division prays for judgment and relief as follows:

1. Penalties as set out under 8 CCR 1505-6, Rule 23.4.3.
2. Such other relief as the Hearing Officer may deem appropriate.

Respectfully submitted this 24th day of February, 2024.

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 foregoing to be served this 24th day of February, 2024, by email and/or U.S. mail, addressed as follows:

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/s/ Peter G. Baumann