

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 Nos. 2024-51, 2024-54

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

COLORADO VOTERS FIRST,

Respondent.

COMPLAINT

Pursuant to § 1-45-111.7, C.R.S. (2024), the Elections Division of the Secretary of State files this complaint against Colorado Voters First (the “Committee” or “Respondent”).

BACKGROUND

1. To provide voters with information about the sources of election-related communications, Colorado law requires issue committees, like Colorado Voters First, to include a disclaimer on their campaign communications. The disclaimer must identify the person paying for the communication.

2. Here, Colorado Voters First paid for an online “banner ad” supporting Ballot Initiative 310. But the text on the banner ad was distorted, rendering the “paid for by” disclaimer unreadable when placed on several online communications.

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 Colorado Voters First, an issue committee registered with the Colorado Secretary of State, ID # 20245046946.

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 thirty days of Division’s February 13, 2025, Notice of Investigation and Consolidation, 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. Colorado Voters First is an issue committee. As of today, its stated purpose is to “support Proposition 131 and Initiatives 134, 135, 136, and 310 to expand voter choice in elections.” When it was formed on February 8, 2024, its purpose was to “support Initiatives 134, 135, and 136 to expand voter choice in elections.”

11. The Committee’s registered agent is Owen Clough.

12. During the 2023-2024 cycle, the state Ballot Title Setting Board received and considered over two-dozen proposed ballot initiatives concerning the “conduct of elections.” Owen Clough and Jason Bertolacci were the designated representatives for several of those proposed measures.

13. One of those proposals was #310. Initiative 310 appeared on the November 2024 general election ballot as Proposition 131.

14. On June 24, 2024, the Division received a campaign finance complaint against “Jason Bertolacci and Owen Alexander Clough, designated representatives #310.” The complaint was filed by Katrice Traylor, and alleged that Bertolacci and Clough were collecting signatures for Initiative #310, but had not registered an issue committee to support that effort.

15. In truth, that signature collection effort was undertaken by Colorado Voters First, an issue committee that had been registered in February 2024, well before any signature collection began.

16. However, the Committee’s purpose mentioned several initiatives by number, but did not mention Initiative 310. Accordingly, Traylor was unable to connect Colorado Voters First to Initiative 310 through the Secretary of State’s TRACER system.

17. For this reason, Colorado law requires issue committees to identify the ballot measure or measure the committee supports in their stated purposes. *See* 8 CCR 1505-6, Rule 8.1.3 (“An issue committee . . . must identify the ballot measure it will support or oppose, if known.”).

18. However, if “the particular ballot measures” the committee will support or oppose are not known, the issue committee must “identify the policy position it will support or oppose.” *Id.*

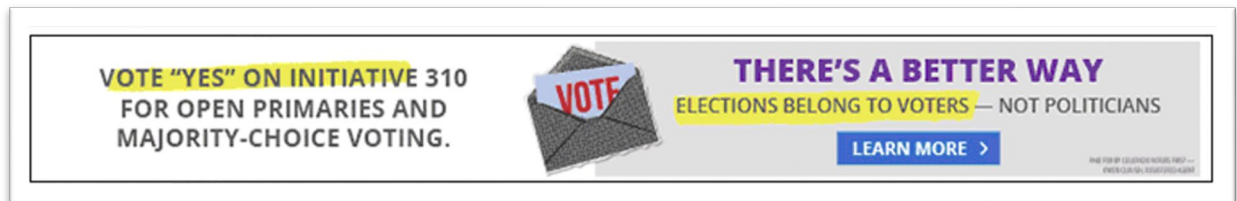
19. Here, the Committee consistently identified its purpose as expanding voter choice in elections.

20. On July 10, 2024, after receiving notice of the Traylor Complaint, the Committee amended its purpose to reflect Initiative 310.

21. That same day, the Division received a campaign finance complaint against “Colorado Voters First, Owen Clough, registered agent.” The complaint was filed by Cindy Louise Harmer, and alleged that the Committee had failed to include a compliant disclaimer on a banner ad on the Colorado Politics online website.

22. The Harmer Complaint indicated that, when clicked, the banner ad took her to the website “votersfirst.co,” and that the website had—at its footer—a disclaimer indicating that it was “paid for by Colorado Voters First.” According to Harmer, the website did not identify the Committee’s registered agent.

23. Harmer included a screenshot of the banner ad.



24. The screenshot showed text in the corner of the banner ad that appeared to be a disclaimer, but is unreadable.

25. The Division reviewed and investigated the two complaints.

26. According to the Committee, the banner ad was supposed to include a compliant disclaimer.

27. However, due to technical issues, the disclaimer was unreadable on some online platforms, including Colorado Politics.

28. According to the Committee, this occurred due to a coding error made by the Committee’s vendor.

29. The banner ad was scheduled to run for ten days. It ran for that entire period with the distorted disclaimer. In total, the Committee spent \$76,051.96 on the ad that ran with an unreadable disclaimer.

COLORADO CAMPAIGN FINANCE LAW

30. 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 . . . placed on a website . . . or that is otherwise distributed shall include in the communication a disclaimer statement.” § 1-45-108.3(1), C.R.S. (2024).

31. Under 107.5(5), that statement must (I) say that “The communication has been ‘paid for by (full name of the person paying for the communication’; and (II) identif[y] a natural person who is the registered agent if the person identified in subsection (5)(a)(I) of this section is not a natural person.” § 1-45-107.5(5)(a).

CLAIM ONE
FAILURE TO INCLUDE A COMPLIANT DISCLAIMER
(§ 1-45-108.3(4), C.R.S.)

32. All preceding allegations are incorporated.

33. During the 2024 election cycle, Colorado Voters First spent more than one thousand dollars on a banner advertisement that ran on website accessible to Colorado voters.

34. The banner ad supported Initiative 310, which appeared on the November ballot as Proposition 131.

35. The banner ad included a disclaimer, but due to a coding error the disclaimer was unreadable.

36. 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.

CLAIMS NOT PURSUED

1. Both the Traylor Complaint and the Harmer Complaint alleged either a) that the Committee had failed to register as an issue committee, or b) failed to identify initiative 310 as an initiative the Committee was supporting.

2. The Division reviewed and investigated those allegations.

3. The Committee did not originally list Initiative 310 in its purpose. However, it amended its purpose in July—months ahead of the November election—to reflect Initiative 310.

4. And at all times the Committee's purpose identified the Committee's support for expanding choice in Colorado elections.

5. Based on these facts, the Division is not pursuing claims for failure to identify Initiative 310 in the Committee's purpose.

Respectfully submitted this 17th day of March, 2025

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CERTIFICATE OF SERVICE

This is to certify that I will cause the foregoing to be served this 17th day of March, 2025, by email and/or U.S. mail, addressed as follows:

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