

<p>BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, ADMINISTRATIVE HEARING OFFICER</p> <p>STATE OF COLORADO SECRETARY OF STATE 1700 BROADWAY #550 DENVER, COLORADO 80290</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p><b>Elections Division of the Secretary of State</b></p> <p><b>v.</b></p> <p><b>Colorado Dawn</b></p>	
<p><b>Attorney for Colorado Dawn:</b> Suzanne M. Taheri, #23411 WEST GROUP LAW &amp; POLICY 6501 E. Belleview Ave, Suite 375 Englewood, CO 80111 Phone Number: (303) 263-0844 Email: <a href="mailto:st@westglp.com">st@westglp.com</a></p>	<p>2025 AHO 08 CPF (<i>in re</i> ED 2024-78, 2024-99)</p>
<p style="text-align: center;"><b>ANSWER TO FIRST AMENDED COMPLAINT</b></p>	

Respondent Colorado Dawn, through the undersigned counsel, states as follows in answer to the Elections Division of the Secretary of State’s complaint:

**BACKGROUND**

1. *To provide voters with information about the sources of election-related communications, Colorado law requires entities making direct expenditures to support or oppose ballot issues or questions to (1) report those expenditures to the Secretary of State, and (2) include a disclaimer identifying the person paying for the communication.*

Colorado Dawn's Response: This paragraph contains legal argument to which no response is required.

2. *Here, Colorado Dawn, a nonprofit corporation, spent over \$3 million supporting three ballot issues that appeared on the November 2024 statewide ballot. Although Colorado Dawn reported many of its expenditures, and included compliant disclaimers on many of its campaign communications, nine of its communications lacked compliant disclaimers, and three of its communications were not reported to the Secretary of State.*

Colorado Dawn's Response: Colorado Dawn denies this claim.

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

Colorado Dawn's Response: This paragraph contains legal argument to which no response is required.

## **PARTIES**

4. *Complainant is the Elections Division ("Division") of the Colorado Secretary of State.*

Colorado Dawn's Response: Admit that the Elections Division is listed as the complainant.

5. *Respondent is Colorado Dawn, a nonprofit organization registered with the Colorado Secretary of State's business and licensing division, ID # 20211055160.*

Colorado Dawn's Response: Admit.

## **JURISDICTION AND VENUE**

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

Colorado Dawn's Response: Colorado Dawn denies this claim. The "Division" is not a legal entity entitled to bring an action.

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

Colorado Dawn's Response: This paragraph contains legal argument to which no response is required.

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).*

Colorado Dawn's Response: This paragraph contains legal argument to which no response is required.

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

Colorado Dawn's Response: This paragraph contains legal argument to which no response is required.

### **ALLEGATIONS**

10. *This complaint involves the activity of two entities: (1) Colorado Dawn, a nonprofit organization registered with the Secretary of State's Business and Licensing Division, and (2) Colorado Dawn IEC, an allegedly "separate and non-connected entity," according to a "general consultant" to Colorado Dawn. Colorado Dawn IEC is an independent expenditure committee registered with the Secretary of State's Elections Division.*

Colorado Dawn's Response: Colorado Dawn admits it is a nonprofit entity registered with the Secretary of State. The remainder of the paragraph appears to be argument or legal conclusions to which no response is required.

11. *The two entities share an address, and Colorado Dawn's contributions to Colorado Dawn IEC account for over 75% of the latter's reported contributions.*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

12. *Colorado Dawn is a nonprofit organization. According to its Articles of Incorporation, Colorado Dawn "is organized exclusively for social welfare purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(4) of the Internal Revenue Code."*

Colorado Dawn's Response: Colorado Dawn admits this claim.

13. *Its Articles of Incorporation also indicate that it “may participate in, or intervene in, political campaigns on behalf of or in opposition to any candidate for public office; however, the Corporation shall not allow such activities to become its primary purpose.”*

Colorado Dawn's Response: Colorado Dawn admits this claim.

14. *According to its bylaws, the Nonprofit is “primarily engaged in promoting the common good and general welfare of the people of the community within the meaning of Section 501(c)(4) of the Internal Revenue Code.”*

Colorado Dawn's Response: Colorado Dawn admits this claim.

15. *According to the Secretary of State's TRACER database, Colorado Dawn has made \$3,997,790.42 in contributions to various committees registered with the Colorado Secretary of State's Elections Division since 2022. This includes \$2,230,000 to the Senate Majority Fund, an independent expenditure committee organized “to support Republican candidates for state senate.”*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

16. *It also includes \$130,088 in contributions to Colorado Dawn IEC.*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

17. *On October 17, 2024, the Division received a campaign finance complaint against “Colorado Dawn IEC” filed by Bri Buentello. The Buentello Complaint alleged that on October 16, 2024, a “friend” had received an “extremely misleading text message” regarding Amendment 80 which did not include a “paid for by” disclaimer.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

18. *The text message included a video of Colorado Education Association President Kevin Vick and the language:*
- a. *The Colorado Teachers Union recently talked about the benefits of school choice: “School choice has worked very well for students for years.” Kevin*

*Vick, President of the Colorado Education Association. Amendment 80 would let families keep the school choice we have in Colorado right now. Vote YES on Amendment 80! To end reply STOP.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

19. *The message was notable because the Colorado Education Association was opposed to Amendment 80 during the 2024 election cycle. [footnote omitted]*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

20. *The Buentello Complaint surmised that the entity paying for the message was "Colorado Dawn, an independent expenditure committee." Based on the suspicion that the IEC had sent the message, the Buentello Complaint also alleged that Colorado Dawn IEC had failed to register as an issue committee.*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

21. *Later that month, the Division received a second campaign finance complaint filed against "Colorado Dawn IEC." This complaint was filed by Vanessa Quintana.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

22. *The Quintana Complaint alleged that Colorado Dawn IEC was not a registered issue committee and had failed to accurately report its contributions and expenditures in support of Amendment 80.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

23. *In support of its allegations, the Quintana Complaint attached a mailer which indicated that it had been "Paid for by Colorado Dawn, Katie Kennedy Registered Agent."*

Colorado Dawn's Response: Colorado Dawn admits this claim.

24. *Kennedy is the registered agent for campaign finance purposes for Colorado Dawn IEC, and she is also the Nonprofit's registered agent according to the Nonprofit's filings with the Secretary of State's Business and Licensing Division.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

25. *The Division reviewed and investigated the complaints.*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

26. *As to the Buentello Complaint, the Division offered the IEC an opportunity to cure the alleged violations.*

Colorado Dawn's Response: Colorado Dawn denies this claim.

27. *In response, the IEC's counsel sent a letter signed under penalty of perjury by Daniel Cole. The letter stated that Colorado Dawn IEC "has not make [sic] expenditures on behalf of ballot issues," and that the text message identified in the Buentello Complaint was not sent on its behalf. [footnote omitted]*

Colorado Dawn's Response: Colorado Dawn admits this claim.

28. *On information and belief, the text messages—including the message identified in the Buentello Complaint, were sent by the Nonprofit.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

29. *In reviewing the Quintana Complaint—particularly the "paid for by" disclaimer on the mailer attached to the Quintana Complaint, as well as 48-hour independent expenditure reports filed by the Nonprofit—the Division determined that it was possible the Nonprofit, rather than the IEC, was responsible for the mailer.*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

30. *Accordingly, the Division added the Nonprofit as a respondent to the Quintana Complaint. In providing both the Nonprofit and the IEC an opportunity to cure that complaint, the Division noted that although it "appears most likely that Respondent Nonprofit is responsible for the mailer," because the Nonprofit and the IEC have the same registered agent and similar names, "it remains possible that [the IEC] is responsible for the mailer and omitted the letters 'IEC'" as a typo."*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

31. *The Division determined that it would “construe the [Quintana] Complaint’s allegations as being against both Respondents until it is possible to determine which entity is responsible for the communication.”*

Colorado Dawn’s Response: Colorado Dawn is without sufficient information to admit or deny this claim.

32. *Both Respondents responded to the opportunity to cure in a single letter from counsel.*

Colorado Dawn’s Response: Colorado Dawn admits this claim.

33. *As to the IEC, the letter indicated that the IEC had “not made expenditures on behalf of ballot issues,” and was therefore not required to register as an issue committee or disclose any expenditures that it had not already disclosed.*

Colorado Dawn’s Response: Colorado Dawn admits this claim.

34. *As to the Nonprofit, the letter indicated that the Nonprofit “does not have a major purpose of opposing or supporting ballot issues in Colorado,” and was therefore “not required to register as an issue committee.” It also disputed that it had “failed to disclose any expenditures.”*

Colorado Dawn’s Response: Colorado Dawn admits this claim.

35. *The Division continued to review and investigate the two complaints, including by requesting information from the Nonprofit. It also consolidated the complaints because they arose from a common set of operative facts, and because counsel for Colorado Dawn and Colorado Dawn IEC requested that the two complaints be consolidated for ease of response.*

Colorado Dawn’s Response: Colorado Dawn is without sufficient information to admit or deny this claim.

36. *The Nonprofit provided information about its total spending and spending on ballot issues—including Amendment 80—in 2022, 2023, and 2024. For 2022 and 2023, it provided its IRS Form 990s.*

Colorado Dawn’s Response: Colorado Dawn admits this claim.

37. *According to the Nonprofit, in 2024 it spent a total of \$4,562,328.20 on communications in support of or opposition to ballot issues. Its single largest amount was \$3,127,077.60 for communications in support of Amendment 80.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

38. *In total, across 2022, 2023, and 2024, the Nonprofit spent a total of \$5,062,328.20 on communications in support of or opposition to ballot issues. Again, its single largest amount was the \$3,127,077.60 it spent in support of Amendment 80.*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

39. *According to the Nonprofit, across 2022, 2023, and 2024, its total expenses were \$17,897,022.40.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

40. *Accordingly, the Nonprofit's expenditures on ballot issues across 2022, 2023, and 2024 accounted for 28.29% of its total expenditures.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

41. *And its expenditures related to Amendment 80 accounted for 17.47% of its total expenditures across 2022, 2023, and 2024.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

42. *Neither the Nonprofit's Articles of Incorporation nor its Bylaws reference issue advocacy as one of the Nonprofit's major purposes.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

43. *The Nonprofit also provided the Division with copies of its communications in opposition to, or support of, ballot issues, including Amendment 80.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

44. *This included four mailers, all of which included the disclaimer: "Paid for by Colorado Dawn, Katie Kennedy, Registered Agent."*

Colorado Dawn's Response: Colorado Dawn admits this claim.

45. *It also included 15 text messages—13 of which were related to Amendment 80, and two of which were related to Propositions 128 and 130.*

Colorado Dawn's Response: Colorado admits this claim.



46. *Of those 15,*
- a. *6 included a link to either “voteyeson80.com” or “voteyeson130.com,” both of which included the disclaimer: “Paid for by Colorado Dawn. Katie Kennedy Registered Agent.”*
  - b. *8 only included the disclaimer: “paid for by Colorado Dawn.”*
    - i. *2 included a link to the website “voteyeson130.com,” and also included the disclaimer: “paid for by Colorado Dawn.”*
    - ii. *8 only included the disclaimer: “paid for by Colorado Dawn.”*
  - c. *Only one text message—the text message identified in the Buentello Complaint—did not include either a link or a “paid for by” disclaimer.*

Colorado Dawn’s Response: Colorado Dawn denies this claim.

47. *A numbered list of the text messages is attached as Exhibit A.*

Colorado Dawn’s Response: Colorado Dawn admits Exhibit A is a numbered list of text messages. Colorado Dawn denies the disclaimers were “partial” to the extent this is a legal conclusion.

48. *The Division also reviewed the Nonprofit’s reports of direct ballot expenditures.*

Colorado Dawn’s Response: Colorado Dawn is without sufficient information to admit or deny this claim.

49. *Colorado Dawn filed 48-hour disclosure reports of direct ballot issue or ballot question expenditures for each of its four mailers and all 15 text messages, as well as for expenditures it made collecting signatures to qualify those measures to the ballot.*

Colorado Dawn’s Response: Colorado Dawn admits this claim.

50. *According to the Nonprofit, it spent more than \$5,000 collecting signatures for various ballot measures. After it crossed that threshold, it reported expenditures on the mailer and the text messages, but did not report the more than \$1,000 each it spent on websites supporting Amendment 80, Proposition 128, and Proposition 130.*

Colorado Dawn’s Response: Colorado Dawn admits this claim.

51. *Each of those three websites expressly advocated for the adoption of each of those proposed measures.*

Colorado Dawn's Response: This claim is a legal conclusion for which an admission or denial is not necessary.

52. *Colorado Dawn did not file 48-hour reports related to its expenditures on the three websites.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

### **COLORADO CAMPAIGN FINANCE LAW**

53. *"Any person who makes a direct ballot issue or ballot question expenditure shall, pursuant to section 1-45-107.5(5), state their name in any communication that is . . . distributed to persons who are eligible to vote on the ballot issue or ballot question and is produced or funded, either in whole or in part, by the person who made the direct ballot issue or ballot question expenditure." § 1-45-108.3(4), C.R.S. (2024).*

Colorado Dawn's Response: This paragraph contains legal citations to which no response is required.

54. *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).*

Colorado Dawn's Response: This paragraph contains legal citations to which no response is required.

55. *"'Direct ballot issue or ballot question expenditure' means direct spending in support of or opposition to any single ballot issue or ballot question by a person who does not otherwise meet the requirements of an issue committee. Contributions to an issue committee are not direct ballot issue or ballot question expenditures." § 1-45-103(7.2).*

Colorado Dawn's Response: This paragraph contains legal citations to which no response is required.

56. *“If the size, format, or display requirements of an electronic or online communication make it impractical to include a ‘paid for by’ disclaimer statement on the communication, the disclaimer statement must be available by means of a direct link from the communication to the web page or application screen containing the statement.” 8 CCR 1505- 6, Rule 22.1.3.*

Colorado Dawn’s Response: This paragraph contains legal argument to which no response is required.

57. *“Any person, after expending five thousand dollars in aggregate in a calendar year on direct ballot issue or ballot question expenditures, shall, for each additional expenditure of one thousand dollars or more, report to the secretary of state . . . : The amount of the expenditure, the purpose for which the expenditure was made, the date of the expenditure, name and address of the payee, and the ballot question or ballot issue supported or opposed. Such a report must be filed with the secretary of state no later than forty-eight hours after the direct ballot issue or ballot question expenditure was made.” § 1-45- 108(1)(a)(VI).*

Colorado Dawn’s Response: This paragraph contains legal citations to which no response is required.

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

58. *All preceding allegations are incorporated.*

Colorado Dawn’s Response: Colorado Dawn incorporates its admission and denials to the preceding allegations.

59. *In October and November 2024, Colorado Dawn distributed text messages in support of Amendment 80 and Propositions 128 and 130.*

Colorado Dawn’s Response: This paragraph contains legal argument to which no response is required.

60. *Some, but not all, of those communications included compliant disclaimer statements.*

Colorado Dawn’s Response: Colorado Dawn denies this claim.

61. *Others identified the person paying for the advertisement, but not Colorado Dawn's registered agent.*

Colorado Dawn's Response: Colorado Dawn denies it was required to list a registered agent.

62. *Finally, one text message included neither a "paid for by" disclaimer nor a link to a website with such a disclaimer.*

Colorado Dawn's Response: Colorado Dawn denies this claim.

63. *These text messages were distributed to persons eligible to vote on Amendment 80 and Propositions 128 and 130 in the November 2024 General Election.*

Colorado Dawn's Response: Colorado Dawn is without sufficient information to admit or deny this claim.

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

Colorado Dawn's Response: Colorado Dawn denies this claim.

**CLAIM TWO  
FAILURE TO FILE 48-HOUR REPORT  
(§ 1-45-108(1)(a)(IV), C.R.S.)**

65. *All preceding allegations are incorporated.*

Colorado Dawn's Response: Colorado Dawn incorporates its admissions and denials to the preceding allegations.

66. *In October 2024, Colorado Dawn spent \$1,000 each on three websites expressly advocating in favor of Amendment 80 and Propositions 128 and 130.*

Colorado Dawn's Response: This paragraph contains legal argument to which no response is required.

67. *By October 2024, Colorado Dawn had spent more than \$5,000 on direct ballot issue or ballot question expenditures in 2024.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

68. *Colorado Dawn did not file 48-hour expenditure reports as to any of the three websites.*

Colorado Dawn's Response: Colorado Dawn admits this claim.

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

Colorado Dawn's Response: Colorado Dawn denies this claim.

### **DEFENSES**

Colorado Dawn asserts the following Defenses:

1. The Complaint fails to state a claim for which relief can be granted.
2. Disclaimer requirements are an unconstitutional infringement of Colorado Dawn's First Amendment rights, on its face and as applied.
3. Even if Disclaimer requirements are constitutional, the Division lacked enforcement authority to apply disclaimer requirements during the time period in question.
5. The original complaints did not name Colorado Dawn. The Division exceeded its authority in opening a complaint against Colorado Dawn.
6. Colorado Dawn reserves the right to designate additional defenses if disclosures or discovery reveals the existence thereof.

Respectfully submitted this May 15<sup>th</sup> 2025,

s/Suzanne Taheri  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of May, 2025, a true and correct copy of the **ANSWER TO FIRST AMENDED COMPLAINT** was served via electronic mail to:

Peter Baumann  
Peter.baumann@coag.gov

/s/ Suzanne Taheri  
Suzanne Taheri

*Duly signed original on file at West Group*