

<p>STATE OF COLORADO ADMINISTRATIVE HEARING OFFICER 1700 Broadway #550 Denver, CO 80290</p> <hr/> <p>BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, <i>in re</i> ED 2022-105</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>COLORADO DAWN IEC</p> <p>Respondent.</p>	<p>▲ COURT USE ONLY ▲</p> <p>CASE NUMBER</p> <p>2023-_____</p>
<p>COMPLAINT</p>	

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 Colorado Dawn IEC (“Respondent” or the “Committee”).

BACKGROUND

1. To foster transparency and assist voters in: (1) assessing the financial activities of independent expenditure committees, and (2) identifying the sources of electioneering communications, Colorado law requires:

- Independent expenditure committees to report within 48 hours any independent expenditures in excess of \$1,000 made in the 30 days before an election. These reports are known as ‘48 Hour Notice of Independent Expenditure in Excess of One Thousand Dollars’ (“48 Hour Reports”).

- Any person spending one thousand dollars or more on electioneering communications to include a “paid for by” disclaimer on the communication. This disclaimer must clearly and conspicuously include the name of the entity paying for the communication, and if the entity is not a natural person, it must also identify the entity’s registered agent, and in the case of an independent expenditure, a statement that the communication is not authorized by any candidate.
2. Here, the Committee:
- Failed to file 48 Hour Reports timely for three expenditures totaling \$97,691.31.
 - Distributed \$17,700 worth of electioneering communications, in the form of 30,000 postcards in support of Matt Solomon, candidate for Colorado Senate District 08 (“SD8”) that failed to include compliant disclaimer statements. First, all of the communications at issue did not identify the registered agent. Next- the communications failed to state the communications were not authorized by any candidate.
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 Colorado Dawn IEC, an independent expenditure committee registered with the Colorado Secretary of State, ID # 20225043758.

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).

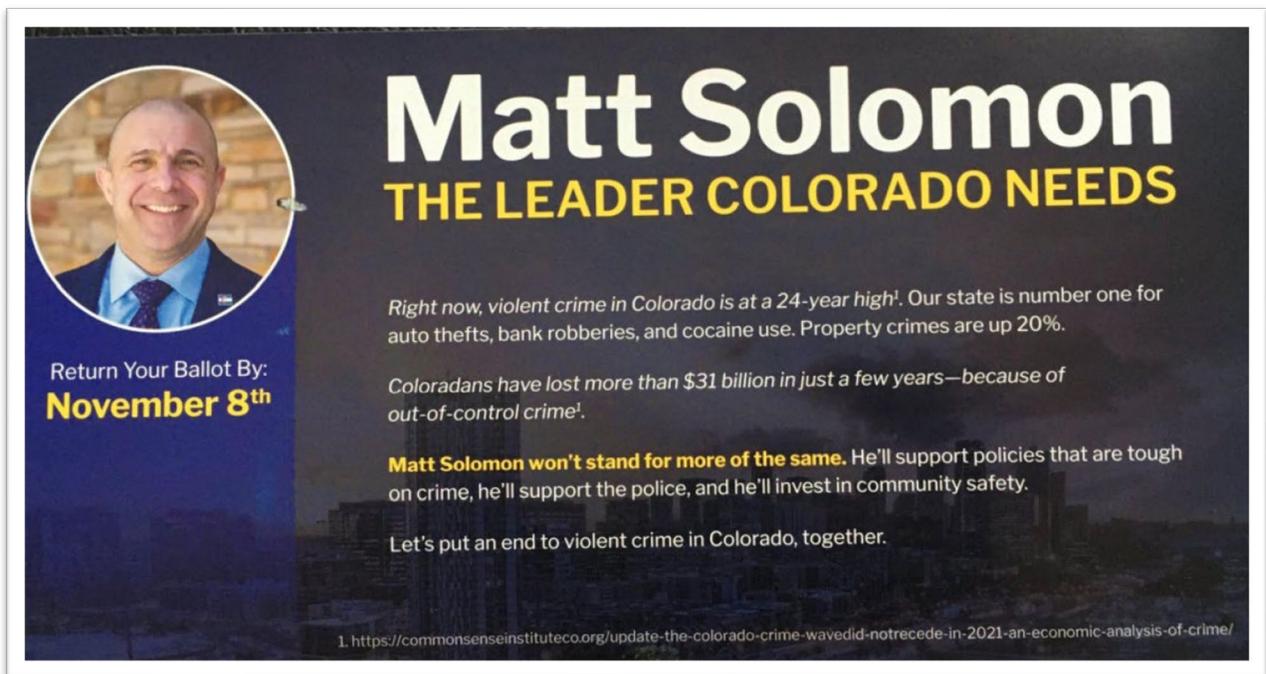
9. Venue is proper before the hearing officer under § 1-45-111.7(5).

ALLEGATIONS

10. On September 27, 2022, Colorado Dawn IEC registered with the Secretary of State as an Independent Expenditure Committee with the purpose “To Advocated [sic] for the Election of State Candidates, Regardless of Party Affiliation, Whose Policies Will Strengthen Our Economy, Society, and Education System.””

11. On October 20, 2022, the Committee made three independent expenditures totaling \$97,691.31. 48 Hour Reports for these expenditures were due on October 20, 2022, which the Committee did not timely file.

12. On October 27, 2022, Hope Cook filed a campaign and political finance complaint with the Division that alleged the Committee (1) failed to file a 48 Hour report concerning expenditures, and (2) failed to include compliant disclaimers statements on campaign communications. The Complaint contained a photo of one side of one of the postcards:



13. The Division provided the Committee with notice of the Cook complaint the same day it was received. After receiving that notice, the Committee filed a 48 Hour report of expenditures including the expenditure referenced in the Complaint for which the Committee had failed to timely file the 48 Hour Reports.

14. The Committee’s filing of the 48 Hour Report on October 27, 2022 for the October 20, 2022 independent expenditures was five days late.

15. On October 31, 2022, the campaign finance compliance team within the Elections Division imposed automatic penalties on the Committee for the delinquent filing pursuant to Rule 18 of the Secretary’s Rules on Campaign and Political Finance. Those penalties were \$50 per day the report was delinquent, or \$250. The Committee has since satisfied those automatic late-filing penalties.

16. On November 9, 2022, the Division sent the Committee a Notice of Initial Review and Opportunity to Cure. The Division initially concluded that the complaint alleged one or more potential violations of Colorado campaign finance law, that it was timely filed, and that one or more of the alleged violations may be curable. The Division also alerted the Committee that it had the opportunity to cure the violations alleged in the Complaint.

17. On November 25, 2022, the Committee submitted a response to the Division’s Request for Information and provided documents requested by the Division. The Committee provided a copy of the 48 Hour Report filed on October 27, 2022.

18. On July 7, 2023, in response to the Division’s request, the Committee provided the Division with copies of the postcards referenced in the Complaint showing the disclaimer used on each postcard. The disclaimers indicate, “PAID FOR BY COLORADO DAWN IEC”.





19. The Division reviewed the Committee's documentation on the postcards and determined that the \$17,700 representing 30,000 postcards distributed in support of Matt Solomon constitute electioneering communications, as the communications: 1) unambiguously referred to a candidate- Solomon; 2) were distributed during the electioneering window- 30 days before the primary election (May 29, 2022) extending through the general election- here distributed approximately from October 25, 2022 through October 26, 2022; and 3) were distributed to an audience that included members of the electorate for such office- SD8.

20. The electioneering communications failed to include compliant disclaimer statements. First, the disclaimers failed to identify the Committee's registered agent. Second, the disclaimers failed to indicate they were not authorized by any candidate.

COLORADO CAMPAIGN FINANCE LAW

21. Under Colorado law, “[a]ny person making an independent expenditure in excess of one thousand dollars per calendar year shall deliver notice in writing to the secretary of state of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure . . . Any person making an independent expenditure within thirty days of a primary or general election shall deliver such notice within forty-eight hours after obligating funds for such expenditure. Colo. Const. art. XXVIII, § 5(1).

22. Under § 1-45-107.5(4)(c), “the information required to be disclosed pursuant to paragraph (a) of this subsection (4) must be reported . . . within forty-eight hours after obligating moneys for the independent expenditure” by any person making an independent expenditure in excess of one thousand dollars within thirty days before a primary, general, or regular biennial school election. § 1-45-107.5(4)(c).

23. Under § 1-45-107.5(5), C.R.S, “any communication...that constitutes an independent expenditure for which the person making the expenditure expends in excess of one thousand dollars on a communication shall include in the communication a statement that: (I) The communications has been “paid for by (full name of the person paying for the communication)”, and (II) 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. § 1-45-107.5(5), C.R.S.

21. Under the Secretary’s Rules on Campaign and Political Finance, 8 CCR 1505-6, Rule 22.1.1(b) the disclaimer for independent expenditures must include, “. . . a statement that the communication is not authorized by a candidate.” 8 CCR 1505-6, Rule 22.1.1(b).

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

22. All preceding allegations are incorporated.

23. On October 20, 2022, the Committee made an independent expenditure in the amount of \$17,700 for campaign postcards constituting electioneering communications in support of Matt Solomon. These postcards were distributed on or about October 25-26, 2022. Solomon was a candidate for SD8 in the November 4, 2022, General Election.

24. Those communications did not include compliant disclaimer statements.

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.

Respectfully submitted this 8th day of September, 2023.

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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 8th day of September, 2023, addressed as follows:

Colorado Dawn IEC
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katie@strategiccompliancellc.com
Respondent

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Third-Party Complainant

/s/ Carmen Van Pelt