

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 2022-89	
ELECTIONS DIVISION OF THE SECRETARY OF STATE,	CASE NUMBER  2023-_____
Complainant,	
vs.	
FITZSIMONS FOR SHERIFF  Respondent.	
<b>COMPLAINT</b>	

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 FitzSimons for Sheriff (“Respondent” or the “Committee”).

### BACKGROUND

1. To foster transparency and assist voters in assessing the sources of electioneering communications, Colorado law requires any person expending 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 a non-natural person, it must also identify the entity’s registered agent.
2. Here, FitzSimons for Sheriff distributed over \$18,000 worth of communications that both lacked the name of its registered agent and were not clear and conspicuous.
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 FitzSimons for Sheriff, a candidate committee registered with the Colorado Secretary of State, ID # 20165031447.

## **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. FitzSimons for Sheriff is a candidate committee registered with the Secretary of State. Its purpose is “for common purpose of receiving contributions or making expenditures under the authority of a candidate, Jaime FitzSimons, candidate for Sheriff of Summit County.”

11. On October 7, 2022, the Elections Division received a campaign finance complaint against “Jaime FitzSimmons/Friends of FitzSimons for Sheriff Campaign.” The complaint was filed by Chris Scherr.

12. The Scherr complaint alleged that an advertisement in the Summit Daily was supporting FitzSimons’s candidacy for Summit County Sheriff, and included a disclaimer that read: “Paid for by Friends of FitzSimons for Sheriff Campaign.” The complaint included a photo of the advertisement.

Summit Daily News | Wednesday, October 26, 2022 11

**RE-ELECT**  **RE-ELECT**

**FitzSimons  
for  
Sheriff**

**Summit County Sheriff  
JAIME FITZSIMONS**



- Has served as a committed law enforcement public servant for over 32 years. As Sheriff, has strengthened the Summit County Sheriff's Office organizational core values, sense of mission, and commitment to diversity, integrity and ethics. Recognizes that the public trust is crucial to honorably serving the public interest.
- Priorities have been public safety, professionalism at all levels of the Sheriff's Office, fiscal responsibility, and accountability. Through a Recruitment and Retention Plan restored and in some cases expanded staffing levels across the organization.
- Has worked cooperatively and collaboratively with private, public, and community stakeholders and all levels of County Government in order to share ideas, thoughts and perspective.
- Worked tirelessly with community partners and stakeholders to raise awareness about mental health, substance abuse, home education and suicide. Through these community partnerships creating the success of the community based, System-wide Mental Assessment Response Team (SMART) and the jail based, Strategies to Avoid Recidivism and Reentry (STAR).
- Has been uniquely accessible and a visible member of the community. Works collaboratively to meet residents' high expectations in a vibrant urban environment that is growing, supportive, and increasingly multi-cultural and diverse.
- His love of community, whether it is local residents, business owners and ranchers, visitors, or people experiencing homelessness, behavioral health crises, substance use disorders, or a passing stranger, every individual has value to him and accordingly every individual is treated with kindness, dignity and respect.

**"At the core of law enforcement is the safety and wellbeing of the people we serve. To achieve that goal, we must be responsive to the people, we must be believable, and we must be trusted to perform our duty with uniform fairness and justice to all."**

- Sheriff Jaime FitzSimons

Please Re-Elect Jaime FitzSimons for Summit County Sheriff this November

 **FitzSimons**

**FitzSimonsForSheriff.com**

Paid for by Friends of FitzSimons for Sheriff Campaign

13. The complaint further alleged that no committee called “Friends of FitzSimons for Sheriff Campaign” was registered with the Secretary of State and had reported expenditures on newspaper advertisements.

14. On October 25, 2022, the Division sent FitzSimons a Request for Information. The Request asked about the relationship, if any, between FitzSimons for Sheriff and the entity listed on the advertisement, “Friends of FitzSimons for Sheriff Campaign.”

15. FitzSimons responded on November 1, 2022. According to the Committee, the entity “Friends of FitzSimons for Sheriff Campaign” did not exist. The Committee further explained that the advertisements were paid for by the FitzSimons for Sheriff candidate committee, and that “use of the term ‘friends of’ is merely an acknowledgement of the donors who contributed to ‘FitzSimons for Sheriff’ in accordance with what I believe is standard practice in the state.”

16. During its investigation, the Division reviewed the Committee’s reports of contributions and expenditures, and requested copies of invoices and advertisements from the Committee.

17. The Division also requested further information from the Complainant, who responded with information about additional advertisements. According to the original Complainant, the ad identified in the original complaint had continued to run in the Summit Daily newspaper. But around October 18, 2022, the disclaimer on the ad switched from “paid for by Friends of FitzSimons for Sheriff campaign” to “paid for by FitzSimons for Sheriff.”

18. Based on its investigation, the Division determined that FitzSimons for Sheriff had spent approximately \$18,000 on advertisements that read: “paid for by Friends of FitzSimons for Sheriff Campaign.”

19. This included radio ads, newspaper ads, campaign websites, and materials to distribute and display signs and banners. On information and belief, the Committee repurposed, distributed, and displayed signs that it had purchased in prior election cycles.

20. Among these expenditures were two \$2,622 expenditures to “Krystal Broadcasting Inc.” on September 12, 2022, and September 15, 2022, for “Radio Advertisement.” On information and belief, the “paid for by” disclaimer on these advertisements said: “paid for by Friends of FitzSimons for Sheriff Campaign.”

21. However, the Division reviewed a contract between the Committee and Krystal Broadcasting Inc. which indicated that the person paying for those advertisements was FitzSimons for Sheriff.

22. With the first of these expenditures to Krystal Broadcasting Inc. the Committee passed the \$1,000 threshold for electioneering expenditures, requiring a disclaimer on all future electioneering communications.

23. On information and belief, none of the Committee’s electioneering expenditures identified the Committee’s registered agent.

## **COLORADO CAMPAIGN FINANCE LAW**

24. Under Colorado law, “any person who expends one thousand dollars or more per calendar year on electioneering communications . . . shall, in accordance with the requirements specified in section 1-45-107.5(5), state in the communication the name of the person making the communication.” § 1-45-108.3(3).

25. Under § 1-45-107.5(5), that 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 if the person identified in subsection (5)(a)(I) of this section is not a natural person.” § 1-45-105(5)(a).

26. An “electioneering communication” is a communication that “(I) unambiguously refers to any candidate; . . . and (III) is . . . distributed to an audience that includes members of the electorate for such public office,” Colo. Const. art. XXVIII, § 7(a), and is distributed either 30 days before a primary election or in between the primary and general elections. Id.; § 1-45-103(9).

27. Under the Secretary’s Rules, disclaimer statements must be “clear and conspicuous.” 8 CCR 1505-6, Rule 22.1.1.

### **CLAIM ONE Failure to Include Compliant Disclaimers (8 CCR 1505-6, Rule 2.1.2)**

28. All preceding allegations are incorporated.

29. During the 2022 election cycle, FitzSimons for Sheriff distributed electioneering communications to the electorate for Sheriff of Summit County.

30. Those communications included disclaimers that were noncompliant in two ways.

31. First, the disclaimers did not identify the Committee’s registered agent.

32. Second, the disclaimers were not clear, because they included extra verbiage that did not accurately reflect the name of the Committee.

33. 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 24th day of May, 2023.

PHILIP J. WEISER  
Attorney General

*/s/ Peter G. Baumann*

---

PETER G. BAUMANN\*

Assistant Attorney General, No. 51620

Ralph L. Carr Colorado Judicial Center

1300 Broadway, 6<sup>th</sup> Floor

Denver, Colorado 80203

Telephone: 720-508-6152

Fax: 720-508-6041

[peter.baumann@coag.gov](mailto:peter.baumann@coag.gov)

\*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I will cause the within filing to be served by mail this 24th day of May, 2023, addressed as follows:

FitzSimons for Sheriff  
C/O Registered Agent Jaime FitzSimons  
P.O Box 26171  
Silverthorne, CO 80497  
Jaime.FitzSimons@outlook.com  
*Respondent*

Chris Scherr  
P.O. Box 2097  
Frisco, CO 80443  
thenextsummitcountysheriff@gmail.com  
*Third-Party Complainant*

/s/ Carmen Van Pelt