

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 1525 Sherman Street, 4 th floor Denver, Colorado 80203	▲ COURT USE ONLY ▲
BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, <i>in re</i> ED 2023-12	
ELECTIONS DIVISION OF THE SECRETARY OF STATE, Complainant, vs. NO ON 6B & 6C Respondent.	CASE NUMBER 2023 AHO ____
COMPLAINT	

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 No on 6B & 6C (“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 express advocacy include a “paid for by” disclaimer on the communication. This disclaimer must 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, the Committee failed to include “paid for by” disclaimers on over \$1,000 worth of yard signs that it distributed in advance of the November 8, 2022, general election, all of which encouraged voters to Vote No on two ballot measures.

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 the No on 6B & 6C, a small-scale issue committee registered with the Colorado Secretary of State, ID # 20225043902.

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 May 9, 2023, 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. No on 6B & 6C is a small-scale issue committee. Its stated purpose is to “oppose massive tax increase of foothills fire protection district on 2022 ballot.”

11. In August 2022, the Foothill Fire Protection District approved ballot measures 6B and 6C for inclusion on the November 2022 election ballot. Those measures would have established a bond of nearly \$25 million to raise funds for a new fire station, and increase the local mill levy to raise \$110,000 to maintain the fire district’s services.

12. The Committee was formed to oppose these measures, and registered with the Secretary of State on October 6, 2022.

13. While investigating another complaint, the Division came across express advocacy communications from the Committee that did not include compliant disclaimer statements.

14. During this investigation, the Division determined that the Committee spent a total of \$1,982 on communications that did not include compliant disclaimer statements, including a website, yard signs, and banners.

15. The Division also determined that the Committee spent at least \$1,078 on the yard signs alone.

16. The yard signs expressly advocated for voters to “Vote No 6B & 6C”



17. Based on this information, the Division initiated a campaign finance complaint against the Committee under § 1-45-111.7(2)(a).

18. On May 9, 2023, the Division issued a Notice of Initial Review and Investigation. The Division determined that the complaint was timely filed, that it specifically identified one or more violations of Colorado campaign finance law, and alleged sufficient facts to support a factual and legal basis for the complaint.

COLORADO CAMPAIGN FINANCE LAW

19. Under Colorado law, “A candidate committee, political committee, issue committee, small donor committee, political organization, political party, or other person making an expenditure in excess of or spending more than one thousand dollars per calendar year on a communication that must be disclosed under article XXVIII of the state constitution or under this article 45 or supports or opposes a ballot issue or ballot question, and that is broadcast, printed, mailed, delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed shall include in the communication a disclaimer statement[.]” § 1-45-108.3(1).

20. That disclaimer statement “must conform to the requirements specified in section 1-45-107.5(5) for content, size, duration, and placement.” § 1-45-108.3(2).

21. 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.” § 1-45-107.5(5)(a).

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

22. All preceding allegations are incorporated.

23. No on 6B & 6C was a small-scale issue committee during the 2022 November election.

24. The committee distributed more than \$1,000 worth of yard signs prior to the November 2022 election that encouraged voters to vote no on two ballot issues that had been submitted to those voters.

25. Those communications did not include a “paid for by” disclaimer.

26. 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 June, 2023.

PHILIP J. WEISER
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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 June, 2023, addressed as follows:

No on 6B & 6C
C/O Registered Agent, Dennis Polhill
49 S. Koolout Mountain Road
Golden, CO 80401
dpolhill@aol.com
Respondent

/s/ Carmen Van Pelt