

<p>STATE OF COLORADO SECRETARY OF STATE 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 2022-95</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>GUNNISON COUNTRY FOLKS WITH COMMON SENSE</p> <p>Respondent.</p>	<p>▲ COURT USE ONLY ▲</p> <hr/> <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 Gunnison Country Folks with Common Sense (“Respondent” or the “Committee”).

BACKGROUND

1. Colorado law requires entities with “a major purpose” of supporting or opposing ballot measures to register with the Colorado Secretary of State once they spend more than \$200 on such support or opposition.

2. Colorado law also requires issue committees to include a “paid for by” disclaimer on certain communications. That disclaimer must include the name of the committee and identify the committee’s registered agent.

3. Here, the Committee spent over \$2,200 to oppose a Gunnison County School bond ballot initiative in 2020, but failed to originally register as an issue committee.

4. Moreover, the Committee included “paid for by” disclaimers on its communications opposing the ballot measure, but those disclaimers did not identify the Committee’s registered agent.

5. Accordingly, the Division brings this complaint for appropriate relief.

PARTIES

6. Complainant is the Elections Division (“Division”) of the Colorado Secretary of State.

7. Respondent is Gunnison Country Folks with Common Sense, a small-scale issue committee registered with the Secretary of State, ID number 20225043932.

JURISDICTION AND VENUE

8. The Division has jurisdiction under § 1-45-111.7.

9. The Division files this complaint with a hearing officer consistent with § 1-45-111.7(5)(a)(IV), (6).

10. This complaint is timely filed within 30 days of the Division’s July 27, 2023, Notice of Investigation according to § 1-45-111.7(5)(a)(IV).

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

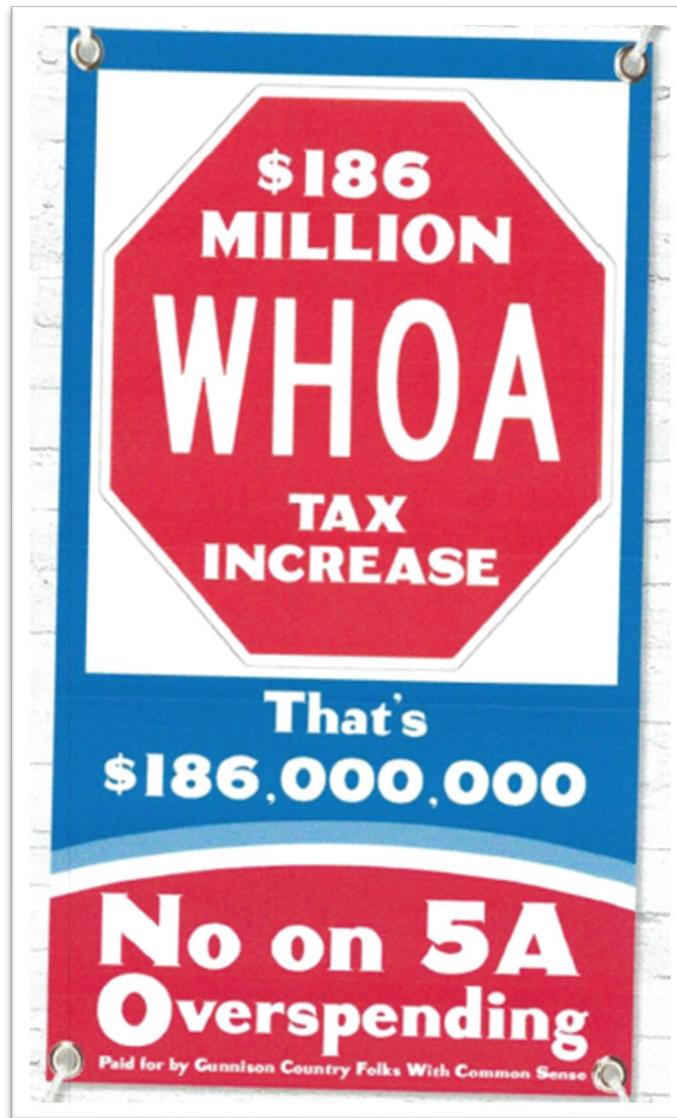
ALLEGATIONS

12. Under Colorado law, any entity that spends more than \$200 supporting or opposing ballot measures and has “a major purpose” of supporting or opposing such measures must register with the Secretary of State. If the entity raises or spends less than \$5,000 it still must register, but need not disclose its contributions and expenditures.

13. During the 2022 election, Gunnison County voters considered ballot measure 5A. In October 2022, Fae Davidson organized an opposition to the ballot measure.

14. As part of this effort, on October 5, 2022, Davidson registered a trade name with the Colorado Department of State: Gunnison Country Folks with Common Sense.

15. That same day, the Committee spent \$1,000 on banners and yard signs, all of which contained substantially similar messaging.



16. Between October 13, 2022, and October 20, 2022, the Committee purchased additional yard signs as well as advertisements in three local newspapers.

17. In total, the Committee spent \$2,258.66 on communications encouraging voters to vote No on 5A. Each of these communications included the disclaimer statement: Paid for by Gunnison Country Folks with Common Sense. None of these communications identified the Committee's registered agent.

18. Despite broadcasting these communications, the Committee did not originally register as a small-scale issue committee with the Secretary of State.

19. On October 21, 2022, the Division received a campaign finance complaint against the Committee filed by Brian Pugh. Pugh alleged that the Committee had failed to register as an issue committee or small-scale issue committee as required by law.

20. The Division notified the Committee of the Pugh Complaint the same day.

21. Later that day, on October 21, 2022, the Committee registered as a small-scale issue committee with the Secretary of State.

22. On November 3, 2022, the Division offered the Committee the opportunity to cure its alleged violation. After further investigation, including reviewing documents submitted by the Committee, the Division determined that the Committee had failed to substantially comply with its obligations under Colorado law.

COLORADO CAMPAIGN FINANCE LAW

23. Under Colorado law, an issue committee is “any person, other than a natural person, or any group of two or more persons, including natural persons that (1) has a major purpose of supporting or opposing any ballot issue or ballot question” and “(2) has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.” Colo. Const. art. XXVIII, § 2(10)(a); 8 CCR 1505-6, Rule 1.9.

24. A “small-scale issue committee” is “an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question.” § 1-45-103(16.3)(a), C.R.S. (2023).

25. A small-scale issue committee “shall register with the appropriate officer within ten business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars.” § 1-45-108(1.5)(b)(I), C.R.S. (2023).

26. 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), C.R.S. (2023).

27. 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).

CLAIM ONE
Failure to Timely Register
(§ 1-45-108(1.5)(b)(I), C.R.S.)

28. All preceding allegations are incorporated.

29. Gunnison Country Folks with Common Sense spent more than \$200 to oppose a ballot measure on October 5, 2022.

30. Gunnison Country Folks with Common Sense did not timely register a small-scale issue committee with the Secretary of State. Specifically, the Committee did not register until October 21, 2022.

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

CLAIM TWO
Failure to Timely Register
(§ 1-45-108.3, C.R.S.)

32. All preceding allegations are incorporated.

33. During the 2022 election, Gunnison Country Folks with Common Sense spent \$2,258.66 on communications opposing ballot measure 5A. These communications were substantially similar to each other.

34. Although these communications included a “paid for by” disclaimer, that disclaimer did not identify the Committee’s registered agent.

35. 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 28th day of August, 2023.

PHILIP J. WEISER
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 28th day of August, 2023, addressed as follows:

Gunnison Country Folks with Common Sense
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/s/ Carmen Van Pelt