

<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 2023-13, 2023-14</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>DANIAL WALL, THE COMMITTEE TO ELECT DAN, TRACEY FERGERSON, and THE COMMITTEE TO ELECT TRACEY</p> <p>Respondents.</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. (2023) 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 Danial Wall, the Committee to Elect Dan, Tracey Ferguson, and the Committee to Elect Tracey (collectively, “Respondents”).

BACKGROUND

1. Under Colorado law, a candidate committee must accurately and timely report its expenditures to the Secretary of State.
2. Here, candidate committees for Wall and Ferguson failed to accurately report their expenditures during campaigns for seats on the Cherokee Metropolitan District Water Board.
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. Respondents are 1) Danial Wall and his candidate committee, the Committee to Elect Dan, registered with the Secretary of State ID # 20235044675, and 2) Tracey Ferguson and her candidate committee, the Committee to Elect Tracey, registered with the Secretary of State ID # 20235044571.

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 initiation of the Division’s investigation on October 24, 2023, 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. Wall and Ferguson were both candidates in the May 2, 2023, election for Cherokee Metropolitan District Water Board of Directors.

11. On May 16, 2023, the Division received similar complaints against both Ferguson and Wall. The complaints were filed by Dennis Daniels, an incumbent board member who had been unseated in the May 2023 election.

12. The Daniels complaints alleged that Wall and Ferguson had failed to report in-kind contributions in the form of a letter from Rene Sintas, which encouraged voters to vote for Wall and Ferguson.

13. Daniels’s complaint against Wall also alleged that Wall had failed to report costs associated with acquiring a website domain, www.refreshcherokee.com.

14. The Division investigated the complaints. As to the Sintas letter, the Division determined that neither Wall nor Ferguson had knowledge of the letter prior to its distribution, and that the letter cost less than \$1,000. Accordingly, the Division is not pursuing any claims related to the letter, against Wall, Ferguson, or Sintas.

15. However, as part of its investigation, the Division reviewed the campaign finance reports filed by Wall's and Ferguson's committees.

16. With regards to Wall, the Division determined that Wall failed to report \$515.84 worth of expenditures, including costs for website hosting fees and costs related to a texting service Wall used to communicate with voters.

17. As for Ferguson, Respondent Ferguson fully funded her own campaign. However, she did not report any of her expenditures, which totaled \$882.93. According to Ferguson, this included flyers printed at Staples and door hangers from Amazon.

18. Although both Wall and Ferguson attempted to cure the alleged violations, they were unable to do so.

COLORADO CAMPAIGN FINANCE LAW

19. Under Colorado law, "all candidate committees . . . shall report to the appropriate officer their . . . expenditures made." § 1-45-108(1)(a)(I).

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

20. All preceding allegations are incorporated.

21. In the lead-up to the May 2023 election in the Cherokee Metropolitan District, Wall and Ferguson—through their respective candidate committees, made expenditures.

22. Wall and Ferguson failed to fully report their expenditures as required by Colorado law.

23. Ultimately, voters in the election did not enjoy the benefit of a full accounting of Wall's and Ferguson's expenditures prior to the May 2023 election.

24. 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 27th day of November 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 27th day of November 2023, addressed as follows:

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Respondent

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Third-Party Complainant

/s/ Kerry Wade