

<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 2023-41, ED 2023-44</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>SAVE ELK CREEK FIRE,</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. (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 Save Elk Creek Fire (“Respondent,” “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 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 identify the registered agent in the “paid for by” disclaimer on the communications it distributed in advance of the November 7, 2023 election.

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 Save Elk Creek Fire, an issue committee, committee ID: 20235046162.

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 30 days of the Division’s November 30, 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. On September 6, 2023, Charles Newby, the Committee’s registered agent, filed a Committee Registration Form with the Secretary of State. The stated purpose of the Committee is to “to (1) Oppose Elk Creek, Inter-Canyon, & North Fork FPD Consolidation Measure; 2) Oppose Elk Creek, Inter-Canyon, & North Fork FPD property tax increase to 16 mills measure; & 3) Support Elk Creek FPD 2.5 mills property tax extension measure.”

11. On October 12, 2023, the Elections Division received a campaign finance complaint against the Committee and Mr. Newby filed by Melissa Winefeldt. The complaint alleged the Committee violated Colorado campaign finance law because it did not identify a registered agent in the “paid for by” disclaimer of its campaign banner and website.

12. The Division notified the Committee of the complaint on October 12, 2023.

13. On October 16, 2023, the Elections Division received a campaign finance complaint against the Committee and Mr. Newby filed by Alfred Leo, Jr. The complaint alleged the Committee violated Colorado campaign finance law because it did not identify a registered agent in the “paid for by” disclaimer of its mailer and its campaign banner.

14. The Division notified the Committee of the second complaint on October 16, 2023.

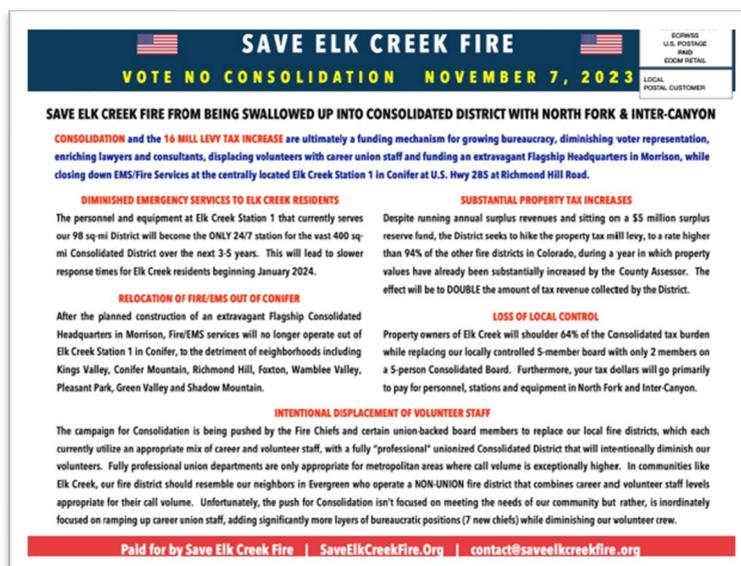
15. During its review of the two complaints, the Division discovered that the Committee did not identify a registered agent on any of its campaign communications.

16. On October 23, 2023, the Division issued a Notice of Initial Review, Consolidation and Opportunity to Cure. The Notice indicated that the Division had made the initial determination that (1) the complaint was timely filed, (2) it identified one or more violations of Colorado campaign finance law, and (3) it alleged sufficient facts to support a factual and legal basis for the complaint. The Division also determined that the complaint alleged a potentially curable violation and offered the Committee an opportunity to cure.

17. During its review of the complaints, the Division sought information concerning the scope of the Committee's expenditures and inquired about the Committee's communications to determine if any communication cost more than \$1,000.

18. The Committee provided documentation indicating that it had spent \$7.66 on its website, \$763.30 on five campaign banners, and \$119.79 on tri-fold brochures.

19. The Committee also provided an invoice indicating that on October 11, 2023 it had spent \$6,799.68 to produce and distribute 6,178 mailers. The mailers asked voters to "VOTE NO ON CONSOLIDATION NOVEMBER 7, 2023".



SAVE ELK CREEK FIRE
VOTE NO CONSOLIDATION NOVEMBER 7, 2023

SAVE ELK CREEK FIRE FROM BEING SWALLOWED UP INTO CONSOLIDATED DISTRICT WITH NORTH FORK & INTER-CANYON

FEAR, FISCAL WASTE AND MISREPRESENTATIONS: Fourteen of the fifteen board members have allowed The Three Fire Chiefs to spend a fortune in TAXPAYER DOLLARS on lawyers, consultants, civil servant salaries, printing, marketing, mass mailings, website designing, etc. in an effort to convince voters to PERMANENTLY dissolve their local fire districts, accept staggering tax increases and diminish their level of ballot box representation. Even worse, the "campaign" has been predicated on stoking unfounded fear through misrepresentations about the adequacy of fire and EMS services, as follows:

<p>CLAIM: Dispatch between the Districts is currently uncoordinated. Consolidation will solve this!</p> <p>FACT: Dispatch for all three Districts is already coordinated and disseminated throughout the region via the highly sophisticated JEFFCOM911.</p> <p>CLAIM: Consolidation will help with volunteer recruitment!</p> <p>FACT: This is a disingenuous claim given that The Three Fire Chiefs explicitly plan to hire substantially more career union staff and diminish volunteer staff levels.</p> <p>CLAIM: Consolidation will allow for the replacement of aging equipment!</p> <p>FACT: This is a fallacy! Consolidation will NOT produce more revenues or assets - only TAX INCREASES produce more revenues. Consolidation is a mask for tax hikes in a District already awash in surplus revenues.</p>	<p>CLAIM: Call volume is dramatically increasing! Consolidation is the answer!</p> <p>FACT: Call volume has remained relatively constant, fluctuating slightly up and down, over the past decade. Moreover, Consolidation does not add assets, it merely aggregates them into a single bureaucratic entity.</p> <p>CLAIM: Consolidation allows operational efficiencies.</p> <p>FACT: The three Districts already coordinate through mutual aid and intergovernmental agreements regarding vehicle maintenance, administration, training, fire marshal services, etc. Any operational aspect of the Districts can be coordinated through intergovernmental agreements. Consolidation is not needed for operational coordination, it is just a bureaucratic reconfiguration to dilute voter representation and empower the union.</p>
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COLORADO CAMPAIGN FINANCE LAW

20. Under Colorado law, an “issue committee [...] making an expenditure in excess of or spending more than one thousand dollars per calendar year on a communication that [...] supports or opposes a ballot issue or ballot question [...] shall include in the communication” a valid disclaimer. § 1-45-108.3(1), C.R.S.

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

22. Under § 1-45-107.5(5), the disclaimer statement must include: (1) a statement that “the communication has been ‘paid for by (full name of the person paying for the communication)’” and, (2) “a natural person who is the registered agent if the person [paying for the communication] 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.)

23. All preceding allegations are incorporated.

24. On or about October 11, 2023, the Committee made a \$6,799.68 expenditure on mailers that asked voters to oppose a ballot issue or ballot question.

25. Those mailers did not include a compliant disclaimer statement. Specifically, they did not identify the Committee's registered agent.

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 30th day of December, 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 30th day of December, 2023, addressed as follows:

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Respondent

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Third-Party Complainant

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Third-Party Complainant

/s/ Kerry Wade