

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 2022-104	
ELECTIONS DIVISION OF THE SECRETARY OF STATE,  Complainant,  vs.  DougCo Protective  Respondent.	CASE NUMBER  2023-_____
<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 DougCo Protective (“Respondent” or the “Committee”).

### BACKGROUND

1. To foster transparency and assist voters in assessing the sources of electioneering communications, Colorado law requires persons that make an independent expenditure in excess of one thousand dollars to register with the Colorado Secretary of State and 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 not a natural person, it must also identify the entity’s registered agent.

2. Here, in October 2022 Respondent spent \$1,100 to broadcast a video expressly advocating against Bob Marshall, who appeared on the November 2022 ballot for Colorado State House District 43. Although Respondent reported the expenditure to the Secretary of State, it did not register as an independent expenditure committee. And the video Respondent distributed did not include a compliant “paid for by” disclaimer.

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 DougCo Protective, a nonprofit corporation registered with the Colorado Secretary of State’s Business and Licensing Division.

## **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 August 8, 2023, 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. On April 28, 2022, DougCo Protective filed articles of incorporation with the Colorado Secretary of State. According to those Articles, its address was 17011 Lincoln Ave. #141, Parker, CO 80134.

11. According to its website, [www.dougcoprotective.com](http://www.dougcoprotective.com), DougCo Protective consists of “a group of highly engaged parents and citizens who fought to get the new conservative majority elected to the Douglas County School Board in November 2021.” Now, the group “protect[s] and preserve[s] conservative values in Douglas County.”

12. During the November 2022 election, Bob Marshall ran as the Democratic candidate for House District 43. HD 43 includes portions of Douglas County.

13. On October 22, 2022, the Division received a campaign finance complaint from Angela Thomas. The Thomas Complaint was originally filed against Aaron Wood, although it also referenced DougCo Protective. According to the Thomas Complaint, a mobile billboard truck was driving through HD 43 playing a video which expressly advocated against Bob Marshall.

14. During its investigation of the Thomas Complaint, the Division collected further information about the video being played on the mobile billboard truck. This included communicating with multiple witnesses, including witnesses who provided sworn statements to the Division.

15. Based on this investigation, the Division determined that the video referenced “Democrat Bob Marshall,” and was displayed to voters for HD 43 during the 2022 electioneering window.

16. On information and belief, neither the video nor the mobile billboard truck included a “paid for by” disclaimer.

17. The video also directed viewers to a website called [www.bobsnot4colorado.com](http://www.bobsnot4colorado.com), which referenced Bob Marshall’s candidacy for HD 43, asked “Is Bob Marshall the right person to represent CO House District 43?” and included the phrase at the top of the homepage: “Bob’s Not 4 Colorado.”

18. On information and belief, DougCo Protective paid for the mobile billboard truck, and reported that expenditure to the Secretary of State. According to that report, DougCo Protective paid \$1,100 for the mobile billboard truck.

Expenditure Detail					
Person or Organization that Filed this Expenditure: DOUGCO PROTECTIVE 17011 LINCOLN AVE #141 PARKER, CO 80134			Date Filed: 11/07/2022		
Expenditure Type: Miscellaneous	Expense Date: 10/29/2022	Amount: \$1,100.00	Independent: No	Electioneering: Yes	
	Disbursement Type: Monetary (Itemized)	Payment Type: Other	Payee Type: Business		
Payee: BRAVO MEDIA 2195 W EVANS DENVER, CO 80223	Dates of Communication: 10/29/2022		Method of Communication: Other		
Purpose:					
Candidates Affected by this Expenditure:					
Candidate Name	Party	Office	District	Jurisdiction	Election Year
ROBERT C MARSHALL	DEMOCRATIC	COLORADO HOUSE	HOUSE DISTRICT 43	STATEWIDE	2022

19. During its investigation, the Division communicated with Denver Mobile Billboard, also known as “Bravo Media,” the company that rented the truck. Denver Mobile Billboard provided two receipts from October 25, 2022, totaling \$1,100. On information and belief, these payments were made by Andy Jones on behalf of DougCo Protective.

20. During its investigation, the Department also contacted Aaron Wood. According to Wood, he “personally” created the video, and was neither paid to do so nor spent any of his own money to do so.

21. Wood indicated that he “was asked by contacts with DougCo Protective to provide videos to the company being hired to run the video truck,” which he did.

22. Wood also provided to the Division links to what he claimed were the videos he provided to the mobile billboard company.

23. Wood indicated that he ran both the website, [www.bobsnot4colorado.com](http://www.bobsnot4colorado.com) and the Facebook Page “Bob’s Not for Colorado.”

24. The videos that Wood provided to the Division, which he claimed were the videos he gave to the mobile billboard company, included a “paid for by” disclaimer statement, which read: “Paid for by DougCo Protective, registered agent Colorado Registered Agent, LLC.”

25. That disclaimer statement is not compliant under Colorado law. Because DougCo Protective is not a natural person, the disclaimer statement must identify “a natural person who is the registered agent” for DougCo Protective. Colorado Registered Agent, LLC is not a natural person.

26. Moreover, on information and belief, the videos played on the mobile billboard truck were different than the videos Wood sent the Division.

27. First, the “paid for by” disclaimers on the videos sent to the Division appear on the bottom of the videos throughout the entire video. But videos of the mobile billboard truck posted to the Bob’s Not for Colorado Facebook page on October 22, 2022, did not include the disclaimer statements.

28. Moreover, during its investigation, the Division reviewed videos of the mobile billboard truck from October 22, 2022, including videos posted to the Bob’s Not for Colorado Facebook page and videos recorded by witnesses the Division contacted during its investigation. The communications being played on the mobile billboard truck in the videos reviewed by the Division are not the same as the videos Wood provided to the Division which included disclaimer statements.

## **COLORADO CAMPAIGN FINANCE LAW**

29. 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.” § 1-45-107.5(5), C.R.S.

30. Under § 1-45-107.5(5), C.R.S. the 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 of if the person identified in subsection (5)(a)(I) of this section is not a natural person.

31. An electioneering communication is any communication that is “printed . . . on a billboard . . . or otherwise distributed that: (I) unambiguously refers to any candidate; and (II) is . . . distributed within sixty days before a general election; and (III) is . . . distributed to an audience that includes members of the electorate for such public office.” Colo. Const. art XXVIII, § 2(7)(a).

32. An “Independent Expenditure Committee” is “one or more persons that make an independent expenditure in an aggregate amount in excess of one thousand dollars or that collect in excess of one thousand dollars from one or more persons for the purpose of making an independent expenditure.” § 1-45-103(11.5), C.R.S.

33. “Any person . . . that makes an independent expenditure in excess of one thousand dollars shall register with the appropriate officer within two business days of the date on which an aggregate amount of . . . expenditures made reaches or exceeds one thousand dollars.” § 1-45-107.5(3)(a), C.R.S.

34. Among other things, this registration shall include “a natural person authorized to act as a registered agent” for the Independent Expenditure Committee. § 1-45-107.5(3)(b)(II).

**CLAIM ONE**  
**Failure to Include Sufficient Disclaimers**  
**(§ 1-45-108.3(3), C.R.S.)**

35. All preceding allegations are incorporated.

36. DougCo Protective spent over \$1,000 to distribute electioneering communications in October 2022.

37. These communications referenced Bob Marshall, were distributed to members of the electorate for HD 43, and were distributed within sixty days of the November 8, 2022, general election for HD 43.

38. On information and belief, these communications did not include a compliant “paid for by” disclaimer.

39. 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 Register**  
**(§ 1-45-108.3(3), C.R.S.)**

40. All preceding allegations are incorporated.

41. DougCo Protective spent over \$1,000 to distribute communications in October 2022.

42. Those communications expressly advocated against Bob Marshall.

43. DougCo Protective reported these communications as independent expenditures, but did not register as an independent expenditure committee.

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

**CLAIMS NOT PURSUED**

1. In addition to DougCo Protective, the Thomas Complaint also included claims against Aaron Wood.

2. Based on its investigation, the Division concluded that Wood spent less than \$1,000 on the website, Facebook page, and videos.

3. The Division made this determination based on its review of relevant receipts and sworn statements from Wood.

4. Thus, the Division declines to pursue claims against Wood in his individual capacity.

Respectfully submitted this 5th day of September, 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 5th day of September, 2023, addressed as follows:

DougCo Protective  
17011 Lincoln Ave. #141  
Parker, CO 80134  
*Respondent*

Angela Thomas  
106 Elm Ave.  
Castle Rock, CO 80104  
*Third-Party Complainant*

*/s/ Carmen Van Pelt*

This is to certify that I will cause the within filing to be served by email this 5<sup>th</sup> day of September, 2023, addressed as follows:

Suzanne Taheri  
[st@westglp.com](mailto:st@westglp.com)  
*Respondent's Counsel*

*/s/ Peter G. Baumann*