

<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>CITIZENS FOR DISTRICT 49 KIDS,</p> <p>Respondent.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p>CASE NUMBER</p> <p>2024 AHO _____</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 Citizens for District 49 Kids (“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 Citizens for District 49 Kids, an issue committee, committee ID: 20215041695.

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 December 13, 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 November 1, 2021, Lauren Stuart, the Committee’s registered agent, filed a Committee Registration Form with the Secretary of State. The stated purpose of the Committee is to “support El Paso County [School] District 49’s Ballot Measure.”

11. On October 23, 2023, the Elections Division received a campaign finance complaint against Ms. Stuart and the Committee filed by Darcy Schoening. The complaint alleged that the Committee violated Colorado campaign finance law because it did not identify a registered agent in the “paid for by” disclaimer of its campaign mailers.

12. The Division notified the Committee of the complaint on October 23, 2023.

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

14. On October 30, 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.

15. 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.

16. The Committee provided documentation indicating that it had spent \$224.95 on business cards, \$73.25 on its website, \$262.36 on door hangars, and \$108.20 on stickers.

17. The Committee also provided an invoice indicating that on October 11, 2023 it had spent \$2,417.99 to produce and distribute 200 yard signs. The yard signs asked voters to "VOTE Yes on 4C!"

18. The Committee further provided an invoice indicating that on October 20, 2023 it had spent \$3,784.97 to produce and distribute 10,693 mailers. The mailers asked voters to "VOTE Yes on 4C!"

COLORADO CAMPAIGN FINANCE LAW

19. 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.

20. 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).

21. 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." § 1-45-107.107.5(5)(a).

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

22. All preceding allegations are incorporated.

23. On or about October 11, 2023, the Committee made a \$2,417.99 expenditure on yard signs that asked voters to support a ballot issue or ballot question.

24. On or about October 20, 2023, the Committee made a \$3,784.97 expenditure on mailers that asked voters to support a ballot issue or ballot question.

25. The yard signs and the 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 12th day of January, 2024.

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 12th day of January, 2024, addressed as follows:

Citizens for District 49 Kids
10735 Blanca Peak Ct.
Peyton, CO 80831
Lauren Stuart, Registered agent
laurenjgennari@yahoo.com
Respondent

Darcy Schoening
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Peyton, CO 80831
schoeningdarcy@gmail.com
Third-Party Complainant

/s/ Kerry Wade