

<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 2023-67</p> <p>ELECTIONS DIVISION OF THE SECRETARY  OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>CARBAJAL FOR KIDS,</p> <p>Respondent.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p>CASE NUMBER</p> <p>2024 AHO _____</p>
<p><b>COMPLAINT</b></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 Carbajal for 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. Candidate committees must also report all expenditures made and contributions received.

3. Here, the Committee distributed over \$1,200 worth of electioneering communications without disclaimer statements, and failed to timely report an expenditure on campaign-related business cards that qualified as electioneering communications.

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

### **PARTIES**

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

6. Respondent is Carbajal for Kids, a candidate committee, committee ID: 20235045659.

### **JURISDICTION AND VENUE**

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

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

9. This complaint is timely filed within 30 days of the Division’s December 18, 2023, Notice of Investigation according to § 1-45-111.7(5)(a)(IV).

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

### **ALLEGATIONS**

11. Melinda Rose Carbajal was a candidate for Brighton 27J School Board Director in 2023. She appeared on the November 7, 2023, ballot.

12. Carbajal for Kids is the candidate committee formed to support Carbajal’s election. It was registered on July 26, 2023, and its purpose is to be “fiscally responsible for Melinda Carbaja [sic] candidate for SD27J.”

13. On May 5, 2023, Carbajal filed a candidate affidavit with the Secretary of State in which she affirmed that she was familiar with Colorado campaign finance law.

14. On November 2, 2023, the Elections Division received a campaign finance complaint against “Melinda Rose Carbajal.” The Complaint was filed by Anna C. Smith and alleged that Carbajal had failed to include disclaimer statements on electioneering communications.

15. The Division notified the Committee of the complaint on November 2, 2023.

16. The Division reviewed and investigated the Smith Complaint. During that investigation, the Division determined that the Committee had failed to include disclaimer statements on any of its electioneering communications.

17. The Committee cooperated with the Division and provided detailed information about its campaign expenditures, including on electioneering communications.

18. In total, the Division determined that the Committee had distributed \$1,225 worth of electioneering communications without disclaimer statements. This included two runs of identical yard sign purchases, including the purchase which led the Committee to spend more than \$1,000 total on electioneering communications.

19. Of these, the Division determined that disclaimer statements should have been included on the Committee's yard signs and Facebook page—which featured a campaign headshot which the Committee had paid for. The Division determined that the campaign's business cards (as well as campaign stickers the Committee had purchased) were too small to include disclaimer statements and therefore exempt from the requirement.

20. In total, the division determined that disclaimer statements should have been included on, but were not included on approximately \$1,105 worth of distributed communications.

21. During its investigation, the Division also determined that the Committee had failed to report an expenditure of \$119.89 on August 9, 2023, for campaign business cards.

## **COLORADO CAMPAIGN FINANCE LAW**

22. Under Colorado law, “any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall . . . state in the communication the name of the person making the communication.” § 1-45-108.3(3), C.R.S.

23. Additionally, “all candidate committees . . . shall report to the appropriate officer their . . . expenditures made[.]” § 1-45-108(1)(a)(I).

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

24. All preceding allegations are incorporated.

25. During the 2023 calendar year, the Committee spent more than \$1,000 on regular biennial school electioneering communications supporting Melinda Carbajal’s candidacy for school board director.

26. None of those communications included a “paid for by” disclaimer.

27. After Carbajal crossed the \$1,000 threshold, she continued to distribute yard signs and a public Facebook page which included electioneering communications.

28. 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 Report**  
**(§ 1-45-108(1)(a)(I), C.R.S.)**

29. All preceding allegations are incorporated.

30. On August 9, 2023, the Committee made an expenditure on campaign-related business cards.

31. The Committee failed to timely report this expenditure.

32. 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 17th 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 17th day of January, 2024, addressed as follows:

Carbajal for Kids  
C/O Registered Agent Melinda Rose Carbajal  
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*Respondent*

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*Third-Party Complainant*

/s/ Kerry Wade