

<p>STATE OF COLORADO  SECRETARY OF STATE  BEFORE THE ADMINISTRATIVE HEARING  OFFICER  1700 Broadway #550  Denver, CO 80290</p> <hr/> <p>ELECTIONS DIVISION OF THE SECRETARY  OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>HUSCH BLACKWELL LLP, and JOHN DOE(S)</p> <p>Respondents.</p>	<p>Case Number: 2023 AHO 0019</p> <p>In re ED 2023-03   2023-11</p>
<p>ORDER DENYING STAY AND SETTING ANSWER DATE AND HEARING DATE</p>	

This Order addresses an Unopposed Motion to Stay filed by the Division on January 26, 2024—one business day before Respondent’s Answer to the Complaint was due.

The legal foundation of this proceeding is the Fair Campaign Practices Act, § 1-45-101, et seq., C.R.S. The procedure for handling complaints is set out in § 1-45-111.7. The General Assembly’s purposes for the FCPA conclude with a declaration “that the interests of the public are best served by...full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.” § 1-45-102.

The Division filed a hearing officer complaint (Admin. Compl.) November 3, 2023, six and eight months after first and second citizen complaints were filed. Admin. Compl. ¶¶ 12 and 15. The hearing officer must set a hearing within thirty days of filing the administrative complaint. § 1-45-111.7(6)(a). The Order dated November 21, 2023 gave the parties until December 8, 2023 to confer with each other regarding the schedule for discovery, dispositive motions, motions in limine and

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filing pretrial statements consistent with Rule 24.11.1 of the Secretary of State's Rules Concerning Campaign and Political Finance, 8 CCR 1505-6. It also required Respondent to file an answer to the complaint by December 15, 2023, with a commitment to issue a scheduling order including a hearing date by December 21.

Unopposed Motions to Stay the proceeding for thirty days to give time for settlement discussions were filed November 27, 2023 and again December 27, 2023. On January 26, 2024, counsel for Complainant filed the third Unopposed Motion to Stay the proceedings for an additional thirty days to give the parties a chance to "continue these [settlement] discussions". The prior motions asserted settlement discussions with the same lack of specificity as the current Motion.

The FCPA is silent about when there should be a pause in the proceedings, but the Secretary's Rules address the matter, permitting a stay of the proceedings where there is "good cause for an enlargement of time." Campaign & Political Finance Rule 24.5.1, 8 Code Colo. Regs. 1505-6. Rule 24.7.1 relieves a respondent from filing an answer to the complaint "due to settlement." But it does not relieve a respondent of the obligation to answer the complaint where counsel are merely from time to time discussing settlement.

I find that there is not good cause for entering a further stay of the proceedings. Taking three months to discuss settlement suggests that the parties are not giving sufficient weight to the General Assembly's declaration that campaign contributions must be fully and timely disclosed and that the language of the statute requiring strong enforcement imports expeditious actions. It also suggests that the parties are not operating from the same set of facts that could inform settlement.

Under Colorado law, "any person making an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year" is required to register and to report the expenditure to the Secretary of State. § 1-45-107.5(4)(a). The Administrative Complaint alleges that someone paid Hush Blackwell \$3,600 to process CORA requests, Admin. Compl. ¶ 28,

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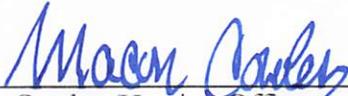
which included getting the names of all the electors who would be voting for members of the Board of the Granby Ranch Metropolitan District. Admin. Compl. ¶ 26(b). Hush Blackwell represented two candidates who aspired to be elected to the GRMD Board. Admin. Compl. ¶ 19. Those two candidates were also on the Board of Headwaters Metropolitan District which was in litigation against GRMD. Admin. Compl. ¶¶ 17, 18 and 20. Hush Blackwell has refused to disclose who paid the firm for the CORA requests. Admin. Compl. ¶ 29. During the same period of time, the Complaint alleges that Hush Blackwell represented two entities that were being sued by GRMD including Headwaters Metropolitan District. Admin. Compl. ¶¶ 17-18.

I make no inference at all from these and other facts in the Complaint. I recite some of the salient facts because they are the context in which I have decided that the latest request for a thirty day stay must be denied. The next thirty days, consistent with the legislative declaration in the FCPA, would appear to be better used in clarifying the issues through discovery rather than having settlement discussions uninformed by facts.

THE MOTION TO STAY IS DENIED. On December 28, 2023, Respondent Hush Blackwell, LLP was ordered to file an Answer to the Complaint on or before January 29, 2023. Three days ago, the Division asked for an additional stay of thirty days. I will therefore add an additional three days to the time for filing an Answer.

Accordingly, Respondent is ordered to file an Answer to the November 3, 2023 Administrative Complaint on or before February 1, 2024. Hearing in this matter, pursuant to, § 1-45-111.7(6)(a) and § 24-4-105, C.R.S. is hereby scheduled for Friday, March 8, 2024,

**SO ORDERED** this 29<sup>th</sup> day of January 2024.

  
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Macon Cowles, Hearing Officer

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CERTIFICATE OF SERVICE

The undersigned hereby states and certifies that one true copy of this Order Staying Proceedings herein was sent via email on January 29, 2024 to the following:

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*/s/ N. B. Porte*

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Nathan Borochoff-Porte, Administrative Court Clerk