

<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 2023-66</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>CITIZENS FOR EXCEPTIONAL EAGLE COUNTY SCHOOLS,</p> <p>Respondent.</p>	<p>▲ 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 Exceptional Eagle County Schools (“Respondent,” “the Committee”).

BACKGROUND

1. To foster transparency and assist voters in assessing the sources of direct ballot issue or ballot question expenditures, Colorado law requires any person making such an expenditure on communications to include their name in any communication that is distributed to persons who are eligible to vote on the ballot issue or ballot question. 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 a natural person as the entity’s registered agent.

2. Here, the Committee paid for and distributed about \$37,016.07 worth of communications that failed to include compliant disclaimer statements. The communications all indicated that Respondent paid for them, but listed “Registered Agents, Inc.,” a non-natural person, as the registered agent.

3. Wendy Rimel, a natural person, is the Committee’s registered agent for campaign finance purposes.

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 Citizens for Exceptional Eagle County Schools, an issue committee registered with the Colorado Secretary of State, ID # 20235046196.

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 January 22, 2024, 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. Citizens for Exceptional Eagle County Schools is an issue committee. The Committee was formed to campaign for Eagle County School District’s 2023 bond and mill levy initiatives.

12. On November 1, 2023, the Division received a campaign finance complaint against Citizens for Exceptional Eagle County Schools. The complaint was filed by Jose A G Martinez II.

13. The Martinez complaint alleged that mailers distributed by the Committee in support of a local ballot issue listed “Registered Agents, Inc.” as Respondent’s registered agent instead of its actual registered agent—Wendy Rimel.

14. On November 14, 2023, the Division sent Respondent a Notice of Initial Review and Opportunity to Cure. The Division concluded that the Martinez complaint identified one or more potential violations of Colorado campaign finance law and alleged sufficient facts to support a legal and factual basis for the alleged violation.

15. The Division reviewed the Committee's reports of contributions and expenditures and sent Respondent a Request for Information in order to understand the scope of the violation. Based on the information provided to the Division, Respondent spent \$37,016.07 on communications distributed to eligible voters.

16. On January 22, 2023, the Division sent Respondent a Notice of Investigation.

17. During its campaign, the Committee distributed \$37,016.07 worth of direct ballot issue expenditure communications that failed to include compliant disclaimer statements insofar as they identified a non-natural person as the Committee's registered agent.

COLORADO CAMPAIGN FINANCE LAW

18. Under Colorado law, "[a]ny person who makes a direct ballot issue or ballot question expenditure shall, pursuant to section 1-45-107.5(5), state their name in any communication that is broadcast, printed, mailed, or delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed to persons who are eligible to vote on the ballot issue or question and is produced or funded, either in whole or in part, by the person who made the direct ballot issue or ballot question expenditure." § 1-45-108.3(3), C.R.S.

19. 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 if the person identified in subsection (5)(a)(I) of this section is not a natural person."

CLAIM ONE Failure to Include Compliant Disclaimer (§ 1-45-108.3(3), C.R.S.)

20. All preceding allegations are incorporated.

21. Citizens for Exceptional Eagle County Schools is an Issue Committee formed for the purpose of supporting local ballot initiatives that appeared on the November 7, 2023, ballot.

22. Between October 11, 2023, and November 7, 2023, Respondent purchased and distributed \$37,016.07 worth of communications that constituted direct ballot issue or ballot question expenditures.

23. On all of those communications, Respondent failed to include a compliant disclaimer insofar as it identified a non-natural person who was not its registered agent as its registered agent.

24. 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 21st day of February, 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 and/or email this 21st day of February 2024, addressed as follows:

Citizens for Exceptional Eagle County Schools
PO Box 128
Edwards, CO 81632
Wendy Rimel, Registered Agent
wendyr@efec.org
Respondent

Jose A G Martinez II
PO Box 143
Gypsum, CO 81637
Tmartinz92@sbcglobal.net
Third Party Complainant

/s/ Kyle M. Holter