

<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 2023-33, 2023-36</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>KWAME SPEARMAN FOR DPS,</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 Kwame Spearman for DPS (“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 candidate committees to include a “paid for by” disclaimer on their electioneering communications. These disclaimers must identify the person paying for the communication and, if the person is a non-natural person, the name of the person’s registered agent.

2. Here, the Committee distributed over \$52,000 worth of regular biennial school board electioneering communications. These communications either did not include a disclaimer, identified the wrong person who paid for the communication, or failed to identify the Committee’s registered agent.

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 Kwame Spearman for DPS, a candidate committee registered with the Colorado Secretary of State, ID # 20235045468.

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 January 29, 2024, 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. Kwame Spearman was a candidate for Denver School Board in the November 2023 election. His candidate committee was Kwame Spearman for DPS.

11. The Committee’s registered agent was Kwame Spearman.

12. During the election, the Committee distributed \$52,805.87 worth of regular biennial electioneering communications. This included:

- a. \$31,635.34 for 100,00 mailers;
- b. \$15,489.00 for a video advertisement distributed online;
- c. \$380.31 to maintain the candidate’s website; and
- d. \$5,301.22 for 1,000 yard signs.

13. The mailers and the video included the disclaimer “paid for by Kwame Spearman for DPS,” and identified the Committee’s treasurer, but failed to identify the registered agent.

14. The yard signs lacked a disclaimer altogether.



15. The website included a disclaimer, but indicated it was “Paid for by Kwame for Denver,” which was the candidate’s previous committee in a campaign for Denver mayor.

16. Two weeks before the election, the Committee cured the violation by adding “paid for by” stickers to the yard signs, and amending the website to identify the accurate registered agent.

COLORADO CAMPAIGN FINANCE LAW

17. Under Colorado law, any person who expends more than \$1,000 on “regular biennial school board 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.” § 1-45-108.3(3).

18. Under section 1-45-107.5(5), the disclaimer must include both the name of the person paying for the communication and, if the person paying for the communication is not a natural person, the name of a natural person who is the entity’s registered agent.

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

19. All preceding allegations are incorporated.

20. In 2023, the Committee distributed over \$52,000 worth of electioneering communications.

21. Those communications failed to include compliant disclaimer statements.

22. 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 28th 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 28th day of February 2024, addressed as follows:

Kwame Spearman for DPS
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Third Party Complainant

/s/ Kyle M. Holter