

<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 2023-54, 2023-59</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>COMMITTEE TO ELECT DEB SCHMIDT,</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. 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 the Committee to Elect Deb Schmidt (“Respondent” or “the 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 those communications. 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, Respondent distributed over \$3,400 worth of electioneering communications which either failed to include a “paid for by” disclaimer or included the disclaimer but failed to accurately 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 the Committee to Elect Deb Schmidt, an independent expenditure committee registered with the Colorado Secretary of State, ID # 20235045842.

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 31, 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. Debra Schmidt was a candidate for the District Falcon 49 School Board Director in the November 6, 2023 election.

11. The Committee to Elect Deb Schmidt is the candidate committee formed to support Schmidt’s election. It was registered on August 19, 2023 and its purpose is “to collect donations for the election of Debra Schmidt to School District Falcon 49 Board of Education, Director District 2” and “[t]o spend collected donations on valid campaign related costs.”

12. On August 24, 2023, Schmidt filed a candidate affidavit with the Secretary of State in which she affirmed that she was familiar with Colorado campaign finance law.

13. On October 24, 2023, the Division received a Complaint filed by Lindsey Lee alleging that Respondent had failed to place a “paid for by” disclaimer on campaign yard signs.

14. On October 26, 2023 the Division received a second Complaint filed by Mary Ellen Rickard also alleging that Respondent had failed to place a “paid for by” disclaimer on campaign yard signs.

15. The Division reviewed and investigated the Lee and Rickard Complaints. During that investigation, the Division determined that the Committee’s electioneering communications had either failed to include a “paid for by” disclaimer or included the disclaimer but failed to accurately identify the registered agent of the Committee.

16. In total, the Division determined that the Committee had distributed \$3,400.31 worth of electioneering communications without disclaimer statements accurately identifying the Committee’s registered agent.

17. The electioneering communications consisted of flyers (referred to by Respondent as “palm cards”), a campaign video, and yard signs. The flyers did contain a “paid for by” disclaimer, but that disclaimer identified a former registered agent of the Committee instead of its current registered agent. The campaign video and yard signs did not include a “paid for by” disclaimer.

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

COLORADO CAMPAIGN FINANCE LAW

19. 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.

20. Further, any person making an independent expenditure of over \$1,000 must include in the communication a “paid for by” disclaimer identifying the person paying for the communication and, if that person is a non-natural person, a registered agent who is a natural person. § 1-45-107.5(5), C.R.S.

CLAIM ONE Failure to Include Compliant Disclaimer (§§ 1-45-108.3(3) and 1-45-107.5(5), C.R.S.)

21. All preceding allegations are incorporated.

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

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

24. The Division is entitled to relief under Article XVIII of the Colorado Constitution and the Fair Campaign Practices Act, 1-45-101 et seq.

Respectfully submitted this 1st day of March, 2024.

PHILIP J. WEISER
Attorney General

/s/ Kyle M. Holter

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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 1st day of March 2024, addressed as follows:

Committee to Elect Deb Schmit
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Respondent

Lindsey Lee
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Third Party Complainant

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/s/ Kyle M. Holter