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| <p>STATE OF COLORADO<br/> SECRETARY OF STATE<br/> BEFORE THE ADMINISTRATIVE HEARING OFFICER<br/> 1700 Broadway #550<br/> Denver, CO 80290</p> <hr/> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>FOOTHILLS FIRE PROTECTION DISTRICT,<br/> DUEY FREEMAN,<br/> PAUL DEETH,<br/> SCOTT FERGUSON,<br/> STEVE BECK,<br/> TJ CARNEY, and<br/> ALAN ANDERSON</p> <p>Respondents.</p> | <p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case Number: 2023 AHO 0009</p> <p>(in re ED 2022-94, 2022-98)</p> |
| <p>ORDER DENYING MOTION TO WITHDRAW AND VACATING THE STAY</p>   |  |

1. This case has been transferred from Administrative Law Judge Matthew C. Azer to me. I have read the administrative file, including the informal citizen complaints filed October 19 and October 24, 2022. Those two complaints were consolidated. An Administrative Complaint consistent with §1-45-111.7(5), C.R.S. was filed herein July 21, 2023. The Complaint alleges that the Foothill Fire Protection District used \$2,000 of public funds to distribute a newsletter supporting a ballot question in violation of CRS §1-45-117(1)(a). Individual Respondents, former members of the District Board, all voted in favor the expenditure. As Board members supporting what is alleged to be an unlawful expenditure under the FCPA, Respondent’s potential liability arises from §1-45-117(4)(b), C.R.S.

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2. Mr. Peter G. Baumann, Esq. on behalf of the Secretary of State Elections Division and Mr. Dylan Woods, Esq. on behalf of the Foothills Fire Protection District filed a Joint Motion to Stay on August 17, 2023. The reason for the requested stay was that the parties were having productive ongoing settlement discussions.

“The parties to this matter are having productive conversations about potentially resolving the claims alleged in the Division’s Complaint. Given the complexity involved, the Parties require a stay of further proceedings so that they can continue their productive conversations.”

Joint Motion to Stay, August 17, 2023.

3. Further, counsel committed to filing “a status report within 42 days of an Order granting this Motion updating the Court on the status of the parties’ discussions and whether proceedings in this forum should be resumed.” *Ibid.* More than six months has passed since ALJ Azer granted the Motion. But no status report has been filed with the court.

4. The legal foundation of this proceeding is the Fair Campaign Practices Act (FCPA), §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. That is not only the General Assembly’s purpose, but it also was the stated purpose of Colo. Const. art. xxviii, §1 that was passed overwhelmingly by Colorado voters in 1996 and again in 2002.

5. The FCPA calls for setting a hearing within thirty days of filing the administrative complaint. §1-45-111.7(6)(a). 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 [“CPF”] Rule 24.5.1, 8 Code Colo. Regs. 1505-6. Rule 24.7.1 relieves a respondent from filing an answer to the

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complaint “due to settlement.” Responding to the Joint Motion of the parties, ALJ Azer granted a stay of the proceedings on October 2, 2023.

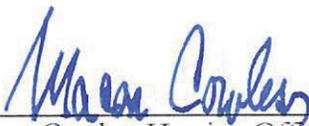
6. A delay of six months without any movement toward settlement or trial of the issues is not consistent with the importance of the FCPA and the constitutional and statutory direction that there by “strong enforcement of campaign finance laws” through timely resolution of alleged violations of those laws.

7. CPF Rule 24.6.1. provides that motions by counsel to withdraw from FCPA cases “shall be in conformance with C.R.C.P. 121, section 1-1.” The Motion filed by counsel for the Fire Protection District fails to comply with Rule 121, and so it must be, and the same hereby is, DENIED.

8. Further, the parties’ reason for obtaining a stay six months ago has evaporated with time. Accordingly, the stay is hereby vacated, and this matter will be brought back within the time constraints applicable under the Fair Campaign Practices Act.

9. For the reasons stated above, Counsel’s Motion to Dismiss is DENIED. The stay previously entered is VACATED. A Scheduling Order is entered simultaneously herewith.

**SO ORDERED** this 17<sup>th</sup> day of April 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 the Order herein was sent via email on April 17, 2024 to the following:

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/s/ *N. B. Porte*

Nathan Borochoff-Porte, Administrative Court Clerk