

<p>STATE OF COLORADO  SECRETARY OF STATE  ADMINISTRATIVE HEARING  OFFICER 1700 Broadway #550  Denver, CO 80290  BEFORE THE SECRETARY OF STATE,  COLORADO DEPARTMENT OF STATE, <i>in</i>  <i>re</i> ED 2023-33, 2023-36</p>	<p> COURT USE ONLY </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>CASE NUMBER</p> <p>2024 AHO _____</p>
<p style="text-align: center;"><b>RESPONSE TO COMPLAINT</b></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, Kwame Spearman for DPS (“Respondent,” “the Committee”) responds to the Secretary of State’s complaint.

**BACKGROUND**

Catherine McCall, who is a Denver resident, reported two campaign violations to the Secretary of State’s office against my campaign. The first, reported on September 8<sup>th</sup>, alleged an ad had not been properly filed within a report. This complaint was dismissed, as the ad was properly filed at the time of the complaint. McCall’s second complaint, reported on September 25<sup>th</sup>, alleged that a campaign yard sign created another violation. The second complaint was cured upon notice by the Secretary of State’s office. Ms. McCall is the only person to file a complaint against the campaign.

At that time, unsolicited, the office conducted additional investigations into campaign activities, specifically its marketing, and concluded that there were more violations. The campaign was a staff of one and these allegations came at the most intense time of the voting season.

While the campaign eagerly cooperated with the Secretary of State's office, there appear to be some evidentiary steps that were and are presently still lacking, as well as factual inaccuracies in the complaint against my campaign.

## **PARTIES**

Complainant is the Elections Division ("Division") of the Colorado Secretary of State.

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

## **RESPONSE TO ALLEGATIONS**

The complaint mentions a violation of \$15,489 for the distribution of a video online. There are many issues with this claim. The candidate was never told in writing about the alleged violation. Moreover, no proof of the violation has been submitted to the candidate at any period, including the present complaint. Lastly, the amount of the violation is the estimated cost to film and edit the video – not any cost associated with promoting the video. Subsequently, the dollar amount allocated in no way is in accordance with the rule listed in the complaint.

The complaint also mentions a violation of \$5,301.22 for 1,000 yard signs. This number is also not correct. Indeed, the total cost for yard signs was \$5,301.22; however, at the time of the complaint, and even before the yard signs were cured, fewer than 50% of the yard signs had been distributed. This information was repeatedly told to the Secretary of State's office.

Next, the number of mailers listed in the complaint is also factually incorrect. 100,000 mailers were not sent incorrectly. Interestingly, there is no evidence presented as to the incorrect mailer in the complaint. In addition, the disputed mailer did not go to 100,000 households. The entirety of our mail program was 100,000 and there were subsequent mailers after the disputed mailer.

Lastly, the website violation has also not been presented as evidence.

## **ATTEMPT FOR SETTLEMENT**

With the understanding that these proceedings, which taxpayers fund, are both timely and expensive, my campaign attempted to settle this matter with the Secretary of State's office. We both asked for the grievances noted above to be addressed and a payment plan to be instituted. The campaign is presently at a zero balance, and I am currently looking for employment. Our attempts to settle were rebuffed and the settlement offer by the state continued to include the disputed items above and lacked any type of payment plan. We are still open to

finding an agreeable settlement, but reserve our right to fight the complaint.

Respectfully submitted this 10th day of May, 2024.

Kwame Spearman