

STATE OF COLORADO SECRETARY OF STATE BEFORE THE ADMINISTRATIVE HEARING OFFICER 1700 Broadway #550 Denver, CO 80290	<p style="text-align: center;">COURT USE ONLY</p> Case Number: 2024 AHO 0023
ELECTIONS DIVISION OF THE SECRETARY OF STATE, Complainant, vs. RALENE FOR D49, Respondent.	
ORDER DENYING MOTION TO VACATE	

1. COUNSEL FOR COMPLAINANT filed a Motion to Vacate the hearing on the Administrative Complaint set for July 29, 2024 at 10:00 AM. For the reasons stated hereinafter, the Motion is denied.

2. The asserted basis of the Motion is the unresponsiveness of Respondent, her failure to file an Answer as directed in the June 15 Order requiring an Answer by July 17 and an assertion that the Division “will continue its attempts to contact the Committee. If unsuccessful, the Division will initiate default proceedings.” Motion, p. 2.

3. 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.

4. §1-45-111.7(6)(a), C.R.S. permits continuances upon “motion of any party *for up to thirty days* or a longer extension of time upon a showing of good cause.” [Emphasis supplied.] Campaign & Political Finance [CPF] Rule 24.12.1, 8 Code Colo. Regs. 1505-6, states that “continuances shall be granted only upon a showing of good cause.” But counsel has not argued that there is good cause under either the FCPA or the CPF Rules. And counsel, by requesting that the hearing be vacated rather than continued is asking for an indefinite postponement of a resolution in this case. This is not consistent with the “strong enforcement” of Colorado’s campaign finance laws.

5. The Motion not only fails to argue “good cause” as the basis for vacating or continuing the hearing, but no authority was stated in the Motion, contrary to the requirements for motion practice set forth in C.R.C.P. 121, §1-15. These requirements apply to administrative proceedings under the FCPA. See CPF Rule 24.3.1.

Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into a written motion, the court may deem the motion abandoned and may enter an order denying the motion.

C.R.C.P. 121, §1-15(3).

6. Six months elapsed between the last communication from Respondent November 16, 2023, Compl. ¶19 and the Notice of Investigation, *id.* ¶22. This seems an inordinate amount of time to await information from an unresponsive party. If the Motion to Vacate were granted, it leaves the case in limbo, and degrades the process by which both

the Division and Respondent can achieve “the just, speedy, and inexpensive determination of every action.” C.R.C.P. 1(a).

7. Further delay of this case 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.

8. It should be noted that the hearing on July 29, 2024—or on any other date—cannot be an evidentiary hearing leading to an Initial Decision unless Respondent appears, nor can it lead to entry of default and default judgment unless the Division has complied with CPF Rule 24.7.

9. For the reasons stated above, Counsel’s Motion to Vacate is DENIED. The hearing on July 29, 2024 at 10:00 AM will proceed. The Division should be prepared to:

- a. Put on evidence to support both counts of the Complaint if Respondent is present;
- b. Present evidence on the status of the case if Respondent is not present;
- c. Present argument and legal authority on why Count 2 of the Complaint (Acceptance of LLC Contribution without Affirmation) should not be dismissed. Count 2 alleges a violation of Colo. Const. art. xxviii §3(4)(a) for contribution to a candidate committee by a corporation. But §3(4)(a) was declared unconstitutional by *Ritter v. FEC*, 227 P.3d 892, 894 (Colo. 2010).

SO ORDERED this 25th day of July 2024.



Macon Cowles, Hearing Officer

CERTIFICATE OF SERVICE

The undersigned hereby states and certifies that one true copy of this Order Denying Motion to Vacate was sent via email on July 26, 2024 to the following:

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