

<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 2024-50</p> <p>ELECTIONS DIVISION OF THE SECRETARY OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>COALITION FOR RESPONSIBLE EDUCATION IN RE-2,</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. (2024), the Elections Division of the Secretary of State files this complaint against Coalition for Responsible Education in RE-2 (“Coalition”).

BACKGROUND

1. To foster transparency and assist voters in evaluating the arguments made in political communications, Colorado requires organizations with “a major purpose” of supporting or opposing a ballot measure—including recall measures—to register as an “issue committee” with the Colorado Secretary of State.

2. Issue committees that raise or spend less than \$5,000, known as small-scale issue committees, must register with the Secretary, but do not need to disclose their contributions and expenditures. Once a small-scale issue committee raises or spends more than \$5,000, though, that committee must register as an issue committee and disclose its contributions and expenditures.

3. Here, the Coalition collected approximately \$8,744 in contributions and made approximately \$1,720 in expenditures during 2024 to support the recall of Garfield RE-2 School Board Director Tony May on the August 27th, 2024, ballot. Although the Coalition registered as a small-scale issue committee, it did not re-register as an issue committee once it crossed the \$5,000 threshold.

4. The Coalition's failure to register and disclose as required by law deprived Colorado voters of critical information about the interests behind Coalition's support to recall Tony May.

PARTIES

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

6. Respondent is Coalition for Responsible Education in RE-2, an issue committee registered with the Colorado Secretary of State, ID number 20235046672.

JURISDICTION AND VENUE

7. The Division has jurisdiction under § 1-45-111.7.

8. The Division files this complaint with a hearing officer consistent with § 1-45-111.7(5)(a)(IV).

9. This complaint is timely filed within thirty days of Division's August 21, 2024, Notice of Investigation, according to § 1-45-111.7(5)(a)(IV).

10. Venue is proper before the hearing officer under § 1-45-111.7(5).

ALLEGATIONS

11. The Coalition describes itself, through its website, as ". . . a bipartisan community-rooted group dedicated to fostering accountability within the Garfield RE-2 School Board." "[With a mission] . . . to prioritize student education by keeping the focus on their needs and well-being, free from the influence of politically divisive agendas."

12. The Coalition, also through its website, maintains that Garfield RE-2 School Board Director Anthony (Tony) May "should be recalled from office".

13. The Coalition registered as a small scale issue committee on November 1, 2023. According to its registration, the Coalition’s purpose is “to recall Garfield RE-2 School Board Director Anthony May.”

14. On February 5, 2024, the Coalition received an in-kind contribution from Voces Unidas Action Fund for \$5,108.75. The purpose of that in-kind contribution was to collect petition signatures for the recall election.

15. According to the Coalition, it misread the invoice from Voces Unidas Action Fund and believed that the total amount was for only \$2,770.

16. However, the in-kind contribution from Voces Unidas Action Fund brought the Coalition’s aggregate contributions to over \$8,000.

17. Nonetheless, the Coalition did not re-register as an issue committee within 15 days.

18. On July 1, 2024, Sherronna Bishop filed a campaign finance complaint against Coalition with the Elections Division. That complaint included allegations that Coalition failed to report expenditures (which were actually in-kind contributions) to the Secretary of State.

19. After receiving notice of the Complaint and the Division’s investigation, the Coalition amended its registration to register as an issue committee on August 13, 2024. The Committee also reported its contributions and expenditures on August 16, 2024.

COLORADO CAMPAIGN FINANCE LAW

20. An issue committee is any person “that has a major purpose of supporting or opposing any ballot issue or ballot question” and “has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.” Colo. Const. art. XXVIII, § 2(10)(a); *see also* 8 Colo. Code Regs. § 1505-6:1, Rule 1.20 (“Issue committee’ means a person or a group of people that meets both of the conditions in Colo. Const. Article XXVIII, Section 2(10)(a)(I) and 2(10)(a)(II).”).

“Major purpose” means the support or opposition to a ballot issue or question that may be reflected by, among other things, an organization’s demonstrated pattern of conduct. § 1-45-103(12)(b)(I)-(II). For those entities who support or oppose a local ballot issue or ballot question, an organization’s demonstrated pattern of conduct is determined by reviewing: (1) the purposes stated in the organization's

charter, articles of incorporation, and by-laws; (2) the purposes of the organization's activities and annual expenditures; and (3) the scope of the issues addressed in the organization's print and electronic publications. *Cerbo v. Protect Colo. Jobs, Inc.*, 240 P.3d 495, 501 (Colo. App. 2010).

21. A small-scale issue committee is an issue committee that has “accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle.” § 1-45-103(16.3)(a).

22. Once a small-scale issue committee “accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall report to the appropriate officer,” its contributions received and expenditures made. § 1-45-108(1.5)(c)(I).

23. “Within fifteen days of a small-scale issue committee becoming subject to the applicable requirements governing an issue committee . . . the committee . . . shall report this change in the committee’s status to the secretary of state.” § 1-45-108(1.5)(c)(III).

CLAIM ONE
Failure to Register as an Issue Committee
(§ 1-45-108(3.3), C.R.S.)

24. All preceding allegations are incorporated.

25. The Coalition has a major purpose of supporting the recall of Garfield RE-2 School Board Director Tony May.

26. The Coalition has demonstrated a pattern of conduct supporting the recall of Tony May. Specifically, its in-kind contributions were for the purpose of petition gathering to recall Tony May. Additionally, its electronic publication – its website – shows that the Coalition’s purpose was the recall of Tony May.

27. The Coalition has accepted or made contributions and expenditures, as those terms are defined in Article XXVIII of the Colorado Constitution, in excess of two hundred dollars to support the recall of Tony May.

28. On or about February 5, 2024, the Coalition received aggregate contributions totaling more than \$5,000.

29. The Coalition did not register as an issue committee, until mid-August 2024.

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

PRAYER FOR RELIEF

WHEREFORE, the Elections Division prays for judgment and relief as follows:

- (a) Penalties to include appropriate fines as set out under Rule 23.3.3; and
- (b) Such other relief as is warranted by the facts and the law.

Respectfully submitted this 20th day of September, 2024.

PHILIP J. WEISER
Attorney General

/s/ Peter G. Baumann

PETER G. BAUMANN*
Senior Assistant Attorney General,
No. 51620
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 6th Floor
Denver, Colorado 80203
Telephone: 720-508-6152
Fax: 720-508-6041
peter.baumann@coag.gov
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I will cause the foregoing to be served this 20th day of September, 2024, by email and/or U.S. mail, addressed as follows:

Coalition for Responsible Education in RE-2
c/o Registered Agent Willow Brotzman
1710 Grand Ave.
Silt, CO 81652
Coalition4re2@gmail.com
Respondent

Sherronna Bishop
3192 Kennedy Ave.
Grand Junction, CO 81504
Sherronna7@gmail.com
Third-Party Complainant

/s/ Peter G. Baumann