

<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 2024-55; 2024-56</p> <p>ELECTIONS DIVISION OF THE SECRETARY  OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>ARVIDSON FOR SENATE,</p> <p>Respondent.</p>	<p>▲ COURT USE ONLY ▲</p> <hr/> <p>CASE NUMBER</p> <p>2024 AHO _____</p>
<p><b>COMPLAINT</b></p>	

Pursuant to § 1-45-111.7, C.R.S. (2024), the Elections Division of the Secretary of State files this complaint against Arvidson for Senate (the “Committee”).

**BACKGROUND**

1. To promote transparency, Colorado law requires candidate committees making more than \$1,000 worth of electioneering expenditures to include a “paid for by” disclaimer on all electioneering communications. This disclaimer must identify the person paying for the communication and—if that person is a non-natural person, it must also identify the person’s registered agent.

2. Moreover, Colorado law requires committees that make electioneering expenditures to identify and report those expenditures, including identifying the candidates referred to in the communication.

3. Here, the Committee distributed yard signs lacking a “paid for by” disclaimer after reaching the \$1,000 electioneering threshold. Moreover, the Committee did not originally report an electioneering mailer as an electioneering communication.

4. Accordingly, the Elections Division brings this action for appropriate relief.

## **PARTIES**

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

6. Respondent is Arvidson for Senate, a candidate committee registered with the Colorado Secretary of State, ID number 20245047143.

## **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 September 9, 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. In 2024, Timothy Arvidson ran for Colorado State Senate in District 2. Arvidson appeared on the June Republican primary ballot in Senate District 2.

12. Arvidson for Senate is the candidate committee formed to support Arvidson’s candidacy for state Senate.

13. In early-June—on or around June 7, 2024—the Committee distributed a mailer to members of the Republican primary electorate in Senate District 2.

14. According to the Committee’s reports of contributions and expenditures, the Committee’s expenditure on the mailer occurred on May 25, 2024.

15. The mailer unambiguously referred to Arvidson and his Republican primary opponent, Representative Lisa Frizell.

16. The mailer included a disclaimer saying that it had been “paid for by Arvidson for Senate, Registered Agent Tim Arvidson.”

17. On June 3, 2024, the Committee filed a report of contributions and expenditures. On that report, it included a \$3,500 expenditure to “5411 LLC” for “campaign consulting services.” The Committee’s report did not identify this expenditure as an electioneering expenditure.

1. Date Expended 05/25/2024	4. Name 5411 LLC
2. Amount \$3,500.00	5. Address 3500 S. DUPONT HWY 6. City/State/Zip DOVER DE 19901
Electioneering Comm? No	7. Purpose CAMPAIGN CONSULTING SERVICES 8. Type Consultant & Professional Services

18. On August 12, 2024—after the primary election and after receiving notice of potential campaign finance violations, the Committee amended its June 3, 2024, report to identify part of this expenditure as an electioneering communication.

1. Date Expended 05/25/2024	4. Name 5411 LLC
2. Amount \$3,500.00	5. Address 3500 S. DUPONT HWY 6. City/State/Zip DOVER DE 19901
Electioneering Comm? Yes	7. Purpose CAMPAIGN CONSULTING SERVICES (INCLUDES \$3,370.85 FOR MAILER DESIGN/PRINTING/MAILING, ALONG WITH \$129.15 FOR CONSULTING SERVICES) 8. Type Consultant & Professional Services

19. On July 25, 2024, the Division received two campaign finance complaints against the Committee filed by David DiFolco. The first DiFolco complaint alleged that the Committee was distributing yard signs without compliant disclaimer statements.

20. The first DiFolco complaint alleged that complainant had received one of the mailers referenced above on June 7, 2024. The first DiFolco complaint also alleged that DiFolco had seen yard signs distributed by the Committee on June 10, 2024.

21. The first DiFolco complaint included an image of the yard signs, which unambiguously refer to Arvidson and were displayed to members of the Republican primary electorate for Senate District 2.



22. At the Division’s request, DiFolco took additional photos of the yard signs on August 2, 2024, showing both sides of the sign – neither of which include a “paid for by” disclaimer.

23. The Division reviewed and investigated the DiFolco complaint, including by looking at the Committee’s reports of contributions and expenditures.

24. According to the Committee’s June 3, 2024, report, the yard signs cost \$647.50, and were purchased on May 28, 2024.

1. Date Expended 05/28/2024	4. Name A.G.E. GRAPHICS LLC
2. Amount \$647.50	5. Address 678 COLLINS ROAD
Electioneering Comm? No	6. City/State/Zip LITTLE HOCKING OH 45742
	7. Purpose YARD SIGNS
	8. Type Other

25. The Committee did not originally report the expenditure as an electioneering communication. But it updated its June 3, 2024, report on August 12, 2024, to reflect that this expenditure was an electioneering communication.

26. As part of its investigation, the Division corresponded with Arvidson. According to Arvidson, no disclaimer was needed on the yard signs because “at the time the yard signs were purchased 5/28/2024, [the] committee had made no prior expenditures on electioneering communications.”

27. That is incorrect. According to the Committee’s reports, it had spent over \$3,000 on electioneering communications—the mailer—as of May 25, 2024.

28. Once the Committee cleared that threshold, disclaimers were required on all additional electioneering communications, including the signs.

29. Moreover, on information and belief, at least some of the yard signs were distributed after the mailer was distributed.

30. The second DiFolco complaint alleged that the Committee had failed to report its expenditure on the campaign mailer referenced above.

### **COLORADO CAMPAIGN FINANCE LAW**

31. Under Colorado law, Colorado law, “[a]ny person who expends one thousand dollars or more per calendar year on electioneering communications . . . shall, in accordance with the requirements specified in section 1-45-107.5(5), state in the communication the name of the person making the communication.” § 1-45-108.3(3), C.R.S.

32. That disclaimer statement must include “a statement that: (I) the communication has been ‘paid for by (full name of the person paying for the communication’; and (II) identifies a natural person who is the registered agent if the person identified in subsection (5)(a)(I) of this section is not a natural person.” § 1-45-107.5(5)(a).

33. Moreover, “[a]ny person who expends one thousand dollars or more per calendar year on electioneering communications shall submit reports” of such electioneering communications to the Secretary of State. Colo. Const. art. XXVIII, § 6(1).

34. Committees, including candidate committees, need not file separate electioneering reports so long as “the expenditure or spending subject to Colo. Const. Article XXVIII, Section 6 is identified as an electioneering communication . . .” 8 CCR 1505-6, Rule 11.5.

35. Electioneering communication reports must include “the method of communication” and must “include the name of the candidate(s) unambiguously referred to in the electioneering communication. 8 CCR 1505-6, Rules 11.2, 11.4.

**CLAIM ONE**  
**Failure to Include Disclaimer**  
**(1-45-108.3(3), C.R.S.)**

36. All preceding allegations are incorporated.

37. On May 25, 2024, the Committee purchased over \$3,000 worth of mailers that qualified as electioneering communications under Colorado law.

38. After that date, the Committee purchased and distributed yard signs. The yard signs unambiguously referred to Arvidson, were displayed to members of the Republican primary electorate for Senate District 2, and were distributed during the electioneering window for the June Republican primary election.

39. The yard signs did not include a “paid for by” disclaimer statement.

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

**CLAIM TWO**  
**Failure to Report Electioneering Communication**  
**(Colo. Const. art. XXVIII, § 6)**

41. All preceding allegations are incorporated.

42. On May 25, 2024, the Committee purchased over \$3,000 worth of mailers that qualified as electioneering communications under Colorado law.

43. The mailers unambiguously referred to Arvidson and his primary opponent, were distributed to members of the Republican primary electorate for Senate District 2, and were distributed during the electioneering window for the June Republican primary election.

44. On May 28, 2024, the Committee purchased over \$600 worth of yard signs. The yard signs unambiguously referred to Arvidson, were displayed to members of the Republican primary electorate for Senate District 2, and were distributed during the electioneering window for the June Republican primary election.

45. Neither the mailer nor the yard signs were originally reported as electioneering communications.

46. The Committee did not report those communications as electioneering communications until August 2024, after the June primary election.

47. 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:

1. For the disclaimer violation, penalties to include appropriate fines as set out under Rule 23.3.3.

a. Specifically, the Committee spent \$647.50 on the yard signs. Under Rule 23.3.3(d), the recommended penalty is \$64.75.

2. For the failure to report, penalties to include appropriate fines as set out under Rule 23.3.3.

a. Specifically, Rule 23.3.3(b)(1) specifies a fine of \$100 per report plus 5% of the activity not accurately or completely reported.

b. Here, that would be \$100 for the June 3, 2024, report, plus 5% of \$3,370.85 and \$647.50, or approximately \$200.

Respectfully submitted this 9th day of October, 2024.

PHILIP J. WEISER  
Attorney General

*/s/ Peter G. Baumann*

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CERTIFICATE OF SERVICE

This is to certify that I will cause the foregoing to be served this 9th day of October, 2024, by email and/or U.S. mail, addressed as follows:

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*Third-party Complainant*

/s/ Peter G. Baumann