

<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 2024-46; 2024-47</p> <p>ELECTIONS DIVISION OF THE SECRETARY  OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>FIGHTING FOR A STRONGER COLORADO,</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 Fighting for a Stronger Colorado (the “Committee”).

**BACKGROUND**

1. To promote transparency, Colorado law requires independent expenditures of more than \$1,000 to include a “paid for by” disclaimer on the communication. This disclaimer must identify the person paying for the communication and—if the person is not a natural person, it must also identify the person’s registered agent. Finally, independent expenditures are also required to include a disclaimer that communication is not authorized by any candidate.

2. Fighting for Stronger Colorado is an independent expenditure committee, with the purpose of supporting candidates for state legislative office. During the 2024 primary election, the Committee distributed three independent expenditures without compliant disclaimer statements.

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

## **PARTIES**

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

5. Respondent is Fighting for a Stronger Colorado, an independent expenditure committee registered with the Colorado Secretary of State, ID number 20245047008.

## **JURISDICTION AND VENUE**

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

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

8. This complaint is timely filed within thirty days of Division’s September 16, 2024, Notice of Investigation, according to § 1-45-111.7(5)(a)(IV).

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

## **ALLEGATIONS**

10. Fighting for a Stronger Colorado is an independent expenditure committee. Its purpose is to “support candidates for the state house of representatives who support legislation to advance social and economic equality for all Americans.”

11. During the 2024 primary election, the Committee made at least three independent expenditures.

- a. A mailer supporting Sean Camacho, a candidate for House District 6 (the “Camacho Mailer”). The Committee spent \$6,265.13 on the Camacho Mailer, which was distributed between February 28, 2024, and March 7, 2024.
- b. A two-sided mailer opposing Elisabeth Epps, a candidate for House District 6, on one side, and Tim Hernández, a candidate for House District 4 on the other side (the “Two-Sided Mailer”). The Committee spent \$11,218.46 on the Two-Sided Mailer, which was distributed between June 14, 2024, and June 18, 2024.

- c. Google ads supporting Cecelia Espenoza, a candidate for House District 4 (the “Google Ads”). The Committee spent \$9,020.64 on the Google Ads which ran between June 4, 2024, and June 25, 2024.

12. None of these three independent expenditures included compliant disclaimer statements.

- a. The Camacho Mailer included a “paid for by” disclaimer, but did not state that it was not authorized by any candidate.
- b. The Two-Sided Mailer did not include any “paid for by” disclaimer.
- c. The Google Ads included a “paid for by” disclaimer, but that disclaimer did not identify the Committee’s registered agent.

13. On June 20, 2024, the Division received two campaign finance complaints filed against the Committee. One from Rochelle Galindo, and one from Elizabeth Battiste. Both complaints alleged that the Committee had failed to include a disclaimer on the Two-Sided Mailer.

14. The Galindo complaint also alleged that the Committee had failed to include the name of the candidates referred to in the mailer in its reports to the Secretary of State.

15. During its investigation, the Division uncovered the additional expenditures lacking compliant disclaimers.

16. The Committee fully cooperated with the Division’s review and investigation of the complaints.

17. According to the Committee, the Two-Sided Mailer was a “printing mistake.” It was supposed to only include material related to one candidate: Tim Hernández. And it was supposed to include a “paid for by” disclaimer on the side of the mailer where material opposing Elisabeth Epps appeared. It was sent only to voters in District 4, Hernández’s district.

18. Upon receiving notice of the error, the Committee sent a revised copy of the mailer to voters in District 4. The revised mailer included a compliant disclaimer statement and informed voters that the Two-Sided Mailer had been paid for by the Committee.

19. The Committee also posted a notice on its website that the Two-Sided Mailer was paid for by the Committee.

## **COLORADO CAMPAIGN FINANCE LAW**

20. Under Colorado law, “[a]ny person making an independent expenditure in excess of one thousand dollars shall disclose, in the communication produced by the expenditure, the name of the person making the expenditure and the specific statement that the advertisement of material is not authorized by any candidate.” Colo. Const. art XXVIII § 5(2).

21. That disclaimer must identify the name of the person paying for the advertisement and, if the person is not a natural person, it must also identify the person’s registered agent. §§ 1-45-108.3(1); 1-45-107.5(5).

22. “If the size, format, or display requirements of an electronic or online communication make it impracticable to include a disclaimer statement on the communication, the disclaimer statement must be available by means of a direct link from the communication to the web page or application screen containing the statement.” 8 CCR 1505-6, Rule 22.1.3.

### **CLAIM ONE**

#### **Failure to Include Compliant Disclaimer (Colo. Const. art. XXVIII, § 5(2))**

23. All preceding allegations are incorporated.

24. Between February 28, 2024, and March 7, 2024, the Committee distributed a mailer supporting Sean Camacho.

25. The Camacho Mailer cost more than \$1,000 to distribute.

26. The mailer was distributed for the purpose of expressly advocating the election of Sean Camacho.

27. The mailer stated that it was paid for by Fighting for a Stronger Colorado, but did not include a disclaimer that it was not authorized by any candidate.

28. 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 Include Disclaimer (Colo. Const. art. XXVIII, § 5(2))**

29. All preceding allegations are incorporated.

30. Between June 14, 2024, and June 18, 2024, the Committee distributed a mailer opposing both Elisabeth Epps and Tim Hernández.

31. The Two-Sided Mailer cost more than \$1,000 to distribute.

32. The Two-Sided Mailer expressly advocated against both Epps and Hernández.

33. The Two-sided Mailer did not include a “paid for by” disclaimer.

34. 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 THREE**  
**Failure to Include Compliant Disclaimer**  
**(§ 1-45-108.3(1), C.R.S.)**

35. All preceding allegations are incorporated.

36. Between June 4, 2024, and June 25, 2024, the Committee distributed over \$1,000 worth of Google Advertisements.

37. The Google Ads included a “paid for by” disclaimer, but did not identify the Committee’s registered agent.

38. The links included in the advertisements went to a page that did not identify the Committee’s registered agent.

39. 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. Penalties to include appropriate finds under rule 23.3.3.
2. Any other appropriate relief.

## **CLAIMS NOT PURSUED**

1. The Galindo complaint included allegations that the Committee had failed to identify candidates referenced in its electioneering communications as required by law.

2. With regards to the Two-Sided Mailer, the Committee did disclose its reference to Hernández in its reports to the Secretary of State, but did not disclose its reference to Epps.

3. However, the Division determined during its investigation that the Two-Sided Mailer was not an electioneering communication as to Epps, so the Committee was not required to include Epps in its reports.

4. An electioneering communication is any communication that “unambiguously refers to any candidate” and is distributed within thirty days of a primary election “to an audience that includes members of the electorate” for the office sought by the person referenced in the communication. Colo. Const. art. XXVIII, § 7(a).

5. Here, the Two-Sided Mailer was not distributed to members of the electorate in Representative Epps’s district. It was sent only to members of the electorate in Representative Hernández’s district.

6. Accordingly, the Division is not pursuing claims relating to the failure to disclose Epps in the Committee’s reports to the Secretary of State.

Respectfully submitted this 16th 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 16th day of October, 2024, by email and/or U.S. mail, addressed as follows:

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/s/ Peter G. Baumann

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