

STATE OF COLORADO
SECRETARY OF STATE
1700 BROADWAY #550
DENVER, COLORADO 80290

BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE,
ADMINISTRATIVE HEARING OFFICER

AHO Case No. _____

ED Case Nos. 2024-78, 2024-99

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

COLORADO DAWN,

Respondent.

COMPLAINT

Pursuant to § 1-45-111.7, C.R.S. (2024), the Elections Division of the Secretary of State files this complaint against Colorado Dawn (the “Nonprofit” or “Respondent”).

BACKGROUND

1. To provide voters with information about the sources of election-related communications, Colorado law requires entities making direct expenditures to support or oppose ballot issues or questions to (1) report those expenditures to the Secretary of State, and (2) include a disclaimer identifying the person paying for the communication.

2. Here, Colorado Dawn, a nonprofit corporation, spent over \$3 million supporting three ballot issues that appeared on the November 2024 statewide ballot. Although Colorado Dawn reported many of its expenditures, and included compliant disclaimers on many of its campaign communications, ten of its communications lacked compliant disclaimers, and three of its communications were not reported to the Secretary of State.

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 Colorado Dawn, a nonprofit organization registered with the Colorado Secretary of State’s business and licensing division, ID # 20211055160.

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 February 13, 2025, Notice of Investigation and Consolidation, 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. This complaint involves the activity of two entities: (1) Colorado Dawn, a nonprofit organization registered with the Secretary of State’s Business and Licensing Division, and (2) Colorado Dawn IEC, an allegedly “separate and non-connected entity,” according to a “general consultant” to Colorado Dawn.¹ Colorado Dawn IEC is an independent expenditure committee registered with the Secretary of State’s Elections Division.

11. The two entities share an address, and Colorado Dawn’s contributions to Colorado Dawn IEC account for over 75% of the latter’s reported contributions.

¹ https://www.coloradopolitics.com/news/colorado-dawn-complaint-amendment-80/article_a2436896-8cc5-11ef-89ae-ab97e33dcc34.html.

12. Colorado Dawn is a nonprofit organization. According to its Articles of Incorporation, Colorado Dawn “is organized exclusively for social welfare purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(4) of the Internal Revenue Code.”

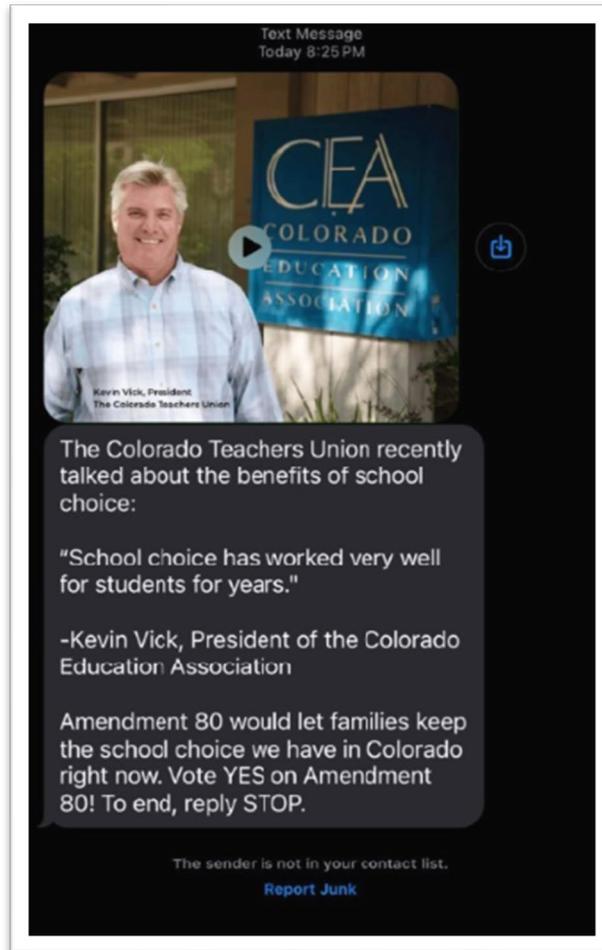
13. Its Articles of Incorporation also indicate that it “may participate in, or intervene in, political campaigns on behalf of or in opposition to any candidate for public office; however, the Corporation shall not allow such activities to become its primary purpose.”

14. According to its bylaws, the Nonprofit is “primarily engaged in promoting the common good and general welfare of the people of the community within the meaning of Section 501(c)(4) of the Internal Revenue Code.”

15. According to the Secretary of State’s TRACER database, Colorado Dawn has made \$3,997,790.42 in contributions to various committees registered with the Colorado Secretary of State’s Elections Division since 2022. This includes \$2,230,000 to the Senate Majority Fund, an independent expenditure committee organized “to support Republican candidates for state senate.”

16. It also includes \$130,088 in contributions to Colorado Dawn IEC.

17. On October 17, 2024, the Division received a campaign finance complaint against “Colorado Dawn IEC” filed by Bri Buentello. The Buentello Complaint alleged that on October 16, 2024, a “friend” had received an “extremely misleading text message” regarding Amendment 80 which did not include a “paid for by” disclaimer.



18. The text message included a video of Colorado Education Association President Kevin Vick and the language:

- a. The Colorado Teachers Union recently talked about the benefits of school choice: “School choice has worked very well for students for years.” Kevin Vick, President of the Colorado Education Association. Amendment 80 would let families keep the school choice we have in Colorado right now. Vote YES on Amendment 80! To end reply STOP.

19. The message was notable because the Colorado Education Association was opposed to Amendment 80 during the 2024 election cycle.²

² <https://coloradoea.org/news-updates/colorado-education-association-releases-recommendations-for-2024-general-election>.

20. The Buentello Complaint surmised that the entity paying for the message was “Colorado Dawn, an independent expenditure committee.” Based on the suspicion that the IEC had sent the message, the Buentello Complaint also alleged that Colorado Dawn IEC had failed to register as an issue committee.

21. Later that month, the Division received a second campaign finance complaint filed against “Colorado Dawn IEC.” This complaint was filed by Vanessa Quintana.

22. The Quintana Complaint alleged that Colorado Dawn IEC was not a registered issue committee and had failed to accurately report its contributions and expenditures in support of Amendment 80.

23. In support of its allegations, the Quintana Complaint attached a mailer which indicated that it had been “Paid for by Colorado Dawn, Katie Kennedy Registered Agent.”

24. Kennedy is the registered agent for campaign finance purposes for Colorado Dawn IEC, and she is also the Nonprofit’s registered agent according to the Nonprofit’s filings with the Secretary of State’s Business and Licensing Division.

25. The Division reviewed and investigated the complaints.

26. As to the Buentello Complaint, the Division offered the IEC an opportunity to cure the alleged violations.

27. In response, the IEC’s counsel sent a letter signed under penalty of perjury by Daniel Cole.³ The letter stated that Colorado Dawn IEC “has not make [sic] expenditures on behalf of ballot issues,” and that the text message identified in the Buentello Complaint was not sent on its behalf.

28. On information and belief, the text messages—including the message identified in the Buentello Complaint, were sent by the Nonprofit.

³ Media reports have also identified Daniel Cole as the “general consultant” for Colorado Dawn, the Nonprofit. *See supra* note 1.

29. In reviewing the Quintana Complaint—particularly the “paid for by” disclaimer on the mailer attached to the Quintana Complaint, as well as 48-hour independent expenditure reports filed by the Nonprofit—the Division determined that it was possible the Nonprofit, rather than the IEC, was responsible for the mailer.

30. Accordingly, the Division added the Nonprofit as a respondent to the Quintana Complaint. In providing both the Nonprofit and the IEC an opportunity to cure that complaint, the Division noted that although it “appears most likely that Respondent Nonprofit is responsible for the mailer,” because the Nonprofit and the IEC have the same registered agent and similar names, “it remains possible that [the IEC] is responsible for the mailer and omitted the letters ‘IEC’” as a typo.”

31. The Division determined that it would “construe the [Quintana] Complaint’s allegations as being against both Respondents until it is possible to determine which entity is responsible for the communication.”

32. Both Respondents responded to the opportunity to cure in a single letter from counsel.

33. As to the IEC, the letter indicated that the IEC had “not made expenditures on behalf of ballot issues,” and was therefore not required to register as an issue committee or disclose any expenditures that it had not already disclosed.

34. As to the Nonprofit, the letter indicated that the Nonprofit “does not have a major purpose of opposing or supporting ballot issues in Colorado,” and was therefore “not required to register as an issue committee.” It also disputed that it had “failed to disclose any expenditures.”

35. The Division continued to review and investigate the two complaints, including by requesting information from the Nonprofit. It also consolidated the complaints because they arose from a common set of operative facts, and because counsel for Colorado Dawn and Colorado Dawn IEC requested that the two complaints be consolidated for ease of response.

36. The Nonprofit provided information about its total spending and spending on ballot issues—including Amendment 80—in 2022, 2023, and 2024. For 2022 and 2023, it provided its IRS Form 990s.

37. According to the Nonprofit, in 2024 it spent a total of \$4,562,328.20 on communications in support of or opposition to ballot issues. Its single largest amount was \$3,127,077.60 for communications in support of Amendment 80.

38. In total, between 2022 and 2024, the Nonprofit spent a total of \$5,062,328.20 on communications in support of or opposition to ballot issues. Again, its single largest amount was the \$3,127,077.60 it spent in opposition to Amendment 80.

39. According to the Nonprofit, its total expenses between 2022 and 2024 were \$17,897,022.40.

40. Accordingly, the Nonprofit's expenditures on ballot issues between 2022 and 2024 accounted for 28.29% of its total expenditures.

41. And its expenditures related to Amendment 80 accounted for 17.47% of its total expenditures.

42. Neither the Nonprofit's Articles of Incorporation nor its Bylaws reference issue advocacy as one of the Nonprofit's major purposes.

43. The Nonprofit also provided the Division with copies of its communications in opposition to, or support of, ballot issues, including Amendment 80.

44. This included four mailers, all of which included the disclaimer: "Paid for by Colorado Dawn, Katie Kennedy, Registered Agent."

45. It also included 15 text messages—13 of which were related to Amendment 80, and two of which were related to Propositions 128 and 130.

46. Of those 15,

- a. 6 included a link to either "voteyeson80.com" or "voteyeson130.com," both of which included the disclaimer: "Paid for by Colorado Dawn. Katie Kennedy Registered Agent."

- b. 10 lacked compliant disclaimers
 - i. 2 included a link to the website “voteyeson130.com,” and also included the disclaimer: “paid for by Colorado Dawn.”
 - ii. 8 only included the disclaimer: “paid for by Colorado Dawn.”
- c. Only one text message—the text message identified in the Buentello Complaint—did not include either a link or a “paid for by” disclaimer.

47. The Division also reviewed the Nonprofit’s reports of direct ballot expenditures.

48. Colorado Dawn filed 48-hour disclosure reports of direct ballot issue or ballot question expenditures for each of its four mailers and all 15 text messages, as well as for expenditures it made collecting signatures to qualify those measures to the ballot.

49. According to the Nonprofit, it spent more than \$5,000 collecting signatures for various ballot measures. After it crossed that threshold, it reported expenditures on the mailer and the text messages, but did not report the more than \$1,000 each it spent on websites supporting Amendment 80, Proposition 128, and Proposition 130.

50. Each of those three websites expressly advocated for the adoption of each of those proposed measures.

51. Colorado Dawn did not file 48-hour reports related to its expenditures on the three websites.

COLORADO CAMPAIGN FINANCE LAW

52. “Any person who makes a direct ballot issue or ballot question expenditure shall, pursuant to section 1-45-107.5(5), state their name in any communication that is . . . distributed to persons who are eligible to vote on the ballot issue or ballot question and is produced or funded, either in whole or in part, by the person who made the direct ballot issue or ballot question expenditure.” § 1-45-108.3(4), C.R.S. (2024).

53. Under 107.5(5), that statement must (I) say that “The communication has been ‘paid for by (full name of the person paying for the communication)’; and (II) identif[y] 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).

54. “‘Direct ballot issue or ballot question expenditure’ means direct spending in support of or opposition to any single ballot issue or ballot question by a person who does not otherwise meet the requirements of an issue committee. Contributions to an issue committee are not direct ballot issue or ballot question expenditures.” § 1-45-103(7.2).

55. “If the size, format, or display requirements of an electronic or online communication make it impractical to include a ‘paid for by’ 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.

56. “Any person, after expending five thousand dollars in aggregate in a calendar year on direct ballot issue or ballot question expenditures, shall, for each additional expenditure of one thousand dollars or more, report to the secretary of state . . . : The amount of the expenditure, the purpose for which the expenditure was made, the date of the expenditure, name and address of the payee, and the ballot question or ballot issue supported or opposed. Such a report must be filed with the secretary of state no later than forty-eight hours after the direct ballot issue or ballot question expenditure was made.” § 1-45-108(1)(a)(VI).

CLAIM ONE
FAILURE TO INCLUDE A COMPLIANT DISCLAIMER
(§ 1-45-108.3(4), C.R.S.)

57. All preceding allegations are incorporated.

58. In October and November 2024, Colorado Dawn distributed text messages in support of Amendment 80 and Propositions 128 and 130.

59. Some, but not all, of those communications included compliant disclaimer statements.

60. Others identified the person paying for the advertisement, but not Colorado Dawn’s registered agent.

61. Others included no disclaimer, but a link to a website in which a compliant disclaimer existed.

62. Finally, one text message included neither a “paid for by” disclaimer nor a link to a website with such a disclaimer.

63. These text messages were distributed to persons eligible to vote on Amendment 80 and Propositions 128 and 130 in the November 2024 General Election.

64. 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 FILE 48-HOUR REPORT
(§ 1-45-108(1)(a)(IV), C.R.S.)

65. All preceding allegations are incorporated.

66. In October 2024, Colorado Dawn spent \$1,000 each on three websites expressly advocating in favor of Amendment 80 and Propositions 128 and 130.

67. By October 2024, Colorado Dawn had spent more than \$5,000 on direct ballot issue or ballot question expenditures in 2024.

68. Colorado Dawn did not file 48-hour expenditure reports as to any of the three websites.

69. 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 as set out under 8 CCR 1505-6, Rule 23.4.3.
2. Such other relief as the Hearing Officer may deem appropriate.

CLAIMS NOT PURSUED

1. Both the Buentello Complaint and the Quintana Complaint alleged claims against Colorado Dawn IEC.
2. The Division's investigation uncovered that the text message identified in the Buentello Complaint was sent by Colorado Dawn, not Colorado Dawn IEC.
3. The Division's investigation also uncovered that the mailer that was the subject of the Quintana Complaint was sent by Colorado Dawn, not Colorado Dawn IEC.
4. Accordingly, nothing in the Division's investigation suggests that Colorado Dawn IEC made unauthorized ballot issue expenditures or failed to register as an issue committee.

Respectfully submitted this 17th day of March, 2025

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 17th day of March, 2025, by email and/or U.S. mail, addressed as follows:

Colorado Dawn
C/O Attorney Suzanne Taheri
100 E. Vrain St. Suite 105
Colorado Springs, CO 80903
st@westglp.com
Respondent

Vanessa Quintana
1301 E. 31st Ave.
Denver, CO, 80205
Nessaquintana09@gmail.com
Third-party Complainant

Bri Buentello
2215 Norman Lane
Pueblo, CO 81005
bbuentello@stand.org
Third-party Complainant

/s/ Peter G. Baumann