

<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 2024-21</p> <p>ELECTIONS DIVISION OF THE SECRETARY  OF STATE,</p> <p>Complainant,</p> <p>vs.</p> <p>TONY MAY; and LEGAL FEES FOR TONY  MAY,</p> <p>Respondents.</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 Tony May, and Legal Fees for Tony Mays (the “Committee”) (collectively, the “Respondents”).

**BACKGROUND**

1. To provide voters with information about the sources of election-related activity, Colorado law requires all issue committees to register with the Secretary of State and accurately report their contributions and expenditures. This includes committees organized to support or oppose a recall effort.

2. Here, Tony May led an effort to collect contributions to oppose a recall effort that was targeting him, but did not originally register an issue committee or report either those contributions or the expenditures they supported.

3. After a citizen filed a campaign and political finance complaint against May alleging the failure to register an issue committee and after the Division gave him the opportunity to cure, May registered an issue committee with the Secretary of State and named himself as registered agent. However, even after May registered the issue committee, the Committee failed to timely disclose approximately \$4,600 worth of contributions and expenditures cumulatively, only amending its reports to include those funds after the relevant recall election.

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. Respondents are Tony May, a former member of the Garfield RE-2 school board and Legal Fees for Tony May, an issue committee under Colorado law ID # 20245047322.

### **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 October 15, 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. Tony May was a member of the Garfield RE-2 school board. May was the target of a recall effort that culminated with him being recalled in an August 27, 2024, recall election.

12. On April 10, 2024, the Division received a campaign finance complaint against May filed by the issue committee supporting the recall effort, the Coalition for Responsible Education in RE-2.

13. The complaint alleged that May was collecting contributions to assist with legal fees arising out of his challenge to the recall petition's sufficiency, but had neither registered an issue committee nor reported those contributions or any expenditures.

14. On April 26, 2024, after receiving notice of the complaint, May registered an issue committee with the Colorado Secretary of State. The Committee was called "Legal Fees for Tony May" and its purpose was "contribution for legal fees to support Tony May protest of the School Board recall." The purpose was later amended on August 1, 2024, to read: "Contribution to support Tony May protest."

15. On May 13, 2024, the Committee filed a report of contributions and expenditures. The report reflected \$235 worth of contributions, but no expenditures.

16. Between May 13, 2024, and the August 27, 2024, election, the Committee timely filed reports of contributions and expenditures on June 10, July 10, August 13, and August 20. As they were originally filed, none of those reports disclosed any further contributions from third-parties or expenditures. The July 10 report did disclose \$21,000 in non-monetary contributions from May to the Committee.

17. On September 12, 2024, approximately three weeks after the recall election, May amended the Committee's reports to reflect an additional \$2,200 in contributions, and \$2,431 in expenditures.

## **COLORADO CAMPAIGN FINANCE LAW**

18. Under Colorado law, "all . . . issue committees . . . shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more[.]" § 1-45-108(1)(a)(I), C.R.S. (2024).

19. Those reports must be filed on a set schedule established by Colorado law. § 1-45-108(2)(a)(I), C.R.S. (2024)

### **CLAIM ONE Failure to Report Contributions and Expenditures (1-45-108(1)(a)(I), C.R.S.)**

20. All preceding allegations are incorporated.

21. Between March 2024 and August 27, 2024, the Committee received over \$2,200 in contributions, and made over \$2,000 in expenditures to oppose the recall of May.

22. Those contributions and expenditures were not timely reported. In fact, they were not reported until after the August 27, 2024, election.

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

### **CLAIMS NOT PURSUED**

1. After the Division delivered to May its Notice of Initial Review and Opportunity to Cure on April 24, 2024, May then registered Legal Fees For Tony May with the Secretary of State two days later on April 26, 2024.

2. This was approximately four months before the recall election.

3. Accordingly, the Division determined that May had substantially complied with his legal obligations and elected not to pursue a claim of failure to register an issue committee.

### **PRAYER FOR RELIEF**

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

1. Penalties as set out under 8 CCCR 1505-1, Rule 23.3.3
2. Such other relief as the Hearing Officer may deem appropriate.

Respectfully submitted this 14th day of November, 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 14th day of November, 2024, by email and/or U.S. mail, addressed as follows:

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/s/ Peter G. Baumann