

STATE OF COLORADO SECRETARY OF STATE ADMINISTRATIVE HEARING OFFICER 1700 Broadway #550 Denver, CO 80290	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, <i>in re</i> ED 2024-55, ED 2024-56 ELECTIONS DIVISION OF THE SECRETARY OF STATE, Complainant v. ARVIDSON FOR SENATE, Respondent	
<i>Counsel for Arvidson for Senate:</i> Matthew T. Arnold, #60401 P.O. Box 372464 Denver, CO 80237 (303) 995-5533 arnoldm@clawllc.org	CASE NUMBER: 2024 AHO 0032
ANSWER	

Respondent Arvidson for Senate, by and through counsel, respectfully submits the following *Answer* to the Secretary’s Administrative Complaint:

BACKGROUND

1. Admitted in part, denied in part. Colorado law requires committees making more than \$1,000 in electioneering expenditures in a calendar year to include a “paid for by” disclaimer on electioneering communications broadcast, mailed, or otherwise disseminated to an audience including the electorate. However, the law requiring such disclaimers, specifically including registered agent name, on signs

was facially invalidated by the Court of Appeals in a ruling issued 1 August 2024, prior to any pleadings (including the Complaint) filed by the Secretary in this case. See *No on EE v. Beall*, 2024 COA 79.

2. Admitted, but only after the committee’s electioneering expenditures exceed the \$1,000/year threshold.

3. Denied in part, admitted in part. The committee’s purchase of yard signs did not yet exceed the \$1,000/year electioneering threshold. The committee did not initially report the expenditure for the mailer as an electioneering communication, as the expenditure was initially obligated and reported as a lump sum payment to the committee’s campaign consultant, who later subcontracted from that amount to purchase the mailer.

4. Conclusory statement which does not require admission or denial.

PARTIES

5. Admitted.

6. Admitted.

JURISDICTION AND VENUE

7. Denied. The Secretary lacks authority to prosecute violations of Colorado campaign finance law per Colo. Const. Art. XXVIII, and thus lacks jurisdiction.

8. Denied. The Secretary lacks authority to prosecute violations of Colorado campaign finance law per Colo. Const. Art. XXVIII, and any statutory claim to such authority is also unconstitutional under the U.S. Constitution’s due process and separation of powers clauses, Amendment 14.

9. Denied. The Secretary lacks authority to prosecute violations of Colorado campaign finance law per Colo. Const. Art. XXVIII, and C.R.S. 1-45-111.7 is thus unconstitutional in purporting to facilitate such authority.

10. Denied.

ALLEGATIONS

11. Admitted

12. Admitted

13. Admitted. The Arvidson committee reported the dates of communication for the mailer in its 3 June 2024 Report of Contributions and Expenditures (RCE), as amended 12 August 2024, as 6-12 June 2024 (mailed 6 June, accounting for possible delays in delivery).

14. Admitted in part, denied in part. The initial committee report disclosed the amount initially obligated for campaign consulting when originally obligated, on 25 May 2024; however, the subset of the total \$3,500 expenditure subsequently spent on the mailer was not spent until 6 June 2024. See Exhibit B, mailer invoice

15. Admitted

16. Admitted

17. Admitted

18. Admitted

19. Admitted

20. Denied in part, Admitted in part. The first DiFolco complaint did not allege receiving the mailer (that allegation was made in the second complaint). The first complaint did allege seeing yard signs.

21. Admitted

22. The Arvidson committee has no direct knowledge of what the Division requested of DiFolco, and therefore neither admits nor denies same.

23. The Arvidson committee has no direct knowledge of what the Division did to review and investigate the DiFolco complaint, and therefore neither admits nor denies same.

24. Admitted

25. Admitted

- 26. Admitted
- 27. Denied
- 28. Denied
- 29. Conclusory, speculative, and thus Denied.
- 30. Admitted

COLORADO CAMPAIGN FINANCE LAW

31. Denied. C.R.S. 1-45-108.3 has been facially invalidated by a Colorado Court of Appeals ruling issued 1 August 2024, prior to any pleadings in this case. See.

32. Denied. C.R.S. 1-45-107.5 et seq applies to independent expenditures, not expenditures by campaign committees. To the extent the requirement is alleged to be incorporated under C.R.S. 1-45-108.3, that statute has been facially invalidated, see *No on EE v. Beall*, 2024 COA 79, *supra*.

33. This paragraph contains statements or legal conclusions to which no response is required.

34. This paragraph contains statements or legal conclusions to which no response is required.

35. This paragraph contains statements or legal conclusions to which no response is required.

CLAIM ONE

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

36. No response required.

37. Denied

38. Denied in part, Admitted in part. The committee's purchase of yard signs was not made after funds were specifically obligated to purchase mailers. The yard signs did refer to Arvidson, were displayed to the primary electorate, and distributed during the June Republican primary election electioneering window.

39. Admitted

40. Denied. As C.R.S. 1-45-108.3 has been facially invalidated, claims based on allegations of violations of the statute lack merit and are legally groundless.

CLAIM TWO
Failure to Report Electioneering Communication
per Colo. Const. Art. XXVIII §6

41. No response required

42. Denied

43. Admitted

44. Admitted

45. Admitted

46. Admitted. However, the Secretary omits the material fact that the committee timely amended its reports to disclose the communications as electioneering communications per the “cure” provisions of C.R.S. 1-45-111.7(4)

47. Denied

WHEREFORE, the Secretary’s Prayer for Relief lacks legal merit, is legally frivolous, groundless, and vexatious, and must be denied.

Respectfully submitted this 15th day of November, 2024.

/signed/ *Matthew Arnold*

MATTHEW ARNOLD, #60401

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **ANSWER** was sent to the following persons via E- mail at the address(es) listed below, on the 15th day of November 2024 as indicated:

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/signed/ *Matthew Arnold*

MATTHEW ARNOLD, #60401