

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 No. L2025-01

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

JIM MCNAIR

Respondent.

COMPLAINT

Pursuant to Rule 5.6.1 of the Secretary's Rules Concerning Lobbyist Regulation, 8 CCR 1505-8, the Elections Division of the Secretary of State files this complaint against Jim McNair ("Respondent").

BACKGROUND

1. Under Colorado law, any person who solicits another person to lobby for or against a piece of legislation is a lobbyist. When that person is compensated for that lobbying, he qualifies as a professional lobbyist under Colorado law, and must register with the Secretary of State and report certain information.

2. Here, Respondent is the CEO of Shaman Botanicals, a company that—in early-2025—offered customers two free products in exchange for contacting members of the general assembly or the governor to advocate against passage of SB 25-72. Two of those customers accepted Shaman's offer, and contacted either a representative or the Governor.

3. Because McNair, through his company, solicited customers to advocate against pending legislation, and because he was compensated by Shaman for doing so, McNair is a professional lobbyist under Colorado law. However, he did not register with the Secretary of State, or file any of the required reports.

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 Jim McNair, the Chief Executive Officer of Shaman Botanicals LLC.

JURISDICTION AND VENUE

7. The Division has jurisdiction under Rule 5 of the Secretary’s Rules Concerning Lobbyist Regulation, 8 CCR 1505-8, and section 24-6-305, C.R.S. (2025).

8. The Division files this complaint with a hearing officer consistent with 8 CCR 1505-8, Rule 5.6.1.

9. This complaint is timely filed within twenty-eight days of the Division’s September 5, 2025, Notice extending the investigation deadline under 8 CCR 1505-8, Rule 5.5.2.

10. Venue is proper before the hearing officer under 8 CCR 1505-8, Rule 5.6.1, and 8 CCR 1505-3, Rule 3.1.2(f).

ALLEGATIONS

11. During the 2025 legislative session, the General Assembly considered SB25-72, a law concerning the regulation of Kratom. The bill was introduced on January 22, 2025, passed the General Assembly on May 15, 2025, and was signed into law by the Governor on May 29, 2025. The law prohibits distribution of kratom products that have a level of 7-Hydroxmitragynine (“7-OH”) that is greater than 2% of the composition of the product.

12. Shaman Botanicals LLC is a limited liability company registered in Missouri. Its Chief Executive Officer is Jim McNair. Shaman sells 7-OH kratom products.

13. On or about April 30, 2025, Shaman prepared and posted new content on its website. The content included a pop-up page that stated: **“URGENT: Protect 7-OH – Stop Colorado SB 72.”** The message also said: **“Losing SB 72 means losing safe, regulated, 7-OH. Your voice matters – plus you get free product for taking action.”** The message continued that any customer who contacted all Colorado representatives would receive **“a FREE 30-count Bottle!”** and any customer who contacted one representative would receive **“a free 2-pack.”**

14. The website also included contact information for certain Colorado legislators, and a sample email template.

15. At some point around when SB25-72 passed the General Assembly, the website was updated to encourage customers to contact Governor Polis and request that he veto SB25-72.

16. Again, the website included a sample email template, and noted that customers could get **“free product”** for sending the email.

17. Two customers accepted Shaman’s offer – one sent an email to members of the Colorado House of Representatives, and another sent an email to Governor Polis. Each customer received a two-pack of 7-OH chewables. The two-pack retails for \$9.99.

18. On June 23, 2025, the Division received a Complaint filed by Jonathan Walker Emord, counsel to the Global Kratom Coalition, on behalf of the Coalition. The Coalition alleged that Shaman had engaged in lobbying by soliciting customers to contact members of the General Assembly.

19. The Division investigated the Complaint. McNair and Shaman cooperated with the investigation and provided extensive documentation to assist the Division in determining the extent of the alleged violations.

20. The Division’s investigation also determined that neither McNair, nor any other representative of Shaman had registered as a lobbyist with the Secretary of State.

COLORADO LOBBYING LAW

21. Under Colorado law, all “professional lobbyists” must file an electronic registration statement with the Secretary of State “[b]efore lobbying.” That statement must include the lobbyist’s name and contact information, as well as the client for whom the lobbyist is lobbying.” § 24-6-303, C.R.S. (2025).

22. A “professional lobbyist” is any individual “who engages himself or herself or is engaged by another person for pay or for any consideration for lobbying.” Colo. Const. art. XXIX, § 2(5).

23. “Lobbying” includes “soliciting others to communicate with a covered official for the purpose of aiding in or influencing (I) The drafting, introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, or veto” of any piece of legislation. § 24-6-301(3.5)(a), C.R.S. (2025).

24. A lobbying “client” is any “person who employs or retains the professional services of one or more lobbyists to undertake lobbying on behalf of that person.” § 24-6-301(1), C.R.S. (2025).

25. Professional lobbyists are also required to file monthly disclosure statements with the Secretary of State’s office. § 24-6-302(2.5), C.R.S. (2025).

26. These disclosures must identify, among other things, “the name and address of each client . . . who contributed more than \$100 to the professional lobbyists for lobbying,” “the total sum of contributions the professional lobbyist received for lobbying activities,” and “the legislation . . . about which the professional lobbyist is lobbying.”⁸ CCR 1505-8, Rule 2.5.1.

27. In addition to the monthly disclosure statement, professional lobbyists are also required to file with the Secretary of State’s Office “an annual disclosure statement for the entire fiscal year.” § 24-6-302(3)(b), C.R.S. (2025).

28. This statement “must contain the name of and total gross income for lobbying received from each client or other professional lobbyist for whom the lobbyist lobbied during the previous fiscal year.” § 24-6-302(3)(b), C.R.S. (2025).

CLAIM ONE
FAILURE TO REGISTER
(§ 24-6-302(3))

29. All preceding allegations are incorporated.
30. During the 2025 legislation session, McNair solicited persons to contact legislators and the Governor urging them to defeat or veto SB25-72.
31. McNair was compensated by Shaman Botanicals for, in part, this activity.
32. McNair did not register with the Secretary of State prior to engaging in lobbying.
33. The Division is entitled to relief under the Colorado Sunshine Law, §§ 24-6-302 *et seq.* and Rule 5 of the Secretary's Rules Concerning Lobbyist Regulation.

CLAIM TWO
FAILURE TO FILE MONTHLY STATEMENT
(§ 24-6-302(2.5))

34. During the 2025 legislative session, McNair solicited persons to contact legislators and the Governor urging them to defeat or veto SB25-72.
35. McNair was compensated by Shaman Botanicals for, in part, this activity.
36. McNair did not file monthly disclosures of lobbying activity with the Secretary of State's Office.
37. The Division is entitled to relief under the Colorado Sunshine Law, §§ 24-6-302 *et seq.* and Rule 5 of the Secretary's Rules Concerning Lobbyist Regulation.

CLAIM THREE
FAILURE TO FILE ANNUAL STATEMENT
(§ 24-6-302(3)(b))

38. During the 2025 legislative session, McNair solicited persons to contact legislators and the Governor urging them to defeat or veto SB25-72.
39. McNair was compensated by Shaman Botanicals for, in part, this activity.

40. McNair did not file an annual disclosure of lobbying activity with the Secretary of State's Office.

41. The Division is entitled to relief under the Colorado Sunshine Law, §§ 24-6-302 *et seq.* and Rule 5 of the Secretary's Rules Concerning Lobbyist Regulation.

PRAYER FOR RELIEF

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

1. Penalties as set out under 8 CCR 1505-8, Rule 5.6.2, § 24-6-301 *et seq.*, and 8 CCR 1505-3, Rule 3.14.2.
2. Such other relief as the Hearing Officer may deem appropriate.

Respectfully submitted this 6th day of October, 2025.

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 6th day of October, 2025, by email and/or U.S. mail, addressed as follows:

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Third-Party Complainant

/s/ Peter G. Baumann