

**STATE OF COLORADO**

SECRETARY OF STATE  
1700 BROADWAY #550  
DENVER, COLORADO 80290

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

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AHO Case No. 2025 AHO 15 (CPF)

ED Case No. 2025-01

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In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

DOUGLAS COUNTY VICTORY FUND,

Respondent.

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**MOTION FOR SUMMARY JUDGMENT**

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In 2024, Respondent Douglas County Victory Fund (“DCVF”) contributed over \$18,000 to Colorado state campaign committees, including one political party committee and several state candidate committees.

Nonetheless, Respondent did not register with the Secretary of State as a political committee under Colorado law or report its contributions and expenditures. From the beginning, DCVF has not disputed the basic facts alleged in the Division’s Complaint. *See generally* Answer (Sept. 25, 2025). Instead, it has argued only that it was not required to register and report because Colorado’s registration requirements are preempted, as applied to Respondent, by federal law. *See, e.g.*, Compl. ¶¶ 26, 27 (April 28, 2025); Mot. to Dismiss

(June 12, 2025). But the Court appropriately rejected that defense earlier this year. Order Denying Mot. to Dismiss at 16 (Aug. 27, 2025).

Because the remaining facts are not in dispute, the Division is entitled to summary judgment on its claims.

#### **STATEMENT OF UNDISPUTED MATERIAL FACTS**

1. On July 2, 2024, DCVF hosted a fundraising event. Answer ¶ 14.
2. DCVF spent \$28,072.61 on the event. Answer ¶ 14.
3. To host the event, DCVF received three separate in-kind contributions from members of the Ames family. Answer ¶ 14.
4. These three contributions to DCVF totaled \$28,072.61. Answer ¶ 14; *See also* Ex. B to Scott Decl. (Attachment A) at 1-2.
5. In 2024, DCVF contributed:
  - a. \$3,340.36 to Lauren Boeert’s federal campaign committee. Answer ¶ 19; Ex. C to Scott Decl. at 3.
  - b. \$6,384.26 to various entities for legal or accounting services. Answer ¶ 19; Ex. C to Scott Decl. at 3-4 .
  - c. \$15,389.53 to the Douglas County Republican Central Committee in a disbursement DCVF reported as a “non-federal disbursement.” Answer ¶ 19; Ex. C to Scott Decl. at 3.
  - d. \$3,062.00 to various Colorado state candidate committees, which DCVF also reported as “non-federal disbursement[s].” Answer ¶ 19; Ex. A to Scott Decl.
6. Among DCVF’s contributions to Colorado state candidate committees was a \$755.56 contribution to Brauchler for Colorado. Answer ¶ 19; Ex. A to Scott Decl.

7. Brauchler for Colorado attempted to return \$305.56 of that contribution on January 17, 2025, and reported that attempted reimbursement to the Secretary of State.

Answer ¶ 19; Ex. A to Scott Decl.

8. As of the date of this filing, DCVF has not cashed the reimbursement check from Brauchler for Colorado. Scott Decl. ¶ 9.

9. In 2024, DCVF had the major purpose of supporting or opposing candidates for office as demonstrated by its disbursements to Colorado state candidates and committees. Answer ¶ 36.

10. DCVF did not register as a political committee with the Colorado Secretary of State in 2024. Answer ¶¶ 3, 37.

11. DCVF did not file reports of contributions and expenditures with the Colorado Secretary of State in 2024. Answer ¶¶ 3, 41; Scott Decl. ¶ 7.

### **LEGAL STANDARD**

“The purpose of summary judgment is to permit the parties to pierce the formal allegations of the pleadings and save the time and expense connected with a trial when, as a matter of law, based on undisputed facts, one party could not prevail.” *Markus v. Brohl*, 2014 COA 146, ¶ 13 (quotations and citations omitted). It is appropriate where “the pleadings and supporting documents show that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.” *MetroPCS Cal., LLC v. City of Lakewood*, 2025 CO 53, ¶ 17 (citing C.R.C.P. 56(c)). In determining whether this standard is met, the Hearing Officer looks to “the pleadings . . . together with the affidavits, without assessing witness credibility or weighing evidence.” *S. Conejos Sch. Dist. RE-10 v. Wold Architects Inc.*, 2023 COA 85, ¶ 17 (citations and quotations omitted).

## ARGUMENT

The key facts in this case are undisputed. During the 2024 election cycle, DCVF made contributions or expenditures in excess of \$200 to support one or more Colorado state political candidates. During the 2024 election cycle, DCVF's major purpose was supporting or opposing candidates for office. And in 2024, DCVF neither registered as a political committee nor reported its contributions and expenditures through Colorado's campaign reporting system. These undisputed facts entitle the Division to summary judgment on Claims 1 and 2. And because it is also undisputed that DCVF's contribution to Brauchler for Colorado exceeded the allowable contribution limit, the Division is also entitled to summary judgment on Claim 3.

**I. DCVF qualified as a political committee in 2024, but neither registered with the Secretary nor reported its contributions and expenditures.**

**A. DCVF's Answer alone establishes that the Division is entitled to summary judgment on Claims 1 and 2.**

To succeed on Claims 1 and 2, the Division must prove three elements, the first of which has two sub-elements:

1. DCVF qualified as a political committee in 2024, meaning it:
  - a. "[A]ccepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more candidates," Colo. Const. art. XXVIII §2(12)(a); and
  - b. And had "major purpose" of nominating or electing candidates. *Campaign Integrity Watchdog, LLC v. Colo. Citizens Protecting our Constitution*, 2018 COA 16, ¶ 18; *All. for Colo.'s Families v. Gilbert*, 172 P.3d 964, 972-73 (Colo. App. 2007); *see also Colo. Right to Life Comm., Inc. v. Coffman*, 498 F.3d 1137, 1153 (10th Cir. 2007).
2. DCVF did not register as a political committee in 2024; and

3. DCVF did not file reports of contributions and expenditures in 2024.

There is no dispute as to any of these facts. DCVF admits that it spent more than \$200 to support the election of candidates for Colorado state offices during the 2024 election cycle. Answer ¶ 35. And it admits that its major purpose was supporting or opposing candidates for office. Answer ¶ 36. Finally, it admits that it neither registered as a political committee nor filed reports of contributions and expenditures. Answer ¶ 3.

Because the undisputed facts establish that DCVF qualified as a political committee in 2024, but neither registered nor reported, the Division is entitled to summary judgment on Claims 1 and 2.

**B. Neither of DCVF’s affirmative defenses are sufficient to defeat summary judgment.**

In its Answer, DCVF raises two affirmative defenses: first that Colorado’s regulatory authority as applied to DCVF is preempted by federal law, and second that Colorado’s regulation of political committees fails exacting scrutiny.<sup>1</sup> Answer at 11. The Court addressed the former in denying DCVF’s Motion to Dismiss. Order Denying Mot. to Dismiss (Aug. 27, 2025).

As to the latter, it is unclear whether DCVF is making a facial or as-applied challenge to Colorado’s regulation of political committees. At the administrative agency stage of these proceedings, a facial challenge is improper. *See, e.g., Arapahoe Roofing & Sheet Metal, Inc. v. City & Cnty. of Denver*, 831 P.2d 451, 454 (Colo. 1992) (“[A]dministrative agencies do not have authority to pass on the constitutionality of statutes or ordinances.”). An agency may,

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<sup>1</sup> DCVF does not expressly invoke exacting scrutiny or the First Amendment in listing its affirmative defenses, but its affirmative defense is sufficient to provide notice to the Division that it intends to rely on a First Amendment defense, and exacting scrutiny is the proper standard for evaluating campaign finance disclosure provisions. *See, e.g., Citizens United v. FEC*, 558 U.S. 310, 366-67 (2010).

however, consider “whether an otherwise constitutional statute has been unconstitutionally applied with respect to a particular” set of circumstances. *Horrell v. Dep’t of Admin.*, 861 P.2d 1194, 1198 n.4 (Colo. 1993).

But requiring DCVF to register and report its Colorado activity passes constitutional muster. Dating to its seminal campaign finance decision, *Buckley v. Valeo*, 424 U.S. 1, 66 (1976), the United States Supreme Court has consistently upheld disclosure laws as advancing three government interests: (1) “providing the electorate with information about the sources of election-related spending,” *Citizens United v. FEC*, 558 U.S. 310, 367 (2010) (quoting *Buckley*, 424 U.S. at 66); (2) deterring actual corruption or the appearance of corruption, *Buckley*, 424 U.S. at 67; and (3) “gathering the data necessary to detect violations of” other campaign finance restrictions. *Id.* at 67-68. In denying DCVF’s Motion to Dismiss, this Court already found that each of these interests would be advanced by requiring DCVF to register (on the facts in the Complaint, which are now undisputed). Order Denying Mot. to Dismiss at 9-10.

On the other side of the exacting scrutiny balance, DCVF has offered “no evidence that its [contributors] may face . . . threats or reprisals” based on their support for DCVF. *See Citizens United*, 558 U.S. at 370. To the contrary, those donors were reported to the FEC, and DCVF has offered no evidence to suggest they faced any “threats, harassment, or reprisals” as a result of that disclosure. *Id.*

Under *Buckley* and its progeny, states can—consistent with the First Amendment—require entities with the major purpose of supporting or opposing candidates for office to register with the state and disclose their contributions and expenditures. Because DCVF fits this description, and because it has offered no evidence to distinguish itself from the other similarly situated entities that the United States Supreme Court has held may be similarly regulated, DCVF’s First Amendment defense fails.

**II. DCVF's contribution to Brauchler for Colorado exceeded the applicable contribution limit.**

In Claim 3, the Division alleges that DCVF violated Colorado law by making a contribution to Brauchler for Colorado in excess of the applicable contribution limit. To prove this claim, the Division must show only that DCVF made a contribution to Brauchler for Colorado that exceeded \$450. *See* 8 CCR 1505-8, Rule 10.17.1(B)(2) (calculating a \$450 limit per election cycle for contributions to candidates for District Attorney). DCVF's own filing with the FEC admits that it did so. Ex. C to Scott Decl. at 3; *see also* Answer ¶ 44.

Colorado law places the obligation for not exceeding the applicable contribution limit on both the candidate and the contributor. Colo. Const. art. XXVIII, § 3(1)(b). There is no dispute that DCVF violated this provision of Colorado law, and DCVF does not offer any affirmative defenses that would excuse its violation. *See generally* Answer at 11 (raising affirmative defenses only as to Claims 1 and 2). The Division is entitled to Summary Judgment.

**III. The Hearing Officer should require DCVF to register as a political committee, report its contributions and expenditures, and pay a penalty of \$11,319.92.**

The agency has discretion in assessing the proper penalty for DCVF's noncompliance. *See, e.g., Campaign Integrity Watchdog v. Griswold*, 2025 COA 18, ¶ 47 (citing *Patterson Recall Committee, Inc. v. Patterson*, 209 P.3d 1210, 1216 (Colo. App. 2009)). Consistent with this authority, the Secretary has promulgated rules that establish the "fine structure for violations." 8 CCR 1505-8, Rule 23.4. Under those rules, the Hearing Officer must consider five factors, including "specific fine amounts outlined in Rule 23.4.3," "appropriate specific action in Rule 23.4.4," and "mitigating and aggravating factors, including those listed in Rule 23.4.5." 8 CCR 2505-8, Rule 23.4.2.

Starting with Claim 3, the Secretary's rules do not provide for a specific fine amount as to a *donor* who exceeds the applicable contribution limit. *But see* 8 CCR 1505-8, Rule

23.4.3(c) (establishing a penalty for *accepting* contributions in excess of the applicable limit of “at least \$100 and 10 percent of the prohibited activity”). The constitution, however, implies that anyone making a contribution in excess of the applicable limits “shall be subject to a civil penalty of at least double and up to five times the amount contributed.” Colo. Const. art. XXVIII § 10(1).

Here, DCVF’s contribution to Brauchler for Colorado exceeded the applicable contribution limit by \$305.56. *See* Ex. A to Scott Decl. Brauchler for Colorado attempted to return that contribution, which is a mitigating factor, but that reimbursement check has never been cashed. Scott Decl. ¶ 9. Regardless, the Division feels that the constitutional penalty, starting at \$611.12 and ranging to \$1,527.80 would be excessive. Accordingly, consistent with the penalty structure for accepting excessive contributions, the Division proposes a penalty of \$100 plus 10 percent of the excess contribution, or **\$130.60**.

As for Claim 1, Rule 23.4.3(a)(1) provides the recommended base penalty for failing to register a committee. Where, as here, a committee receives more than \$5,000 in contributions or makes more than \$5,000 in expenditures while not registered, the recommended fine is “at least \$300 plus at least 10 percent of the total amount of the contributions and expenditures made.” 8 CCR 1505-8, Rule 23.4.3(a)(1)(C).

Here, according to its own FEC filings, DCVF received \$56,922.61 in contributions and made \$56,922.61 in expenditures for a total of \$110,504.86. Exs. B and C to Scott Decl. However, the \$3,340.36 DCVF contributed to Lauren Boebert’s campaign committee should be deducted from this total because DCVF was not required to report this contribution to a federal candidate to the Secretary of State. The Division also believes it appropriate to deduct a proportional equivalent of the Boebert contribution from the expenditures DCVF made for legal and accounting purposes and on hosting the fundraiser. Because the Boebert expenditure constituted 15.3% of the expenditures reported by the Committee to political entities, the



Division proposes deducting 15.3% of the legal and accounting expenditures and the cost of the fundraiser. Together, those expenditures total \$34,456.87, and 15.3% of that amount is \$5,271.90. Exs. B and C to Scott Decl.

Taken together, this would constitute a total deduction of \$8,612.26, leaving the total amount of contributions accepted and expenditures made while unregistered at \$101,892.60. Ten percent of that total is \$10,189.26, which—added to the \$300—results in a recommended base penalty of \$10,489.26.

There are mitigating factors. DCVF cooperated with the Division’s investigation and provided information that allowed the Division to discover the full extent of DCVF’s violations. And most importantly, DCVF’s activity was reported on the FEC website (and its expenditures, but not its contributions, by the recipient state committees)—so the relevant information was available—just not on the timelines established by Colorado or on Colorado’s campaign finance database. Accordingly, the Division proposes to reduce the applicable base penalty from 10% of the total to 7.5%, or \$7,642. Adding that total to \$300 results in the Division’s requested fine for Claim 1: **\$7,942.00**.

As for Claim 2, rule 23.4.3(b)(1) recommends a base penalty of \$100 per report that was not filed “plus 5 percent of the activity not accurately or completely reported.”

According to its FEC filings, DCVF’s first contributions were received on July 31, 2024. Ex. B to Scott Decl. at 2. Accordingly, it was required to file reports on September 3, September 16, September 30, October 6, October 15, October 28, and December 10, 2024.<sup>2</sup> This is a total of 7 reports that DCVF was required to file, but did not, for a total of \$700. Moreover, relying on the same discounts referenced as to Claim 1, the relevant amount of

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<sup>2</sup> The 2024 filing calendar for state political committees is available here: <https://www.coloradosos.gov/pubs/elections/CampaignFinance/calendars/2024/stateFrequent.html>

contributions and expenditures not accurately or completely reported was \$101,892.60. Five percent of this total is \$5,094.62.

Here, again, the Division believes the mitigating factors warrant reducing the recommended penalty from 5% of the total to 2.5%. Here, that leaves \$2,547.32, which added to the \$700 leaves a total penalty on Claim 2 of **\$3,247.32**. Together with the \$130.60 penalty on Claim 3, and the \$7,942.00 penalty on Claim 1, this results in a total penalty of **\$11,319.92**.

Moreover, consistent with Rule 23.4.4(a)(1), and (3), the Hearing Officer should also order DCVF to register as a political committee and file required reports of contributions and expenditures.

### **CONCLUSION**

The Hearing Officer should grant summary judgment to the Division on Claims 1, 2, and 3, impose a monetary penalty of \$11,319.92, and require DCVF to register as a political committee and file required reports of contributions and expenditures.

Respectfully submitted this 12th day of November, 2025.

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## **CERTIFICATE OF SERVICE**

This is to certify that I will cause the foregoing to be served this 12th day of November, 2025, by email and/or U.S. mail, addressed as follows:

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