

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. 2025 AHO 15 (CPF)

ED Case No. 2025-01

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

DOUGLAS COUNTY VICTORY FUND,

Respondent.

REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Respondent Douglas County Victory Fund's ("DCVF") Response to the Motion for Summary Judgment confirms that the material facts in this matter are not in dispute. DCVF qualified as a political committee under Colorado law in 2025, but neither registered as a committee nor reported its contributions and expenditures on either the timeline established by Colorado law or in the location Colorado voters would have expected to find that information.

Aside from the preemption defense the Hearing Officer has already rejected, DCVF now argues only that the First Amendment protects DCVF from the registration and reporting requirements that validly apply to all of its peer committees. But because those requirements

have repeatedly been upheld in both state and federal court dating back to *Buckley v. Valeo*, 424 U.S. 1 (1976), DCVF’s constitutional defense fails as a matter of law.

The Division is entitled to summary judgment on its claims.

REPLY IN SUPPORT OF STATEMENT OF UNDISPUTED MATERIAL FACTS

Because DCVF “agrees with the Division’s statement of undisputed material facts,” Resp. to Mot. for Summ. J. at 2 (Dec. 2, 2025), the Court may accept those facts as true. *See, e.g., Morpew v. Ridge Crane Serv., Inc.*, 902 P.2d 848, 850 (Colo. App. 1995) (“A movant’s affirmative showing of specific facts probative of a right to judgment, uncontradicted by any counter-showing, presents a trial court with no alternative but to conclude that no genuine issue of material fact exists.”).

As to DCVF’s offer of proof regarding Statement 8, the Division has no reason to doubt or dispute that the testimony at a hearing would be in accordance with that offer of proof.

ARGUMENT

I. Colorado’s political committee registration and reporting requirements satisfy exacting scrutiny, including as applied to DCVF.

The United States Supreme Court has consistently upheld reporting and disclosure requirements like those that apply to political committees under Colorado law. *See, e.g., Campaign Integrity Watchdog v. All. for a Safe & Indep. Woodmen Hills*, 2018 CO 7, ¶ 40 (citing *Buckley*, 424 U.S. at 61-68). *Campaign Integrity Watchdog* is instructive. There, an entity that qualified as a political committee under Colorado law argued that disclosure of certain contributions would not be of “legitimate interest to the government or the electorate,” and sought a declaration that the political committee reporting requirements, as applied to that committee, were unconstitutional. *Campaign Integrity Watchdog*, 2018 CO ¶ 37.

The Colorado Supreme Court correctly rejected that argument. Citing to *Buckley*, and *Citizens United v. Fed. Election Comm’n*, 448 U.S. 310, 366-67 (2010), the court held that the state’s informational interest is served by requiring political committees to report their contributions. *Campaign Integrity Watchdog*, 2018 CO ¶ 44. It reasoned that “because [the Committee’s] major purpose is to influence an election,” Colorado voters had an informational interest in all contributions to that committee. *Id.* ¶ 43.

So too here. DCVF does not dispute that in 2024, it had “the major purpose of supporting or opposing candidates for office, as demonstrated by its disbursements to Colorado state candidates and committees.” Statement of Undisputed Material Facts # 9. That fact alone means the state’s valid informational interest attaches to its activity. *Buckley*, 424 U.S. at 66-67.

Moreover, as the Hearing Officer has already concluded, requiring DCVF to register and report on the facts alleged in the Complaint—which are now undisputed—also furthers the state’s anti-corruption and campaign finance enforcement interests. Order Denying Mot. to Dismiss at 10 (Aug. 27, 2025). In short, “all three purposes of reporting and disclosure” recognized by *Buckley* and *Citizens United* “are advanced by requiring DCVF to register and report contributions and expenditures *related to state candidates and offices* to the Colorado Secretary of State.” *Id.*

DCVF recognizes that these registration and disclosure obligations “ordinarily serve important governmental interests.” Resp. to Mot. for Summ. J. at 4. DCVF argues, though, that because it registered with the Federal Election Commission and disclosed its contributions and expenditures to that separate regulatory body, Colorado’s valid interests are not served in this specific case. *Id.* at 4-9. This defense should be rejected for multiple reasons.

First, the Hearing Officer has already considered, and rejected, this same argument. In denying DCVF's Motion to Dismiss, the Hearing Officer considered the argument that "precisely none of these interests are supported by requiring [DCVF] to register with the Secretary and disclose substantially the same information it is already required to disclose to the FEC." Order Denying Mot. to Dismiss at 9-10 (Aug. 27, 2025). The Hearing Officer rejected that argument, and DCVF offers no grounds for reconsideration of that reasoned conclusion.

Second, even if the Hearing Officer were inclined to reconsider that determination, DCVF's argument fails. First, *where* information is disclosed matters. A Colorado voter looking for information about groups seeking to influence Colorado state elections is going to look on Colorado's campaign finance database, not the FEC's.

When information is disclosed matters too. As to contributions to DCVF, those contributions presumably were made at the fundraising event itself: on July 2, 2024. Statement of Undisputed Material Facts # 1. Under Colorado law, all political committees must register with the Secretary *before* accepting contributions. § 1-45-108(3), C.R.S. (2024). A committee registered in time to accept contributions on July 2, 2024, would have filed its first report of contributions and expenditures on August 1, 2024, nearly a month before DCVF even registered with the FEC. Ex. B to Scott Decl. at 1 (establishing FEC registration date as August 31, 2024).

And even though DCVF registered with the FEC on August 31, 2024, it did not actually report its contributions and expenditures—including those dating back to July of that year—until October 15, 2024. *See* Ex. A to Supp. Decl. of Jim Scott at 1. Thus, this information that should have been available—on a Colorado website—to Colorado voters in early-August 2024, was not made available on the FEC website for another two-and-a-half

months. In fact, by the time this information was disclosed on the FEC website, Colorado ballots had already been mailed to Colorado voters.

Colorado has an interest in ensuring that committees that spend substantial sums to influence the votes of Colorado voters on Colorado electors play by the same rules as other committees with the same major purpose. Here, the First Amendment does not allow DCVF to avoid disclosing relevant information to Colorado voters both where those voters would expect to find it and when they would expect it to be reported.

None of the cases DCVF cites are to the contrary. *Citizens for Resp. Government State PAC v. Davidson*, 236 F.3d 1174, 1198 (10th Cir. 2000), stands for the proposition that a state cannot require additional, duplicative reporting directly to political candidates where that same information is already publicly disclosed to a state's voters.¹ It has no relevance to a case where information is being withheld from a state's voters in both the location and along the timelines those voters would expect. So too in *Iowa Right to Life Comm. v. Tooker*, 717 F.3d 576, 598 (8th Cir. 2013).

Finally, DCVF arguments about burden fail for a lack of factual support. *See generally* Resp. to Mot. for Summ. J. at 6-7. DCVF fails to explain what about the state's registration and reporting requirements—requirements that hundreds of committees of all sizes are able to comply with—would have been so burdensome. To the contrary, the record reflects a sophisticated entity well-represented by both legal counsel and financial services professionals. *See* Ex. C to Scott Decl. at 3 (reflecting payments for both legal fees and “accounting & reporting”). Any additional burden on DCVF from having to file in Colorado

¹ *Davidson* also applied strict scrutiny to the law at issue in that case, 236 F.3d at 1198, whereas DCVF acknowledges exacting scrutiny is the appropriate standard for reviewing the disclosure and registration requirements it challenges in this action, Resp. to Mot. for Summ. J. at 3.

is more than offset by the timing and location interests served by requiring such filings. There are no facts in the record that suggest Colorado's informational interest in satisfying those requirements does not outweigh the de minimis burden on DCVF that it must comply with the same laws that similar committees are able to manage. *See Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 607 (2021).

II. That DCVF no longer has remaining funds to pay a penalty is not a relevant mitigating factor.

DCVF agrees with the Division's calculation of the base penalties but argues for a significant departure from those base penalties for Claims 1 and 2 from over \$15,000 down to a "de minimis" fine. Resp. to Mot. for Summ. J. at 9. The Division will not re-hash its arguments for mitigation, and stands by the recommended penalty outlined in its Motion for Summary Judgment.

However, as one ground for mitigation DCVF argues that it "has simply no remaining funds to pay any significant penalty." *Id.* at 10. This should not factor into the Hearing Officer's calculation of the penalty. A committee should not be able to avoid meaningful fines for noncompliance by claiming that it has no funds to pay the fine.

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 9th day of December, 2025.

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CERTIFICATE OF SERVICE

This is to certify that I will cause the foregoing to be served this 9th day of December, 2025, by email and/or U.S. mail, addressed as follows:

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