

STATE OF COLORADO
Department of State
1700 Broadway, Suite 550
Denver, CO 80290



Jena M. Griswold
Secretary of State
Christopher P. Beall
Deputy Secretary of State

BEFORE THE COLORADO DEPUTY SECRETARY OF STATE 1700 Broadway, Suite 550 Denver, Colorado 80290	Election Division Case No: <u>L2024-01</u>
IN THE MATTER OF RHONDA DERN and BOLD VISIONS CONSERVATION	
ORDER OF DISMISSAL	

This matter comes before Christopher P. Beall, Colorado Deputy Secretary of State (“Deputy Secretary”), upon the Election Division’s (“Division”) Motion to Dismiss the Complaint. Having reviewed and considered the Motion and the contents of the file in this matter, the Deputy Secretary grants the Motion and dismisses the complaint against Rhonda Dern, and Bold Visions Conservation to the extent any potential liability against Bold Visions Conservation was based on the activities of Ms. Dern, in this Case No. L2024-01.

LOBBYIST COMPLAINT PROCEDURES

Regulation of lobbyists is governed by Part 3 of the Colorado Sunshine Act, § 24-6-301, et seq., C.R.S., and the Secretary of State’s Rules Concerning Lobbyist Regulation, 8 Code Colo. Regs. 1505-8. Under these provisions, Rule 5 sets forth the complaint process for alleged violations of lobbying regulations. Pursuant to Rule 5.3, the Division conducts an initial review of filed complaints and determines whether to (1) dismiss the complaint if the complainant failed to identify a violation of lobbying requirements or allege sufficient facts to support the alleged violations, or (2) conduct an investigation. If the Division conducts an investigation and determines it has reasonable grounds to believe that a violation of the provisions of Part 3 of the Sunshine Act or the Secretary’s Lobbyist Rules has occurred, it may initiate a

hearing with the Deputy Secretary. See Rule 5.6.1. If, on the other hand, the Division determines that it does not have reasonable grounds to believe that a violation has occurred, it must file a motion to dismiss the complaint with the Deputy Secretary. See Rule 5.5.3.

In the context of this proceeding, where the Division has conducted an investigation and has concluded that there is insufficient evidence to support a finding that Ms. Dern violated Colorado lobbying laws as alleged in the Complaint and, as a result, has filed a Motion to dismiss the Complaint pursuant to Rule 5.5.3, the Deputy Secretary must make a determination on the motion to dismiss. If the Deputy Secretary grants the motion and dismisses the Complaint, the dismissal order is the final agency decision of the Secretary of State's Office, and it may be appealed by any aggrieved party under the Colorado Administrative Procedure Act, § 24-4-105, C.R.S. See Rule 5.5.3.

PROCEDURAL BACKGROUND AND FACTUAL FINDINGS

On March 6, 2024, John Williams (“Complainant”) filed Complaint L2024-01 under 8 Code. Colo. Regs. 1505-8, Rule 5.1 alleging that Ms. Dern violated Colorado lobbying law by failing to register as a professional lobbyist before engaging in lobbying.¹ Mot. Ex. A. Bold Visions Conservation (“BVC”), a conservation organization based in Montana, was also listed as respondent in the Complaint based on the fact that Ms. Dern’s activities were in support of BVC’s activities during the 2024 General Assembly legislative session. The Division notified both Ms. Dern and BVC of the Complaint on March 7, 2024. Mot. Ex. B.

In its initial review, the Division made an initial determination that: (1) the Complaint specifically identified one or more violations of Colorado lobbying laws under section 24-6-301 et seq., C.R.S. and (2) Complainant alleged sufficient facts to support a basis for the violations of the law alleged in the Complaint. Mot. Ex. C. The Division sent a Request for Information to Ms. Dern, who provided a

¹ Mr. Williams filed a separate Complaint – L2024-02 – against Stephen Capra and BVC on the same day, also alleging violations of lobbyist registration and disclosure obligations. See [Complaint](#) (Mar. 6, 2024). The Division also investigated that matter and has filed a formal complaint seeking a hearing on the allegation that Mr. Capra’s activities constituted those of a professional lobbyist and therefore required that he register as a lobbyist. See [Formal Complaint](#), AHO No. 2024-021 (May 13, 2024). The Division elected not to bring a charge against BVC on the basis of Mr. Capra’s alleged activities. See *id.* On May 13, 2024, the Deputy Secretary referred the Capra case to the Department’s Administrative Hearing Officer to conduct a hearing and prepare an initial decision. *Id.* That matter is still ongoing.

response on March 18, 2024. Mot. Ex. D. The Division's investigation revealed the following information:

Ms. Dern is a retired hospice nurse living in Evergreen, Colorado. Mot. Ex. D. She volunteers her time for various causes she supports. *Id.* One of these causes is securing funding for "non-lethal coexistence strategies" to allow for the safe re-introduction of grey wolves to Colorado while also protecting livestock. *Id.* Ms. Dern has volunteered for multiple organizations supporting wildlife coexistence, including the Center for Biological Diversity, the Colorado Wolf Alliance, LLC, and the Rocky Mountain Wolf Project. Mot. at 2. She has never been a paid employee of these organizations, nor has she been paid for her efforts supporting these organizations. Mot. Ex. D.

Ms. Dern also donates money to these organizations, as well as others, including BVC. Mot. at 2. On January 23, 2024, Ms. Dern called BVC's Executive Director, Stephen Capra, to seek his help with Ms. Dern's efforts to speak to Colorado legislators about wildlife conservation. Mot. at 2; Mot Ex. D. Mr. Capra agreed to travel to Denver to help Ms. Dern meet with state legislators when she visited Colorado's State Capitol. *Id.*

On February 14, 2024, Ms. Dern visited the state capitol to ask House members to support Colo. State Rep. Tammy Story's "Wild Carnivores & Livestock Nonlethal Coexistence" bill, which became HB24-1375 when it was introduced on March 13, 2024.² Mot. Ex. D. Ms. Dern and Mr. Capra met with several elected members of the General Assembly, including Representative Story, Representative Karen McCormick, Representative Brianna Titone, Representative Mandy Lindsay, Representative Julie Marvin, and Representative Elizabeth Velasco. *Id.* During these meetings, Ms. Dern expressed her passion for wildlife coexistence and provided her personal letter and handout explaining the benefits of coexistence. *Id.* She did not make appointments to speak with these representatives; instead, she knocked on their office doors with her prepared letter and research. *Id.* Ms. Dern stopped at additional Colorado House members' offices on February 29, 2024, and handed out her personal letter and handout encouraging their support of HB24-1375. *Id.*

² HB24-1375 was assigned to House Committee on Agriculture, Water, & Natural Resources on March 13, 2024, and died in committee on April 1, 2024. See [HB24-1375](#).

In a video Mr. Capra recorded during their visit to the capitol on February 14, 2024, Mr. Capra introduces himself and Ms. Dern, whom he describes as a “rockstar lobbying,” and Ms. Dern describes their day visiting representative’s offices, saying “[t]hey listened deeply, they were very positive, and it’s just been a great day at the Capitol.” Mot. Ex. A. Mr. Capra later posted the video on BVC’s [Facebook page](#). *Id.*

In her response to the Division’s request for information, Ms. Dern explained that she traveled to the Capitol as a private citizen. Mot. Ex. D. She attested that she has not received any compensation related to her advocacy, nor was she reimbursed by any person or organization for costs incurred for her trip to the Capitol. *Id.* She confirmed that she has never registered as a lobbyist, which is consistent with the Division’s search of lobbyists registered with the Secretary of State’s Office. *Id.*; Mot. at 3.

The Division moves to dismiss the underlying complaint pursuant Rule 5.5.3, 8 Code Colo. Regs. 1505-8 on the ground that there is insufficient evidence to support a finding that either Ms. Dern or BVC, in so far as it was involved with Ms. Dern’s activities, violated Colorado lobbying laws as alleged in the Complaint and, thus, the Division should not be required to pursue this matter in an administrative hearing before the Deputy Secretary. For the reasons stated below, the Deputy Secretary agrees with the Division’s conclusion and grants the Division’s Motion to Dismiss.

ANALYSIS

Under Colorado law, professional lobbyists are required to register in with the Secretary of State’s office and file periodic disclosure statements identifying their lobbying income and expenditures. § 24-6-303, C.R.S. Volunteer lobbyists, on the other hand, are not required to register with the Secretary of State.³ *Id.*; see also 8 Code Colo. Regs. 1505-8, Rule 2.2.1. A professional lobbyist is a person who is “compensated by a client or another professional lobbyist for lobbying.” § 24-6-301(6). Lobbying means communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding

³ While not required to register with the Secretary of State, volunteer lobbyists who engage in lobbying of members of the General Assembly at the Capitol **are** required to register with the chief clerk of the Colorado House of Representatives under section (c)(2) of Joint Rule 36 (“Lobbying Practices”) of the Colorado Legislative Rules. See [Colo. Leg. Joint Rule 36](#), § (c)(2). The form for volunteer lobbyists to register with the General Assembly is available at the Legislature’s website. See [Volunteer Lobbyist](#), Colo. Gen. Ass. The Secretary of State has no jurisdiction with regard to the Legislature’s rules for volunteer lobbyists. Instead, any enforcement of the General Assembly’s rule requiring volunteer lobbyists to register with the House’s chief clerk may only be pursued through the General Assembly’s complaint process set out in section (d)(1) of Joint Rule 36. See [Colo. Leg. Joint Rule 36](#), § (d)(1).

in or influencing certain legislative or rule-making activity. § 24-6-301(3.5). “Covered official” includes members of the general assembly. § 24-6-301(1.7). “‘Volunteer lobbyist’ means any individual who engages in lobbying and whose only receipt of money or other thing of value consists of nothing more than reimbursement for actual and reasonable expenses incurred for personal needs, such as meals, travel, lodging, and parking, while engaged in lobbying or for actual expenses incurred in informing the organization making the reimbursement or the members thereof of his lobbying.” § 24-6-301(7).

The Deputy Secretary agrees with the Division’s conclusion that Ms. Dern engaged in “lobbying” as that term is defined in the Sunshine Act by communicating directly with several covered officials to influence their consideration of Representative Story’s bill. Specifically, Ms. Dern met with several covered officials on February 14, 2024, including Representative Story (the sponsor of the bill) and Representatives McCormick, Titone, Lindsay, Marvin, and Velasco, urging them to support the bill by discussing her passion for wildlife coexistence and providing the representatives her personal letter and handout explaining its benefits.

Additionally, Ms. Dern stopped at additional Colorado Democratic House members’ offices on February 29, 2024, and handed out her personal letter and handout encouraging their support of HB24-1375. In the letter, Ms. Dern outlined her personal interest in the topic and her support of the bill. Mot. Ex. D. She also included a link to the website for [Living with Wolves](#), a non-profit organization that provides educational information about wolves. *Id.* The letter did not reference BVC in any capacity. *Id.*

The Deputy Secretary also agrees with the Division that although Ms. Dern engaged in lobbying, she is not a “professional lobbyist” because she was not compensated by any client or professional lobbyist for her lobbying. Ms. Dern acted in her personal capacity when she met with state legislators on February 14 and 29, 2024, and was not compensated or reimbursed by any source, including BVC, for her lobbying or expenses incurred. Thus, Ms. Dern is a volunteer lobbyist and was not required to register or report income and expenditures. The Deputy Secretary therefore concludes that there is insufficient evidence to support a finding that Ms. Dern violated Colorado lobbying laws as alleged in the underlying complaint or that BVC should have registered as a lobbying organization in so far as Ms. Dern’s activities are concerned.

CONCLUSION

Because there is insufficient evidence to support a finding that Respondents violated Colorado lobbying laws, Deputy Secretary grants the Division’s Motion to Dismiss the underlying complaint in this case. This decision is independent form and not preclusive with regard to the allegations in Case No. L2024-02. The determination here in this Case No. L2024-01 constitutes final agency action on the underlying complaint against Ms. Dern and is subject to judicial review under section 24-4-106.

IT IS SO ORDERED.

DONE and **ORDERED** this 4th day of June 2024.

CHRISTOPHER P. BEALL

Deputy Secretary of State



CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this **ORDER OF DISMISSAL** was served on the following parties via electronic mail on June 4, 2024.

Respondents –

Rhonda Dern
rhondadern@me.com

Bold Visions Conservation
Caitlin Wardell, Registered Agent
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Stephen Capra, Executive Director
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Complainant –

John Williams
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Elections Division –

Colorado Secretary of State, Elections Division
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/s/ Christopher P. Beall
Deputy Secretary of State