



BEFORE THE
COLORADO DEPUTY SECRETARY OF STATE

Case No: **Elec. Div'n L2024-03**

In the Matter of

ELECTIONS DIVISION of the SECRETARY OF STATE

Complainant,
v.

COLORADO PALESTINE COALITION, ABDULLAH ELAGHA, and REEMA WAHDAN

Respondents.

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 Abdullah Elagha, Reema Wahdan, and the Colorado Palestine Coalition in this Case No. L2024-03 for the reasons discussed below.

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 it does not have reasonable grounds to believe that a violation has occurred 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, § 24-4-106, C.R.S. See Rule 5.5.3.

PROCEDURAL BACKGROUND AND FACTUAL FINDINGS

On June 18, 2024, Katreena Kirkland (“Complainant”) filed Complaint L2024-03 under 8 Code Colo. Regs. 1505-8, Rule 5.1, alleging that Respondents Colorado Palestine Coalition (“Respondent Coalition”), Reema Wahdan (“Respondent Wahdan”) and Abdullah Elagha (“Respondent Elagha”) violated Colorado lobbying laws. Mot. Ex. A. Specifically, the Complaint alleged that all Respondents violated section 24-6-303, C.R.S., by lobbying without registering as professional lobbyists, and that Respondent Coalition failed to register as a lobbying firm, citing four specific instances:¹

(1) HB24-1169 Committee Testimony. On February 26, 2024, Respondent Wahdan appeared before the House Finance Committee during the General Assembly’s 2024 Regular Session to “discuss support” for HB24-1169, a bill introduced by Representative Elisabeth Epps “to repeal the prohibition against forced divestment of CO PERA funds from Israeli investments and companies.” Mot. Ex. A.

(2) DU Clarion Article – Direct Political Action. During a news interview, Respondent Elagha and Terry Burnsed stated to Cassis Tingley of the *DU Clarion* (the student newspaper at the University of Denver) that they engaged in direct political action to pressure Colorado representatives to end the training exchange program

¹ Complainant also made several allegations in the Complaint and her responses to the Division’s request for information attempting to show that Respondents (and the Colorado Palestine Club) are trying to hide the source of their compensation. See Mot. Ex. A, I. The Division determined that these allegations provided insufficient information to establish that any Respondent is being compensated for lobbying a person who constitutes a “covered official,” and noted that the Division was tasked in this case with investigating allegations of Colorado lobbying law only. Mot. at 19. The Deputy Secretary agrees with the scope of the Division’s authority and its conclusion regarding the sufficiency of the allegations.

between Colorado law enforcement and Israeli military forces. Mot. Ex. A.

(3) 2024 Campus Protests. In 2024 the Colorado Palestine Club² staged protests at university campuses in Colorado and at a university regent's residence to demand the regents establish various policies. Mot. Ex. A. Respondent Wahdan is alleged to be the "principal organizer" of at least one of the protests. *Id.* at 3.

(4) November 28, 2024, Meeting with Colorado State Representatives. On November 28, 2024, Respondent Elagha met with four Colorado state representatives to privately discuss policy during a Special Session of the General Assembly. Mot. Ex. A. The meeting occurred after a protest organized by the Colorado Palestine Club disrupted a session of the state House. Mot. Ex. A.

Based on the allegation that Respondents were lobbyists, the Complaint also alleged that Respondents violated several provisions of section 24-6-308, C.R.S., which prohibit lobbyists from engaging in certain practices while lobbying. Mot. Ex. A.

The Division notified Respondents Wahdan and Elagha of the Complaint on June 18, 2024, and Respondent Coalition on July 9, 2024. Mot. Ex. B.

In its initial review, the Division determined 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

² Complainant asserted that the Respondent Coalition is also known as the Colorado Palestine Club; throughout the Complaint, Complainant sometimes referenced the Colorado Palestine Club and at other times referenced Respondent Coalition. See Mot. Ex. A. As detailed below, Respondent Coalition and the Club are separate and distinct organizations.

Requests for Information to Respondents Elagha and Wahdan, who provided responses. Mot. Ex. E and F. The Division also sent a Request for Information to Complainant, who provided a response. Mot. Ex. I. The Division further requested information from various legislators named in the Complaint, receiving additional information. Mot. Ex. G and H. In addition, the Division reviewed media reports and other communications referenced by the Complaint and conducted its own research that included lobbying databases and records maintained by the Secretary's Office. *See generally* Mot. Ex. J-O.

The Division's investigation revealed the following information, which the Deputy Secretary adopts as his findings of fact:

Respondent Elagha is a full-time employee at a financial services company in its IT Department as a cloud developer and engineer. Mot. Ex. E. He has worked at the company for nearly four years, has no other employment, and this employment is his only source of income. Mot. Ex. E. Respondent Elagha also is a community activist and often speaks on Palestinian issues. Mot. Ex. E. He lives in the state House district represented by Representative Elisabeth Epp. Mot. Ex. E. He denies engaging in activity that constitutes "lobbying" of state representatives during the November 2023 Special Session of the General Assembly or at any other time. Mot. Ex. E. He has never been compensated for lobbying. Mot. Ex. E.

Respondent Wahdan is employed as a full-time university faculty member. Mot. at 4. She is a member of the Colorado Palestine Club, a Facebook group that primarily organizes events of interest to the Club and social gatherings. Mot. Ex. F.

She denies the assertion that her appearance on February 26, 2024, before the House Finance Committee during the 2024 Regular Session of the General Assembly constituted “lobbying” or that she at any other time engaged in activity that would constitute “lobbying” under the statute. Mot. Ex. F. She has not been paid or compensated by Respondent Coalition or the Colorado Palestine Club to lobby or for any other reason. Mot. Ex. F.

Respondent Coalition is not the same organization as the Colorado Palestine Club. Mot. Ex. E and F. Respondent Coalition is a group of organizations made up of nearly two dozen organizations that support Palestine. Mot. at 4-5; Mot. Ex. E. Respondent Elagha sometimes speaks on behalf of Respondent Coalition. Mot. Ex. E. The Colorado Palestine Club is one of the members of Respondent Coalition, according to Respondent Coalition’s website. Mot. at 5. A calendar of events posted on the Colorado Palestine Club’s website indicated that on November 17, 2023, there would be a “SOLIDARITY MARCH: SHUT IT DOWN FOR PALESTINE!” at the Colorado State Capitol. Mot. Ex. K.

Respondents Wahdan and Elagha were not registered with the Secretary of State’s Office as professional lobbyists in either 2023 or 2024. Mot. Ex. L. Nor has either registered with the General Assembly as volunteer lobbyists. Mot. at 5. Neither Respondent Coalition nor Colorado Palestine Club are listed as lobbyist firms or clients of a lobbyist with the Secretary of State. Mot. Ex. L.

Cassis Tingley of the *DU Clarion* interviewed Respondent Elagha and Terry Burnsed for an article, “The State of Palestinian Solidarity in Denver,” published on

February 13, 2023. Mot. Ex. M. According to the news report, Burnsed spoke about “direct political action.” Mot. Ex. M Tingley did not attribute this statement to Respondent Elagha. Mot. Ex. M.

The Colorado General Assembly met in a special session from November 17, 2023, until November 19, 2024, to consider several bills that were introduced regarding property tax relief. Mot. Ex. N. Representatives Jennifer Bacon, Elisabeth Epps, Iman Jodeh, Javier Mabrey, and Tim Hernandez are members of the Colorado General Assembly House of Representatives. Mot. at 6. According to a *Denver Post* news article written by Seth Kalamann, a protest began in the gallery above the floor of the House while the House was in session on November 18, 2023. Mot. Ex. N. The House session was temporarily suspended, and security moved the protesters to the lobby of the Capitol building. Mot. Ex. N.

While in the lobby area, Representatives Jodeh, Hernandez, Mabry, and possibly Bacon, met with protesters, including Respondent Elagha who was among those who protested. Mot. Ex. H and N. Representative Epps was not at the Capitol building that day. Mot. Ex. G. The meeting among these representatives, Respondent Elagha, and others was not private and occurred in front of Colorado State Patrol officers and reporters. Mot. Ex. N and O. Although the *Denver Post* article indicates that one of the House’s sergeants suggested the group meet in a basement room, a meeting in the basement among the legislators and the protesters, including Respondent Elagha, never occurred. See Mot. Ex. E and N.

According to Representative Jodeh, the meeting was a conversation with the protesters with the press in attendance, during which she learned that the protest was about tax revenue going to Israel. Mot. Ex. H; see *a/so* Mot. Ex. K. According to Representatives Jodeh and Mabry, Respondent Elagha did not lobby them during the meeting or at any other time. Mot. Ex. H. These representatives were never lobbied by Respondent Elagha or Respondent Coalition. Mot. Ex. H.

During the 2024 Regular Session of the General Assembly, Representative Epps introduced HB24-1169, which if passed would repeal the ban on the divestiture by Colorado Public Employees Retirement Association (PERA) of investments in Israeli companies. Mot. at 7. Prior to the start of the Regular Session while still considering whether to introduce the proposed bill, Representative Epps contacted many of her constituents, including Respondent Elagha, to solicit their opinions about the bill. Mot. Ex. G. Respondent Elagha expressed his support and encouragement for the proposal. Mot. Ex. G.

The Division moves to dismiss the underlying complaint pursuant to Rule 5.5.3, 8 Colo. Reg. 1505-8, on the ground that the Division does not have reasonable grounds to believe that Respondents 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 set forth below, the Deputy Secretary agrees with the Division and grants the Motion to Dismiss.

ANALYSIS

Under Colorado law, professional lobbyists engaged in lobbying activity in Colorado are required to register with the Colorado Secretary of State 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. *Id.*; *see also* 8 Code Colo. Regs. 1505-8, Rule 2.2.1(a).

A professional lobbyist is a person who is “compensated by a client or another professional lobbyist for lobbying.” § 24-6-301(6). A lobbying firm is a person or entity employing one or more professional lobbyists to lobby on behalf of a client that is not the person or entity. § 24-6-301(3.6). A lobbying firm includes a self-employed professional lobbyist. *Id.* Although lobbying firms must file certain disclosure reports with the Secretary of State, there is no registration requirement under Colorado law. *See id.*

In addition to registration requirements, persons engaged in lobbying are prohibited from engaging in certain practices. § 24-6-308, C.R.S. As examples of such prohibited practices, no person engaged in lobbying shall conceal from a covered official the identity of the person or entity for whom the lobbyist is lobbying; make certain prohibited payments to a covered official; attempt to influence the vote of a covered official in connection with any pending matter by threat of a political reprisal; make certain prohibited campaign contributions; or engage in any other practice that discredits the practice of lobbying or the general assembly. *See* § 24-6-308(1)(c), (f), (h), (l), & (n).

“Lobbying” means communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing certain legislative or rule-making activity. § 24-6-301(3.5). A “covered official” includes a member of the Colorado General Assembly. § 24-6-301(1.7). However, it does not include all government officials; for example, it does not include a regent of a college or university. *See id.*

Section 24-6-301 excludes certain persons from “lobbying.” § 24-6-301(3.5)(d)(III). As relevant here, “lobbying excludes persons who are not otherwise registered as lobbyists and who limit their activities to appearances to give testimony or provide information to committees of the general assembly or at public hearings of state agencies or who give testimony or provide information at the request of public officials or employees and who clearly identify themselves and the interest for whom they are testifying or providing information.” § 24-6-301(3.5)(d)(III)(B).

Considering this law, the Deputy Secretary agrees with the Division’s conclusion that there are not reasonable grounds to believe that any Respondent violated Colorado lobbying law as alleged in the Complaint, as explained below.

(1) HB24-1169 Committee Testimony – Respondent Wahdan

First, the Complaint alleged Respondent Wahdan engaged in unregistered lobbying by testifying in support of HB24-1169 before the House Finance Committee on February 26, 2024. The Deputy Secretary agrees with the Division’s conclusion that this first instance of alleged unregistered lobbying falls squarely within the exception in section 24-6-301(3.5)(d)(III)(B). Under that exception, the term “lobbying” excludes

persons who are not otherwise registered as lobbyists and who limit their activities to giving testimony or providing information to committees of the General Assembly. *Id.* Respondent Wahdan is not registered as a lobbyist. Accordingly, Respondent Wahdan's testimony before the House Finance Committee was not lobbying.

(2) *DU Clarion* Article – Direct Political Action – Respondent Elagha

Second, the Complaint alleged Respondent Elagha engaged in unregistered lobbying by pressuring Colorado representatives as detailed in the *DU Clarion* article. The Deputy Secretary agrees with the Division's conclusion that there are no reasonable grounds to believe that Respondent Elagha engaged in lobbying as alleged. Based on the Division's investigation, Respondent Elagha denied lobbying any Colorado General Assembly member and has never been compensated for lobbying. Moreover, the reference to pressuring Colorado Representatives mentioned in the *DU Clarion* article was not attributed to Respondent Elagha. Accordingly, the *DU Clarion* article does not demonstrate lobbying by Respondent Elagha.³

(3) 2024 Campus Protests – Respondent Wahdan and the Colorado Palestine Club

Third, the Complaint alleged that the Colorado Palestine Club staged protests, which Respondent Wahdan helped organize, at university campuses in Colorado and at

³ During the Division's investigation, Respondent Elagha did admit to appearing before the Denver City Council. However, the Deputy Secretary agrees with the Division that members of the Denver City Council do not fall within the definition of "covered officials" under Colorado's lobbying laws. See § 24-6-301(1.7). Accordingly, Respondent Elagha's appearance before the Denver City Council was not "lobbying" as that term is defined in the statute.

a university regent's residence to demand the regents establish various polices. The Deputy Secretary again agrees with the Division's conclusion that there is no reasonable basis to conclude Respondent Coalition engaged in lobbying as related to this allegation. Respondent Coalition is not the same entity as the Colorado Palestine Club. In any event, as noted above, lobbying extends only to "covered officials," and regents of a college or university do not meet the definition of "covered officials." Nor do the professors, students, employees, or visitors who might witness a campus protest. Accordingly, to the extent Respondent Coalition or Respondent Wahdan was involved, any such activities related to 2024 protests were not lobbying. The Deputy Secretary also generally agrees with the Division about the free speech implications of the protests, and the protection to which they are entitled under Colorado law. *See, e.g., Flores v. City & County of Denver*, 122 Colo. 71, 75, 220 P.2d 373, 374-75 (1950).

(4) November 28, 2024, Meeting with Colorado State Representatives – Respondent Elagha

Fourth, the Complaint alleged that Respondent Elagha engaged in unregistered lobbying by meeting with four House members of the Colorado General Assembly after protests disrupted a Special Session of the General Assembly in November 2023. The Deputy Secretary agrees with the Division's conclusion that there is no basis to conclude that Respondent Elagha engaged in lobbying on this occasion. The only meeting that occurred with those Representatives occurred in the lobby of the Capitol. Although a subsequent meeting with protesters was suggested, it never occurred. And according to Representatives Jodeh and Mabry, Respondent Elagha did not lobby any

legislator during this meeting or at any other time. Complainant has provided no information that contradicts what these legislators told the Division.

(5) Additional Allegation Based on the Division's Investigation

When investigating the Complaint's allegations of the four incidents of unregistered lobbying, the Division learned of another potential instance of lobbying by Respondent Elagha. Specifically, Respondent Elagha revealed to the Division that he had discussed what would eventually become HB24-1169 with Representative Epps before the 2024 Regular Session began. The Deputy Secretary concludes that this conversation was not lobbying as defined by Colorado law because it involved a person who was not a registered lobbyist and who was "provid[ing] information" at the request of a public official without concealing his true identity. See § 24-6-301(3.5)(d)(III)(B). The Deputy Secretary also agrees that there is no information that Respondent Elagha was compensated for this conversation such that Respondent Elagha met the definition of a professional lobbyist required to register with the Secretary of State.

For the foregoing reasons, the Deputy Secretary agrees with the Division's conclusion that there are not reasonable grounds to believe that any Respondent violated section 24-6-303, for failing to register with the Secretary of State before lobbying.

Aside from the allegations that Respondents are unregistered professional lobbyists, the Complaint also alleged that Respondents violated section 24-6-308, which prohibits persons engaging in lobbying from engaging in prohibited practices. The Deputy Secretary agrees with the Division's conclusion that there is no reasonable

basis to conclude Respondents violated section 24-6-308. Before a person can violate that statute, they must be engaged in lobbying. As detailed above, the Deputy Secretary has concluded that there is no reasonable basis to believe that any of the Respondents engaged in lobbying as alleged in the Complaint. Accordingly, the Deputy Secretary agrees that there are not reasonable grounds to believe that Respondents violated section 24-6-308, as alleged in the Complaint.

CONCLUSION

Because there are not reasonable grounds to conclude that Respondents violated Colorado lobbying laws as alleged in the Complaint, the Deputy Secretary grants the Division's Motion to Dismiss the Complaint. This determination constitutes final agency action on Case No. L2024-03 subject to judicial review under section 24-4-106.

IT IS SO ORDERED.

DONE and **ORDERED** this 4th day of November 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 November 4, 2024:

Complainant –

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/s/ Christopher P. Beall
Deputy Secretary of State