

OFFICE OF THE SECRETARY OF STATE, ELECTIONS DIVISION
STATE OF COLORADO

IN THE MATTER OF COLORADO PALESTINE COALITION, ABDULLAH ELAGHA AND
REEMA WAHDAN

L2024-03

MOTION TO DISMISS

The Elections Division of the Secretary of State’s Office (“Division”) moves the Deputy Secretary of State (“Deputy Secretary”) to dismiss the Complaint pursuant to Rule 5.5.3 of the Secretary of State’s Rules Concerning Lobbyist Regulation as the Division does not have reasonable grounds to believe that a violation of section 24-6-301 et. seq., C.R.S., has occurred.¹

PROCEDURAL BACKGROUND

On June 18, 2024, Katreena Kirkland (“Complainant”) filed a Complaint under Rule 5.1 of the Colorado Secretary of State’s Rules Concerning Lobbyist Regulation, alleging that Respondents Colorado Palestine Coalition (“Respondent Coalition”), Reema Wahdan (“Respondent Wahdan”) and Abdullah Elagha (“Respondent Elagha”) violated Colorado lobbying laws in several respects as detailed below.²

The Division notified Respondents Wahdan and Elagha of the Complaint on June 18, 2024, and Respondent Coalition on July 9, 2024.³ Pursuant to Rule 5.3, the Division issued a Notice of Initial Review and Investigation on July 9, 2024, after determining that in the Complaint the

¹ 8 CCR 1505-8, Rule 5.5.3.

² Exhibit A – Complaint. The Complaint consists of 27 pages. For the convenience of the reader(s) of this Motion, the Division has numbered the pages of Exhibit A on the top left of each page. Also, on the Lobbyist Complaint form (Exhibit A. On page 1, Complainant wrote in the space provided for naming the respondent(s) that the Respondent Coalition was one of the Respondents. In her narrative beginning on page 2, Complainant wrote that the Respondent Coalition is also known as the Colorado Palestine Club; however, throughout the Complaint, Complainant sometimes referenced the Colorado Palestine Club and at other times referenced Respondent Coalition. As detailed in the Factual Findings below, Respondent Coalition and the Club are separate and distinct organizations.

³ Exhibit B – Notice of Complaint. The Complaint did not contain an email address or other method of contact for Respondent Coalition. Copies of the Complaint and Notice of Initial Review and Opportunity to Cure were delivered on July 9 to an email address obtained from Respondent Coalition’s website. See Exhibit C – Notice of Initial Review and Investigation.

Complainant had identified potential violations of Colorado lobbying laws and had alleged sufficient facts to support a basis for those alleged violations.⁴

The Division commenced its investigation on July 9, 2024.⁵ The investigation was extended twice, once on August 5, 2024, for an additional thirty days, and again on August 29, 2024, until September 20, 2024.⁶

During its investigation, the Division viewed all media reports and other communications cited by the Complainant in the Complaint, researched various lobbying databases and related records maintained by the Secretary of State's Office, and conducted relevant online research on the Internet. The Division additionally delivered requests for information to the Complainant, Respondents and five members of the General Assembly.⁷ The Division now has concluded its investigation, and based thereon the Division has determined that it does not have reasonable grounds to believe that a violation of section 24-6-301 et. seq., C.R.S. has occurred.

Summary of the Allegations

Complainant alleged that all Respondents lobbied without registering as professional lobbyists in violation of section 24-6-303, C.R.S. and additionally alleged that Respondent Coalition violated the same statute by not registering as a lobbying firm.⁸

Complainant 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.⁹ Some of the alleged violations of 24-6-308, C.R.S., included that Respondents concealed the identity of their principles and donors, attempted to influence public officials with threats, and on behalf of certain candidates for public office conducted fundraising and made campaign contributions while the General Assembly was in session.¹⁰

⁴ 8 CCR 1505-8, Rule 5.3; Exhibit C – Notice of Initial Review and Investigation.

⁵ Exhibit C.

⁶ Exhibit D - Notices of Investigation Deadline Extensions.

⁷ See generally Exhibits E – I. Of the five legislators contacted by the Division, only Representative Tim Hernandez failed to respond to the Division's efforts to obtain information from him.

⁸ Exhibit A, page 2.

⁹ *Id.*

¹⁰ See Exhibit A generally.

As to the allegations that Respondents violated section 24-6-303, C.R.S., Complainant alleged four, bullet-pointed incidents of “unregistered professional lobbying of Colorado elected officials.”¹¹ Specifically:

- On February 26, 2024, Respondent Wahdan appeared before the House Finance Committee during the General Assembly’s 2024 Regular Session to “discuss support” for HB 24-1169 that had been introduced by Representative Elisabeth Epps “to repeal the prohibition against forced divestment of CO PERA funds from Israeli investments and companies;”¹²
 - A news interview in February 2023, during which “[Respondent] Elagha and Terry Burnsed claimed to Cassis Tingley of the DU Clarion that they “engaged in ‘direct political action [sic] to pressure Colorado representatives to end the training exchange program between Colorado law enforcement and Israeli military forces;”¹³
- Protests in 2024 staged by the Colorado Palestine Club at university campuses in Colorado and at a university regent’s residence, during which the “protests made various demands of the regents to establish policies, such as divesting from all investments in companies that do business in Israel in any way, stopping collaborative research efforts with Israel, bringing in Palestinian staff and students through the ‘welcome corps’ program sponsorships and creating Islamic Centers on campus.”¹⁴
- Based on a Denver Post news report, Respondent Elagha met with four Colorado state representatives (Representatives Iman Jodeh, Jennifer Bacon, Javier Madrey, and Tim Hernandez) to “privately discuss policy” on November 28, 2024, during a Special Session of the General Assembly.¹⁵ The meeting occurred after a protest organized by the Colorado Palestine Club “disrupt[ed] a session of the state house.”¹⁶

¹¹ Exhibit A, pages 2-4. Complainant did not allege the four incidents in the order in which they happened chronologically. To remain consistent, the Division will list and address the four incidents in the order in which the incidents are alleged in the Complaint.

Exhibit A, page 3

¹² Exhibit A, page 2.

¹³ Exhibit A, pages 2-3. The DU Clarion is the student newspaper at the University of Denver.

¹⁴ Exhibit A, page 3.

¹⁵ Exhibit A, pages 3-4. The Special Session ran from November 17, 2023, until November 20, 2023. Complainant’s allegation that these events occurred on November 28, 2023, likely is a typographical error. Technically, a special session is called an extraordinary session in Colorado.

¹⁶ Exhibit A, pages 3-4.

FACTUAL FINDINGS

The Division makes the following factual findings.

Respondent Abdullah Elagha is a full-time employee at a financial services company in its IT Department as a cloud developer and engineer.¹⁷ He has worked at the company for nearly four years, and this employment is his only source of income.¹⁸ He has no other employment.¹⁹ Respondent Elagha also is a community activist and often speaks on Palestinian issues.²⁰ The only compensation he receives comes from his employment with the financial services company.²¹ He lives in State Representative's Elisabeth Epp's district.²² He denies lobbying state representatives during the November, 2023 Special Session of the General Assembly or at any other time.²³ He has never been compensated for lobbying.²⁴

Respondent Reema Wahdan is employed as a full-time university faculty member.²⁵ She is a local activist for human rights.²⁶ She is a member of the Colorado Palestine Club, a Facebook group that primarily organizes events of interest to the Club and social gatherings.²⁷ She is aware of efforts locally to help displaced families in Gaza, including a GoFundMe page, but she is not involved in these efforts.²⁸ She denies lobbying during her appearance before the February 26, 2004 hearing before the House Finance Committee during the 2004 Regular Session of the General Assembly or at any other time.²⁹ She has not been paid or compensated by Respondent Coalition or the Colorado Palestine Club to lobby or for any other reason.³⁰

Respondent Coalition is not the same organization as the Colorado Palestine Club.³¹ Respondent Coalition is a group of organizations.³² It does not have individual members but instead is made

¹⁷ Exhibit E – Respondent Elagha's Responses to Requests for Information, pages 12-13.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Exhibit E, page 3.

²³ Exhibit E, pages 3-5, 7, 12-13.

²⁴ *Id.*

²⁵ The Division confirmed this information over the phone with Respondent Wahdan on September 23, 2024.

²⁶ *Id.*

²⁷ *Id.* See also Exhibit F - Respondent Wahdan's Responses to Requests for Information, pages 1, 7.

²⁸ See Footnote 25.

²⁹ Exhibit F, pages 2-5.

³⁰ *Id.*

³¹ Exhibits E, page 2, and F, page 1.

³² [Respondent Coalition website](#); Exhibit E, page 2.

up of nearly two dozen organizations that support Palestine solidarity.³³ Respondent Elagha sometimes speaks on behalf of Respondent Coalition.³⁴

The Colorado Palestine Club is one of the members of Respondent Coalition, according to Respondent Coalition’s website.³⁵ The Colorado Palestine Club was formed in 2017 and periodically posts a calendar of events.³⁶ The Calendar posted for events during the week of November 14 to November 17, 2023, indicates that on November 17 there will be a “SOLIDARITY MARCH: SHUT IT DOWN FOR PALESTINE!” at the Colorado State Capitol.³⁷

Respondents Wahdan and Elagha were not registered with the Secretary of State’s Office as professional lobbyists in either 2023 or 2024.³⁸ Nor has either registered with the General Assembly as volunteer lobbyists.³⁹ Neither Respondent Coalition nor Colorado Palestine Club are listed as lobbyist firms or clients of a lobbyist with the Secretary of State.⁴⁰ Respondents Wahdan and Elagha have never received compensation of any kind to lobby.⁴¹

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, 2023.⁴² According to the news report, Terry Burnsed spoke about “direct political action.”⁴³ Tingley did not attribute this statement to Respondent Elagha.⁴⁴ According to the news report, Terry Burnsed is an organizer and member of Jewish Voice For Peace and a member of the Democratic Socialist Party and the Colorado May Day Club.⁴⁵ Tingley reported that these organizations are part of Respondent Coalition.⁴⁶ No state legislators are mentioned in the news report; several Congressional house representatives from Colorado are mentioned.⁴⁷ Respondent Elagha did appear before the Denver City Council and spoke about ending the joint training activities of the

³³ *Id.*

³⁴ Exhibit E, page 12.

³⁵ [Colorado Palestine Club Facebook Page](#); See Footnote 32.

³⁶ *Id.* – See Photos section of the website; See also Exhibit J – Facebook Page Transparency.

³⁷ Exhibit K – Facebook Page Calendar.

³⁸ Exhibit L – Lobbyist and Client Search, pages 1-2.

³⁹ [General Assembly Registered Voluntary Lobbyist Register](#).

⁴⁰ Exhibit L, pages 3-5.

⁴¹ Exhibit E, pages 3-5, 7, 12-13; Exhibit F, pages 2-5.

⁴² [DU Clarion news article](#). See also Exhibit M for a pdf copy of the news article.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See Footnote 42.

Denver Police Department and the Israeli military, an issue mentioned in the news article.⁴⁸ Respondent Elagha did not speak to any member of the General Assembly, however, regarding this issue.⁴⁹

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.⁵⁰ Representatives Jennifer Bacon, Elisabeth Epps, Iman Jodeh, Javier Mabrey, and Tim Hernandez are members of the Colorado General Assembly House of Representatives.⁵¹ 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, 2023.⁵² House session was temporarily suspended and security moved the protesters to the lobby of the Capitol building.⁵³

While in the lobby area, House Representatives Iman Jodeh, Tim Hernandez, Javier Mabry, and possibly Jennifer Bacon, met with protestors, including Respondent Elagha who was among those who protested.⁵⁴ Representative Epps was not at the Capitol building that day.⁵⁵ The meeting among the aforementioned representatives, Respondent Elagha, and others was not private and occurred in front of Colorado State Patrol officers and reporters.⁵⁶ There is a photograph of the meeting that was published with a news report in Colorado Politics.⁵⁷ 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.⁵⁸

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 taxes going to Israel.⁵⁹ According to Representatives Jodeh and Mabry, Respondent Elagha did not lobby them during

⁴⁸ Exhibit E, page 3; See Footnote 42.

⁴⁹ *Id.*

⁵⁰ [Denver Post news article](#); See also Exhibit N for a pdf copy of the news article. In Colorado, a special session technically is called an extraordinary session.

⁵¹ [General Assembly List of Legislators as of March 2024](#).

⁵² See Footnote 50.

⁵³ *Id.*

⁵⁴ *Id.*; Exhibit H - Legislators Responses to Requests for Information, page 10.

⁵⁵ Exhibit G – Representative Epps's Responses to Requests for Information, pages 1, 4.

⁵⁶ [Denver Post news article](#); See also Exhibit N for a pdf copy.

⁵⁷ [Colorado Politics news article with photograph](#); See also Exhibit O for a pdf copy. The photograph is reproduced in the Analysis section of this Motion.

⁵⁸ See Footnote 56; Exhibit E, page 14.

⁵⁹ Exhibit H, page 2. See also Exhibit K.

the meeting or at any other time.⁶⁰ These representatives were never lobbied by Respondent Elagha or Respondent Coalition.⁶¹

During the 2024 Regular Session of the General Assembly, Representative Epps introduced HB 24-1169, which if passed would repeal the ban on the divestiture by Colorado PERA of investments in Israeli companies.⁶² 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.⁶³ Respondent Elagha expressed his support and encouragement for the proposal.⁶⁴

ANALYSIS

The Division moves the Deputy Secretary to dismiss the Complaint pursuant to Rule 5.5.3 of the Secretary of State's Rules Concerning Lobbyist Regulation, as the Division does not have reasonable grounds to believe that a violation of section 24-6-301 et. seq., C.R.S., has occurred.⁶⁵

INTRODUCTION

Section 24-6-301 et. seq., C.R.S., is part of Colorado's Sunshine Law and pertains to the regulation of lobbyists.⁶⁶ Any person who believes that there has been a violation of Colorado's lobbyist regulation laws may file a complaint with the Division pursuant to Rule 5.1.⁶⁷ If the Division determines that the complaint meets certain requirements, it must conduct an investigation of the alleged violation(s)⁶⁸. If after the investigation the Division does not have reasonable grounds to believe that a violation of Section 24-6-301 et. seq., C.R.S., has occurred,

⁶⁰ Exhibit H, pages 2-3, 8-9. Representative Bacon, who responded through Jeremiah Barry, Deputy Director of the Office of Legislative Legal Services, did not recall ever speaking with Respondents Elagha or Wahdan. Exhibit H, page 10.

⁶¹ *Id.*; Exhibit H, pages 2-3, 8-10.

⁶² [HB24-1169](#).

⁶³ Exhibit G, page 1; Exhibit E, page 3.

⁶⁴ *Id.*

⁶⁵ 8 CCR 1505-8, Rule 5.5.3.

⁶⁶ Article 6 of Title 24, C.R.S., is Colorado's Sunshine Law.

⁶⁷ 8 CCR 1505-8, Rule 5.1.

⁶⁸ 8 CCR 1505-8, Rules 5.31 and 5.3.2.

the Division must file a motion to dismiss the complaint with the Secretary of State or their designee.⁶⁹

Complainant filed a 27-page Complaint, making numerous, detailed allegations against the Respondents.⁷⁰ As to violations of Section 24-6-301 et. seq., C.R.S., Complainant alleged that Respondents Wahdan and Elagha lobbied various elected officials without registering as professional lobbyists.⁷¹ Complainant also alleged that members and directors of Respondent Coalition lobbied without registering and acted as an unregistered lobbying firm.⁷² Finally, Complainant alleged that all Respondents engaged in practices prohibited by section 24-6-308, C.R.S.⁷³

THE APPLICABLE LAW

Section 24-6-303(1), C.R.S., states:

- (1) Before lobbying, a *professional* lobbyist shall file an electronic registration statement with the secretary of state that contains:
 - (a) His or her full legal name, business address, and business telephone number;
 - (b) The name, address, and telephone number of his or her employer, if applicable;
 - (c) The name, address, and telephone number of the client for whom he or she will be lobbying; and
 - (d) The name, address, and telephone number of any other professional lobbyist for whom he or she is lobbying on a subcontract basis.⁷⁴

⁶⁹ 8 CCR 1505-8, Rule 5.5.3. The Deputy Secretary of State is the designee of the Secretary of State for the purpose of determining whether to dismiss the complaint. Dismissal of the complaint is final agency action.

⁷⁰ Pages 2 through 27 also were attached to a separate Campaign Finance Complaint (2024-44) filed by the Complainant on the same day she filed the Complaint in this matter. Many of the allegations in Pages 2 through 27 are not relevant to Colorado's lobbying regulation laws or campaign and political finance laws.

⁷¹ Exhibit A, pages 2-4.

⁷² *Id.*

⁷³ Exhibit A, page 8-13.

⁷⁴ Rule 2.1.1 also requires that a professional lobbyist register before lobbying. 8 CCR 1505-8, Rule 2.1.1.

(Emphasis supplied).

In relevant part, Section 24-6-301(3.5)(a)(I) defines “lobbying” to include direct communication (or soliciting others to communicate) with a “covered official” for the purpose of aiding in or influencing that covered official in “the drafting, introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, or veto” on:

- (A) any bill, resolution, amendment, nomination, appointment, or report, whether or not in writing, pending or proposed for consideration by either house of the Colorado General Assembly, or committee thereof, or;
- (B) any other matter pending or proposed in writing by a covered official for consideration by either house of the General Assembly, or committee thereof.⁷⁵

Under the above definition, lobbying can occur regardless of whether the General Assembly is in session.⁷⁶

A relevant exception to the definition of lobbying excludes testimony or information provided by members of the public to committees of the General Assembly.⁷⁷ Specifically:

‘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.⁷⁸

A “covered official” includes a member of the Colorado General Assembly, among others.⁷⁹ A regent of a college or university does not fall within the definition of a “covered official.”⁸⁰

The registration requirements of Section 24-6-303(1), C.R.S., apply only to a “professional lobbyist.” Section 24-6-301(6) defines a “professional lobbyist” as “a person, business entity,

⁷⁵ Section 24-6-301(3.5)(a), C.R.S. The definition of “lobbying” includes certain other activities that do not apply to the pending Complaint

⁷⁶ Section 24-6-301(3.5)(a)(I)(A)-(B), C.R.S.

⁷⁷ Section 24-6-301(3.5)(d)(III)(B), C.R.S.

⁷⁸ *Id.*

⁷⁹ Section 24-6-301(1.7), C.R.S.

⁸⁰ *Id.*

including a sole proprietorship, or an employee of a client, who is *compensated* by a client or another professional lobbyist for lobbying.” (Emphasis supplied). A “client” essentially is the person who hires one or more lobbyists to lobby on behalf of that person.⁸¹

Unlike a professional lobbyist, a “volunteer lobbyist” under Colorado law is a lobbyist who is not being compensated for lobbying.⁸² Specifically, section 24-6-301(7), C.R.S., defines “volunteer lobbyist” as:

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.”

Volunteer lobbyists need not register with the Secretary of State before lobbying but must register with the Colorado General Assembly.⁸³

Section 24-6-301(3.6), C.R.S., defines a “lobbying firm” as:

a person or entity employing one or more professional lobbyists to lobby on behalf of a client that is not the person or entity. ‘Lobbying firm’ includes a self-employed professional lobbyist.

There is no requirement under Colorado law that a lobbying firm must register.⁸⁴ However, a lobbying firm must file certain disclosure reports with the Secretary of State.⁸⁵

Section 24-6-308, C.R.S., prohibits any person who is engaged in lobbying from committing certain acts. The statute applies to lobbying regardless of whether the person lobbying is a professional lobbyist.⁸⁶ As relevant to the allegations in the Complaint, section 24-6-308, C.R.S., prohibits the following conduct:

⁸¹ Section 24-6-301(1), C.R.S., in relevant part defines a “client” as “the person who employs or retains the professional services of one or more lobbyists to undertake lobbying on behalf of that person.” Section 24-6-301(4), C.R.S., defines “person” broadly to include individuals and various types of organizations, associations, and other entities.

⁸² Section 24-6-301(7), C.R.S.

⁸³ Section 24-6-303(6), C.R.S.; 8 CCR 1505-8, 2.2.1(a).

⁸⁴ 8 CCR 1505-8, 3.1.1.

⁸⁵ *Id.*

⁸⁶ Section 24-6-308, C.R.S., begins: “No person engaged in lobbying shall”

- (a) . . .
- (c) Conceal from a covered official the identity of the person or entity for whom the lobbyist is lobbying;
...
- (f) Make any form of payment to a covered official as compensation for any interest in real or personal property or the provision of services in excess of the amount of compensation that would be paid by a person who is not a lobbyist for such interest or services in the ordinary course of business;
...
- (h) Attempt to influence the vote of a covered official in connection with any pending matter by threat of a political reprisal, including without limitation the promise of financial support of, or opposition to, the covered official's candidacy at any future election;
...
- (l) Make a campaign contribution in excess of the applicable limitations established by law or rule or make, solicit, or promise to solicit a campaign contribution during the period when lobbyists are prohibited from making such contributions under section 1-45 dash 105.5, C.R.S;
...
- (n) Engage in any other practice that discredits the practice of lobbying or the general assembly.⁸⁷

RESPONDENTS DID NOT VIOLATE SEC. 24-6-303, C.R.S.

Complainant alleged four, bullet-pointed incidents of “unregistered professional lobbying of Colorado elected officials engaged in by Mrs. Wahdan and Mr. Elagha under the name of the

⁸⁷ Section 24-6-308, C.R.S.

Colorado Palestine Club.”⁸⁸ As noted, the Colorado Palestine Club is a Facebook group and is one of nearly two dozen separate organizations that are part of Respondent Coalition.⁸⁹

The first incident of unregistered lobbying allegedly occurred when Respondent Wahdan appeared before a House committee during the 2024 General Session to “discuss support” for HB 24-1169.⁹⁰ Complainant wrote in the Complaint:

On February 26th 2024 . . . Mrs. Wadhan [*sic*] appeared before the House Committee on finance to discuss support for HB24-1169, which was a bill exclusively sponsored and supported by Elizabeth [*sic*] Epps. . . .⁹¹

Several exceptions to what constitutes “lobbying” exist in section 24-6-301(3.5), C.R.S. One such exception applies to this allegation. Section 24-6-301(3.5)(d)(III)(B), C.R.S. reads:

‘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

This first instance of alleged unregistered lobbying falls squarely within the exception. There is no dispute that Respondent Wahdan was not registered as a lobbyist.⁹² By enacting this exception to the definition of “lobbying,” the General Assembly specified that its intent was “to achieve a more uniform application of the lobbying laws to witness testimony and to clarify the ability of the public to provide testimony to the general assembly and state agencies.”⁹³

Because of the exception, the Division does not have reasonable grounds to believe that Respondent Wahdan was lobbying as defined under Colorado law when she gave testimony to the House Committee in February, 2024.⁹⁴ Additionally, Respondent Wahdan was not compensated by anyone to appear before the Committee and testify or provide information.⁹⁵

⁸⁸ Exhibit A, pages 2-4.

⁸⁹ As indicated in Footnote 13, the Division confirmed this information over the phone with Respondent Wahdan. See also Exhibit F, pages 1, 7.

⁹⁰ Exhibit A, page 2. Reference in this Motion to a “first” or “second” incident, and so on, refers to the order in which the incidents are alleged in the Complaint, not when they happened chronologically.

⁹¹ Exhibit A, page 2.

⁹² Exhibit J, page 2.

⁹³ Section 24-6-301(3.5)(d)(III)(A), C.R.S.

⁹⁴ See 8 CCR 1505-8, Rules 5.5.3 and 5.6.1, setting forth the standard that the Division must use when determining whether to (1) move to dismiss a complaint, or (2) initiate a hearing on the complaint.

⁹⁵ Exhibit F, pages 2-5.

The second incident of unregistered lobbying, according to the Complainant, was described in a news interview that occurred over a year before the Complaint was filed. Complainant alleged that:

[a]t some point between May 15th 2021 and February 13 2023, Mr. Elagha and Terry Burnsed claimed to Cassis Tingley of the DU Clarion that they engaged in ‘direct political action [*sic*] to pressure Colorado representatives to end the training exchange program between Colorado law enforcement and Israeli military forces. . . . This appears to have been targeted at ending the policy which allows for Denver police to be trained in anti-terror enforcement in Israel based on links in the articles to their proposals which were subsequently deleted.’⁹⁶

As support for the above allegation, the Complainant cited in a footnote in the Complaint a DU Clarion news article in which allegedly Respondent Elagha and Terry Burnsed said they were engaged in “direct political action” to pressure Colorado representatives to end the training exchange program.⁹⁷ The DU Clarion reporter attributed the statement to Terry Burnsed only:

Burnsed spoke of direct political action to pressure Colorado representatives to end the training exchange program between Colorado law enforcement and Israeli military forces, coined ‘the deadly exchange’ by JVP and which Burnsed called ‘a birthright trip for cops.’⁹⁸

No Colorado state representative was identified in the news article, and the Complainant has provided no other relevant information than the news article regarding this allegation.⁹⁹ There are Congressional house representatives identified in the article, but a member of Congress does not fall within the definition of “covered official” in section 24-6-301(1.7), C.R.S.¹⁰⁰

Respondent Elagha denied lobbying any Colorado General Assembly member but did reveal to the Division that he appeared before the Denver City Council and spoke against the training

⁹⁶ Exhibit A, pages 2-3. As noted, the DU Clarion is the student newspaper at Denver University.

⁹⁷ Exhibit A, page 2.

⁹⁸ [DU Clarion news article](#). See also Exhibit M for a pdf copy of the news article. Terry Burnsed, according to the news article, is described as an “organizer” and is a member of Jewish Voice for Peace (JVP), Democratic Socialists of America (DSA), and the Colorado May Day Club. According to the news article and Respondent Coalition’s website, these organizations are part of the Respondent Coalition. (See Footnote 32 for link to the website). Nothing in the news article indicates that Burnsed speaks for the Respondent Coalition or for Respondent Elagha, and the Division has not discovered anything that so indicates.

⁹⁹ See the link in Footnote 98 and generally Exhibit I – Complainant’s Responses to Requests for Information.

¹⁰⁰ See the link in Footnote 98.

program.¹⁰¹ The members of the Denver City Council likewise do not fall within the definition of “covered officials” under Colorado’s lobbying laws, assuming for the sake of argument Respondent Elagha’s public appearance before the Council constituted lobbying.¹⁰² Finally, Respondent Elagha has never been compensated for lobbying anyone.¹⁰³ The Division concludes that it does not have reasonable grounds to believe that Respondent Elagha lobbied a “covered official” when he spoke to the DU Clarion or appeared and spoke before the Denver City Council.

The third incident of alleged lobbying by unregistered professional lobbyists occurred during the 2024 protests at university campuses in Colorado and at a university regent’s residence¹⁰⁴ According to the Complaint, these protests, allegedly staged by the Colorado Palestine Club, occurred from March 2024, through May 2024.¹⁰⁵ The Complainant described the lobbying as follows:

These protests made various demands of the regents to establish policies, such as divesting from all investments in companies that do business in Israel in any way, stopping collaborative research efforts with Israel, bringing in Palestinian staff and students through the ‘welcome corps’ program sponsorships and creating Islamic Centers on campus.¹⁰⁶

Although none of the Respondents are mentioned specifically when the Complainant describes this third incident, she did allege in a different section of the Complaint that Respondent Wahdan engaged in “paid lobbying activity” in connection with campus protests.¹⁰⁷ Complainant alleged that Respondent Wahdan was “the principal organizer” of “the Auraria Campus protests” in May 2024 and received “payments” and “micro donations online” in connection with that activity.¹⁰⁸ Complainant concluded that Respondent’s activities were “additional paid lobbying activity” since university regents are “Colorado state elected officials.”¹⁰⁹

¹⁰¹ Exhibit E, page 3-5, 7, 12-13; The Denver Police Department participated in the training program with the Israeli military, according to the Complainant. See Exhibit I, pages 3-4.

¹⁰² Section 24-6-301(1.7), C.R.S.

¹⁰³ Exhibit E, pages 3-5, 7, 12-13.

¹⁰⁴ Exhibit A, page 3.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Exhibit A, page 6. Complainant wrote: “It should be noted that the divestment demands were being made of the regents specifically and that regents of Denver Metro University and the University of Colorado are also Colorado state elected officials, making this additional paid lobbying activity.”

¹⁰⁸ Exhibit A, page 4.

¹⁰⁹ See Footnote 107.

University regents are not included in the definition of “covered officials” under section 24-6-301(1.7), C.R.S. As noted above, Colorado lobbying laws prohibit unregistered professional lobbyists from lobbying only “covered officials.”¹¹⁰ Furthermore, protest is a protected form of free speech.¹¹¹ The Colorado Supreme Court long has recognized that the Colorado Constitution gives Coloradans greater protection of free speech than the First Amendment under the U.S. Constitution.¹¹² The Division does not have reasonable grounds to believe that these protests alleged by the Complainant constituted lobbying of covered officials as defined under Colorado law.

The fourth incident of unregistered professional lobbying described in the Complaint allegedly occurred during a “private meeting” among Respondent Elagha and four House members of the General Assembly after protesters disrupted a Special Session of the General Assembly in November, 2023.¹¹³ Several bills were introduced during the Special Session but all pertained in some fashion to real estate property tax relief.¹¹⁴ Citing a Denver Post news article, Complainant alleged:

On November 28th 2023, at 9:46am after disrupting a session of the state house with ‘from the river to the sea’ chants, Mr. Elagha met with Iman Jodeh, Jen Bacon, Javier Madrey and Tim Hernandez privately to discuss policy, as reported by the Denver Post.¹¹⁵

The disruption of the House and subsequent meeting described above actually occurred on Saturday, November 18, 2023, during the morning session of the General Assembly.¹¹⁶ Reporter Seth Kalamann of the Denver Post described the events as follows:

A group of pro-Palestine protesters briefly interrupted the Colorado House of Representatives on Saturday morning, shouting from the balcony overlooking the House floor and calling for lawmakers to support a ceasefire in Gaza. Lawmakers

¹¹⁰ Sections 24-6-301(1.7) and 24-6-303, C.R.S.

¹¹¹ *Flores v. Denver*, 220 P.2d 373 (Colo. 1950) – Convictions of protesters arrested for disturbing the peace when protesting “vociferously” at the Governor’s Mansion over conditions in Golden, Colorado leading to the “tragic death” of Reuben Garcia were overturned on free speech grounds.

¹¹² *Bock v. Westminster Mall Co.*, 819 P.2d 55, 59-60 (Colo. 1991) – “Colorado’s tradition of ensuring a broader liberty of speech is long. For more than a century, this Court has held that Article II, section 10 [of the Colorado Constitution] provides greater protection of free speech than does the First Amendment.” (Citations omitted).

¹¹³ Exhibit A, pages 3-4.

¹¹⁴ See Footnote 116 below for a link to the news article. Also see [2023 Special Session Bills](#).

¹¹⁵ Exhibit A, page 3.

¹¹⁶ [Denver Post news article](#); See also Exhibit N for a pdf copy. The Special Session ran from November 17, 2023, until November 20, 2023. As noted, Complainant’s allegation that these events occurred on November 28, 2023, likely is a typographical error.

had just reconvened for the morning when a small group of protesters unfurled Palestinian flags and a banner calling for an end to Israel's occupation while one man shouted for lawmakers to condemn Israel's campaign in Gaza. Troopers from the Colorado State Patrol, who oversee security in the Capitol, shepherded the dozen or so protesters out of the balcony area. The group then began to chant from the building's interior, watched by law enforcement. A group of Democratic lawmakers - Reps. Iman Jodeh, Tim Hernandez, Jen Bacon and Javier Mabry - spoke with the group, and one of the House's sergeants - the chambers quasi-security force - told the protesters they could go down to a basement room to talk further with the legislators. Shortly after, the chanting restarted, including with a promise to return to protest again. The troopers then directed the group into a stairwell and out of the building.¹¹⁷

A meeting in the basement of the Capitol never occurred.¹¹⁸ The meeting described in the Complaint as "private" occurred in the lobby of the Capitol. On the next page is a photograph of the meeting that appeared in a similar news report in Colorado Politics.¹¹⁹ In response to the Division's Request for information the Complainant provided the same photograph as proof of the meeting.¹²⁰ Colorado State Patrol officers can be seen in the photograph as well as what appear to be reporters. From right to left, Representatives Tim Hernandez, Iman Jodeh, and Javier Mabry can be seen listening to someone whose view is blocked by Respondent Elagha, who stands to the left with his back to the photographer.¹²¹

REMAINDER OF PAGE LEFT BLANK TO ACCOMMODATE PHOTOGRAPH

¹¹⁷ *Id.*

¹¹⁸ Exhibit E, page 14.

¹¹⁹ [Colorado Politics news article](#); See also Exhibit O for a pdf copy.

¹²⁰ Exhibit I, page 31.

¹²¹ *Id.* In her responses, Complainant identified Respondent Elagha in the photograph. The Division recognizes Reps. Hernandez, Jodeh, and Mabry based on numerous, unrelated news reports and websites maintained by the representatives respectively over time.



According to Representatives Jodeh, and Mabry, Respondent Elagha did not lobby any legislator during this meeting or at any other time.¹²² Representative Jodeh described what occurred as “a conversation in the hall with the protesters.”¹²³ She advised that “[p]ress was also there.”¹²⁴ She further stated “I asked what they were protesting, which was taxes going to Israel.”¹²⁵ Complainant has provided no information that contradicts what these legislators told the Division.¹²⁶ Other than citing to the newspaper articles referenced above, the Complainant has provided no other information indicating that lobbying occurred during this meeting.¹²⁷ The Division does not have reasonable grounds to believe that Respondent Elagha lobbied covered officials in the fourth incident of unregistered professional lobbying alleged by the Complainant.

When investigating the Complainant’s allegations of the four incidents of unregistered lobbying, the Division learned of another incident that may fall within the broad definition of “lobbying” under Colorado law. Asked by the Division if what eventually became HB24-1169 was discussed during the alleged “private meeting,” Respondent Elagha revealed to the Division a phone conversation he had with Representative Elisabeth Epps before the 2024 Regular Session

¹²² Exhibit H, pages 2-3, 8-9. As noted, Representative Bacon responded through Jeremiah Barry, Deputy Director of the Office of Legislative Legal Services and did not recall being lobbied by Respondent Elagha.

¹²³ Exhibit H, page 2.

¹²⁴ *Id.*

¹²⁵ *Id.* See also Exhibit K.

¹²⁶ See generally Exhibit I.

¹²⁷ *Id.*

began, during which they discussed what eventually became HB24-1169.¹²⁸ Representative Epps sponsored and filed HB24-1169 during the 2024 Regular Session.¹²⁹ If passed, the proposed bill would have repealed the ban on divestiture of Colorado PERA investments in Israeli companies.¹³⁰

According to Representative Epps, she phoned Respondent Elagha, as one of her constituents, to solicit his opinion about the proposed bill she was considering.¹³¹ Regarding the conversation, she stated:

I would've asked him his thoughts on that, and solicited his opinion about the possibility of introducing a bill to repeal it . . . [m]y primary concern was gauging his and other directly impacted people's thoughts/concerns. I reached out to many constituents and stakeholders about this issue, and he was one of many who graciously talked with me."¹³²

The Division also asked Representative Epps if Respondent Elagha had ever lobbied her on any matter and provided in the question the relevant part of the definition of "lobbying" under Colorado law.¹³³ She responded:

Yes, it's fair to say that my constituent helped influence my consideration of what was or would become HB24-1169 in that when asked, he expressed his support and encouragement for a bill.¹³⁴

The Division does not agree with Representative Epps's conclusion that Respondent Elagha lobbied her, but the Division need not resolve this issue. A lobbyist meets the definition of a "professional lobbyist" required to register only if the lobbyist is compensated by a client or another professional lobbyist for lobbying.¹³⁵ "Client" is defined as the one who employs or retains the lobbyist to lobby on behalf of that person.¹³⁶

¹²⁸ Exhibit E, page 4.

¹²⁹ See Footnote 62 on page 7 of this Motion for a link to the proposed bill.

¹³⁰ *Id.* Exhibit G, page 1. There were other provisions in the proposed bill not relevant here.

¹³¹ Exhibit G, page 1. See also Exhibit E, page 3.

¹³² *Id.*; See also Exhibit E, page 9 regarding what Respondent recalled about the conversation.

¹³³ Exhibit G, page 1.

¹³⁴ *Id.*

¹³⁵ Section 24-6-301(6), C.R.S.

¹³⁶ Section 24-6-301(1), C.R.S.

The Division has no information indicating that Respondent Elagha was compensated by anyone for lobbying.¹³⁷ For nearly four years, Respondent Elagha has worked as a full-time employee of a financial services company in its IT Department as a cloud developer and engineer.¹³⁸ His compensation at that company has been his only income.¹³⁹ He has no other employment and receives no other compensation from any source.¹⁴⁰ He specifically denied lobbying anyone or being compensated for lobbying and is wary of the legislative process.¹⁴¹

Complainant made many allegations in the Complaint and her responses to the Division's Requests for information attempting to show that Respondents (and the Colorado Palestine Club) are trying to hide the source of their compensation.¹⁴² Complainant cites numerous reports from selected media sites and posts on social media on which she made assumptions that something illicit must be going on between Respondents and Middle Eastern sources and that some of the presumed flow of money between them must be going to compensate Respondents' lobbying efforts.¹⁴³ A fair reading of much of the information Complainant provided indicates that Respondents, the Colorado Palestinian Club, and others were fundraising to support families in Gaza who have been displaced by the on-going war there.¹⁴⁴ In sum, the Complainant provided no sufficient information that any Respondent is being compensated for lobbying "covered officials" in Colorado.

The Division does not have a sufficient basis upon which to conclude that any Respondent engaged in lobbying as defined under Colorado law. Further, the Division does not have a sufficient basis upon which to conclude that any Respondent meets the definition of a professional lobbyist. The Division has no information that any Respondent was compensated for lobbying. Consequently, the Division does not have reasonable grounds to believe that any

¹³⁷ See generally Exhibit I; Exhibit E, pages 3-5, 7, 12-13; The Division also has no information that any person employed or retained either Respondent Wahdan or Respondent Coalition to lobby on behalf of that person. See generally Exhibit I; Exhibit F, pages 2-5.

¹³⁸ Exhibit E, page 12-13.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ Exhibit E, pages 3-5, 7, 12-13; Exhibit F, pages 2-5.

¹⁴² Exhibit A, pages 4-7, 16-27. Also see Exhibit I, pages 11, 21-22, 32. The Division has included in Exhibit I Complainant's responses to a Request for information sent in connection with Complaint 2024-44, as those responses contain some information relevant to the allegations in Complaint L2024-03.

¹⁴³ *Id.*

¹⁴⁴ Exhibit I, pages 13-30. Complainant also alleged that Respondents are illegally aiding Palestinians crossing the Egyptian border, among other allegedly illegal activities. Exhibit I, pages 13, 15. The Division is tasked with investigating alleged violations of Colorado lobbying laws only. See generally Rule 5 of the Secretary's Rules Concerning Lobbyist Regulation (8 CCR 1505-8).

Respondent violated section 24-6-303, C.R.S., for failing to register with the Secretary of State before lobbying.

RESPONDENTS DID NOT VIOLATE SEC. 24-6-308, C.R.S.

Aside from the allegations that Respondents are unregistered professional lobbyists, Complainant also alleged that Respondents have violated section 24-6-308(1)(c),(f),(h),(l), and (n), C.R.S. Any person who believes that a lobbyist has violated section 24-6-308(1), C.R.S., may file a complaint either with the Secretary of State or with the executive committee of the General Assembly.¹⁴⁵ As Complainant elected the first option, the Secretary is entitled to act on the Complaint.¹⁴⁶

Before a person can violate section 24-6-308(1), C.R.S., that person must be engaged in lobbying. Section 24-6-308(1), C.R.S., begins “[n]o person engaged in lobbying shall” and then lists in subsections (a) through (n) what a person is prohibited from doing while engaged in lobbying.¹⁴⁷ As noted above, the Division does not have reasonable grounds to believe that any of the Respondents engaged in lobbying. Even assuming that a Respondent was engaged in lobbying, the Complainant has presented no evidence or other information creating reasonable grounds for the Division to believe that Respondent Elagha or the other Respondents committed any of the conduct prohibited by the subsections of Section 24-6-308(1), C.R.S., referenced by the Complainant.¹⁴⁸

According to section 24-6-308(1)(c), C.R.S, a person engaged in lobbying cannot “conceal from a covered official the identity of the person or entity for whom the lobbyist is lobbying. “Conceal” suggests an intent to hide. Merriam-Webster’s Dictionary defines “conceal” as when one “prevents disclosure or recognition of” or when one “places something out of sight.”¹⁴⁹ Oxford Learner’s Dictionaries defines “conceal” to mean “hide something.”¹⁵⁰ There is nothing in Representative Epps’s description of her phone conversation with Respondent Elagha that suggests he was trying to conceal anything, even assuming that Respondent Elagha was lobbying Representative Epps.¹⁵¹ Instead, it appears that Representative Epps called Respondent seeking

¹⁴⁵ Section 24-6-308(2), C.R.S.

¹⁴⁶ *Id.*

¹⁴⁷ Section 24-6-308(1), C.R.S.

¹⁴⁸ See generally Exhibit I.

¹⁴⁹ [Merriam-Webster Dictionary](#).

¹⁵⁰ [Oxford Learner's Dictionaries](#).

¹⁵¹ Exhibit G, page 1.

his personal opinion as one of her constituents on proposed legislation.¹⁵² The Division draws the same conclusion regarding the four incidents of alleged lobbying identified in the Complaint.

Importantly, section 24-6-308, C. R.S., only applies when a person is engaged in lobbying, and the Division has no information upon which the Division has reasonable grounds to believe that any Respondent was engaged in lobbying as defined under Colorado law. Other than allegations and assumptions, the Complainant has as provided no information upon which the Division has reasonable grounds to believe that any Respondent engaged in conduct that violated section 24-6-308, C.R.S.

CONCLUSION

For the reasons stated above, the Division moves to dismiss the Complaint because the Division does not have reasonable grounds to believe that Respondents violated section 24-6-301 et. seq., C.R.S.

Dated this 30th day of September, 2024.

/s/ James Scott

James Scott
Campaign Finance Enforcement Analyst
Elections Division
Colorado Secretary of State

¹⁵² Exhibit G, page 1; See also Exhibit E, page 10 where Respondent Elagha denies the allegation that he concealed anything from Representative Epps.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Dismiss was served by electronic transmission this 30th day of September to:

Complainant –

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/s/ James Scott _____

James Scott

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Colorado Secretary of State