

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

IN THE MATTER OF TINA PETERS

2021-26

NOTICE OF INITIAL REVIEW AND OPPORTUNITY TO CURE

Scott Beilfuss (Complainant) filed a Complaint with the Elections Division (Division) on August 16, 2021, under section 1-45-111.7(2)(a), C.R.S., alleging that Tina Peters (Respondent) violated Colorado campaign finance law.¹ Respondent was elected in 2018 and is the current Mesa County Clerk and Recorder.² In TRACER, Respondent is not currently an active candidate or have an actively registered candidate committee and has a campaign website soliciting contributions.³ Complainant specifically alleged that Respondent failed to report expenditures or contributions and accepted “gifts over allowed amounts.”⁴

The Division notified Respondent of the Complaint on August 16, 2021. The Division has now completed its initial review according to section 1-45-111.7(3), C.R.S. For the reasons stated below, the Division initially determines that the Complaint alleges one or more potentially curable violations of Colorado campaign finance laws and hereby notifies Respondent of their opportunity to cure.⁵

Respondent will have ten business days from the date of this notice⁶ to submit a Notice of Intent to Cure form to the Division and to cure any deficiencies and provide information on how Respondent has cured the alleged violations and substantially complied with the law.⁷

Analysis

Any person who believes that a violation of Colorado campaign finance law has occurred may file a complaint with the Colorado Secretary of State.⁸ Upon receipt, the Division must initially review

¹ Complaint 2021-26.

² See <https://clerk.mesacounty.us/siteassets/elections/stats--results/2018-general.pdf> and <https://clerk.mesacounty.us/clerk-to-the-board/>

³ See <https://tracer.sos.colorado.gov/PublicSite/SearchPages/CandidateDetail.aspx?Type=CA&SeqID=42278> and <https://tinapetersforcolorado.com/>

⁴ *Id.*

⁵ Section 1-45-111.7(3)(b)(II), C.R.S.

⁶ The Division will consider this Notice of Initial Review and Opportunity to Cure as notice pursuant to section 1-45-111.7(4)(a), C.R.S.

⁷ Section 1-45-111.7(4)(a)-(b), C.R.S.

⁸ Section 1-45-111.7(2)(a), C.R.S.

the complaint to determine: (1) whether the complaint was timely filed; (2) whether the complaint specifically identified one or more violations of Colorado campaign finance law; and (3) whether the complaint alleged sufficient facts to support a factual and legal basis for the complaint.⁹

1. The Complaint was timely filed.

The Division initially determines that the Complaint was timely filed. A complaint must be filed no later than 180 days after the date on which the complainant knew or should have known, by the exercise of reasonable diligence, of the alleged violation.¹⁰

Here, Complainant states that they first learned of Respondent’s alleged violations on August 11, 2021.¹¹ Complainant alleges a failure to report an expenditure or contribution and “accepting gifts over allowed amounts” by Respondent.¹² Complainant further states that Respondent “flew up to Mr Pillows cybersymposium on a private plane provided to her and is staying as a guest of the Pillow foundation in clear violation of accepting gift laws.”¹³ The Division understands the cyber symposium referred to in the Complaint was the event held by Michael Lindell on August 10-12, 2021.¹⁴ Complainant filed the Complaint on August 16, 2021.

Based on the information provided by Complainant, the Division makes the initial determination that the Complaint was timely filed per section 1-45-111.7(2)(b), C.R.S., as the Complaint was filed within 180 days of when Complainant reported they were first made aware of Respondent’s alleged violations.

2. Complainant identifies one or more potential violations of Colorado campaign finance laws.

The Complaint alleges Respondent violated Colorado campaign and political finance laws by failing to report campaign contributions and expenditures and having accepted gifts over allowed limits.¹⁵ The Division makes the initial determination that Complainant identifies one or more potential violations of Colorado campaign finance laws.

⁹ Section 1-45-111.7(3)(a), C.R.S.

¹⁰ Section 1-45-111.7(2)(b), C.R.S.

¹¹ Complaint 2021-26.

¹² *Id.*

¹³ *Id.* Complainant refers to “Mr Pillows” who the Division believes to be founder and CEO of MyPillow, Mike Lindell. Mike Lindell held a Cyber Symposium on August 10-12, 2021. See <https://apnews.com/article/dominion-sues-mike-lindell-my-pillow-guy-f8faf58b4c2017c6d165a1293c78c02a> and <https://www.mypillow.com/frankspeech>

¹⁴ *Id.*

¹⁵ Amendment 41 of the Colorado Constitution prohibits elected officials from receiving certain gifts and other items of value. Limits on gifts to public officers and disclosure requirements are addressed by section 3 of Article XXIX of the Colorado Constitution and Colorado Sunshine Laws under section 24-6-203, C.R.S. Section 24-6-203, C.R.S., requires every incumbent in or candidate elected to public office who receives gifts, honoraria, or other benefits identified in statute to file disclosure reports with the appropriate officer. Any person who willfully files a false or incomplete report, who willfully fails to file a required report, who willfully fails to provide the required statement of value, or who violates any provision of section 24-6-203(3.5), C.R.S. is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars. A person may file a complaint with the Colorado Independent Ethics Commission as to whether a public officer,

Under Colorado law, “all candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.”¹⁶

A “candidate committee” is defined as a “person, including the candidate, or person with the common purpose of receiving contributions or making expenditures under the authority of a candidate.”¹⁷ A person is a “candidate” for Colorado office if that person “has publicly announced an intention to seek election to public office...and thereafter has received a contribution or made an expenditure in support of the candidacy.”¹⁸ Additionally, all candidate committees shall register with the appropriate officer before accepting or making any contributions.¹⁹

Under the Colorado Constitution, “contribution” is defined as:

(I) The payment, loan, pledge, gift, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, small donor committee, or political party; (II) Any payment made to a third party for the benefit of any candidate committee, issue committee, political committee, small donor committee, or political party; (III) The fair market value of any gift or loan of property made to any candidate committee, issue committee, political committee, small donor committee or political party; (IV) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate’s nomination, retention, recall, or election.²⁰

An “expenditure” is defined as:

[A]ny purchase, payment, distribution, loan, advance deposit, or gift of money by any person for the purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question. An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.²¹

In this case, Complainant alleges Respondent was required but failed to report contributions or expenditures associated with the alleged activity and accepted gifts over

member of the general assembly, local government official, or government employee has failed to comply with Article XXIX’s requirements or any other standards of conduct or reporting requirements as provided by law.

¹⁶ Section 1-45-108(1)(a)(I), C.R.S.

¹⁷ COLO. CONST. art XXVIII, § 2(3).

¹⁸ COLO. CONST. art XXVIII, § 2(2).

¹⁹ Section 1-45-108(3).

²⁰ COLO CONST. art XXVIII, § 2(5)(a).

²¹ COLO. CONST. art. XXVIII, § 2(8)(a).

allowed limits. As alleged, Complainant's allegations indicate one or more potential violations of Colorado campaign finance law.

3. Complainant alleges sufficient facts to support a factual and legal basis for the Complaint.

The Division initially determines that Complainant alleges sufficient facts to support a factual and legal basis for the Complaint.

Complainant reported alleged violations of campaign finance law by Respondent who failed to report expenditures or contributions and accepted "gifts over allowed limits."²² In support of these allegations, Complainant stated that Respondent "flew up to Mr Pillows cybersymposium on a private plane provided to her and is staying as a guest of the Pillow foundation in clear violation of accepting gift laws."²³ Complainant alleges that by engaging in the aforementioned activities, Respondent failed to report contributions or expenditures associated with said activities and accepted gifts over allowed amounts.

Based on the information Complainant provided, the Division determines that Complainant alleges facts that, if proven, could establish Respondent violated Colorado campaign finance laws.

4. Respondent has the opportunity to cure the alleged violations.

The Division makes the initial determination that the Complaint alleges one or more potentially curable violations. Under section 1-45-111.7(4), C.R.S., a respondent may cure alleged campaign finance violations under certain circumstances. If Respondent intends to cure, Respondent has ten business days from the date of this notice to do so. Respondent must file with the Division a Notice of Intent to Cure form with reports, amendments, or other relevant information on how the deficiencies or violations have been cured and demonstrate how Respondent has substantially complied with the law.

When determining whether Respondent has substantially complied with the law, the Division must consider:

- (1) The extent of the respondent's noncompliance;
- (2) The purpose of the provision violated and whether the purpose was substantially achieved despite the noncompliance; and
- (3) Whether the noncompliance can properly be viewed as an intentional attempt to mislead the electorate or election officials.²⁴

²² Complaint 2021-26.

²³ Complaint 2021-26.

²⁴ Section 1-45-111.7(4)(f), C.R.S.

However, if Respondent disputes the allegations, Respondent may also provide the Division with such information for further review under section 1-45-111.7(5)(a), C.R.S. The Division may ask Respondent for additional information including the production of documents or other tangible items during the cure or investigation.²⁵

Please note that all documents and records related to the alleged violations in this Complaint, including email communications, financial records, and other relevant documentation must be maintained until the final agency decision has been reached or appeals have been exhausted.

Conclusion

For the reasons stated above, the Division makes the initial determination that potential violations of Colorado campaign finance laws exist, but that the alleged violations may be curable.

If Respondent disputes the allegations and does not establish cure and substantial compliance, under section 1-45-111.7(4), C.R.S., the Division will conduct an additional review, under section 1-45-111.7(5), C.R.S., to determine whether to file a motion to dismiss the Complaint with the Deputy Secretary of State or file a complaint with a hearing officer.

Dated this 30th day of August 2021.

/s/ Luis Lipchak
Campaign Finance Enforcement Manager
Elections Division
Colorado Secretary of State

²⁵ Section 1-45-111.7(4)(d), C.R.S.; Section 1-45-111.7(5)(a), C.R.S.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Initial Review and Opportunity to Cure was served by electronic transmission to:

Complainant – Scott Beilfuss
sgbuwec@gmail.com

Respondent – Tina Peters
Tina.peters@mesacounty.us

on this 30th day of August 2021.

Luis Lipchak
Elections Division
Colorado Secretary of State