

**BEFORE THE SECRETARY OF STATE
STATE OF COLORADO
CASE NO. OS 2017-_____**

**IN THE MATTER OF THE COMPLAINT FILED BY CAMPAIGN INTEGRITY WATCHDOG
REGARDING ALLEGED CAMPAIGN AND POLITICAL FINANCE VIOLATIONS BY
DECLARED STATE SENATE CANDIDATE DAN PABON AND CANDIDATE COMMITTEE
'FRIENDS AND NEIGHBORS FOR DAN PABON' (FNDP) ET. AL.**

Complainant *Campaign Integrity Watchdog*, *pro se*, by and pursuant to Colorado Constitution Article XXVIII Section 9 and C.R.S. § 1-45-101. *et seq.* (Fair Campaign Practices Act, FCPA) asserts this Complaint against Respondents Dan Pabon, '*Friends and Neighbors for Dan Pabon*' Candidate Committee (FNDP) *et. al.* and in support thereof alleges as follows:

PARTIES

1. *Campaign Integrity Watchdog* ("CIW") is a closely-held organization authorized to conduct business in Colorado.
2. *CIW* is a "person" as that term is defined by Colorado Constitution Article XXVIII, § 2(11) and C.R.S. § 1-45-103(13) and therefore is authorized to bring a complaint under Colorado Constitution Article XXVIII, § 9(2)(a) and C.R.S. § 1-45-111.5(1.5).
3. Pursuant to C.R.S. §13-1-127(2), a closely held entity may be represented before any court of record or any administrative agency by an officer of such closely held entity if:
 - a. The amount at issue in the controversy or matter before the court or agency does not exceed fifteen thousand dollars, exclusive of costs, interest, or statutory penalties, on and after August 7, 2013; and
 - b. The officer provides the court or agency, at or prior to the trial or hearing, with evidence satisfactory to the court or agency of the authority of the officer to appear on behalf of the closely held entity in all matters within the jurisdictional limits set forth in this section.
4. Statutory penalties are the only amount at issue in this case; therefore the conditions set by C.R.S. §13-1-127(2)(a) are met.
5. C.R.S. §13-1-127(1)(a) defines a closely held entity as an "entity" as defined in C.R.S. §7-90-102(20), with no more than three owners. C.R.S. §7-90-102(20) defines "entity" as "a domestic entity or a foreign entity."
6. *Campaign Integrity Watchdog LLC* is a Colorado limited liability company (LLC) with one initial director and no more than three owners. It therefore qualifies as a "closely-held entity" under C.R.S. §13-1-127(1)(a).
7. A copy of *Campaign Integrity Watchdog's* Articles of Organization is attached as **Exhibit 1**, showing that Matt Arnold is the principal officer, with authority to act on behalf of the entity "in all matters within the jurisdictional limits set forth" in C.R.S. §13-1-127(2).
8. *Dan Pabon* is a declared but unregistered candidate for state senate district 34 ("SD34").
9. The '*Friends and Neighbors for Dan Pabon*' Candidate Committee' (FNDP) is registered as the candidate committee for state representative Dan Pabon, with the stated purpose "to support the legislative office and constituent communications of Representative Dan Pabon."

GENERAL ALLEGATIONS

10. **Dan Pabon** failed to register as a candidate and register a candidate committee to support his candidacy for the Colorado General Assembly, State Senate district 34, for the 2018 election, as required per Colo. Const. Art. XXVIII §2(2), C.R.S. 1-45-103(2), 8 CCR 1505-6 Rule 2; file a candidate affidavit for the office sought within ten days of becoming a candidate, as required per C.R.S. 1-45-110(1); and file a personal financial disclosure (PFD) as required per C.R.S. 1-45-110(2) and C.R.S. 24-6-202(2), respectively.
11. The '**Friends and Neighbors for Dan Pabon' Candidate Committee**' (FNDP) is registered and active in the 2018 election cycle with the stated purpose of operating "to support the legislative office and constituent communications of Representative Dan Pabon" has illegally accepted contributions and made expenditures in support of Dan Pabon's declared candidacy for the Colorado General Assembly, State Senate district 34, for the 2018 election cycle.
12. **Dan Pabon** and **FNDP** have failed to accurately disclose contributions accepted to support the 2018 candidacy of Dan Pabon for the Colorado General Assembly, State Senate district 34, as required per *Colorado Constitution Article XXVIII Section 7*, per *C.R.S. 1-45-108 and -109 et seq*, and pursuant to the Secretary of State *Rules Concerning Campaign and Political Finance* (8 CCR 1505-6) (Rule 10.2 *et seq*).
13. **Dan Pabon** and **FNDP** have exceeded the allowable contribution limits applicable to state legislative candidates, by accepting contributions in support of the candidacy without having registered a candidate committee for office sought within ten days of becoming a candidate, as required per Colo. Const. Art. XXVIII §3(9) and C.R.S. 1-45-103(4).
14. **Dan Pabon** and **FNDP** have failed to accurately disclose expenditures made to support the 2018 candidacy of Dan Pabon for the Colorado General Assembly, state senate district 34, as required per *Colorado Constitution Article XXVIII Section 7*, per *C.R.S. 1-45-108 and -109 et seq*, and in compliance with the Secretary of State *Rules Concerning Campaign and Political Finance* (8 CCR 1505-6) (Rule 10.3 *et seq*)
15. **Dan Pabon** and **FNDP** have also violated the C.R.S. 1-45-106(1)(a)(II) prohibition on using campaign funds for "*personal purposes not reasonably related to supporting the election of the candidate*" by expending committee funds for a December 2016 Hawaii vacation trip for Dan Pabon, personally. See **Exhibit 4**, FNDP RCE 20170417
16. **Dan Pabon** and **FNDP** have therefore committed multiple violations of Colo. Constitution Art. XXVIII *et seq* and C.R.S. § 1-45-101 *et seq* (Fair Campaign Practices Act, FCPA); specifically, failure to register a candidate committee, file required candidate affidavit and/or personal financial disclosure, disclose contributions, exceed contribution limits, disclose expenditures, and use campaign funds for personal purposes as required by law.

FIRST CLAIM FOR RELIEF

(Failure to Register as a Candidate, Failure to Register Candidate Committee, and Failure to File required Candidate Affidavit and Personal Financial Disclosure Forms)

17. The Complaint incorporates by reference paragraphs 1 through 16 as if fully set forth herein.
18. On information and belief, **Dan Pabon** violated Colo. Const. Art. XXVIII Section 2(2), C.R.S. 1-45-109 and C.R.S. 1-45-110 *et seq* and C.R.S. 24-6-202(2), respectively by failing to register as a candidate for state legislative office (state senate district 34), failing to register a candidate committee, failing to file a candidate affidavit and failing to file a personal financial disclosure, as required by law and rule (8 CCR 1505-6, Rule 2 *et seq*).
19. Specifically, the only candidate affidavit form submitted by Dan Pabon for the 2018 election cycle references candidacy for Colorado General Assembly House District 4 (see **Exhibit 2**)¹ an office for which Dan Pabon is constitutionally ineligible per Colo. Const. Art. V §3.
20. Specifically, the only committee registration forms filed by Dan Pabon for the 2018 election cycle references candidacy for Colorado General Assembly House District 4 (see **Exhibit 3**)² an office for which Dan Pabon is constitutionally ineligible per Colo. Const. Art. V §3, with the stated purpose of operating exclusively “to support the legislative office and constituent communications of Representative Dan Pabon.”
21. Specifically, Dan Pabon became a candidate for Colorado General Assembly Senate District 34 on 1 April 2017 by expending \$16,666.90 in support of his candidacy for state senate,³ or no later than 26 July 2017, by soliciting and accepting contributions for his “campaign for Colorado State Senate” at a fundraiser held on that date (see **Exhibit 6**, Solicitation Letter).⁴
22. Specifically, Dan Pabon has failed to register as a candidate, register a candidate committee, file a candidate affidavit, or file a candidate personal financial disclosure, as required by law.
23. Colorado law mandates the imposition of a penalty of \$50/day for the failure to provide a statement or other information that is required by law. Colorado Constitution, Art. XXVIII, Section 10(2)(a). Therefore, Dan Pabon should be assessed a penalty of \$50/day for each day that the required disclosure(s) to the Secretary of State was/were not filed for each violation.
24. **Dan Pabon** therefore committed multiple violations of Colo. Constitution Art. XXVIII *et seq* and C.R.S. § 1-45-101 *et seq* (Fair Campaign Practices Act, FCPA); specifically, failure to register a candidate committee, failure to file required candidate affidavit and failure to file a personal financial disclosure, as required by law, and should be penalized pursuant to law and as the Administrative Law Judge (ALJ) sees fit.

¹ See attached **Exhibit 2**, *Dan Pabon 2018 Candidate Affidavit 20170103*

² See attached **Exhibit 3a and 3b**, *FNDP Amended Committee Registration 20170102 and 20170324*, respectively

³ See attached **Exhibit 5**, *FNDP RCE 20170717*

⁴ See attached **Exhibit 6**, *Dan Pabon State Senate Solicitation Letter 20170726*

SECOND CLAIM FOR RELIEF

(Failure to Accurately Report Committee Contributions)

25. The Complaint incorporates by reference paragraphs 1 through 24 as if fully set forth herein.
26. On information and belief, FNDP violated Section 1-45-108(1)(a)(II) C.R.S. by failing to accurately report contributions received, as required by law and rule (Rule 10.2.3).
27. Specifically, FNDP falsely reported the following contributions towards Pabon's candidacy for Colorado General Assembly House District 4, for which Dan Pabon is constitutionally ineligible per Colo. Const. Art. V §3, rather than towards his actual candidacy for Colorado General Assembly State Senate District 34, for which he became a candidate on 1 April by expending \$16,666.90 in support of his candidacy:
 - a. 6/30/2017 \$400 contribution from Travis Berry
 - b. 6/30/2017 \$100 contribution from Chris Bowry
 - c. 6/30/2017 \$100 contribution from James Cole
 - d. 6/30/2017 \$100 contribution from Loren Furman
 - e. 6/30/2017 \$400 contribution from Micki Hackenberger
 - f. 6/30/2017 \$100 contribution from Philip Hayes
 - g. 6/30/2017 \$400 contribution from Joshua Hunt
 - h. 6/30/2017 \$100 contribution from Laura Long
 - i. 6/30/2017 \$200 contribution from Joe Miklosi
 - j. 6/30/2017 \$250 contribution from Kara Miller
 - k. 6/30/2017 \$250 contribution from RD Sewald
 - l. 6/30/2017 \$100 contribution from Jeffrey Thermodsgaard
 - m. 6/30/2017 \$200 contribution from Jeff Weist
28. Colorado law mandates the imposition of a penalty of \$50/day for the failure to provide a statement or other information that is required by law. Colorado Constitution, Art. XXVIII, Section 10(2)(a). Therefore, FNDP should be assessed a penalty of \$50/day for each day that the organization's disclosure to the Secretary of State was inaccurate for each violation.

THIRD CLAIM FOR RELIEF

(Violation of Contribution Limits)

29. The Complaint incorporates by reference paragraphs 1 through 28 as if fully set forth herein.
30. Pursuant to Colorado Constitution Article XXVIII § 3(5) and 8 CCR 1505-6 Rule 10.16.1(b), candidates for state legislative office are limited to receiving contributions of not more than \$400 per person per election cycle.
31. Pursuant to Colorado Constitution Article XXVIII § 2(3), a candidate "shall have only one candidate committee."

32. On information and belief, Dan Pabon and FNDP *accepted* contributions to support Pabon’s candidacy for state senate, for which Pabon has failed to register an appropriate candidate committee; therefore, Pabon’s candidacy has an effective contribution limit of \$0.00 (zero) and any contributions exceed the allowable contribution limits by the full dollar amount.
33. Pursuant to Colorado Constitution Article XXVIII § 10(1), Dan Pabon and FNDP are subject to a civil penalty of at least double and up to five times the amount(s) received in excess of the applicable contribution limit for each contribution accepted in excess of allowable limits.

FOURTH CLAIM FOR RELIEF

(Failure to Accurately Report Committee Disbursements)

34. The Complaint incorporates by reference paragraphs 1 through 33 as if fully set forth herein.
35. C.R.S. 1-45-108(1)(a) defines disclosure and reporting requirements for candidates and their candidate committees:

“(1) (a) (I) 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.”
36. The *Colorado Secretary of State Rules Concerning Campaign and Political Finance*, 8 CCR 1505-6 Rule 1.6 further clarifies the scope of required disclosure:

“*Expenditures made, and obligations entered into*” as used in section 1-45-108(1)(a)(I), C.R.S., means *all committee-related disbursements*, including any agreement or obligation of a liability to pay a certain amount.” [emphasis added]
37. **Dan Pabon** and **FNDP** violated C.R.S. § 1-45-108 *et seq* by failing to accurately report all committee disbursements, including payments to fund activities in support of the candidacy for State Senate District 34 in the amount of \$16,666.90 made on 1 April 2017.
38. Specifically, Dan Pabon and FNDP failed to disclose and report payments (“disbursements”) for the following activities to support Pabon’s candidacy for State Senate District 34:
 - a. Payment of \$16,666.90 to Rio Strategies listed as “consultant and professional services” (on information and belief, for campaign planning and analytics, including polling, to support Pabon’s candidacy for Colorado State Senate District 34 in the 2018 elections).
39. Specifically, on information and belief, there is no valid purpose for the \$16,666.90 payment reasonably consistent with the FNDP committee’s stated purpose of activities to “support the legislative office and constituent communications of Representative Dan Pabon.”
40. Colorado law mandates the imposition of a penalty of \$50/day for the failure to provide a statement or other information that is required by law. Colorado Constitution, Art. XXVIII, Section 10(2)(a). Therefore, CRRRG should be assessed a penalty of \$50/day for each day that the organization’s disclosure to the Secretary of State was inaccurate.

FIFTH CLAIM FOR RELIEF

(Illegal use of Campaign Committee Funds for Personal Purposes)

41. The Complaint incorporates by reference paragraphs 1 through 40 as if fully set forth herein.
42. Pursuant to C.R.S. 1-45-106(1)(a)(II):
“(II) In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate.”
43. On information and belief, Dan Pabon illegally used FNDP candidate committee campaign contributions for the personal purpose of vacationing in Hawaii, based on the following:⁵
 - a. 12/4/2016 payment of \$60.00 for “Food, Beverage, and Meals” to Roberts Hawaii in Honolulu, Hawaii
 - b. 12/6/2016 payment of \$6.71 for “Food, Beverage, and Meals” to Gorilla in the Café in Honolulu, Hawaii.
 - c. 12/8/2016 payment of \$31.31 for “Food, Beverage, and Meals” to Green World Coffee Farm in Honolulu, Hawaii.
 - d. 12/8/2016 payment of \$6.00 for “Food, Beverage, and Meals” to Green World Coffee Farm in Honolulu, Hawaii.
 - e. 12/10/2016 payment of \$63.40 for “Food, Beverage, and Meals” to Hula Grill Waikiki in Honolulu, Hawaii.
 - f. 12/11/2016 payment of \$4.18 for “Food, Beverage, and Meals” to ABC Stores #31 in Honolulu, Hawaii.
 - g. 12/11/2016 payment of \$7.00 for “Food, Beverage, and Meals” to Honolulu Coffee in Honolulu, Hawaii.
 - h. 12/12/2016 payment of \$140.00 for “Food, Beverage, and Meals” to Duke’s Waikiki in Honolulu, Hawaii.
 - i. 12/12/2016 payment of \$79.02 for “Food, Beverage, and Meals” to The Edge of Waikiki in Honolulu, Hawaii.
 - j. 12/13/2016 payment of \$935.50 for “Travel & Lodging” to Sheraton Hotel Waikiki in Honolulu, Hawaii.
44. On information and belief, Dan Pabon illegally used FNDP candidate committee campaign contributions for the personal purpose of buying Valentine’s Day flowers, as follows:⁶
 - a. 2/10/2017 payment of \$50.77 for “Miscellaneous” to Proflowers.com
45. Pursuant to Colo. Const. Art. XXVIII Section 10 (Sanctions), “[a]ny person who violates any provision of this Article relating to contribution relating to contribution or voluntary spending limits shall be subject to a civil penalty of at least double and up to five times the amount contributed, received, or spent in violation of the applicable provision of this Article. Candidates shall be personally liable for penalties imposed upon the candidate’s committee.”
46. Consequently, Dan Pabon and FNDP should be penalized at least double and up to five times the amount of the illegal payments made from committee funds for Pabon’s personal use, and ordered to reimburse the campaign committee for the full amount of such illegal payments.

⁵ See **Exhibit 4**, *FNDP RCE 20170417*

⁶ *Id*

REQUESTED RELIEF

- A. For failure to register a candidate committee in connection with his declared candidacy for Colorado General Assembly State Senate District 34 in the 2018 election cycle, Dan Pabon should be fined \$50/day for each day that he failed to register with the Secretary of State as a candidate and candidate committee and file disclosure reports as required by law, pursuant to Colorado Constitution Article XXVIII, § 10(2)(a) and C.R.S. 1-45-111.5 (*sanctions*).
- B. For failure to file the required candidate affidavit and personal financial disclosure forms in relation to his declared candidacy for Colorado General Assembly State Senate District 34 in the 2018 election cycle, Dan Pabon should be fined \$50/day for each day that he failed to file each of the required documents, pursuant to Colo. Constitution Article XXVIII, § 10(2)(a) and C.R.S. 1-45-111.5 (*sanctions*).
- C. For failure to file accurate disclosure of campaign contributions to support his candidacy for Colorado General Assembly State Senate District 34 in the 2018 election cycle, Dan Pabon should be fined \$50/day for each day that the committee's disclosure to the Secretary of State was inaccurate, for each of the violations committed.
- D. For exceeding allowable contribution limits for campaign contributions to support his candidacy for Colorado General Assembly State Senate District 34 in the 2018 election cycle, Dan Pabon should be fined at least double and up to five times the amount by which the contributions exceeded allowable limits (since no candidate committee related to Pabon's candidacy for Colorado General Assembly State Senate District 34 in the 2018 election cycle was registered, the allowable contribution limits are effectively zero and therefore the full dollar amount of contributions received to support the candidacy exceed allowable limits).
- E. For failure to file accurate disclosure of campaign expenditures to support his candidacy for Colorado General Assembly State Senate District 34 in the 2018 election cycle, Dan Pabon should be fined \$50/day for each day that the committee's disclosure to the Secretary of State was inaccurate, for each of the violations committed.
- F. For illegal use of campaign committee funds for personal purposes in violation of C.R.S. 1-45-106(1)(a)(II), Dan Pabon and/or FNDP should be penalized at least double and up to five times the amount of the illegal payments made from committee funds for personal use, and ordered to reimburse the campaign committee for the full amount of such illegal payments.

The administrative law judge should grant such other relief as s/he deems appropriate.

RESPECTFULLY SUBMITTED this 17th day of August, 2017.

/signed/ *Matt Arnold*

Campaign Integrity Watchdog LLC
Matthew Arnold, *pro se* for CIW
P.O. Box 372464, Denver, CO 80237