

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

IN THE MATTER OF JASON SALZMAN v. WALKER STAPLETON

2018-01

FINAL AGENCY DECISION

Complainant, Jason Salzman, filed this complaint with the Elections Division on June 21, 2018, pursuant to 8 CCR 1505-6, Rule 18.2, alleging that Colorado Treasurer Walker Stapleton¹ failed to disclose income for his spouse on his updated Personal Financial Disclosure (PFD) form.

The Elections Division notified the Respondent of the complaint via email on June 21, 2018. The Elections Division conducted an initial review within ten business days in accordance with 8 CCR 1505-6, Rule 18.2.4.

For the reasons set forth below, the Elections Division finds that the complaint fails to state a violation of Colorado campaign finance law and is dismissed.

Analysis

- 1. The complainant did not identify a violation of Colorado Constitution Art. XXVIII, the Fair Campaign Practices Act, or the Secretary of State's Rules concerning Campaign and Political Finance.*

The complaint alleges that Walker Stapleton failed to disclose income for his spouse on his updated PFD, filed on May 25, 2018.

Under the state's campaign finance laws, each candidate for governor must file a "statement disclosing the information required by section 24-6-202(2) with the appropriate officer, on a form approved by the secretary of state," within ten days of filing a candidate affidavit.²

Candidates are required to update their PFD no more than 30 days after any termination or acquisition of interests that must be disclosed.³

¹ Walker Stapleton is the Republican candidate for Governor in the 2018 general election.

² Section 1-45-110(2)(a), C.R.S.

³ Section 1-45-110(4), C.R.S.

For statewide candidates, the appropriate filing officer is the Secretary of State.⁴ Candidates who fail to timely file a PFD are subject to a penalty of fifty dollars per day for each day not filed.⁵

Stapleton filed a PFD on October 6, 2017, within ten days of filing his candidate affidavit for governor on September 28, 2017. On May 25, 2018, Stapleton filed an updated PFD clarifying information contained on his PFD of October 6.⁶ Failure to timely file a PFD is a campaign finance violation.⁷ But failure to disclose required information on a PFD concerns the Public Official Disclosure Law, not campaign finance law. The complaint does not allege that Stapleton failed to timely file either his PFD or his updated PFD, and the Secretary of State has not imposed a late filing penalty.

The Public Official Disclosure Law, which is not under the purview of the Secretary of State, outlines what disclosure information is required in the PFD.⁸ One of the many disclosures required is the “name of any source or sources of any income, including capital gains, whether or not taxable, of the person making disclosure, his spouse, and minor children residing with him.”⁹ The complaint alleges that Stapleton failed to disclose required information. This allegation implicates the Public Official Disclosure Law, not the state’s campaign and political finance laws.

Section 7 of the Public Official Disclosure Law states that any person “who willfully files a false or incomplete disclosure statement, amendment, or notice that no amendment is required,” is guilty of a misdemeanor and subject to a fine of \$1,000 - \$5,000.¹⁰ Allegations concerning violations of this law carry criminal penalties that are under the jurisdiction of the local district attorney, not the Secretary of State.

The complaint fails to allege a violation of Colorado Constitution Article XXVIII, the Fair Campaign Practices Act, or the Secretary of State’s rules concerning campaign and political finance, and therefore must be dismissed.

2. The Elections Division need not determine whether the complainant has alleged sufficient facts to support a legal and factual basis for the complaint.

Because the Elections Division has determined that the complaint does not allege a violation of Colorado campaign and political finance law, the Division need not determine whether sufficient facts were alleged to support the complaint.

⁴ Section 1-45-109(1)(a)(I), C.R.S.

⁵ Colo. Const. Art. XXVIII, Sec. 10 (2)(a).

⁶ Stapleton filed a PFD with the Secretary of State on June 22, 2018, after receipt of this complaint. That PFD disclosed the information alleged to have been omitted from his previously filed PFDs.

⁷ Section 1-45-110(2), C.R.S. and Colo. Const. Art. XXVIII, Sec. 10 (2)(a).

⁸ Section 24-6-202(2), C.R.S.

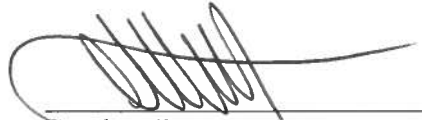
⁹ Id.

¹⁰ Section 24-60202(7), C.R.S.

Finding

For the reasons set forth above, the Elections Division finds that the complaint does not allege a violation of Colorado Constitution Article XXVIII, the Fair Campaign Practices Act, or the Secretary of State's rules concerning campaign and political finance. The complaint is dismissed.¹¹

Dated this 3 day of July, 2018.



Stephen Bouey
Campaign Finance Manager
Elections Division
1700 Broadway, Suite 200
Denver, CO 80290
(303) 894-2200

¹¹ The dismissal is a final agency action, and subject to review under section 24-4-106, C.R.S.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Final Agency Decision was served by electronic transmission to:

Jason Salzman
bigmediablogger@gmail.com

Walker Stapleton
info@stapletonforcolorado.com

on this 3 day of July, 2018.



Elections Division