

OFFICE OF THE SECRETARY OF STATE, ELECTIONS DIVISION

STATE OF COLORADO

IN THE MATTER OF PHIL WEISER AND PHIL WEISER FOR COLORADO

2021-90

MOTION TO DISMISS

The Elections Division of the Secretary of State’s Office (“Division”) moves the designee of the Deputy Secretary of State (“Deputy Secretary Designee”)¹ to dismiss the above-entitled Complaint, pursuant to section 1-45-111.7(5)(a)(IV), C.R.S., for the reasons set forth below.

Procedural Background

Defend Colorado (“Complainant”) filed a complaint (“Complaint”) with the Elections Division of the Colorado Secretary of State’s Office (“Division”) on December 8, 2021, under section 1-45-111.7(2), C.R.S., alleging violations of Colorado campaign finance law by candidate Phil Weiser (“Respondent Candidate”),² a candidate for re-election for Colorado Attorney General in the November 2022 general election and Phil Weiser for Colorado, the candidate committee supporting the campaign of Phil Weiser (“Respondent Committee” or together with the Respondent Candidate, “Respondents”).³

Specifically, the Complaint alleges that Respondents: (1) failed to report a contribution; (2) failed to report, or accurately report, a campaign expenditure; (3) accepted a prohibited contribution; and (4) violated reporting and acceptance of gifts by an incumbent,⁴ all in relation to a June 15, 2021 fundraising event (“Event”) that Respondents held during the Attorney General Alliance (“AGA”) annual meeting at the Grand Wailea Resort in Hawaii (“Resort”).⁵

¹ Colorado Deputy Secretary of State, Christopher Beall, recused himself from this case and appointed as his designee Michael Whitehorn, the chief of staff and strategy for the Colorado Secretary of State.

² See Exhibit A - Complaint 2021-90. The Complaint names Phil Weiser a candidate for Colorado Attorney General as Respondent. Because the Complaint alleges violations relating to reporting contributions and expenditures under Article XXXVIII of the Colorado Constitution, Fair Campaign Practices Act, and the campaign finance rules promulgated by the Colorado Secretary of State, the Division construes the Complaint as against both the candidate himself, Phil Weiser, and the candidate committee – Phil Weiser for Colorado. See <https://tracer.sos.colorado.gov/PublicSite/SearchPages/CandidateDetail.aspx?SeqID=47921>.

³ The Colorado Attorney General typically serves as counsel to the Division in reviewing and responding to complaints regarding alleged campaign finance violations. Because the Respondents in this case are the Colorado Attorney General as a candidate and his candidate committee for reelection, the Division has retained Holland & Hart LLP as independent outside counsel in this matter.

⁴ Exhibit A - Complaint 2021-90.

⁵ *Id.*

The Division notified Respondents of the Complaint on December 9, 2021.

On December 22, 2021, the Division sent Respondents a Notice of Initial Review and Opportunity to Cure. In its Initial Review, the Division made the initial determination that the facts alleged in the Complaint, if true, could support a factual and legal basis for violations of Colorado campaign finance laws, and that one or more of the alleged violations may be curable under section 1-45-111.7(4), C.R.S. The Division notified Respondents of their opportunity to cure within 10 business days.⁶

On the same date, the Division sent requests for information (“RFIs”) to Complainant and Respondents seeking additional information regarding the allegations in the Complaint.⁷ Complainant and Respondent submitted responses to the RFIs on January 4 and January 7, 2022, respectively.⁸ Complainant’s response provided limited information beyond the information included in the Complaint.⁹ Respondents’ response acknowledged hosting the fundraising Event but outlined Respondents’ position, supported by documentary evidence, as to why Respondents had complied with all applicable campaign and political finance reporting laws in connection with the Event.¹⁰

Given their denial of any violation, Respondents did not submit a notice of intent to cure, nor did they provide information establishing any cure or triggering a substantial compliance analysis. Accordingly, the Division moved the Complaint into the investigation stage under 1-45-111.7(5), C.R.S. and issued a Notice of Investigation to Respondents.¹¹

Based on the Division’s review of the Complaint and information received through the complaint process, including in response to the RFIs, the Division now moves the Deputy Secretary’s Designee to dismiss the Complaint pursuant to section 1-45-111.7(5)(a)(IV), C.R.S. on the grounds that there is insufficient evidence to support Complainant’s allegations that Respondents violated campaign finance law.¹²

⁶ Exhibit B – Notice of Initial Review and Opportunity to Cure.

⁷ Exhibit C – Respondents’ Request for Information; Exhibit D - Complainant Request for Information.

⁸ See Exhibit E – Complainant’s RFI Responses; Exhibit F – Respondents’ RFI Response

⁹ See Exhibit E – Complainant’s RFI Responses. In its response to the Division’s RFIs, Complainant provided one additional photograph of the Event and a link to a news story regarding the Complaint.

¹⁰ Exhibit F – Respondents’ RFI Response (References to PII redacted by Division). In their response to the Division’s RFIs, Respondents provided numerous exhibits, including sworn declarations from: Respondent Candidate Weiser; Karen White, AGA Executive Director; Anna Noschese, Respondent Committee’s registered agent; and Sharyn Yee, the Resort’s Senior Catering & Conference Services Manager. Respondents also provided various documentation regarding the Event’s planning and costs, including the Banquet Event Order, Final Folio, Banquet Check, email communications regarding the Event, and excerpts of Respondent Committee’s July 15, 2021 disclosure report.

¹¹ Exhibit G – Notice of Investigation.

¹² Section 1-45-111.7(5)(a)(IV), C.R.S. states, in pertinent part: “If the division makes a determination that a complaint should not be filed with a hearing officer because there is not sufficient information to support the allegations contained in the complaint or for any other reason, it shall prepare and file with the deputy secretary a motion to dismiss the complaint.”

Factual Findings

Respondent Candidate is a candidate for re-election for Colorado Attorney General in the November 2022 general election.¹³ Respondent Candidate has maintained an active candidate committee, Respondent Committee, since May 10, 2021.¹⁴ Respondent Candidate is a member of the AGA, “a forum for bipartisan cooperation in the Attorney General community” which includes attorneys general from 46 states.¹⁵ The AGA sponsors the Conference of Western Attorneys General (“CWAG”), a bipartisan forum for attorneys general in the western United States.¹⁶ In June 2021, the AGA held its annual conference (“Conference”) at the Resort. Respondent Candidate, elected as the incoming chair of CWAG, attended the Conference and paid for his own airfare and lodging at the Resort.¹⁷

It is common at AGA conferences for various groups, including attorneys general seeking reelection, to schedule events during open times where conference events are not otherwise scheduled.¹⁸ The AGA puts such groups in touch with hotel staff to facilitate scheduling such events, but the AGA does not organize, contribute to, or provide space for such private events.¹⁹ The Grand Wailea’s staff often helps plan ancillary events for individuals or groups attending events at the Resort.²⁰ During the Conference, several groups, including several attorneys general seeking reelection, organized such ancillary events,²¹ including Respondents who held the small fundraising Event at the Resort on June 15, 2021.

In May 2021, AGA staff put Respondents in contact with Sharyn Yee, the Senior Catering & Conference Services Manager at the Resort, to plan a small fundraising event to be held on June 15, 2021 (*i.e.*, the Event).²² Respondents’ staff worked with Ms. Yee and the Resort to plan the Event. For example, Respondent Committee’s registered agent, Anna Noschese, signed the Banquet Event Order form for the Event, which quoted an estimated cost of \$963.54 and confirmed that there would be no “Food and Beverage Minimum” or “Meeting Room Rental.”²³ The Event was scheduled for 45 minutes, from 4:30pm-ev5:15pm.²⁴ Below is a screenshot from the Resort’s Banquet Order Form:²⁵

¹³ See <https://tracer.sos.colorado.gov/PublicSite/SearchPages/CandidateDetail.aspx?SeqID=47921>.

¹⁴ *Id.*

¹⁵ Exhibit F – Respondents’ RFI Response (Karen White Declaration, ¶ 1).

¹⁶ *Id.*

¹⁷ Exhibit F - Respondents’ RFI Response (Weiser Declaration, ¶¶ 2-4).

¹⁸ Exhibit F - Respondents’ RFI Response (White Declaration ¶ 3).

¹⁹ *Id.*

²⁰ Exhibit F - Respondents’ RFI Response (Yee Declaration ¶¶ 3-4.)

²¹ Exhibit F - Respondents’ RFI Response (Weiser Declaration ¶ 5, White Declaration ¶ 4, Anna Noschese Declaration, ¶ 4 & Sharyn Yee Declaration ¶ 7).

²² *Id.*

²³ Exhibit F - Respondents’ RFI Response (Banquet Order Form p. 1.)

²⁴ *Id.*

²⁵ Exhibit F - Respondents’ RFI Response (Portion of the Banquet Order Form)



Grand Wailea Resort Hotel & Spa
 3850 Wailea Alanui Drive, Wailea, Maui, HI 96753
 Phone: 808-875-1234

BEO #: 121053
 Page 2 of 2
 Date Printed: 6/8/2021

Banquet Event Order

Post As: Phil Weiser Fundraiser
 Date: Tuesday, June 15, 2021

Group Catering

	<p style="text-align: center;">Phil Weiser</p> <p style="text-align: center;">SCHEDULE OF EVENTS: 4:30pm - 5:15pm: Reception</p> <p style="text-align: center;">PLANNING CONTACT: Heather Martin Cell: 720-926-1902 Email: hmartinconsulting@gmail.com</p> <p style="text-align: center;">EventReady Meeting Note To ensure Hilton EventReady standards are met, meeting room set up and timing of events cannot be changed three (3) business days prior to the event.</p> <p style="text-align: center;">Stand Alone BEO</p> <ul style="list-style-type: none"> • Total Minimum Anticipated Revenue for your Event: \$963.54 • Meeting Room Rental: None • Food and Beverage Minimum: None • Required Deposit: \$963.54
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Shortly after Ms. Noschese sent the Banquet Event Order form to the Resort, she called Ms. Yee to confirm the details and provide the Resort with the credit card number.²⁶ In that phone call, Ms. Noschese specifically inquired whether there was any charge for use of the space where the Event would be held, noting Respondents would pay those charges.²⁷ Ms. Yee confirmed that the Resort did not charge for use of the space and that the location, a bar area in between the lobby and an outdoor balcony, would be open to the public.²⁸ Additionally, the Resort generally does not charge space rental fees to ancillary groups holding smaller events in spaces that are not otherwise in use.²⁹

Respondents held the Event on June 15, 2021 from 4:30 pm to 5:15 pm.³⁰ The Event was held in a portion of the Resort’s Grand Dining Room, in a bar area between the Resort lobby and an outside balcony area.³¹ The AGA did not reserve or book this space for the Conference, nor did the AGA reserve or book any portion of the Resort’s Grand Dining Room.³² The Event was attended by approximately 30 attendees.³³ The Event included bar service for beer, bottled water, and individual pretzel snack bags.³⁴ Respondents have acknowledged that the photos attached to the

²⁶ Exhibit F - Respondents’ RFI Response (Noschese Declaration, ¶ 6)

²⁷ *Id.* at ¶¶ 7-8)

²⁸ Exhibit F - Respondents’ RFI Response (Noschese Declaration, ¶ 8; Yee Declaration ¶¶ 3-4, 8-11.)

²⁹ Exhibit F – Respondents’ RFI Response (Yee Declaration ¶¶ 3-4)

³⁰ Exhibit F - Respondents’ RFI Response (Weiser Declaration ¶5, Yee Declaration ¶8, and Banquet Check).

³¹ Exhibit F – Respondents’ RFI Response (White Declaration, ¶ 5).

³² Exhibit F - Respondents’ RFI Response (White Declaration, ¶ 6 & Yee Declaration ¶¶ 8-9.)

³³ *Id.*

³⁴ *Id.*

Complaint depict the Event, showing attendees standing in the bar area which appears to be adjacent to a lobby and open doorway to an outside balcony.³⁵

The Resort charged Respondents \$437.50 for the food and beverage consumed at the Event.³⁶ On July 15, 2021, Respondents filed their report of contributions and expenditures with the Division, reporting both the \$437.50 expenditure related to the Event as well as the contributions received in relation to the Event.³⁷

Complaint and Investigation

On December 8, 2021, Complainant filed the Complaint alleging violations of Colorado campaign finance law by Respondents, as detailed above.³⁸ Complainant, a non-profit action-based organization that works to achieve accountability and honesty in government, received an anonymous tip related to the Event along with photographs depicting Respondent Candidate at the Event.³⁹

Complainant provided evidentiary support in support of the Complaint's allegation, including: photographs of the Event; a list of AGA sponsors; an email from the Resort with price quotes to host an event in the Grand Dining Room; and a link to Respondent Committee's disclosed expenditure related to the Event.⁴⁰ Complainant alleges that Respondents failed to report the full cost of the Event, including the room fee and food and beverage minimum. To support this allegation, Complainant provided an email from the Resort with a price quote for the Grand Dining room: \$6,000 room fee and a food and beverage minimum of \$39,760 plus tax and a 25% service charge. Complainant also provided a link to Respondents' reported expenditure of \$437.50 for the Event.⁴¹

Complainant alleges that Respondents "failed to report the vast majority of the expenditure" associated with the Event and that the "\$437.50 reported . . . is a small fraction of the true cost."⁴² Complainant alleges that the full cost for the Event, including use of the Resort space and food and beverage minimum, constituted an unlawful contribution to Respondents' campaign.

³⁵ Exhibit F – Respondents' RFI Response. Respondents have no knowledge of the source or authenticity of the photographs attached to the Complaint, or the circumstances under which the photographs were taken; but acknowledge the photographs appear to have been taken during the Event and appear to depict Candidate Weiser.

³⁶ Exhibit F – Respondents' RFI Response (Noschese Declaration, ¶ 9; Yee Declaration ¶ 10, Final Folio, Banquet Check, and Correspondence pp. 31, 33-34, 36)

³⁷ Exhibit F – Respondents' RFI Response (Noschese Declaration, ¶¶ 10-11; Quarterly Report; RSVP list with donations)

³⁸ Exhibit A - Complaint 2021-90.

³⁹ See Exhibit E- Complainant's RFI Responses.

⁴⁰ Exhibit A – Complainant 2021-90.

⁴¹ *Id.*

⁴² *Id.* at 11.

Additionally, Complainant alleges that Respondents accepted a prohibited gift in violation of section 24-6-203 C.R.S. and failed to disclose such gift.⁴³

Legal Analysis

The Complaint centers around Respondent's purported use of the Resort's Grand Dining Room, a space that carries a site fee "valued at \$6,000 with a food and beverage minimum of \$39,760 plus tax a 25% service charge."⁴⁴ Specifically, Complainant alleges, in relevant part:

Weiser is currently Chair of the AGA, a group that solicits, and is funded primarily by, corporate sponsorships...

While Weiser attended the AGA meeting in his official capacity as Colorado Attorney General and state employees accompanied him on the trip, Weiser actually held a campaign event at the resort as well. On June 15, 2021, Weiser held a fundraiser for his re-election campaign in the Grand Wailea Grand Dining Room. The site fee for the Grand Dining Room is valued at \$6,000 with a food and beverage minimum of \$39,760 plus tax and a 25% service charge.

....

Weiser failed to report this room fee and food and beverage minimum as a contribution or expenditure of his campaign. Instead, Weiser reported only \$437 as an expenditure of food/beverage for the event.

Weiser further accepted this illegal gift in violation of C.R.S. § 24-6-203 and failed to disclose its existence on his subsequent gift and honoraria report.⁴⁵

1. Alleged failure to report a contribution.

Complainant alleges that: (1) Respondents were provided a room and food and beverage at the Resort at a reduced rate or no cost, which was a contribution that was not reported and may also be a prohibited contribution; (2) the reported expenditure was "a small fraction of the true cost"; and, therefore, (3) Respondents failed to file a complete and accurate expenditure report.⁴⁶

Under Colorado law, all candidate committees must timely and accurately report all contributions received and expenditures made.⁴⁷ A 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;

⁴³ *Id.*

⁴⁴ See Complaint 2021-90 at p. 1.

⁴⁵ See Complaint 2021-90 at pgs. 1-2.

⁴⁶ See Complaint 2021-90 ¶¶ 6-9, 11.

⁴⁷ Section 1-45-108(1)(a)(I), C.R.S.

- (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.⁴⁸

Both Complainant and Respondents cite and rely on the Colorado Secretary of State's Campaign and Political Finance Manual ("CPF Manual"), which speaks directly to the use of a ballroom at a corporate-owned hotel:

The use of a space (room, building, etc.), telephones, office equipment, printed material, or any other goods or services by a committee or party is considered a contribution to the committee or party from the person who owns the space, office equipment, business providing the service, etc. Such a contribution is therefore subject to contribution limits and prohibitions. **For example, law typically prohibits the contribution/donation of the use of a ballroom at a corporate-owned hotel (whether donated outright, or given for use at a reduced rate) as a corporate contribution with the possible exception if, and only if, the hotel provides free use to other entities in the usual course of its business.**⁴⁹

In this instance, the Event took place in a space that the Resort provides free-of-charge to other entities in the usual course of business.⁵⁰ According to an affidavit from the Resort's Conference Services Manager, the Resort provides free use of such space in circumstances such as these, where there is open space that is dormant or not reserved for use.⁵¹

Complainant alleges Respondents hosted the Event in the Resort's Grand Dining Room. In support of this allegation, Complainant provides an email from the Resort outlining the cost to rent the entire dining room from 5:00 pm to 10:00 pm for a maximum of 100 people; the email quotes a \$6,000 site fee and \$39,760 food and beverage minimum, plus a service fee.⁵² As noted, however, the event described in the Complaint (*i.e.*, rental of the entire Grand Dining Room for a five hour event) is different than the Event that Respondents actually held. Of note, neither the AGA nor Respondents rented out the Grand Dining Room.

⁴⁸ COLO. CONST. art. XXVIII, § 2(5)(a).

⁴⁹ Campaign and Political Finance Manual states, available at <https://www.sos.state.co.us/pubs/elections/CampaignFinance/files/CPFManual.pdf>, p. 34. (emphasis added)

⁵⁰ Exhibit F - Respondent's RFI Response (Yee Declaration ¶¶3-4, 6-7, 11.)

⁵¹ *Id.*

⁵² Exhibit A - Complaint 2021-90, Exhibit 2. The email correspondence does not include to whom the email was addressed and references a phone call.

As evidenced by Complainant's photographs and confirmed by the Resort's Conference Services Manager, the Event took place at a small bar area that is a portion of the Hotel's Grand Dining Room between the Resort lobby and an outdoor balcony area.⁵³ According to the Resort's Conference Services Manager, the Event was held in a space that had not been reserved or booked for the Conference, in a space that has previously been used for similar fundraisers.⁵⁴ There is no evidence that Respondents rented or used the Grand Dining Room in the manner alleged in the Complaint.

The use of the Resort space for the Event falls within the example noted in the CPF Manual, which states that a candidate's use of a hotel ballroom may constitute a campaign contribution, except in cases where "the hotel provides free use [of the space] to other entities in the usual course of its business."⁵⁵ The evidence in this case supports the conclusion that the Resort allows free use of its space, including the area where the Event was held, to other entities in attendance at the Resort in the usual course of its business. Therefore, the Division determines Respondents' use of the Resort space does not constitute a contribution.

2. Alleged failure to report a campaign expenditure.

Complainant alleges that Respondents failed to report, or accurately report, a campaign expenditure by only reporting a "a small fraction of the true cost" of the Event.⁵⁶

Under Colorado law, all candidate committees must timely and accurately report all contributions received and expenditures made.⁵⁷ Expenditure means:

any 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.⁵⁸

In this case, Respondents hosted a fundraising event at the Resort and reported a \$437.50 expenditure for the food and beverage consumed at the Event.⁵⁹ Respondents provided the Banquet

⁵³ Exhibit A - Complaint 2021-90, Exhibit F - Respondent's RFI Response (Weiser Declaration ¶5); Exhibit F - Respondent's RFI Response (Yee Declaration ¶8).

⁵⁴ Exhibit F - Respondent's RFI Response (Yee Declaration ¶¶8-9.). According to the AGA, several groups, including several attorneys general seeking reelection, organized such events at the Resort during the Conference. In fact, another attorney general, Lawrence Wasden, planned to hold an event in the same location as Respondents, as have others in the past.

⁵⁵ Campaign and Political Finance Manual states, available at <https://www.sos.state.co.us/pubs/elections/CampaignFinance/files/CPFManual.pdf>, ("CPF Manual"), p. 34.

⁵⁶ Exhibit A - Complaint 2021-90.

⁵⁷ Section 1-45-108(1)(a)(I), C.R.S.

⁵⁸ COLO. CONST. art. XXVIII, § 2(8)(a).

⁵⁹ Exhibit F - Respondent's RFI Response (Quarterly Report).

Order Form, Final Folio, and Banquet Check for the event to verify the amount charged by the Resort for the Event.⁶⁰

Respondents also provided signed declarations from Respondents, their campaign staff, AGA Executive, and the Resort to show that Respondents paid the full cost of the Event. The Resort fee did not include a charge for the use of space for the Event, which was consistent with the Resort's usual course of business, and the Event did not have a minimum food or beverage fee.⁶¹ Accordingly, the only expenditure incurred by Respondents for the Event was for the cost of food and beverage consumed, which was timely reported in their disclosure report.⁶² The Division therefore determines that Respondents did not fail to report expenditures associated with the Event as alleged in the Complaint.

3. Alleged acceptance of a prohibited contribution.

Complainant alleges that Respondents received the Event space at either no cost or a discounted cost, and that such a reduction in cost for the room and food and beverage fees constituted a contribution to Respondents. Complainant alleges that the use of the Event space constitutes a contribution, either from the Resort, in which case it is a prohibited corporate contribution, or from the AGA, in which case it exceeds contribution limits to Attorney General candidates.⁶³

As explained above, Respondents did not accept a contribution related to the use of space for the Event. The Event took place in a space that the Resort offers to entities free-of-charge in the usual course of business.⁶⁴ Indeed, several groups, including several attorneys general seeking reelection, organized such events at the Resort,⁶⁵ while another attorney general, Lawrence Wasden, planned to hold an event in the same location as the Event just prior to the Event.⁶⁶ The space used for the Event was dormant, and the AGA did not contract with the Resort to hold or book this space for the Event or for the Conference.⁶⁷ The Division determines that there was no contribution from the Resort or the AGA related to the use of space for the Event.

4. Alleged acceptance of gifts by Respondents.

Finally, Complainant alleged that Respondents accepted and failed to report a gift in violation of section 24-6-203, C.R.S. related to the use of the resort space and other associated costs for the Event.

Amendment 41 of the Colorado Constitution prohibits elected officials from receiving certain gifts

⁶⁰ Exhibit F - Respondent's RFI Response (Banquet Event Order, Final Folio, and Banquet Check)

⁶¹ Exhibit F - Respondent's RFI Response (Yee Declaration ¶¶3-4, 10-11; Final Folio and Banquet Check)

⁶² Exhibit F - Respondent's RFI Response (Quarterly Report).

⁶³ Exhibit A – Complaint 2021-90.

⁶⁴ Exhibit F - Respondent's RFI Response (White Declaration, ¶¶ 5-7; Yee Declaration ¶¶3-4, 11.)

⁶⁵ Exhibit F - Respondent's RFI Response (Yee Declaration ¶¶8-9.)

⁶⁶ *Id.*

⁶⁷ *Id.*

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. Furthermore, a person who believes that a violation of these provisions has occurred may file a complaint with the Colorado Independent Ethics Commission.

Accordingly, the Division moves to dismiss the alleged violations related to the reporting and acceptance of gifts by Respondents as they do not identify a violation of Colorado campaign and political finance laws.

Conclusion

Based on the foregoing, the Division finds that there is insufficient evidence to support the Complaint's allegations of campaign finance violations. The Division likewise concludes that the allegations failed to identify a violation of Colorado campaign and political finance laws regarding acceptance and reporting of gifts by an incumbent. For the reasons stated above, the Division moves to dismiss the Complaint.

Dated this day the 25th of January 2022.

/s/ Luis Lipchak
Luis Lipchak
Campaign and Political Finance Enforcement
Elections Division
Colorado Secretary of State's Office

CERTIFICATE OF SERVICE

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

Deputy Secretary of State Designee – Michael Whitehorn
michael.whitehorn@coloradosos.gov

Respondents – Candidate Phil Weiser and Phil Weiser for Colorado
Counsel for Respondents - Shannon Stevenson
Shannon.Stevenson@dgslaw.com

Complainant – Defend Colorado
Suzanne Taheri
staheri@defendcolo.org

On this 25th day of January 2022.

/s/Luis Lipchak
Elections Division