

STATE OF COLORADO  
SECRETARY OF STATE  
1700 BROADWAY #550  
DENVER, COLORADO 80290

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BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE,  
ADMINISTRATIVE HEARING OFFICER

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AHO Case No. 2025 AHO 38 (CPF)

ED Case No. 2025-33

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In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

WEINBERG FOR COLORADO, and RON WEINBERG

Respondents.

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**RESPONDENTS' PARTIAL MOTION TO DISMISS PURSUANT TO C.R.C.P. Rule 12(b)(6)**

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COME NOW the Respondents, RON WEINBERG and WEINBERG FOR COLORADO, and hereby submit this *Partial Motion to Dismiss* pursuant to C.R.C.P. Rule 12(b)(5), and in support thereof, state and allege as follows:

**I. CERTIFICATE OF CONFERRAL PURSUANT TO C.R.C.P. Rule 121 § 1-15(8)**

The undersigned counsel certifies, pursuant to C.R.C.P. Rule 121 § 1-15(8) that the parties have conferred, both in writing and in telephone conferences about the relief sought in this Motion. Complainant is OPPOSED to the relief sought herein.

## **II. SUMMARY OF MOTION**

Colorado's campaign-finance enforcement scheme imposes a strict 180-day filing deadline to report campaign expenditure violations to the Colorado Secretary of State. Article XXVIII, section 9(2)(a) of the Colorado Constitution requires that an administrative complaint be filed "within one hundred eighty days after the date of the alleged violation." Likewise, C.R.S. § 1-45-111.7 requires dismissal of untimely campaign-finance complaints and measures timeliness, at the latest, from when the complainant knew or reasonably should have known of the alleged violation.

Here, the Complaint expressly identifies expenditures that occurred more than 180 days before the Complaint was filed on August 11, 2025.<sup>1</sup> As to those expenditures, the pleading shows untimeliness on its face. Additionally, the Complainant knew or should have known of the expenditures because of the Respondents' Colorado constitutional and statutory requirement to report his expenditures periodically to the Secretary of State, and these filings are public record. Colorado constitutional and statutory law establishes that campaign-finance claims based on expenditures outside the 180-day period are barred. Accordingly, this Motion therefore seeks to dismiss those stale claims as time barred under C.R.C.P. Rule 12(b)(5) for failure to state a claim upon which relief can be granted.

Further, Respondents anticipate that the State will argue the 180-day limitation period only applies to Complainants, and not to the State. The State will therefore argue that it may pursue investigation and file claims on behalf of a Complainant which are beyond the limitation period. This interpretation of the Colorado constitution and the applicable statute does not comport with Colorado law as to statutory interpretation and restrictions of authority.

## **III. STATEMENT OF FACTS**

Respondent Ron Weinberg is a Congressman from Loveland, Colorado currently serving in the Colorado House of Representatives. Weinberg represents House District 51, which includes a portion of Larimer County, Colorado, including the city of Loveland. On October 30, days before the 2022

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<sup>1</sup> The Complaint form completed by Complainant Bradley is dated August 8, 2025.

general election, then-District 51 Congressman Hugh McKean died unexpectedly. In 2020, McKean ran unopposed for the Colorado House of Representatives, thus triggering a vacancy committee to meet and appoint a successor to fill the remainder of McKean's term and the term in which he was elected posthumously. The vacancy committee elected Weinberg to succeed McKean for the new term beginning in 2023. Rep. Weinberg will not seek re-election.

On August 11, 2025 Weinberg's congressional colleague, Brandheis Bradley, filed a "Campaign Finance Complaint Form" with the Colorado Secretary of State's office. In the Complaint, the Complainant identifies—by date—a plethora of various expenditures (at least 150 of them) she alleges were in violation of Colorado's campaign finance laws.<sup>2</sup> On its face, the Complaint refers to expenditures made more than 180 days prior to the filing of the Complaint. The Complaint does not allege an ongoing expenditure scheme, as per a contractual obligation as an example. Further, the Complaint does not provide any explanation for a delay in discovering the alleged violations. In fact, the Complaint states clearly, at page 2, that the Complainant obtained the information alleged in the Complaint from TRACER, a public-access platform where the expenditures of candidates and elected officials can be reviewed free of charge.

After review and investigation of the Complaint from Bradley, the Ethics Division filed a Complaint on December 19, 2025 against Weinberg for Colorado and Ron Weinberg for violating Colorado's finance laws. The Complaint was accompanied by two exhibits listing alleged improper expenditures. Exhibit A (sic) lists 43 entries or line items that are alleged violations. Exhibit B (sic) lists 111 items. The Complaint filed by the Ethics Division, however, appears not to have included every item which the Complainant reported in her Complaint.

The Ethics Division served written discovery (interrogatories and requests for production) upon Respondent Weinberg for Colorado which included questions or requests for information about claims outside the 180-day limitation set forth in the Colorado constitution and statutory law. Respondent Weinberg for Colorado objected and provided no responses for items beyond the 180-day window. Since Respondents had not answered or responded to the original complaint filed by the Ethic Division, the parties agreed to resolve the issues about the scope of the expenditures through this Motion, a response, and reply.

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<sup>2</sup> The Complaint does not allege a failure of Respondents to report any expenditures.

#### IV. STANDARD OF REVIEW

Dismissal is proper where the complaint fails to state a legally cognizable claim. In Colorado practice, a failure-to-state-a-claim motion is brought under C.R.C.P. 12(b)(5). If this tribunal applies a Rule 12(b)(6) federal -type standard, the result is the same: dismissal is warranted where the face of the complaint establishes that the claim is time-barred. *See, Estate of Burgaz v. Bd. of Cnty. Comm'rs*, 2022 COA 141, ¶¶ 12–13 (limitations defense may be resolved on a motion to dismiss where untimeliness appears on the face of the complaint).

#### V. ARGUMENT

a. *The Reporting Date Fixes When Complainant “Should Have Known.”*

C.R.S. § 1-45-111.7 is the statute that proscribes the process for filing a complaint against a person or political committee that violates rules governing improper expenditures of campaign funds. The statute provides, in pertinent part, as follows:

**§ 1-45-111.7. Campaign finance complaints - initial review - curing violations - investigation and enforcement - hearings - advisory opinions - document review - collection of debts resulting from campaign finance penalties - definitions**

\* \* \*

(2) Filing complaints.

\* \* \*

(b) A complaint must be filed no later than one hundred eighty days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation.

The Complaint by Rep. Bradley was filed on August 11, 2025. 180-day prior to that date is February 12, 2025. But the event that triggers the 180-day limitation is when the Complainant “knew or should have known” of the violation. *Id.* In this case, there can be no more certain date that triggers the 180-day limitation than the reporting requirements for Respondents pursuant to Colorado law.

The principal Colorado statute governing reporting of campaign expenditures is C.R.S. § 1-45-108, and the implementing state rule is 8 Colo. Code Regs. 1505-6, Rule 10. At the constitutional

level, the governing framework is Colo. Const. art. XXVIII (*ref.*, §§ 5, 7, and 9 as pertain to this Motion), which Colorado courts describe as the primary source of the state’s campaign-finance disclosure regime. Candidates and elected officials are obligated to self-report their expenditure of campaign funds on a regular basis and upon specific dates established by statute and rule.

The required self-reporting of campaign expenditure information is submitted through TRACER, an electronic filing platform which is public record and free of charge. There, a person can research and review all expenditure information for Respondents, as Complainant noted in her Complaint, at page 2, as to her source of information for the expenditures of which she complains.

Nonetheless, the dates upon which Respondents reported their expenditures to the Secretary of State and it became a matter of public record is the date that fixes when Complainant should have known of the alleged violations. Record notice is constructive notice. *See, e.g., Franklin Bank, N.A. v. Bowling*, 74 P.3d 308 (Colo. 2003). Applying this rule, then only expenditures reported on or after February 12, 2025 are timely. *See*, Appendix A, attached. The reporting dates listed in Appendix A are calculated according to the reporting statute. Accordingly, the timeliness of the complaints by Rep. Bradley can be summarized as follows:

- (a) every expenditure assigned to a report dated January 15, 2025 or earlier is untimely.
- (b) every expenditure assigned to a report dated after January 15, 2025 is timely.
- (c) alleged violations included in reports filed April 15, 2025, July 15, 2025, and October 15, 2025 would be timely.

The latest report date before the limitations cutoff was January 15, 2025, and the last expenditure tied to a pre-cutoff report date was December 23, 2024 from Exhibit A to the Complaint, and December 20, 2024 from Exhibit B to the Complaint (*id.*, p. 1 , *id.*, p. 4). Conversely, the earliest complaints that are timely according to what Respondents duly reported are the expenditures assigned to the April 15, 2025 report: January 21, 2025, February 20, 2025, March 11, 2025, and March 20, 2025 in Exhibit A. (*id.*, p. 1 , *id.*, p. 2)

The complainant “knew or should have known” of the alleged expenditure violation when the required reports were filed and became public. Under C.R.S. § 1-45-111.7(2)(b), the timeliness of a Complaint turns on the public report date, not the date the expenditure was made. If an expenditure appears in a report submitted before February 12, 2025 pursuant to the statute, it is untimely. Complaints of expenditures contained in a report submitted after February 12, 2025 would be timely.

Using this guideline, all expenditure complaints in Appendix A assigned to report dates of 10/16/2023 through 1/15/2025 are untimely under the statute. That includes:

- (a) all expenditures tied to 10/16/2023 (id., p. 2)
- (b) all expenditures tied to 1/16/2024 (id., p. 1 , id., p. 2)
- (c) all expenditures tied to 4/15/2024 (id., p. 1 , id., p. 2)
- (d) all expenditures tied to 5/6/2024 and 5/20/2024 (id., p. 1 , id., p. 2)
- (e) all expenditures tied to 6/3/2024, 6/17/2024, 7/1/2024, 7/15/2024, and 8/1/2024 (id., p. 1 , id., p. 2 , id., p. 3)
- (f) all expenditures tied to 9/1/2024, 9/2/2024, 9/16/2024, 10/1/2024, 10/15/2024, 10/29/2024, and 11/1/2024 (id., p. 1 , id., p. 3 , id., p. 4)
- (g) all expenditures tied to 12/10/2024 and 1/15/2025 (id., p. 1 , id., p. 4)

With respect to the reporting dates, the following are true:

- (a) The latest untimely triggering report date is January 15, 2025
- (b) The latest untimely expenditure date is December 23, 2024
- (c) The earliest timely report date is April 15, 2025
- (d) The earliest timely expenditure date in Appendix A is January 21, 2025

b. *Colorado law bars campaign-finance claims based on expenditures occurring more than 180 days before the complaint was filed.*

Article XXVIII establishes the governing limitations period for administrative campaign-finance complaints. A complaint “shall be filed within one hundred eighty days after the date of the alleged violation.” Colo. Const. art. XXVIII, § 9(2)(a). Colorado’s statutory scheme is to the same effect. C.R.S. § 1-45-111.7 requires dismissal of untimely complaints and provides that a complaint must be filed within 180 days after the complainant knew or reasonably should have known of the alleged violation. Even under the more forgiving accrual formulation, stale claims are not actionable. Colorado appellate authority applies this rule to expenditure-based claims. In *Lambert v. Ritter Inaugural Comm., Inc.*, 218 P.3d 1115, 1118–19 (Colo. App. 2009), the Colorado Court of Appeals held that claims based on expenditures occurring outside the 180-day period were time-barred under Article XXVIII. The *Lambert* court rejected attempts to pursue relief for expenditures falling outside the constitutional filing window. *Id.*

The Colorado Supreme Court has likewise recognized that Article XXVIII contains a 180-day statute of limitations for campaign-finance complaints. *Alliance for a Safe & Indep. Woodmen Hills v. Campaign Integrity Watchdog, LLC*, 2019 CO 76, ¶ 22, 450 P.3d 282, 287. Accordingly, as a matter of Colorado law, claims predicated on expenditures occurring before the cutoff date are untimely unless the Complaint plausibly alleges facts bringing them within a valid discovery-based or other timely accrual theory. However, the Complaint does not contain such allegations.

c. *The Complaint is facially untimely as to expenditures predating the 180-day cutoff.*

Rep. Bradley's Complaint was filed on August 11, 2025. The 180-day cutoff is therefore February 12, 2025. Yet the Ethics Division's Complaint expressly challenges expenditures more than two (2) years before the filing by Rep. Bradley, almost all of which predate the cutoff. Because the dates appear on the face of the Complaint, untimeliness may be resolved at the pleading stage. *See, e.g., Estate of Burgaz*, 2022 COA 141, ¶¶ 12–13. And because Colorado campaign-finance law bars claims based on expenditures outside the 180-day period, those allegations do not state a viable claim for relief. *See, Lambert*, 218 P.3d at 1118–19. At minimum, all allegations and requested relief tied to expenditures reported before February 12, 2025 should be dismissed.

d. *The Complaint does not plausibly plead any basis to save the stale expenditure claims.*

A complaint can survive a facial timeliness challenge only if it plausibly alleges facts making the claims timely. The Complaint in this matter fails in this regard. First, the Complaint does not plausibly allege delayed discovery as to the challenged pre-cutoff expenditures. To the contrary, the expenditures are pleaded as discrete, dated events. Nothing in the Complaint alleges when Complainant learned of those expenditures, why they could not reasonably have been discovered earlier, or why C.R.S. § 1-45-111.7 would permit claims based on those older events.

Second, the Complaint does not plausibly allege an ongoing expenditure scheme as a continuing violation that would render otherwise stale expenditures timely. Even if the Complainant alleges later conduct, that does not revive claims based on discrete expenditures occurring outside the limitations period. At most, later timely acts could support later claims; they do not resurrect older, time-barred expenditures. *See, Lambert, supra*, 218 P.3d at 1118–19. Third, if the Complaint mixes timely and untimely allegations, the appropriate remedy is partial dismissal of the untimely portion(s). Colorado law limits relief to violations that are timely challenged. Colo. Const. art. XXVIII, § 9(2)(a).

e. *Partial dismissal is the proper remedy.*

Respondents do not, by this motion, seek dismissal of claims based solely on conduct within the actionable period, if any such claim has been adequately pleaded. But all claims, allegations, and requests for relief based on expenditures reported by Respondents in their January 15, 2025 report or an earlier report should be dismissed with prejudice as untimely.

f. *The Limitations Period is Grounds for Dismissal, Not an Affirmative Defense.*

It is well-settled under Colorado law that, generally, a statute of limitations should be pled as an affirmative defense. In practice, dismissal of a complaint is usually improper based upon a limitations period because proof of that limitation as applied to a specific case requires factual proof (i.e., the two year limitation for a breach of contract claim is established through facts produced during discovery or trial). Indeed, the statute of limitations is not grounds for a motion to dismiss for failure to state a claim upon which relief can be granted under section (b) of this rule, since under C.R.C.P. 8(c), that is a defense which must be set forth affirmatively by answer. *See, e.g., Fort Collins-Loveland Water Dist. v. City of Fort Collins*, 174 Colo. 79, 482 P.2d 986 (1971); *cf., People v. Steinberg*, 672 P.2d 543 (Colo. App. 1983) (since the statute of limitations is jurisdictional, it may be raised at any stage of the proceeding, including a motion to dismiss).

In the instant case, the Complaint itself fixes the operative dates in the allegations. Thus, under Colorado practice, limitations issues may be resolved on a motion to dismiss when untimeliness appears from the complaint itself. *See, Estate of Burgaz, supra*, (Colo. App. Dec. 15, 2022). Translating that principle into the campaign-finance setting, if the pleading identifies expenditures on dates more than 180 days before filing, and nothing in the pleading supports timeliness, the tribunal need not proceed further; the complaint is formally insufficient because the governing law bars relief. Claims tied to expenditures outside the 180-day window should be treated as barred and may be properly dismissed. *See, Lambert, supra*, 218 P.3d at 1115.

g. *Allowing the Stale Claims Will Set an Undesirable Precedent.*

If the Tribunal should allow the stale claims in this case to be pursued despite the constitutional and statutory time limitations, doing so will undoubtedly invite abuse of the Complaint process: the Ethics Division can pursue any claims notwithstanding the legal time limitations under Colorado law.

h. *The Ethics Division is Not Exempted from the Time Limitations.*

The Colorado constitution, C.R.S. § 1-45-111.7, nor the applicable regulations do not expressly exclude the Ethics Division from the 180-day limitation. The case *Shootman v. Department of Transportation*, 926 P.2d 1200 (Colo. 1996) provides valuable guidance. *Shootman* is not a campaign finance case, but it addresses a generally applicable principle directly relevant to whether the State may claim immunity from limitations periods. In *Shootman*, the Colorado Supreme Court explained that Colorado has moved away from the old common-law doctrine of *nullum tempus*, under which time did not run against the sovereign, and that the legislature had not reinstated that doctrine after the court connected it to sovereign immunity. *Id.*

The implication of *Shootman* is not that every statutory deadline automatically applies to every governmental action in every context. Rather, its importance is narrower and highly relevant here: Colorado law does not begin with a presumption that the State is categorically immune from statutes of limitation. If the State seeks exemption from a time bar, one would ordinarily expect a textual basis for that exemption rather than a default sovereign prerogative.

The statute and the Colorado Constitution both frame the 180-day rule as a deadline governing the filing of a complaint by any person who alleges a campaign finance violation. Neither text expressly states that the State is excluded from that deadline, and neither creates an explicit carveout allowing the Secretary of State or Elections Division to file or pursue a complaint outside the 180-day period. On the face of those texts, the complaint deadline applies to the complaint process itself, and there is no express State exemption.

Several features of the constitutional text must be acknowledged. First, the 180-day rule is attached to the filing of a complaint. Second, the actor identified in the filing clause is “any person.” Third, the provision does not separately say that the State may disregard that deadline, nor does it expressly define the State as outside the phrase any person. Finally, in the special circumstance of a complaint against a candidate for Secretary of State under § 1-45-111.7, the Attorney General is directed to investigate using the same procedures, which reinforces the absence of a constitutional carveout for governmental actors. *See*, Colo. Const. art. XXVIII, § 9.

On the constitutional text alone, there is no express inclusion or exclusion of the State from the 180-day bar. The constitution creates a complaint process and places a time limit on that process. It does not establish a separate constitutional enforcement track under which the State may initiate stale

charges outside that deadline. Thus, the State may not charge violations for expenditures outside the 180-day limitation, as that limitation applies equally to a Complainant, or the State acting on her behalf.

## **VI. CONCLUSION**

The rule to be applied is this: once the pleading shows that challenged expenditures fall outside the actionable 180-day window, the complaint fails to state a viable campaign-finance claim as to those expenditures, so dismissal of untimely claims included in the Complaint is proper. Under Colorado administrative law, the legal basis for dismissing campaign-expenditure claims arising more than 180 days before the complaint was filed is the 180-day limitations requirement imposed by article XXVIII, section 9 of the Colorado Constitution and implemented by C.R.S. § 1-45-111.7. When the complaint's own allegations show that the challenged expenditures are outside that period, and no timely discovery or violation scheme is plausibly alleged, the claims are barred as a matter of law and may be dismissed under the pleading stage "failure-to-state-a-claim" standard.

Upon the foregoing reasoning and authorities, Respondents respectfully request that the tribunal enter an order:

1. Dismissing with prejudice all claims based on alleged campaign expenditures reported on January 15, 2025 or earlier;
2. Striking or limiting any request for relief based on those time-barred expenditures; and
3. Granting such other and further relief as the tribunal deems lawful, equitable, proper, and just.

**DATED** this 19th day of March, 2026.

**SINNETT LAW OFFICE, L.L.C.**

By:



Russell W. Sinnett, #32723


*Attorney for Respondents*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 19th day of March, 2026, a true and correct copy of the above and foregoing **RESPONDENTS' PARTIAL MOTION TO DISMISS PURSUANT TO C.R.C.P. Rule 12(b)(6)** was electronically filed with the Court and served upon all counsel via ICCES or addressed to:

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A handwritten signature in blue ink, appearing to read "Brandeis Bradley", is written over a horizontal line.