STATE OF COLORADO

SECRETARY OF STATE
1700 BROADWAY #550
DENVER, COLORADO 80290

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

AHO Case No. 2025 AHO 38 CPF

ED Case No. 2025-33

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

WEINBERG FOR COLORADO, and RON WEINBERG

Respondents.

RESPONSE TO PARTIAL MOTION TO DISMISS

In this matter, the Elections Division alleges that Respondent Ron Weinberg spent thousands of dollars' worth of campaign funds on personal expenses over the period of several years. Now, Weinberg and his candidate committee, Weinberg for Colorado, move to limit the Division's allegations to those expenditures that were reported within 180 days of when the citizen complaint initiating this action was filed on August 11, 2025. Resps' Partial Mot. to Dismiss Pursuant to C.R.C.P. 12(b)(6)[1] ("Mot. to Dismiss") at 2 (Mar. 19, 2026).

[1] The Division construes Respondents' Motion as arising under Colo. R. Civ. P. 12(b)(5). *See* Mot. to Dismiss at 4.

At this stage, Respondents' effort to unduly narrow the scope of this case fails as a matter of law. The 180-day statute of limitations in Colorado campaign finance law is a discovery rule, triggered by a complainant's knowledge, using reasonable diligence, of the facts giving rise to her complaint. Because Respondents have not shown that the original complaint knew or should have known by the exercise of reasonable diligence of their alleged violations of Colorado law by February 12, 2025, the Motion should be denied.

BACKGROUND

Respondent Weinberg is a member of the Colorado State House of Representatives. Compl. ¶ 11 (Dec. 19, 2025). He was appointed to the House in 2023 and ran for reelection in 2024. *Id.* Respondent Weinberg for Colorado is the candidate committee organized to support Weinberg's candidacy. *Id.*

On August 11, 2025, one of Weinberg's colleagues, Representative Brandeis Bradley, filed a campaign finance complaint against him. *Id.* ¶ 13. The Bradley Complaint alleged that Weinberg was using campaign funds for personal expenses. *Id.* The Bradley Complaint identified several such expenditures, some of which were made more than 180 days before Bradley filed her complaint with the Elections Division. *Id.* ¶ 14 (referencing expenditures to "Monarch Casino in Blackhawk, CO); *see also* Ex. A to Complaint (listing such expenditures to Monarch as having occurred in late-2023).

Under § 1-45-111.7, the Division reviewed and investigated the Bradley Complaint and ultimately initiated proceedings before the Hearing Officer under § 1-45-111.7(5)(a)(IV). The Division's Administrative Complaint[2] identified several expenditures that may have been personal, rather than campaign-related, most of which occurred more than 180 days before

[2] The Division distinguishes between the original complaint (the Bradley Complaint) and the Division's complaint (the Administrative Complaint).

the Bradley Complaint was filed. *See* Exs. A, B to Compl. Consistent with § 1-45-111.7(a)(V) and Rule 3.10.1(a) (8 CCR 1505-3), the Division also sought discovery from Respondents related to the expenditures identified in the Complaint and its attachments. *See* Mot. to Dismiss at 3.

Respondents obtained counsel, and after conferrals the parties determined that the best path forward would be to resolve disputes about the proper scope of the case prior to engaging in further discovery. *Id.* To that end, on March 19, 2026, Respondents filed a "Partial Motion to Dismiss." Although the Motion does not seek dismissal of any of the Division's claims, it asks the Court to hold that any allegations related to expenditures that were reported more than 180 days before Bradley filed her complaint with the Division are untimely. *Id.* at 7-8 ("At minimum, all allegations and requested relief tied to expenditures reported before February 12, 2025 should be dismissed).

LEGAL STANDARD

As Respondents acknowledge, "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." Mot. to Dismiss at 8; *see also Reynolds v. Great N. Ins. Co.*, 2023 COA 77, ¶ 7 (observing general rule that defendants are prohibited from raising a statute of limitations defense under C.R.C.P. 12(b)(5)). An exception exists "where the bare allegations of the complaint reveal that the action was not brought within the required statutory period." *Id.* (quoting *SMLL, L.L.C. v. Peak Nat'l Bank*, 111 P.3d 563, 564 (Colo. App. 2005)). Dismissal in such circumstances is appropriate only where the court can "determine from the face of" the complaint that it is time barred. And even in such circumstances, a statute of limitations is still an affirmative defense on which Defendant bears the burden of persuasion. *Gomez v. Walker*, 2023 COA 79, ¶ 3 n.1; *see also Taheri v. Beall*, No. 23CA0501, 2024 WL 4019096,

¶ 14 (Colo. App. March 21, 2024) (unpublished) (holding that statute of limitations under § 1-45-111.7(2) is an affirmative defense) (attached as Exhibit A).

Colorado's campaign finance statute, § 1-45-111.7(2)(b), "applies the discovery rule for accrual of claims." *Taheri*, 2024 WL 4019096, ¶ 13. Specifically, the original complainant must file a complaint with the Division "no later than [180] days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation." § 1-45-111.7(2)(b).[3] "When the statute of limitations begins to run under the discovery rule standard is 'highly fact- and case-specific.'" *Taheri*, 2024 WL 4019096, ¶ 13 (quoting *McIntyre v. United States*, 367 F.3d 38, 52 (1st Cir. 2004)).

ARGUMENT

Respondents' statute of limitations defense is, at best, premature. The relevant question is whether Bradley knew or should have known by the exercise of reasonable diligence of "the facts essential to the cause of action." *Murry v. GuideOne Specialty Mut. Ins. Co.*, 194 P.3d 489, 492-93 (Colo. App. 2008). Respondents bear the burden of proof on that question, *Taheri*, 2024 WL 4019096, ¶ 14, and it cannot be answered from the face of the Complaint. Although both the Bradley Complaint and the Division's Administrative Complaint allege that Weinberg used campaign funds for personal purposes more than 180 days before the Bradley Complaint was filed, that alone is insufficient to trigger dismissal. Instead, dismissal is appropriate only where Respondents have proven that Bradley either knew or should have known of those violations prior to February 12, 2025. Because that

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[3] In their Motion, Respondents cite alternatively to Section 9(2)(a) of Article XXVIII to the Colorado Constitution. *See, e.g.*, Mot. to Dismiss at 7. But Section 9(2)(a) was declared unconstitutional in 2018. *See Campaign Integrity Watchdog LLC v. Griswold*, 2025 COA 18, ¶ 7 (citing *Holland v. Williams*, 457 F. Supp. 3d 979 (D. Colo. 2018)). As a result, "section 9(2)(a) cannot be enforced." *Campaign Integrity Watchdog LLC*, 2025 COA 18, ¶ 24. Respondents' reliance on that constitutional provision, and on cases that arose under it, *e.g.*, *Lambert v. Ritter Inaugural Comm., Inc.*, 218 P.3d 1115 (Colo. App. 2009), is inapt.

showing cannot be made from the face of the Administrative Complaint, the Motion should be denied.

And even if the Court were inclined to hold otherwise, it is not clear that the 180-day statute of limitation that applies to third-party complainants can be used to bar the Division from including older violations in its administrative complaint. Section 1-45-111.7(2)(b) applies only to original complainants. Section 1-45-111.7(5)(IV), which governs the Division's administrative complaint, is silent about the statute of limitations that should apply. That deliberate choice demonstrates the General Assembly's intent not to limit the Division to the same limitations period as third-party complainants.

I. When Bradley knew or should have known of the violations alleged in her complaint cannot be determined from the face of the Division's Administrative Complaint.

Under Colorado campaign finance law, a complaint is timely if it is filed within 180 days of when the complainant discovered the alleged violation, or when they should have discovered the violation by exercising reasonable diligence. § 1-45-111.7(2)(b). Recognizing that Bradley's actual knowledge is beyond the scope of the Administrative Complaint, Respondents instead base their challenge on what Bradley should have known through the exercise of reasonable diligence. Specifically, they argue that dismissal is appropriate notwithstanding the "highly fact- and case-specific" nature of a discovery rule inquiry, *Taheri*, 2024 WL 4019096 ¶ 13, because in all cases a complainant "knew or should have known" of any expenditure violations "when the required reports were filed and became public." Mot. to Dismiss at 5. This argument cannot be squared with the statutory text.

As a division of the Court of Appeals has already recognized, the argument that § 1-45-111.7(2)(b)'s statute of limitations begins to run on filing-based claims as of the date the campaign finance filing is made would "essentially convert[] section 1-45-111.7's discovery-based statute of limitations into a 180-day statute of repose." *Taheri*, 2024 WL 4019096 ¶ 29.

In fact, that was the law prior to the enactment of § 1-45-111.7. *Id.* (citing Colo. Const. art. XXVIII, § 9(2)(a)). The deliberate change to a discovery-rule standard is proof that the legislature did not intend for the period necessarily to begin when a filing is made. *Id.*

In *Taheri*, the issue was the accuracy of a respondent's personal financial disclosure. *Id.* ¶¶ 2-3. Respondent argued that the limitations period began on the date her disclosure was filed. *Id.* ¶ 15. A division of the Court of Appeals rejected that argument, concluding that § 1-45-111.7's statute of limitations "is triggered when a person is 'on notice' of the 'general nature of the damage,' meaning in this context, that a complainant has some reason to investigate a possible violation." *Id.* ¶ 16 (quoting *Morris v. Greer*, 720 P.2d 994, 997 (Colo. App. 1986)). The division explicitly held that the mere fact that a campaign finance filing is available, without more, is insufficient to start the limitations period. *Id.* ¶ 17 ("[T]hat argument presupposes that the complainant had some reason to think that [respondent] had violated a provision of [Colorado campaign finance law].").

As an unpublished decision, *Taheri* is not binding in this tribunal.[4] But it is persuasive. Under binding precedent, the discovery rule is triggered when a complainant acquires knowledge "of such information as would lead a reasonable person to inquire further." *Murry*, 194 P.3d at 492 (quotations omitted). The Administrative Complaint contains no facts—and Respondents have pointed to none—that would enable this Court to assess whether Bradley should have known to check Weinberg for Colorado's campaign finance filings to see whether Weinberg was using campaign funds to pay for personal expenditures earlier than she did. Instead, Respondents are left to argue that the limitations

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[4] However, the final agency decision in *Taheri*, issued by the Deputy Secretary of State following an initial decision by a hearing officer, arguably is. That final agency decision, which follows the same logic as the Court of Appeals decision, is available online here: https://tracer.sos.colorado.gov/PublicSite/SearchPages/ComplaintDetail.aspx?ID=547, and is described in the *Taheri* decision at the Court of Appeals. *Taheri*, 2024 WL 4019096 ¶¶ 5-7.

period begins on the date a filing is made regardless, and that original complainants are charged with continuously trawling campaign finance filings to identify misconduct.

Section 1-45-111.7(2)(b) does not require as much. *Taheri*, 2024 WL 4019096 ¶ 18 ("Under [respondent's] theory . . . a citizen would have the obligation to continuously research candidate filings . . . even without any notice or information concerning a possible violation. . . . such an undertaking goes beyond what section 1-45-111.7(2)(b)'s discovery rule requires.") The General Assembly could have easily adopted a strict 180-day statute of repose. It did not. And faced with such a deliberate choice, this Court should be hesitant to adopt an interpretation of § 1-45-111.7(2)(b) that would effectively convert that statute's discovery rule into a statute of repose.

Finally, denying Respondents' Motion does not foreclose their requested relief. The discovery rule is an "objective standard that does not reward denial or self-induced ignorance." *Murry*, 194 P.3d at 492. It is possible that Respondents will be able to demonstrate that Bradley "had . . . reason to suspect that a violation had occurred" long before she filed her complaint. *Contra Taheri*, 2024 WL 4019096 ¶ 17; *see also id.* ¶ 20.

But at this stage of the proceedings, the Administrative Complaint does not, on its face, establish that allegations in the Bradley Complaint were untimely. The Partial Motion to Dismiss should be denied.

II. In the alternative, the 180-day statute of limitations applies to original complainants, not to the Elections Division.

The Court need not address whether the 180-day statute of limitations in § 1-45-111.7 applies to the Division's Administrative Complaint in addition to the original complaint. Instead, the Court can deny the Motion based solely on Respondents' failure to satisfy their burden of proving that Bradley either knew or should have known of the violations alleged in the Bradley Complaint more than 180 days before it was filed.

However, if the Court concludes Respondents have met that burden, that alone does not merit dismissal of allegations raised in the Division's Administrative Complaint. Both the text and structure of § 1-45-111.7 demonstrate that the 180-day statute of limitations applies to the original complaint, not the Division's Administrative Complaint.

In § 1-45-111.7, the General Assembly structured the statute around discreet parts of the administrative process. Subsection (2) deals with the filing of a third-party complaint. Subsection (3) addresses the Division's initial review of that complaint, Subsection (4) the cure process for any curable violations, and Subsection (5) the process for the Division's "investigation[] and enforcement," including filing complaints with an administrative hearing officer. § 1-45-111.7. The 180-day statute of limitations appears only in Subsection (2), which applies to the original complainants, not the Elections Division. *See also Safeco Ins. Co. v. Westport Ins. Co.*, 166 P.3d 251, 253 (Colo. App. 2007) (holding that statute of limitations in one part of a statute could not be applied to a different part of the statute).

Section 1-45-111.7's plain text reinforces the General Assembly's conscious choice. In Subsection (5), the General Assembly instructed that the Division's complaint should not be limited to the claims and allegations in the original complaint. Instead, the Division is "responsible for . . . supplementing or amending the complaint with such additional or alternative claims or allegations as may be supported by [its] investigation." § 1-45-111.7(5)(a)(V). In other words, the General Assembly tasked the Division with expanding the complaint to encompass all claims and allegations that could be supported by its investigation. This is consistent with Colorado voters' admonition that the interests of the public "are best served by . . . strong enforcement of campaign finance requirements." Colo. Const. art. XXVIII, § 1; *see also* § 1-45-102 ("[T]he interests of the public are best served by . . . strong enforcement of campaign laws.").

In § 1-45-111.7, the General Assembly choice to restrain campaign finance complaints based on the original complainant's date of knowledge. Upon receiving such a complaint, the Division must determine whether the complaint was timely filed. § 1-45-111.7(3)(a)(I). Once it makes the determination that at least some claims are timely, though, the General Assembly chose not to further constrain the Division's subsequent administrative complaint. To the contrary, it obligated the Division to supplement and expand the original complaint based on the findings of its investigation.

Accordingly, should the Court conclude that the Bradley Complaint was untimely as to allegations that predate February 12, 2025, that conclusion does not apply to similar allegations in the Division's Administrative Complaint.

CONCLUSION

Respondents' Partial Motion to Dismiss should be denied.

Respectfully submitted this 1st day of April, 2026,

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CERTIFICATE OF SERVICE

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