

**BEFORE THE SECRETARY OF STATE  
STATE OF COLORADO**

**CASE NO.**

---

**IN THE MATTER OF THE COMPLAINT FILED BY COLORADO ETHICS  
WATCH REGARDING ALLEGED CAMPAIGN AND POLITICAL FINANCE  
VIOLATIONS BY SENATE MAJORITY FUND LLC AND COLORADO  
LEADERSHIP FUND LLC**

---

Claimant Colorado Ethics Watch (“Ethics Watch”), by and through undersigned counsel, pursuant to Colo. Const. art. XXVIII and C.R.S. § 1-45-101. *et seq.*, asserts this Complaint against Respondents Senate Majority Fund, LLC (“SMF”) and Colorado Leadership Fund, LLC (“CLF”) and in support thereof alleges as follows:

**PARTIES**

1. Ethics Watch is a nonprofit organization that uses legal actions to hold public officials and organizations accountable for unethical activities that undermine the integrity of state and local government.

2. Ethics Watch is a “person” as that term is defined by Colo. Const. art. XXVIII, § 2(11) and C.R.S. § 1-45-103(13) and therefore is authorized to bring a complaint under section Colo. Const. art. XXVIII, § 9(2)(a) and C.R.S. § 1-45-111.5(1.5).

3. SMF registered as a 527 political organization with the Colorado Secretary of State on October 10, 2007. See Colorado Secretary of State, Election Center, Political Organization Detail, Senate Majority Fund LLC, filed October 10, 2007 (attached as Exhibit A). According to its state registration, Scott Shires is its registered agent and its principal address is 12237 East Amherst Circle, Aurora, Colorado, 80014. Id. SMF’s stated purpose is “supporting candidates for the state senate.” See id.

4. CLF registered as a 527 political organization with the Colorado Secretary of State on September 27, 2007. See Colorado Secretary of State, Election Center, Political Organization Detail, Colorado Leadership Fund LLC (attached as Exhibit B). According to its state registration, Timothy Gilmore is its registered agent and its principal address is P.O. Box 238, Denver, Colorado 80201. See id. CLF’s stated purpose is “electing Republicans.” Id.

**FACTUAL ALLEGATIONS**

5. Respondents SMF and CLF each purchased ten direct mail pieces that share the following traits. Each ad:

- 1) Expressly identifies a specific candidate;

2) Expressly states that the named candidate is running for election to a particular office;

3) Takes a position on the candidate's character, qualifications and fitness for that office; and

4) States what the candidate "can" or "will" do once elected to that office.

6. The SMF print ads in question are attached collectively as Exhibit C. The CLF print ads in question are attached collectively as Exhibit D.

7. In addition to the print ads described in Exhibits C and D, SMF reported spending over \$114,000 to purchase, through its agent Rock Chalk Media, LLC, television air time from Comcast Spotlight for a television advertisement supporting Libby Szabo, a candidate for the Colorado State Senate in District 19. See Colorado Secretary of State, Election Center, Spending Adjustments, Senate Majority Fund, LLC (attached as Exhibit E); Colorado Secretary of State, Election Center, Electioneering Report Spending, Senate Majority Fund, LLC, July 22, 2008 (attached as Exhibit F). Like the mail ads, the television ad announces that Libby Szabo is running for the state senate, touts her qualities and fitness for that office, and says that as a legislator she "will rise above partisan finger-pointing to get the job done right." (See compact disc containing a copy of the television ad, attached as Exhibit G).

8. On information and belief, Respondents SMF and CLF each spent over \$200 on the aforementioned mail ads.

9. According to disclosure reports filed by Respondents SMF and CLF, each received contributions in excess of \$500. See Colorado Secretary of State, Elections Center, Contribution Detail, Senate Majority Fund LLC (attached as Exhibit H); Colorado Secretary of State, Elections Center, Contribution Detail, Colorado Leadership Fund LLC (attached as Exhibit I).

10. The major purpose of both SMF and CLF is the nomination or election of candidates for public office in Colorado.

**FIRST CLAIM FOR RELIEF**  
**(Violation of art. C.R.S. § 1-45-108(3))**

11. Ethics Watch incorporates by reference paragraphs 1 through 10 as if fully set forth herein.

12. Colo. Const. art. XXVIII, § 2(12)(a) defines a "political committee" as "any person, other than a natural person, or any group of two or more persons, including natural persons, that have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more candidates."

13. Colo. Const. art. XXVIII, § 2(8)(a) defines "expenditure" as, *inter alia*, "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.” (Emphasis added). An expenditure is considered to be made “when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.” See Colo. Const. art. XXVIII, § 2(8)(a).

14. All political committees shall register as such with the secretary of state before accepting or making any contributions. C.R.S. § 1-45-108(3). Registration shall include a statement listing:

- (a) The organization's full name, spelling out any acronyms used therein;
- (b) A natural person authorized to act as a registered agent;
- (c) A street address and telephone number for the principle place of operations;
- (d) All affiliated candidates and committees;
- (e) The purpose or nature of interest of the committee or party;
- (f) Any intent of the candidate committee, political committee, issue committee, small donor committee, or political party to electronically file reports required by this article that may be filed electronically on a web site operated and maintained by the secretary of state pursuant to section 1-45-109.

15. As set forth in paragraphs 5 through 7 above, Respondents SMF and CLF each made expenditures when they purchased ads supporting candidates running for election to the Colorado legislature that “expressly advocate the election... of a candidate.” See Colo. Const. art. XXVIII, § 2(8)(a); see also Exhibits H and I.

16. From the date of their first expenditures, Respondents SMF and CLF became political committees under Colo. Const. art. XXVIII, § 2(12)(a).

17. As political committees, Respondents SMF and CLF were required to register with the secretary of state before accepting contributions. See C.R.S. § 1-45-108(3).

18. Neither Respondent SMF nor Respondent CLF are registered as political committees in violation of C.R.S. § 1-45-108(3).<sup>1</sup> See Exhibits A and B.

19. Any person, including a political organization or committee, that commits a violation of the aforementioned reporting requirements shall be subject to sanctions as set forth in Colo. Const. art. XXVIII, § 10. See also C.R.S. § 1-45-111.5.

**SECOND CLAIM FOR RELIEF**  
**(Violation of Colo. Const. art. XXVIII, § 3(5))**

20. Ethics Watch incorporates by reference paragraphs 1 through 19 as if fully set forth herein.

---

<sup>1</sup> Although the Senate Majority Fund (as distinct from Respondent Senate Majority Fund LLC) is registered as a political committee, none of the expenditures at issue in this complaint appear in the Senate Majority Fund's campaign finance disclosures.

21. Pursuant to Colo. Const. art. XXVIII, § 3(5), “No political committee shall accept aggregate contributions or pro rata dues from any person in excess of five hundred dollars per house of representatives election cycle.”

22. From the point they became political committees, Respondents SMF and CLF were each subject to the \$500 contribution limit. According to disclosure reports filed by Respondents SMF and CLF, each has received contributions in excess of \$500. See Exhibits F and G.

23. Pursuant to Colo. Const. art. XXVIII, § 10(1), Respondents SMF and CLF are subject to civil penalties up to five times the amount of each contribution received in excess of \$500.

**THIRD CLAIM FOR RELIEF**  
**(Violations of Colo. Const. art. XXVIII, § 5)**

24. Ethics Watch incorporates by reference paragraphs 1 through 23 as if fully set forth herein.

25. According to Colo. Const. art. XXVIII, § 5: “[a]ny person making an independent expenditure in excess of one thousand dollars per calendar year shall deliver notice in writing to the secretary of state of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure. The notice shall specifically state the name of the candidate whom the independent expenditure is intended to support or oppose. Each independent expenditure in excess of one-thousand dollars shall require the delivery of a new notice.”

26. An independent expenditure means “an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate.” See Colo. Const. art. XXVIII, § 2(9).

27. On information and belief, the ads at issue purchased by Respondents SMF and CLF were not controlled by or coordinated with any candidate or agent of such candidate, therefore each was required to file independent expenditure reports for expenditures in excess of one-thousand dollars.

28. On information and belief, neither Respondent SMF nor CLF have filed any independent expenditure reports in 2008.

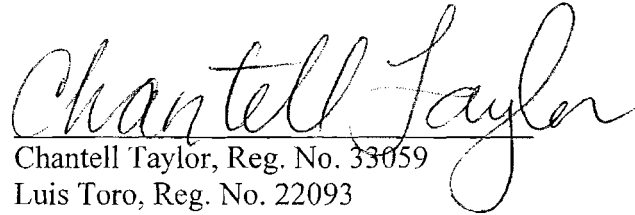
**REQUESTED RELIEF**

- A. For their failure to register and submit reports in violation of C.R.S. § 1-45-108, Respondents SMF and CLF should each be fined \$50 per day for each document that should have been filed with the Secretary of State. See Colo. Const. art. XXVIII, § 10(2)(a).
- B. For their violation of contribution limits contained in Colo. Const. art. XXVIII, § 3(5), Respondents SMF and CLF should each be fined five

times the amount of the illegal contributions given and accepted. See  
Colo. Const. art. XXVIII, § 10(1).

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

Respectfully submitted this 10th day of September 2008.



Chantell Taylor, Reg. No. 33059

Luis Toro, Reg. No. 22093

Colorado Ethics Watch

1630 Welton Street, Suite 415

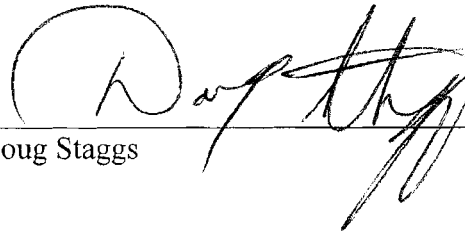
Denver, CO 80202

#### Certificate of Service

I hereby certify that on this 10<sup>th</sup> day of September, 2008 a true and correct copy of the foregoing complaint was hand delivered to the Secretary of State, Elections Division, and served by placing the same in the U.S. Mail, postage prepaid, to:

Senate Majority Fund LLC  
12237 East Amherst Circle  
Aurora, Colorado, 80014

Colorado Leadership Fund LLC  
P.O. Box 238  
Denver, Colorado 80201



Doug Staggs