



DEMOCRATIC GOVERNORS ASSOCIATION
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September 14, 2017

Walker R. Stapleton
Office of the Treasurer
200 East Colfax Avenue
State Capitol, Suite 140
Denver, CO 80203-1722
treasurer.stapleton@state.co.us

Re: Potential Campaign Finance Violation

Mr. Stapleton,

We write with serious concern about your blatant coordination with a purportedly “independent” group planning to make “independent expenditures” to support your nascent gubernatorial campaign. Based on your conduct to date, this group can no longer be considered independent. Under Colorado law, any expenditure made on your behalf by a committee that has coordinated with you would be an illegal in-kind contribution. Accordingly, you should instruct the group to cease and desist from any such expenditures, or from accepting contributions in excess of Colorado’s strict limits for political committees. If it does not, we plan to file a complaint against you, the committee, and the committee’s donors who make contributions in excess of Colorado’s political committee limits as soon as the committee makes expenditures on your behalf that exceed the contribution limits.

The Constitution of the State of Colorado clearly states that “interests of the public are best served by limiting campaign contributions, establishing campaign spending limits, providing for full and timely disclosure of campaign contributions...and strong enforcement of campaign finance requirements.”¹ With that in mind, the state has made it unlawful for corporations and labor organizations to make direct contributions to candidate committees,² and also for candidate committees to receive contributions from individuals in excess of the \$575 per election limit.³

¹ Colo. Const. art. XXVIII, § 1.

² Colo. Const. art. XXVII, § 3(4)(a).

³ See Contribution Limits, Colo. Sec’y of State, *available at* <https://www.sos.state.co.us/pubs/elections/CampaignFinance/limits/contributions.html#naturalPerson>.

In establishing campaign spending limits, the state has also prohibited independent expenditure committees from making direct contributions to candidates and coordinating expenditures with candidates.⁴ Other Colorado candidates have publicly acknowledged the strict boundaries they maintain between their campaigns and independent expenditure committees. For example, according to the campaign manager of George Brauchler’s gubernatorial campaign, “[n]either George Brauchler nor anyone associated with his campaign for governor of Colorado have had any contact whatsoever with an independent expenditure committee or its representatives... We believe that efforts to tiptoe around coordination laws are in violation of the spirit of such laws and want nothing to do with those questionable practices.”⁵

You appear to have opted for a different approach. According to news sources, the independent expenditure committee Better Colorado Now is hosting a private fundraiser to support your candidacy, charging \$10,000 per couple to attend.⁶ By working directly with Better Colorado Now on this fundraiser and “help[ing] steer unlimited sums of money toward” the group reportedly “expected to provide...artillery during [your] campaign” you have clearly coordinated with an entity that is required to remain independent.⁷ Such blatant coordination undermines the law.

Because Colorado considers “[e]xpenditures that are controlled by or coordinated with a candidate...to be both contributions by the maker of the expenditures, and expenditures by the candidate,” your conduct to date bars Better Colorado Now from making an “independent expenditure” on your behalf once you announce your candidacy.⁸ If Better Colorado Now proceeds in the face of legal restrictions and makes such expenditures, we plan to file a complaint against you, the committee, and the committee’s donors who make contributions in excess of Colorado’s political committee limits as soon as the committee makes expenditures on your behalf that exceed the contribution limits.⁹

We are prepared to pursue all legal remedies available to ensure that Colorado law is followed in this instance, and to ensure that other state candidates enjoy an equal opportunity to participate in the political process in Colorado’s upcoming elections.

Sincerely,

Elisabeth Pearson, DGA Executive Director

cc: Better Colorado Now

⁴ *Id.*

⁵ Mark K. Matthews, *Another Big-Money Group has Joined Colorado’s Governor’s Race — This One is Backing George Brauchler*, Denver Post (Aug. 16, 2017), available at <http://www.denverpost.com/2017/08/16/george-brauchler-governor-race-colorado-strong/>.

⁶ Mark K. Matthews, *Walker Stapleton Found a Way Around Governor’s Race Donation Limits – It’s Raising Money and Eyebrows*, Denver Post (Aug. 3, 2017), available at <http://www.denverpost.com/2017/08/03/walker-stapleton-colorado-governor-campaign-funds-election-2018/>.

⁷ *Id.*; see also Colo. Code Regs. § 1505-6:21.1.1.

⁸ Colo. Const. art. XXVIII, § 2(9); Colo. Rev. Stat. Ann. § 1-45-103.7(2.5); see Contribution Limits, *supra* note 3.

⁹ Colo. Rev. Stat. Ann. § 1-45-111.5(1.5)(a).