

OFFICE OF THE SECRETARY OF STATE, ELECTIONS DIVISION
STATE OF COLORADO

IN THE MATTER OF ALAN PHILP, FRANK MCNULTY, AND GREG BROPHY
REDISTRICTING COMMISSION LOBBYIST COMPLAINT

NOTICE OF INITIAL REVIEW AND INVESTIGATION

Stanley Matsunaka (Complainant) filed a complaint with the Elections Division (Division) on August 24, 2021, pursuant to 8 CCR 1505-8, Rule 4.3 and Article V, §§ 44.2(4)(b)(III) and 48(4)(b)(III) of the Colorado Constitution,¹ alleging that Alan Philp, Frank McNulty, and Greg Brophy (Respondents) violated Colorado lobbying laws.² Specifically, Complainant alleges that Respondent McNulty and Respondent Brophy engaged in redistricting commission lobbying but failed to register as redistricting commission lobbyists and failed to disclose their clients. Complainant further alleges that all Respondents were compensated for lobbying and failed to disclose such income as required by lobbyist rules. Complainant also alleges that Colorado Neighborhood Coalition (CNC), Respondent McNulty, as CNC's registered agent, or Respondent Philp, as CNC's registered lobbyist, or all of them, paid or authorized payment to Respondent McNulty and Respondent Brophy for lobbying activities even though they were not registered to lobby in violation of Colorado law.

The Division notified Respondents of the Complaint via email on August 25, 2021. The Division notified Respondents that the Division would make an initial determination regarding the Complaint within 21 days of receiving the Complaint by September 14, 2021. The Division has completed its initial review of the lobbyist complaint.

In its initial review, the Division must determine whether the Complaint (1) specifically identifies one or more violations of the Rules Concerning Lobbyist Regulation, the Colorado Constitution, or section 24-6-301 et seq. C.R.S. and (2) alleges sufficient facts to support a basis for the violations of law alleged in the Complaint.

The Division initially determines that, as alleged in the Complaint, Respondents potentially violated the following provisions. Rule 4.1.1, which states:

A redistricting commission lobbyist must register electronically via the Secretary of State's website. The registration must contain:

¹ COLO. CONST. art V, §§ 44.2(4)(b)(III) and 48(4)(b)(III); *see also* 8 CCR 1505-8, Rule 4.3.

² 8 CCR 1505-8, Rules Concerning Lobbyist Regulation and Section 24-6-301 et seq., C.R.S.

- (a) The redistricting commission lobbyist's full name, email address, business address, and business telephone number;
- (b) The name, address, and telephone number of all clients that contract with or compensate the redistricting commission lobbyist;

As well as Rule 4.2, which states:

A redistricting commission lobbyist must disclose, within 72 hours:

- (a) Any contracts to engage on behalf of a client in communication directly or indirectly with a redistricting commission for the purposes of aiding or influencing such commission in their constitutionally prescribed duties, including the start date and end date of such a contract;
- (b) Any compensation received to engage on behalf of a client in communication directly or indirectly with a redistricting commission for the purposes of aiding or influencing such commission in their constitutionally prescribed duties, including the value of any non-monetary compensation; or
- (c) Termination of any contract.

A redistricting commission lobbyist must disclose the applicable commission.

Respondents also may have violated section 24-6-308(1)(m), C.R.S., which states:

No person engaged in lobbying shall [...] (m) Employ, subcontract, or pay compensation to a person for lobbying who has not registered as a lobbyist;

The Division also finds that Complainant alleges sufficient facts to support a basis for the violations of lobby regulations. Complainant identifies specific activities and statements by Respondents alleged to be redistricting commission lobbying. Complainant refers to statements made by Respondents at redistricting commission hearings and provides links to recordings of the hearings and written comments. Additionally, Complainant identified a private meeting alleged to be redistricting commission lobbying attended by Respondent Philp and Respondent McNulty. Complainant also alleges that Respondents were compensated to engage in redistricting commission lobbying.

In summary, the Division initially determines Complainant identified one or more potential violations of Colorado lobbying laws and alleged sufficient facts to support a basis for the alleged violations. Based on the Division's initial review, the allegations and facts contained in the

Complaint warrant investigation by the Division.³ The Division will investigate to determine whether these alleged violations occurred.

Please note that all documents and records related to the alleged violations in this Complaint, including email communications, financial records, and other relevant documentation must be maintained until the final agency decision has been reached or appeals have been exhausted.

Dated this 14th day of September 2021.

/s/Luis Lipchak
Luis Lipchak
Elections Division
1700 Broadway, Suite 550
Denver, CO 80290

³ 8 CCR 1505-8, Rule 5.3.2.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Notice of Initial Review and Investigation was served by electronic transmission to the addresses below:

Complainant – Stanley Matsunaka

Counsel for Stanley Matsunaka

mark@rklawpc.com

Respondents –

Alan Philp

aphilp@patriotpathways.com

Frank McNulty

frank@squarestatellc.com

Greg Brophy

senatorbrophy@gmail.com

on this 14th day of September 2021.

/s/Luis Lipchak
Elections Division