

DETAILED SUMMARY

Full Name of Committee/Person: _____

Current Reporting Period: _____

Through _____

Funds on hand at the beginning of reporting period (Monetary Only)		\$
6	Itemized Contributions \$20 or More [C.R.S. 1-45-108(1)(a)] (Please list on Schedule "A")	\$
7	Total of Non-Itemized Contributions (Contributions of \$19.99 and Less)	\$
8	Loans Received (Please list on Schedule "C")	\$
9	Total of Other Receipts (Interest, Dividends, etc.)	\$
10	Returned Expenditures (from recipient) (Please list on Schedule "D")	\$
11	Total Monetary Contributions (Total of lines 6 through 10)	\$
12	Total Non-Monetary Contributions (From Statement of Non-Monetary Contributions)	\$
13	Total Contributions (Line 11 + line 12)	\$
14	Itemized Expenditures \$20 or More [C.R.S. 1-45-108(1)(a)] (Please list on Schedule "B")	\$
15	Total of Non-Itemized Expenditures (Expenditures of \$19.99 or Less)	\$
16	Loan Repayments Made (Please list on Schedule "C")	\$
17	Returned Contributions (To donor) (Please list on Schedule "D")	\$
18	Total Coordinated Non-Monetary Expenditures (Candidate/Candidate Committee & Political Parties only)	\$
19	Total Monetary Expenditures (Total of lines 14 through 17)	\$
20	Total Spending (Line 18 + line 19)	\$

From: Kendra Carberry [<mailto:klc@hphclaw.com>]
Sent: Wednesday, November 13, 2013 10:21 PM
To: Chris Toll
Subject: campaign violations

Chris,

You never responded to my email from yesterday on this issue. However, your client appeared at Town Hall today and filed the attached. Again, these forms are incorrect and/or incomplete. Mr. Maslak also requested notice via certified mail of the penalty, which the Town Clerk will provide. However, the penalty will continue to accrue at \$50 per day until the correct/complete forms are properly filed.

While at Town Hall, Mr. Maslak became very argumentative with the Town Clerk, and several witnesses observed his behavior and were alarmed by it. Please advise Mr. Maslak to avoid this type of conduct at Town Hall. If he would like to argue about the fine, he can contact me or have you contact me.

Kendra L. Carberry
Hayes, Phillips, Hoffmann & Carberry, P.C.
1530 16th Street, Suite 200
Denver, CO 80202
direct - (303) 951-2095
office - (303) 825-6444

November 14, 2013

VIA E-MAIL (klc@hphclaw.com)

Kendra L. Carberry, Esq.
Hayes, Phillips, Hoffmann & Carberry, P.C.
1530 16th Street, Suite 200
Denver, CO 80202

Re: Citizens for Responsible Government

Dear Ms. Carberry:

I write in response to your November 12 and 13, 2013 emails to my partner, Chris Toll, regarding alleged campaign finance violations by Citizens for Responsible Government ("CRG"). Frankly, I was surprised to see emails from counsel related to this topic. I was also surprised that such a communication was not sent to Mr. Maslak, the Registered Agent of CRG, but instead was sent to Mr. Maslak's litigation counsel for an unrelated lawsuit. The name and email of CRG's Registered Agent were provided on the CRG registration form filed with the Town Clerk on November 6th. As you know, notice of an alleged campaign finance violation and related fine must be communicated by the "appropriate officer" by certified mail and by electronic mail if an electronic address is on file. *See* Colo. Const. art. XXVIII, § 10(2)(a). Amendment 28 defines the appropriate officer as "the individual whom a [committee] must file pursuant to section 1-45-109(1), C.R.S., or any successor section. *Id.* at § 2(1). With respect to a Vail municipal election, as is the case here, the appropriate officer is Tammy Nagel, the Acting Town Clerk, and not legal counsel for the municipality. *See* C.R.S. § 1-45-109(1)(b). CRG has received no written notice from the appropriate officer, or anyone else, of any potential campaign finance violations. In fact, when Mr. Maslak spoke with Ms. Nagel yesterday, she informed him that she was told that she was no longer the "appropriate officer" and could not discuss the matter with him. Colorado campaign finance law has no provision that allows someone else--lawyer or not--to simply appoint themselves as the appropriate officer for accepting campaign finance filings or communicating notices of alleged campaign finance violations and related fines.

Further, if she discovers a possible campaign finance violation, the Town Clerk—again, not counsel—must provide CRG with "written notice of the facts or conduct that constitute the possible violation." *See* 8 CCR 1505-6, Rule 18.2.1 (Oct. 26, 2012) (emphasis added). Here, even assuming that the Town Clerk could delegate her campaign finance duties to counsel, you have not provided any facts supporting the alleged violation, instead simply concluding that CRG is a candidate committee without any reference to any supporting facts whatsoever.

I am aware of your lead counsel role in representing the Town of Vail in certain litigation with Mr. Maslak and seven other Plaintiffs who are represented in that action by Mr. Toll. Your

Holland & Hart LLP Attorneys at Law

Phone (303) 290-1600 Fax (303) 290-1606 www.hollandhart.com

6380 S. Fiddlers Green Circle Suite 500 Greenwood Village, CO 80111

Aspen Billings Boise Boulder Carson City Cheyenne Colorado Springs Denver Denver Tech Center Jackson Hole Las Vegas Reno Salt Lake City Santa Fe Washington, D.C.

EXHIBIT

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communication with Mr. Toll rather than the Registered Agent of CRG, failure to follow constitutional and statutory requirements in the method and content of such communication, unsubstantiated allegations of additional filing requirements and fines, and your inserting yourself in place of Ms. Nagel as “appropriate officer” combine to create the appearance that you are attempting to use the campaign finance regulations to intimidate Mr. Maslak as a litigant in a wholly unrelated matter. Simply put, if CRG has violated any Colorado campaign finance laws or regulations, there is no reason why CRG should be treated differently than any other committee in dealing with the appropriate campaign finance officer.

Rule 18.2.1(b) allows a party properly notified by the appropriate officer 15 business days to address the issue with the appropriate officer. *See* 8 CCR 1505-6, Rule 18.2.1(b). CRG will certainly address any alleged violations with Ms. Nagel in the event that it properly receives such notice from her. Nevertheless, I will also address the issues you raise in your emails to assure that there is no further misunderstanding. Although CRG did pay for the advertisements, neither those expenditures nor any other expenditure were coordinated with any of the candidates or their candidate committees. In addition, CRG did not make any contributions to the candidates. As such, CRG is an “independent expenditure committee” as defined by C.R.S. § 1-45-107.5(3)(a). CRG is not a candidate committee or a political committee. *See* 8 CCR 1505-6, Rules 3.3 and 5.2 (Oct. 26, 2012). As Ms. Nagel informed you prior to you sending your emails, she confirmed CRG's status as an independent expenditure committee and provided the independent expenditure committee registration form for CRG to use when she first indicated that CRG should register, on November 4, 2013.

You also claim that CRG failed to report certain expenditures related to ads placed in the Vail Daily. As an independent expenditure committee, CRG did not have the same reporting requirements as a candidate committee. CRG was formed when it had its first independent “expenditure” (for the Vail Daily advertisements you identified in your email) on October 31, 2013, when there was a contractual agreement requiring spending for the ads and the amount was determined. *See* Colo. Const., art. XXVIII, § 8(a) (definition of “expenditure”) and C.R.S. § 1-45-107.5(3)(a). Pursuant to C.R.S. § 1-45-107.5(3)(a), CRG was to register within two business days after that first expenditure, or November 4, 2013. Although Mr. Maslak had been informed on October 25 by Ms. Nagel and staff at the Colorado Secretary of State's office that there was no need to register as a committee related to advertising expenditures for this municipal election, he first learned of the need to register minutes before 5:00pm on November 4th. He promptly completed and filed the independent expenditure committee registration form received from Ms. Nagel on November 6, 2013—two days after the deadline.

With respect to reporting expenditures and contributions, CRG had neither prior to October 31, 2013. The reporting period for the November 1, 2013 report covered contributions and expenditures up to October 27, 2013. *See* Campaign and Political Finance 2013 Municipal Frequent and Annual Filing Calendar from the Secretary of State's Website, attached here; see also 8 CCR 1505-6, Rule 17.2.2(b) (Oct. 26, 2012). Since it had no contributions or expenditures on or before October 27, 2013, it had none to report on November 1, 2013 and accurately filled

November 14, 2013
Page 3

out a report with zero balances and amounts. CRG will properly report its post-October 27th contributions and expenditures in its next contributions and expenditure report, when due.

Mr. Maslak sought out and received guidance from Ms. Nagel and the Secretary of State's office regarding CRG's campaign finance registration and reporting obligations. CRG has acted in good faith to comply with the guidance it received and the applicable Colorado campaign finance laws, rules and regulations. If Ms. Nagel believes that there has been a violation, then CRG respectfully requests that she notify CRG as required under Amendment 28 and the Secretary of State Rules. In that event, CRG will seek a waiver of any fine as it has acted in good faith and in accordance with the guidance it received from Ms. Nagel and the Secretary of State's office.

Regards,



J. Lee Gray
of Holland & Hart^{LLP}

JLG
Enclosure

cc: Matt Mire, Esq.

CAMPAIGN AND POLITICAL FINANCE 2013 MUNICIPAL FREQUENT AND ANNUAL FILING CALENDAR

Frequent calendar applies to not yet terminated municipal:

- Candidates or candidate committees whose candidate attempts access to or will appear on the November 5, 2013 Coordinated Election ballot
- Issue committees whose issue attempts access to or will appear on the November 5, 2013 Coordinated Election ballot

October

15 21st Day before the Election Report covers:

- October 28, 2012 through October 10, 2013

OR

- December 2, 2012 through October 10, 2013

November

1 Friday before the Election Report covers October 11, 2013 through October 27, 2013

5 2013 Coordinated Election

December

5 Post - Election Report covers October 28, 2013 through November 30, 2013

Infrequent/Annual calendar applies to not yet terminated municipal:

- Political Committees
- Small Donor Committees
- 527 Political Organizations
- Political Parties
- Independent Expenditure Committees
- Candidate and candidate committees whose candidate will not attempt access to or appear on the November 5, 2013 Coordinated Election ballot
- Issue committees whose issue will not attempt access to or appear on the November 5, 2013 Coordinated Election ballot

November

1 Annual Report covers:

- October 28, 2012 through October 27, 2013

OR

- December 2, 2012 through October 27, 2013

Note: For disclosure deadlines associated with a municipal election not held on November 5, 2013 check with the municipal clerk.

The following reports are not required in odd calendar years:

24 Hour Notice of Major Contributor

48 Hour Notice of Independent Expenditure

Published by the Colorado Secretary of State

www.sos.state.co.us

Campaign Finance Support Team:

Tel: (303) 894-2200 ext. 6383

Email: cpfhelp@sos.state.co.us

Reporting: TRACER.sos.colorado.gov

January 2013

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

February 2013

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

March 2013

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

April 2013

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2013

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June 2013

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

July 2013

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2013

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September 2013

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

October 2013

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November 2013

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

December 2013

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Adele Lee

From: Kendra Carberry [klc@hphclaw.com]
Sent: Tuesday, November 19, 2013 6:16 PM
To: Lee Gray
Subject: FW: Citizens for Responsible Government

Categories: Red Category

Mr. Gray,

I will be responding to your letter in due course. In the meantime, please refrain from contacting my client directly about this matter. As you know, Ms. Nagel is represented by counsel.

Kendra L. Carberry
Hayes, Phillips, Hoffmann & Carberry, P.C.
1530 16th Street, Suite 200
Denver, CO 80202
direct - (303) 951-2095
office - (303) 825-6444

From: Lee Gray [<mailto:LGray@hollandhart.com>]
Sent: Tuesday, November 19, 2013 9:46 AM
To: Tammy Nagel
Subject: FW: Citizens for Responsible Government

Ms. Nagel,

Good morning. I am emailing a copy of the attached letter regarding the above-named independent expenditure committee to assure your notice of the issues addressed in the letter. Thank you.

Best regards,

Lee

vCard<<http://www.hollandhart.com/hhcard/hhcard.cfm?ID=5059>>

People<<http://www.hollandhart.com/people.cfm>>

Practice Areas<<http://www.hollandhart.com/practice.cfm>>

Web Site<<http://www.hollandhart.com/>>

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J. Lee Gray

lgray@hollandhart.com<mailto:lgray@hollandhart.com>

Phone: 303-290-1602

Holland & Hart LLP

Fax: 303-975-5303

6380 S. Fiddlers Green Cir., Suite 500

Main: 303-290-1600

Greenwood Village, CO 80111

CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.



Witt Communications, Inc.

P.O. Box 955
Eagle, CO 81631

970-471-5380 pwitt@wittcommunications.com

Invoice

DATE	INVOICE #
11/14/2013	201326

BILL TO
Citizens for Responsible Government Attn: Sam Maslak

DUE DATE
11/14/2013

DESCRIPTION	HOURS	RATE	AMOUNT
Campaign consulting	8.5	125.00	1,062.50
Thank you for your business. EIN 84-1594509			Total \$1,062.50

Interest at the rate of 1.5% per month will be charged on all accounts more than 30 days past due.





Witt Communications, Inc.

P.O. Box 955
Eagle, CO 81631

970-471-5380 pwitt@wittcommunications.com

Invoice

DATE	INVOICE #
11/14/2013	201327

BILL TO
Citizens for Responsible Government Attn: Sam Maslak

DUE DATE
11/14/2013

DESCRIPTION	HOURS	RATE	AMOUNT
Ad run in Vail Daily: 5 ads total, full page @\$840 each		4,200.00	4,200.00
Thank you for your business. EIN 84-1594509		Total	\$4,200.00

Interest at the rate of 1.5% per month will be charged on all accounts more than 30 days past due.

Colorado Secretary of State
Elections Division
1700 Broadway, Ste. 200
Denver, CO 80290
Ph: (303) 894-2200 ext. 6383
Fax: (303) 869-4861
Email: cpfhelp@sos.state.co.us
www.sos.state.co.us



EXHIBIT

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REPORT OF CONTRIBUTIONS AND EXPENDITURES

(1-45-108, C.R.S.)

Full Name of Committee/Person:	Citizens for Responsible Government
As Shown On Registration	
Address of Committee/Person:	PO Box 1730
City, State & Zip Code:	Vail, CO 81658
Committee Type:	Independent Expenditure
Name and Address of Financial Institution	US Bank 108 S. Frontage Rd. West Vail, CO 81657

SOS ID NUMBER (state and county committees):

Type of Report



Regularly Scheduled Filing.



Amended Filing. This amends previous report filed on (date)

Submit changes or new information ONLY



Termination Report. (Termination Reports MUST Have a Monetary Balance of Zero in Line 5)



Check this box if this Report Contains Electioneering Communications Information

Reporting Period Covered:

28-OCT-2013

Date

Through

30-NOV-2013

Date

Declared Total Spending (if applicable)

[Art. XXVIII, Sec. 4(1)]

\$ 5,269.00

		Totals Detailed Summary Page
1	Funds on Hand at the Beginning of Reporting Period (monetary only)	\$ 0
2	Total Monetary Contributions (line 11)	\$ 6,800.00
3	Total of Monetary Contributions & Beginning Amount (line 1 + line 2)	\$ 6,800.00
4	Total Monetary Expenditures (line 19)	\$ 5,269.00
5	Funds on Hand at the End of Reporting Period (monetary) (line 3 - line 4)	\$ 1,531.00

The appropriate officer shall impose a penalty of \$50 per day for each day that a report is filed late.

[Art. XXVIII Sec. 10(2)(a)]

Authorization (Must be completed by either the Registered Agent OR the Candidate): I hereby certify and declare, under penalty of perjury, that to the best of my knowledge or belief all contributions received during this reporting period, including any contributions received in the form of membership dues transferred by a membership organization, are from permissible sources.

Print Registered Agent's Name: Samuel H. Maslak

Registered Agent's Signature: Samuel H. Maslak Date: 4-DEC-2013

Print Candidate Name: _____

Candidates Signature: _____ Date: _____

DETAILED SUMMARYFull Name of Committee/Person: Citizens for Responsible GovernmentCurrent Reporting Period: 28-OCT-2013 Through 30-NOV-2013

Funds on hand at the beginning of reporting period (Monetary Only)		\$ 0
6	Itemized Contributions \$20 or More [C.R.S. 1-45-108(1)(a)] (Please list on Schedule "A")	\$ 6,800.00
7	Total of Non-Itemized Contributions (Contributions of \$19.99 and Less)	\$ 0
8	Loans Received (Please list on Schedule "C")	\$ 0
9	Total of Other Receipts (Interest, Dividends, etc.)	\$ 0
10	Returned Expenditures (from recipient) (Please list on Schedule "D")	\$ 0
11	Total Monetary Contributions (Total of lines 6 through 10)	\$ 6,800.00
12	Total Non-Monetary Contributions (From Statement of Non-Monetary Contributions)	\$ 0
13	Total Contributions (Line 11 + line 12)	\$ 6,800.00
14	Itemized Expenditures \$20 or More [C.R.S. 1-45-108(1)(a)] (Please list on Schedule "B")	\$ 5,262.50
15	Total of Non-Itemized Expenditures (Expenditures of \$19.99 or Less)	\$ 6.50
16	Loan Repayments Made (Please list on Schedule "C")	\$ 0
17	Returned Contributions (To donor) (Please list on Schedule "D")	\$ 0
18	Total Coordinated Non-Monetary Expenditures (Candidate/Candidate Committee & Political Parties only)	\$ 0
19	Total Monetary Expenditures (Total of lines 14 through 17)	\$ 5,269.00
20	Total Spending (Line 18 + line 19)	\$ 5,269.00

Schedule A – Itemized Contributions Statement (\$20 or more)

[C.R.S. 1-45-108(1)(a)]

Full Name of Committee/Person: Citizens for Responsible Government

WARNING: Please read the instruction page for Schedule "A" before completing!

PLEASE PRINT/TYPE

1. Date Accepted <u>13-NOV-2013</u>	4. Name (Last, First): <u>Maslak, Samuel</u>
2. Contribution Amt. \$ <u>1,000.-</u>	5. Address: <u>PO Box 1730</u>
3. Aggregate Amt. * \$ <u>1,000.-</u>	6. City/State/Zip: <u>Vail, CO 81658</u>
☒ Check box if Electioneering Communication	7. Description: <u>check</u>
	8. Employer (if applicable, mandatory): <u>Retired</u>
	9. Occupation (if applicable, mandatory): <u>Retired</u>

1. Date Accepted <u>14-NOV-2013</u>	4. Name (Last, First): <u>Maslak, Samuel</u>
2. Contribution Amt. \$ <u>2,400.-</u>	5. Address: <u>PO Box 1730</u>
3. Aggregate Amt. * \$ <u>3,400.-</u>	6. City/State/Zip: <u>Vail, CO 81658</u>
☒ Check box if Electioneering Communication	7. Description: <u>check</u>
	8. Employer (if applicable, mandatory): <u>Retired</u>
	9. Occupation (if applicable, mandatory): <u>Retired</u>

1. Date Accepted <u>14-NOV-2013</u>	4. Name (Last, First): <u>Webster, Deborah</u>
2. Contribution Amt. \$ <u>1,000.-</u>	5. Address: <u>4321 East Lake Creek Road</u>
3. Aggregate Amt. * \$ <u>1,000.-</u>	6. City/State/Zip: <u>Edwards, CO 81632</u>
☒ Check box if Electioneering Communication	7. Description: <u>check</u>
	8. Employer (if applicable, mandatory): <u>Retired</u>
	9. Occupation (if applicable, mandatory): <u>Retired</u>

1. Date Accepted <u>14-NOV-2013</u>	4. Name (Last, First): <u>Hilliard, Glenn</u>
2. Contribution Amt. \$ <u>2,400.-</u>	5. Address: <u>2870 Peachtree Rd., #505</u>
3. Aggregate Amt. * \$ <u>2,400.-</u>	6. City/State/Zip: <u>Atlanta, GA 30305</u>
☒ Check box if Electioneering Communication	7. Description: <u>check</u>
	8. Employer (if applicable, mandatory): <u>Hilliard Group, LLC</u>
	9. Occupation (if applicable, mandatory): <u>CEO</u>

* For contribution limits within a committee's election cycle or contribution cycle, please refer to the following Colorado Constitutional cites: Candidate Committee Art. XXVIII, Sec. 2(6); Political Party Art. XXVIII, Sec. 3(3); Political Committee Art. XXVIII, Sec 3(5); Small Donor Committee Art. XXVIII, Sec. 2(14).

Schedule B – Itemized Expenditures Statement (\$20 or more)

[1-45-108(1)(a), C.R.S.]

Full Name of Committee/Person: Citizens for Responsible Government

PLEASE PRINT/TYPE

1. <u>Date Expended</u> <u>14-NOV-2013</u>	4. Name: <u>Witt Communications, Inc.</u>
2. <u>Amount</u> <u>\$ 1,062.50</u>	5. Address: <u>PO Box 955</u>
3. Recipient is (optional): ☐ Committee ☐ Non-Committee	6. City/State/Zip: <u>Eagle, CO 81631</u>
	7. Purpose of Expenditure: <u>Campaign Consulting</u>
	☐ Check box if Electioneering Communication

1. <u>Date Expended</u> <u>14-NOV-2013</u>	4. Name: <u>Witt Communications, Inc.</u>
2. <u>Amount</u> <u>\$ 4,200.—</u>	5. Address: <u>PO Box 955</u>
3. Recipient is (optional): ☐ Committee ☐ Non-Committee	6. City/State/Zip: <u>Eagle, CO 81631</u>
	7. Purpose of Expenditure: <u>Ad run in Vaily Daily</u>
	☒ Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u> \$	5. Address: _____
3. Recipient is (optional): ☐ Committee ☐ Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____
	☐ Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u> \$	5. Address: _____
3. Recipient is (optional): ☐ Committee ☐ Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____
	☐ Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u> \$	5. Address: _____
3. Recipient is (optional): ☐ Committee ☐ Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____
	☐ Check box if Electioneering Communication

**HAYES, PHILLIPS, HOFFMANN & CARBERRY, P.C.**

1530 Sixteenth Street, Suite 200

Denver, Colorado 80202-1468

Telephone: (303) 825-6444

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Corey Y. Hoffmann
Kendra L. Carberry
Jefferson H. Parker

Of Counsel
Herbert C. Phillips
J. Matthew Mire

Vail Office

P.O. Box 2616

Vail, CO 81658

Telephone: (970) 390-4941

Facsimile: (303) 825-1269

Ryan S. Malarky
Kelly L. Donlon
Elizabeth R. Cross
Charissa A. Johnston
B. Brittany Scantland Lall

John E. Hayes (Retired)

December 11, 2013

J. Lee Gray, Esq.
Holland & Hart LLP
6380 S. Fiddlers Green Circle, Suite 500
Greenwood Village, CO 80111
Via email to lgray@hollandhart.com

Re: Citizens for Responsible Government campaign finance violations

Dear Mr. Gray,

As you know, I represent the Town of Vail and Tammy Nagel in her capacity as the Interim Town Clerk for the Town of Vail. I write in response to your November 14, 2013 correspondence.

First, the reason I contacted Chris Toll regarding the campaign finance violations of Citizens for Responsible Government ("CRG") is because Mr. Toll represents Mr. Maslak, CRG's registered agent. Had I known you represented CRG, I would have contacted you instead. Regardless, it would have been inappropriate for me to contact Mr. Maslak directly, given his pending litigation against the Town.

Second, your suggestion that I inserted myself in place of Ms. Nagel as the "appropriate officer" to intimidate Mr. Maslak is ridiculous. Likewise, your insinuation that Ms. Nagel somehow delegated her campaign finance duties to me is baseless. I represent Ms. Nagel in her capacity as the Interim Town Clerk. Like anyone else (including your client), Ms. Nagel is entitled to legal representation concerning this matter. Ms. Nagel has advised your client, and I advise you here, that she has elected to be represented by legal counsel in this matter, just as your client has so elected.

The Town is aware that Mr. Maslak personally contributed to the political campaigns of both Dale Bugby and Sounia Chaney. Moreover, Mr. Bugby has publicly stated that he is the "spokesman" for Mr. Maslak and the other plaintiffs in the Sunburst litigation. As such, there is ample evidence that CRG's expenditures on the full page advertisements run in the Vail Daily

December 11, 2013

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were coordinated at least with Mr. Bugby. As you know, in relevant part, a candidate committee is defined as "a person ... or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate." Colo. Const. Art. XXVIII, § 2(3). Given the facts available to the Town, it is apparent that CRG is a candidate committee for Mr. Bugby, rather than an independent expenditure committee.

Regardless, even if the Town accepts as true your representation that CRG is not affiliated with Mr. Bugby, your letter admits that CRG registered as an independent expenditure committee two days late. The penalty is \$50 per day, for a total of \$100.

In your letter, you also state that the expenditures for the Vail Daily advertisements were made on October 31, 2013, and therefore, there were no expenditures to report in the November report. First, the November report was filed on November 6, 2013, five days late. The penalty for the late filing is \$250. You allege that the November 6th report is correct, because no expenditures were made prior to October 27th, the end of the reporting period. The Town will accept as true your representation that the expenditures were not made until October 31, 2013. As such, no additional penalty will be imposed for the November 6th report. However, if the expenditures were truly made on October 31, 2013, the December 5, 2013 report filed by CRG is apparently incorrect. That report only includes expenditures made on November 14, 2013. As such, the December 5th report must be corrected. The penalty for the incorrect December 5th report is also \$50 per day. As of today's date, the fine is \$300.

You cite Rule 18.2.1(b), and state that it "allows a party properly notified by the appropriate officer 15 business days to address the issue with the appropriate officer." However, you neglect to consider Rule 18.2.2, which expressly provides that the 15-day cure period does not apply to the late filing of campaign finance reports for which penalties are imposed under Article XXVIII, § 10(2)(a) of the Colorado Constitution.

Based on the foregoing, as of today, the total fine due is \$650, and will continue to accrue at \$50 per day until the December 5th report is corrected. Because you insist on dual notification, I will send a copy of this letter directly to CRG, certified mail.

Very truly yours,



Kendra L. Carberry

klcarberry@hphclaw.com

c: Citizens for Responsible Government (via certified mail)
J. Matthew Mire, Town Attorney
Tammy Nagel, Interim Town Clerk

12/11/13

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December 18, 2013

VIA E-MAIL (klc@hphclaw.com)

Kendra L. Carberry, Esq.
Hayes, Phillips, Hoffmann & Carberry, P.C.
1530 16th Street, Suite 200
Denver, CO 80202

Re: Citizens for Responsible Government (“CRG”)

Dear Ms. Carberry:

I write in response to your December 11, 2013 letter. I do not dispute the right of municipal officials to have counsel in litigation or even in administrative hearings before an ALJ. The problem here is different. The applicable campaign finance laws provide two types of enforcement proceedings: a citizen-initiated complaint with the Secretary of State’s office (pursuant to Colo. Const. art. XXVIII, § 9(2)(a)) or an imposition of a penalty by an enforcing agency (i.e., the “appropriate officer” described in Colo. Const. art. XXVIII, § 10(2)(a)). See *Patterson Recall Committee, Inc. v. Patterson*, 209 P.3d 1210, 1215 (Colo.App. 2009) (discussing the distinction between the two forms of enforcement proceedings).

Here, I have a letter from you as counsel for the Town Clerk that describes certain positions of “the Town” and details certain fines, and the continuing accrual of fines, but does not state whether or not the Town Clerk herself has determined that there was a violation or has imposed any fines. As the “appropriate officer” in this case, Ms. Nagel has the authority to do so under Colo. Const. art. XXVIII, § 10(2)(a). You, as her counsel or otherwise, do not. As the “appropriate officer” who determines and imposes fines, Ms. Nagel is also the person to whom CRG would appeal to in order to seek reconsideration or reduction of any fine. But here, you have injected yourself into this administrative process and—worse yet—have forbidden CRG’s direct contact to Ms. Nagel.

I provide this background and explanation to let you know that I’m not trying to be difficult or argumentative, but to clarify whether your letter is a written imposition of a fine by the appropriate officer (as part of an enforcement proceeding) or simply your position as counsel. Thus, I now ask whether you are passing along the findings and fines imposed by the Vail Town Clerk in her role as the “appropriate officer,” or are you simply informing me of your determinations and opinions? Unless I hear from you definitively that you are passing along the findings and fines imposed by the Vail Town Clerk, CRG must assume that you are simply informing me of your opinions, and that your opinions do not constitute the valid imposition or legal notice of a fine. I look forward to hearing back from you on this issue at your earliest convenience.

Holland & Hart LLP Attorneys at Law

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Aspen Billings Boise Boulder Carson City Cheyenne Colorado Springs Denver Denver Tech Center Jackson Hole Las Vegas Reno Salt Lake City Santa Fe Washington, D.C.

EXHIBIT

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Regards,



J. Lee Gray
of Holland & Hart LLP

JLG
Enclosure

cc: Matt Mire, Esq. (via email to MMire@vailgov.com)

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John E. Hayes (Retired)

December 27, 2013

J. Lee Gray, Esq.
Holland & Hart LLP
6380 S. Fiddlers Green Circle, Suite 500
Greenwood Village, CO 80111
Via email to lgray@hollandhart.com

Re: Citizens for Responsible Government campaign finance violations

Dear Mr. Gray,

As you know, I represent the Town of Vail and Tammy Nagel in her capacity as the Interim Town Clerk for the Town of Vail. I write in response to your December 18, 2013 correspondence.

As I have now stated many times (and at least three more times in this letter), I represent Ms. Nagel in her capacity as the Interim Town Clerk. Ms. Nagel is the appropriate officer to make findings and impose fines for campaign finance violations. My letter of December 11, 2013 was written on behalf of Ms. Nagel in her capacity as the Interim Town Clerk. The findings stated in my letter were the findings of Ms. Nagel in her capacity as the Interim Town Clerk. I have not "injected" myself into anything – I am only acting as legal counsel in this matter. Moreover, I have not "forbidden" your client's contact with Ms. Nagel – instead, I have advised you that you, as an attorney, have an ethical duty not to contact Ms. Nagel directly. I am not sure how I can be any clearer.

Very truly yours,

Kendra L. Carberry

klcarberry@hphclaw.com

c: J. Matthew Mire, Town Attorney

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Tammy Nagel, Interim Town Clerk