

BEFORE THE SECRETARY OF STATE
STATE OF COLORADO

Case No. 2010-0008

IN THE MATTER OF THE COMPLAINT FILED BY CHRISTOPHER KLITZKE
REGARDING ALLEGED CAMPAIGN AND POLITICAL FINANCE VIOLATIONS BY
FRIENDS OF DAN MAES FOR GOVERNOR, AND DANIEL MAES.

AMENDED COMPLAINT

COMES NOW, Complainant Christopher Klitzke, a resident and registered voter of the State of Colorado, by and through counsel, Erik R. Groves, to allege violations of Colorado campaign finance law by Friends of Dan Maes for Governor and Daniel Maes and in connection therewith, does state for his Complaint:

1. Dan Maes is a candidate for the Republican Party nomination for Governor of the State of Colorado. Daniel Maes registered his candidate committee, Friends of Dan Maes for Governor ("FDMG"), on March 13, 2009, with the Colorado Secretary of State's Office, Reg. # 20095604615. Daniel Maes is the registered agent for FDMG, and the registered address for FDMG is 29957 Lewis Ridge Road, Evergreen, Colorado 80439.

2. As a candidate, Daniel Maes executed a candidate affidavit pursuant to C.R.S., § 1-45-110 on March 12, 2009 certifying that he is familiar with the provisions of the Colorado Fair Campaign Practices Act ("FCPA") and, pursuant to COLO. CONST., ART. XXVIII, SEC. 10 (1), a candidate is personally liable for penalties imposed on the candidate's committee for violations of the candidate committee relating to contribution limits.

3. Daniel Maes resides at 29957 Lewis Ridge Road, Evergreen, Colorado 80439.

4. As a candidate committee, FDMG is prohibited from receiving contributions from corporate donors. COLO. CONST., ART. XXVIII, SEC. 3 (4)(a).

5. The definition of "contribution" contained in COLO. CONST., ART. XXVIII, SEC. 3 (4)(a) includes "[a]nything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, retention, recall, or election." COLO. CONST., ART. XXVIII, SEC. 2 (5)(a)(IV).

6. Pursuant to COLO. CONST., ART. XXVIII, SEC. 7 and C.R.S., § 1-45-108(1)(a)(I)-(II), FDMG is required to disclose the name, address, occupation, and employer of every individual contributor of any contribution of \$100.00 or more.

7. Pursuant to Secretary of State Rule 8 C.C.R. 1505-6(4.9.2), if the occupation and employer information as required by Article XXVIII, Section 7 is not provided, and the committee is unable to gather the information within 30 days after the receipt of the contribution, the contribution shall be returned to the contributor no later than the 31st day after receipt.

8. Pursuant to C.R.S., § 1-45-108(1)(a)(I), as a candidate committee, FDMG is required to report to the Secretary of State all expenditures made and obligations entered into by the committee.

9. Pursuant to COLO. CONST., ART. XXVIII, SEC. 2 (8)(a), an expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.

10. Pursuant to Secretary of State Rule 8 C.C.R. 1505-6(4.4), as a candidate committee, FDMG must keep a record of all expenditures.

11. Pursuant to C.R.S., § 1-45-108(1)(e), a candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Further, although a candidate committee may reimburse a candidate at any time, the expenditures for which reimbursement is made must be reported as an expenditure at the time the expenditure is made, regardless of the date of reimbursement.

12. Pursuant to Secretary of State Rule 8 C.C.R. 1505-6(4.25), when reporting a reimbursement to a candidate or to any other person, the committee or party shall *separately* disclose each such expenditure of \$20 or more, including the purpose, payee, and amount of each expenditure as of the date of the expenditure regardless of the date of reimbursement.

13. FDMG filed a campaign finance report with the Secretary of State's Office covering the period October 1, 2009 to December 31, 2009 on January 20, 2010 (the "January Report").

14. FDMG filed a campaign finance report with the Secretary of State's Office covering the period January 1, 2010 to April 25, 2010 on May 3, 2010 (the "May Report").

15. Pursuant to COLO. CONST., ART. XXVIII, SEC. 9 (2)(a), any person who believes that a violation of section 3 of Article 28 of the Colorado Constitution or C.R.S., § 1-45-108 has occurred, may file a written complaint with the Secretary of State no later than 180 days after the date of the alleged violation.

16. Pursuant to C.R.S., § 1-45-111.5(1.5)(a), any person who believes that a violation of either the Secretary of State's rules concerning campaign and political finance or the FCPA has occurred may file a written complaint with the Secretary of State not later than 180 days after the date of the occurrence of the alleged violation.

17. This Complaint is filed within 180 days of the first prohibited contribution received by FDMG, pursuant to COLO. CONST., ART. XXVIII, SEC. 9 (2)(a).

FIRST CLAIMED VIOLATION

Accepting Prohibited Contributions by a Candidate Committee from Corporate Donors by FDMG.

18. Complainant incorporates paragraphs 1 through 17 above and further alleges:

19. On December 23, 2009, FDMG received two corporate non-monetary contributions totaling \$567.69.

20. FDMG received and reported two non-monetary contributions valued at \$130.55 and \$437.14 described as "flier donations" and "flier printing", respectively, from Publication Printers Corporation.

21. Publication Printers Corporation is located at 2001 S. Platte River Drive, Denver, CO 80223 and registered with the Office of the Secretary of State of the State of Colorado as a corporation formed on January 18, 1979.

22. The non-monetary contributions from Publication Printers Corporation constitute a prohibited corporate contribution.

23. FDMG violated COLO. CONST., ART. XXVIII, SEC. 3 (4)(a) when it received \$567.69 in corporate contributions and did not promptly return these contributions.

SECOND CLAIMED VIOLATION

Improper Disclosure of Contributions by FDMG.

24. Complainant incorporates paragraphs 1 through 23 above and further alleges:

25. FDMG failed to file the quarterly campaign and political finance report for the fourth quarter of 2009, from October 1, 2009 and December 31, 2009, by the statutory deadline of January 15, 2010. Instead, FDMG filed the Report on January 20, 2010 and amended the Report on March 29, 2010.

26. As disclosed on the amended Report filed on March 29, 2010, between October 1, 2009 and December 31, 2009, FDMG received \$10,075.93 in monetary contributions.

27. Of the contributions disclosed on the amended Report filed by FDMG on March 29, 2010, fourteen contribution disclosures failed to properly disclose the employer and occupation of the contributor when the contribution was \$100.00 or more as required by C.R.S., § 1-45-108(1)(a)(II).

28. On April 1, 2010, FDMG received a letter from the Colorado Secretary of State, Elections Division regarding some of the deficiencies in the required reporting of contributor employer and occupation information. The Secretary of State's office identified seven

deficiencies and required that such deficiencies be cured by April 12, 2010 in order for FDMG to avoid penalties for non-compliance.

29. On April 12, 2010, FDMG again amended the Report, but failed to cure all of the deficiencies identified by the Secretary of State as well as other deficiencies not identified by the Secretary of State.

30. On November 17, 2009, FDMG received a contribution in the amount of \$500.00 from Judy Anderson. FDMG disclosed Judy Anderson's employer, but failed to disclose her occupation; instead listing "unknown" in the occupation field.

31. The improper disclosure of Judy Anderson's occupation information has not been amended since the March 29, 2010 amended Report. According to the amended campaign finance report on March 29, 2010 and the report filed for the subsequent reporting period on May 3, 2010, the contribution with unknown employer and occupation was not returned to the contributor after 30 days as required by Secretary of State Rule 8 C.C.R. 1505-6(4.9.2)

32. On December 12, 2009, FDMG received a contribution in the amount of \$100.00 from Laura Barnes. FDMG failed to disclose Laura Barnes's employer and occupation in the Report.

33. The Secretary of State identified the improper disclosure of Laura Barnes's employer and occupation in the April 1, 2010 correspondence to FDMG regarding reporting deficiencies of the Report.

34. On April 12, 2010, FDMG amended the entry of Laura Barnes occupation information on the Report to show "unknown" and failed to disclose employer information. As amended, the Report remains deficient. According to the amended campaign finance report on March 29, 2010 and the report filed for the subsequent reporting period on May 3, 2010, the contribution with unknown employer and occupation was not returned to the contributor after 30 days as required by Secretary of State Rule 8 C.C.R. 1505-6(4.9.2)

35. On December 12, 2009, FDMG received a contribution in the amount of \$250.00 from Chris Rodriguez. FDMG failed to disclose Chris Rodriguez's employer and occupation in the Report.

36. The improper disclosure of Chris Rodriguez's employer and occupation information has not been amended since the March 29, 2010 amended Report.

37. On December 31, 2009, FDMG received a contribution in the amount of \$500.00 from Kenneth Clark. FDMG failed to disclose Kenneth Clark's employer and occupation in the Report; instead listing "unknown" for both the employer and occupation fields.

38. The improper disclosure of Kenneth Clark's employer and occupation information has not been amended since the March 29, 2010 amended Report. According to the amended campaign finance report on March 29, 2010 and the report filed for the subsequent reporting period on May 3, 2010, the contribution with unknown employer and occupation was

not returned to the contributor after 30 days as required by Secretary of State Rule 8 C.C.R. 1505-6(4.9.2)

39. On November 21, 2009, FDMG received a contribution in the amount of \$100.00 from Jeanie Katzer. FDMG failed to disclose Jeanie Katzer's employer and occupation in the Report.

40. The improper disclosure of Jeanie Katzer's employer and occupation has not been amended since the March 29, 2010 amended Report. According to the amended campaign finance report on March 29, 2010 and the report filed for the subsequent reporting period on May 3, 2010, the contribution with unknown employer and occupation was not returned to the contributor after 30 days as required by Secretary of State Rule 8 C.C.R. 1505-6(4.9.2)

41. On December 12, 2009, FDMG received a contribution in the amount of \$150.00 from Jordan Maes. FDMG failed to disclose Jordan Maes's employer and occupation in the Report; instead listing "NA" for employer and "unknown" for occupation.

42. The improper disclosure of Jordan Maes employer and occupation information was amended on April 12, 2010 to read "office and administrative occupations" for occupation but continued to list "NA" in the employer field. As amended, the Report remains deficient.

43. Upon information and belief, Jordan Maes is the daughter of Daniel Maes and is employed by FDMG and was employed by FDMG on or before April 12, 2010. According to the May 3, 2010 campaign finance report, Jordan Maes has received \$5,200 in wages from FDMG up through April 25, 2010. FDMG was aware of Jordan Maes's employer and occupation and failed to disclose this information in its March 29, 2010 amended campaign finance report.

44. On October 12, 2009, FDMG received a contribution in the amount of \$100.00 from Michael Messaros. FDMG failed to disclose Michael Messaros's occupation; instead listing "unknown" in the occupation field.

45. The improper disclosure of Michael Messaro's occupation information has not been amended since the March 29, 2010 amended Report. According to the amended campaign finance report on March 29, 2010 and the report filed for the subsequent reporting period on May 3, 2010, the contribution with unknown employer and occupation was not returned to the contributor after 30 days as required by Secretary of State Rule 8 C.C.R. 1505-6(4.9.2)

46. On November 30, 2009, FDMG received a contribution in the amount of \$300.00 from Edward Plotkin. FDMG failed to disclose Edward Plotkin's occupations; instead listing "unknown".

47. The improper disclosure of Edward Plotkin's occupation information has not been amended since the March 29, 2010 amended Report. According to the amended campaign finance report on March 29, 2010 and the report filed for the subsequent reporting period on May 3, 2010, the contribution with unknown employer and occupation was not returned to the contributor after 30 days as required by Secretary of State Rule 8 C.C.R. 1505-6(4.9.2)

48. On October 28, 2009, FDMG received a contribution in the amount of \$250.00 from Lori Riewaldt. FDMG failed to disclose Lori Riewaldt's occupation; instead listing "unknown" in the occupation field.

49. The improper disclosure of Lori Riewaldt's occupation information has not been amended since the March 29, 2010 amended Report. According to the amended campaign finance report on March 29, 2010 and the report filed for the subsequent reporting period on May 3, 2010, the contribution with unknown employer and occupation was not returned to the contributor after 30 days as required by Secretary of State Rule 8 C.C.R. 1505-6(4.9.2)

50. FDMG violated C.R.S., § 1-45-108 when it failed to report the occupation and employer of each contributor who contributed \$100.00 or more to FDMG.

51. FDMG violated Secretary of State Rule 8 C.C.R. 1505-6(4.9.2) by failing to return the contribution of \$100.00 or more within 31 days when FDMG was unable to gather the occupation and employer information of the contributor.

52. The Report submitted on January 20, 2010 has been improperly filed for 143 days as of June 11, 2010, the date of the filing of this Complaint.

THIRD CLAIMED VIOLATION

Improper Disclosure of Expenditures by FDMG on January Report.

53. Complainant incorporates paragraphs 1 through 52 above and further alleges:

54. Between October 1, 2009 and December 31, 2009, Daniel Maes was reimbursed by FDMG a total of \$8,675.00 for "mileage reimbursement" according to FDMG's January Report.

55. On October 2, 2009, Daniel Maes was reimbursed \$500.00 for "mileage reimbursement" as disclosed in the Report.

56. On October 8, 2009, Daniel Maes was reimbursed \$1,000.00 for "mileage reimbursement" as disclosed in the Report.

57. On October 22, 2009, Daniel Maes was reimbursed \$300.00 for "mileage reimbursement" as disclosed in the Report.

58. On November 3, 2009, Daniel Maes was reimbursed \$250.00 for "mileage reimbursement" as disclosed in the Report.

59. On November 16, 2009, Daniel Maes was reimbursed \$125.00 for "mileage reimbursement" as disclosed in the Report.

60. On November 17, 2009, Daniel Maes was reimbursed \$1,000.00 for “mileage reimbursement” as disclosed in the Report.

61. On November 20, 2009, Daniel Maes was reimbursed \$750.00 for “mileage reimbursement” as disclosed in the Report.

62. On November 30, 2009, Daniel Maes was reimbursed \$1,200.00 for “mileage reimbursement” as disclosed in the Report.

63. On December 10, 2009, Daniel Maes was reimbursed \$300.00 for “mileage reimbursement” as disclosed in the Report.

64. Also on December 10, 2009, Daniel Maes was reimbursed \$150.00 for “mileage reimbursement” as disclosed in the Report.

65. On December 15, 2009, Daniel Maes was reimbursed \$1,000.00 for “mileage reimbursement” as disclosed in the Report.

66. On December 18, 2009, Daniel Maes was reimbursed \$1,000.00 for “mileage reimbursement” as disclosed in the Report.

67. On December 21, 2009, Daniel Maes was reimbursed \$100.00 for “mileage reimbursement” as disclosed in the Report.

68. On December 30, 2009, Daniel Maes was reimbursed \$1,000.000 for “mileage reimbursement” as disclosed in the Report.

69. FDMG maintains a website, www.danmaes.com/calendar, which publicizes Daniel Maes’ meeting schedule and events that he is scheduled to attend.

70. From October 1, 2009 to December 31, 2009, the FDMG website confirms that the distance Daniel Maes traveled, calculated from a starting point of the registered address of FDMG and the candidate’s home in Evergreen, Colorado to each location and returning to the registered address of FDMG, is approximately 6,890 miles. The total amount of the reimbursements is far greater than the total number of miles driven.

71. The campaign finance reports for FDMG prior to October 1, 2009 do not list any expenditures for mileage or otherwise whereby the inconsistency between the amount reimbursed and the total miles driven in the reporting period can be reconciled.

72. On January 15, 2010, Daniel Maes was reimbursed by FDMG a total of \$3,750 for “Mar-Sept 2009 Office Rent – Evergreen Enterprises”.

73. FDMG made rent payments of \$700 to Evergreen Enterprises on May 1, 2009 and on June 1, 2009 for the purpose of “Office Space”.

74. FDMG entered into a contract to lease office space from Evergreen Enterprises as early as March 2009 and incurred a continuing obligation throughout the remainder of the election cycle.

75. Upon information and belief, FDMG has violated C.R.S., § 1-45-108(1)(a)(I) by failing to report to the Secretary of State all expenditures made and obligations entered into by the committee.

76. Upon information and belief, FDMG has violated Secretary of State Rule 8 C.C.R. 1505-6(4.25) by failing to properly disclose each expenditure of \$20 or more, including the purpose, payee, and amount of each expenditure as of the date of the expenditure regardless of the date of reimbursement.

FOURTH CLAIMED VIOLATION

Improper Disclosure of Expenditures by FDMG on May Report.

77. Complainant incorporates paragraphs 1 through 76 above and further alleges:

78. On January 15, 2010, Daniel Maes was reimbursed by FDMG a total of \$9,460 for "Mileage Reimbursement" according to FDMG's May 3, 2010 Report.

79. On February 15, 2010, Daniel Maes was reimbursed by FDMG a total of \$5,000 for "Mileage Reimbursement" according to same report.

80. On March 15, 2010, Daniel Maes was reimbursed by FDMG a total of \$5,000 for "Mileage Reimbursement" according to same report.

81. On April 15, 2010, Daniel Maes was reimbursed by FDMG a total of \$5,000 for "Mileage Reimbursement" according to same report.

82. In a May 18, 2010 Associated Press newspaper article, Daniel Maes stated that, "*In 2009, we didn't have funds to reimburse us for a lot of what we were doing. The easy way to do it was in a round number.*" (emphasis added)

83. Further, in the same article, Daniel Maes also stated that "he doesn't remember" why he claimed \$4,460 of the \$9,460 in the January 15, 2010 reimbursement.

84. Daniel Maes also stated in the same article that he and his campaign staff drove an estimated 70,000 miles without reimbursement and he asked his campaign manager to reimburse him whenever contributions totaled \$5,000 or more.

85. On January 15, 2010, Daniel Maes was reimbursed by FDMG a total of \$3,750 for "Mar-Sept 2009 Office Rent – Evergreen Enterprises".

86. FDMG made rent payments of \$700 to Evergreen Enterprises on May 1, 2009 and on June 1, 2009 for the purpose of "Office Space".

87. FDMG entered into a contract to lease office space from Evergreen Enterprises as early as March 2009 and incurred a continuing obligation throughout the remainder of the election cycle.

88. FDMG did not report the obligations for its leasing of office space at the time they were incurred as mandated by C.R.S., § 1-45-108(1)(a)(I).

REQUIRED SANCTIONS

90. Pursuant to C.R.S., § 1-45-111.5(1.5)(b), any person who commits a violation of either the Secretary of State's rules concerning campaign and political finance or the FCPA that is not specifically listed in COLO. CONST., ART. XXVIII, SEC. 9(2)(a) shall be subject to any of the sanctions specified in COLO. CONST., ART. XXVIII, SEC. 10.

91. Colorado law mandates the imposition of a civil penalty of at least double and up to five times the amount contributed in violation of Section 3 of Article 28 of the Colorado Constitution. COLO. CONST., ART. XXVIII, SEC. 10(1).

92. The Constitution mandates the imposition of a civil penalty of \$50.00 per day for each violation of C.R.S., § 1-45-108. COLO. CONST., ART. XXVIII, SEC. 10(2)(a).

93. Therefore, FDMG must be fined a minimum of \$1,135.38 and up to a maximum of \$2,838.45 for accepting contributions from a corporation in violation of Section 3 of Article 28 of the Colorado Constitution.

94. In addition, FDMG must be fined a minimum of \$4,500.00, and up to a maximum of \$11,250.00 for improperly retaining contributions beyond 31 days for which FDMG was unable to discover the employer and occupation information required to be disclosed pursuant to Secretary of State Rule 8 C.C.R. 1505-6(4.9.2) and C.R.S., § 1-45-108(1)(a)(II).

95. In addition, FDMG must be fined \$50.00 per day for the improper filing of the January Report for failure to report the employer and occupation information required by C.R.S., § 1-45-108(1)(a)(II), for failing to report to the Secretary of State all expenditures made and obligations entered into by the committee as required by C.R.S., § 1-45-108(1)(a)(I), and for failing to properly disclose each expenditure of \$20 or more, including the purpose, payee, and amount of each expenditure as of the date of the expenditure regardless of the date of reimbursement, from January 20, 2010, the date the original January Report was filed.

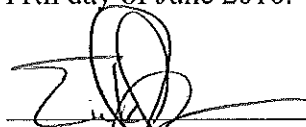
96. In addition, FDMG must be fined \$50.00 per day for the improper filing of the May Report for failing to report to the Secretary of State all expenditures made and obligations entered into by the committee as required by C.R.S., § 1-45-108(1)(a)(I), and for failing to properly disclose each expenditure of \$20 or more, including the purpose, payee, and amount of each expenditure as of the date of the expenditure regardless of the date of reimbursement, from May 3, 2010, the date the May Report was filed.

97. Finally, Complainant requests such other relief as the law may permit.

RESPECTULLY SUBMITTED this 11th day of June 2010.



Complainant
Christopher Klitzke
200 Love Mesa Drive
Grand Junction, CO 81503

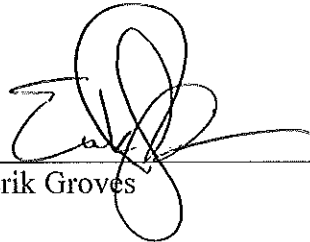


Attorney for Complainant
Erik R. Groves
619 Main Street
Grand Junction, CO 81501
Email: egroves@gmail.com
Phone: 970.241.7701

CERIFICATE OF MAILING

The undersigned certifies that this 11th day of June, 2010 the foregoing instrument was placed in the United States Mail, postage prepaid, addressed as follows:

Daniel Maes
29957 Lewis Ridge Road
Evergreen, CO 80439



Erik Groves