

STATE OF COLORADO
SECRETARY OF STATE
1700 BROADWAY, #550
DENVER, COLORADO 80290

BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE,
ADMINISTRATIVE HEARING OFFICER

AHO Case No. 2026 AHO 21 CPF

ED Case Nos. 2026-30, 2026-32, 2026-33, 2026-34, 2026-38, 2026-46, 2026-52, 2026-53,
2026-58, and 2026-62

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

VICTOR MARX AND VICTOR MARX FOR GOVERNOR,

Respondents.

**COMPLAINANT ELECTIONS DIVISION OF THE SECRETARY OF STATE'S
PREHEARING STATEMENT**

Pursuant to 8 CCR 1505-3, Rule 3.11.2; the July 28, 2026 Scheduling Order; and the August 21, 2026 Order Modifying Scheduling Order, Complainant the Elections Division of the Secretary of State (the Division) submits this Prehearing Statement.

INTRODUCTION

Respondent Victor Marx, the 2026 Republican gubernatorial candidate, and Respondent Victor Marx for Governor, Respondent Marx's candidate committee, aspire to obtain the highest elected office in the State of Colorado. In their campaign for that office and over the course of

nine months, Respondents accepted an unprecedented number of contributions exceeding the limits set by Colorado law—at least 204 contributions in excess of the aggregate contribution limit from 111 contributors totaling \$83,560.69, and at least 10 cash contributions in excess of the cash contribution limit totaling \$1,045.00.

These numbers, with minor exceptions, are not in dispute. Respondent Marx himself publicly admitted that he “take[s] full responsibility” for Respondent Victor Marx for Governor having “receive[d] contributions above the legal limit[.]” Ex. 2 at 31:13–22. Indeed, in their Answer, Respondents not only admit that they received substantially all of the prohibited contributions that the Division alleges, but also admit that they received even more prohibited contributions that the Division did not allege in its Complaint. The reason why those further prohibited contributions were not in the Complaint is that Respondents never reported them.

Unable to deny having received a vast number of prohibited contributions, Respondents claim they cured their violations and substantially complied with Colorado campaign finance law by either refunding the prohibited contributions or reattributing the prohibited contributions to joint account holders under 8 CCR 1505-6, Rule 10.4.6. These defenses fail for three reasons.

First, Respondents have not, in fact, cured all their violations of campaign finance law. In their reports of contributions and expenditures, Respondents have not reported *any* of the reattributions of prohibited contributions to other contributors. Moreover, the reports suggest that Respondents have refunded only \$61,029.65 in prohibited contributions—far short of the \$83,560.69 in excess aggregate contributions and \$1,045.00 in excess cash contributions that Respondents have accepted.

Second, even if Respondents have in fact reattributed certain prohibited contributions to other contributors as they claim, they have not provided credible evidence that they did so in a manner consistent with applicable campaign finance rules. Under 8 CCR 1505-6, Rule 10.4.6, “[i]f a committee accepts a contribution or donation from a joint account and the contributor or donor is not specified, the committee may apportion the entire amount to the joint account who signed the check or determine how to apportion the contribution or donation between joint account holders.” And “[i]f the committee apportions a contribution or donation between joint account holders, the committee must notify each joint account holder of the apportionment.” *Id.* Here, Respondents have provided no credible evidence that the reattributed contributions were made from joint accounts and did not specify the contributors, nor have Respondents provided credible evidence that they notified all joint account holders of the apportionment of the contribution. In short, Respondents have failed to cure the alleged violations.

Third, and finally, even assuming Respondents effectively cured their violations by reattributing or refunding prohibited contributions, Respondents still failed to substantially comply with their legal obligations. Respondent Marx admitted that “it didn’t take some driven gal to make all those complaints to the Secretary of State; we knew about them.” Ex. 2 at 32:17–19. Despite their knowledge, Respondents did not begin refunding these numerous prohibited contributions until June 8, 2026—one month after the third-party complainant (the “driven gal”) started to file her campaign finance complaints, over three weeks after the Division notified Respondents of the first complaints, and just weeks before the competitive Republican primary election. What’s more, Respondents continued to accept prohibited contributions into July

2026—two months after these issues became publicly known—and still have not refunded or reattributed all their prohibited contributions.

For these reasons, the Division asserts two claims against Respondents and seeks relief authorized by 8 CCR 1505-6, Rule 23.4.2. For accepting contributions in excess of the aggregate contribution limit, the Division requests (1) the base fine of “at least \$100” per prohibited contribution “and 10 percent of the prohibited activity,” 8 CCR 1505-6, Rule 24.3.3(c)(1), or **\$28,756.07**; and (2) a 75% increase to the base fine amount due to the presence of aggravating factors, 8 CCR 1505-6, Rule 23.4.5, for a total of **\$50,323.12**. Additionally, for accepting contributions in excess of the cash contribution limit, the Division requests the base fine of “at least \$100” per prohibited contribution “and 10 percent of the prohibited activity,” 8 CCR 1505-6, Rule 24.3.3(c)(1), or **\$1,104.50**, for a total monetary fine of **\$51,427.62** for both claims. Finally, the Division requests an order that Respondents shall return or donate to a Colorado charitable organization not affiliated with Respondent Marx, as provided by rule, all prohibited contributions that Respondents still have not properly refunded or reattributed. *See* 8 CCR 1505-6, Rule 23.4.4(2).

PREHEARING STATEMENT

I. PENDING MOTIONS

There are no pending motions.

II. STATEMENT OF CLAIMS AND DEFENSES

The Division asserts two claims against Respondents. First, in violation of article XXVIII, section 3(1)(a)(1) of the Colorado Constitution, Respondents have accepted at least 204 contributions in excess of the aggregate contribution limit of \$1,450.00 from any one person,

totaling \$83,560.69 in prohibited contributions from 111 contributors over the course of Respondent Marx's gubernatorial candidacy. Second, in violation of article XXVIII, section 3(10) of the Colorado Constitution, Respondents have accepted at least 10 contributions made in cash exceeding \$100.00, totaling \$1,045.00 in prohibited cash contributions from 10 contributors, over the course of Respondent Marx's gubernatorial candidacy.

Respondents assert two defenses. First, Respondents assert that they have cured all but two alleged violations. Second, they assert that they have substantially complied with all applicable contribution limits by self-disclosing the prohibited contributions, refunding or reattributing the prohibited contributions, cooperating with the Division, and implementing controls to prevent further prohibited contributions.

These defenses fail for three reasons. First, Respondents have not, in fact, cured all their campaign finance violations. Second, Respondents have not provided credible evidence that they reattributed certain prohibited contributions to other contributors in a manner consistent with applicable campaign finance rules. And third, Respondents failed to substantially comply with their legal obligations in light of the nature and extent of the violations, the purpose of the provisions violated, and the fact that the purpose of the provision was not substantially achieved. Respondents' noncompliance with applicable contribution limits was unprecedented, and Respondents accepted and had the benefit of the prohibited contributions throughout Respondent Marx's gubernatorial campaign and a competitive Republican primary election.

As relief, the Division seeks to recover all penalties authorized by statute and rule, including those set forth in 8 CCR 1505-6, Rule 23.4.3 and 23.4.4. Specifically, the Division respectfully requests that the Hearing Officer (1) impose a base fine of **\$28,756.07** for accepting

prohibited contributions in violation of the aggregate contribution limit and increase that base fine by 75% due to the presence of aggravating factors, for a total of **\$50,323.12**, *see* 8 CCR 1505-6, Rules 24.3.3(c)(1), 23.4.5; (2) impose a base fine of **\$1,104.50** for accepting prohibited contributions in violation of the cash contribution limit, for a total monetary fine of **\$51,427.62** for both claims; and (3) order Respondents to return or donate to a Colorado charitable organization not affiliated with Respondent Marx all prohibited contributions that Respondents still have not properly refunded or reattributed, *see* 8 CCR 1505-6, Rule 23.4.4(2).

III. UNDISPUTED FACTS

Based on Respondents' Answer to the Division's Complaint, the Division contends that the following facts are or should be undisputed:

1. Respondent Victor Marx is a candidate for Governor of the State of Colorado.
2. Respondent Victor Marx for Governor is the candidate committee supporting Respondent Marx's gubernatorial campaign.
3. On May 8, 2026, Darcy Schoening filed 109 discrete campaign finance complaints alleging that Respondents violated state campaign finance law by accepting contributions exceeding the aggregate contribution limit of \$1,450.00. The Division consolidated the complaints as Complaint No. 2026-30 and notified Respondents of the complaints and their consolidation on May 11, 2026.
4. On May 19, 2026, Darcy Schoening filed 12 additional campaign finance complaints alleging that Respondents violated state campaign finance law by accepting contributions exceeding the aggregate contribution limit of \$1,450.00. The Division consolidated

the complaints as Complaint No. 2026-32 and notified Respondents of the complaints and their consolidation on May 20, 2026.

5. On May 22, 2026, the Division consolidated Complaint Nos. 2026-30 and 2026-32 and, based on its initial review, determined that the complaints were timely filed and sufficiently alleged one or more potential violations of campaign finance law. At the same time, the Division determined that one or more of the alleged violations was potentially curable and gave Respondents an opportunity to cure any deficiencies or provide additional information relevant to the campaign finance complaints and the allegations therein.

6. On June 8, 2026, Respondents provided notice of their intent to cure the violations alleged in Complaint Nos. 2026-30 and 2026-32 and requested that the complaints be dismissed because, in their view, Respondents cured all violations by either refunding the excess contributions or, where possible, attributing all or part of the excess contributions to a spouse of the reported contributor.

7. On June 11, 2026, the Division requested verification regarding the returned contributions and clarification regarding any corrections made to attribute excess contributions to a spouse of the reported contributor.

8. During its initial review of Complaint Nos. 2026-30 and 2026-32, the Division also identified multiple instances in which Respondents accepted contributions made in cash exceeding \$100.00. Accordingly, the Division requested additional information from Respondents concerning these cash contributions.

9. Although Respondents communicated with the Division by email and telephone concerning their curative efforts and the Division's request for additional information,

Respondents did not provide a formal response with supporting documentation, as the Division requested.

10. On June 1, 2026, Darcy Schoening filed seven new campaign finance complaints alleging that Respondents violated state campaign finance law by accepting contributions exceeding the aggregate contribution limit of \$1,450.00. The Division consolidated the complaints as Complaint No. 2026-33 and notified Respondents of the complaints and their consolidation on June 1, 2026.

11. On June 3, 2026, Darcy Schoening filed 12 additional campaign finance complaints alleging that Respondents violated state campaign finance law by accepting contributions exceeding the aggregate contribution limit of \$1,450.00. The Division consolidated these complaints as Complaint No. 2026-34 and notified Respondents of the complaints and their consolidation on June 3, 2026.

12. On June 9, 2026, Darcy Schoening filed three additional campaign finance complaints alleging that Respondents violated state campaign finance law by accepting contributions exceeding the aggregate contribution limit of \$1,450.00. The Division consolidated the complaints as Complaint No. 2026-38 and notified Respondents of the complaints and their consolidation on June 9, 2026.

13. On June 15, 2026, the Division consolidated Complaint Nos. 2026-33, 2026-34, and 2026-38 with previously filed Complaint Nos. 2026-30 and 2026-32, and, based on its initial review, determined that the complaints were timely filed and sufficiently alleged one or more potential violations of campaign finance law. At the same time, the Division determined that one or more of the alleged violations was potentially curable and gave Respondents an opportunity to

cure any deficiencies or provide additional information relevant to the campaign finance complaints and the allegations therein. The Division gave Respondents until June 30, 2026, to provide notice of their intent to cure.

14. Respondents did not provide notice of their intent to cure the violations alleged in Complaint Nos. 2026-33, 2026-34, and 2026-38 by the deadline.

15. On June 16, 2026, Darcy Schoening filed a single campaign finance complaint—Complaint No. 2026-46—alleging eight instances in which Respondents accepted contributions exceeding the aggregate contribution limit of \$1,450.00. The Division notified Respondents of the complaint that same day.

16. Darcy Schoening filed three additional campaign finance complaints on June 23, June 24, and June 29, 2026—Complaint Nos. 2026-52, 2026-53, and 2026-58, respectively—alleging that Respondents violated state campaign finance law by accepting contributions exceeding the aggregate contribution limit of \$1,450.00. The Division notified Respondents of the complaints the same day it received them.

17. On June 30, 2026, the Division consolidated Complaint Nos. 2026-46, 2026-52, 2026-53, and 2026-58, and, based on its initial review, determined that the complaints were timely filed and sufficiently alleged one or more potential violations of campaign finance law. As with the previously filed campaign finance complaints, the Division determined that one or more of the alleged violations was potentially curable and gave Respondents an opportunity to cure any deficiencies or provide additional information relevant to the campaign finance complaints and the allegations therein. The Division gave Respondents until July 15, 2026, to provide notice of their intent to cure.

18. On July 15, 2026, Respondents provided notice of their intent to cure the violations alleged in Complaint Nos. 2026-46, 2026-52, 2026-53, and 2026-58 and requested that the complaints be dismissed because, in their view, Respondents cured all violations by refunding the excess contributions, correcting the contributor's aggregate contribution amount, or, where possible, attributing all or part of the excess contributions to a spouse of the reported contributor. To support this request, Respondents provided photographs of refund checks or screenshots of online refunds issued to certain contributors.

19. On June 30, 2026, Darcy Schoening submitted a single campaign finance complaint—Complaint No. 2026-62—alleging 13 instances in which Respondents accepted contributions exceeding the aggregate contribution limit of \$1,450.00. The Division notified Respondents of the complaint that same day.

20. On July 1, 2026, the Division, based on its initial review, determined that the complaint was timely filed and sufficiently alleged one or more potential violations of campaign finance law. As with the previously filed campaign finance complaints, the Division determined that one or more of the alleged violations was potentially curable and gave Respondents an opportunity to cure any deficiencies or provide additional information relevant to the campaign finance complaints and the allegations therein. The Division gave Respondents until July 16, 2026, to provide notice of their intent to cure.

21. On July 16, 2026, Respondents provided notice of their intent to cure the violations alleged in Complaint No. 2026-62 and requested that the complaint be dismissed because, in their view, Respondents cured all violations by refunding the excess contributions, correcting the contributor's aggregate contribution amount, or, where possible, attributing all or

part of the excess contributions to a spouse of the reported contributor. To support this request, Respondents provided photographs of refund checks or screenshots of online refunds issued to certain contributors. At the same time, Respondents noted that refunding excess contributions was an ongoing process.

22. On July 17, 2026, the Division consolidated Complaint Nos. 2026-30, 2026-32, 2026-33, 2026-34, 2026-38, 2026-46, 2026-52, 2026-53, 2026-58, and 2026-62 (together, the Consolidated Complaints) and provided notice of its investigation of the Consolidated Complaints to Respondents.

23. Respondents have accepted 133 contributions in excess of the \$1,450.00 aggregate amount a committee may accept from any one person for a total of \$55,227.83 in prohibited contributions from 71 contributors, including:

- (1) Aman, Shawna. Aman exceeded the aggregate contribution limit thirteen times, with a total overage amount of \$886.84.
- (2) Ames, Tara. Ames exceeded the aggregate contribution limit one time, with a total overage amount of \$111.53.
- (3) Archuleta, Ruben. Archuleta exceeded the aggregate contribution limit five times, with a total overage amount of \$283.42.
- (4) Bahr, Kelsie. Bahr exceeded the aggregate contribution limit one time, with a total overage amount of \$0.72.
- (5) Barila, Lisa. Barila exceeded the aggregate contribution limit one time, with a total overage amount of \$25.83.
- (6) Beddo, Mary. Beddo exceeded the aggregate contribution limit one time, with a total overage amount of \$550.00.
- (7) Bernardi, Hugh. Bernardi exceeded the aggregate contribution limit one time, with a total overage amount of \$1,450.00.
- (8) Binder, Steven. Binder exceeded the aggregate contribution limit one time, with a total overage amount of \$156.15.

- (9) Brady, Tisha. Brady exceeded the aggregate contribution limit two times, with a total overage amount of \$167.94.
- (10) Burch, Les. Burch exceeded the aggregate contribution limit two times, with a total overage amount of \$1,000.00.
- (11) Canon, Joseph (Jo). Canon (of Abilene, Texas) exceeded the aggregate contribution limit five times, with a total overage amount of \$1,468.45.
- (12) Canon, Joseph (Jo). Canon (of Colorado Springs, Colorado) exceeded the aggregate contribution limit one time, with a total overage amount of \$50.00.
- (13) Casey, Donna. Casey exceeded the aggregate contribution limit one time, with a total overage amount of \$4,550.00.
- (14) Colon, Christopher. Colon exceeded the aggregate contribution limit two times, with a total overage amount of \$291.53.
- (15) Combs, Deborah. Combs exceeded the aggregate contribution limit three times, with a total overage amount of \$950.00.
- (16) Cutler, Chistine. Cutler exceeded the aggregate contribution limit one time, with a total overage amount of \$500.00.
- (17) Dillion, Craig. Dillion exceeded the aggregate contribution limit one time, with a total overage amount of \$908.20.
- (18) Elliott, Karen. Elliott exceeded the aggregate contribution limit one time, with a total overage amount of \$50.00.
- (19) Evans, Carter. Evans exceeded the aggregate contribution limit one time, with a total overage amount of \$1,450.00.
- (20) Fine, James. Fine exceeded the aggregate contribution limit one time, with a total overage amount of \$111.52.
- (21) Foundation, Isaiah. Foundation exceeded the aggregate contribution limit two times, with a total overage amount of \$1,041.02.
- (22) French, Kenneth. French exceeded the aggregate contribution limit two times, with a total overage amount of \$2,403.83.
- (23) Fretwell, Karen. Fretwell exceeded the aggregate contribution limit one time, with a total overage amount of \$3.86.

- (24) Galvis, Louis. Galvis exceeded the aggregate contribution limit three times, with a total overage amount of \$69.20.
- (25) Galvis, Theresa. Galvis exceeded the aggregate contribution limit one time, with a total overage amount of \$0.27.
- (26) Garton, Robert. Garton exceeded the aggregate contribution limit one time, with a total overage amount of \$200.00.
- (27) George, Janis. George exceeded the aggregate contribution limit one time, with a total overage amount of \$800.00.
- (28) Giardina, Linda. Giardina exceeded the aggregate contribution limit three times, with a total overage amount of \$2,415.00.
- (29) Giardina, Michael. Giardina exceeded the aggregate contribution limit two times, with a total overage amount of \$623.51.
- (30) Grubb, Matthew. Grubb exceeded the aggregate contribution limit one time, with a total overage amount of \$49.22.
- (31) Hailes, Mimi. Hailes exceeded the aggregate contribution limit one time, with a total overage amount of \$20.51.
- (32) Hammond, Robert. Hammond exceeded the aggregate contribution limit two times, with a total overage amount of \$187.38.
- (33) Hanson, Kacey. Hanson exceeded the aggregate contribution limit one time, with a total overage amount of \$1,450.00.
- (34) Harrison, Lynne. Harrison exceeded the aggregate contribution limit ten times, with a total overage amount of \$3,389.59.
- (35) Hartman, Duane. Hartman exceeded the aggregate contribution limit one time, with a total overage amount of \$111.53.
- (36) Harvey, Michael. Harvey exceeded the aggregate contribution limit one time, with a total overage amount of \$16.77.
- (37) Hatley, Kenzi. Hatley exceeded the aggregate contribution limit one time, with a total overage amount of \$1,450.00.
- (38) Hess, Patrick. Hess exceeded the aggregate contribution limit two times, with a total overage amount of \$2,900.00.

- (39) Holmes, Jonde. Holmes exceeded the aggregate contribution limit two times, with a total overage amount of \$621.51.
- (40) Hornik, Jason. Hornik exceeded the aggregate contribution limit one time, with a total overage amount of \$111.52.
- (41) Howell, Angela. Howell exceeded the aggregate contribution limit two times, with a total overage amount of \$2,900.00.
- (42) Jennings, Brandi. Jennings exceeded the aggregate contribution limit two times, with a total overage amount of \$1,460.41.
- (43) Lightle, Tina. Lightle exceeded the aggregate contribution limit one time, with a total overage amount of \$59.00.
- (44) Loveless, Gary. Loveless exceeded the aggregate contribution limit one time, with a total overage amount of \$1,152.54.
- (45) Luers, Paul. Luers exceeded the aggregate contribution limit one time, with a total overage amount of \$1,100.00.
- (46) Magnuson, Jacqueline. Magnuson exceeded the aggregate contribution limit one time, with a total overage amount of \$150.00.
- (47) Malone, Alison. Malone exceeded the aggregate contribution limit one time, with a total overage amount of \$20.51.
- (48) Maple, Ralph. Maple exceeded the aggregate contribution limit two times, with a total overage amount of \$1,000.00.
- (49) Martinez, Craig. Martinez exceeded the aggregate contribution limit one time, with a total overage amount of \$29.10.
- (50) Mast, Tommy. Mast exceeded the aggregate contribution limit two times, with a total overage amount of \$632.04.
- (51) Matthews, Roberta. Matthews exceeded the aggregate contribution limit one time, with a total overage amount of \$37.15.
- (52) McCormick, John. McCormick exceeded the aggregate contribution limit one time, with a total overage amount of \$59.48.
- (53) McCubbins, Casey. McCubbins exceeded the aggregate contribution limit two times, with a total overage amount of \$2,008.63.

- (54) McDonough, Terry. McDonough exceeded the aggregate contribution limit one time, with a total overage amount of \$111.53.
- (55) Miller, Peter. Miller exceeded the aggregate contribution limit one time, with a total overage amount of \$1,450.00.
- (56) Mitchek, Judith (Judi). Mitchek exceeded the aggregate contribution limit seven times, with a total overage amount of \$1,048.43.
- (57) Morris, Robert. Morris exceeded the aggregate contribution limit one time, with a total overage amount of \$500.00.
- (58) Nelson, James. Nelson exceeded the aggregate contribution limit one time, with a total overage amount of \$100.00.
- (59) Parker, Brad. Parker exceeded the aggregate contribution limit one time, with a total overage amount of \$632.04.
- (60) Parziale, Judith Babcock. Parziale exceeded the aggregate contribution limit two times, with a total overage amount of \$232.19.
- (61) Pennington, Ira. Pennington exceeded the aggregate contribution limit one time, with a total overage amount of \$100.00.
- (62) Reich, Barbara (Barb). Reich exceeded the aggregate contribution limit one time, with a total overage amount of \$127.00.
- (63) Reich, John and Barb (Jon Barb). John and Barbara Reich together exceeded the aggregate contribution limit three times, with a total overage amount of \$780.75.
- (64) Schott, David. Schott exceeded the aggregate contribution limit one time, with a total overage amount of \$813.68.
- (65) Smead, Larry. Smead exceeded the aggregate contribution limit two times, with a total overage amount of \$1,990.00.
- (66) Starr, Ken. Starr exceeded the aggregate contribution limit one time, with a total overage amount of \$334.00.
- (67) Todd, John. Todd exceeded the aggregate contribution limit one time, with a total overage amount of \$550.00.
- (68) Todd, Richard. Todd exceeded the aggregate contribution limit two times, with a total overage amount of \$1,673.06.

- (69) Ward, Christina. Ward exceeded the aggregate contribution limit one time, with a total overage amount of \$260.25.
- (70) Williams, Diana. Williams exceeded the aggregate contribution limit two times, with a total overage amount of \$457.15.
- (71) Wolfe, Timothy. Wolfe exceeded the aggregate contribution limit two times, with a total overage amount of \$632.04.

24. Respondents have accepted at least 10 contributions made in cash exceeding \$100.00, totaling \$1,045.00 in excess cash contributions from 10 contributors over the course of Respondent Marx's gubernatorial candidacy.

25. Respondents' reports of contributions and expenditures do not reflect that all excess contributions have been refunded, reattributed, or reattributed in part and refunded in part.

IV. DISPUTED FACTS

Based on Respondents' Answer to the Division's Complaint, the Division believes the following facts are or may be disputed:

1. Respondents have accepted three additional contributions in excess of the aggregate contribution limit of \$1,450.00 from any one person, totaling \$1,050.00 in prohibited contributions, from Veita Minshall.

2. Respondents have accepted at least 15 additional contributions in excess of the aggregate contribution limit of \$1,450.00 from any one person, totaling \$11,760.37 in prohibited contributions from 5 contributors over the course of Respondent Marx's gubernatorial candidacy, which prohibited contributions Respondents claim were refunded in part and reattributed to another contributor in part. These additional contributions include:

- (1) Alley, Thomas. Alley exceeded the aggregate contribution limit two times, with a total overage amount of \$1,673.06.

- (2) Fowler, Robert. Fowler exceeded the aggregate contribution limit four times, with a total overage amount of \$3,550.00.
- (3) Ingram, William. Ingram exceeded the aggregate contribution limit two times, with a total overage amount of \$1,550.00.
- (4) Neugebauer, Melissa. Neugebauer exceeded the aggregate contribution limit two times, with a total overage amount of \$2,900.00.
- (5) O'Leary, Andrea. O'Leary exceeded the aggregate contribution limit five times, with a total overage amount of \$2,087.31.

3. Respondents have accepted at least 53 additional contributions in excess of the aggregate contribution limit of \$1,450.00 from any one person, totaling \$15,522.49 in prohibited contributions from 34 contributors over the course of Respondent Marx's gubernatorial candidacy, which prohibited contributions Respondents claim were reattributed to another contributor in their entirety. These additional contributions include:

- (1) Airy, William. Airy exceeded the aggregate contribution limit one time, with a total overage amount of \$1,450.00.
- (2) Alons, Kyle. Alons exceeded the aggregate contribution limit one time, with a total overage amount of \$92.00.
- (3) Ames, Alicia. Ames exceeded the aggregate contribution limit one time, with a total overage amount of \$99.09.
- (4) Bennett, Merrill. Bennett exceeded the aggregate contribution limit one time, with a total overage amount of \$1,041.02.
- (5) Bohannon, Aaron. Bohannon exceeded the aggregate contribution limit one time, with a total overage amount of \$264.15.
- (6) Borgstedt, Chris. Borgstedt exceeded the aggregate contribution limit one time, with a total overage amount of \$41.02.
- (7) Carter, Joshua (Josh). Carter exceeded the aggregate contribution limit one time, with a total overage amount of \$849.00.
- (8) Cranston, Marjorie. Cranston exceeded the aggregate contribution limit three times, with a total overage amount of \$378.00.

- (9) Devigne, Deborah. Devigne exceeded the aggregate contribution limit one time, with a total overage amount of \$20.82.
- (10) Divine, Tenaya. Divine exceeded the aggregate contribution limit one time, with a total overage amount of \$52.05.
- (11) Douglas, Karen. Douglas exceeded the aggregate contribution limit one time, with a total overage amount of \$202.36.
- (12) Gearhart, Ben. Gearhart exceeded the aggregate contribution limit one time, with a total overage amount of \$189.61.
- (13) Hale, Skip. Hale exceeded the aggregate contribution limit two times, with a total overage amount of \$103.33.
- (14) Hunsinger, Dana. Hunsinger exceeded the aggregate contribution limit one time, with a total overage amount of \$631.01.
- (15) Johnson, Cris. Johnson exceeded the aggregate contribution limit one time, with a total overage amount of \$52.06.
- (16) Kaltenbronn, Christine. Kaltenbronn exceeded the aggregate contribution limit one time, with a total overage amount of \$1,450.00.
- (17) Klingenberg, Cynthia. Klingenberg exceeded the aggregate contribution limit two times, with a total overage amount of \$165.66.
- (18) Kroll, John. Kroll exceeded the aggregate contribution limit one time, with a total overage amount of \$432.19.
- (19) Luethi, Nicholas. Luethi exceeded the aggregate contribution limit one time, with a total overage amount of \$51.27.
- (20) Mann, Alan. Mann exceeded the aggregate contribution limit three times, with a total overage amount of \$1,057.04.
- (21) Moore, Tanya. Moore exceeded the aggregate contribution limit one time, with a total overage amount of \$50.00.
- (22) Morgan, James. Morgan exceeded the aggregate contribution limit one time, with a total overage amount of \$1,145.12.
- (23) Neiderworder, Chuck. Neiderworder exceeded the aggregate contribution limit ten times, with a total overage amount of \$1,007.40.

- (24) Patymurphy, Carol. Patymurphy exceeded the aggregate contribution limit one time, with a total overage amount of \$111.00.
- (25) Profitt, Benjamin. Profitt exceeded the aggregate contribution limit one time, with a total overage amount of \$260.25.
- (26) Ribble, Gaye. Ribble exceeded the aggregate contribution limit one time, with a total overage amount of \$111.53.
- (27) Ruder, Carine. Ruder exceeded the aggregate contribution limit one time, with a total overage amount of \$500.00.
- (28) Schmeltekopf, Stephen. Schmeltekopf exceeded the aggregate contribution limit one time, with a total overage amount of \$500.00.
- (29) Sibert, Jody. Sibert exceeded the aggregate contribution limit three times, with a total overage amount of \$684.05.
- (30) Sims, Jennifer. Sims exceeded the aggregate contribution limit two times, with a total overage amount of \$450.00.
- (31) Smith, Micah. Smith exceeded the aggregate contribution limit one time, with a total overage amount of \$111.53.
- (32) Thornton, Joe. Thornton exceeded the aggregate contribution limit two times, with a total overage amount of \$1,091.02.
- (33) Twinam, David. Twinam exceeded the aggregate contribution limit one time, with a total overage amount of \$111.53.
- (34) Walker, Steven. Walker exceeded the aggregate contribution limit one time, with a total overage amount of \$767.38.

V. POINTS OF LAW

Respondents have accepted prohibited contributions in excess of the aggregate contribution limit. A “contribution” includes “[t]he payment, loan, pledge, gift, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, small donor committee, or political party..” Colo. Const. art. XXVIII, § 2(5)(a)(I); *see also* C.R.S. § 1-45-103(6)(a). Under article XXVIII, section 3(1)(a)(I) of the Colorado

Constitution, “no person ... shall make to a candidate committee, and no candidate committee shall accept from any one person, aggregate contributions for a primary or general election in excess of ... [f]ive hundred dollars to any one ... [g]overnor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election.” This contribution limit is adjusted every four years. *See* Colo. Const. art. XXVIII, § 3(13). The current adjusted aggregate contribution limit is \$725.00 from any one person to a governor candidate or candidate committee for a primary or general election, for a total of \$1,450.00. *See* 8 CCR 1505-6, Rule 10.17.1(b)(1). Here, Respondents have accepted at least 204 contributions in excess of the aggregate contribution limit of \$1,450.00 from any one person, totaling \$83,560.69 in excess contributions from 111 contributors over the course of Respondent Marx’s gubernatorial candidacy. These contributions constitute prohibited contributions under article XXVIII, section 3(1)(a)(I) of the Colorado Constitution.

Additionally, Respondents have accepted prohibited contributions in excess of the cash contribution limit. Under article XXVIII, section 3(10) of the Colorado Constitution, “[n]o candidate committee ... shall accept a contribution, or make an expenditure, in currency or coin exceeding one hundred dollars.” Here, Respondents have accepted at least 10 contributions made in cash exceeding \$100.00, totaling \$1,045.00 in excess cash contributions from 10 contributors over the course of Respondent Marx’s gubernatorial candidacy. These contributions constitute prohibited contributions under article XXVIII, section 3(10) of the Colorado Constitution.

Respondents have failed to effectively cure their violations under C.R.S. § 1-45-111.7(4). Moreover, Respondents have failed to achieve substantial compliance with their legal obligations based on the Division's analysis of the following statutory factors:

- (I) The extent of the respondent's noncompliance;
- (II) The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and
- (III) Whether the noncompliance may properly be viewed as an intentional attempt to mislead the electorate or election officials.

C.R.S. § 1-45-111.7(4)(f).

For accepting prohibited contributions, fines are authorized in the amount of "at least" \$100.00 per violation plus 10% of the prohibited activity. *See* 8 CCR 1505-6, Rule 23.4.3(c)(1). Moreover, Rule 23.4.5 identifies aggravating factors that are relevant here, including the "[n]ature and extent of the violation," any "[a]bility or effort to mitigate the violation," the "[t]iming of the violation (including proximity to the election)," and "[e]vidence of an intentional act or a pattern or practice of misconduct." 8 CCR 1505-6, Rule 23.4.5(a)–(d). Finally, in addition to monetary fines, Respondents may be required to take specific action, including return or donation of the prohibited contributions. *See* 8 CCR 1505-6, Rule 23.4.4(a)(2).

The Division reserves the right to submit additional legal argument in a trial or bench brief as appropriate.

VI. WITNESSES

The Division identifies the following witnesses it will call in support of its case:

1. Timothy Gebhardt, c/o William D. Hauptman and Miranda B. Worthington, Special Assistant Attorneys General, Wheeler Trigg O'Donnell LLP, 370 Seventeenth Street,

Suite 4500, Denver, CO 80202, 303.244.1800. Mr. Gebhardt is the Campaign and Political Finance Enforcement Manager for the Division. He is responsible for enforcement of state campaign and political finance laws, including by reviewing and investigating campaign finance complaints. The Division anticipates that Mr. Gebhardt will testify regarding campaign finance complaints generally, the campaign finance complaints at issue in this proceeding, the Division's review and investigation of those complaints, and the Division's reasons for requesting the relief it seeks in this proceeding.

2. Stephen Bouey, c/o William D. Hauptman and Miranda B. Worthington, Special Assistant Attorneys General, Wheeler Trigg O'Donnell LLP, 370 Seventeenth Street, Suite 4500, Denver, CO 80202, 303.244.1800. Mr. Bouey is the Campaign Finance and Lobbyist Disclosure Manager for the Division. He is responsible for overseeing compliance with Colorado's campaign finance disclosure requirements. The Division anticipates that Mr. Bouey will testify regarding the campaign finance disclosure database, Transparency in Contribution and Expenditure Reporting (TRACER); Respondents' filings therein; and how Respondents' claimed compliance efforts have deviated from the efforts that the Division ordinarily observes.

VII. EXPERTS

The Division does not intend to call any expert witness.

VIII. EXHIBITS

The Division's preliminary exhibit list is attached as **Appendix 1**. The Division's exhibits fall into one of four categories of documents:

1. Various publicly available documents, including Campaign Finance Complaint Nos. 2026-30, 2026-32, 2026-33, 2026-34, 2026-38, 2026-46, 2026-52, 2026-53, 2026-58, and

2026-62; related filings; Respondent Marx's Candidate Affidavits; Respondents' reports of contributions and expenditures and major contributor reports, including amended reports; and a candidate affidavit by Respondent Victor Marx for Governor's registered agent;

2. Correspondence between the Division and Respondents exchanged during the Division's review and investigation of the underlying campaign finance complaints; and

3. A videotape and certified transcript of an interview of Respondent Marx on the Mission 151 podcast, titled "The Truth Always Prevails," streamed live on Respondent Marx's YouTube channel on July 30, 2026; and

4. Charts summarizing excess aggregate contributions and excess cash contributions accepted by Respondents, prepared by the Division in accordance with CRE 1006.

The parties are exchanging preliminary exhibit lists on August 31, 2026, and will serve objections to exhibits, if any, by September 4, 2026. The parties will file a final joint exhibit list, with stipulations and objections, if any, by September 9, 2026.

IX. STIPULATIONS

The parties have not reached any stipulations of fact or law at this time.

X. TRIAL EFFICIENCIES

The Division estimates that a day-and-a-half hearing should be sufficient to adjudicate the claims in this case. The Division anticipates that it will need no more than 120 minutes for its direct examination of Mr. Gebhardt, and no more than 45 minutes for its direct examination of Mr. Bouey.

Dated: August 31, 2026.

Respectfully submitted,

s/ William D. Hauptman

William D. Hauptman (#51168)

Special Assistant Attorney General

Miranda B. Worthington (#55135)

Special Assistant Attorney General

Wheeler Trigg O'Donnell LLP

370 Seventeenth Street, Suite 4500

Denver, CO 80202

Telephone: 303.244.1800

Facsimile: 303.244.1879

Email: hauptman@wtotrial.com

worthington@wtotrial.com

*Attorneys for Complainant Elections Division of
the Secretary of State*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **COMPLAINANT ELECTIONS DIVISION OF THE SECRETARY OF STATE'S PREHEARING STATEMENT** was filed and served via email this 31st day of August, 2026, to the following:

Victor Marx & Victor Marx for Governor
c/o Gregory Carlson, Registered Agent
129 W 2nd Street
Florence, CO 81226
gregory@victor2026.com

Darcy Schoening
15843 Bridle Ridge Drive
Monument, CO 80132
schoeningdarcy@gmail.com

Third-Party Complainant

c/o Christopher O. Murray, Counsel
First & Fourteenth PLLC
2 N. Cascade Ave.
Suite 1430
Colorado Springs, CO 80903
(719) 286-2492
chris@first-fourteenth.com

Respondents

s/ William D. Hauptman

Appendix 1

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
1	7/30/26	YouTube Video – Mission 151 Podcast – “The Truth Always Prevails”					
2	7/30/26	Certified Transcript of YouTube Video – Mission 151 Podcast – “The Truth Always Prevails”					
3		Rule 1006 Summary – Excess Aggregate Contributions, Refunds & Reattributions					
4		Rule 1006 Summary – Excess Cash Contributions					
5	9/30/25	Candidate Affidavit					
6	1/22/26	Candidate Affidavit (Amended)					
I. COMPLAINT NOS. 2026-30 & 2026-32							
7	5/12/26	Email re Notice of Campaign Finance Complaint No. 2026-30					
7.A	5/11/26	Complaint No. 2026-30					
8	5/21/26	Email re Notice of Campaign Finance Complaint No. 2026-32					
8.A	5/19/26	Complaint No. 2026-32					
9	5/22/26	Email re Notice of Initial Review, Consolidation, and Opportunity to Cure, Complaint Nos. 2026-30 & 2026-32					

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
9.A	5/22/26	Notice of Initial Review, Consolidation, and Opportunity to Cure, Complaint Nos. 2026-30 & 2026-32					
10	6/8/26	Email re Response to Notice of Complaint Nos. 2026-30 & 2026-32					
10.A	6/8/26	Notice of Intent to Cure Complaint Nos. 2026-30 & 2026-32					
10.B	6/8/26	Response to Combined Notice of Complaint Nos. 2026-30 & 2026-32 Submitted					
11	6/11/26	Email re Request for Information, Complaint Nos. 2026-30 & 2026-32					
11.A	6/11/26	Request for Information, Complaint Nos. 2026-30 & 2026-32					
12	6/19/26	Email re Extension to Respond to Request for Information, Complaint Nos. 2026-30 & 2026-32					
13	6/26/26	Email re Follow-Up on Request for Information, Complaint Nos. 2026-30 & 2026-32					
II. COMPLAINT NOS. 2026-33, 2026-34 & 2026-38							
14	6/1/26	Email re Notice of Campaign Finance Complaint No. 2026-33					
14.A	6/1/26	Complaint No. 2026-33					
15	6/3/26	Email re Notice of Campaign Finance Complaint No. 2026-34					

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
15.A	6/3/26	Complaint No. 2026-34					
16	6/9/26	Email re Notice of Campaign Finance Complaint 2026-38					
16.A	6/9/26	Complaint No. 2026-38					
17	6/15/26	Email re Notice of Initial Review, Consolidation, and Opportunity to Cure Complaint Nos. 2026-33, 2026-34 & 2026-38					
17.A	6/15/26	Notice of Initial Review, Consolidation, and Opportunity to Cure Complaint Nos. 2026-33, 2026-34 & 2026-38					
III. COMPLAINT NOS. 2026-46, 2026-52, 2026-53 & 2026-58							
18	6/16/26	Email re Notice of Campaign Finance Complaint No. 2026-46					
18.A	6/16/26	Complaint No. 2026-46					
19	6/23/26	Email re Notice of Campaign Finance Complaint No. 2026-52					
19.A	6/23/26	Complaint No. 2026-52					
20	6/24/26	Email re Notice of Campaign Finance Complaint No. 2026-53					
20.A	6/24/26	Complaint No. 2026-53					

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
21	6/29/26	Email re Notice of Campaign Finance Complaint No. 2026-58					
21.A	6/29/26	Complaint No. 2026-58					
22	6/30/26	Email re Notice of Initial Review, Consolidation, and Opportunity to Cure Complaint Nos. 2026-46, 2026-52, 2026-53 & 2026-58					
22.A	6/30/26	Notice of Initial Review, Consolidation, and Opportunity to Cure Complaint Nos. 2026-46, 2026-52, 2026-53 & 2026-58					
23	7/15/26	Email re Response to Notice of Complaint Nos. 2026-46, 2026-52, 2026-53 & 2026-58					
23.A	7/15/26	Notice of Intent to Cure Complaint Nos. 2026-46, 2026-52, 2026-53 & 2026-58					
23.B	7/15/26	Response to Notice of Complaint Nos. 2026-46, 2026-52, 2026-53 & 2026-58 Submitted					
IV. COMPLAINT NO. 2026-62							
24	6/30/26	Email re Notice of Campaign Finance Complaint No. 2026-62					
24.A	6/30/26	Complaint No. 2026-62					
25	7/1/26	Email re Notice of Initial Review and Opportunity to Cure Complaint No. 2026-62					
25.A	7/1/26	Notice of Initial Review and Opportunity to Cure Complaint No. 2026-62					

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
26	7/16/26	Email re Notice of Intent to Cure Complaint No. 2026-62					
26.A	7/16/26	Notice of Intent to Cure Complaint No. 2026-62					
26.B	7/16/26	Response to Notice of Complaint No. 2026-62					
V. CONSOLIDATION							
27	7/17/26	Email re Notice of Investigation					
27.A	7/17/26	Notice of Investigation & Consolidation, Complaint Nos. 2026-30, 2026-32, 2026-33, 2026-34, 2026-38, 2026-46, 2026-52, 2026-53, 2026-58 & 2026-62					
VI. REPORTS OF CONTRIBUTIONS AND EXPENDITURES							
28	6/19/26	January 15, 2026 Report of Contributions and Expenditures (Amended June 19, 2026)					
29	6/19/26	May 4, 2026 Report of Contributions and Expenditures (Amended June 19, 2026)					
30	6/19/26	May 18, 2026 Report of Contributions and Expenditures (Amended June 19, 2026)					
31	6/19/26	June 1, 2026 Report of Contributions and Expenditures (Amended June 19, 2026)					
32	6/19/26	June 15, 2026 Report of Contributions and Expenditures (Amended June 19, 2026)					

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
33	6/29/26	June 29, 2026 Report of Contributions and Expenditures					
34	7/28/26	Email re Request to Unfile Amendments					
35	7/28/26	January 15, 2026 Report of Contributions and Expenditures (Amended July 28, 2026)					
36	7/28/26	May 4, 2026 Report of Contributions and Expenditures (Amended July 28, 2026)					
37	7/28/26	May 18, 2026 Report of Contributions and Expenditures (Amended July 28, 2026)					
38	7/28/26	June 1, 2026 Report of Contributions and Expenditures (Amended July 28, 2026)					
39	7/28/26	June 15, 2026 Report of Contributions and Expenditures (Amended July 28, 2026)					
40	7/28/26	June 29, 2026 Report of Contributions and Expenditures (Amended July 28, 2026)					
41	8/7/26	August 3, 2026 Report of Contributions and Expenditures (Amended August 7, 2026)					
VII. MAJOR CONTRIBUTOR REPORTS							
42	6/27/26	June 27, 2026 Major Contributor Report					
43	6/30/26	June 30, 2026 Major Contributor Report					

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
VIII. REATTRIBUTION CORRESPONDENCE							
44	8/18/26	Email from T. Gebhardt re Follow-Up on Reattributions					
44.A		Marx Refund Complaint Cures Spreadsheet					
45	8/20/26	Email from G. Carlson re Follow-Up on Reattributions					
45.A		Reattribution Call Logs Spreadsheet					
IX. NATIVE REPORTS EXPORTED							
46	8/25/26	Native – January 15, 2026 Detailed Report (Exported August 25, 2026)					
47	8/25/26	Native – May 4, 2026 Detailed Report (Exported August 25, 2026)					
48	8/25/26	Native – May 18, 2026 Detailed Report (Exported August 25, 2026)					
49	8/25/26	Native – June 1, 2026 Detailed Report (Exported August 25, 2026)					
50	8/25/26	Native – June 15, 2026 Detailed Report (Exported August 25, 2026)					
51	8/25/26	Native – June 29, 2026 Detailed Report (Exported August 25, 2026)					

Complainant Election Division's Preliminary Exhibit List
Elections Division v. Marx, No. 2026 AHO 21 CPF

<u>Ex. No.</u>	<u>Date</u>	<u>Document Description</u>	<u>STIP</u>	<u>OBJ</u>	<u>OFFER</u>	<u>REC'D</u>	<u>REFUSED</u>
52	8/25/26	Native – August 3, 2026 Detailed Report (Exported August 25, 2026)					
X. OTHER							
53	8/26/25	Gregory Carlson Candidate Affidavit					