

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED: May 29, 2014 6:41 PM</p>
<p>Original Proceeding Pursuant to C.R.S. § 1-40-107(2) (2013) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2013- 2014 #138</p> <p>Petitioners: Vickie L. Armstrong and Bob Hagedorn,</p> <p>v.</p> <p>Respondents: Richard Evans and Stephen Roark, and</p> <p>Title Board: Suzanne Staiert, David Blake, and Jason Gelender</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No. 2014SA142</p>
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PETITIONERS' ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

It does not exceed 30 pages.

The brief complies with C.A.R. 28(k).

It contains, under a separate heading, a statement of whether the parties responding to the issue agree with the opponents' statements concerning the standard of review and preservation for appeal, and if not, why not.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 32.

/s/ Lino S. Lipinsky de Orlov
Lino S. Lipinsky de Orlov

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Petitioners, Vickie L. Armstrong and Bob Hagedorn, respectfully submit this answer brief in support of their challenge to the title, ballot title, and submission clause (the “Title”) that the Title Board set for proposed initiative 2013-2014 #138 (the “Proposed Initiative”).

SUMMARY OF THE ARGUMENT

Contrary to Respondents’ and the Title Board’s arguments, the Title Board erred in setting the Title because the Proposed Initiative improperly contains more than a single subject. In addition to the subject disclosed in the Title, the Proposed Initiative could (a) nullify Petitioners’ competing initiatives (the “Competing Initiatives”) and (b) block the further expansion of gambling in Colorado.

The Title Board further erred in setting a Title using the misleading terms “specific geographic site,” “casino-style gambling,” and “video lottery terminals,” and the catch phrase “casino-style gambling.”

STANDARD OF REVIEW

Petitioners agree with Respondents’ statements concerning the standard of review. In addition, Petitioners incorporate by reference the Standard of Review section of their Opening Brief. *See* Petitioners’ Opening Brief (“Pets.’ Br.”) 5-7.

ARGUMENT

I. THE PROPOSED INITIATIVE IMPROPERLY CONCERNS TWO DISTINCT AND SEPARATE SUBJECTS, IN ADDITION TO THE SUBJECT DISCLOSED IN THE TITLE.

A. The Second Subject of the Proposed Initiative Is Nullification of Petitioners' Competing Initiatives.

Respondents insist that the Proposed Initiative reflects nothing more than the promotion of good public policy, Respondents' Opening Brief ("Resps.' Br.") 2, but that is a smokescreen to hide the second subject of the Proposed Initiative – invalidation of the Competing Initiatives.¹ The Proposed Initiative fails for this reason alone. *See Howes v. Brown (In re Title, Ballot Title & Submission Clause for 2009-2010 #91)*, 235 P.3d 1071, 1079-80 (Colo. 2010) (striking proposed initiative containing multiple subjects).

Despite Respondents' protestations, Respondents' opposition to the Competing Initiatives, the timing of the Proposed Initiative, its hidden promoters, Respondent Evans's admissions in his filings with the Secretary of State's office, and the language of the Proposed Initiative all demonstrate that the Proposed

¹ Respondents filed the Proposed Initiative for the purpose of nullifying Competing Initiatives #80 and #81. *See infra* p. 4. On the same day that Respondents tendered the Proposed Initiative, Petitioners submitted Competing Initiatives #134 and #135. The Proposed Initiative would have the same impact on #134 and #135 as it would have on #80 and #81.

Initiative is a guided missile headed straight for the Competing Initiatives.

Specifically:

- Respondents cannot deny their opposition to the Competing Initiatives. Respondents challenged the Title Board's setting of titles for the Competing Initiatives, and have asked this Court to reverse the Title Board with respect to each of them. The Court has already rejected Evans's arguments on Competing Initiatives #80 and #81. *See Evans v. Armstrong (In re Title, Ballot Title, & Submission Clause for Proposed Initiatives 2013-2014 #80 & #81)*, No. 2014SA106 & 2014SA99 (Colo. May 22, 2014). The Court should also reject Respondents' arguments on Competing Initiatives #134 and #135. Assuming that occurs, Petitioners would be in a position to gather signatures for any or all of the Competing Initiatives. Respondents and their backers would then be forced to fight the measures on the merits – unless they short-circuit the process by persuading more voters to adopt their own Proposed Initiatives than the Competing Initiatives, which would have the surreptitious effect of nullifying the Competing Initiatives. Based on Respondents' opposition to the Competing Initiatives, the Court may infer that the Proposed Initiatives are specifically directed to, and are intended to invalidate, the Competing Initiatives.

- Petitioners filed the final version of Competing Initiatives #80 and #81 with the directors of the Legislative Council and the Office of Legislative

Legal Services on March 7, 2014. It is no coincidence that Respondents tendered the Proposed Initiative (and their seven other initiatives intended to nullify the Competing Initiatives) a mere fourteen days later, on March 21, 2014. The timing of the Proposed Initiative – fresh on the heels of Competing Initiatives #80 and #81 – further establishes that those measures (and later Competing Initiatives #134 and #135) are the targets of the Proposed Initiative.

- Although Respondents claim merely to be promoting a limitation on “special legislation,” *see* Resps.’ Br. 2, Evans revealed his true agenda in his political organization’s public filings with the Colorado Secretary of State. “Don’t Turn Racetracks into Casinos” identifies Evans as its “Designated Filing Agent,” and states that its purpose is “to oppose initiatives 95 and 96 [variants of Competing Initiatives #80 and #81 that Petitioners chose not to pursue] for the November 2014 ballot.” *See* Mar. 10, 2014 Committee Registration Form, Ex. A.² Evans’s political committee filed an amended Registration on May 19, 2014, which reveals its updated purpose “to oppose initiatives #80, #81, #134 and #135

² Respondent Evans’s committee’s forms are available at the Secretary of State’s website. *See* <http://tracer.sos.colorado.gov/PublicSite/SearchPages/FilingAmendmentSelect.aspx?FilingID=176894> (last visited May 28, 2014); <http://tracer.sos.colorado.gov/PublicSite/SearchPages/CommitteeDetail.aspx?OrgID=27021> (last visited May 28, 2014).

for the November 2014 ballot and to support initiatives #138, #139, #140, #141, #142, #143, #144 and #145.” *See* May 19, 2014 Committee Registration Form, Ex. B. Initiatives #80, #81, #134, and #135 are the Competing Initiatives; Initiative #138 is the Proposed Initiative; Initiatives #139, #140, #141, #142, #143, #144, and #145 are Respondents’ additional measures to effectively annul the Competing Initiatives.

The Report of Contributions and Expenditures that Evans’s political committee filed on May 19, 2014 reveals, unsurprisingly, that Evans is a front for the mountain casino lobby. “Don’t Turn Racetracks into Casinos” garnered more than \$3 million in funding from the Colorado casino gambling industry within a six-day period this month. *See* Report of Contributions and Expenditures, Ex. C.

The moneyed interests that Evans represents have every right to participate in the political process. However, they have no right to bamboozle the voters by hiding the true subject of their Proposed Initiative.

Respondents reveal their hand by admitting that the Proposed Initiative is targeted at “private companies that seek to write themselves into the Colorado Constitution.” Resps.’ Br. 7. Those “private companies” include the owner of “the Arapahoe Park racetrack,” one of the beneficiaries of the Competing Initiatives. *Id.* 11 (referencing Arapahoe Park); *see* Ex. 1 to Resps.’ Br. 9:5-17 (counsel for Respondents’ statements regarding the owner of Arapahoe Park at the April 24,

2014 rehearing on the Proposed Initiative). There can be no question that the Proposed Initiative is intended to bar the owner of Arapahoe Park from “writ[ing] [itself] into the Colorado Constitution” through the Competing Initiatives.

- Not only did Evans concede in his Secretary of State filings that his goal is the defeat of “initiatives #80, #81, #134 and #135 for the November 2014 ballot,” but a careful reading of the Proposed Initiative also reveals the subject of nullifying the Competing Initiatives. If the phrase “specific geographic site which is identified, by discrete location” in the Proposed Initiative includes an entire county (which Respondents contend, *see* Resps.’ Br. 7, but which Petitioners do not concede), then the Proposed Initiative could invalidate the Competing Initiatives – each of which asks the voters to approve either video lottery terminals or limited gaming at one racetrack in each of three Colorado counties. And if the phrase “specific geographic site which is identified, by . . . existing license type” in the Proposed Initiative includes “licensed class B horse racetracks,” then the Proposed Initiative could invalidate the Competing Initiatives – each of which asks the voters to approve either video lottery terminals or limited gaming at one such track in each of the three identified counties. In short, Respondents drafted the Proposed Initiative as a direct rejoinder to the specific provisions of the Competing Initiatives, with an acknowledged and implicit intent of trying to nullify those measures.

- The “gambling” that the Proposed Initiative would restrict is identical to the “gambling” addressed in the Competing Initiatives. *Compare* Proposed Initiative (“casino-style gambling” means “slot machines, poker, blackjack, craps, roulette, or video lottery terminals, or any combination above”) *with* Competing Initiative #80 (authorizing the use of video lottery terminals) *and* Competing Initiative #81 (authorizing “slot machines, the card games of blackjack and poker, and the games of roulette and craps”). If the Proposed Initiative and the Competing Initiatives all passed on Election Day 2014, they would be the only provisions in either the Colorado Constitution or statutes referencing “casino-style gambling” or “video lottery terminals.”

Respondents contend that the Proposed Initiative would merely “conflict” with the Competing Initiatives, Resps.’ Br. 6, and, therefore, the clash between the measures is not a separate subject. Respondents rest their argument, however, on a case that pre-dates the adoption of the single-subject rule for initiated ballot measures and, therefore, is irrelevant to a single-subject analysis. *See In re Title, Ballot Title & Submission Clause, & Summ. Approved Apr. 20, 1994 & May 4, 1994, for the Proposed Initiated Constitutional Amendment Concerning the “Fair Treatment II,”* 877 P.2d 329, 332 (Colo. 1994) (discussing proposed initiatives for the November 1994 general election); *Howes*, 235 P.3d at 1079 (the voters approved the single-subject requirement at the 1994 election).

Even if a case decided prior to the single-subject era could be authoritative on whether a proposed initiative contains multiple subjects, *Fair Treatment II* concerned a title that expressly revealed its subject of superseding competing measures. Accordingly, the Court concluded that the title did not fail to inform the voters that the measure conflicted with two other proposed initiatives. *See Fair Treatment II*, 877 P.2d at 329.³

The Proposed Initiative fails under *Jones v. Polhill (In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-02 #43)*, 46 P.3d 438, 446 (Colo. 2002), in which this Court found that the measure at issue contained more than a single subject because it would have effectively eliminated a prior amendment to the Colorado constitution. In *Jones*, the proposed initiative contained numerous procedures addressing the exercise of the right to petition. *Id.* at 444. In addition, the proposed initiative would have nullified the single subject

³ Respondents cite only a portion of footnote 3 of *Fair Treatment II* to make it appear as though this Court will not consider whether two proposed initiatives conflict. *See Resps.’ Br. 6*, quoting *Fair Treatment II*, 877 P.2d at 332 n.3. When read in its entirety, however, the language of the footnote discusses the undisputed point that this Court will not address merits challenges to an initiative in a title case. The petitioners in *Fair Treatment II* had asserted that the initiative “violate[d] Article III of the Colorado Constitution by usurping the judiciary’s exclusive function of interpreting the laws.” *Id.* The Court merely stated that this type of merits analysis went “far beyond the scope of our review in this proceeding.” *Id.*

requirement for initiatives that the voters had added to the Constitution only eight years before. *Id.* at 445. The Court found that the elimination of the single subject requirement was an additional subject, explaining that “[o]bfuscating the repeal of such a fundamental requirement within the folds of a complex initiative purporting to deal only with the procedural right to petition violates [the single-subject requirement].” *Id.* at 447.

As here, the proposed initiative reviewed in *Jones* was “seemingly innocuous,” but could have fooled voters into “inadvertently nullify[ing]” another amendment. Like the measure in *Jones*, the Proposed Initiative nowhere states what Evans revealed in his May 19 filing with the Secretary of State – that his ultimate goal is nullification of the Competing Initiatives. Rather, the Title and the Proposed Initiative are cloaked in appealing language of the free market, *see* Title (“prohibiting the granting of an exclusive license”), even though the effect of passage of the Proposed Initiative would be the *exact opposite* – crushing potential competitors of Evans’s mountain-town casino donors.⁴

⁴ In applying the single-subject rule to a proposed initiative, this Court must conduct a preliminary interpretation of the measure. *Garcia v. Montero (In re Title, Ballot Title & Submission Clause for Proposed Initiatives 2001-2002 #21 & #22) (“English Language Educ.”)*, 44 P.3d 213, 215-16 (Colo. 2002) . While the Court typically “will not interpret or construe the future legal effects of a proposed
{footnote continued}

Not only does *Jones* compel a finding that the Proposed Initiative contains an improper second subject, but public policy requires such a determination. Voters' discovery the day after the election that they had unwittingly voted to nullify measures for which they had also cast ballots would increase the public's cynicism regarding the political process. *See, e.g., Cal. Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1106 n.24 (9th Cir. 2003) (discussing how the "wolf can masquerad[e] in sheep's clothing when voters are uninformed regarding the "real purpose" of an initiative); *see also Howes*, 235 P.3d at 1079 ("[t]he single-subject rule . . . serves to prevent voter surprise by prohibiting proponents from hiding effects in the body of a complex proposal").

The integrity of the political process demands that the proponents of a ballot measure not be permitted to skirt the single-subject rule by hiding their proposed initiative's nullification objective behind a separate subject with greater voter appeal. This Court should strike the Proposed Initiative because it improperly contains a second subject – nullification of the Competing Initiatives.⁵

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initiative . . . , [the Court] will engage in a limited inquiry if necessary to ascertain whether the single-subject requirement has been violated." *Id.*

⁵ Respondents suggest that Petitioners' use of "potentially" in describing the possible effects of the Proposed Initiative undercuts their single-subject argument.

{footnote continued}

B. The Third Subject of the Proposed Initiative Is the Prohibition of Expansion of “Casino-Style Gambling” to Any “Specific Geographic Area” in Which Gambling Is Not Authorized as of November 4, 2014.

If Respondents are “mystified” regarding the devastating impact the Proposed Initiative would have on competition in Colorado, then they misunderstand the language they hastily drafted to defeat the Competing Initiatives. If approved, the Proposed Initiative would bar the expansion of limited gaming in this state beyond those few “specific geographic sites” in which “casino-style gambling” is authorized as of Election Day 2014.

The Proposed Initiative would preclude the issuance of an “*exclusive* license to conduct casino-style gambling, including video lottery terminals, at any specific geographic site.” Proposed Initiative § 18(1) (emphasis added). The key word is “exclusive,” which means “[i]ndependent or single: SOLE.” Webster’s II New College Dictionary 391 (1995).

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Resps.’ Br. 6. While it is difficult to predict the impact of the Proposed Initiative, if approved by the voters, due to Respondents’ use of vague and misleading terms, *see infra* pp. 13-17, there can be no question that the second and third subjects of the Proposed Initiative are the intended nullification of the Competing Initiatives, *see supra* pp. 2-11, and the prohibition of the expansion of “casino-style gambling” in any “specific geographic site” in which such activity is not authorized as of November 4, 2014, *see infra* pp. 11-13.

Whenever a person would obtain the first license to “conduct casino-style gambling” in a “specific geographic site,” such license, by definition, would be “exclusive,” because it would be the “single” or “sole” license for the “specific geographic site.” However, under the Proposed Initiative, no “specific geographic site” could contain a single licensee because that licensee would have an “exclusive license,” *i.e.*, the only one in the “site.” Accordingly, under the Proposed Initiative, there could be no first licensee in any “specific geographic site” for which no license for “casino-style gambling” had been issued as of Election Day 2014. Thus, if the Proposed Initiative were to pass, “casino-style gambling” in Colorado would forever be limited to those “specific geographic sites” authorized to conduct “casino-style gambling” as of November 4, 2014. Respondents are wrong in claiming that the Proposed Initiative “only prohibits self-dealing through the initiative process.” Resps.’ Br. 7.

The Proposed Initiative’s perpetual restriction on the expansion of “casino-style gambling” in Colorado is a separate subject from “[p]rohibiting casino-style gambling at sites specifically named in a ballot measure,” *id.* 4, because it would do far more than bar future initiatives from identifying where the gambling would take place. The blanket ban on new “casino-style gambling” is the very type of hidden effect this Court will not countenance. *See Howes*, 235 P.3d at 1079. A voter may desire to preclude constitutional amendments that name the location of a

proposed casino, yet not wish to block the expansion of gambling to any “specific geographic site” in which gambling is not authorized as of November 4, 2014.

This is precisely the dilemma that the single-subject rule was intended to avoid.

See Gonzalez-Estay v. Lamm (In re Title & Ballot Title & Submission Clause for 2005-2006 #55), 138 P.3d 273, 282 (Colo. 2006) (single-subject rule “discourages placing voters in the position of voting for some matter they do not support to enact that which they do support”).

For these reasons, the Proposed Initiative must be stricken because it contains an impermissible third subject – precluding the expansion of “casino-style gambling” in this state beyond those “specific geographic sites” in which gambling is permitted as of Election Day 2014.

II. THE PROPOSED INITIATIVE CONTAINS MISLEADING TERMS AND CATCH PHRASES.

The Title includes the misleading terms “specific geographic site,” “casino-style gambling,” and “video lottery terminals.” The term “casino-style gambling” is also a catch phrase. This Court should reject the Titles to ensure that voters will not be misled into supporting the Proposed Initiatives “by reason of the words employed by the [Title] Board.” *In re Title, Ballot Title & Submission Clause, & Summ. Adopted Feb. 3, 1993*, 852 P.2d 28, 32 (Colo. 1993).

A. “Specific geographic site.”

Although Respondents make the conclusory statement that “[t]here is nothing confusing about ‘specific geographic site,’” Resps. Br. 9, they do not even attempt to address Petitioners’ primary point, *i.e.*, that “specific geographic site” is ambiguous because a “site” could mean anything from a specific existing building to a piece of land, or an entire town or city. *See* Pets.’ Br. 11-12. Due to this ambiguity, upon reviewing the Title, a voter will not understand the type of future “casino-style gambling” initiatives that the Proposed Initiative would ban. *Id.*

B. “Casino-style gambling.”

Respondents argue that the term “casino-style gambling” is not misleading because the games identified in the Proposed Initiatives’ definition of “casino-style gambling” are authorized at existing casinos.”⁶ While voters may not be surprised to learn that slot machines, poker, blackjack, craps, and roulette are included within the definition of “casino-style gambling,” they would be quite surprised to

⁶ Contrary to Respondents’ assertion, Petitioners are not precluded from challenging Respondents’ reference to “casino-style gambling.” Petitioners addressed this argument in their Motion for Rehearing. Mot. for Rehearing on Initiative 2013-2014 #138 ¶ 3(e), (f). Accordingly, these issues were properly placed before the Title Board and this Court has jurisdiction to review them. *See* C.R.S. § 1-40-107(2) (2013) (allowing “any registered elector who filed a motion for a rehearing” and who is “not satisfied with the ruling of the title board upon the motion” to petition this Court).

discover that other types of games also played at casinos are excluded from this definition.⁷ *See* Pets.’ Br. 13; Tr. of Reh’g on Proposed Initiative #138-145, 134-135, at 17:4-8, Apr. 24, 2014 (“casino-style gambling” does not include sports betting). In addition, voters may not understand that a facility offering only a limited number of games would still be deemed to conduct “casino-style gambling.”

Respondents argue that “casino-style gambling” is not a catch phrase because voters in Rhode Island approved a measure that referred to “gambling” and “casino” and, therefore, did not find such terms noxious. Resps.’ Br. 11. The Rhode Island constitutional amendment, however, concerned “state-operated casino gaming” and did not refer to “gambling.” *See* Ex. 1 to Resps.’ Br. at 26 (pages from Rhode Island Voter Information Handbook 2012). “State-operated casino gaming” and “casino-style gambling” conjure up very different images in voters’ minds. The former implies a carefully supervised operation, while the latter invokes images of a permissive and free-wheeling environment – as in “what happens in Vegas, stays in Vegas.” *See* Pets.’ Br. 14.

⁷ Given that the intent of the Proposed Initiative is to nullify the Competing Initiatives, it is unsurprising that the definition of “casino-style gambling” includes exactly those games that the Competing Initiatives would authorize and no more. *See supra* pp. 6-7.

Finally, Respondents claim that Petitioners offer only a “bare assertion” to support a finding that “casino-style gambling” is a catch phrase. However, at the rehearing and in their Opening Brief, Petitioners provided specific reasons why Colorado voters could vote for or against the Proposed Initiative based on the Title’s use of the term “casino-style gambling.” *Id.*; Tr. of Reh’g on Proposed Initiative #138-145, 134-135, at 6:15-22, Apr. 24, 2014.⁸

C. “Video lottery terminals.”

Respondents do not address the merits of Petitioners’ argument that the term “video lottery terminals” is vague and misleading. *See* Pets.’ Br. 14-15. Instead, Respondents merely assert that, because the Proposed Initiative does not define “video lottery terminals,” the Title Board was not obligated to provide a definition in the Title. *See* Resps.’ Br. 10. However, the Title Board is charged with “avoid[ing] titles for which the general understanding of the effect of a ‘yes/for’ or ‘no/against’ vote will be unclear.” C.R.S. § 1-40-106(3)(b) (2013). Thus, a title should not use words unfamiliar to the general population without a definition, even if the words appear in the text of the proposed initiative. *See id.*

⁸ The case Respondents cite for the proposition that allegations of a catch phrase must be supported by evidence does not require any specific form of evidence. *See* Resps.’ Br. 10-11; *Macravey v. Hufford (In re Title, Ballot Title, Submission Clause & Summ. Adopted Mar. 20, 1996, by the Title Bd. Pertaining to Proposed Initiative “1996-6”)*, 917 P.2d 1277, 1281 (Colo. 1996).

The term “video lottery terminals” does not have a generally understood meaning among voters. *See* Pets.’ Br. 14. Moreover, it is not used, much less defined, in any existing constitutional provision or statute. *Id.* Voters are likely to misinterpret the phrase, and to believe that the Proposed Initiative would prevent certain locations from selling Colorado Lottery tickets. *See id.* For these reasons, the Title Board chose to use the descriptive phrase “electronic game machines,” rather than “video lottery terminals,” in the title of Competing Initiative #80. *See id.* The Title Board erred in failing to do the same in the Title.

CONCLUSION

Petitioners respectfully request that this Court (a) strike the Proposed Initiative in its entirety on the grounds that no title may be set for the Proposed Initiative because it improperly addresses multiple subjects, in violation of article V, section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5 (2013), or (b) alternatively, find that the Title is neither fair nor accurate, and remand the Proposed Initiative to the Title Board with instructions to redraft the Title.

Respectfully submitted this 29th day of May, 2014.

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CERTIFICATE OF SERVICE

I hereby affirm that, on the 29th day of May, 2014, a true and accurate copy of the **PETITIONERS' ANSWER BRIEF** was sent via UPS overnight delivery service to the Respondents and their counsel and to counsel for the Title Board, and by Integrated Colorado Courts E-filing System (ICCES) to counsel of record, at:

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/s/ Lisa F. King

Lisa F. King

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203

DATE FILED: May 29, 2014 6:41 PM

Original Proceeding Pursuant to C.R.S.
§ 1-40-107(2) (2013)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2013-
2014 #138

▲ COURT USE ONLY ▲

Case No. 2014SA142

Petitioners:

Vickie L. Armstrong and Bob Hagedorn,

v.

Respondents:

Richard Evans and Stephen Roark, and

Title Board:

Suzanne Staiert, David Blake, and Jason Gelender

Lino S. Lipinsky de Orlov, No. 13339
Amy M. Siadak, No. 43702
McKenna Long & Aldridge LLP
1400 Wewatta Street, Suite 700
Denver, Colorado 80202
Telephone: (303) 634-4000
Facsimile: (303) 634-4400
Emails: llipinsky@mckennalong.com
asiadak@mckennalong.com

Marcy G. Glenn, No. 12018
Douglas L. Abbott, No. 18683
Holland & Hart, LLP
555 17th Street, Suite 3200
Denver, Colorado 80202
Telephone: (303) 295-8000
Facsimile: (303) 295-8261
Emails: mglenn@hollandhart.com
dabbott@hollandhart.com

William A. Hobbs, No. 7753
1745 Krameria Street
Denver, Colorado 80220
Telephone: (303) 345-5541
Email: bill.hobbs@me.com

**EXHIBIT A
TO
PETITIONERS' ANSWER BRIEF**

Colorado Secretary of State
 Elections Division
 1700 Broadway, Ste. 270
 Denver, CO 80290
 Ph: (303) 894-2200 x 6383
 Fax: (303) 869-4861
 www.sos.state.co.us



COMMITTEE REGISTRATION FORM
 (C.R.S. 1-45-108)

Committee Name:	DON'T TURN RACETRACKS INTO CASINOS
Registration Date:	03/10/2014
Type:	ISSUE COMMITTEE
Physical Address:	1009 GRANT STREET, STE B06 DENVER CO 80203
Mailing Address:	P.O. BOX 18670 DENVER CO 80218
Phone Number:	(303) 839-8373
Alternate Phone:	
FAX Number:	
Web Address:	
Jurisdiction:	STATEWIDE
Purpose:	TO OPPOSE INITIATIVES 95 AND 96 FOR THE NOVEMBER 2014 BALLOT.
Party:	
Election Year:	
Office:	
District:	

Financial Institution	
Institution Name:	WELLS FARGO
Institution Address:	1740 BROADWAY DENVER CO 80274

Registered Agent		Designated Filing Agent	
Agent Name:	RICE, LOIS A.	Agent Name:	EVANS, RICHARD G.
Phone Number:	(303) 839-8373	Phone Number:	(303) 839-8373
Alternate Phone:		Alternate Phone:	
Agent Email:	COLOGAMING@GMAIL.COM	Agent Email:	RICHARD@REITER5280.COM
Alternate Email1:		Alternate Email1:	
Alternate Email2:		Alternate Email2:	

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203

DATE FILED: May 29, 2014 6:42 PM

Original Proceeding Pursuant to C.R.S.
§ 1-40-107(2) (2013)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
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2014 #138

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**EXHIBIT B
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 Denver, CO 80290
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COMMITTEE REGISTRATION FORM
 (C.R.S. 1-45-108)

Committee Name:	DON'T TURN RACETRACKS INTO CASINOS
Registration Date:	05/19/2014
Type:	ISSUE COMMITTEE
Physical Address:	1717 DOWNING ST DENVER CO 80218
Mailing Address:	P.O. BOX 18670 DENVER CO 80218
Phone Number:	(303) 839-8373
Alternate Phone:	
FAX Number:	
Web Address:	
Jurisdiction:	STATEWIDE
Purpose:	TO OPPOSE INITIATIVES #80, #81, #134 AND #135 FOR THE NOVEMBER 2014 BALLOT AND TO SUPPORT INITIATIVES #138, #139, #140, #141, #142, #143, #144 AND #145.
Party:	
Election Year:	
Office:	
District:	

Financial Institution	
Institution Name:	WELLS FARGO
Institution Address:	1740 BROADWAY DENVER CO 80274

Registered Agent		Designated Filing Agent	
Agent Name:	RICE, LOIS A.	Agent Name:	EVANS, RICHARD G.
Phone Number:	(303) 839-8373	Phone Number:	(303) 839-8373
Alternate Phone:		Alternate Phone:	
Agent Email:	LARICE427@HOTMAIL.COM	Agent Email:	RICHARD@REITER5280.COM
Alternate Email1:		Alternate Email1:	
Alternate Email2:		Alternate Email2:	

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue
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Case No. 2014SA142

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REPORT OF CONTRIBUTIONS AND EXPENDITURES

[C.R.S. 1-45-108]

Full Name of Committee/Person:	DON'T TURN RACETRACKS INTO CASINOS
Address of Committee/Person:	1717 DOWNING ST
City, State & Zip Code:	DENVER CO 80218
Committee Type:	Issue Committee
Financial Institution:	WELLS FARGO
Financial Institution Address:	1740 BROADWAY DENVER CO 80274
SOS ID NUMBER:	20145027021
Report Type:	MAY 19, 2014 - REPORT OF CONTRIBUTIONS AND EXPENDITURES
Electioneering Communication:	No

Reporting Period: Beginning Date: 05/01/2014 Ending Date: 05/14/2014

Declared Total Spending (if applicable): \$575.00
 [Art. XXVIII, Sec. 4(1)]

		Totals Detailed Summary Page
1	Funds on Hand at the Beginning of Reporting Period (monetary only)	\$0.00
2	Total Monetary Contributions (line 11)	\$3,034,000.00
3	Total of Monetary Contributions & Beginning Amount (line 1 + line 2)	\$3,034,000.00
4	Total Monetary Expenditures (line 18)	\$75.00
5	Funds on Hand at the End of Reporting Period (monetary) (line 3 - line 4)	\$3,033,925.00

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)]

Registered Agent: LOIS A. RICE

Filed Date: 05/19/2014

DETAILED SUMMARY

Full Name of Committee/Person: DON'T TURN RACETRACKS INTO CASINOS

Reporting Period: Beginning Date: 05/01/2014 Ending Date: 05/14/2014

6	Monetary Itemized Contributions of \$20 or More [C.R.S. 1-45-108(1) (a)] (Please list on Schedule "A")	\$3,034,000.00
7	Total Monetary Non-Itemized Contributions (Contributions of \$19.99 and Less)	\$0.00
8	Loans Received (Please list on Schedule "C")	\$0.00
9	Total Other Receipts (Interest, Dividends, etc.)	\$0.00
10	Returned Contributions (to donor) (Please list on Schedule "D")	\$0.00
11	Total Monetary Contributions (Total of lines 6 - 10)	\$3,034,000.00
12	Total Non-Monetary Contributions (From Statement of Non-Monetary Contributions)	\$0.00
13	Total Contributions (Line 11 + line 12)	\$3,034,000.00
14	Monetary Itemized Expenditures of \$20 or More [C.R.S. 1-45-108(1) (a)] (Please list on Schedule "B")	\$75.00
15	Total Monetary Non-Itemized Expenditures (Expenditures of \$19.99 and Less)	\$0.00
16	Loan Repayments Made (Please list on Schedule "C")	\$0.00
17	Returned Expenditures (from recipient) (Please list on Schedule "D")	\$0.00
18	Total Monetary Expenditures (Total of lines 14 - 17)	\$75.00
19	Total Non-Monetary Expenditures (From Statement of Non-Monetary Expenditures)	\$500.00
20	Total Expenditures (Line 18 + line 19)	\$575.00

Schedule A - Itemized Contributions Statement (\$20 or more)
[C.R.S. 1-45-108(1)(a)]

Full Name of Committee/Person: DON'T TURN RACETRACKS INTO CASINOS

1. Date Accepted 05/14/2014	4. Name AFFINITY GAMING BLACK HAWK
2. Contribution Amount \$1,048,241.00	5. Address 300 MAIN STREET
3. Aggregate Amount* \$1,048,241.00	6. City/State/Zip BLACK HAWK CO 80422
Electioneering Comm? No	7. Description 8. Employer 9. Occupation

1. Date Accepted 05/14/2014	4. Name AMERISTAR CASINO RESORT SPA BLACK HAWK
2. Contribution Amount \$756,870.00	5. Address 111 RICHMAN STREET, PO BOX 45
3. Aggregate Amount* \$756,870.00	6. City/State/Zip BLACK HAWK CO 80422
Electioneering Comm? No	7. Description 8. Employer 9. Occupation

1. Date Accepted 05/14/2014	4. Name CENTURY CASINOS INC.
2. Contribution Amount \$50,000.00	5. Address 2860 S CIRCLE DR # 350
3. Aggregate Amount* \$50,000.00	6. City/State/Zip COLORADO SPRINGS CO 80906
Electioneering Comm? No	7. Description 8. Employer 9. Occupation

1. Date Accepted 05/09/2014	4. Name COLORADO GAMING ASSOCIATION
2. Contribution Amount \$100,000.00	5. Address 1009 GRANT ST, STE B06
	6. City/State/Zip DENVER CO 80203

3. Aggregate Amount*	7. Description
\$100,000.00	8. Employer
Electioneering Comm?	9. Occupation
No	

1. Date Accepted	4. Name	ISLE OF CAPRI CASINOS, INC.
05/14/2014	5. Address	401 MAIN STREET
2. Contribution Amount	6. City/State/Zip	BLACK HAWK CO 80422
\$591,174.00	7. Description	
3. Aggregate Amount*	8. Employer	
\$591,174.00	9. Occupation	
Electioneering Comm?		
No		

1. Date Accepted	4. Name	JACOBS ENTERTAINMENT
05/14/2014	5. Address	17301 W COLFAX AVE
2. Contribution Amount	6. City/State/Zip	GOLDEN CO 80401
\$487,715.00	7. Description	
3. Aggregate Amount*	8. Employer	
\$487,715.00	9. Occupation	
Electioneering Comm?		
No		

* 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)

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

Full Name of Committee/Person: DON'T TURN RACETRACKS INTO CASINOS

1. Date Expended	4. Name	WELLS FARGO BANK
05/14/2014	5. Address	1740 BROADWAY
2. Amount	6. City/State/Zip	DENVER CO 80274
\$75.00	7. Purpose	
Electioneering Comm?	8. Type	Bank Fees
No		

No data for Schedule C - Loans

Schedule D - Returned Contributions and Expenditures

Full Name of Committee/Person: DON'T TURN RACETRACKS INTO CASINOS

Returned Contributions

Returned Expenditures

No data for Schedule E - Non-Monetary Contributions

Schedule E - Statement of Non-Monetary Expenditures

[Art. XXVIII, Sec. 2(5)(a)(II)(III) & C.R.S. 1-45-108(1)]

Full Name of Committee/Person: DON'T TURN RACETRACKS INTO CASINOS

1. Date Expended 05/14/2014	4. Name 5. Address	COLORADO GAMING ASSOCIATION 1009 GRANT ST, STE B06
2. Fair Market Value \$500.00	6. City/State/Zip 7. Purpose	DENVER CO 80203 Rent & Utilities
Electioneering Comm? No	8. Coordinated?	No