

<p>SUPREME COURT, STATE OF COLORADO  2 East 14th Avenue  Denver, CO 80203</p>	<p>DATE FILED: May 29, 2014 7:16 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 Initiatives 2013-  2014 #143, #144, and #145</p> <p><b>Petitioners:</b>  Vickie L. Armstrong and Bob Hagedorn,</p> <p>v.</p> <p><b>Respondents:</b>  Richard Evans and Stephen Roark, and</p> <p><b>Title Board:</b>  Suzanne Staiert, David Blake, and Jason Gelender</p>	<p>▲ COURT USE ONLY ▲</p> <p>Supreme Court Case No.  2014SA151, 14SA152 and  14SA153</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

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
CERTIFICATE OF COMPLIANCE.....	i
SUMMARY OF THE ARGUMENT .....	1
STANDARD OF REVIEW .....	2
ARGUMENT .....	2
I. THE PROPOSED INITIATIVES IMPROPERLY CONCERN TWO DISTINCT AND SEPARATE SUBJECTS, IN ADDITION TO THE SUBJECT DISCLOSED IN THE TITLE. ....	2
A. The Second Subject of the Proposed Initiatives Is Nullification of Petitioners’ Competing Initiatives. ....	2
B. The Third Subject of the Proposed Initiatives Is the Surreptitious Prohibition of the Expansion of Limited Gaming in Colorado. ....	10
II. THE TITLES ARE MISLEADING TO VOTERS. ....	12
A. The Titles Do Not Express the Intent of the Proposed Initiatives To Nullify Voter Approval of the Competing Initiatives. ....	12
B. The Titles Use Undefined, Vague, and Misleading Words, Phrases, and Catch Phrases. ....	12
1. “Casino-style gambling.” .....	13
2. “Video lottery terminals.” .....	14
C. The Titles Fail To Inform the Voters Adequately How the Proposed Initiatives’ Distance Requirements Would Apply. ....	15
D. The Titles Fail to Disclose That the Proposed Initiatives Could Not Prohibit Any Form of Gambling Conducted on “Indian Lands.” .....	17
CONCLUSION .....	17
CERTIFICATE OF SERVICE .....	19

## TABLE OF AUTHORITIES

	<b>Page(s)</b>
<b>CASES</b>	
<i>Cal. Pro-Life Council, Inc. v. Getman</i> , 328 F.3d 1088 (9th Cir. 2003) .....	9
<i>Evans v. Armstrong (In re Title, Ballot Title, &amp; Submission Clause for Proposed Initiatives 2013-2014 #80 &amp; #81), No. 2014SA106 &amp; 2014SA99 (Colo. May 22, 2014) .....</i>	3
<i>Garcia v. Montero (In re Title, Ballot Title &amp; Submission Clause for Proposed Initiatives 2001-2002 #21 &amp; #22) (“English Language Educ.”), 44 P.3d 213 (Colo. 2002).....</i>	9
<i>Howes v. Brown (In re Title, Ballot Title &amp; Submission Clause for 2009- 2010 #91), 235 P.3d 1071 (Colo. 2010).....</i>	2, 7, 9
<i>In re Title, Ballot Title &amp; Submission Clause, &amp; Summ. Adopted Feb. 3, 1993, 852 P.2d 28 (Colo. 1993).....</i>	12
<i>In re Title, Ballot Title &amp; Submission Clause, &amp; Summ. Approved Apr. 20, 1994 &amp; May 4, 1994, for the Proposed Initiated Constitutional Amendment Concerning the “Fair Treatment II,” 877 P.2d 329, 332 (Colo. 1994) .....</i>	7
<i>Jones v. Polhill (In re Title, Ballot Title &amp; Submission Clause for Proposed Initiative 2001-02 #43), 46 P.3d 438 (Colo. 2002).....</i>	8
<i>Macravey v. Hufford (In re Title, Ballot Title, Submission Clause, &amp; Summ. Adopted Mar. 20, 1996, by the Title Bd. Pertaining to Proposed Initiative “1996-6”), 917 P.2d 1277 (Colo. 1996).....</i>	14
<i>Michigan v. Bay Mills Indian Cmty.</i> , No. 12-515 at 1, 8-14 (U.S. May 27, 2014).....	17

**STATUTES**

C.R.S. § 1-40-106(3)(b) (2013) .....15  
C.R.S. § 1-40-106.5 (2013).....18  
C.R.S. § 1-40-107 (2013).....13, 17  
C.R.S. § 1-40-107(2) (2013) .....13

**OTHER AUTHORITIES**

Colorado Constitution, article III.....7  
Colorado Constitution, article V, section 1(5.5).....18  
[http://tracer.sos.colorado.gov/PublicSite/SearchPages/CommitteeDetail.aspx  
?OrgID=27021](http://tracer.sos.colorado.gov/PublicSite/SearchPages/CommitteeDetail.aspx?OrgID=27021) .....4  
[http://tracer.sos.colorado.gov/PublicSite/SearchPages/FilingAmendmentSele  
ct.aspx?FilingID=176894](http://tracer.sos.colorado.gov/PublicSite/SearchPages/FilingAmendmentSelect.aspx?FilingID=176894) .....4

Petitioners, Vickie L. Armstrong and Bob Hagedorn, respectfully submit this answer brief in support of their challenge to the titles, ballot titles, and submission clauses (the “Titles”) that the Title Board set for proposed initiatives 2013-2014 #143, #144, and #145 (collectively, the “Proposed Initiatives”).

### **SUMMARY OF THE ARGUMENT**

Contrary to Respondents’ and the Title Board’s arguments, the Title Board erred in setting the Titles because the Proposed Initiatives each improperly contains more than a single subject. In addition to the subject disclosed in the Titles, the Proposed Initiatives would nullify Petitioners’ competing initiatives (the “Competing Initiatives”) and prohibit the expansion of limited gaming beyond the two counties in which it is currently authorized.

The Title Board further erred in setting misleading Titles. The Titles fail to express the intent of the Proposed Initiatives to nullify voter approval of the Competing Initiatives. In addition, the Titles improperly use the undefined, vague, and misleading terms “casino-style gambling” and “video lottery terminals.” “Casino-style gambling” is also a catch phrase. The Titles also fail to disclose both how the Proposed Initiatives’ distance requirements would be applied, and that the Proposed Initiatives would not apply to gambling operations on “Indian Lands.” Voters will be misled if the Titles omit references to these central features of the Proposed Initiatives.

## **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.") 6-8.

## **ARGUMENT**

### **I. THE PROPOSED INITIATIVES IMPROPERLY CONCERN TWO DISTINCT AND SEPARATE SUBJECTS, IN ADDITION TO THE SUBJECT DISCLOSED IN THE TITLE.**

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

Respondents insist that the Proposed Initiatives reflect nothing more than the promotion of good public policy, Respondents' Opening Brief ("Resps.' Br.") 2-3, but that is a smokescreen to hide the second subject of the Proposed Initiatives – invalidation of the Competing Initiatives.<sup>1</sup> The Proposed Initiatives fail 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).

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



Despite Respondents' protestations, Respondents' opposition to the Competing Initiatives, the timing of the Proposed Initiatives, their hidden promoters, Respondent Evans's admissions in his filings with the Secretary of State's office, and the language of the Proposed Initiatives all demonstrate that the Proposed Initiatives are guided missiles 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 Initiatives (and their five other initiatives intended to nullify the Competing Initiatives) a mere fourteen days later, on March 21, 2014. The timing of the Proposed Initiatives – 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 Initiatives.

- Evans revealed his true agenda for filing the Proposed Initiatives 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.<sup>2</sup>

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<sup>2</sup> 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).

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 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; Initiatives #143, #144, and #145 are the Proposed Initiatives; Initiatives #138, #139, #140, #141, and #142 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 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 Initiatives also reveals the subject of nullifying the Competing Initiatives. The Proposed Initiatives could prevent the

Competing Initiatives from taking effect because the only horse racetrack currently eligible to conduct new gaming under the Competing Initiatives is located adjacent to school property. Moreover, the Proposed Initiatives would grant any person owning property within the specified distance of the site of an operating or a proposed casino veto power over the casino's operations. The property owner could force the casino to close by transferring the property to a school. Not surprisingly, Respondents exempted the mountain town casinos' counties from the distance limitation set forth in the Proposed Initiatives.

- The “gambling” that the Proposed Initiatives would restrict is identical to the “gambling” addressed in the Competing Initiatives. *Compare* Proposed Initiatives (“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 Initiatives and the Competing Initiatives all passed on Election Day 2014, they would be the only provisions in either the Colorado Constitution or statutes that referenced “casino-style gambling” or “video lottery terminals.”

Respondents contend that the Proposed Initiatives would merely “conflict” with the Competing Initiatives, Resps.’ Br. 5, 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.<sup>3</sup>

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<sup>3</sup> 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.*

The Proposed Initiatives fail 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 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 Initiatives nowhere state 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 Titles and the Proposed Initiatives are cloaked in the appealing language of maintaining a

physical distance between school property and the operation of “casino-style gambling.”<sup>4</sup>

Not only does *Jones* compel a finding that the Proposed Initiatives contain 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

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<sup>4</sup> 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 initiative . . . , [the Court] will engage in a limited inquiry if necessary to ascertain whether the single-subject requirement has been violated.” *Id.*

appeal. This Court should strike the Proposed Initiatives because they improperly contain a second subject – nullification of the Competing Initiatives.<sup>5</sup>

**B. The Third Subject of the Proposed Initiatives Is the Surreptitious Prohibition of the Expansion of Limited Gaming in Colorado.**

The third subject of the Proposed Initiatives is barring the expansion of gambling in Colorado. As Petitioners explained in their Opening Brief, if approved with more votes than the Competing Initiatives, the Proposed Initiatives could bar gambling at Arapahoe Park, the only horse racetrack situated in Arapahoe County, because Arapahoe Park is adjacent to property owned by the Cherry Creek School District. *See* Pets.’ Br. 13.<sup>6</sup> Moreover, under the Proposed Initiatives, any person who owned property within the specified distance of the site

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<sup>5</sup> Respondents suggest that Petitioners’ use of “potentially” in describing the possible effects of the Proposed Initiatives undercuts their single-subject argument. Resps.’ Br. 6. While it is difficult to predict the impact of the Proposed Initiatives, if approved by the voters, due to Respondents’ use of vague and misleading terms, *see infra* pp. 12-17, there can be no question that the second and third subjects of the Proposed Initiatives are the intended nullification of the Competing Initiatives, *see supra* pp. 2-10, and the surreptitious prohibition of the expansion of limited gaming in Colorado, *see supra* pp. 10-11.

<sup>6</sup> Respondents assert that the record is devoid of evidence that the Proposed Initiatives would bar Arapahoe Park from obtaining a gaming license. *See* Resps.’ Br. 6. This statement is incorrect. Exhibit A to Petitioners’ Petitions for Review of the Titles is a map depicting that the property owned by Racing Association of Colorado (Arapahoe Park) is adjacent to property owned by Cherry Creek School District #5. *E.g.*, Ex. A to Pets.’ Pet. for Review of Final Action of Ballot Title Setting Bd. Concerning Proposed Initiative 2013-2014 #143 (“Required Distance from Schools in Certain Casino Gambling Jurisdictions”).



of a proposed casino could kill the casino project simply by leasing or selling the property to a public school. *See id.* The property owner could even force an existing casino to close through a property transfer.

The Proposed Initiatives are drafted so insidiously that the owner of a casino could not protect himself by acquiring the parcels surrounding the casino, at least without resort to “straw purchasers,” because *any* portion of the casino’s property, no matter how distant from a slot machine, playing cards, dice, roulette wheel, or video lottery terminal, could be subject to the Proposed Initiatives’ land grab. No investor in a proposed casino would take the risk that a multi-million dollar investment could be lost so easily. Respondents, however, carved out an exception for the mountain town casinos: the Proposed Initiatives do not apply to “jurisdictions . . . in which limited gaming was authorized prior to January 1, 2014.”

For these reasons, the Proposed Initiatives would likely result in blocking all competition to the mountain town casinos. This is an improper second subject of the Proposed Initiatives.

## **II. THE TITLES ARE MISLEADING TO VOTERS.**

### **A. The Titles Do Not Express the Intent of the Proposed Initiatives To Nullify Voter Approval of the Competing Initiatives.**

The Proposed Initiatives were designed to override each of the Competing Initiatives. The Titles, however, fail to disclose Respondents' intent to nullify the Competing Initiatives.

As explained in Section I.B above, the Proposed Initiatives would bar Arapahoe Park, the only horse racetrack located in Arapahoe County, from obtaining a gaming license. Further, the Proposed Initiatives could block the expansion of gaming in Colorado and could even empower a property owner to force an existing casino to shut its doors. *See supra* pp. 10-11.

The voters deserve to know that, if they cast ballots for the Proposed Initiatives, the Competing Initiatives could not be implemented. The Titles are missing this crucial information, however.

### **B. The Titles Use Undefined, Vague, and Misleading Words, Phrases, and Catch Phrases.**

The Titles include the misleading terms “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).

## 1. “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.” 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 discover that other types of games also played at casinos are excluded from this definition.<sup>7</sup> *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. B to Ex. 4 of Resps.’ Br.

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<sup>7</sup> Given that the intent of the Proposed Initiatives 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. 2-10.

at 7 (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.

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 rehearings and in their Opening Brief, Petitioners provided specific reasons why Colorado voters could vote for or against the Proposed Initiatives based on the Titles’ 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.<sup>8</sup>

## **2. “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. 18-19. Instead, Respondents merely assert that, because the Proposed Initiatives do not define “video lottery terminals,” the Title Board was not obligated to provide a definition in the Titles. *See* Resps.’ Br. 10. However, the Title Board is charged with

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<sup>8</sup> 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).

“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.*

The term “video lottery terminals” does not have a generally understood meaning among voters. *See Pets.’ Br.* 18-19. 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 Initiatives would prevent locations from selling Colorado Lottery tickets near schools. *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 Titles.

**C. The Titles Fail To Inform the Voters Adequately How the Proposed Initiatives’ Distance Requirements Would Apply.**

As explained in Petitioners’ Opening Brief, the Titles are unclear and misleading because they do not adequately inform voters how the distance requirements in the Proposed Initiatives would apply. *Id.* 19-20. In response, Respondents argue that Petitioners are asking the Court to interpret the language of the Proposed Initiatives, and that the Titles merely reflect the language of the Proposed Initiatives. Respondents’ contentions cannot be squared with the language of the Proposed Initiatives, however.

The Proposed Initiatives state that the distance between school property and a casino is measured from the school's *property line*, while the Titles indicate the distance is from the school itself. The Titles' inaccurate description of the distance requirements of the Proposed Initiatives is misleading to voters.

This error is compounded in that the Titles also do not inform the voters that the distance is to be determined from the nearest "portion of the real property to be used as the site to conduct *or support* casino-style gambling" (emphasis added), or that the distance is measured as the crow flies. As a consequence of these undisclosed features, a gambling facility constructed in the middle of a twenty-square mile property surrounded by a thirty-foot high security wall could not obtain a license if a school's property line came within the specified distance of the wall.

Respondents further claim that these issues cannot be "material and significant" because Petitioners did not specifically discuss them at the rehearings. Resps.' Br. 9. However, Petitioners addressed these arguments in their Petitions for Rehearing. 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 (2013).

**D. The Titles Fail to Disclose That the Proposed Initiatives Could Not Prohibit Any Form of Gambling Conducted on “Indian Lands.”**

Respondents give short shrift to Petitioners’ argument that the Titles are misleading unless they disclose that the Proposed Initiatives could not bar gambling monopolies on “Indian Lands.” This significant carve-out from the scope of the Proposed Initiatives involves more than the absence of “references to federal law” in the Titles. *See* Resps.’ Br. 12. The voters should be apprised that a vote for the Proposed Initiatives would not impact gambling conducted on “Indian lands” located within the boundaries of the state of Colorado. *See Michigan v. Bay Mills Indian Cmty.*, No. 12-515 at 1, 8-14 (U.S. May 27, 2014) (reaffirming that tribal sovereign immunity bars a state from suing an Indian tribe to enjoin allegedly unauthorized gaming).

**CONCLUSION**

Petitioners respectfully request that this Court (a) determine that no titles may be set for the Proposed Initiatives because the Proposed Initiatives improperly address 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 Titles are neither fair nor accurate, and remand the Proposed Initiatives to the Title Board.

Respectfully submitted this 29th day of May, 2014.

MCKENNA LONG & ALDRIDGE  
LLP

/s/ Lino S. Lipinsky de Orlov

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HOLLAND & HART LLP

/s/ Marcy G. Glenn

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WILLIAM A. HOBBS

/s/ William A. Hobbs

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

CO-COUNSEL FOR PETITIONERS,  
VICKIE L. ARMSTRONG AND  
BOB HAGEDORN



**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 to counsel for Respondents and to counsel for the Title Board via Integrated Colorado Courts E-filing System (ICCES) at:

Mr. Richard Evans  
1724 S. Uinta Way  
Denver, CO 80231

Mark Grueskin, Esq.  
Recht Kornfeld, P.C.  
1600 Stout Street, Suite 1000  
Denver, CO 80202

Mr. Stephen Roark  
2732 S. Fillmore St.  
Denver, CO 80210

Matthew D. Grove, Esq.  
Office of the Attorney General  
1300 Broadway, 10<sup>th</sup> Floor  
Denver, CO 80203

In addition, the **ANSWER BRIEF** will be delivered by hand to the above no later than noon on May 30, 2014.

*/s/ Lisa F. King*

\_\_\_\_\_  
Lisa F. King

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

DATE FILED: May 29, 2014 7:17 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 Initiatives 2013-  
2014 #143, #144, and #145

▲ COURT USE ONLY ▲

**Petitioners:**

Vickie L. Armstrong and Bob Hagedorn,

Supreme Court Case No.  
2014SA151, 14SA152 and  
14SA153

v.

**Respondents:**

Richard Evans and Stephen Roark, and

**Title Board:**

Suzanne Staiert, David Blake, and Jason Gelender

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**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)

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

<b>Financial Institution</b>	
<b>Institution Name:</b>	WELLS FARGO
<b>Institution Address:</b>	1740 BROADWAY DENVER CO 80274

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

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

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**Petitioners:**  
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Supreme Court Case No.  
2014SA151, 14SA152 and  
14SA153

v.

**Respondents:**  
Richard Evans and Stephen Roark, and

**Title Board:**  
Suzanne Staiert, David Blake, and Jason Gelender

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

<b>Committee Name:</b>	DON'T TURN RACETRACKS INTO CASINOS
<b>Registration Date:</b>	05/19/2014
<b>Type:</b>	ISSUE COMMITTEE
<b>Physical Address:</b>	1717 DOWNING ST DENVER CO 80218
<b>Mailing Address:</b>	P.O. BOX 18670 DENVER CO 80218
<b>Phone Number:</b>	(303) 839-8373
<b>Alternate Phone:</b>	
<b>FAX Number:</b>	
<b>Web Address:</b>	
<b>Jurisdiction:</b>	STATEWIDE
<b>Purpose:</b>	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.
<b>Party:</b>	
<b>Election Year:</b>	
<b>Office:</b>	
<b>District:</b>	

<b>Financial Institution</b>	
<b>Institution Name:</b>	WELLS FARGO
<b>Institution Address:</b>	1740 BROADWAY DENVER CO 80274

Registered Agent		Designated Filing Agent	
<b>Agent Name:</b>	RICE, LOIS A.	<b>Agent Name:</b>	EVANS, RICHARD G.
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<b>Alternate Phone:</b>		<b>Alternate Phone:</b>	
<b>Agent Email:</b>	LARICE427@HOTMAIL.COM	<b>Agent Email:</b>	RICHARD@REITER5280.COM
<b>Alternate Email1:</b>		<b>Alternate Email1:</b>	
<b>Alternate Email2:</b>		<b>Alternate Email2:</b>	

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

DATE FILED: May 29, 2014 7:18 PM

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**Respondents:**

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**Title Board:**

Suzanne Staiert, David Blake, and Jason Gelender

Supreme Court Case No.  
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**REPORT OF CONTRIBUTIONS AND EXPENDITURES**

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

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

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

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

	Totals Detailed Summary Page
1 <b>Funds on Hand at the Beginning of Reporting Period</b> (monetary only)	\$0.00
2 <b>Total Monetary Contributions</b> (line 11)	\$3,034,000.00
3 <b>Total of Monetary Contributions &amp; Beginning Amount</b> (line 1 + line 2)	\$3,034,000.00
4 <b>Total Monetary Expenditures</b> (line 18)	\$75.00
5 <b>Funds on Hand at the End of Reporting Period</b> (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	<b>Monetary Itemized Contributions of \$20 or More</b> [C.R.S. 1-45-108(1) (a)] (Please list on Schedule "A")	\$3,034,000.00
7	<b>Total Monetary Non-Itemized Contributions</b> (Contributions of \$19.99 and Less)	\$0.00
8	<b>Loans Received</b> (Please list on Schedule "C")	\$0.00
9	<b>Total Other Receipts</b> (Interest, Dividends, etc.)	\$0.00
10	<b>Returned Contributions (to donor)</b> (Please list on Schedule "D")	\$0.00
11	<b>Total Monetary Contributions</b> (Total of lines 6 - 10)	\$3,034,000.00
12	<b>Total Non-Monetary Contributions</b> (From Statement of Non-Monetary Contributions)	\$0.00
13	<b>Total Contributions</b> (Line 11 + line 12)	\$3,034,000.00
14	<b>Monetary Itemized Expenditures of \$20 or More</b> [C.R.S. 1-45-108(1) (a)] (Please list on Schedule "B")	\$75.00
15	<b>Total Monetary Non-Itemized Expenditures</b> (Expenditures of \$19.99 and Less)	\$0.00
16	<b>Loan Repayments Made</b> (Please list on Schedule "C")	\$0.00
17	<b>Returned Expenditures (from recipient)</b> (Please list on Schedule "D")	\$0.00
18	<b>Total Monetary Expenditures</b> (Total of lines 14 - 17)	\$75.00
19	<b>Total Non-Monetary Expenditures</b> (From Statement of Non-Monetary Expenditures)	\$500.00
20	<b>Total Expenditures</b> (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