

Watchdog group gets 'wakeup call'

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The allegedly nonpartisan group Colorado Citizens for Ethics in Government (CCEG) is going to have to pay up. Administrative Law Judge Robert Spencer found the watchdog organization liable for the opposing counsel's fees in a May 18 opinion concerning a trio of complaints CCEG had filed against a pair of Republican political groups, the Committee for the American Dream (CAD) and the Northern Colorado Victory Fund (NCVF).

Calling one of CCEG's complaints against CAD "groundless", Spencer decided that the complaint fit the statutory regulation of "frivolous," and ordered CCEG to compensate CAD for the cost it incurred while defending against the complaint. Attorney Scott Gessler, who represented CAD and NCVF, said it is his hope that the decision, the first of its kind under tougher campaign finance statutes that were enacted after the 2004 legislative session, will help to deter similar baseless complaints in the future.

"I'm hopeful that [political attorneys] will become more cautious, that they will heed the warning that this type of behavior will not be tolerated by the courts," Gessler said. He charged that CCEG's label of non-partisanship is nothing more than a front that allows them 501 (c) 3 tax status and allows their financial backers to remain hidden. "They claim that they're non-partisan, but they are not. They are a Democratic attack organization. That's all they do, they attack Republicans and they attack businesses...The reason she went after CAD is because they had attacked her friend (Rep.) John Kefalas (D-Fort Collins)," Gessler said, referring to \$28,435 that CAD spent on television commercials attacking Kefalas during the 2006 election season.

State law mandates that any organization that spends over \$1,000 on advertising for or against any candidate 60 days prior to an election must file disclosure forms with the Secretary of State's office. When CCEG realized that CAD had not filed any electioneering reports, they filed a formal complaint with Secretary of State Mike Coffman. CCEG Executive Director Chantell Taylor dismissed Gessler's claims as "spin," and said he was trying to put a good face on what was actually a defeat for him and CAD. She noted that CCEG agreed to dismiss two of the original three complaints, and that Spencer sided with CCEG on the third finding CAD guilty of violating state statutes and fining them \$1,000.

"It's a tangential issue that he's trying to make into a big victory just to mask his overwhelming defeat," Taylor said. "For him to now turn and say that undermines the quality of our actions is totally reprehensible." The real issue at hand, she said, was whether partisan groups were going to be able to exploit a potential loophole in campaign finance law that grants a disclosure exemption to groups whose primary purpose is not advertising or politics.

"[Gessler] argued because they're in the business of producing political ads and campaign materials and therefore the committee is exempt from filing campaign reports. If that were true, then any political group could argue that they don't have to disclose their finances because it's regular course of business," Taylor explained. "Because of CCEG's complaint, political committees like CAD will be held accountable for ignoring disclosure requirements and elections will be more transparent." She also said the claim that Spencer found as groundless wouldn't have even made it to trial had Gessler simply acceded to CCEG's request for campaign finance information they had requested at the outset of the case. If he had, Taylor said, then the complaint would have been dismissed much earlier and there would have been no fees accrued by Gessler.

"He kept putting me off and ultimately he did not provide the information until literally minutes before the trial started. Rather than providing me the information quickly and efficiently, he decided to rack up his fees," Taylor charged. "Once we received the information we said, okay...we'll withdraw the claim." She said his request for attorney's fees in the case was a strong-arm tactic used to intimidate other lawyers.

“As a matter of course, he threatens attorney’s fees, and that’s just not good ethical practice. That’s apparently his M.O.,” Taylor said.

Gessler responded, “Woulda, coulda, shoulda, that doesn’t cut it, after the deposition we had very specific discussions, and she chose to go forward with this...She can whine about it being a tactic, but we’re well within our rights. What she’s mad about is that we’re calling her out as a left-wing attack organization.” Gessler pointed out that during a deposition, he grilled Taylor about how many Democratic candidates and organizations CCEG had pursued and she admitted that CCEG has never filed a single campaign finance complaint in Colorado against a Democratic candidate or cause, despite having filed numerous complaints against Republicans and Republican groups, including GOP gubernatorial candidate Bob Beauprez, the Senate Majority Fund, The Trailhead Group, and former GOP Secretary of State Gigi Dennis.

He also questioned why that would be, since Democrats have been in control of the state legislature since 2004 and the governorship since January. “It seems to me that Democrats are in charge of government right now, and it doesn’t seem like they’re doing a whole lot of watching,” Gessler commented. Taylor has repeatedly denied partisan allegations, and pointed out both in her deposition testimony and to *The Statesman* that CCEG has worked both against Democrats as well as with them. For instance, she said, they opposed Senate President Pro-tem Peter Groff, D-Denver, on one of his proposed fixes to Amendment 41, come out against numerous Democrat-sponsored bills, and have investigated the Department of Homeland Security. She also noted that CAD itself has donated money to Democrats. “This whole partisan allegation is wholly unfounded,” Taylor said.