



April 18, 2011

Honorable Scott E. Gessler
Secretary of State of Colorado
1700 Broadway, Suite 250
Denver, CO 80290

Re: Colorado Ethics Watch Comments on Proposed Revisions to the Rules Regarding Campaign and Political Finance, 8 C.C.R. 1505-6.

Dear Secretary Gessler:

Colorado Ethics Watch (“Ethics Watch”) respectfully submits the following comments on the proposed revisions to the Rules Regarding Campaign and Political Finance, 8 C.C.R. 1505-6 (the “Rules”) in anticipation of the rulemaking hearing currently scheduled for April 19, 2011.

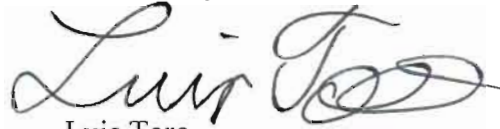
Ethics Watch supports the idea of formalizing rules to control your exercise of discretion in determining waiver requests. The public will be better served by transparent standards and predictable results on waiver requests, and a formal rule will promote those goals.

Ethics Watch is concerned, however, with the proposed language under Scenarios 2.A. and B that would cap liability for fines based on a filer’s self-reported contributions or expenditures, or in some cases, based on a committee’s outstanding balance. The use of unaudited, self-reported contributions and expenditure reports to cap liability for fines would create a perverse incentive for delinquent committees to understate their contributions or expenditures when they finally report. Even without malicious intent, a committee struggling to catch up on delinquent filings is relatively likely to make mistakes while rushing to cure a delinquency, thus reducing the utility of using those reports as a basis to determine the amount of a fine. The problem could be addressed by requiring an audit of all delinquent committees that request a waiver, but the need to conduct an audit would delay imposition of any fine.

We request that you strike references to penalty caps based on a delinquent filer’s self-reported contributions or expenditures or fund balance. Alternatively, we recommend that you incorporate a mandatory audit procedure into the rule so that amounts reported by a delinquent filer can be verified by your office if those amounts are to be taken into consideration when determining the amount of a fine reduction when good cause is shown but does not justify a complete waiver.

We appreciate this opportunity to comment on the proposed Rule.

Very truly yours,

A handwritten signature in black ink, appearing to read "Luis Toro". The signature is written in a cursive style with a large initial "L" and a stylized "T".

Luis Toro
Director