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From: Matt Arnold <campaignintegritywatchdog@gmail.com>
Sent: Thursday, October 15, 2015 9:40 AM
To: SoS Rulemaking
Subject: Proposed rules revisions

Secretary Williams, Deputy Secretary Staiert, and others -

Campaign Integrity Watchdog LLC, as the premier prosecutor and most active accountability agent for campaign finance law and regulations in Colorado, is largely supportive of the rules revisions adopted and proposed for adoption by the Secretary of State as enhancing clarity and transparency.

Some additional revisions, amendments, or questions to consider:

Rule 1.4.1 (Contributions)

As regards "unpaid" services that create a "thing of value" - professional services that result in creating documents - for example, legal services creating filings in court - would certainly seem to qualify as a "thing of value" (particularly since costs and fees for production are considered "recoverable" in potentially significant amounts). Therefore, such professional services - even "volunteered" - MUST be considered contributions as the value is NOT "de minimus."

Rule 1.6 ("Expenditures made and obligations entered into") - as written, currently could be construed only to apply to section 1-45-108(1)(a)(I) and those committees subject to reporting pursuant to that rule. As a clarification, consider adding section 1-45-108.5 et seq as well.

Rule 5.2 (Donations to Independent Expenditure Committees)

Recommend striking the "for the purpose of making an independent expenditure" language from the rules concerning donations to IECs.

Any donation to an IEC may presumptively be considered to be in support of "making an independent expenditure" - since money is fungible, and donations may not generally be "earmarked" for a specific purpose (the single exception to this is specifically addressed in statute) adding the "for the purpose of" language to the rules only engenders more confusion, rather than enhancing clarity.

5.2.3 Strike the word "independent"

alternatively, add Rule 5.2.4

5.2.4 An independent expenditure committee must itemize other disbursements and obligations entered into per Rule 1.6 and include the information required by section 1-45-107.5 C.R.S.

(NOTE: carving out an exception to the disclosure and reporting rules for IECs clearly violates the letter and intent of the Fair Campaign Practices Act writ large)

Rule 8 (Registering a Committee)

Since committees are required to establish a separate bank account on registering the committee, adding a rule to clarify this requirement could be of benefit to committee registrants.

Rule 11 (Electioneering Communications)

Rule 11.4 ADD (previously removed) "and must include the method of communication"

Rule 11.5 ADD (previously removed) "and must include the method of communication"

ADD Rule 11.6 All spending of \$1,000 or more per calendar year shall be listed individually on the electioneering report, including name, address, and method of communication. [Article XXVIII, Section 6(1)]

DISCUSSION: just as contributions, donations, expenditures, spending, or other disbursements may not be aggregated for reporting purposes, so too may Electioneering communications NOT legally be aggregated (filing a single lump sum "disclosure" for all electioneering in a period, for example) as this would clearly violate the transparency intended under FCPA requirements.

Rule 12 (Committee Termination)

Re-insert previously deleted language clarifying that "a termination report may be filed at any time. [Article XXVIII, Section 2(3) and section 1-45-106, C.R.S.]"

Rule 21: Coordination

Rule 21.1.2 strike "committee" and replace with "party" (for consistency with remaining sections) or add "political party" after "political committee"

Thank you for your consideration,

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