

**BEFORE THE SECRETARY OF STATE
STATE OF COLORADO**

CASE NO. OS 2003009

SUPPLEMENT TO ORDER GRANTING MOTION TO DISMISS

**IN THE MATTER OF THE COMPLAINT FILED BY CHARLES BUCKNAM
REGARDING ALLEGED VIOLATIONS OF THE FAIR CAMPAIGN PRACTICES ACT
BY GOVERNOR BILL OWENS AND THE CANDIDATE COMMITTEE CITIZENS FOR
BILL OWENS.**

Background

On July 28, 2003, the Administrative Law Judge (“ALJ”) Matthew E. Norwood issued an Order Granting Motion to Dismiss (“Order”) in the above captioned matter. Although the Order did not explicitly say so, it was a final decision of the Secretary of State and subject to review by the Court of Appeals, pursuant to Section 24-4-106(11), C.R.S. Section 1-45-111(2)(a), C.R.S.

Following the issuance of the Order Granting Motion to Dismiss, the Complainant filed a Motion to Amend Judgment and Findings of Order. That motion sought three things: 1) an amendment to the Order to provide explicitly that the dismissal was without prejudice; 2) an amendment to the Order to provide that the Petitioner had “inadequately” identified the claim of failure to report, in place of the language that the claim of failure to report was “hitherto unidentified;” and 3) that the ALJ’s discussion in footnote 1 of the Order be omitted.

Also following the issuance of the Order, the Complainant filed a new complaint against the same Respondents, but adding the additional Respondents Lt. Governor Jane Norton and the Candidate Committee Friends of Jane Norton. That case has been given case no. OS 2003012. A telephone prehearing conference was held in that matter on August 15, 2003 and was recorded on tape no. 6567. As the parties and their representatives were all the same as in the above captioned case, the Motion to Amend Judgment and Findings of Order was considered. Jerri Hill, Esq. appeared on behalf of Charles Bucknam (“Complainant”) and Christopher Paulson, Esq., appeared on behalf of Respondents Governor Bill Owens (“the Governor”) and the Candidate Committee Citizens for Bill Owens (“the Governor’s Candidate Committee”). Michael J. Norton appeared on behalf of Lt. Governor Jane Norton and the Candidate Committee Friends of Jane Norton (again, these last two are Respondents only in OS 2003012).

Discussion and Order

As to the first request of the Complainant, C.R.C.P. 41(a)(2) provides that unless otherwise specified in the order, a dismissal by the court is a dismissal without prejudice. This rule is made applicable to hearings before the Division of Administrative Hearings by Rule 15 of the Division's Rules of Procedure. As there was no specification in the ALJ's July 28, 2003 Order, the dismissal was without prejudice.

As to the second request, there is no need to change the language of the order. The substance of the order is that inadequate notice of the particulars of the violation alleged were not provided in the Complainant's complaint. As such it was dismissed. The ALJ sees no reason to alter the July 28, 2003 Order in this respect.

The discussion in footnote 1 of the Order concerning the proper interpretation of Colo. Const. Art. XXVIII, Section 3(3)(e), as is explained in the footnote itself, is not necessary for a resolution of the above captioned case. As there was discussion of this issue at the July 22, 2003 hearing, and as it was expected that this issue might again come up, the ALJ felt it helpful to provide guidance on this point. And in fact, this issue has again come up in case no. OS 2003012. Therefore, the ALJ again declines to alter the July 28, 2003 Order by the elimination of footnote 1.

DONE AND SIGNED

August ____, 2003

MATTHEW E. NORWOOD
Administrative Law Judge

Tape no. 6567

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the above **SUPPLEMENT TO THE ORDER GRANTING MOTION TO DISMISS** by placing same in the U.S. Mail, postage prepaid, at Denver, Colorado to:

Jerri Hill
Charles H. Bucknam
12460 North Third Street
Parker, Colorado 80134

Christopher R. Paulson
1775 Sherman Street, Suite 2100
Denver, Colorado 80203

and

William A. Hobbs
Deputy Secretary of State
Department of State
1560 Broadway, Suite 200
Denver, CO 80203

on this ____ day of August, 2003.

Secretary to Administrative Law Judge