

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

**CASE NO. OS 20040022**

---

**AGENCY DECISION DISMISSING COMPLAINT**

---

**IN THE MATTER OF THE COMPLAINT FILED BY ROB FAIRBANK REGARDING  
ALLEGED CAMPAIGN AND POLITICAL FINANCE VIOLATIONS BY PETE MAZULA  
AND RANDALL ATKINSON,**

**Defendants.**

---

On September 21, 2004, Rob Fairbank ("Complainant") filed a complaint with the Secretary of State alleging that Defendant Pete Mazula, a candidate for State House District 22, had accepted a contribution from a lobbyist, Defendant Randall Atkinson, in contravention of Section 1-45-105.5(1)(a)(I), C.R.S. That subsection reads in pertinent part:

No professional lobbyist ... shall make ... a contribution to ... a member of the general assembly or candidate for the general assembly, when the general assembly is in regular session.

On September 23, 2004, the Secretary of State referred the matter to the Division of Administrative Hearings ("Division") under the authority of Colo. Const. art XXVIII, Section 9(2)(a). A hearing was then scheduled for November 30, 2004 at the Division before Administrative Law Judge ("ALJ") Matthew E. Norwood. At the hearing Complainant represented himself. Edward Ramey, Esq. appeared on behalf of Defendants Mazula and Atkinson. Defendants orally moved to dismiss the complaint.

**Discussion**

Colo. Const. art XXVIII, Section 9(2)(a) provides that:

Any person who believes that a violation of section 3, section 4, section 5, section 6, section 7, or section 9(1)(e), of this article, or of sections 1-45-108, 1-45-114, 1-45-115, or 1-45-117 C.R.S., or any successor sections, has occurred may file a written complaint with the secretary of state.... The secretary of state shall refer the complaint to an administrative law judge ... [who] ... shall render a decision.... If the administrative law judge determines that such violation has occurred, such decision shall include any

appropriate order, sanction, or relief authorized by this article.

Section 1-45-105.5, the basis for Complainant's complaint, is not listed as one of the violations to be referred. For the same reason, it is not "such violation" for which the ALJ may order relief. Furthermore, Section 1-45-105.5 does not appear as one of the violations for which a sanction may be imposed by "the appropriate officer" in Section 10 of Article XXVIII.

Section 1-45-113 formerly provided for a sanction for a violation of Section 1-45-105.5, C.R.S., but Section 1-45-113 was repealed in 2002.

Based on the foregoing, the ALJ determined that he lacked jurisdiction to hear this complaint. The motion to dismiss was therefore granted.

### **AGENCY DECISION**

It is the Agency Decision that the Administrative Law Judge lacks jurisdiction to hear this complaint and the complaint is dismissed. This decision is final and subject to the review by the Court of Appeals, pursuant to Section 24-4-106(11), C.R.S. Colo. Const. art XXVIII, Section 9(2)(a).

### **DONE AND SIGNED**

November \_\_\_\_, 2004

---

MATTHEW E. NORWOOD  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the above **AGENCY DECISION DISMISSING COMPLAINT** by placing same in the U.S. Mail, postage prepaid, at Denver, Colorado to:

Rob Fairbank  
State Representative  
200 E. Colfax Ave., Room 271  
Denver, CO 80203

Edward Ramey, Esq.  
Isaacson, Rosenbaum, Woods & Levy, P.C.  
633 17<sup>th</sup> Street, Suite 2200  
Denver, CO 80202

and to

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

on this \_\_\_\_ day of \_\_\_\_\_, 2004.

---

Secretary to Administrative Law Judge