

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

CASE NO. OS 2006-0019

AGENCY DECISION

**IN THE MATTER OF THE COMPLAINT FILED BY CHARLES H. BUCKNAM
REGARDING ALLEGED CAMPAIGN AND POLITICAL FINANCE VIOLATIONS BY
JACK HILBERT and THE COMMITTEE TO ELECT JACK HILBERT**

This matter is before the Administrative Law Judge (ALJ) upon the parties' Stipulation for Entry of Judgment Against Respondents Jack Hilbert and The Committee to Elect Jack Hilbert. The respondents will hereafter be referred to as Hilbert and the Hilbert Committee.

Procedural History

Bucknam filed his complaint with the Secretary of State on July 27, 2006.¹ On August 1, 2006, as required by Colo. Const. art. XXVIII, § 9(2)(a), the Secretary of State referred the complaint to the ALJ for hearing and decision. Hearing was scheduled for August 11, 2006, but continued at Hilbert's request. At the parties' joint request and upon good cause shown, the hearing was ultimately rescheduled for November 21, 2006 to avoid potential influence the hearing and outcome might have had upon the November 7, 2006 election in which both Hilbert and Bucknam's attorney were candidates. The parties' filed this stipulation for entry of judgment November 13, 2006.

Issue

Bucknam alleges that Hilbert and the Hilbert Committee failed to report certain campaign contributions as required by the Fair Campaign Practice Act, § 1-45-108, C.R.S. Respondents stipulate to that allegation, as it pertains to a specific contribution.

Findings of Fact

The following findings of fact are based upon the parties' stipulation:

1. Hilbert and the Hilbert Committee erroneously reported to the Secretary of State receipt of a contribution of \$1000 as being from Susan and Randy Karsh.
2. The \$1000 contribution from the Karshs should have been reported as a contribution from Randall Realty, a sole proprietorship.

¹ The original complaint named a number of additional respondents: Ted Kiniry, Elaine Kiniry, Randy Karsh, Susan Karsh, Canterbury Development Co. LLC, Liverpool Investments LLC, TH Properties LLC and Trevey Company, LLC. All these parties were subsequently dismissed by joint motion.

3. Upon discovering the error, respondents corrected their report.
4. Hilbert acknowledges the facts described above constitute a violation of §§ 1-45-108(1)(a)(I) and 1-45-109(2) of the Fair Campaign Practices Act.
5. Hilbert agrees to pay to the Douglas County Clerk and Recorder the sum of \$550 as an appropriate penalty for the stipulated violation.

Discussion and Order

The primary campaign finance law in Colorado is Article XXVIII of the Colorado Constitution, which was approved by the people of Colorado in 2002. Article XXVIII imposes contribution limits, encourages voluntary spending limits, imposes reporting and disclosure requirements, and vests enforcement authority in the Secretary of State. Colorado also has statutory campaign finance law, known as the Fair Campaign Practices Act (FCPA), §§ 1-45-101 to 118, C.R.S., which was originally enacted in 1971, repealed and reenacted by initiative in 1996, substantially amended in 2000, and again revised by initiative in 2002 as the result of the adoption of Article XXVIII. The Secretary of State, pursuant to regulations published at 8 CCR 1505-6, further regulates campaign finance practices.

As a candidate committee supporting Hilbert's candidacy for local public office, the Hilbert Committee was required to report to the Douglas County Clerk and Recorder all contributions received of twenty dollars or more, including the name and address of the contributor. Section 1-45-108(1)(a)(I), C.R.S. Such reports were to be timely filed pursuant to § 1-45-109, C.R.S. By failing to make an accurate and timely report of the contribution from Randall Realty, the Hilbert Committee violated these provisions of the FCPA.

The ALJ is authorized to impose a monetary penalty for violation of the statutory reporting requirements, and candidates are personally liable for penalties imposed upon the candidate's committee. Colo. Const. art. XXVIII, § 10. The ALJ finds the agreed-upon \$550 fine to be a reasonable and appropriate penalty for the stipulated violation.

Agency Decision

The Hilbert Committee violated §§ 1-45-108(1)(a)(I) and 1-45-109 of the FCPA by failing to make an accurate and timely report of the Randall Realty contribution. Hilbert shall pay a fine of \$550 for this infraction. The November 21, 2006 hearing is vacated. This decision is subject to review by the Colorado Court of Appeals, pursuant to § 24-4-106(11), C.R.S. and Colo. Const. art. XXVIII, § 9(2)(a).

Done and Signed

November 17, 2006.

ROBERT N. SPENCER
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above **AGENCY DECISION** was placed in the U.S. Mail, postage prepaid, at Denver, Colorado to:

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and

William Hobbs
Secretary of State's Office
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on this ____ day of April, 2007.

Office of Administrative Courts