

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

CASE NO. OS 2006-0030

**ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT,
GRANTING COMPLAINANT'S CROSS MOTION FOR SUMMARY JUDGMENT, and
FINAL AGENCY DECISION**

**IN THE MATTER OF THE COMPLAINT FILED BY COLORADO DEMOCRATIC
PARTY REGARDING ALLEGED CAMPAIGN AND POLITICAL FINANCE
VIOLATIONS BY THE COMMITTEE TO ELECT BEVERLY SCANGA**

This matter is before Administrative Law Judge (ALJ) Robert Spencer upon the parties' cross motions for summary judgment. A brief telephone hearing regarding the motions was held February 13, 2007. Having duly considered the parties' motions, responses and replies, as well as matters presented at the motions hearing, Respondent's motion for summary judgment is DENIED and Complainant's motion for summary judgment is GRANTED.

Background

On October 16, 2006, the Colorado Democratic Party (the Complainant or Party) filed a complaint with the Secretary of State alleging that the Committee to Elect Beverly Scanga (the Respondent or Committee) violated Colo. Const. art. XXVIII, § 3(10) by accepting "cash" contributions in excess of \$100. Section 3(10) prohibits a candidate committee from accepting contributions "in currency or coin" exceeding \$100.¹

As required by Colo. Const. art. XXVIII, § 9(2)(a), the Secretary of State referred the complaint to the Office of Administrative Courts (OAC) for hearing. The OAC received the complaint on October 18, 2006, and set the matter for hearing on November 1, 2006. On October 25, 2006, the Committee exercised its right to a continuance as provided by § 9(2)(a), and the hearing was reset for December 14, 2006. On December 12, 2006, the parties filed a joint motion to vacate the hearing in favor of a briefing schedule upon cross motions for summary judgment. The order was granted and the parties' proposed briefing schedule approved. The briefing process is now completed and the matter is ripe for decision.

The issue is well defined. The parties stipulate that Beverly Scanga, a Republican candidate for Chaffee County Commissioner, contributed over \$100 in currency to the Committee. Colo. Const. art. XXVIII, § 3(10) expressly says that "No candidate committee ... shall accept a contribution ... in currency or coin exceeding one hundred dollars." The Party alleges that, as Ms. Scanga's candidate committee, the

¹ The parties stipulated at the motions hearing that the "cash" contributions were in U.S. currency.

Committee violated this section by accepting currency contributions in excess of \$100. Though the Committee acknowledges the language of § 3(10), it argues that the Secretary of State has excused candidates who contribute money to their own candidate committees from compliance with § 3(10). Secretary of State Rule 4.6(a), upon which the Committee relies, states that “Contributions to a candidate’s own committee by a candidate who does not accept voluntary spending limits shall not be subject to the contribution limits of Article XXVIII, Section 3.” The Committee argues that this rule is necessary to avoid violation of the candidate’s First Amendment rights, and is consistent with case law, including *Buckley v. Valeo*, 424 U.S. 1 (1976).

The issue, therefore, is whether § 3(10) applies to the currency contributions made by Ms. Scanga to the Committee.

Standard Applicable to Motions for Summary Judgment

Summary judgment is proper when the pleadings, affidavits, depositions, or admissions show that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law. C.R.C.P. 56(c). Summary judgment is a drastic remedy and should be granted only if it has been clearly established that the moving party is entitled to judgment as a matter of law. *Clementi v. Nationwide Mut. Fire Ins. Co.*, 16 P.3d 223 (Colo. 2001). The burden of establishing the nonexistence of a genuine issue of material fact is on the moving party. *Continental Airlines, Inc. v. Keenan*, 731 P.2d 708 (Colo. 1987); *Schultz v. Wells*, 13 P.3d 846 (Colo. App. 2000). The nonmoving party is entitled to the benefit of all favorable inferences that may reasonably be drawn from the undisputed facts, and all doubts must be resolved against the moving party. *Clementi, supra*; *Peterson v. Halsted*, 829 P.2d 373 (Colo. 1992).

Once the movant has met its initial burden, the burden shifts to the nonmoving party to establish there is a triable issue of fact. *Civil Service Commission v. Pinder*, 812 P.2d 645 (Colo. 1991); *Schultz v. Wells, supra*. The purpose of summary judgment is to save the time and expense of trial when, as a matter of law, based upon the undisputed facts, one party could not prevail. *Peterson v. Halsted, supra*; *DuBois v. Myers*, 684 P.2d 940 (Colo. App. 1984). When the opposing party does not muster sufficient facts to make out a triable issue of fact, the moving party is entitled to summary judgment as a matter of law. *Keenan, supra*.

Findings of Fact

The following findings of fact are based upon the Committee’s stipulation to the factual allegations within the complaint, the affidavit of Beverly A. Scanga attached to the Committee’s motion for summary judgment, and the stipulations of the parties made on the record at the motions hearing.

1. In the fall of 2006, Beverly A. Scanga was a candidate for the Chaffee County Board of Commissioners.
2. The Committee to Elect Beverly Scanga (the Committee) was Ms.

Scanga's "candidate committee" as defined by Colo. Const. art. XXVIII, § 2(3).

3. Ms. Scanga contributed the followed amounts, in U.S. currency, to the Committee on the following dates:

06/20/2006	\$ 115.00
07/12/2006	\$ 150.00
07/26/2006	\$ 2,000.00
08/16/2006	\$ 170.00
08/30/2006	\$ 300.00
Total	\$ 2,735.00

4. Ms. Scanga did not accept any voluntary contribution limits.

5. The Committee reported these contributions as required by law.

Discussion and Conclusions of Law

Colorado's Campaign Finance Laws

The primary campaign finance law in Colorado is Article XXVIII of the Colorado Constitution, which was approved by the people of Colorado in 2002 as Amendment 27 to the constitution. 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 passage of Amendment 27. The Secretary of State further regulates campaign practices pursuant to regulations published at 8 CCR 1505-6.

Contribution limits and restrictions

Article XXVIII, §§ 3(1) and 3(2) limit the amount of money that certain candidate committees may accept from donors during a given election cycle.² The definition of a "candidate committee" includes the candidate individually. Article XXVIII, § 2(3). The amount of the contribution limit depends upon the particular office for which the candidate seeks election.

Other provisions of § 3 place additional restrictions on contributions to candidate committees, regardless of the office being sought. For example, § 3(4) generally prohibits contributions by corporations or labor unions; § 3(6) prohibits contributions from one candidate committee to another; § 3(7) prohibits a person from acting as a "conduit" for a contribution to a candidate committee; § 3(9) requires all contributions to

² Candidates for county commissioner are not subject to these limits. All candidate committees, however, are obligated to comply with the contribution and expenditure disclosure requirements of § 1-45-108, C.R.S.

be deposited in a financial institution account in the committee's name; § 3(11) prohibits reimbursement for contributions; and § 3(12) prohibits contributions from foreign entities. At issue in this case is § 3(10) which states in pertinent part, "No candidate committee ... shall accept a contribution ... in currency or coin exceeding one hundred dollars."

Rule 4.6(a)

The parties agree that the Committee accepted contributions in currency exceeding \$100. The Committee, however, argues that no violation occurred because Secretary of State Rule 4.6(a) excuses it from compliance with § 3(10).³ Rule 4.6(a) reads, "Contributions to a candidate's own committee by a candidate who does not accept voluntary spending limits shall not be subject to the *contribution limits* of Article XXVIII, Section 3." (*Italics added*). In the Committee's view, Rule 4.6(a) is proper and necessary to preserve § 3(10) from constitutional attack and comply with *Buckley v. Valeo* which holds that limits on a candidate's expenditures violate the First Amendment. The ALJ agrees with the Committee that Rule 4.6(a) must be interpreted to excuse a candidate from limits on the *amount* of money she contributes to her own candidate committee, but does not agree that the rule excuses the Committee from compliance with § 3(10).

To properly interpret Rule 4.6(a), one must begin with the usual rules of statutory interpretation. In construing an administrative rule or regulation the same basic rules of construction are used as are applicable to the interpretation of a statute. *Johnson v. Colorado State Board of Agriculture*, 15 P.3d 309 (Colo. App. 2000); *Ledbury v. Department of Higher Education*, 962 P.2d 308 (Colo. App. 1997). As with a statute, in interpreting a regulation the primary task is to determine and give effect to the intent of the enacting body. *Estate of Moring v. Colorado Department of Health Care Policy Financing*, 24 p.3d 642 (Colo. App. 2001); see *City and County of Denver v. Gallegos*, 916 P.2d 509 (Colo. 1996). That intent is first determined by looking at the language itself, giving words and phrases their commonly understood meaning. *Estate of Moring, supra*; *Johnson v. Colorado State Board of Agriculture, supra*; *Mason v. Adams*, 961 P.2d 540 (Colo. App. 1997). Rule 4.6(a), by its terms, only excuses a candidate committee from compliance with the "contribution limits" of § 3. It does not excuse compliance with any restriction that is not a contribution limit.

Section 3(10) is not a "contribution limit" within the meaning of Rule 4.6(a)

The term "contribution limit" is not defined in Article XXVIII or in the Secretary of State's rules, but *Buckley v. Valeo* instructs that the essence of a "limit" upon campaign financing lies in the restriction upon the *amount of money* that may be spent. As the Supreme Court noted, "restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached." *Buckley v. Valeo*, 424 U.S. at 19. Thus, the

³ The Secretary of State rules are published at 8 CCR 1506-6.

Court found that limiting the amount of money a candidate can spend unduly infringes upon the quantity of the candidate's political speech, and thus violates the candidate's First Amendment right. Significantly, in holding that limits on the amount of money spent violates a candidate's First Amendment rights, the Court nevertheless noted that regulation of the "time, place, and manner" of expression is constitutional. *Id.*, at 18, citing *Cox v. Louisiana*, 379 U.S. 559 (1965)(prohibition of picketing near a courthouse upheld); *Adderley v. Florida*, 385 U.S. 39 (1966)(prohibiting picketing at a jail); and *Kovacs v. Cooper*, 336 U.S. 77 (1949)(regulating use of sound trucks). In the Court's view, "[T]he critical difference between [*Buckley*] and the time, place, and manner cases is that the present Act's contribution and expenditure limitations impose *direct quantity restrictions* on political communication and association." *Buckley v. Valeo*, *supra* at 19 (*italics added*). Therefore, it is reasonable to assume that if, as the Committee argues, Rule 4.6(a) was designed to avoid conflict with the First Amendment, the term "contribution limit" in Rule 4.6(a) must refer to limitations upon the *amount* of money contributed, not the time, place or manner of those contributions.

This limited interpretation of Rule 4.6(a) is required by law. To the extent that Rule 4.6(a) avoids a First Amendment conflict by relieving candidates of any restriction upon the *amount* of money they contribute to their own committee, it is a proper exercise of the Secretary's power. When possible, agencies must interpret legislation in a constitutional manner. *Adams County Sch. Dist. No. 50 v. Heimer*, 919 P.2d 786, 790 (Colo. 1996)("when possible, statutes should be construed so as to avoid questions of their constitutional validity.") However, the Secretary otherwise has no power to adopt regulations that conflict with enabling legislation. *Sears v. Romer*, 928 P.2d 745, 751 (Colo. App. 1996) (administrative agencies are legally bound to comply with their enabling statutes). Therefore, Rule 4.6(a) may not be interpreted to restrict § 3 any more broadly than is necessary to avoid conflict with the First Amendment.

With that focus in mind, Rule 4.6(a) must be interpreted to relieve a candidate from § 3's limits on the *amount* of money a candidate may give to her own committee (i.e., "contribution limits"), but cannot be interpreted so broadly as to override the § 3's legitimate limits on how those contributions are made. The ALJ therefore concludes that the term "contribution limit" in Rule 4.6(a) applies only to limitations upon the *amount* of money a candidate contributes to her own committee.⁴

*Section 3(10) permissibly restricts the manner,
not the amount, a candidate may contribute*

Section 3(10)'s restriction upon the *manner* of a candidate's contribution does not limit the *amount* of money a candidate may contribute, and therefore does not conflict

⁴ Of course, the mere fact that § 3 is broadly titled "Contribution limits," does not mean that § 3(10) is itself a contribution limit. A section heading forms no part of the legislative text, and no implication or presumption of a legislative construction is to be drawn solely from it. Section 2-5-113(4), C.R.S.; *Board of County Comm'rs of Douglas County v. City of Aurora*, 62 P.3d 1049, 1055 (Colo. App. 2002)(fact that title 32 is headed "Special Districts" does not evince legislative intent that all entities governed by title 32 are special districts).

with the First Amendment. In *Ward v. Rock Against Racism*, 491 U.S. 781 (1989), the Supreme Court clarified that a government may permissibly impose restrictions upon the “time, place, and manner” of protected speech, “provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.” *Id.*, at 791. To be “narrowly tailored,” the restriction need not be the least restrictive alternative, provided it “promotes a substantial government interest that would be achieved less effectively absent the regulation.” *Id.*, at 798-99.

Section 3(10) meets the *Ward* test to be a permissible restriction. The restriction is narrowly tailored to serve a significant governmental interest, which is to promote “full and timely disclosure of campaign contributions” and thus reduce the risk and appearance of corruption, minimize disproportionate influence by the wealthy, and promote an informed electorate. Article XXVIII, § 1. The requirement that a candidate committee accept no more than \$100 in currency supports that interest by ensuring campaign contributions are transparent and traceable. *Frank v. City of Akron*, 290 F.3d 813, 818-19 (6th Cir. 2002) (“\$25 limit on hard currency contribution ‘serves the significant government interest of accountability by forcing contributions to be traceable’”); *Anderson v. Spear*, 356 F.3d 651, 671 (6th Cir. 2004) (“[A] cash prohibition is essentially a disclosure requirement.”) The restriction of § 3(10) is clearly content neutral, and it leaves open the simple expedient of making the contribution by check or other currency substitute that is not subject to § 3(10)’s restriction. Thus, the impact § 3(10) has upon a candidate’s speech is minimal, and certainly no more intrusive than a requirement that the candidate publicly disclose contributions and expenditures, which have been held not to violate the First Amendment. See for example, *Buckley v. Valeo* and *Hlavac v. Davidson*, 64 p.3d 881 (Colo. App. 2002), which have approved such requirements.

Thus, contrary to the Committee’s argument, Ms. Scanga does not have a First Amendment right to “make unrestricted contributions” to her candidate committee. Neither the Supreme Court nor any Colorado court has held that the government may not regulate, in any fashion, expenditures by a candidate. As discussed above, the restrictions struck down by the Supreme Court in *Buckley v. Valeo*, and more recently in *Randall v. Sorrell*, 126 S.Ct. 2479, ___ U.S. ___ (2006), were limitations on the *amount of money* spent by a candidate, not limitations on the form of the money spent. Section § 3(10) does not in any way limit the amount of money a candidate may contribute to her own committee, but only limits the form of the contribution to no more than \$100 in hard currency. Such restrictions have been found constitutional. See *Frank*, *supra* at 818-19, upholding a \$25 restriction on hard currency contributions because the restriction “does not affect the *amount* that one may contribute; it simply affects the *manner* in which one may contribute.” (*Italics in original*). *But see Anderson v. Spear*, *supra*, which struck down a total prohibition on cash contributions because it unreasonably deterred very small contributions that were not amenable to payment by negotiable instrument, and thus unnecessarily abridged associational rights.

Therefore, the proper interpretation of Rule 4.6(a) is that which is necessary to

comply with *Buckley v. Valeo*'s prohibition upon limitations of the *amount* a candidate may spend, but does not override § 3's legitimate restrictions upon the *time, place, and manner* of those contributions. Consistent with that interpretation, the ALJ concludes that although Rule 4.6(a) relieves a candidate of any limitation on the *amount* she may contribute to her own committee, it does not and cannot override § 3(10)'s legitimate restriction on the manner of that contribution.

The ALJ is not barred from enforcing § 3(10)

The ALJ also rejects the Committee's argument that the ALJ and the Secretary are estopped from imposing any sanction upon the Committee because it reasonably relied upon Rule 4.6(a) in thinking Ms. Scanga's contributions were exempt from the requirements of § 3(10). The doctrine of equitable estoppel is premised upon principles of fair dealing and is designed to prevent manifest injustice. *Committee for Better Health Care for All Colorado Citizens v. Meyer*, 830 P.2d 884, 891 (Colo. 1992). To estop a government agency from enforcing the law, a party must show that the agency acted in a way that induced the party's "reasonable" reliance upon the agency's action. *Id.*, at 892. Here, the only "action" taken by the Secretary of State was the promulgation of Rule 4.6(a). The Committee does not allege the Secretary took any other action upon which she relied. The problem with the Committee's argument is that it did not rely upon any action of the Secretary, but relied upon its own misinterpretation of the words of Rule 4.6(a). As discussed above, Ms. Scanga and the Committee chose to interpret those words in a way not consistent with the language of the rule or with the case law underlying it. Therefore, the Committee has not demonstrated any genuine issue of material fact that would give rise to the defense of estoppel.

Finally, the ALJ rejects the Committee's argument that Rule 4.6(a) fails to provide sufficient warning of her potential liability, and therefore imposition of a sanction would violate her due process rights. A criminal statute may violate the due process clauses of the Fifth and Fourteenth Amendments and article II, § 25 of the Colorado Constitution where it "either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application." *League of Women Voters of Colorado v. Davidson*, 23 P.3d 1266, 1274 (Colo. App. 2001)(quoting *City of Chicago v. Morales*, 527 U.S. 41 (1999)). The Committee's argument overlooks the fact that, not only is no criminal statute involved, but more importantly the civil penalty is based upon the Committee's violation of § 3(10), not Rule 4.6(a). Section 3(10) is crystal clear that contributions of more than \$100 in currency are prohibited. It is in no way vague or uncertain. The Committee therefore was on fair notice that the contribution in question was prohibited by § 3(10). The fact that Ms. Scanga and the Committee misinterpreted Rule 4.6(a) to provide an exception that does not exist does not impeach the clear mandate of § 3(10).

In summary, the ALJ concludes that Rule 4.6(a) does not apply to this case, and therefore the Committee's acceptance of \$2,735 in currency from Ms. Scanga violated Article XXVIII, § 3(10).

ALJ's authority to sanction violations of § 3(10)

Article XXVIII, § 10(1), gives the ALJ authority to impose a civil penalty of at least double and up to five times the amount contributed in violation of any provision of Article XXVIII “*relating to contribution or voluntary spending limits.*” (*Italics added*). Candidates are personally liable for penalties imposed upon the candidate’s committee. Section 10(1).

The Committee argues that if, as the ALJ has found, § 3(10) is not a contribution limit within the meaning of Rule 4.6(a), then the ALJ is powerless to impose a civil penalty because there has been no violation of any contribution limit. The ALJ does not agree. Section 10(1) permits imposition of a sanction for violation of any provision of Article XXVIII “relating to” contribution limits. As discussed above, although § 3(10) is not itself a contribution limit, it certainly relates to contribution limits because it is one of the restrictions that maintains the integrity and accountability of the contribution limits. Had the electorate wished to limit liability to only direct violations of contribution limits, it could easily have done so explicitly by penalizing “any person who violates any of the contribution or voluntary spending limits.” Instead, the electorate chose to broaden potential liability to include violation of “any provision of this article *relating to contribution or voluntary spending limits.*” We cannot assume these additional words are surplusage. Courts are to construe laws so as to give effect to every word, and not adopt a construction that renders any term superfluous. *Slack v. Farmers Ins. Exchange*, 5 P.3d 280, 284 (Colo. 2000); *Cherry Hills Resort Dev. Co. v. City of Cherry Hills Village*, 790 P.2d 827, 830 (Colo. 1990).

Furthermore, if the Committee’s argument were adopted, there would be no sanction for violation of many of the restrictions of § 3, including § 3(4) which prohibits contributions by corporations or labor unions; § (3)6 which prohibits contributions from one candidate committee to another; § (3)7 which prohibits a person from acting as a “conduit” for a contribution to a candidate committee; § (3)9 which requires all contributions to be deposited in a financial institution account in the committee’s name; § (3)11 which prohibits reimbursement for contributions; and § (3)12 which prohibits contributions from foreign entities. It is not reasonable to presume the electorate intended such an illogical result. Interpretations leading to illogical or absurd results will not be followed. *Colo. Water Conservation Bd. v. Upper Gunnison River Water Conservancy Dist.*, 109 P.3d 585, 593 (Colo. 2005); *Frazier v. People*, 90 P.3d 807, 811 (Colo. 2004).⁵

An “appropriate” sanction

Although the language of § 10(1) states that violators “shall be subject to a civil penalty of at least double and up to five times” the amount of the offending contribution, the constitution nonetheless gives the ALJ some discretion to impose an “appropriate”

⁵ Rules of statutory construction may be applied when interpreting citizen-initiated constitutional measures. *Bickel v. City of Boulder*, 885 P.2d 215, 228 n.10 (Colo. 1994).

sanction.⁶ Article XXVIII, § 9(2)(a), which defines the ALJ's authority, states that the ALJ may impose "any *appropriate* order, sanction, or relief authorized by this article." (*Italics* added). In this case, the ALJ concludes that a civil penalty of even two times the amount of the offending contribution, which would be in excess of \$4,000, would be grossly disproportionate to the conduct involved. The currency contributions were duly reported and thus had no capacity to mislead the public or hide the transaction. The violation of § 3(10) resulted from a misinterpretation of Rule 4.6(a), with no indication that either Ms. Scanga or the Committee intended to evade the law. An excessive penalty for such a technical violation would needlessly deter citizens from participation in local politics, and would be counterproductive. Under the circumstances, the ALJ finds that a civil penalty of \$50 for each of the five non-complying contributions is appropriate, for a total penalty of \$250.

Other Pending Motions

The parties filed several other pending motions. Specifically, the Party seeks an order permitting discovery as to the source of the currency contributed by Ms. Scanga. The Committee opposes the motion and moves the ALJ to resolve this case as a matter of law based upon the parties' briefs. The ALJ denies the Party's motion to permit discovery and grants the Committee's motion to determine the case as a matter of law.

In support of its motion for summary judgment, the Committee attached an affidavit signed by Ms. Scanga. In her affidavit, Ms. Scanga stated that the contributions were in the form of "cash that I would have otherwise deposited in the joint account I share with my husband." In subsequent e-mail correspondence between counsel, the Committee's counsel elaborated that the source of the money was "cash dividends from Scanga Meat," which is apparently a corporation in which Ms. Scanga has an ownership interest. The Party now asserts that this response raises the possibility that Ms. Scanga was illegally functioning as a "conduit" for a cash contribution from a corporation, in violation of §§ 3(4) and 3(7) of Article XXVIII. Section 3(4) prohibits contributions by corporations, and § 3(7) prohibits any person from acting as a conduit for a contribution.

The ALJ does not find a legitimate need for the requested discovery. As is apparent from this Order, the ALJ is able to adequately resolve this case upon the stipulations of the parties. Furthermore, the discovery sought appears aimed at learning whether Scanga Meat violated § 3(4) by making a contribution, or Ms. Scanga violated § 3(7) by acting as a conduit. In either event, neither Scanga Meat nor Ms. Scanga are parties to this proceeding and therefore evidence regarding their potential violations would not be relevant to the Party's case against the Committee, which is the only named respondent. Finally, and perhaps most importantly, the ALJ does not view Ms. Scanga's affidavit or the Committee counsel's e-mail to be the smoking guns the Party believes them out to be. The fact that Ms. Scanga contributed to the Committee money

⁶ The ALJ recognizes that other administrative law judges have held a different opinion. See *In the Matter of the Complaint Filed by Charles H. Bucknam Regarding Alleged Campaign and Political Finance Violations by Jeff Wasden, et al.*, Case No. OS 2004-0009, p. 8, ¶ 2.

paid to her in dividends from Scanga Meat raises no inference that the money was a contribution by the company.

Accordingly, the motion to permit discovery is denied.

Agency Decision

Summary judgment is granted in favor of the Complainant Colorado Democratic Party. The Committee to Elect Beverly Scanga violated Colo. Const. art. XXVIII, § 3(10) by accepting five contributions in currency, each in excess of \$100. For these violations the ALJ imposes a total civil penalty of \$250.

Because this ruling disposes of all issues raised by the complaint, this order is a final agency 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:

February 14, 2007

ROBERT N. SPENCER
Administrative Law Judge

Motions hearing tape #10267

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above **ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT, GRANTING COMPLAINANT'S CROSS MOTION FOR SUMMARY JUDGMENT, and FINAL AGENCY DECISION** was placed in the U.S. Mail, postage prepaid, at Denver, Colorado to:

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on this ____ day of April, 2007.

Office of Administrative Courts