

**STATE OF COLORADO**  
**Department of State**

1700 Broadway  
Suite 200  
Denver, CO 80290



**Scott Gessler**  
**Secretary of State**

**Mike Hardin**  
**Director, Business & Licensing Division**

August 1, 2012

**VIA EMAIL AND U.S. MAIL**

Federal Voting Assistance Program  
Department of Defense  
Attn: Pamela S. Mitchell  
1777 North Kent Street  
Suite #14003  
Arlington, VA 22209

***Re: Lobbyist Complaint Submitted by Coloradans for Voting Integrity***

Dear Ms. Mitchell:

We have completed our investigation of the complaint filed by Margit Johansson against the Federal Voting Assistance Program (FVAP). Based on the submitted evidence, the complaint is dismissed.

The complaint alleged that the Federal Voting Assistance Program (FVAP) failed to register as lobbyists in Colorado, file disclosure statements, and omitted relevant facts in communications to covered officials. The complaint further alleged that the FVAP made deliberate or conscience false statements to a covered official about material facts.

A person that is paid to communicate with a covered official for the purpose of influencing legislation is required to register with the Colorado Secretary of State.<sup>1</sup> In February of 2011, Paddy McGuire, an FVAP representative, appeared before the Colorado House Committee on State Veterans and Military Affairs to give informational testimony about the Uniform Overseas and Military Voters Act. Mr. McGuire appeared at the request of Colorado State Representative Claire Levy and as an official of the Federal government. Although Colorado law generally requires lobbyists to register, certain exclusions apply. Colorado's lobbyist registration law excludes any person that appears before a House Committee for the sole purpose "to give testimony or provide information" or a person who appears "at the request of [a public official]".<sup>2</sup> Therefore, Mr. McGuire is exempted.

Between 2009 and 2011, FVAP sent correspondence to the Colorado Secretary of State, Colorado Speaker of the House and Colorado Senate President. These correspondences outlined general recommendations for legislative changes to aid military and overseas voters. As stated before, the general registration and reporting requirement does not apply if a person is exempt. Under the law, lobbying "does not include communications by a person in response to a statute, rule, regulation, or order requiring" the communication.<sup>3</sup> FVAP is a federal program of the United States Department of Defense (DOD) and is required to administer Secretary of Defense's duties under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). DOD regulations require FVAP to encourage States and other United States jurisdictions to adopt UOCAVA's mandatory and recommended provisions and advise how the Federal law and regulations impact those

<sup>1</sup> § 24-6-303 (1), C.R.S. (2011); *See also* §§ 24-6-301 (1.7), (3.5), (3.7), & (6), C.R.S. (2011).

<sup>2</sup> § 24-6-301 (3.5) (d) (III) (B), C.R.S. (2011).

<sup>3</sup> § 24-6-301 (3.5) (c), C.R.S. (2011).

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jurisdiction's electoral system.<sup>4</sup> Because Federal law requires FVAP to communicate with state officials regarding provisions of UOCAVA, FVAP's letters and other communications sent to Secretary of States and members of the Colorado General Assembly are not lobbying.

Finally, it was alleged that FVAP made deliberate or conscious false statements to a covered official about material facts. Although it is a violation of Colorado law to make such statements, enforcement of the law is the responsibility of the Executive Committee of the General Assembly and not the Colorado Secretary of State. Therefore, we are not in a position to determine if a violation was made by FVAP.

Again, it is the final determination of the Secretary of State that FVAP is excluded from Colorado lobbying registration and reporting requirements. Therefore, the complaint is dismissed.

Sincerely,



Mike Hardin  
Director, Business and Licensing Division

cc: Margit Johansson, Coloradans for Voting Integrity

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<sup>4</sup> DoD Directive 1000.04, paragraph 5.17.7