

CRAIG A. MUELLER, ESQ.
CRISTINA HINDS, ESQ.

TERRY Y. JONES, ESQ.
CHAD N. DENNIE, ESQ.



August 4, 2011

The Honorable Ross Miller
Secretary of State
c/o Scott Gilles
Deputy Secretary for Elections
101 N. Carson Street, Suite 3
Carson City, NV 89701-4786
F: 775-684-5725

RE: *Alleged Violation of NRS 294A; Chavez v. Citizen Outreach PAC*
File No. C11-04KG

Dear Mr. Gilles:

Please allow this correspondence to inform you that the law office of Mueller, Hinds & Associates has been retained to represent the interests of Citizen Outreach in the above referenced violation.

NRS 294A.004 defines "campaign expenses" and "expenditures" as:

1. Those expenditures made for advertising on television, radio, billboards, posters and in newspapers; and
2. All other expenditures made, to advocate expressly the election or defeat of a clearly identified candidate or group of candidates or the passage or defeat of a clearly identified question or group of questions on the ballot, including any payments made to a candidate or any person who is related to the candidate within the second degree of consanguinity or affinity.

It should be noted that subsection (1) above does not include mailers as a defined, or even identified, expenditure. As a mailer cannot be a "campaign expense" or "expenditures" under the statute. Additionally, Nevada's statutes do not contain a separate definition for "advocate expressly," but the phrase "express advocacy" is a well-known and long-established legal term of art at the federal level.

The "express advocacy" standard derives from Buckley v. Valeo, 424 U.S. 1 (1976), the case in which the Supreme Court considered the Federal Election Campaign Act of 1975. In footnote 52, the Court explained:

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This construction would restrict the application of [the statute] to communications containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject."

Since the Buckley case was decided, a number of courts have addressed campaign finance regulations, and developed standards for this area of law. The overwhelming majority have deemed the phrase "express advocacy" to be synonymous with the Buckley "magic words" test. See, e.g., Federal Election Commission v. Wisconsin Right to Life, Inc., 551 U.S. 449 (2007) (All members of the Court equated "express advocacy" with "magic words" as illustrated at 551 U.S. 474 n.7 (Roberts, C.J., joined by Alito, J.), 495 (Scalia, J. joined by Kennedy & Thomas, 11., concurring in part and concurring in judgment), 513 (Souter, J., joined by Stevens, Ginsburg, & Breyer, 11., dissenting)); Virginia Society for Human Life v. FEC, 263 F.3d 379, 329 (4th Cir. 2001); North Carolina Right to Life v. Leake, 525 F.3d at 283 (4th Cir. 2008) (requires "specific election-related words"); FEC v. Christian Action Network, 110 F.3d 1049, 1062 (4th Cir. 1997); Faucher v. FEC, 928 F.2d 468, 470 (1st Cir. 1991); FEC v. Central Long Island Tax Reform, 616 F.2d 45,53 (2d Cir.1980); Center for Individual Freedom v. Carmouche, 449 F.3d 655, 664-65 (5th Cir. 2006); Anderson v. Spear, 356 F.3d 651,664 (6th Cir. 2004); Brownsburg Area Patrons Affecting Change v. Baldwin, 137 F.3d 503, 506 (7th Cir. 1998); Iowa Right to Life Committee v. Williams, 187 F.3d 963,969 (8th Cir. 1999) (striking definition patterned on 11 C.F.R. § 100.22(b)); California Pro-Life Council v. Getman, 328 F.3d 1088, 1098 (9th Cir. 2003).

As contained in the attached mailer with the complaint, Citizen Outreach has not engaged in "express advocacy." The mailer contains no express words of advocacy (i.e. "magic words") of election or defeat nor any "explicit words of advocacy" at all. Rather, the mail piece urges citizens to contact the individual to urge him or her to adopt certain policy and work related positions.

The mail piece very clearly satisfies the criteria established by the U.S. Supreme Court in Federal Election Commission v. Wisconsin Right to Life, Inc., 551 U.S. 449, 470 (2007) regarding the identification of genuine grassroots issue advocacy: "The ads focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter." Furthermore, the mail piece does not "take a position on a candidate's character, qualifications, or fitness for office." The mailer simply informs citizens as to the facts stated therein.

As Citizen Outreach has not engaged in "express advocacy," it has not made an "expenditure" as defined by Nevada law, specifically NRS 294A.004. Therefore, Citizen Outreach does not need to register under NRS 294 et esq.

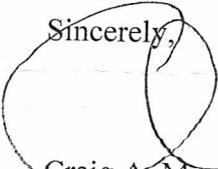
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Please feel free to contact the undersigned should you have any additional questions or require any further information. I thank you for your professionalism throughout this matter and this file being closed expeditiously and without further action.

Sincerely,


Craig A. Mueller, Esq.

CAM/jjs