

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NEW MEXICO YOUTH ORGANIZED, a project of the
CENTER FOR CIVIC POLICY and
SOUTHWEST ORGANIZING PROJECT,

Plaintiffs,

vs.

MARY HERRERA, in her capacity
as Secretary of State,

Defendant.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

**I.
INTRODUCTION**

1. Plaintiffs bring this case under 42 U.S.C. §§ 1983 and 1988 for injunctive relief, declaratory relief and reasonable attorneys' fees.
2. This case arises from the letters and other communications to the plaintiffs from the New Mexico Secretary of State, Defendant Mary Herrera, in which she has informed the plaintiff nonprofit organizations that they will face fines and other sanctions unless they register as "political committees" under New Mexico's Campaign Practices and Reporting Act, NMSA 1978, §§ 1-19-1 through 1-19-37 ("the Act"), and henceforth comply with the Act's reporting and disclosure requirements.
3. Defendant Herrera, through her attorney, the Attorney General of New Mexico, has informed the plaintiffs that her requirement that they register as political committees is based on Plaintiffs' informational mailings of March and April 2008.

4. Defendant Herrera, however, is without authority to impose such a requirement on the plaintiffs because, to do so, would violate the First Amendment to the United States Constitution as consistently interpreted and applied in a series of United States Supreme Court and lower federal court decisions.

5. Nevertheless, Plaintiffs must now either register as political committees under the Act or risk civil and criminal penalties for their failure to do so. This risk has chilled, and continues to chill, Plaintiffs' exercise of their rights, as secured by the First and Fourteenth Amendments to the Constitution of the United States.

6. Plaintiffs thus request that this Court declare that the challenged laws as written, interpreted, and/or enforced by Defendant violate the First and Fourteenth Amendments to the United States Constitution. Plaintiffs also request that this Court enjoin Defendant from enforcing the challenged laws against them.

II. JURISDICTION AND VENUE

7. This matter arises under Section 1 of the Civil Rights Act, 42 U.S.C. §§ 1983 and 1988, and under the First and Fourteenth Amendments to the United States Constitution.

8. This Court has jurisdiction pursuant to 28 USC §§ 1331 and 1343(a)(3).

9. Venue is proper in this Court because Defendant has her office in New Mexico and the events giving rise to the claims occurred in the state of New Mexico.

III. PARTIES

A. Plaintiffs

10. Plaintiff New Mexico Youth Organized (“NMYO”) is a statewide project of the Center for Civic Policy (“CCP”), a New Mexico nonprofit nonpartisan corporation. NMYO’s primary purpose is to educate young New Mexicans regarding issues that are important to them. NMYO achieves its purpose by engaging in educational activities, including informing its constituents about how governmental representatives vote and how these representatives are funded. NMYO encourages its constituents to communicate with their representatives regarding issues important to New Mexico youth. NMYO also engages in research, leadership development, and nonpartisan get out the vote (“GOTV”) activities. NMYO’s annual budget is approximately \$225,000.

11. Plaintiff Southwest Organizing Project Inc. (“SWOP”) is a nonprofit nonpartisan organization incorporated in New Mexico and headquartered in Albuquerque. SWOP’s primary purpose is to empower the New Mexico communities that it serves across the state – including Latinos and other people of color, low-income individuals, and young people – to realize racial and gender equality and social and economic justice. SWOP does so by, among other activities, educating the public about how governmental representatives vote and how these representatives are funded. SWOP encourages its constituents to communicate with their representatives regarding issues important to New Mexicans. SWOP also engages in other educational activities, nonpartisan GOTV activities, training and leadership development, and community development. SWOP spends an insubstantial amount of its budget on lobbying. SWOP’s annual budget is approximately \$1,100,000.

B. Defendant

12. Defendant Mary Herrera is the duly elected Secretary of State of New Mexico. Under NMSA 1978, § 1-2-1(A), she is the chief election officer of the state and is required to “obtain and maintain uniformity in the application and operation” of the Election Code of New Mexico, to “make rules and regulations...necessary to carry out the purposes of the Election Code” and is required to “bring such actions as deemed necessary and proper for the enforcement” of New Mexico’s election laws. In addition, she is charged with enforcing New Mexico’s Campaign Reporting Act. *See* NMSA 1978, § 1-19-34.4.

13. Plaintiffs sue Defendant Mary Herrera in her official capacity as Secretary of State.

**IV.
FACTS**

A. The Campaign Reporting Act

14. New Mexico’s Campaign Reporting Act makes it “unlawful for any political committee that receives, contributes or expends in excess of five hundred dollars (\$500) in any calendar year to continue to receive or make any contribution or expenditure for a political purpose unless that political committee appoints and maintains a treasurer and registers with the secretary of state.” NMSA 1978, § 1-19-26.1(A).

15. When registering with the secretary of state, organizations deemed to be “political committees” must pay a filing fee of fifty dollars and file a “statement of organization under oath.” NMSA 1978, § 1-19-26.1(B). This statement must provide, among other things, information about sponsors of the organization, the name address and relationship of any connected or association organization or entity, the names and addresses of the officers of the

“political committee,” and an identification of the bank used by the committee for all expenditures or contributions. *Id.*

16. Political committees must also file with Defendant a report of expenditures and contributions annually until the committee is dissolved. *See* NMSA 1978, §§1-19-27, 1-19-29(A), (B), (G), (I) and (J).

17. In the reports required to be filed by political committees with Defendant every year, political committees must provide: (1) the name and address of the person or entity to whom an expenditure was made or from whom a contribution was received; (2) the occupation or type of business of an person or entity making contributions of two hundred fifty dollars (\$250) or more in the aggregate per election; (3) the amount of the expenditure or contribution or value thereof; (4) the purpose of the expenditure; and (5) the date the expenditure was made or the contribution was received. NMSA 1978, § 1-19-31(A). Each report filed by a political committee must also provide information related to the organization’s bank accounts and unpaid debts. *See* NMSA 1978, § 1-19-31 (B) and (C).

18. “Political committees” are subject to both criminal and civil penalties if they fail to comply with the registration and reporting requirements of the Campaign Reporting Act. *See* NMSA 1978, § 1-19-36 (A) (“Any person who knowingly and willfully violates any provision of the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both.”); *see also* NMSA 1978, § 1-19-34.6 (stating that the attorney general may seek relief in the form of “an order for a civil penalty of fifty dollars (\$50.00) for each violation not to exceed five thousand dollars (\$5,000)).”

19. One of the statutes challenged by Plaintiffs defines what a “political committee” is, in pertinent part, in the following manner:

[A] “political committee” means two or more persons . . . who are selected, appointed, chosen, associated, organized or operated primarily for a political purpose . . . [“Political committee” includes] a person or organization of two or more persons that within one calendar year expends funds in excess of five hundred dollars (\$500) to conduct an advertising campaign for a political purpose.

NMSA 1978, § 1-19-26 (L).

20. Another section of the Act defines “political purpose” to mean “influencing or attempting to influence an election or pre-primary convention, including a constitutional amendment or other question submitted to the voters.” NMSA 1978, § 1-19-26 (M).

B. The Mission and Activities of Plaintiff New Mexico Youth Organized

21. Plaintiff NMYO was formed on January 1, 2008, as a project of the Center for Civic Policy (“CCP”), a nonprofit corporation formed under 26 U.S.C. § 501(c)(3). CCP pays the operating costs of NMYO and hires NMYO’s staff.

22. NMYO and CCP are not regulable by the Defendant, *inter alia*, because their primary purpose is not to influence the outcomes of elections and because they have not in the past engaged in conduct that, under controlling United States Supreme Court precedent, can be considered lawfully regulable activity by any government, nor do they presently intend to engage in such activity in the future.

23. NMYO was formed for the purpose of educating young New Mexicans on issues including healthcare, clean elections, the economy and the environment.

24. NMYO and CCP are not affiliated with any political candidate, political party or campaign committee. Their primary purposes are not to influence or attempt to influence

elections. NMYO and CCP do engage in issue advocacy but do not engage in any express advocacy for the election or defeat of candidates for public office.

25. NMYO educates the public about how their governmental representatives vote and how these representatives are funded. NMYO encourages its constituents to communicate with their representatives regarding issues important to New Mexico youth.

26. During the two-week period between March 22, 2008 and April 5, 2008, NMYO engaged in a direct mail campaign meant to educate New Mexicans about the positions taken during the February 2008 legislative session by certain elected officials.

27. NMYO sent out nine pieces of direct mail during that period, providing publicly available information on the positions taken by incumbent State Representative Daniel Silva and incumbent State Senators Shannon Robinson and Lidio Rainaldi during the February 2008 legislative session and urging residents to contact these officials prior to a proposed Summer 2008 legislative session. NMYO spent approximately \$15,500 on this direct mail campaign.

28. All nine of these mailers were sent out at least 60 days before the June 3, 2008 primary elections in New Mexico and more than 210 days (7 months) before the November 4, 2008 general election.

29. The mailers did not advocate for the election or defeat of any candidate for office.

C. The Mission and Activities of Plaintiff Southwest Organizing Project

30. Plaintiff Southwest Organizing Project (“SWOP”) is a nonprofit, nonpartisan educational organization founded in 1981.

31. SWOP is a project of Southwest Community Resources, Inc., a nonprofit corporation formed under 26 U.S.C. § 501(c)(3). Southwest Community Resources, Inc., serves as SWOP’s fiscal sponsor for IRS reporting requirements.

32. SWOP is not regulable by the Defendant, *inter alia*, because SWOP's primary purpose is not to influence the outcomes of elections and because it has not in the past engaged in conduct that, under controlling United States Supreme Court precedent, can be considered activity that is lawfully regulable by any government, nor does SWOP presently intend to engage in any such activity in future.

33. SWOP is not affiliated with any political candidate, political party or campaign committee. Its primary purpose is not to influence or attempt to influence elections. SWOP does engage in issue advocacy but does not engage in express advocacy for the election or defeat of any candidates for public office.

34. SWOP's purpose is the same as it has been for almost thirty years - to educate the public on issues important to New Mexico citizens, including environmental health and justice, economic development, community development, public education, arts and culture, housing, workers' rights, racial justice and gender equality.

35. As part of its mission and purpose, SWOP educates the public on issues critical to its mission, including educating New Mexicans about how their governmental representatives vote and how they are funded. SWOP encourages its constituents to communicate with their representatives regarding issues important to them.

36. One of the ways SWOP educates New Mexicans about their elected officials is through direct mail campaigns.

37. During the two-week period between March 22, 2008 and April 5, 2008, SWOP engaged in a direct mail campaign meant to educate New Mexicans about the positions taken by elected officials on certain issues during the February 2008 legislative session. SWOP spent approximately \$5,000 on this direct mail campaign.

38. SWOP sent out four pieces of direct mail during that period, providing publicly available information on the positions taken by State Senators Bernadette Sanchez and James Taylor during the February 2008 legislative session and urging residents to contact these Senators prior to a proposed Summer 2008 legislative session.

39. All of the mailers were sent out at least 60 days before the June 3, 2008 primary elections in New Mexico and more than 200 days (7 months) before the November 4, 2008 general election.

40. The mailers did not advocate for the election or defeat of any candidate for office.

D. Defendant Secretary of State's Determination that NMYO and SWOP are "Political Committees."

41. Upon information and belief, two of the elected officials whose voting records were disclosed to the public by Plaintiffs well before the primary and general election season complained to Defendant about Plaintiffs' mailers and requested that the Secretary of State take action against these two nonprofit organizations.

42. Upon information and belief, on April 25, 2008, Defendant issued a letter stating that NMYO was not subject to the New Mexico Campaign Practices Act.

43. Upon information and belief, on or about May 2008, one of the elected officials, Shannon Robinson, made a complaint against NMYO to the New Mexico Attorney General's Office, claiming NMYO was making campaign expenditures on behalf of candidates but had failed to file paperwork as required by the New Mexico Campaign Practices Act.

44. On May 22, 2008, Albert J. Lama from the New Mexico Attorney General's Office wrote to Defendant asking her to amend her April 25, 2008, letter "to provide that NMYO should immediately comply with the reporting and other requirements of...the Campaign

Practices Act...” See letter to Mary Herrera from Albert J. Lama, dated May 22, 2008 (“Lama letter”), attached as Exhibit A.

45. In that same letter, Mr. Lama based his recommendation not on any specific activity of NMYO, but rather on a review of a website of an organization that is not related to any parties to this lawsuit. Mr. Lama stated that “[t]he NMYO webpage states that its goal is to train young people to organize voters and support candidates who have a progressive political agenda.” See Lama letter, p.1. Mr. Lama then cites to www.theleague.com. See Lama letter p.1. That website belongs to the League of Young Voters and not to NMYO. The League of Young Voters is a national organization that operates both a 501c4 organization and a political committee. Mr. Lama did not contact or attempt to contact NMYO before issuing his letter.

46. Mr. Lama sent his letter to Defendant and copied Senator Shannon Robinson but did not copy NMYO.

47. After receipt of Mr. Lama’s letter, Defendant Secretary of State did not contact or attempt to contact NMYO to request information relevant to determining whether NMYO was subject to the New Mexico laws directed at political committees.

48. Instead, on August 18, 2008, Defendant sent a letter to NMYO stating that “it appears that New Mexico Youth Organized is operating as a political committee for purposes of the Campaign Reporting Act;” that a political committee is required to register and file reports with the Secretary’s Office; that NMYO had ten days to correct the matter; and that failure to comply with the Campaign Reporting Act would subject NMYO to penalties and fines as prescribed under the Act and the Election Code. See letter to NMYO from Mary Herrera, dated August 18, 2008, attached as Exhibit B.

49. On June 3, 2008, in response to a complaint by an elected official whose voting record SWOP disclosed to the public, Deputy Secretary of State Don Francisco Trujillo II sent a letter to SWOP requesting written explanation of SWOP's activities. Counsel for SWOP responded to this request with a letter to Defendant's Office dated June 18, 2008. SWOP's attorney informed the Defendant, through Trujillo, that SWOP does not engage in any activities for a political purpose and explained that the mailers at issue were protected issue advocacy.

50. On August 28, 2008, Defendant sent a letter to SWOP stating that "it appears that Southwest Organizing Project is operating as a political committee for purposes of the Campaign Reporting Act;" that a political committee is required to register and file reports with the Secretary's Office; that SWOP had ten days to correct the matter; and that failure to comply with the Campaign Reporting Act would subject SWOP to penalties and fines as prescribed under the Act and the Election Code. See letter to SWOP from Mary Herrera, dated August 28, 2008, attached as Exhibit C.

51. In her letters to both NMYO and SWOP, Defendant did not attempt to explain the bases for her determination that these two organizations were political committees and were therefore subject to the registration and disclosure requirements found in the Election Code. Defendant has not cited any specific activity undertaken by either NMYO or SWOP that compels political committee registration and reporting. Plaintiffs have had to assume that the direct mail activities undertaken in March and April of 2008 form the basis of Defendant's determination.

52. As a direct result of Defendants' actions, NMYO and SWOP have ceased engaging in these direct mail activities because they fear enforcement of the Act against them and the Act's related criminal and civil penalties.

53. NMYO and SWOP intend to exercise their right to free expression and engage in these activities in the future should this Court grant their request for an injunction against Defendant.

54. Under controlling United States Supreme Court precedent, the defendant is without lawful authority to require NMYO and SWOP to register with her office as political committees. Indeed, the defendant has violated and continues to violate the plaintiffs' rights, as secured by the First and Fourteenth Amendments, to freedom of speech. Although NMYO and SWOP do not intend to register as political committees, the defendant's threats to impose civil and criminal sanctions on them if they fail to register has had, and continues to have, a chilling effect on NMYO's and SWOP's protected activities.

55. Defendant has notified NMYO and SWOP that the statutes requiring political committees to register with the Secretary of State will be enforced against them if they do not register as political committees.

V. CAUSES OF ACTION

Count I: Declaratory Judgment: Defendant's Threat to Prosecute or Otherwise Sanction Plaintiffs for Failure to Register and Report as Political Committees Violates Plaintiffs' First and Fourteenth Amendment Rights

56. Plaintiffs incorporate by reference the preceding paragraphs of this Complaint.

57. United States Supreme Court precedent establishes that a government may only regulate political speech and require political committee registration, reporting and disclosure when the following criteria are met:

- a. When the speech uses campaign-related magic words of express advocacy, such as "vote for", "elect", "support", "cast your ballot for", "Smith for Congress",

“vote against,” “defeat”, or “reject.” *Buckley v. Valeo*, 424 U.S. 1, 44 n. 52 (1976); **OR**

- b. When the speech is the “functional equivalent” of express advocacy because it “is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *Fed. Election Comm’n v. Wisconsin Right to Life, Inc.* (“WRTL”), 127 S.Ct. 2652 (2007), **AND**
- c. When the organization engaged in the speech has as its major purpose “the nomination or election of a candidate.” *Buckley*, 424 U.S at 79.

58. The Supreme Court has held that, unless the foregoing conditions are met, a government violates an organization’s or an individual’s right to free speech, as protected by the First and Fourteenth Amendments, if it requires registration and reporting under an act regulating political activities.

59. Plaintiffs’ speech is neither “express advocacy” nor is it the “functional equivalent of express advocacy” as the Supreme Court has defined and applied those terms. Furthermore, neither NMYO nor SWOP has as its major purpose the nomination or election of a candidate.

60. Thus, Defendant’s threat to prosecute or otherwise sanction Plaintiffs for failure to register as political committees is unconstitutional because it violates the plaintiffs’ rights as secured by the First and Fourteenth amendments to the United States Constitution.

Count II: Declaratory Judgment: New Mexico’s Campaign Reporting Act Definitions of Political Committee and Political Purpose are Facially Unconstitutional

61. Plaintiffs incorporate by reference the preceding paragraphs of this Complaint.

62. NMSA § 1-19-26 (L) and NMSA § 1-19-26 (M), which define “political committees” and “political purpose,” are facially unconstitutional because they purport to regulate – and defendant has asserted that they do regulate - organizations engaging in issue advocacy rather than express political advocacy or its functional equivalent.

63. NMSA § 1-19-26 (L) and NMSA § 1-19-26 (M), which define “political committees” and “political purpose,” are unconstitutional on their face because they regulate organizations and groups whose major purpose is not the nomination or support of candidates.

64. NMSA § 1-19-26 (L)(3) is unconstitutional on its face because it defines “political committees” as organizations or groups who spend more than \$500 to conduct an advertising campaign for a political purpose without regard to whether these groups’ major purpose is to engage in campaign activity.

Count III: Declaratory Judgment: New Mexico’s Campaign Reporting Act is Unconstitutional As Applied to Plaintiffs

65. Plaintiffs incorporate by reference the preceding paragraphs of this Complaint.

66. Even if NMSA § 1-19-26 (L) and NMSA § 1-19-26 (M) might be considered constitutional as applied to some individuals or organizations, they are unconstitutional as applied to Plaintiffs because the defendant cannot lawfully regulate Plaintiffs’ conduct. Only organizations that meet the criteria set forth in Count I of this complaint may be required to adhere to political committee registration, reporting and disclosure laws.

67. NMSA § 1-19-26 (L) and NMSA § 1-19-26 (M), which define “political committees” and “political purpose,” are unconstitutional as applied to plaintiffs NMYO and SWOP because the defendant has applied them to regulate Plaintiffs’ issue advocacy.

68. NMSA § 1-19-26 (L) and NMSA § 1-19-26 (M), which define “political committees” and “political purpose,” are unconstitutional as applied to plaintiffs NMYO and SWOP because neither SWOP nor NMYO have as their major purpose the nomination or support of candidates.

69. NMSA § 1-19-26 (L)(3) is unconstitutional as applied to plaintiffs NMYO and SWOP because it defines “political committees” as organizations or groups who spend more than \$500 to conduct an advertising campaign for a political purpose without regard to whether SWOP’s or NMYO’s major purpose is to engage in campaign activity.

70. NMSA § 1-19-26 (M) is unconstitutional as applied to plaintiffs NMYO and SWOP because it defines “political purpose” to mean “influencing or attempting to influence an election” without regard to whether SWOP’s or NMYO’s major purpose is to engage in campaign activity.

71. By defining “political committees” and “political purpose” in such a way as to include NMYO and SWOP when neither of these organizations’ major purpose is to engage in campaign activity or electioneering and thus imposing burdensome registration and reporting requirements upon them, NMSA § 1-19-26 (L) and NMSA § 1-19-26 (M) impermissibly burden NMYO and SWOP’s constitutional right of free speech.

72. NMSA 1978, §§ 1-19-26.1, 1-19-27, 1-19-29 and 1-19-31 (requiring political committees to register with Defendant and disclose financial and other information through annual reports to Defendant) are unconstitutional as applied to Plaintiffs because they impermissibly burden NMYO and SWOP’s constitutional right of free expression.

73. NMSA 1978, §§ 1-19-35, 1-19-34.6 and 1-19-36 (providing for the imposition of civil and criminal penalties on political committees that fail to file a report after the statutory

deadline for filing) are unconstitutional as applied to Plaintiffs because they impermissibly burden NMYO and SWOP's constitutional right of free expression.

Count IV. Preliminary and Permanent Injunction

74. Plaintiffs incorporate by reference the preceding allegations of this Complaint.

75. Plaintiffs have no adequate remedy at law.

76. Plaintiffs continue to be irreparably harmed, as a matter of law, by the defendant's conduct.

77. The balance of the equities weighs in Plaintiffs' favor.

78. The public interest favors an injunction to prevent the defendant from continuing to threaten the Plaintiffs with sanctions, thereby chilling Plaintiffs' exercise of their rights under the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs respectfully request this Court:

a. Declare NMSA 1978, §§ 1-19-26.1(A), 1-19-26(L) and 1-19-26(M) of the New Mexico Campaign Reporting Act facially unconstitutional;

b. Alternatively, declare NMSA 1978, §§ 1-19-26.1, 1-19-27, 1-19-29 and 1-19-31 of the New Mexico Campaign Reporting Act unconstitutional as applied to the Plaintiffs;

c. Preliminarily and permanently enjoin the defendant from requiring or purporting to require that the plaintiffs register as political committees under the New Mexico Campaign Reporting Act and from imposing or threatening to impose sanctions on the plaintiffs for their failure to register.

d. Award Plaintiffs their costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, and;

e. Grant such other relief as the Court considers appropriate.

Respectfully submitted,

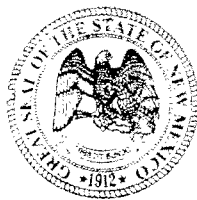
FREEDMAN BOYD HOLLANDER GOLDBERG & IVES P.A.

By: _____

John W. Boyd
David Urias
20 First Plaza, Suite 700
Albuquerque, NM 87102
(505) 842-9960

Small Business Law Center, LLC
Sara Berger
P.O. Box 294
Albuquerque, NM 87103-0294
505-242-2788

Attorneys for Plaintiffs



Attorney General of New Mexico

GARY K. KING
Attorney General

ALBERT J. LAMA
Chief Deputy Attorney General

May 22, 2008

The Honorable Mary Herrera
New Mexico Secretary of State
325 Don Gaspar, Ste. 300
Santa Fe, NM 87503

Re: New Mexico Youth Organized Complaint

Dear Secretary Herrera:

The Attorney General's office has received a telephonic complaint from State Senator Shannon Robinson against an organization called New Mexico Youth Organized ("NMYO"). Senator Robinson alleges that NMYO is making campaign expenditures on behalf of candidates in several legislative races, but has failed to file paperwork pursuant to the New Mexico Campaign Practices Act. It is our understanding that your office received a complaint from Mr. Mike Kitts dated April 18, 2008 regarding this same issue. Mr. Kitts alleged that NMYO has spent more than \$500 on campaign activities and made approximately five hundred campaign phone calls.

We understand that your office issued a letter dated April 25, 2008 stating that NMYO was a lobbyist organization subject to filing disclosures under the Lobbyist Regulation Act and not under the Campaign Practices Act. Section 2-11-6 of the Lobbyist Regulation Act requires a lobbyist, or his employer organization, to report political campaign expenditures in a legislative race. Your letter indicates that NMYO has hired a registered lobbyist (Keenan King).

Based on our review of NMYO's activities, it appears that it has characteristics in common with both a political committee and a lobbyist organization. According to Section 1-19-26(L) of the Campaign Practices Act, a political committee is made up of two or more persons organized to influence an election. According to Section 2-11-2(D) of the Lobbyist Regulation Act, a lobbyist is a party who attempts to influence legislative action. The NMYO webpage states that its goal is to train young people to organize voters and support candidates who have a progressive political agenda. See www.theleague.com. NMYO also has the goal of registering people to vote and publishing a voter guide. In addition, NMYO lobbies elected officials throughout the year.


The Honorable Mary Herrera

May 22, 2008

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Since NMYO appears to have characteristics of both a political committee and lobbyist organization, we ask that you amend your April 25, 2008 letter to provide that NMYO should immediately comply with the reporting and other requirements of both the Campaign Practices Act¹ and Lobbyist Regulation Act. We believe this resolution will provide the greatest amount of transparency to the electoral process.

Sincerely,


for GARY K. KING
Attorney General

cc: Sen. Shannon Robinson

¹ In addition to the reporting requirements in Section 1-19-29, the Campaign Practices Act requires a political committee that makes more than five hundred campaign phone calls to identify themselves to the public when making the campaign calls. See NMSA 1978, § Section 1-19-26.3 (2002).



STATE OF NEW MEXICO

MARY HERRERA
SECRETARY OF STATE

DON FRANCISCO TRUJILLO II
DEPUTY SECRETARY OF STATE

August 18, 2008

Mr. Keegan S. King
Director
New Mexico Youth Organized
1500 Lomas NW, Suite B
Albuquerque, NM 87104

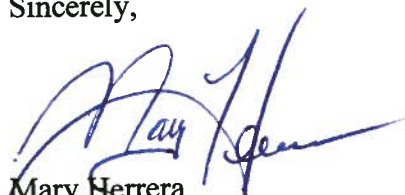
Re: Registration under Campaign Reporting Act

Dear Mr. Keegan:

After consultation with our legal counsel at the Office of the Attorney General, it appears that New Mexico Youth Organized is operating as a political committee for purposes of the Campaign Reporting Act, NMSA 1978, Sections, 9-1-25 to -36. A political committee subject to the Act is required to register with and file reports with the Secretary of State's Office. A political committee that fails to comply with the Act's reporting requirements is subject to mandatory penalties under Section 19-1-35, including payment of \$50 for each working day after the report is due until it is filed, up to a maximum of \$5000, and any other applicable penalties prescribed under the Election Code.

Pursuant to Section 19-1-34.4(C) of the Act, New Mexico Youth Organized has ten working days from the date of this letter to correct this matter and provide a written explanation of the apparent violation. Accordingly, New Mexico Youth Organized must comply with the Act or otherwise respond to this office by September 2, 2008. Enclosed are the documents necessary to bring New Mexico Youth Organized into compliance and that must be completed and returned to our office.

Sincerely,



Mary Herrera
Secretary of State

C: Office of the Attorney General



STATE OF NEW MEXICO

MARY HERRERA
SECRETARY OF STATE

DON FRANCISCO TRUJILLO II
DEPUTY SECRETARY OF STATE

August 28, 2008

Mr. Robert Rodriguez
Director
Southwest Organizing Project
211 10th Street, SW
Albuquerque, New Mexico 87102

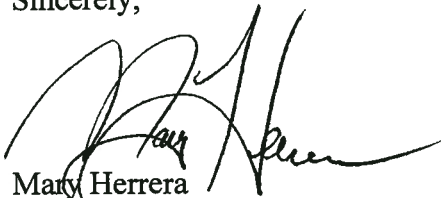
Re: Registration under Campaign Reporting Act

Dear Mr. Rodriguez:

After consultation with our legal counsel at the Office of the Attorney General, it appears that Southwest Organizing Project is operating as a political committee for purposes of the Campaign Reporting Act, NMSA 1978, Sections, 9-1-25 to -36. A political committee subject to the Act is required to register with and file reports with the Secretary of State's Office. A political committee that fails to comply with the Act's reporting requirements is subject to mandatory penalties under Section 19-1-35, including payment of \$50 for each working day after the report is due until it is filed, up to a maximum of \$5000, and any other applicable penalties prescribed under the Election Code.

Pursuant to Section 19-1-34.4(C) of the Act, Southwest Organizing Project has ten working days from the date of this letter to correct this matter and provide a written explanation of the apparent violation. Accordingly, Southwest Organizing Project must comply with the Act or otherwise respond to this office by September 15, 2008. Enclosed are the documents necessary to bring Southwest Organizing Project into compliance that must be completed and returned to our office.

Sincerely,



Mary Herrera
Secretary of State

C: Office of the Attorney General