(1)

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk
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MEETING DATE: 2/16/12

SUBJECT: LAWYER + LAWSUIT

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: PAUL, ADOLPH, PHILLIPS

ADDRESS: 1212 SW CLAY apt #217

CITY/STATE/ZIP: PORTLAND, OREGON 97201

PHONE: DAYS: 503-224-9954 EVES: ~~~~

EMAIL: ~~~~ FAX: ~~~~

IF YOU WISH TO ADDRESS THE BOARD IN PERSON:

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1. Please complete this form along with your written testimony and return to the Board Clerk at the meeting, or submit by e-mail at: lynda.grow@multco.us
2. Written testimony will be entered into the official record.

KAFOURY & McDOUGAL
LAWYERS
202 Oregon Pioneer Building
320 S.W. Stark Street
Portland, Oregon 97204

GREGORY KAFOURY
MARK McDOUGAL
NATALIE McDOUGAL
JASON KAFOURY

Of Counsel:
LINDA K. WILLIAMS
CHARLES J. MERTEN

Telephone: 503-224-2647
Facsimile: 503-224-2673
www.kafourymcdougal.com

November 28, 2011

Paul Phillips
1212 SW Clay Street, #217
Portland, OR 97201

Dear Paul:

Please send me a copy of your lease, and a copy of the booklet or lists of rules governing your rights and responsibilities as a tenant.

Sincerely,

Gregory Kafoury

GK:dch

IN THE SUPREME COURT
OF THE STATE OF OREGON

In re	)	
	)	
Complaint as to the Conduct of	)	Case No. 01-50
	)	
GREGORY KAFOURY,	)	
	)	
Accused.	)	

Bar Counsel:	None
Counsel for the Accused:	Bradley F. Tellam, Esq.
Disciplinary Board:	None
Disposition:	Violation of DR 6-101(B) (two counts). Stipulation for discipline. Public reprimand.
Effective Date of Order:	August 20, 2001

ORDER APPROVING STIPULATION FOR DISCIPLINE

This matter having been heard upon the Stipulation for Discipline entered into by the Accused and the Oregon State Bar, and good cause appearing,

IT IS HEREBY ORDERED that the stipulation between the parties is approved and the Accused is publicly reprimanded for violation of DR 6-101(B) (two counts).

DATED this 20th day of August 2001.

/s/ Paul E. Meyer
Paul E. Meyer, Esq.
State Disciplinary Board Chairperson

/s/ C. Lane Borg
C. Lane Borg, Esq., Region 5
Disciplinary Board Chairperson

STIPULATION FOR DISCIPLINE

Gregory Kafoury, attorney at law (hereinafter "the Accused"), and the Oregon State Bar (hereinafter "the Bar") hereby stipulate to the following matters pursuant to Oregon State Bar Rule of Procedure 3.6(c).

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

The Accused, Gregory Kafoury, was admitted by the Oregon Supreme Court to the practice of law in Oregon on September 10, 1974, and has been a member of the Oregon State Bar continuously since that time, having his office and place of business in Multnomah County, Oregon.

3.

The Accused enters into this Stipulation for Discipline freely and voluntarily. This Stipulation for Discipline is made under the restrictions of Bar Rule of Procedure 3.6(h).

4.

On April 19, 2001, a Formal Complaint was filed against the Accused pursuant to the authorization of the State Professional Responsibility Board (hereinafter "SPRB"), alleging violations of DR 6-101(B). A copy of the Formal Complaint is attached as Exhibit A. The parties intend that this Stipulation for Discipline set forth all relevant facts, violations, and the agreed-upon sanction as a final disposition of the proceeding.

Ramona Arnold Matter

Facts

5.

On October 19, 1994, the Accused was retained by Ramona Arnold (hereinafter "Arnold") to represent her in a claim for personal injuries she sustained in a motor vehicle accident on March 25, 1994.

6.

Between April 1995 and March 2000, the Accused periodically performed some work on Arnold's legal matter, but failed to take constructive action to advance her claim and failed to maintain adequate communications with Arnold about the status of her legal matter.

Violations

7.

The Accused admits that, by engaging in the conduct described in paragraphs 5 and 6, he violated DR 6-101(B) of the Code of Professional Responsibility.

Blake Newcomb Matter

Facts

8.

On July 27, 1995, the Accused was retained by Arnold to represent her minor son, Blake Newcomb (hereinafter "Newcomb") in a claim for personal injuries he sustained on May 8, 1995.

9.

Between October 1995, and April 17, 2000, when the Accused withdrew from representing Newcomb, the Accused periodically performed some work on Newcomb's legal matter, but failed to take constructive action to advance his claim and failed to maintain adequate communications with Arnold about the status of Newcomb's legal matter.

Violations

10.

The Accused admits that, by engaging in the conduct described in paragraphs 8 and 9, he violated DR 6-101(B) of the Code of Professional Responsibility.

Sanction

11.

The Accused and the Bar agree that in fashioning an appropriate sanction in this case, the Disciplinary Board should consider the ABA *Standards for Imposing Lawyer Sanctions* (hereinafter "*Standards*"). The *Standards* require that the Accused's conduct be analyzed by considering the following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the actual or potential injury; and (4) the existence of aggravating and mitigating circumstances.

A. *Duty Violated.* The Accused violated his duty to act with reasonable diligence and promptness in representing Arnold and Newcomb. *Standards,* § 4.4.

B. *Mental State.* Negligence is defined in the ABA *Standards* as the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation. *Standards,* p. 7. The Accused acted with negligence in failing to advance the interests of Arnold and Newcomb. He did not intend to harm either of them.

C. *Injury.* Injury may be either actual or potential. In this case, there was potential injury to Arnold. There was also potential injury to Newcomb's legal interests because the Accused did not withdraw from representing Newcomb until the statute of limitations on his claim was about to expire.

D. *Aggravating Factors.* Aggravating factors include:

1. Prior disciplinary offenses. In July 2000, the Accused received a letter of admonition for violating DR 6-101(B). *Standards,* § 9.22(a);

2. A pattern of misconduct in that the Accused neglected these matters over the course of approximately five years. *Standards,* § 9.22(c);

3. Multiple offenses. *Standards,* § 9.22(d); and

4. The Accused has substantial experience in the practice of law, having been admitted to practice in Oregon in 1974. *Standards,* § 9.22(i).

E. *Mitigating Factors.* Mitigating factors include:

1. Absence of a dishonest or selfish motive. *Standards,* § 9.32(b);

2. Cooperative attitude toward the proceedings. *Standards,* § 9.32(e);

3. The Accused is remorseful for his conduct. *Standards,* § 9.32(*l*).

12.

The *Standards* provide that reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client. *Standards,* § 4.43.

13.

Oregon case law is consistent with the imposition of a public reprimand under these circumstances. *See In re McKenzie,* 13 DB Rptr 12 (1999); *In re Brownlee*, 9 DB Rptr 85 (1995).

14.

The Accused agrees to accept a public reprimand for the violations described in this stipulation.

15.

This Stipulation for Discipline is subject to review by Disciplinary Counsel of the Oregon State Bar and to approval by the State Professional Responsibility Board (SPRB). If approved by the SPRB, the parties agree the stipulation is to be submitted to the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

EXECUTED this 18th day of July 2001.

/s/ Gregory Kafoury
Gregory Kafoury
OSB No. 74166

EXECUTED this 23rd day of July 2001.

OREGON STATE BAR

By: /s/ Stacy J. Hankin
Stacy J. Hankin
OSB No. 86202
Assistant Disciplinary Counsel

3

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk
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MEETING DATE: 2/16/12

SUBJECT: Resolution to Overturn Citizens United (#=speech)

AGENDA NUMBER OR TOPIC: The preservation (or restoration) of Democracy in America [NOT on agenda!]

FOR: ✓ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Zachary Brugman BRUGMAN

ADDRESS: 930 NW 25th Pl. #418

CITY/STATE/ZIP: Portland, OR 97210

PHONE: DAYS: 503 422 1877 EVES: "

EMAIL: ZBrugman@gmail.com FAX: —

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Testimony to Multnomah County Commission, 2/16/12, Zachary Brugman*

Preserving (or Restoring) **Democracy in America**

The mutually inclusive relationship of democracy and equal elections was illuminated by Dr. Jarvis in the Massachusetts Ratifying Convention (discussing Art. I Sec. 4 of the Constitution): "The right of election, founded on the principle of equality, was, he said, the basis on which the whole superstructure was erected; this right was inherent in the people; it was unalienable in its nature, and it could not be destroyed without presuming a power to subvert the Constitution, of which this was the principal."[1]

We the People's right of suffrage – the election process that determines our representation – is the heart and soul of Democracy. The preservation (or restoration) of the integrity of elections is thus the preservation of Democracy itself. As the celebrated Montesquieu (quoted in the Federalist Papers at least 8 times and much more throughout the Federal Convention) declared: "In a democracy the people are in some respects the sovereign, and in others the subject. There can be no exercise of sovereignty but by their suffrages, which are their own will; now, the sovereign's will is the sovereign himself. The laws, therefore, which establish the right of suffrage are fundamental to this government. And indeed it is as important to regulate in a republic, in what manner, by whom, to whom, and concerning what suffrages are to be given, as it is in a monarchy to know who is the prince, and after what manner he ought to govern.[2]

The enlightened Framers of our Constitution were well aware of the synonymous relationship between equal elections and Democracy, which is exactly why they gave exclusive power over elections to Congress – in Article I Sections 4 and 5 of the Constitution. And for over 170 years the U.S. Supreme Court refrained itself from hearing legal actions concerning elections, based on the Constitution's fundamental concept of the separation of powers – and the political question doctrine established in *Marbury v. Madison*.

In *Marbury*, Chief Justice Marshall held that, "Questions, in their nature political or which are, by the Constitution and laws, submitted to [another branch], can never be made in this court." *Marbury v. Madison*, 5 U. S. 137, 170 (1803). Marshall suggested which "subjects are political. They respect the nation, not individual rights." 5 U. S. 166. "Federal elections satisfy all prongs of Marshall's criteria. They are by nature political and also national in effect. Their regulation is

---

* 930 NW 25th Pl. #418, Portland, OR 97210 – zbrugman@gmail.com – 503.422.1877

[1] Elliot's Debates, Vol. 2, p.29, Jan. 16, 1788

[2] Montesquieu, *Spirit of the Laws*, Of the Republican Government, and the Laws in Relation to Democracy, Bk.2, Ch.2, (1748); *see* The Founders' Constitution, Kurland and Lerner, Ch.2 Popular Basis of Political Authority, University of Chicago, http://press-pubs.uchicago.edu/founders/tocs/v1ch2.html

submitted by the Constitution to another branch of government. The U.S. Constitution, Art. I, § 4, cl. 1, expressly assigns to Congress the legislative power to assure the fairness and integrity of its own elections. Art. I, § 5, cl. 1 of the Constitution, also uniquely grants Congress the additional judicial power with respect to such elections."[3]
In the case of *Ex parte Yarbrough* (The Ku Klux Cases), 110 U.S. 651, 658 (1884), the Supreme Court highlighted the importance of Congress' "power to protect the elections on which its existence depends, from ...corruption," corruption being one of "the two great natural and historical enemies of all republics."

And "a highly conservative Supreme Court," in Burroughs v. United States, unanimously described this power of Congress over all federal elections:

> The power of Congress to protect the election of President and Vice President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, *the degree of their necessity*, the extent to which they conduce to the end, the closeness of the relationship between the means adopted, and the end to be attained, are *matters for congressional determination alone*.[4]

As Madison declared in the Federal Convention, "the right of suffrage is certainly one of the fundamental articles of republican Government. . . A gradual abridgment of this right has been the mode in which Aristocracies have been built on the ruins of popular forms." This is why the representatives of We the People, Congress, is charged with regulating elections. Congress is given this power to preserver itself – **to preserve Democracy** – a subject which the judicial branch has no constitutional authority over. Yet the Roberts 5 overturn democratically enacted laws (i.e. *Citizens United*) as if the People of America demanded corrupt elections. And when money controls elections, the essential democratic principle of one person one vote is destroyed.

A) Money can be a form of expression, or speech, for 1st Amend. purposes, like many things.

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[3] *see* http://moneyouttapolitics.org/pdf/pq_the_20_percent_solutionre_mop.pdf [p.16]

[4] 290 U.S. 534, 547-48 (1934) (Sutherland, J.) (emphasis added). "It was precisely the power to determine "the degree of their necessity" which the Court arrogated to itself in *Citizens United* when it presumed to weigh the need for honest undistorted elections against its attenuated First Amendment concerns that the public not miss any possible corporate paid electioneering message, which at bottom is nothing more than an advertisement for a product from which the corporation intends to profit. When the product being sold is public policy or public office, the word paid propaganda would apply. Electioneering messages paid for by businesses who intend to profit from them are inherently unreliable, conflicted and of at best marginal value if not downright dangerous to society. While the founders insisted that an informed public is essential to democracy, a public misinformed and manipulated by corporate spin is harmful to democracy. The First Amendment should have little more role in diminishing the integrity of elections with paid political advertising than it does in the matter of, for example, keeping military secrets from leaking, or punishing other purely verbal crimes like solicitation for prostitution, pornography, fraud and libel. Even if this inherently unreliable category of communication is given some status as protected speech, the balance to be made between it and its adverse impact on democracy to determine how much should be allowed is a political question. In an electoral system consistent with the Constitution the Supreme Court would have no authority to make such a balance."
http://moneyouttapolitics.org/pdf/pq_the_20_percent_solutionre_mop.pdf [p.17, fn.12]

B) The question is whether campaign money is such pure speech that it can't be regulated.
C) And simply answering that question is a political question the Supremes have no business deciding (it's a question for Congress under Article I sections 4 and 5)!
D) So when we say "money is not speech" what we are really saying is that the Supreme Court has exceeded its constitutional jurisdiction in answering the question, and by doing so in the affirmative, has placed the protection of wealth (plutocracy) – in the name of the First Amendment – above Democracy itself, subverting the Constitution of the United States.

(2)

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk
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MEETING DATE: 2/16/12

SUBJECT: County resolution to amend U.S. Constitution against corporate personhood and money equals speech

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Neil Johnson

ADDRESS: 406 N. Beech Street

CITY/STATE/ZIP: ~~Be~~ Portland, OR 97227

PHONE: DAYS: (503) 740-3860 EVES: same

EMAIL: N.Johnson282@gmail.com FAX: _____

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February 16, 2012

Board of Multnomah County Commissioners,

I am here today to encourage you to pass a resolution against both corporate personhood and the doctrine that money is equal to speech.

The word "corporation" does not appear anywhere in the U.S. Constitution or later amendments. The framers never intended for corporations to receive the same protections as natural citizens. The legal doctrine commonly known as "corporate personhood" is the creation of several misguided Supreme Court decisions over the last 125 years, which have steadily expanded the constitutional rights of corporations. As a result, the ability of our government to regulate corporations has been limited, while corporate economic and political power has grown dramatically.

The Supreme Court's ruling in Citizens United v. FEC is the reason that this issue has recently gained much attention. In this decision, the Court went out of its way to bestow 1st Amendment rights on corporations, to equate money with speech, and allow unlimited spending to influence elections. This has led to the rise of Super PACs and unleashed a torrent of money into the political system. The 2012 election will be the most expensive election in the history of the world.

By allowing those with great wealth to drown out the speech of average citizens, the Supreme Court has undermined our democracy. Therefore, we desperately need to change the balance of power by amending the Constitution to clarify that corporations are not entitled to constitutional rights and that money is not speech. Until we accomplish this, the U. S. will not have a functional government that can find public solutions to our common problems.

Amending the Constitution is a long process that will require concerted effort, but the people are behind it and momentum is building. Referendums on amending the Constitution were recently approved by voters in Madison, WI with an 84% majority, Boulder, CO with a 75% majority, and Missoula, MO with a 75% majority. Cities and counties across the country are passing resolutions, including Los Angeles, New York City, Duluth, Athens, OH, Pueblo County, CO, and Portland, OR. These resolutions are crucial to informing the public and strengthening the movement in order to drive our demands to state legislatures and ultimately to Congress.

I hope that Multnomah County will also pass a resolution that calls for amending the United States Constitution to establish that:
1. Only human beings, not corporations, are entitled to constitutional rights, and
2. Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

I have submitted a couple of the recently passed resolutions along with a copy of my written comments from today. Move to Amend is available to work with the Board on crafting a Multnomah County resolution.

Thanks for your consideration.

Sincerely,

Neil Johnson
Move to Amend Portland (www.movetoamendpdx.org)
N.Johnson282@gmail.com

MOTION

17A

WHEREAS, any official position of the City of Los Angeles with respect to Legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the U.S. Supreme Court's 5-4 ruling in Citizens United v. the Federal Election Commission rolled back legal restrictions on corporate spending in the electoral process, allowing unlimited corporate spending to influence elections, candidate selection, and policy decisions, thereby threatening the voices of "We the People" and the very foundation of our democracy; and

WHEREAS, U.S. Supreme Court Justice Hugo Blackin a 1938 opinion stated, "I do not believe the word 'person' in the Fourteenth Amendment includes corporations"; and

WHEREAS, the Citizens decision supersedes state and Local efforts to regulate corporate activity in their elections;

NOW THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Motion, the City of Los Angeles hereby includes in its 20 I 1-20 12 Federal and State Legislative Programs SUPPORT for Legislative actions ensuring corporations are not entitled to the entirety of protections or "rights" of human beings, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech, including a constitutional amendment based on the attached language.

PRESENTED BY: _____
ERIC GARCETTI
Councilmember, 13th District

_____
BILL ROSENDAHL
Councilmember, 11th District

SECONDED BY: _____
PAUL KREKORIAN
Councilmember, 2nd District

ORIGINAL

DEC - 6 201

Proposed Constitutional Amendment

Section 1 [*A corporation is not a person and can be regulated*]

The rights protected by the Constitution of the United States are the rights of natural persons only.

Artificial entities, such as corporations, limited liability companies, and other entities, established by the laws of any State, the United States, or any foreign state shall have no rights under this Constitution and are subject to regulation by the People, through Federal, State, or local law.

The privileges of artificial entities shall be determined by the People, through Federal, State, or local law, and shall not be construed to be inherent or inalienable.

Section 2 [*Money is not speech and can be regulated*]

Federal, State and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate's own contributions and expenditures, for the purpose of influencing in any way the election of any candidate for public office or any ballot measure.

Federal, State and local government shall require that any permissible contributions and expenditures be publicly disclosed.

The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment.

Section 3

Nothing contained in this amendment shall be construed to abridge the freedom of the press.

COUNCIL COPY

INTERGOVERNMENTAL RELATIONS COMMITTEE

11-0691R

RESOLUTION IN OPPOSITION TO THE UNITED STATES SUPREME COURT DECISION IN CITIZENS UNITED RELATED TO CONSTITUTIONAL RIGHTS FOR CORPORATE ENTITIES.

BY COUNCILOR ANDERSON:

WHEREAS, there are several movements, both nationally and within the state of Minnesota to amend the respective Constitutions of each body relating to corporate personhood; and

WHEREAS, the Duluth city council believes that the rights protected by the Constitution of the United States and the Constitution of the state of Minnesota are rights of natural persons only; and

WHEREAS, artificial entities such as corporations, limited liability companies, and other entities established by the laws of any State, the United States, or any foreign state are subject to regulation by the people through federal, state or local law; and

WHEREAS, the privileges of artificial entities should be determined by the people and should not be construed to be inherent or inalienable; and

WHEREAS, federal, state or local government should regulate, limit, or prohibit contributions and expenditures of candidates for public office, including a candidate's own contributions and expenditures, to prohibit the influencing of an election of any candidate for public office or any ballot measure; and

WHEREAS, government should require that any permissible contributions and expenditures be publicly disclosed; and

WHEREAS, the judiciary should not construe the spending of money to influence elections to be speech under the First Amendment.

THEREFORE, BE IT RESOLVED, that the Duluth city council hereby supports the efforts to reject the United States Supreme Court ruling in *Citizens United v. Federal Election Commission* (130 S.Ct. 876 (2010)), and expresses its support to amend our state and national Constitutions to firmly establish that money is not

speech, that human beings, not corporations, are persons entitled to constitutional rights, and that whenever the word "person" is used in the constitution it means a natural person.

Approved as to form:

Attorney

CCREQ/ATTY GBJ:cjk 12/13/2011

STATEMENT OF PURPOSE: This resolution is an expression of opposition to the recent Supreme Court decision referred to as Citizens United which granted certain Constitutional rights to artificial entities such as corporations. This resolution further expresses support for efforts to amend the United States and state of Minnesota constitution to clarify that human beings, not corporations, are persons entitled to constitutional rights.