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FOR IMMEDIATE RELEASE

April 21, 2015

Arizona Supreme Court Upholds Sanctions for Attack Ads in 2010 Attorney General's Race

PHOENIX – The Arizona Supreme Court declined to overturn an Appeals Court ruling that imposes sanctions against the Committee for Justice and Fairness (CJF), a political committee that broadcast commercials attacking Tom Horne shortly before the 2010 election for Attorney General. That ruling held that the ads constituted “express advocacy” under Arizona’s campaign finance laws, triggering a requirement for CJF to register as an independent expenditure committee and provide financial reports.

“Our campaign finance laws are designed to inform Arizona voters who is paying for advocacy ads in candidate elections so that they may make an informed decision when casting a ballot,” said Maricopa County Attorney Bill Montgomery. “While the results of this particular election are well behind us now, it is important to future elections that this principle be clearly established and upheld by our courts,” he added.

Shortly before the November, 2010 general election, CJF created broadcast television ads challenging Tom Horne’s suitability to serve as Attorney General. At the time, Horne was Superintendent of Public Instruction and engaged in a close race against Felicia Rotellini, the Democrat candidate for Attorney General. The ads, which were aired on Phoenix area Channel 12, claimed that Horne had “voted against tougher penalties for statutory rape” when he was a state legislator, and that as Superintendent he had effectively allowed a teacher who had been caught by students “looking at child pornography on a school computer” back into the classroom.

Horne filed suit in Maricopa County Superior Court seeking a temporary restraining order to enjoin CJF and local television stations from broadcasting the ads. Horne’s election committee also filed a complaint with the Arizona Secretary of State alleging CJF had engaged in “express advocacy” and was thus subject to reporting and disclosure requirements as a political committee. The Secretary of State agreed and issued a Reasonable Cause Notice. Horne was subsequently elected Attorney General and had jurisdiction to enforce the finding. However, to avoid a conflict of interest, the Attorney General’s Office requested in January, 2011 that the Maricopa County Attorney’s Office assume enforcement and litigation of the matter.

The MCAO ordered CJF to register as a political committee, file required campaign finance reports, and disclose financial records reflecting the cost of producing the ads. An Administrative Law Judge subsequently upheld the order. CJF then sought judicial review in Superior Court, which reversed the ALJ ruling and vacated the MCAO order. The MCAO and Secretary of State appealed.

In reaching its decision to overturn the Superior Court ruling, the Appeals Court found that state campaign finance laws, specifically A.R.S. § 16-901.01 (A)(2)(a), are not impermissibly vague, as CJF had argued, nor unconstitutionally overbroad. The Court also found that CJF failed to show that the law would have an impermissible chilling effect on speech by requiring citizens or groups to register as political committees.

CJF filed a petition for review with the Arizona Supreme Court which declined jurisdiction today, allowing the Appeals Court ruling to stand.

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