

**OFFICE OF LEGISLATIVE LEGAL SERVICES  
COLORADO GENERAL ASSEMBLY**

**Attachment A**

STATE CAPITOL BUILDING, ROOM 091  
200 EAST COLFAX AVENUE  
DENVER, COLORADO 80203-1782

TELEPHONE: 303-866-2045 FACSIMILE: 303-866-4157  
E-MAIL: OLLS.GA@STATE.CO.US

**MEMORANDUM**

**TO:** Joint Ethics Committee

**FROM:** Office of Legislative Legal Services

**DATE:** January 9, 2009

**SUBJECT:** Complaint Filed Pursuant to Joint Rule 36

Attached for your information, please find copies of the following:

1. Complaint dated December 16, 2008, from Representative-elect Cindy Acree to Representative May
2. Letter dated December 19, 2008, from President Groff and Speaker Romanoff to Richard C. Kaufman, attorney for Erik Groves
3. Affidavit by Erik Groves dated December 17, 2008
4. Joint Rule 36



General Assembly  
State of Colorado  
Denver

December 19, 2008

Richard C. Kaufman  
McKenna, Long, & Alridge, LLP  
1875 Lawrence Street, Suite 200  
Denver, Colorado 80202

Dear Mr. Kaufman:

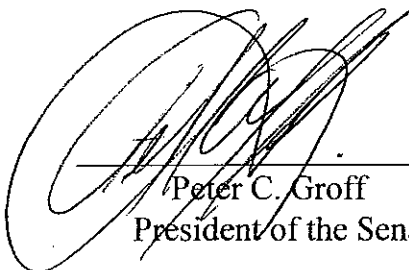
Based upon a telephone conversation you had today with Mr. Charley Pike, Director of the Office of Legislative Legal Services, we understand that you are representing Erik R. Groves in connection with the lobbyist complaint filed against him by Representative-elect Cindy Acree. Pursuant to Joint Rule 36 (d) (2) of the Joint Rules of the Senate and House of Representatives, the Executive Committee has met and considered Representative-elect Acree's complaint. As President of the Senate and Speaker of the House, we have appointed Senator John Morse and Representative Andy Kerr as two members of a three-member committee to interview the parties involved in the complaint. As soon as we have been advised of the selection of the third member of the committee by Senator Morse and Representative Kerr, we will notify you of this fact.

Pursuant to Joint Rule 36 (d) (2), we are to provide you with a copy of the complaint. Enclosed please find a copy of the complaint dated December 16, 2008, filed against Mr. Groves.

Joint Rule 36 (d) (2) requires that all proceedings of the committee be open to the public and Mr. Groves is entitled to be present during the proceedings. You will be notified as soon as the committee has scheduled a meeting.


If you have questions, please call Sharon Eubanks, Office of Legislative Legal Services, at 303-866-4336.

Sincerely,



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Peter C. Groff  
President of the Senate



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Andrew J. Romanoff  
Speaker of the House of Representatives

Representative Mike May  
House Minority Leader  
Colorado House of Representatives  
State Capitol  
Denver, Colorado

RE: Minority Leadership Elections

December 16, 2008

Dear Representative May:

I am writing to bring to your attention events that have occurred in the past two days.

December 15, 2008, I was contacted by several members of the Chiropractors Association in regards to our House leadership elections this week. Messages were left on my cell phone (303-748-9534) by Chiropractors asking for meetings with me prior to the Friday vote. Some of the messages stated that they had checks for me as they had promised before the election. One stated he was calling to get my support for David Balmer for House Minority Leader and another said he was calling about House Leadership and another referenced a potential chairmanship on committee next term. The calls were from [REDACTED] Eric Groves, and [REDACTED]. One asked for a meeting this week before the elections. One message said they knew I was on the fence regarding my vote something I had expressed to Representative Balmer that morning. I did not return any of these calls. My Chief of Staff, Brent Jones, was also contacted by Eric Groves.

I am concerned about the involvement of outside groups in what should be a private state leadership matter and the ethical implications thereof. I bring this to your attention and await your advice on how I should respond. I discussed this situation with Representative Laura Bradford to see if she had received similar calls. She had not. I also discussed this with my Chief of Staff, Brent Jones and Tory Brown.

Respectfully submitted this date.

  
Cindy Acree  
Representative-Elect  
Colorado House of Representatives

IN THE COLORADO HOUSE OF REPRESENTATIVES  
STATE CAPITOL  
DENVER, COLORADO 80203

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IN RE: COMPLAINT FILED  
AGAINST ERIK GROVES,  
DECEMBER 17, 2008

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)  
) AFFIDAVIT BY ERIK GROVES  
)  
)

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AFFIDAVIT OF ERIK GROVES

I, ERIC GROVES, do state, affirm, and swear as follows:

1. My name is Erik Groves. I am over the age of 18 years. I have personal knowledge of all facts stated in this affidavit and would be competent to testify to them if called as a witness.

2. I am a resident of the State of Colorado.

3. I am a lobbyist registered with the Colorado Secretary of State.

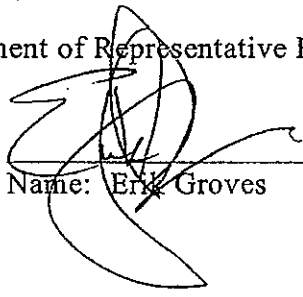
4. On December 17, 2008 I received a letter from President of the Colorado Senate Peter Groff and Speaker of the Colorado House Andrew Romanoff informing me that a complaint was filed by a member of the Colorado General Assembly alleging that I became an active participant in a legislative leadership election to determine the Minority Leader of the Colorado House of Representatives.

5. There has been speculation that another member, Representative David Balmer, requested that I lobby members to support him for the House Minority Leader vacancy. Before initiating the process to address any complaints against my professional activities as a registered lobbyist, I feel compelled to clarify the fact that Representative Balmer had no involvement whatsoever in this situation.

6. Nobody, including Representative Balmer, ever asked me to act in any way regarding the Minority Leader vacancy. My actions were my own and involved nobody else.

7. Representative Balmer never caused me, directly or indirectly, to become involved in the leadership election in any way. I spoke to Representative-elect Acree

without the prior knowledge or involvement of Representative Balmer.

  
Name: Erik Groves

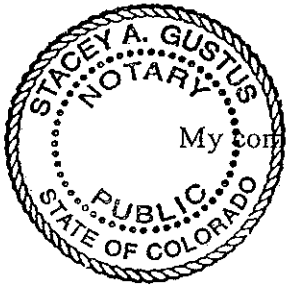
STATE OF COLORADO )

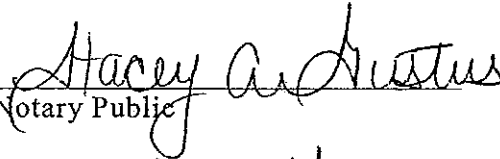
) ss

City + COUNTY OF DENVER )

Subscribed and sworn to before me this 19 day, December 2008.

Witness my hand and official seal.



  
Notary Public

My commission expires: July 14, 2011

### 36. Lobbying Practices

(a) **Definitions** . As used in this Joint Rule, unless the context otherwise requires:

- (1) "Lobbying" shall have the meaning set forth in section 24-6-301 (3.5), Colorado Revised Statutes.
- (2) "Lobbyist" means a professional lobbyist or a volunteer lobbyist as defined in section 24-6-301 (6) and (7), Colorado Revised Statutes or any state official or employee, engaged in lobbying pursuant to section 24-6-303.5, Colorado Revised Statutes. However, such terms and the provisions of this Joint Rule shall only apply to lobbying which relates to the legislative process.

(b) **Prohibited practices** . No person engaging in lobbying shall:

- (1) Attempt to influence any legislator or elected or appointed state official or state employee or legislative employee by means of deceit or by threat of violence or economic or political reprisal against any person or property, with intent thereby to alter or affect said legislator's, elected or appointed state official's, state employee's, or legislative employee's decision, vote, opinion, or action concerning any matter which is to be considered or performed by him or her or the agency or body of which he or she is a member;
- (2) Knowingly provide false information to any legislator or elected or appointed state official or state employee or legislative employee as to any material fact pertaining to any legislation;
- (3) Knowingly omit, conceal, or falsify in any manner information required by the registration and lobbyist disclosure reports;
- (4) Become an active participant in the internal organization or leadership races of the General Assembly;
- (5) Cause or influence the introduction of any bill or amendment for the purpose of afterwards being employed to secure its passage or defeat;
- (5.5) File against another lobbyist a complaint subsequently found by the Executive Committee to be frivolous.
- (6) Misappropriate or misuse state office supplies;
- (7) Use state reproduction machines without paying for such use;
- (8) Enter or use a legislator's or elected or appointed state official's or state

employee's or legislative employee's office, phone, or parking space without explicit permission;

- (9) Attempt to remove or remove any document from any legislative office, desk, file cabinet, reproduction machine, or any other place without explicit permission.
- (10) Engage in sexually harassing behavior towards members, legislative employees of the General Assembly, or third parties or behavior violative of the sexual harassment policy under Joint Rule No. 38.

(c) **Registration – filing of disclosure statements – disclosure of relationship with client .**

- (1) Any lobbyist, except a volunteer lobbyist, shall register with the Secretary of State in accordance with section 24-6-303 or 24-6-303.5, Colorado Revised Statutes. The Secretary of State should provide from the registration statements filed by lobbyists such information as the chief clerk of the House of Representatives and the secretary of the Senate request for purposes of conducting the business of the chief clerk and secretary and to provide legislators with information pertinent to the performance of their legislative duties. Such information should be updated at least monthly during the legislative session. This procedure shall be in lieu of any additional registration requirement of the House of Representatives or the Senate.
- (2) A volunteer lobbyist, as defined in section 24-6-301 (7), Colorado Revised Statutes, shall register with the chief clerk of the House of Representatives.
- (3) If the secretary of state learns of the existence of a substantial violation of part 3 of article 6 of title 24, C.R.S., by a person engaged in lobbying, the secretary of state shall promptly notify both the President of the Senate who shall notify all members of the Senate and the Speaker of the House of Representatives who shall notify all members of the House of Representatives. If such a notice is received and if a complaint pursuant to subsection (d) of this rule is filed, upon the adoption of a resolution, either house may restrict the access of the person identified in the notice to members, committees, and other activities of that house pending the outcome of the complaint.



(d) **Violations – complaint .**

- (1) Any person who has knowledge of a violation of any provisions of this Joint Rule may file a written complaint, signed by the complainant and describing the alleged violation, with any member of the Executive Committee. The President and the Speaker shall inform the person accused of a violation of the fact that a complaint has been filed, the nature of the complaint, and the name or names of the person or persons filing the complaint. As soon as possible after the complaint has been filed and notwithstanding the provisions of part 4 of article 6 of title 24, the Executive Committee shall meet in executive session to discuss the complaint. During the executive session, the Executive Committee may dismiss the complaint. If the complaint is dismissed prior to the appointment of a committee of legislators, the complaint shall remain confidential. If the Executive Committee finds that a complaint filed by a lobbyist against another lobbyist was frivolous, the Executive Committee may direct that the President and Speaker inform the accusing lobbyist of the finding and appoint a committee of legislators pursuant to paragraph (2) of this subsection (d).
- (2) If the complaint is not dismissed, the Executive Committee may direct the President and the Speaker to appoint a committee of legislators to interview the parties involved, as well as any other persons who may be able to provide relevant information, and to present to the Executive Committee such facts and information obtained. Once a committee is appointed, the President and the Speaker shall provide the person who is the subject of the written complaint with a copy of the written complaint.
- (3) The committee shall consist of one legislator appointed by the Speaker of the House of Representatives, one legislator appointed by the President of the Senate, and one legislator designated by the two appointees. No more than two members of the committee shall be from the same political party. The legislators appointed to the committee shall have no personal interest in the alleged violation and shall have no business interest in or affiliation with the complainant or the alleged violator.
- (4) All proceedings of the committee shall be public. The accused shall be entitled to be present during the proceedings. The committee members shall submit a report to the Executive Committee.
- (5) After receiving the facts and information from the committee and after such facts and information have been provided to the person who is the subject of the written complaint, the Executive Committee shall act on said complaint at its next meeting or at a special meeting called for that purpose; however, the person who is the subject of the written complaint shall receive a reasonable opportunity to be heard by the Executive

Committee and has the right to be present during its deliberations. The Executive Committee may dismiss the complaint or, if it determines that said violation occurred, it may prescribe such remedial measures as it deems appropriate, including, but not limited to, suspension of lobbying privileges before the General Assembly or any of its committees, or it may issue a letter of admonition or recommend a resolution of censure to be acted upon by the General Assembly. If the Executive Committee of the Legislative Council finds that the issuance of subpoenas is necessary in any such investigation, it may request such power, in accordance with Joint Rule No. 33, from the General Assembly or when the General Assembly is not in session from the entire Legislative Council.

- (6) The President of the Senate or the Speaker of the House of Representatives shall designate a person of the opposite gender from the President or Speaker with whom a written complaint alleging a violation of paragraph (10) of subsection (b) of this Joint Rule may be filed.
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