



PO Box 600
Kaaawa, Hawaii 96730

808-955-1819
ian@ilind.net

April 10, 2008

Dan Mollway
Executive Director
State Ethics Commission
PO Box 616
Honolulu, HI 96809

Dear Dan,

I am writing concerning National Popular Vote, the sponsor of legislation aiming to circumvent the role of the Electoral College in the presidential election through an agreement among a majority of states.

During the 2007 regular legislative session, National Popular Vote lobbied for passage of SB1956, which passed both House and Senate before being vetoed by Governor Lingle.

National Popular Vote then initiated an advertising barrage in support of a veto override. Ads urged viewers and readers to contact their legislators and register their support for this measure.

The advertising campaign was noted in a Honolulu Advertiser story published on May 3, 2007. It included prime time advertising on television and large print ads in both of Honolulu's daily newspapers.

Section 97-1(7) defines "lobbying" as follows:

"Lobbying" means communicating directly **or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of attempting to influence legislative or administrative action or a ballot issue.**" [emphasis added]

Expenditures for indirect or grassroots lobbying, in which an interest group or its agents seek to mobilize their constituency to affect legislation, appear to be reportable under this definition. In addition, reportable expenditures include costs of the

preparation and distribution of lobbying materials, media advertising, telephone and other forms of communication, postage, consultants fees not reported as fees paid to registered lobbyists, and entertainment.

In addition, instructions provided to organizations that employ lobbyists make clear that advertising costs are reportable. From the commission's instructions:

Media advertising. Report expenditures for newspaper advertisements or television and radio commercials, etc. If you hire a public relations firm for media advertising, then report here the amount paid to the firm that is attributable to media advertising.

Although National Popular Vote reported paying lobbying fees, it did not disclose the costs of its aggressive campaign of grassroots lobbying, which must have entailed substantial expenditures for print and broadcast advertising, as well as production, coordination, etc.

The ads urged readers and viewers to contact their legislator in support of a legislative override of Governor Lingle's veto, and failure to disclose them as lobbying expenditures appears contrary to law.

Nor did National Popular Vote disclose whether any person contributed over \$25 to its substantial lobbying effort.

If the commission has questions concerning these matters, you can reach me at 955-1819 or via e-mail at ian@ilind.net.

Thank you for your attention.

Sincerely,

Ian Lind