

STATE OF COLORADO

Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Mike Coffman

Secretary of State

William A. Hobbs

Deputy Secretary of State

May 30, 2007

Mr. Daniel J. Kopelman
Office of the Secretary of State
1700 Broadway, Suite 250
Denver, Colorado 80290
By Hand Delivery

Dear Mr. Kopelman:

This corrective action is issued pursuant to State Personnel Board Rule 6-11 in order to correct and improve your performance.

On May 3, 2007, I learned that since your employment began with the Department of State on January 9, 2007, you had maintained a web site, www.politicallivewires.com. The heading of each page was, "Political Live Wires, GOP Campaign help from Dan Kopelman". The home page of this web site solicited persons to contact you to purchase Colorado voter data. Another page, entitled "Dan's Resume", provided information about your professional background and qualifications. The first paragraph of this page stated:

Currently, I work for Colorado Secretary of State Mike Coffman as the Elections Technology Manager. My position includes oversight and guidance of the development of the State Wide Voter Database and implementation of efficiencies in the Elections division of the office.

Included in this page was a statement that you had previously "worked in Washington, D.C., attempting to reform government under the brilliant leadership of Colorado Congressman Tom Tancredo". A different page provided current information about Republican Lincoln Day dinners around the state, and another page provided a Republican events calendar.

I met with you immediately upon learning of this web site. You immediately recognized and acknowledged that continued operation of this web site was inappropriate for you as an employee of the Department of State, especially an employee of the Elections Division, because of its partisan political nature, because it solicited business of a political nature, and because it appeared to offer for sale voter data that relates to your employment responsibilities with the Elections Division. You offered and I requested that you take down the web site immediately, which you accomplished shortly after the conclusion of our meeting.

After our meeting, the Department conducted an investigation of your activities associated with the web site. Throughout the period of this investigation, you have been cooperative. You answered all questions completely and volunteered various business records.

Based on the information obtained from our investigation, I determined that:

1. The web site "Political Live Wires" was created some years before you began your employment with the Department of State. The specific language that solicited purchasers of voter data was posted on the home page prior to your employment with the Department. It appears that, since you began your employment with the Department, you have not actively conducted any private business for personal gain, nor was it your intention to do so.
2. You did not use any State resources, such as voter registration lists, acquired through your position of employment with the State to further any private business interest. In fact, you did not have direct access to the voter registration database.
3. However, after you began your employment with the Department of State, you failed to change your business web site so that it would no longer solicit business for the sale of voter data. Furthermore, although you did not sell any goods or services since the beginning of your employment with the Department, you did receive a small amount of advertising revenue from the web site. Thus, you have maintained an outside business activity since the beginning of your employment.
4. Furthermore, after you began your employment with the Department, you actively maintained the web site with updated information and comments of a partisan political nature, while promoting your high-level elections responsibilities with the Secretary of State's Office.

Based on these findings, as I advised you in our meeting on May 8, I concluded that your activities violated state and agency rules governing (1) incompatible activities, by maintaining a partisan political web site that is incompatible with the nonpartisan responsibilities of your position with the Elections Division, and (2) outside employment, by engaging in outside employment without advance approval of the appointing authority for the Department.

Section 24-50-117, C.R.S., prohibits incompatible activities and employment, as follows:

24-50-117. Prohibited activities of employees. No employee shall engage in any employment or activity which creates a conflict of interest with his duties as a state employee. The board shall promulgate general rules on incompatible activities, conflicts of interest, and employment outside the normal course of duties of state employees.

The relevant personnel board rules are as follows:

Board Rule 1-13. No employee is allowed to engage in any outside employment or other activity that is directly incompatible with the duties and responsibilities of the employee's state position, including any business transaction, private business relationship, or ownership. The employee is not allowed to accept outside compensation for performance of state duties. This includes acceptance of any fee, compensation, gift, reward, gratuity, expenses, or other thing of monetary value that could result in preferential treatment, impediment of governmental efficiency or economy, loss of complete independence and impartiality, decision making outside

official channels, and disclosure or use of confidential information acquired through state employment. Incompatibility includes reasonable inference that the above has occurred, may occur, or has any other adverse effect on the public's confidence in the integrity of state government.

- B. An employee shall give advance notice to the appointing authority and take necessary steps to avoid any direct conflict between the employee's state position and outside employment or other activity.

Board Rule 1-14. Employees may engage in outside employment with advance written approval from the appointing authority. The appointing authority shall base approval on whether the outside employment interferes with the performance of the state job or is inconsistent with the interests of the state, including raising criticism or appearance of a conflict.

The applicable policies of the Department, as stated in the Employee Handbook, are as follows:

Conflicts of interest:

No employee is allowed to engage in any outside employment or other activity that is incompatible with the duties and responsibilities of the state position, including any business transaction, private business relationship, or ownership. (Rule R-1-10)

Outside Job

State personnel rules prohibit employees from engaging in any outside employment or other activity that is incompatible with their state positions. The rules also require employees to obtain advance written approval from the appointing authority for any outside employment.

Employees who have or want additional employment outside the Department of State must obtain an "outside employment approval" form from his/her supervisor, who will forward it to the appointing authority for approval. The employee's position with the State of Colorado must take priority over outside employment.

Corrective action:

Effective immediately, you will:

1. Comply with all state laws and rules and Department policies on political activities and outside employment.
2. Cease any outside employment (including self-employment for compensation) without the express written permission of the Appointing Authority.
3. Cease operating the web site and the newsletter (which you have already accomplished).

Any further violations of state personnel laws or rules or Departmental policies concerning incompatible activities or outside employment will subject you to further corrective and/or disciplinary action, which may include termination.

In addition, as you are aware, the State Auditor's Office is conducting an independent inquiry at our request into your activities since your employment began with the Department on January 9, 2007. If that inquiry should disclose additional evidence of improper conduct, you will be

subject to additional corrective and/or disciplinary action, which may include termination.

You may submit a written explanatory statement which will be attached to each copy of this corrective action. State personnel rules limit the period during which corrective actions may be grieved to ten calendar days after the receipt of this notice. If you wish to protest this action, you must initiate the grievance process no later than 10 days from the date of receipt of this corrective action. To do you must put your grievance in writing and deliver it to me within ten days. Other provisions of the grievance process, which must be closely followed, are available from Sibyl Clausen in the Human Resources Office at (303) 894-2200 ext 6103. If your grievance alleges discrimination, there is an additional requirement: it must be put in writing and mailed or delivered to the State Personnel Board at 633 17th Street, Suite 1320, Denver, CO 80202-3660, no later than the tenth calendar day after you receive this letter.


Sincerely,

William A. Hobbs

William A. Hobbs
Deputy Secretary of State
Appointing Authority for the Department of State

cc: Employee's Personnel File
Appointing Authority
Office of Human Resources

I received a copy of this document today:


Employee's Signature

5/30/07
Date