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Effort to muzzle Van Meteren's right to free speech backfires on Williams

Ethics Commission under fire after 'scolding' by attorney general

A growing storm of criticism — including a humiliating public scolding by the attorney general's office — is leading some public officials to call for an overhaul of the Kansas Governmental Ethics Commission.

The commission backed down earlier this week from imposing a \$7500 fine on a political consultant, Kris Van Meteren, for discussing with various media outlets — including Kansas Liberty — a complaint he had filed with the commission.

The attorney general's office slapped the commission for what it called its flagrant neglect of freedom of speech rights in attempting to enforce a confidentiality statute.

After reviewing the case, the attorney general's office released a statement that said, "...we believe that statutes and regulations requiring confidentiality from those who file complaints against public officials are unconstitutional."

Van Meteren had discussed with reporters a complaint he filed with the commission about the possible misuse of campaign finances by Sen. Dwayne Umbarger, R-Thayer. Van Meteren alleged that Umbarger had used substantial funds from his campaign finances for nonpolitically related items.

Umbarger was allowed to correct the campaign finance problems without any disciplinary action being taken. Van Meteren, however, was fined \$7,500 for speaking to the press.

"It is outrageous that the person that attempts to making the complaint ends up as the target," Rep. Joe Patton, R-Topeka, told Kansas Liberty. "Certainly it is going to be important to review the whole procedure, and quite frankly it is an issue we know will be on the front burner. Folks on both sides of the political spectrum want to look at the governmental ethics law and the campaign finance laws so this will be subject to hot debate come January."

In a response to the attorney general's ruling, one of Van Meteren's attorneys, Caleb Stegall, acknowledged that a person with fewer financial resources and less motivation may have not been afforded the same relief as Van Meteren received from the attorney general's office.

"This episode illustrates clearly the abuses that can occur when agents of the state choose to use their power to advance a political agenda, to reward friends and to discourage political

opponents,” Stegall said in a statement.

The attorney went on to call the Legislature to “immediately address the unconstitutional statutes and regulations of the commission at the convening of the 2010 session.”

Jared Suhn, a state committee designee of the Kansas Republican Party, said he could think of several ways the Ethics Commission could be improved.

“The biggest problem is that the commission, as comprised now, is an inherently political body appointed by politicians, all of whom have an inherently politically charged agenda,” Suhn told Kansas Liberty . “The politics need to be taken out of the commission, and instead the body needs to operate in a nonpartisan fashion that enforces campaign finance laws equally and without partiality or agenda. Somehow or another from an Ethics Commission point of view, they want political groups and candidates to abide by a policy of 'do as we say, not as we do.'”

Ryan Kriegshauser, who was also retained by Van Meteren, said a particularly troubling question was brought up during the case by Ethics Committee Commissioner John Solbach, who asked Kriegshauser whether he thought free speech should be held more important than the commission’s rules.

“Citizens of this country understand that the Constitution is the overriding law of the nation and you can’t infringe on those rights,” Kriegshauser told Kansas Liberty. “I was astounded he actually asked me that question.”

Kriegshauser said he felt Van Meteren’s legal rights had been clearly vindicated by the attorney general’s office.

“It is so apparent that the commission did violate his right to free speech,” he said. “But I think people should realize that Kris has still been damaged by the commission’s actions and that in itself is a major problem.”

Another aspect of the case that has left some puzzled is an inconsistency by executive director of the Ethics Commission, Carol Williams. In an Oct. 19, 2008, Topeka Capital-Journal article, Williams acknowledged that Van Meteren may have committed a crime and that Van Meteren was being investigated.

Charlotte Esau, executive director of the Kansas Republican Assembly, questioned whether Williams was violating an ethics rule when she acknowledged Van Meteren could have committed a crime.

“If the complaint has not yet been filed, then she can technically get away with talking about it, though it is not ethical, but in the process of doing that, she was acknowledging the claim against Umbarger, and that part she wasn’t allowed to speak about, period,” Charlotte Esau, executive director of the Kansas Republican Assembly, told Kansas Liberty. “She basically put the accusation out there and then filed the complaint so no one could talk about it or defend themselves.”

In another Topeka-Capital Journal story, when Williams was questioned about the possibility of House members' breaking campaign finance laws, she remained silent, saying she didn’t have the necessary information to determine whether ethics rules had been

violated.

Williams was not available for comment, and Kansas Governmental Ethics Chair Sabrina Standifer did not immediately respond Friday to a request for comment.

- Holly Smith

Resources

- The attorney general's memo: <http://www.kansasliberty.com/liberty-update-archive/2009/18may/AG%20GEC%20letter%20re%20unconstitutionality%20051309.pdf>
- Topeka-Capital Journal Oct. 18 article: http://findarticles.com/p/articles/mi_qn4179/is_20081019/ai_n30928047/
- Topeka-Capital Journal Article on House leadership finances: http://www.cjonline.com/stories/011209/kan_376411154.shtml

The Week in Review

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