

SUPERIOR COURT  
Washington Unit

2011 DEC -9 P 1:56

CIVIL DIVISION  
Docket No. 762-12-11 Wren

STATE OF VERMONT, )  
Plaintiff )  
 )  
v. )  
 )  
REPUBLICAN GOVERNORS )  
ASSOCIATION and )  
BRIAN DUBIE, )  
Defendants )

COMPLAINT

Plaintiff, the State of Vermont, by and through Attorney General William H. Sorrell, for its Complaint against Defendants Republican Governors Association and Brian Dubie, alleges as follows:

Nature of Action

1. This is an action brought by the Attorney General on behalf of the State of Vermont seeking enforcement of Vermont's campaign finance laws. These laws are essential to the preservation of the integrity of Vermont elections and to further Vermont's goals of preventing the appearance and reality of corruption and undue influence of candidates through excessively large contributions or through contributions that are not disclosed to the public.

2. During the 2010 gubernatorial race, Defendant Republican Governors Association ("RGA"), a political committee, made in-kind contributions of more than \$242,000 to the campaign of Brian Dubie ("Dubie") in the form of political advertising. Mr. Dubie's campaign intentionally facilitated the RGA's advertising by providing significant and timely opinion

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polling data and analysis to the RGA. The RGA used this confidential polling information to make strategic decisions regarding its advertising in support of Mr. Dubie's bid for Governor. The in-kind contributions of advertising exceeded the \$3,000 per election limit on contributions from political committees to candidates. Mr. Dubie did not disclose the receipt of in-kind contributions of political advertising from the RGA on any campaign finance reports filed with the Vermont Secretary of State.

3. The value of the opinion polling that the Dubie campaign provided to the RGA was \$93,000, which exceeded the \$2,000 per cycle limit on contributions to a political committee. The RGA did not file any reports with the Vermont Secretary of State's Office disclosing its receipt of in-kind contributions of opinion polling from the Dubie campaign.

4. Such conduct violates Vermont campaign finance laws.

#### Parties and Jurisdiction

5. The Attorney General has the authority to enforce Vermont's campaign finance laws on behalf of the State of Vermont pursuant to 17 V.S.A. § 2806. Accordingly, this Court has jurisdiction over this matter pursuant to 17 V.S.A. § 2806.

6. The State of Vermont has its principal offices in Montpelier, Vermont. Venue is proper in this Court pursuant to 12 V.S.A. § 402.

7. The Republican Governors Association is a political organization registered under § 527 of the Internal Revenue Code (26 U.S.C. § 527). It was formed in October 2002. The RGA states that its primary mission is to elect Republicans to governorships across the country. Its offices are in Washington, D.C.

8. The RGA is a Vermont political committee to the extent that it receives contributions and makes expenditures greater than \$500 in one year for the purpose of supporting or opposing one or more candidates for election to a Vermont office.

9. The RGA also established a Vermont political committee, called Green Mountain Prosperity (“GMP”), to conduct activities related to Vermont elections during the 2009-2010 general election cycle. The RGA spent money on political advertising in Vermont during the summer and fall of 2010 in its own name and in the name of GMP.

10. Brian Dubie is a natural person who was a candidate for election to the office of governor of the State of Vermont on November 2, 2010. He resides in Fairfield, Vermont. In order to conduct his gubernatorial campaign, Dubie formed a candidate committee, Friends of Brian Dubie, and was responsible for its actions.

#### Background Facts

11. On October 21, 2010, the Attorney General’s Office received a complaint from the Vermont Democratic Party about possible coordination of activities between the RGA and Dubie’s gubernatorial campaign and resulting contributions from the RGA to Dubie in excess of the contribution limit established by Vermont law.

12. The State conducted an investigation into the complaint. The investigation included obtaining documents from the RGA and the Dubie campaign, as well as interviewing Corwin Bliss on January 31, 2011 (“Bliss Interview”) and Dennise Casey on February 15, 2011 (“Casey Interview”). Mr. Bliss and Ms. Casey each gave testimony under oath in those interviews. In addition, on April 7, 2011, the RGA provided sworn answers to written questions posed by the State (“Sworn Response”).

13. From January 2010 through November 2, 2010, Corwin Bliss (“Bliss”) was the Campaign Manager for Dubie’s gubernatorial election campaign. Bliss oversaw the daily operations of the campaign. In the Bliss Interview, Bliss testified that: “The campaign manager is the top person, but you work for the candidate.” He stated that Mr. Dubie gave him instructions.

14. From January 2010 through November 2, 2010, Dennise Casey (“Casey”) was the Political Field Director for the RGA for the New England states, including Vermont. In the Casey Interview, Casey explained that her job was to understand the New England gubernatorial races and “make recommendations to management at RGA how [RGA] could best support [RGA] candidates in those races.”

15. In the Casey Interview, Casey testified that her decisions as RGA Political Field director in Vermont were sometimes carried out in the name of GMP. GMP had no separate staff from the RGA. It was run by the RGA.

16. Beginning in August 2010, the RGA used television ads, radio ads, and, to a limited extent, on-line advertising in Vermont to encourage voters to vote for Republican candidate Dubie and against Democratic candidate Peter Shumlin. In the Casey Interview, Casey explained that she was responsible for “determin[ing] what those ads should contain.”

17. Casey testified that she “made the decisions about how much money [the RGA] spent, and that determined the frequency of the ads.” She made recommendations to RGA managers Paul Bennecke and Rick Ayers on when to start a new advertisement. This was determined by when it was “time to change the message.”

18. Casey’s decisions on when to change focus to a new issue were based on “news and research data and [her] general instinct.” Research data is also known as polling data. She

testified in the Casey Interview that it is “used to gauge things like a candidate’s popularity” or “what a candidate’s vulnerabilities might be.” She confirmed that polling data helped the RGA determine “what might be effective in a state.”

19. The RGA created a website with the address [www.VisionforVermont.com](http://www.VisionforVermont.com) on which it posted videos of its television ads. The website also contained other information regarding the gubernatorial candidates and the issues involved in the election campaign. The RGA posted videos of its television ads on the website [www.YouTube.com](http://www.YouTube.com).

20. In the Bliss Interview, Bliss admitted that he and Casey communicated by phone about twice a month, and sometimes as frequently as once a week, from February through November 2010. He testified that, in addition, he and Casey communicated by email about once a week during that time period.

21. Bliss further acknowledged that he and Casey met in person and discussed the gubernatorial race on four occasions during the spring and summer of 2010. Bliss testified that the first meeting took place in Vermont and involved only Bliss and Casey.

22. Bliss testified that the second meeting with Casey took place in Washington, D.C., at the office of the RGA in the spring of 2010. RGA management staff Paul Bennecke and another RGA manager were also present at that meeting.

23. Bliss testified that the third meeting also took place in Washington, D.C. at the office of the RGA during the summer of 2010. This meeting included Bliss, Casey, RGA management staff, and staff from OnMessage. OnMessage was the consulting firm hired by the Dubie campaign to create political advertising. Bliss testified that Mr. Dubie also attended that meeting.

24. Bliss and Casey admitted that they met in person on a fourth occasion at a diner in Essex Junction, Vermont, in the summer of 2010. Mr. Dubie was also present at that meeting.

25. In addition, Bliss attended an RGA conference during 2010.

26. The Dubie campaign hired Public Opinion Strategies (“POS”) of Alexandria, Virginia, to conduct opinion polls during the course of the campaign starting in July 2010.

27. The RGA was aware that the Dubie campaign was conducting opinion polling regarding the election. The RGA itself used POS to conduct polling in other New England states during the 2010 election.

28. In the Casey Interview, Casey testified that in the summer of 2010, after being “told by RGA staff that – that we could receive polling as an in-kind [contribution] in states where . . . we may want to access [it],” Casey “reached out and asked [the Dubie campaign] if they had polling that we could then, in turn, receive.”

29. Bliss admitted in the Bliss Interview that he gave POS permission to disclose confidential polling data obtained by the Dubie campaign from three polls to the RGA. At least two of these polls were provided to the RGA within minutes of the time they were sent to the Dubie campaign.

30. Casey served as the Campaign Manager for the re-election campaigns of Governor James Douglas in Vermont in 2006 and 2008, as Deputy Campaign Manager for his race in 2004, and as Field Director for his initial race for governor in 2000.

31. In the Casey Interview, Casey stated that she was the expert on polling in Vermont at the RGA. Casey pointed out that “one of the real benefits for her in Vermont was that she had eight or nine years of history” based on her experience with Vermont political

campaigns. According to Casey, she “absolutely” had the experience “to use a poll taken in Vermont to make a good decision for RGA.”

32. In the Casey Interview, Casey testified that the polling data she received from the Dubie campaign was factored into many decisions, including “whether or not to run an ad or not run an ad, whether or not to up our budget or decrease our budget, whether to go up on radio or not go up on radio.” In addition, she testified that polling data is especially important when “we’re starting to get into the sort of final weeks, and it gets very important to . . . know if we’re going to make a decision to do something different.”

COUNT I  
(Dubie Campaign’s Illegal Contribution to RGA)

33. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 to 32 above, as if fully set forth herein.

34. The Dubie campaign paid POS \$17,500 to conduct a poll of likely voters in Vermont on July 13 and 14, 2010.

35. In the Bliss Interview, Bliss admitted that he gave POS permission to give the results of the July 13-14 poll to the RGA. POS provided the polling data and analysis to the RGA on August 11, 2010.

36. The Dubie campaign paid POS \$25,500 to conduct a poll of likely voters in Vermont on September 20 and 21, 2010. POS provided the Dubie campaign with the poll results and analysis on September 22, 2010.

37. In the Bliss Interview, Bliss admitted that he gave POS permission to send the results of the September 20-21 poll to the RGA. POS provided the polling data and analysis to the RGA on September 22, 2010, the same day on which it was provided to the Dubie campaign.

38. The Dubie campaign hired POS to conduct a tracking poll that surveyed likely voters in Vermont nearly every evening from October 10, 2010, through October 31, 2010.

39. The total cost of the tracking poll was \$50,000. The Dubie campaign paid \$10,000 of the cost of the tracking poll. The Vermont Republican Party paid \$40,000 of the cost. The RGA did not pay any of the cost of the tracking poll.

40. Bliss admitted that he gave POS permission to send the results of the tracking poll to the RGA.

41. POS provided the results of each night of tracking poll data, POS's analysis, and its strategic recommendations to both the Dubie campaign and the RGA by email on the morning after each poll from October 10 through October 31. In most instances, POS copied both Dubie campaign staff and the RGA on the same emails containing the tracking poll data, POS analysis, and POS recommendations.

42. Political committees are limited to accepting contributions totaling no more than \$2,000 per two-year general election cycle from a single source. 17 V.S.A. §2805(a).

43. The Dubie campaign's in-kind contributions of its polling data to the RGA exceeded the \$2,000 contribution limit.

COUNT II  
(RGA's Illegal Contribution of "Can't Trust" Advertisement to Dubie)

44. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 to 43 above, as if fully set forth herein.

45. The September 20-21 poll tested various statements to determine whether the statement made voters more or less likely to vote for Peter Shumlin. One of the questions asked by the Dubie campaign in the September 20-21 poll was as follows:

Now I am going to read you several statements about Peter Shumlin. After I read each one, please tell me if each statement makes you more likely to vote for him, less likely to vote for him or if it makes no difference in your vote. Members of Peter Shumlin's Democratic caucus have testified that he passed legislation in exchange for political campaign contributions.

The response to that question was that it made 4% of people more likely to vote for Shumlin, 59% less likely to vote for him, and made no difference to 32%.

46. The Dubie campaign provided the polling questions and results of the September 20-21 poll to the RGA on September 22, 2010. Included in the results were cross tabs showing detailed information regarding the characteristics of the people who provided answers to these polling questions, such as their political party affiliation, region in which they live, age, and gender.

47. In its Sworn Response, the RGA stated that on September 24, 2010, two days after receiving the polling data from the Dubie campaign, the RGA conceived of and created an initial draft of a television and radio advertisement called "Can't Trust." A true and accurate copy of the text of these advertisements is attached hereto as Exhibits 1 & 2.

48. The "Can't Trust" television advertisement included the following statements: "A Democratic senator testified that Shumlin killed a bill for fear of losing campaign donations. . . . And who could forget the 4.3 million dollars in tax credits awarded to his political friend who gave him thousands of dollars in campaign donations? To top it off, Shumlin was voted the most ethically challenged legislator in Montpelier."

49. The "Can't Trust" radio advertisement included the following statements: "A Democratic senator testified that Shumlin killed a bill for fear of losing campaign donations. . . . And who could forget the 4.3 million dollars in tax credits awarded to his political friend who

gave him thousands of dollars in campaign donations? . . . With a record like his, it's no wonder Shumlin was voted the most ethically challenged legislator in Montpelier."

50. The RGA stated in its Sworn Response that it recorded the "Can't Trust" television and radio advertisements on September 24 and 25, 2010, and edited them on September 25 and 26, 2010. The RGA began airing the "Can't Trust" ad on television stations that reach Vermont voters on September 25, 2010. It began airing the "Can't Trust" radio ad on radio stations that reach Vermont voters on September 28, 2010.

51. The RGA ran the "Can't Trust" advertisements under the name of its Vermont political committee, GMP.

52. The September 20-21 polling data materially influenced the RGA's decisions regarding the content and timing of its "Can't Trust" television and radio advertisements. In making decisions regarding the "Can't Trust" advertisements, the RGA used information from the polling data provided by the Dubie campaign.

53. By providing polling data to the RGA, the Dubie campaign was materially involved in the advertising decisions of the RGA.

54. The RGA spent at least \$5,500 producing the "Can't Trust" television and radio ads. The RGA spent at least \$86,000 to broadcast the "Can't Trust" television and radio ads.

55. Vermont campaign finance law requires that "a related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made." 17 V.S.A. § 2809(a). The law further states that "'a related campaign expenditure made on the candidate's behalf' means any expenditure intended to promote the election of a specific candidate . . . or the defeat of an opposing candidate . . . if intentionally facilitated by,

solicited by or approved by the candidate or the candidate's political committee." 17 V.S.A. § 2809(c).

56. The Dubie campaign knew or was willfully blind to the fact that the RGA would use the results of the September 20-21 poll to create advertising to promote or support candidate Dubie or to oppose or attack candidate Shumlin.

57. By providing the material information contained in the September 20-21 polling data to the RGA, the Dubie campaign intentionally facilitated the RGA's "Can't Trust" television and radio advertisements.

58. The "Can't Trust" television and radio advertisements are related campaign expenditures made by the RGA on behalf of candidate Brian Dubie. The value of the production and broadcasting of those advertisements is a contribution to the Dubie campaign.

59. Candidates for the office of Governor of Vermont are limited to accepting contributions totaling no more than \$3,000 per election from a single political committee. Counting both the primary and general election, this amounts to a limit of no more than \$6,000 from a single political committee during the 2009-2010 general election cycle. 17 V.S.A. § 2805(b) as amended by 1987 Vt. Acts & Resolves 263, § 3 (Adj. Sess.).

60. During 2010, a single source, political party or political committee was allowed to give contributions to candidates no greater than the amount that a candidate is permitted to accept. 17 V.S.A. § 2805(b) as enacted by 1997 Vt. Acts & Resolves 64.

61. The RGA's "Can't Trust" advertisements were an in-kind contribution to Dubie that exceeded the permissible contribution limit.

COUNT III  
(RGA's Illegal Contribution of "Women Speak Out" Advertisement to Dubie)

62. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 to 61 as if fully set forth herein.

63. In the Bliss Interview, Bliss admitted that he gave POS permission to send the results of the October tracking poll to the RGA.

64. Staff at POS emailed the polling data from each night of the tracking poll, between October 10 and October 31, 2010, to both the Dubie campaign and the RGA the following morning. Casey stated in the Casey Interview she usually received the polling data from POS by 7:30 a.m.

65. Despite the fact that the Vermont Republican Party ("the Party") paid \$40,000 of the cost of the tracking poll, the Dubie campaign did not give data from the questions regarding the Governor's race that were asked in the October tracking poll to the Party. Bliss testified that the Dubie campaign only gave the Party the data on the Lieutenant Governor's race and the Secretary of State's race.

66. Bliss explained the reason for this, saying, "I didn't want them to see all the numbers." Bliss stressed that "polling data, like other information, is not for mass consumption." He testified that "it was important that the numbers weren't known to everybody."

67. In the Casey Interview, Casey testified that she considered polling data in making decisions whether or not to run an advertisement, especially in the last few weeks of the campaign. She also testified that polling data factored into her decisions as to whether or not to increase or decrease the RGA advertising budget.

68. Casey testified that the tracking data gave her information as to whether or not the RGA ads were working.

69. Gene Ulm ("Ulm"), a partner at POS, sent ten emails to the RGA and Dubie campaigns between October 14 and November 1, 2010, in which he provided his comments and opinions regarding the data from the tracking poll. In some of these emails, he made suggestions on what should be done to improve Dubie's standing among likely voters.

70. On October 13, 14 and 17, the tracking poll conducted by POS asked the following questions:

Have you seen, read or heard a TV ad about Brian Dubie that says if elected Governor, he will restrict a woman's right to have an abortion?

And did it make you more likely to vote for Brian Dubie, less likely to vote for Brian Dubie or did it make no difference in your vote?

71. On October 18 and 19, the tracking poll conducted by POS asked the following questions:

Has what you've seen, read or heard recently regarding Brian Dubie and his campaign for Governor given you a more favorable or less favorable impression of him?

Have you seen, read or heard a TV ad about Brian Dubie that says if elected Governor, he will restrict a woman's right to have an abortion?

72. Casey and other RGA staff members received data from the tracking poll questions regarding the abortion issue each morning after the poll was taken from October 14 - 20, 2010.

73. On the morning of October 19, 2010, Ulm sent an email to several people, including Bliss, Casey, and two other staff members at the RGA, stating his concern about the pro-choice vote in Vermont. Specifically, he stated:

- Shumlin is driving his ballot scores by driving Brian's negatives. . . . If Brian continues to be the ONLY candidate on the receiving end of negative media, we will lose.
- . . .
- Shumlin is driving the pro-choice vote: formerly 64, its [sic] now in the 70s. Shumlin is winning pro-choicers 37-52. WE NEED TO QUICKLY CHANGE THE SUBJECT.
- . . .
- The bottom line is that some serious wood is being laid on Brian. We can either respond in kind or risk getting beat.
- OF OUR REMAINING POINTS, I SUGGEST RUNNING 500 (MAXIMUM) WITH BRIAN, AND THE REMAINING 1000 WITH A NEGATIVE SPOT ON SHUMLIN. We need to change up the current scenario. Again WE NEED TO QUICKLY CHANGE THE SUBJECT.

74. After another night of polling, Ulm sent an email on the morning of October 20, 2010, to several people, including Bliss, Casey, and two other staff members at the RGA. This email stated Ulm's concern about the role that the abortion issue was playing among Vermont voters. Specifically, he stated:

- Shumlin continues to bring home the Dem base. . . .
- . . .
- Shumlin's abortion attack jibes with the above and has been effective at hardening the significant liberal/Democrat base (which is significant). Only 33% recall the spot (45% on last night's interviews). Among those who recall the spot, Brian trails 37-49. Brian's image is 49-46 among those who recall the spot. It has also galvanized the pro-choice vote – there ARE MORE OF THEM NOW. (69%).
- The bottom line: 1) WE HAVE TO DRAG THIS RACE BACK ON TO THE KEY POCKETBOOK ISSUES AND CHANGE THE SUBJECT OFF OF ABORTION; and 2) WE NEED TO LAY WOOD ON TO SHUMLIN. If we continue to be only on the receiving end of his attacks, we will lose.

75. In its Sworn Response, the RGA stated that on October 19, 2010, the RGA conceived of and created an initial draft of a television advertisement called "Women Speak Out." The production and editing of this advertisement was done on October 20, 2011.

76. This advertisement included women stating the following:

I'm pro-choice  
 And I support Brian Dubie  
 Because he respects women

He's promised to protect our rights

...

So don't believe Peter Shumlin

He's proven time and again that he'll say anything to win

He's trying to scare us

...

I'm pro-choice and I support Brian Dubie

A true and accurate copy of the text of this advertisement is attached hereto as Exhibit 3.

77. The RGA ran the "Women Speak Out" advertisement under the name of its Vermont political committee, GMP. It ran the advertisement on television stations that reach Vermont voters from October 21 to November 2, 2010.

78. The data from the October tracking poll taken on October 13, 14, 17, 18, and 19 materially influenced the RGA's decisions as to the content, audience, timing, and frequency of its "Women Speak Out" advertisement. In making decisions regarding the "Women Speak Out" advertisement, the RGA used information from the tracking poll data provided by the Dubie campaign.

79. By providing polling data, analysis by POS, and/or POS's strategic recommendations to the RGA, the Dubie campaign was materially involved in the advertising decisions of the RGA.

80. The RGA spent at least \$7,100 producing the "Women Speak Out" television advertisement. The RGA spent at least \$142,000 to broadcast the "Women Speak Out" television ads.

81. The Dubie campaign knew or was willfully blind to the fact that the RGA would use the results of the October tracking poll, analysis by POS, and/or POS's strategic recommendations to create advertising to promote or support candidate Dubie or to oppose or attack candidate Shumlin.

82. By providing the material information contained in the October tracking polling data, analysis by POS, and/or strategic recommendations to the RGA the Dubie campaign intentionally facilitated the RGA's "Women Speak Out" television advertisement.

83. The "Women Speak Out" television advertisement is a related campaign expenditure made by the RGA on behalf of candidate Brian Dubie. The value of the production and broadcasting of that advertisement is a contribution to the Dubie campaign.

84. The RGA's "Women Speak Out" advertisement was an in-kind contribution to Dubie that exceeded the permissible contribution limit.

#### COUNT IV

#### (RGA's Illegal Contribution of "Not the Vermont Way" Radio Advertisement to Dubie)

85. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 to 84 above as if fully set forth herein.

86. The data from the October tracking poll included breakdowns indicating the views of voters in various towns and regions of the state. One of the regions for which polling data was shown was in the southern part of Vermont.

87. On October 22, 2010, Ulm sent an email to several people, including Bliss, Casey, and two other staff members at the RGA. This email made observations about the views of voters in the southern part of Vermont. In the email, Ulm suggested that more advertising be placed in the southern part of Vermont. Specifically, he stated:

- Driving Shumlin's negatives will be the only way we can reel Shumlin in.
- The ballot is at 42-38 among Indies and we are seeing the same good movement on Shumlin's campaign info flow now 34 more fav-50 less fav. THIS IS THE CORE OF THIS RACE. We continue to drive Shumlin's negative among Indies and we can win this.
- WHERE WE ARE NOT STOPPING SHUMLIN: IN THE DISPROPORTIONATELY DEMOCRATIC SOUTH. Shumlin is leading 36-51, with an

alarming high 54-32 fav-unfav. CAN WE GET SOME ALBANY RADIO IN THERE TO AT LEAST REACH BENNINGTON? OR MAIL?

88. On October 26, 2010, Ulm sent an email to Casey and two other staff members at the RGA in which he asked: "Is there anything we can do to reach into the southern part of the state."

89. In its Sworn Response, the RGA admitted that on October 28, 2010, six days after receiving the October 22 email from Ulm and the tracking poll data from the Dubie campaign, the RGA conceived of and created an initial draft of a radio advertisement called "Not the Vermont Way." A true and accurate copy of the text of this advertisement is attached hereto as Exhibit 4.

90. The radio advertisement called "Not the Vermont Way" included the following statements:

Peter Shumlin has run a campaign based on fear and mistruths.  
He has been plagued by scandals, admitting he's influenced by campaign donations.

...  
And even after Shumlin and his political cronies spent hundreds of thousands of dollars attacking Brian Dubie for his position on Vermont Yankee, Peter flip-flopped and now said he would keep the nuclear plant open.  
Peter Shumlin will say anything to win.

91. Vermont Yankee nuclear power plant is located in the southern part of Vermont. Issues surrounding Vermont Yankee were important to many Vermont voters in the southern part of the state in the fall of 2010. Closing Vermont Yankee was a position that tended to be favored by Vermont voters who leaned Democratic in the fall of 2010, especially in the southern part of Vermont.

92. The RGA ran the "Not the Vermont Way" advertisement on radio stations that reach voters in the southern Vermont counties of Bennington and Windham, including the

following stations: WJJR in Rutland, WJEN-FM in Rutland, WSYB-AM in Latham, N.Y., and WKVT-FM in Brattleboro.

93. RGA broadcast this radio advertisement from October 28 through November 2, 2010. It ran the advertisement under the name of its Vermont political committee, GMP.

94. In the Casey Interview, Casey admitted that polling data factored into “whether or not to run radio advertisements.”

95. In the Casey Interview, Casey admitted that “unlike TV in Vermont,” radio advertising has “very small specific markets” and can be targeted geographically. During the fall of 2010, radio was a more effective tool for targeting the southern region of Vermont than was network television.

96. By providing the October tracking poll data, analysis by POS, and/or POS’s strategic recommendations to the RGA, the Dubie campaign materially influenced the RGA’s advertising decisions regarding the content, audience, media outlet, and frequency of the “Not the Vermont Way” advertisement.

97. The RGA spent at least \$225 producing the “Not the Vermont Way” radio advertisement. The RGA spent at least \$1800 to broadcast the “Not the Vermont Way” advertisement.

98. The Dubie campaign knew or was willfully blind to the fact that the RGA would use the results of the October tracking poll, analysis by POS, and/or POS’s strategic recommendations to create advertising to promote or support candidate Dubie or to oppose or attack candidate Shumlin.

99. By providing the material information contained in the October tracking polling data, POS analysis, and/or POS's strategic recommendations to the RGA the Dubie campaign intentionally facilitated the RGA's "Not the Vermont Way" radio advertisement.

100. The "Not the Vermont Way" radio advertisement is a related campaign expenditure made by the RGA on behalf of candidate Brian Dubie. The value of the production and broadcasting of that advertisement is a contribution to the Dubie campaign.

101. By October 28, 2010, the RGA had made contributions greater than \$6,000 to the Dubie campaign. The RGA's "Not the Vermont Way" advertisement was an in-kind contribution to Dubie that exceeded the permissible contribution limit.

COUNT V  
(Failure to Report Contributions)

102. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 to 101 above, as if fully set forth herein.

103. Candidates for Vermont election are required to file periodic campaign finance reports with the Secretary of State pursuant to 17 V.S.A. § 2811. On these reports, the candidate is required to itemize every contribution greater than \$100 that it receives, listing the "full name, town of residence, and mailing address of each contributor who contributes an amount in excess of \$100.00, the date of the contribution, and the amount contributed." 17 V.S.A. § 2803(a)(1).

104. Each of the advertisements described above was an in-kind contribution from the RGA to Mr. Dubie. The costs of producing, distributing, and broadcasting the advertisements described above should have been listed as a contribution on Dubie's campaign finance reports filed with the Secretary of State's Office.

105. Dubie did not include any listing in his campaign finance reports indicating that he had received in-kind contributions from the RGA for the cost of producing, distributing, and broadcasting the advertisements described above.

106. Dubie's failure to report the in-kind contributions of the advertisements described above is a violation of 17 V.S.A. §§ 2803(a) & 2811.

107. Political committees are required to file periodic campaign finance reports with the Secretary of State pursuant to 17 V.S.A. § 2811. On these reports, the political committee is required to itemize every contribution greater than \$100 that it receives, listing the "full name, town of residence, and mailing address of each contributor who contributes an amount in excess of \$100.00, the date of the contribution, and the amount contributed." 17 V.S.A. § 2803(a)(1).

108. Each set of polling data described above that the Dubie campaign provided to the RGA is an in-kind contribution. They should have been reported on periodic campaign finance reports filed by the RGA with the Secretary of State.

109. The RGA has not filed any campaign finance reports with the Secretary of State listing these contributions. This is a violation of 17 V.S.A. §§ 2803(a) & 2811.

#### CLAIMS FOR RELIEF

WHEREFORE, the State of Vermont respectfully requests that the Court award it the following relief:

1. Enter a declaratory judgment that the "Can't Trust," "Women Speak Out," and "Not the Vermont Way" advertisements were related contributions from the RGA to Dubie as defined by 17 V.S.A. § 2809.

2. Enter a declaratory judgment that Dubie violated Vermont's campaign finance law by accepting contributions in the 2009-2010 general election cycle in excess of the \$3,000

per election limit provided in 17 V.S.A. § 2805(b) as amended by 1987 Vt. Acts & Resolves 263, § 3 (Adj. Sess.);

3. Enter a declaratory judgment that the RGA violated Vermont's campaign finance by making contributions of more than \$3,000 per election to Dubie in the 2009-2010 general election cycle in violation of 17 V.S.A. § 2805(b) as enacted by 1997 Vt. Acts & Resolves 64;

4. Enter a declaratory judgment that the RGA violated Vermont's campaign finance law by accepting a contribution from Dubie in the 2009-2010 general election cycle in excess of the \$2,000 limit provided in 17 V.S.A. § 2805(a);

5. Enter a declaratory judgment that Dubie violated Vermont's campaign finance law by making a contribution to the RGA in the 2009-2010 general election cycle in excess of the \$2,000 limit provided in 17 V.S.A. § 2805(b) as enacted by 1997 Vt. Acts & Resolves 64;

6. Enter a declaratory judgment that Dubie violated Vermont's campaign finance law by failing to report all contributions received from the RGA as required by 17 V.S.A. §§ 2803(a)(1) & 2811;

7. Enter a declaratory judgment that the RGA violated Vermont's campaign finance law by failing to report all contributions received from Dubie as required by 17 V.S.A. §§ 2803(a)(1) & 2811;

8. Order pursuant to 17 V.S.A. § 2806 that Dubie pay a civil penalty of up to \$10,000 for each failure to comply with the campaign finance provisions described herein;

9. Order pursuant to 17 V.S.A. § 2806 that RGA pay a civil penalty of up to \$10,000 for each failure to comply with the campaign finance provisions described herein;

10. Order Dubie and the RGA to file accurate campaign finance reports for the 2009-2010 general election cycle with the Vermont Secretary of State to conform to the facts stated herein;

11. Order pursuant to 17 V.S.A. § 2806 that Dubie to refund to the RGA the excess contributions received from the RGA;

12. Order 17 V.S.A. § 2806 that the RGA to refund to Dubie the excess contributions received from him, and

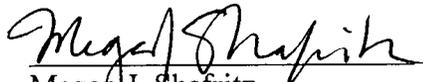
13. Award such other and further legal and equitable relief as the Court deems just and proper.

Dated at Montpelier, Vermont, this 9th day of December, 2011.

STATE OF VERMONT

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## CAN'T TRUST

RGA 092510 - Television advertisement

Can we trust anything Peter Shumlin says?

A Democrat senator testified that Shumlin killed a bill for fearing of losing campaign donations.

Shumlin even admitted he was influenced by big money.

And who could forget the 4.3 million dollars in tax credits awarded to his political friend who gave him thousands of dollars in campaign donations?

To top it off, Shumlin was voted the most ethically challenged legislator in Montpelier.

Peter Shumlin can't be trusted to do the right thing.

## CAN'T TRUST

### Radio advertisement

Can we trust anything Peter Shumlin says?

A Democrat senator testified that Shumlin killed a bill for fearing of losing campaign donations.

Shumlin even admitted he was influenced by big money.

And who could forget the 4.3 million dollars in tax credits awarded to his political friend?

The same friend who gave Shumlin thousands in campaign donations.

Peter Shumlin even says people think he's slick.

And he has a reputation for being a politician.

With a record like his, it's no wonder Shumlin was voted the most ethically challenged legislator in Montpelier.

We don't need another politician in Montpelier.

We need a leader we can trust and Peter Shumlin can't be trusted to do the right thing.

WOMEN SPEAK OUT

RGA 102210 - Television advertisement

[Various speakers:]

I'm pro choice

And I support Brian Dubie

Because he respects women

He's promised to protect our rights

And focus on good jobs and lower taxes

Affordable health care

A clean environment

Safe communities for our kids

So don't believe Peter Shumlin

He's proven time and again that he'll say anything to win

He's trying to scare us

He's trying to scare us

We are smarter than that

I'm pro choice

I'm pro choice

I'm pro choice and I support Brian Dubie

## NOT THE VERMONT WAY

### Radio advertisement

Vermont has a long history of electing honest governors we can be proud of

But Peter Shumlin has run a campaign based on fear and mistruths

He has been plagued by scandals, admitting he's influenced by campaign donations

Millions of dollars in tax breaks for his special interest political friend

The same friend who is funding false negative attacks against Brian Dubie

The Saint Albans Messenger says that Shumlin has violated the public's trust

And even after Shumlin and his political cronies spent hundreds of thousands of dollars attacking Brian Dubie for his position on Vermont Yankee, Peter flip-flopped and now said he would keep the nuclear plant open

Peter Shumlin will say anything to win

No wonder he was voted the most ethically challenged legislator in Montpelier

On election day, send a message to Peter Shumlin

We deserve a leader we can trust and

His way isn't the Vermont way