

Idaho's Sunshine Law just got dimmer

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May 24, 2:24 p.m., Boise time - At the insistence of Idaho Secretary of State Ben Ysursa, Idaho Citizens for Justice complies with the Idaho Sunshine Law and formally discloses it has been running a third-party, \$42,000 attack advertising campaign against 2nd District Judge John Bradbury in the Supreme Court election. For the first time, Idaho Citizens for Justice also notes its sources of money - half from eastern Idaho millionaire Frank VanderSloot and his company Melaleuca, and half from another group calling itself Citizens for Commonsense Solutions.

May 24, 2:55 p.m., Boise time - Under pressure from Ysursa's office, Citizens for Commonsense Solutions identifies its single source of funds as none other than VanderSloot.

Here's what all of this means: For 16 days, VanderSloot was financing a campaign to hurt Bradbury and help his opponent, incumbent Justice Roger Burdick, and nobody knew. That's a pertinent fact because VanderSloot has a history of backing independent campaigns against former Supreme Court Justice Cathy Silak and former 7th District Judge James Herndon. Some people take a dim view of his activities and had they known about this effort, some of them might have voted the other way out of spite.

But with disclosure coming a mere 17 hours before the May 25 primary election polls opened, few people got the word. Certainly absentee voters didn't know. Anybody who wasn't glued to the Internet or read their newspaper closely before voting was out of the loop as well.

And Bradbury, who lost the election, had no opportunity to fight back.

Nobody is saying VanderSloot, Citizens for Commonsense Solutions Chairman Ron Baker of Idaho Falls or Idaho Citizens for Justice Chairman Jonathan Haines of Idaho Falls deliberately deceived the voters. VanderSloot said he trusted groups to comply with the campaign finance disclosure laws. And in radio advertisements in southern Idaho, VanderSloot announced his own involvement in the effort.

Ysursa said it was "a lack of due diligence."

But Ysursa has imposed the largest fines ever on these groups - \$1,300 against Idaho Citizens for Justice and another \$600 upon Citizens for Commonsense Solutions. That reflects a penalty of \$50 per day per violation. Under state law, the maximum penalty could have been \$2,500 per group.

If you were bent on skirting the Sunshine Law, here's what this episode tells you:

It can be done again.

Wilful and knowing violation of the law invites prosecution as a misdemeanor, but that's virtually impossible to prove. All a perpetrator faces is a maximum \$2,500 fine. That's no deterrent. It's a cost of doing business. Any group that intends to spend \$42,000 can cough up another 6 percent. That's no more than someone would pay in sales tax on an upper-end automobile purchase.

This isn't the first campaign finance loophole VanderSloot has wittingly or unwittingly exposed. More than a dozen years ago, Idaho lawmakers limited how much money candidates for public office can accept from any single source. For statewide officers, it's \$5,000 per election - first the primary and then the general election - or \$10,000 per two-year cycle.

In 2002, Melaleuca gave the maximum \$10,000 to Republican Lawrence Wasden's campaign for attorney general.

Then Melaleuca of Asia kicked in another \$5,000 to Wasden.

So did Melaleuca of Canada.

As did Melaleuca of Japan.

The following election, the Idaho Education Association utilized much the same tactic. At Ysursa's urging, the 2006 Idaho Legislature plugged the loophole. For purposes of the contribution limit, one company could not claim to be separate entities if, for example, both shared the same board of directors.

Some sort of reappraisal of the penalties for hiding in the political shadows also now seems warranted.

How about raising the daily fine to \$100 and the maximum to \$10,000?

That may not deter someone with truly deep pockets.

You have to start somewhere. - M.T.