

Janice K. Brewer
Governor

Thomas M. Collins
Executive Director



Timothy J. Reckart
Chair

Louis J. Hoffman
Thomas J. Koester
Mitchell C. Laird
Steve M. Titla
Commissioners

State of Arizona
Citizens Clean Elections Commission

1616 W. Adams - Suite 110 - Phoenix, Arizona 85007 - Tel (602) 364-3477 - Fax (602) 364-3487 - www.azcleelections.gov

April 14, 2014

Mr. Doug Ducey
6512 N. Desert Fairways Dr.
Paradise Valley, AZ 85253

RE: CCEC MUR #14-004

Dear Mr. Ducey,

This letter is to inform you that on April 14, 2014, the Citizens Clean Elections Commission ("Commission") received the enclosed complaint regarding your campaign. The complainant has been notified this complaint is not in compliance with Commission rule A.A.C. R2-20-203. ***You do not need to respond to this complaint.*** Commission rule A.A.C. R2-20-204(B) requires the Commission to provide you with a copy of the non-compliant complaint.

The Commission will not take any action or make any finding in this matter.

Please contact me if you have any questions at (602) 364-3477 or by e-mail at sara.larsen@azcleelections.gov.

Sincerely,

A handwritten signature in cursive script that reads "Sara A. Larsen".

Sara A. Larsen
Campaign Finance Manager
Citizens Clean Elections Commission

Enclosure

April 2, 2014

The Honorable Ken Bennett
Arizona Secretary of State
1700 West Washington Street, 7th Floor
Phoenix, Arizona 85007

Clean Elections Commission
% Tom Collins, Executive Director
161 West Adams Street, Suite 110
Phoenix, Arizona 85007
Thomas.Collins@azcleaselections.gov

Dear Secretary Bennett and Director Collins:

I am a registered voter in Arizona and am a qualified elector eligible to file this complaint pursuant to ARS 16-905(K). I am writing to report campaign finance violations by Doug Ducey's gubernatorial exploratory committee and subsequent candidate committee, Ducey 2014 (hereafter "Ducey Campaign"). Mr. Ducey's most recent campaign finance report includes numerous instances of illegal contributions.

As set forth below, there is reasonable cause to believe that the Ducey Campaign has failed to comply with Arizona campaign finance laws. Accordingly, I request that the Secretary of State's office notify the Attorney General of said violations, as required by Section 16-924(A) of the Arizona Revised Statutes, and that the Citizens Clean Elections Commission investigate the matter pursuant to Section 16-956(B) of the Arizona Revised Statutes.

Summary

The Ducey Campaign's primary election committee filed a report with the Arizona Secretary of State's office showing \$229,968 of contributions from individuals in excess of \$2,000, a clear violation of Arizona's statutory campaign contribution limitations. Additionally, the Ducey Campaign's Exploratory Committee violated Arizona's campaign finance laws when they accepted contributions from individuals in excess of \$2,000 because changes to campaign finance law require campaigns to create two committees to accept contributions from individuals greater than \$2,000.

Factual Background

During the Fifty-first Legislature - First Regular Session, the Arizona Legislature debated legislation to modify Arizona's campaign contribution limits to mimic campaign contribution limits for Federal campaigns. On April 11, 2013, Arizona Governor Jan Brewer signed House Bill 2593 (hereafter "HB 2593"), which made a multitude of changes to Arizona's campaign finance statutes, including increasing the amount of money a person may contribute and changing the definition of an election to not include the primary election, essentially bifurcating Arizona's elections process as far as campaign contributions are concerned.

On "General Effective Date," September 13, 2013, the provisions of HB 2593 became effective. However, on October 15, 2013, the Arizona Court of Appeals enjoined the provisions of HB 2593, which raised contribution limits for political candidates running for statewide or legislative office. The injunction was in effect until December 17, 2013 when the Arizona State Supreme Court lifted the injunction and vacated the Court of Appeals opinion that blocked HB 2593 from going into effect. Following the decision by the Arizona State Supreme Court, all of the

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provisions of HB 2593 were in full effect.

The change of the definition of an election in HB 2593 established that the primary and general election are considered separate elections for the purposes of campaign contributions, each with a maximum individual contribution of \$2,500.

On January 31, 2014, the Ducey Campaign was still "exploring" a gubernatorial campaign, despite nearly doubling the amount raised by his nearest Republican opponent. Due to this, on January 31, 2014, the Ducey Campaign filed a campaign finance report with the Arizona Secretary of State's office reflecting that the Ducey Campaign's Exploratory Committee raised \$1,076,340.67 between November 27, 2012 and December 31, 2013.

On February 12, 2014, the Ducey Campaign amended their campaign finance reports with the Arizona Secretary of State's office, changed the "Exploratory Committee" to a "Candidate Campaign Committee," and created two, separate, campaign committees for the 2014 cycle - one for the primary and one for the general. However, as of today, the Ducey Campaign's finance report for the Primary election continues to reflect that the Ducey Campaign's Primary Election committee raised \$1,076,340.67.

Campaign Finance Violations

The acceptance and reporting of excessive campaign contributions represents an obvious violation of Arizona's statutory contribution limits for political campaigns according to Arizona Revised Statutes 16-905(B). Arizona law expressly states that individuals are permitted to contribute "two thousand five hundred dollars...for an election for a statewide office." Ariz. Rev. Stat. § 16-905(B)(1). This individual limitation is further reduced by Arizona law. "A nonparticipating candidate shall not accept contributions in excess of an amount that is twenty per cent less than the limits specified in section 16-905, subsections A through E, as adjusted by the secretary of state pursuant to section 16-905, subsection H." Ariz. Rev. Stat. § 16-941(B). The twenty per cent reduction formula from the Clean Elections Act results in a contribution limit for an individual to a statewide candidate of \$2,000 for the 2014 Primary Election and \$2,000 for the 2014 General Election.

The altering of the definition of an "election" in Section 16-901 by HB 2593 established that, for the purposes of campaign contributions, an election cycle is comprised of two elections, a Primary Election and a General Election. An opinion from the Arizona Attorney General's Office stated that "the primary election and the general election are *separate* elections," and that "the campaign contribution limits apply separately for each election." AZ Att'y Gen. Op. No. I13-007. This means that by changing the definition of an election in Section 16-901, HB 2593 doubled the contribution limitations of Section 16-905 by creating two "vehicles" - each tied to the same candidate for the same election cycle, but intended for *separate* elections - for an individual to contribute to.

Due to the altering of the definition of an "election," Candidate Campaign Committees were required to form two committees to accept contributions from individuals greater than \$2,000. In order to maintain a level playing field between Candidate Campaign Committees and Exploratory Committees, this change should apply to Exploratory Committees, despite seemingly contradictory statutory language in ARS 16-903(C). Therefore, the Ducey

Campaign's Exploratory Committee accepted illegal contributions when they accepted contributions from individuals in excess of \$2,000.

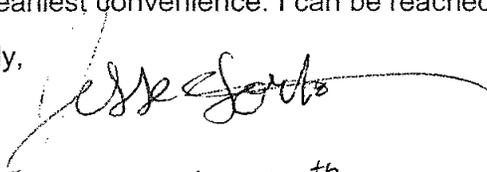
As of the writing of this letter, the Ducey Campaign has only filed a campaign finance report with the Arizona Secretary of State's Office for the Primary Election, despite receiving numerous contributions in excess of the \$2,000 limit for the Primary Election. Repeatedly, the Ducey Campaign has accepted two (2) \$2,000 contributions from individuals, on the same day, and deposited the entire \$4,000 sum into their Primary Election campaign committee. The Ducey Campaign cannot claim ignorance or lack of time as an excuse for filing campaign finance reports with illegal, excessive campaign contributions. Campaign finance reports were due on January 31, 2014, but the Ducey Campaign amended their report on February 12, 2014, when they re-filed their "Exploratory Committee" as a "Candidate Committee" for both the 2014 Primary Election and the 2014 General Election for governor of Arizona. This eleven-day window provided the Ducey Campaign with ample time to study the campaign finance reports of other statewide candidates who reported receiving contributions in excess of \$2,000 and use them as a model. Other prominent statewide candidates running in Republican primaries, including Tom Horne, Arizona's Attorney General, and Christine Jones, a Republican candidate for Governor, received two (2) \$2,000 contributions from an individual on the same day, and each of their campaigns managed to follow the law by depositing one (1) \$2,000 contribution into their Primary Election campaign committee and one (1) \$2,000 contribution into their General Election campaign committee.

The decision by the Ducey Campaign to ignore Arizona's statutory contribution limits and deposit every dollar they received into their Primary Election Committee, while "exploring" a run for Arizona governor, means that, at present, the Ducey Campaign's Primary Election Committee has received \$229,968 of excessive, illegal contributions.

Accordingly, because there is at least "reasonable cause to believe" that the Ducey Campaign has violated the contribution limitations of Arizona Revised Statutes 16-905, referral of this matter to the Attorney General, and an investigation and enforcement order from the Clean Elections Commission, are required. A finding that the Ducey Campaign has violated Arizona's contribution limits necessitates, according to ARS 16-905 (J), "a civil penalty imposed as prescribed in section 16-924 of three times the amount of money that has been received, expended or promised in violation of this section or three times the value in money for an equivalent of money or other things of value that have been received, expended or promised in violation of this section."

Thank you for your attention to this issue. I would appreciate a full investigation and a response at your earliest convenience. I can be reached at the address below.

Sincerely,



7506 So. 19th way
Phoenix AZ 85042.

April 2, 2014

The Honorable Ken Bennett
Arizona Secretary of State
1700 West Washington Street, 7th Floor
Phoenix, Arizona 85007

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% Tom Collins, Executive Director
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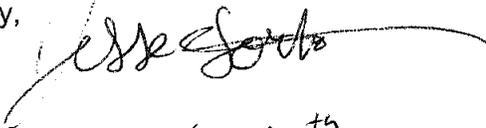
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