

STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION
MUR: No. 14-019 CAROLYN VASKO
STATEMENT OF REASONS BY EXECUTIVE DIRECTOR

On behalf of the Citizens Clean Elections Commission (“Commission”), the Executive Director hereby provides the Statement of Reasons showing there is no reason to believe that violations of the Citizens Clean elections Act and/or the Commission rules (collectively, the “Act”) may have occurred.

I. Procedural Background

On September 11, 2014, Kevin Payne (“Complainant”) filed a complaint (“Complaint”) against Carolyn Vasko (“Respondent”), a participating candidate State Senate in legislative district 21, alleging the Respondent violated Arizona’s campaign finance laws by using primary election funding for general election expenditures (**Exhibit A**). On September 24, 2014, Respondent, through her attorney, James Barton, submitted a Response to the Complaint (**Exhibit B**).

II. Alleged Violations

A. Using primary election funds for general election expenditures

Participating candidates may use primary election funds only for goods and services directed to the primary election, as specified in A.A.C. R2-20-106(G). A.R.S. §16-953(A) requires all candidates, at the end of the primary election period, to return “all monies in the candidate’s campaign account above an amount sufficient to pay any unpaid bills for expenditures made during the primary election period and for goods or services directed to the primary election.”

Section 16-953(A) and A.A.C. R2-20-106(G) are consonant with the structure of the Clean Elections Act (“Act”). Under the Act, candidates voluntarily agree to expenditure limitations set forth in the Act. *See* A.R.S. § 16-941. The Act, by its terms, apportions funding

between the primary and general elections. See A.R.S. § 16-951. Thus A.R.S. § 16-953(A) serves to backstop the limitations on general election expenditures, to which participating candidates agree, by ensuring that primary funds are not used to supplement general election grants resulting in expenditures beyond the limitations set forth in the Act and agreed to by participating candidates.

Complainant alleges Respondent violated A.R.S. §16-953(A) and A.A.C. R2-20-106(G) by purchasing mailers on August 22, 2014 without distributing the mailers during the primary election period. Complainant alleges “no one, including medium and high turn-out registered Democrats, Independents, and PNDs received ANY mailers from Carolyn Vasko” by August 26, 2014, the primary election date. Complainant believes it is “highly doubtful” Respondent’s mailers could have been printed, mailed, and received in homes by the date of the Primary Election. Complainant believes Respondent used primary election funding for the production of campaign mailers during the primary election period but did not distributed the mailers during the primary election period, effectively making the expenditure a general election expenditure.

III. Response

Respondent argues that all campaign mailers purchased with primary funds were “designed, printed, and mailed during the primary election with the intent to influence the primary election.” In her Declaration, Respondent states she ordered the first set of campaign mailers on August 21st and the second set of campaign mailers on August 22nd. She also states both of the mailers were mailed on August 25, 2014 and sent to 6,500 Democrats and Independents within her district. Respondent also provides the Declaration of Brian Rivera, product manager at J&R Graphics and Printing (“J&R”). In his declaration, Mr. Rivera states J&R printed two sets of mailers, totaling 6,500 mailers, for Respondent on August 23, 2014. Mr. Rivera declares under the penalty of perjury that both sets of mailers purchased by Respondent

were mailed on August 25, 2014. Mr. Rivera states that the first set of mailers were intended to be sent by August 22nd or 23rd, but due to a “scheduling error/printing error/backlog” both sets of mailers were sent on the same day, August 25, 2014.

On August 22, 2014, Respondent paid J&R \$2,986.36 for the printing and postage of the first mailer. On August 25, 2014, Respondent paid J&R \$2,985.33 for the printing and postage of the second mailer. Respondent also paid \$1,000 to Our Marketing Designs for logo and mailer design work. Both sets of mailers were produced and mailed on August 25, 2014, prior to the Primary Election. Therefore, the expenditure did not violate A.R.S. §16-953(A) and A.A.C. R2-20-106(G).

IV. Analysis

A. Using primary election funds for general election expenditures

The Act establishes limits on campaign expenditures for the primary election and general election periods. Pursuant to A.R.S. § 16-961(G), the primary election spending limit for a participating candidate for state legislature is \$15,253. The general election spending limit is \$22,880 pursuant to A.R.S. § 16-961(H). Candidates who choose to participate in the Clean Elections system accept these spending limits as a condition of receiving public funds.

In practice, the Commission has recognized that certain goods and services purchased with primary election funds during the primary election period may retain value and remain useful into the general election period. For example, a participating candidate who purchases campaign signs during the primary election period may continue to use the signs through the general election period, so long as their initial use is directed to the primary election. Similarly, a candidate may film a television advertisement that is broadcast during the primary election period and continue to broadcast that advertisement during the general election period. The

critical question is whether the goods or services purchased with primary election funds were at least initially directed to the primary election.

The purpose is significant because a participating candidate must return to the Clean Elections Fund any primary election funds not directed at the primary election, as prescribed in A.R.S. §16-953(A). Respondent clearly designed, paid for, and mailed the mailers in advance of the Primary Election with the intent of using the mailers to influence Democrats and Independents in the Primary Election on August 26, 2014. For those reasons, there is no reason to believe Respondent violated A.R.S. §16-953(A) and A.A.C. R2-20-106(G). I recommend the Commission find no reason to believe a violation occurred.

V. Investigation After Reason to Believe Finding


If the Commission determines by an affirmative vote of at least three (3) of its members that it has reason to believe a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding setting forth: (i) the sections of the statute or rule alleged to have been violated; (ii) the alleged factual basis supporting the finding; and (iii) an order requiring compliance within fourteen (14) days. During that period, the Respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission. A.R.S. § 16-957(A) & A.A.C. R2-20-208(A).

After the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, the Commission shall conduct an investigation. A.A.C. R2-20-209(A). The Commission may authorize the Executive Director to subpoena all of the Respondent's records documenting disbursements, debts, or obligations to the present, and may authorize an audit.

Upon expiration of the fourteen (14) days, if the Commission finds that the alleged violator remains out of compliance, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty in accordance with A.R.S. § 16-942, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. A.R.S. § 16-957(B).

After fourteen (14) days and upon completion of the investigation, the Executive Director will recommend whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred. A.A.C. R2-20-214(A). Upon a finding of probable cause that the alleged violator remains out of compliance, by an affirmative vote of at least three (3) of its members, the Commission may issue of an order and assess civil penalties pursuant to A.R.S. § 16-957(B). A.A.C. R2-20-217.

Dated this 8th day of October, 2014.

By: 
Thomas M. Collins, Executive Director

To: Arizona Clean Elections Commission
C/o Sara A. Larsen
Campaign Finance Manager
Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, Arizona 85007

From:
Kevin Phillip Payne
LD21 Constituent and LD21 Republican Party Chairman
8609 W Lawrence Ln Peoria AZ 85345
ld21chairman@gmail.com
623-229-1439

Re: Complaint against LD21 Senate Candidate Carolyn Vasko


Date: 9-5-14

1. Per Sara Larsen, Campaign Finance Manager with Clean Elections: "Participating candidates can only direct primary election funding towards primary election expenditures"
2. Carolyn Vasko received her Clean Elections Primary funding on Thursday 8/21/14, the Thursday prior to the Tuesday 8/26/14 primary election.
3. Carolyn Vasko's Secretary of State Campaign Finance Report filed 8/27/14 claims she spent \$2,986.36 on mailers on 8/22/14; \$1,000 on design work for mailers on 8/24/14; and \$2,985.33 on mailer #2 on 8/25/14.
4. I have asked LD21 precinct committeemen to ask Democrats, Independents, and PNDs if they have received a mailer from Carolyn Vasko on or before the Primary Election. No one, including medium and high turn-out registered Democrats, Independents, and PNDs received ANY mailers from Carolyn Vasko on or before the Primary Election. (Names of the registered Democrats, Independents, and PNDs can be provided if you need them.)
5. In addition, after speaking with political consultants who have coordinated mailers, the probability that the Vasko campaign could have received the money on Thursday 8/21/14, and then designed the mailer, printed the mailer, and mailed the mailer in time to be received into the homes on or before Primary Election Day is highly doubtful.

Because of these factors I ask the Clean Elections Commission to investigate my complaint and take any and all actions necessary.

Sincerely,


Kevin Payne

 9-11-2014
STATE OF ARIZONA
COUNTY OF Marcopa
Subscribed and sworn (or affirmed) before me this 11th day of September, 2014
Notary Public



SARA A. LARSEN
Notary Public—Arizona
Marcopa County
Expires 06/01/2016



14SEP11 AM 9:10 CCEC

STATE OF ARIZONA)

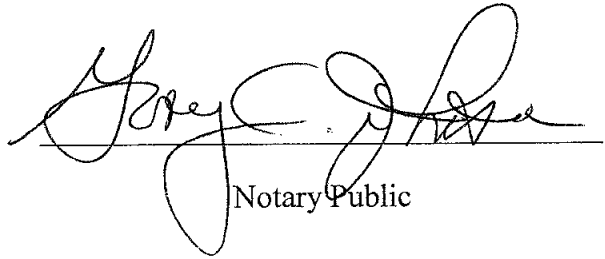
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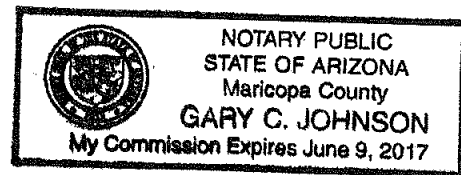
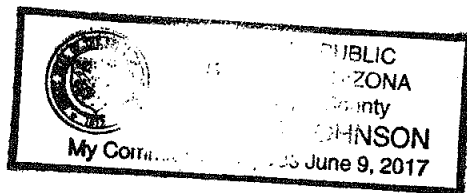
COUNTY OF MARICOPA)

This instrument was acknowledged before me this 4 day of September,
2014

My Commission Expires

9 June 2017


Notary Public



September 24, 2014

VIA HAND DELIVERY AND VIA ELECTRONIC MAIL

Thomas Collins, Executive Director
CITIZENS CLEAN
ELECTIONS COMMISSION
1616 West Adams, Ste. #110
Phoenix, AZ 85007

RE: SEPTEMBER 11, 2014, KEVIN PAYNE COMPLAINT, MUR 14-019

Executive Director Collins:

I am counsel in this matter for Vasko for State Senate, Committee No. 201400824 ("the Committee"). This letter is in response to the complaint filed by LD21 Republican Party Chairman Kevin Payne on September 11, 2014.

The complaint alleges that "no one" received Committee's mailers before the August 26, 2014 Primary Election based on hearsay from an unknown number of individuals who live in LD21 who did not receive mailers. Complainant further alleges he "highly doubts" that mailers could be designed, printed, and mailed between August 21 and August 26, 2014. In fact, the mailers were designed, printed, and mailed during the primary election period with the intent to influence the primary election. The mailers were paid for with primary election funds.

The Committee has verified that all the mailers in question were ordered, paid for, printed and mailed prior to August 27, 2014, all during the primary election period, using primary election funds, with the intent of influencing the primary election [Vasko Decl. ¶¶ 3-10] J&R Printing confirmed that the ordering, printing, payment, and mailing of the mailers occurred during the Primary Election period, on August 26, 2014 or before. [Brian Decl. ¶¶ 4-11]. *See Exhibit 1.* The expenditures were made during the primary period and were properly reported during the primary period. None of the mailers that were designed, ordered, and printed during the primary election period were mailed during the general election period.

The Commission should find no reason to believe that there has been a violation of the Citizens Clean Elections Commission Act or rules.

If you have any questions, please do not hesitate to contact me.

Sincerely,

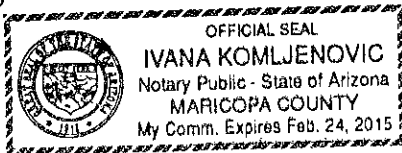
James E. Barton II
James E. Barton II

State of Arizona

County Maricopa

Subscribed and sworn (or affirmed) before me this 24th day of September 2014.

(Seal)



Ivana Komljenovic
Notary Public

DECLARATION OF CAROLYN VASKO

Carolyn Vasko declares the following:

1. I am currently a candidate for the Arizona Legislature in LD 21.
2. I have reviewed the complaint filed against my campaign by Kevin Payne, dated September 11, 2014.
3. I received my check from Clean Elections on August 21st at approximately 1:00pm. I deposited the check around 2:00 pm on the same day.
4. The mailers mentioned in the complaint in question were drafted, designed, ordered, and mailed prior to August 27, 2014. Specifically, the first set of mailers were ordered from J&R Graphics and Printing on August 21st at 6:30 pm. On August 21st at approximately 8:15 pm I had the proof of the first mailer. Both of these occurred during the Primary Election period.
5. On August 21st, DJ Quinlan researched and selected 6500 Democrats and Independents in my district to be recipients of the mailers.
6. All of the mailers mentioned in Mr. Payne's complaint dated 9/11/14 were paid for prior to August 27, 2014. Specifically, my campaign paid for the first mailers on August 22nd, during the Primary Election period.
7. On August 22nd, I started work on the second set of mailers. I received the final proofs of the second mailers at approximately 6:00 pm on the same day, August 22nd. I caught typos at approximately 7:19 pm and sought to have them corrected, but was told the plates were already made and that no changes could be made to the mailers at that time.
8. On August 25th, my campaign paid for the second set of mailers.

9. The first mailers were intended for mailing on August 22nd or 23rd but due to the printing process at J&R, both went out on the same day. The first and second set of mailers were mailed on August 25th.

10. The purchase of the mailers was a Primary Election expenditure, paid for with Primary Election funds.

11. The intent of the purchase of the mailers was to influence the Primary Election.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 23RD day of September 2014 at Peoria, Arizona.


Carolyn Vasko

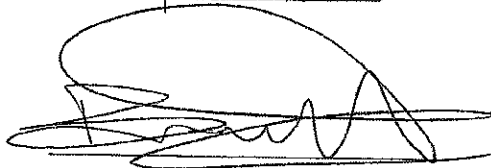
DECLARATION OF BRIAN RIVERA

Brian Rivera declares the following:

1. I am Brian Rivera, and I am over 18 years of age, and of sound mind.
2. I have personal knowledge of all facts contained in this declaration.
3. I am the Product Manager of J&R Graphics and Printing, located at 638 W. Indian School Rd. Phoenix, AZ 85013 in Maricopa County.
4. On August 21, 2014, Ms. Carolyn Vasko contacted me to place an order for mailers around approximately 3:30 pm. My designer worked on it that evening and we produced the final version for approval by approximately 8:15 pm. Ms. Vasko approved of our final design and we started production the next day.
5. Ms. Vasko paid for these mailers by check on August 22, 2014. She paid in full for these mailers on this day.
6. The mailers ordered on August 21, 2014 were printed on August 23, 2014.
7. Ms. Vasko also ordered a second set of mailers on August 22, 2014.
8. The mailers ordered on August 22, 2014 were printed on August 23, 2014.
9. Due to a scheduling error/printing error/backlog both sets of mailers did not get mailed until August 25, 2014. Ms. Vasko had ordered the first set of mailers to be sent on August 22, or August 23 2014. She did not approve of or ask for the delay.
10. Ms. Vasko paid in full for the second set of mailers on August 25, 2014.
11. The mailers were sent to approximately 6,500 households in LD21.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24th day of September, 2014, at Phoenix, Arizona.

A handwritten signature in black ink, appearing to read 'Brian Rivera', with a large, sweeping loop at the end.

Brian Rivera

EXHIBIT 1

WORK



GRAPHICS AND
PRINTING

ORDER

NO. 07377

CUSTOMER: Vasko for
State Senate Committee

BILL TO: 0814

ADDRESS: ADDRESS: Billed #09-1504

PHONE: (623) 521-0941

DELIVER TO: R8/20

ORDERED BY: Carolyn Vasko

DELIVERY CHARGES:

DATE ORDERED 8/21/14	RUSH	DATE COMPLETED	CUSTOMER P.O. NO.
- Drop: Mon, 8/25			

JOB DESCRIPTION	QTY	DESCRIPTION	PRICE	PER	TOTAL
		Mailer #1			
	6322	Printing	\$		1018 ⁰⁰
	6322	mail prep & P.D. delay	\$		246 ⁵⁵
	↓	postage	\$		1,615.82

QTY	STOCK(S)	INK(S)	STOCK SIZE	RUN SIZE	FINISH SIZE
	100 # gloss wr	4/4			8.5x11

COMPOSITION / ART:	PRICE
OTHER	PRICE

LETTER PRESS	IMPRINT	DIE CUT	SCORE	PERFORATE	NUMBER	OTHER					
BINDERY	FOLD	COLLATE	PAD	DRILL	STITCH	CUT	TRIM	WRAP	BOX	BIND	OTHER

SPECIAL INSTRUCTIONS: AK 8/22/14

Steve

U gang run

SUB	
TAX	
TOTAL	



J&R Graphics and Printing

638 W. Indian School Road

Phoenix, AZ 85013

(O)602-233-3336 (F)602-233-8886

jandrunionprinting.com

Invoice

Date	Invoice #
8/22/2014	09-7504

Bill To

Carolyn Vasko for State Senate Committee

P.O. No.	Customer Contact	Customer Phone #	Terms	Due Date	Rep
07377	Carolyn Vasko	623.521.0941	Due on receipt	8/22/2014	BR
Qty	Description			Amount	
6,322	Mailer #1: 8.5" x 11" full color, 2 sided no bleed on 100# gloss cover.			1,018.00	
6,322	Mailing service: ink jet, sort, tie , tray & delivery to Phx PO.			247.50	
	Postage			1,615.82	

BALANCE DUE UPON DELIVERY

*This invoice shall be treated as an agreement of sale. This parties agrees to be bound by laws of the State of Arizona. This buyer herein agrees to pay sellers reasonable attorney's fees if this agreement is referred to an attorney for necessary enforcement proceedings, IN ACCORDANCE WITH MANFOLD TRADE CUSTOMS, ALL QUANTITIES ARE SUBJECT TO 10% OVER/UNDER RUN TO AVOID PAPER WASTE. 1 31/2 Per Month Service Charge Will Be Assessed On Any Balance 30 Days Past Due (21% Year)

RECEIVED BY: _____

Subtotal	\$2,881.32
Sales Tax (8.3%)	\$105.04
Payments/Credits	-\$2,986.36
Balance Due	\$0.00

VASKO FOR ST. SENATE ELECTION COMMITTEE
CAMPAIGN ACCOUNT

1006

7337 W DAHLIA DR
PEORIA AZ 85381-5380

91-1701221 AZ
2761

PAY
TO THE
ORDER OF

J & R Graphics Printing

DATE

8/22/14

\$ 7537.67

Bank of America

ACH R/T 122101706

DOLLARS



PRINTED
ON
RECYCLED
PAPER

FOR Signs, cards, mailers

Carolyn M. Vasko

⑈001006⑈ ⑆122101706⑆ 457025215070⑈

J&R Graphics and Printing

638 W. Indian School Road

Phoenix, AZ 85013

(O)602-233-3336 (F)602-233-8886

jandrunionprinting.com

Invoice

Date	Invoice #
8/25/2014	09-7535

Bill To

Carolyn Vasko for State Senate Committee

P.O. No.	Customer Contact	Customer Phone #	Terms	Due Date	Rep
07385	Carolyn Vasko	623.521.0941	Due on receipt	8/25/2014	MS
Qty	Description			Amount	
6,322	Post card Mailer #2 8.5 x 11, full color, 2 sided on 100# gloss cover			1,018.00	
6,322	Mailing Services: ink jet, sort, tie and deliver to post office			246.55	
6,322	Postage amount due			1,615.82	

BALANCE DUE UPON DELIVERY

*This invoice shall be treated as an agreement of sale. This parties agrees to be bound by laws of the State of Arizona. This buyer herein agrees to pay sellers reasonable attorney's fees if this agreement is referred to an attorney for necessary enforcement proceedings, IN ACCORDANCE WITH MANIFOLD TRADE CUSTOMS, ALL QUANTITIES ARE SUBJECT TO 10% OVER/UNDER RUN TO AVOID PAPER WASTE. 1 31/2 Per Month Service Charge Will Be Assessed On Any Balance 30 Days Past Due (21% Year)

Subtotal	\$2,880.37
Sales Tax (8.3%)	\$104.96
Payments/Credits	-\$2,985.33
Balance Due	\$0.00

RECEIVED BY: _____

VASKO FOR ST. SENATE ELECTION COMMITTEE
CAMPAIGN ACCOUNT

1008

7337 W DAHLIA DR
PEORIA AZ 85381-5380

91-170/1221 AZ
2761

DATE

8/25/14

PAY
TO THE
ORDER OF

J. R. Leavathes and Printing

\$ 2785.33

Bank of America

ACH RPT 122101706

DOLLARS

1
Security
Deposit to
Direct

FOR

maile #2

⑈001008⑈ ⑆122101706⑆ 457025215070⑈

Leavathes