

Erica Fetherston
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Phoenix, AZ 85018
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*18FEB 2 PM1233 CCEC

February 1, 2018

To Whom It May Concern:

I am writing to register formal complaints with both the Secretary of State and the Clean Elections Commission regarding Kathy Hoffman, a candidate for Arizona Superintendent of Public Instruction.

On December 19, 2017, I received an automated call on my cell phone from candidate Hoffman. My husband and others I am aware of received identical voicemails, which is how I know it was automated. The following is a transcript of the automated call:

"Hey, sorry I missed you. This is Kathy Hoffman, Democratic candidate for state superintendent. I am a public school teacher and I need your help to win this election and fight for the future of our schools and children. I am proud to be both one of many women running for statewide office and a Clean Elections candidate. Anyways, I'm right now raising \$5 Clean Elections donations and I need your support. To donate \$5, it's really easy. Just go on my website, electkathyhoffman.com. Your \$5 donation helps me win and puts the power in the people, rather than millionaires. Do you think you can do that by this Thursday, before the holidays? I'm also asking for your vote in the August primary. Thanks again. Call or text me anytime with questions at 602.505.1623."

Missing from the message was any kind of "paid for by..." disclosure. If Hoffman paid for the message out of her campaign committee, I believe the failure to include the disclosure is in violation of ARS 16-925. If the automated calls were provided to her at no cost, Hoffman failed to report the value of the in-kind donation on her most recent finance report covering December of 2017. If the messages were paid for by an independent committee, Hoffman clearly coordinated efforts with the independent committee since it is her voice in the message. Such coordination would also be in violation of state law if not reported as an in-kind. Regardless of the source of the autodial, Hoffman's failure to report the expenditure violates campaign disclosure laws and Clean Elections rules.


If necessary, I am happy to provide a digital recording of the above-referenced automated message.

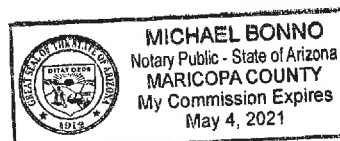
I swear that the information I have provided above is true and accurate to the best of my knowledge.

Sincerely,



Erica Fetherston

State of Arizona
County of Maricopa
On this 2nd day of February, 2018,
before me personally appeared Erica Fetherston
whose identity was proved to me on the basis of
satisfactory evidence to be the person whose name is
subscribed to this document, and who acknowledged
that he/she signed the above/attached document.

Notary Public 6-4-2021
Commission Expires



February 8, 2018

To Whom It May Concern:

We appreciate the spirit of this complaint and respect the complainant's concern in the matter; however, the campaign strategy she is referring to is not a robocall. Since the strategy employed is not a robocall nor does it fall under any of the other categories listed under ARS 16-925, the disclosure requirement does not apply.

In good faith of section "E" of ARS 16-925, we employed a "short messaging service" and therefore believed we were abiding by the law. At this time, we would like to refrain from sharing the specifics of this campaign strategy, as we have good reason to believe the complainant is supporting our primary opponent. However, if in the process of the determination from the Secretary of State this knowledge would be helpful, we are happy to share the details confidentially.

Finally, as to the finance disclosure issue, we thank the complainant for bringing this to our attention. Our treasurer made a simple accounting mistake and did not report the expense accurately. We filed a corrected and amended finance report right away on January 31st, before the complainant sent her supplemental complaint on February 2nd. It now shows the correct disbursement. The confirmation email for the amended report is displayed below:

----- Forwarded message -----
From: No Reply <NoReply@azsos.gov>
Date: Wed, Jan 31, 2018 at 10:53 PM
Subject: Filing Confirmation for "2nd Report (4th Quarter)"
To: Elect Kathy Hoffman for Superintendent <kathyhoffman01@gmail.com>
CC: Katherine Hoffman <kathyhoffman01@gmail.com>, Joe Downs <arizonajoesdowns@gmail.com>

You filed the "2nd Report (4th Quarter)" report on 1/31/2018 10:52 PM for Committee ID 201800138 and the report has now been processed and is available to view on the Secretary of State's website

Your confirmation number for this campaign finance report filing is 178603

You may go to our website (www.azsos.gov) and view your report

Thank you,
Arizona Secretary of State

-- Campaign Finance Automated Email

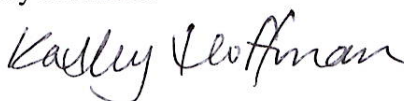
DO NOT REPLY TO THIS EMAIL

If the SOS office determines our campaign strategy does not fall under a short messaging service as described in section "E" of ARS 16-925, then we respectfully ask for both an explanation as to why not and an opportunity to respond.

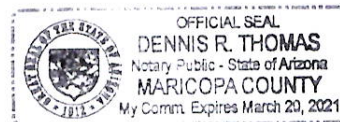
Thank you for your help in this matter.

Respectfully,

Kathy Hoffman



State of Arizona)
County of Maricopa)
Subscribed and affirmed before me
this 26 day of Feb, 2018
by Dennis R. Thomas



Doug Ducey
Governor

Thomas M. Collins
Executive Director



Damien R. Meyer
Chair

Steve M. Titla
Mark S. Kimble
Galen D. Paton
Amy B. Chan
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.azcleanelections.gov

Kathy Hoffman
PO Box 10755
Glendale, AZ 85318
kathyhoffman01@gmail.com

Via E-Mail Only
Re: MUR 18-03

Dear Ms. Hoffman:

We have received your response to the Complaint, as well as the amended report. In view of your amended report, your statement you employed an audio short message service (SMS) and the widespread availability of audio SMS,¹ I am closing complaint pursuant to A.A.C. R2-20-206(A)(3). In the event that any statement in your response is determined to be false, I reserve the right to reinstate the Complaint.

At this time, the Commission will not take any action in this matter based on the information that is available. Please contact me if you have any questions at (602) 364-3477 or by e-mail at thomas.collins@azcleanelections.gov.

Sincerely,
S/Thomas M. Collins
Executive Director

cc: Erica Fetherston, E-Mail.
Sara Larsen, E-Mail
Eric Spencer, E-mail

¹ See, e.g., Jack Wallen, How to send audio clips via SMS in Android, <https://www.techrepublic.com/article/how-to-send-audio-clips-via-sms-in-android/> Jan. 9, 2015 (last checked Feb. 23, 2018).; see also A.R.S. 16-925(E)(1) (stating that disclaimer section does not apply to "messages sent by a short message service).