

Arizona Clean Elections Commission

September 12th, 2016

'16 SEP 13 PM 2:19 CCEC

To Whom It May Concern,

I am requesting that you investigate Stand for Children Arizona IEC for campaign finance violations. First, they began running TV commercials on August 2nd, 2016 against Warren Petersen in the LD12 State Senate race and failed to provide him with the legally required notification within 24 hours of the ads being run.

Second, when they finally got around to reporting the expense, they reported it as being "In Support Of" Jimmy Lindblom but not "In Opposition To" Warren Petersen. You can view the advertisement at <https://www.youtube.com/watch?v=-wozmKlrLck> to see it is clearly an attack ad. Roughly 19 of the 30 seconds is entirely an attack on Petersen without even mentioning Lindblom. At the minimum the expense should be split proportionally between the two candidates. An ad that only says good things about Lindblom is in support of Lindblom, while an ad that was entirely negative about Petersen could only be in opposition to Petersen. An ad that is two-thirds in opposition cannot be considered entirely in support of Lindblom.

This may not be a critical distinction, except that Lindblom and his campaign surrogates have featured their argument that Petersen has somehow been the only beneficiary of "dark money attack ads" which is a false claim they were only able to make because Stand for Children concealed the nature of their spending in their reports. The record needs to be corrected.

I ask that you investigate and apply the appropriate penalty for any violations of the failure to notify and that you require them to correct their reports as well.

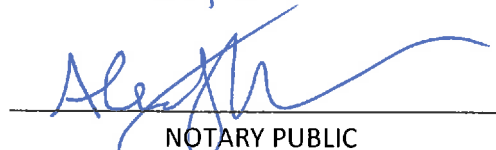
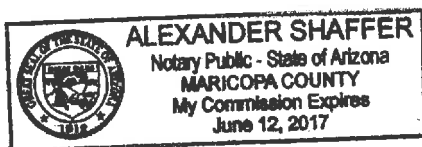
Thank you,



Constantin Querard
330 E Thomas Rd
Phoenix, AZ 85012

State of Arizona)
)
County of Maricopa)

Subscribed and sworn (or affirmed) before me this 13th day of September 2016.


NOTARY PUBLIC

September 28, 2016

VIA U.S. MAIL & E-MAIL

Sara A. Larsen
Financial Affairs & Compliance Officer
Arizona Citizens Clean Elections Commission
1616 W. Adams, Suite 110
Phoenix, AZ 85007
sara.larsen@azcleelections.gov

**Re: CCEC MUR No. 16-003 – Response of Stand for Children Arizona IEC to
Campaign Finance Complaint**

Dear Ms. Larsen:

As you know, this firm represents Stand for Children Arizona IEC (“Stand for Children”) for purposes of responding to the campaign finance complaint filed by Constantin Querard on September 2, 2016, MUR No. 16-003 (the “Complaint”). An identical complaint was filed with the Arizona Secretary of State’s Office (“SOS”) on that same date, and Stand for Children filed its response on the merits with the SOS on September 26, 2016. A copy of Stand for Children’s response (the “SOS Complaint Response”) is attached hereto as Exhibit 1, and is incorporated herein by reference. The SOS Complaint Response responds to each of the issues actually raised by the Complaint, Stand for Children stands by those responses, and as a result, will not repeat them here.

In response to the Complaint that was filed with the Citizens Clean Elections Commission (the “Commission”), as a preliminary matter, we urge the Commission to summarily dismiss the Complaint because it fails to comply with Commission regulations regarding complaints. See A.A.C. § R2-20-203(D)(3) (requiring that a complaint to the Commission “[c]ontain a clear and concise recitation of the facts which describe a violation of a statute or rule **over which the Commission has jurisdiction**”) (emphasis added). Here, the Complaint – which indisputably makes **no mention** of any alleged violations of the Citizens Clean Elections Act or its implementing regulations – cannot stand and should be summarily dismissed. Even though the Complaint is defective, we respond to its substance out of an abundance of caution. In so doing, Stand for Children does not concede that the Commission has jurisdiction to enforce the statutes specifically referenced in the Complaint.

Therefore, without waiving this threshold jurisdictional argument, Stand for Children hereby responds to the only two theoretical issues relevant to its compliance with the Citizens Clean Elections Act and its implementing regulations that it was able to glean from the vague allegations set forth in the Complaint.

First, and to the extent that the trigger reporting requirements of A.R.S. §§ 16-941(D), 16-958(B), and A.A.C. § R2-20-109(F)(4) remain valid and enforceable, Stand for Children in fact filed a trigger report with the Commission identifying the full amount of the expenditure for the advertisement specified in the Complaint (the "Advertisement") on August 9, 2016. And while the Committee's August 9 trigger report did not list Warren Petersen, the Committee subsequently filed an amended report reflecting that the expenditure at issue mentioned both Mr. Lindblom and Mr. Petersen. This amended report was not required, but was filed with the Commission as a protective measure.

These facts are ultimately irrelevant because the trigger reporting requirements found in the Commission's enabling statutes and regulations are no longer enforceable. Those authorities purport to require supplemental reports when certain amounts have been spent, and cross reference A.R.S. § 16-941(D) as providing the procedure for filing such reports. A.R.S. § 16-941(D), in turn, requires the filing of reports with the SOS, and A.R.S. § 16-958(D) and (E) make clear that the filings are to be made electronically with the Secretary of State. But as the Commission knows well, the SOS no longer provides a method for the filing of such reports. Indeed, the recently-proposed rule to provide for a filing directly with the Commission (Proposed Rule A.A.C. § R2-20-109(B)), and the Commission's creation of a separate form for these reports (<http://www.azcleaselections.gov/CmsItem/File/141>) are acknowledgements that no filing system that complies with the statute exists.

We have confirmed with the SOS that no reports under A.R.S. § 16-941(D) and A.R.S. § 16-958 have been filed by any independent expenditure committee this cycle. That is for good reason: ***the State has no substantial justification for requiring independent expenditure committees to file such reports***. While these reports served a purpose when the Commission provided matching funds, that justification evaporated with the decision of the Supreme Court in *Arizona Free Enterprise Club v. Bennett*, 131 S. Ct. 2806 (2011). Financial disclosure requirements, such as this, are subject to exacting scrutiny "which requires a 'substantial relation' between the disclosure requirement and a 'sufficiently important' governmental interest." *Citizens United v. F.E.C.*, 130 S. Ct. 876 (2010). Here, in light of the Court's holding in *Bennett*, there is **no** governmental interest at all regarding these disclosure requirements, to say nothing of one that is "sufficiently important" to impose a burden of this nature on political speech. Further, no such disclosure requirements are imposed on candidates, candidate committees, or committees exempted from the statute under A.R.S. § 16-941(D). As explained in the SOS Complaint Response [Exhibit 1 at 3], independent expenditure committees cannot constitutionally be singled out for extra-onerous disclosure requirements. In short, the trigger reporting requirements did not apply to Stand for Children.

Lastly, even if the trigger reporting requirements are enforceable, Stand for Children's only alleged error was the omission of one candidate name in reporting the expenditure for the Advertisement, a television spot in which the fact that Mr. Petersen's name was mentioned is abundantly clear. At most, Stand for Children's initial trigger report contained a clerical error that has since been corrected, and should not be the subject of any enforcement action.

Second, and though Stand for Children did not provide the Commission with a copy of the Advertisement "at the same time and in the same manner as prescribed by A.R.S. § 16-

917(A) and (B),”¹ as it was purportedly required to under A.A.C. § R2-20-109(F)(2), the Commission cannot take enforcement action against it because that regulation (1) has been repealed by order of the Governor’s Regulatory Review Council (“GRRC”) and operation of law, and (2) like the statute it specifically references, is unconstitutional because it compels speech, regulates speech on the basis of content, and discriminates against independent expenditure committees like Stand for Children.

Initially, A.A.C. § R2-20-109(F)(2) is no longer in effect as a matter of law, and thus cannot be the source of an enforcement action against Stand for Children. Indeed, at a meeting held on February 2, 2016, the GRRC ordered the repeal of that regulation, six months from that date was August 2, 2016, and as a consequence, it “automatically expire[d],” A.R.S. § 41-1056(G), before Stand for Children would have been required to comply with its provisions. Simply put, an enforcement action by the Commission cannot be premised on an inoperative regulation.

Even if A.A.C. § R2-20-109(F)(2) remains on the books – which we understand to be the Commission’s position in an ongoing dispute with the GRRC – it is unconstitutional just like A.R.S. § 16-917(A), the statute on which it is based. [See Exhibit 1 at 3] But in the particular context of this separate notice requirement and the Commission, its unconstitutionality is even more apparent because in the wake of *Bennett*, there is simply no governmental interest (or even rational basis) for the burden it places on speech. Like the trigger reporting requirement before it, this notice requirement simply cannot withstand “exacting scrutiny,” and consequently, cannot serve as the basis for an enforcement action by the Commission.

For the reasons set forth above, the Complaint should be dismissed. Please feel free to contact me with any questions regarding this Response

Sincerely,



Roopali H. Desai

RHD:slm

cc: Constantin Querard
330 E. Thomas Road
Phoenix, AZ 85012

¹ The Committee hand-delivered a copy of the Advertisement to the Commission on September 16, 2016. As with the amended trigger report, the Committee believes it had no obligation to take this step, but did so as a protective measure, and without prejudice to raising the issues found in this Response.

VERIFICATION

State of Arizona)
)
County of Maricopa)

Subscribed and sworn before me this 28th day of September, 2016.



Sheri McAlister
Notary Public

Exhibit 1

Exhibit 1

COPPERSMITH
BROCKELMAN

LAWYERS

Roopali H. Desai
rdesai@cblawyers.com
PH. (602) 381-5478
FAX (602) 772-3778

2800 North Central Avenue, Suite 1200
Phoenix, AZ 85004
CBLAWYERS.COM

September 26, 2016

VIA U.S. MAIL & E-MAIL

Eric Spencer, Esq.
State Election Director
Arizona Secretary of State
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007-2808
espencer@azsos.gov

**Re: SOS-CF-2016-012 – Response of Stand for Children Arizona IEC to
Campaign Finance Complaint**

Dear Eric:

As you know, this firm represents Stand for Children Arizona IEC ("Stand for Children") for purposes of responding to the campaign finance complaint filed by Constantin Querard on September 2, 2016, SOS-CF-2016-012 (the "Complaint"). As detailed below, Stand for Children satisfied its reporting and notice obligations under Arizona law, and the Complaint should be dismissed without any further action.

The Complaint turns entirely on a single advertisement run by Stand for Children in the LD12 state senate Republican primary race between Warren Petersen and Jimmy Lindblom (the "Advertisement"). The content of the Advertisement – a link to which is provided in the Complaint – speaks for itself. Based on the Advertisement and how that expenditure was reported to the Secretary of State ("SOS"), the Complaint contains two substantive allegations, specifically that Stand for Children: (1) improperly reported the expenditure for the Advertisement "as being 'In Support Of' Jimmy Lindblom but not 'In Opposition to' Warren Petersen," and (2) "failed to provide [Mr. Petersen] with the legally required notification within 24 hours of the ads being run." We address each of the Complaint's allegations in turn.

First, Stand for Children properly reported the expenditure for the Advertisement within the confines of the SOS's electronic campaign finance reporting database. Here, there is no dispute that Stand for Children properly reported (1) the amount of the expenditure, (2) the recipient of the funds that were the subject of the expenditure, and (3) the candidate whose election was expressly advocated by the expenditure. Further, the Advertisement indisputably contains the appropriate disclaimer and clearly identifies Stand for Children in the "paid for by" line. In other words, Stand for Children in no way tried to hide or avoid disclosure regarding its involvement in the Advertisement. The Complaint's only quarrel is that Stand for Children's reporting of the expenditure did not properly account for the fact that "two-thirds" of the Advertisement allegedly contained negative statements about Mr. Petersen and that "at the [sic] minimum the expense should be split proportionately between the two candidates."

While A.R.S. § 16-915(F) describes the information that must be reported by an independent expenditure committee such as Stand for Children, most relevant here is A.R.S. § 16-916.01, which mandates that this required information be filed electronically "using computer programs that are provided . . . by the [SOS]." A.R.S. § 16-916.01(A). The statute further provides that if filings made under that electronic system are "complete and correct," they comply with the filing requirements imposed by Chapter 9 of Title 16. Stand for Children's reporting of the expenditure for the Advertisement was "complete and correct" under the SOS's campaign finance reporting database, which provides a committee with a **binary** choice between "In Support Of" or "In Opposition To" when reporting an expenditure involving a candidate. It is thus technologically impossible for a committee to report a single expenditure as being some combination of those general categories, and Stand for Children chose one category in which to accurately report the amount and recipient of the expenditure at issue.¹ To "split" the reporting of the expenditure, as the Complaint suggests, could arguably result in a reporting that was not "complete and correct," given that the expenditure was for the reported sum and was not divided in any way by Stand for Children or its vendor. Any proportional "split" could have exposed Stand for Children to a **separate** campaign finance complaint.

Given the technological limitations imposed by the SOS's campaign finance reporting database, it would be unfair to penalize Stand for Children by construing the governing statutes to put it between the Scylla of the Complaint, and the Charybdis of another. Accordingly, this component of the Complaint should be dismissed without any further action.

Second, Mr. Petersen in fact received notice of the Advertisement, and thus Stand for Children complied with, at the very least, the spirit of the unconstitutional requirements of A.R.S. § 16-917(A). That statute provides as follows:

A political committee . . . that makes independent expenditures for literature or an advertisement relating to any one candidate or office within sixty days before the day of any election to which the expenditures relate, shall send by certified mail a copy of the campaign literature or advertisement to each candidate named or otherwise referred to in the literature or advertisement twenty-four hours after depositing it at the post office for mailing, twenty-four hours after submitting it to a telecommunications system for broadcast or twenty-four hours after submitting it to a newspaper for printing.

Here, the relevant facts are as follows:

- The Advertisement first ran on a telecommunications service on August 2, 2016 at 7:53 AM [Exhibit A (Stand for Children Client Spot Listing)];

¹ We further note that Dan Soltesz, Stand for Children's treasurer, spoke with Stephanie Cooper of your office in advance of reporting the expenditure for the Advertisement, and sought guidance after discovering the technological limitations of the campaign finance reporting database. Ms. Cooper reported that she did not "see anything in the statutes" regarding the proper reporting of an expenditure of this nature, and that she would research the issue further and get back to him. Mr. Soltesz did not hear from Ms. Cooper again.

- Stand for Children personally delivered a copy of the Advertisement to Mr. Petersen on August 5, 2016 at 12:42 PM [Exhibit B (Delivery Confirmation from Corporate Delivery Service)].

In short, there is no question that Mr. Petersen in fact received a copy of the advertisement shortly after it began to run on television stations in the Phoenix area.

As a threshold matter, the notification requirement imposed by A.R.S. § 16-917(A) is unconstitutional because it compels speech, regulates speech on the basis of content, and discriminates against independent expenditure committees like Stand for Children. In *Arizona Right to Life Political Action Comm. v. Bayless*, 320 F.3d 1002 (9th Cir. 2003), and for many of these reasons, the Ninth Circuit struck down a prior version of Section 16-917(A), which required advance notice of independent expenditures. And while the Legislature has since amended Section 16-917(A) in an attempt to address the constitutional concerns identified in *Bayless*, its attempt failed. Most notably, the statute continues to:

- Constitute a content-based restriction on speech, *i.e.*, one that applies only to independent expenditures “relating to” a candidate, *Bayless*, 320 F.3d at 1009;
- Discriminate against independent expenditure committees “in its imposition of restrictions on PACs that are not levied on candidates and other participants in the political process,” *id.*;
- Restrict the expression of political speech by needlessly compelling subsequent speech, *cf. id.* at 1010;
- Be “over-inclusive because it is not limited to negative campaigning but rather reaches all of a PAC’s independent expenditures that advocate for or against the election of any candidate,” *id.* at 1012;
- Severely burden speech for reasons that are not substantially related to the State’s “compelling interest in promoting an informed electorate and in avoiding corruption or the appearance of corruption in the political process,” *id.* at 1010; and
- Require notice be given by certified mail, which “fails to meet [the statute’s] objection of providing candidates notice,” *id.* at 1011.

Section 16-917(A) remains an unconstitutional limitation on speech both on its face and as-applied to Stand for Children. Any enforcement action brought thereunder is sure to fail as a matter of law.

In addition, and in the spirit of the statute’s proffered purpose of providing affected candidates with notice, *id.* at 1011, Mr. Petersen **in fact received notice** of the Advertisement, perhaps in advance of when he would have received that notice if it had been sent by certified mail. Again, the Advertisement first ran on the morning of August 2, 2016, and had Stand for Children utilized certified mail as required by Section 16-917(A), it would only have had to “deposit” it for mailing within 24 hours. Depending on where the Advertisement was “deposit[ed],” when mail at that location is picked up, the complexities (and unexplained delays)

of the U.S. Postal Service, and whether a person would have been present at the address for Mr. Petersen's campaign committee at the precise moment that a postal carrier would have attempted delivery (*i.e.*, whether attempts on subsequent days would have been required), it is simply impossible to know when Mr. Petersen would actually have received a copy of the Advertisement. Rather, in this case, Stand for Children hand-delivered a copy of the Advertisement to Mr. Petersen ensuring that he received notice of the Advertisement promptly. In short, Stand for Children provided Mr. Petersen with notice in a more effective and efficient way than required by the antiquated method set forth in Section 16-917(A).

Lastly, the harsh penalty prescribed by A.R.S. § 16-917 ("three times the cost of the literature or advertisement that was distributed") is strong evidence that it was intended to apply **only** in those situations where a committee wholly fails to comply with the notice requirements of Section 16-917(A). That is clearly not the case with Stand for Children's good-faith attempt to comply with the statute by promptly delivering the Advertisement to Mr. Petersen. And beyond that, the imposition of a civil penalty in excess of \$90,000 when the spirit of the statute was met – beyond the obvious disregard of common standards of fairness – would violate the Eighth Amendment to the United States Constitution and Article II, § 15 of the Arizona Constitution as an excessive fine. *United States v. Mackby*, 261 F.3d 821, 829 (9th Cir. 2001) (holding that a civil fine or penalty "is unconstitutionally excessive if (1) the payment to the government constitutes punishment for an offense, and (2) the payment is grossly disproportionate to the gravity of the defendant's offense."). Here, the civil penalty provision of A.R.S. § 16-917 plainly has a punitive purpose because "[n]o damages to the government need be shown," *id.* at 830, and a \$90,000 fine is perhaps the very definition of a payment "grossly disproportionate to the gravity" of Stand for Children's alleged offense.

For the reasons set forth above, the Complaint should be dismissed. Please feel free to contact me with any questions regarding this Response.

Sincerely,



Roopali H. Desai

RHD:slm

cc: Constantin Querard
330 E. Thomas Road
Phoenix, AZ 85012

Exhibit A

Client Spot Listing

Start Date : 08/02/16
Stop Date : 08/08/16
Start Time : 00:00
Stop Time : 24:00
Zone : All
Network : All
Client : STAND FOR CHILDREN NCCAZ
Contract ID : 1289967
Contract Type : All
Billing Type : All
Ad Copy : All
Account Executive : All
Spot Status : All
Sort By : Client
Show Spot Cost : Yes
Formal Spot List : No
Exclude Interconnect : Yes
Show Program Name : Yes

Air Date	Client ID	Client Name	Contract ID	Line	Zone	Network	Program Name	Air Time	AdCopy ID	AdCopy Name	Cost	Status	Road-block ID
Client Name: STAND FOR CHILDREN NCCAZ													
08/02/16	103461	STAND FOR CHILD	1289967	1	EAST VALLEY	FXNCP	America's Newsroom	07:53:27 AM	1	SFC80116	\$165.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	Happening Now	10:53:20 AM	1	SFC80116	\$83.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	7	EAST VALLEY	FXNCP	Special Report	03:49:49 PM	1	SFC80116	\$138.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	7	EAST VALLEY	FXNCP	Greta Van Susteren	04:49:53 PM	1	SFC80116	\$138.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	10	EAST VALLEY	FXNCP	The O'Reilly Factor	05:23:56 PM	1	SFC80116	\$220.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	10	EAST VALLEY	FXNCP	The Kelly File	06:20:34 PM	1	SFC80116	\$220.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	13	EAST VALLEY	FXNCP	The O'Reilly Factor	08:23:56 PM	1	SFC80116	\$185.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	13	EAST VALLEY	FXNCP	The Kelly File	09:53:58 PM	1	SFC80116	\$185.00	Aired	0
08/02/16	103461	STAND FOR CHILD	1289967	16	EAST VALLEY	FXNCP	Hannity	10:48:36 PM	1	SFC80116	\$73.00	Aired	0
08/03/16	103461	STAND FOR CHILD	1289967	1	EAST VALLEY	FXNCP	America's Newsroom	06:24:33 AM	1	SFC80116	\$165.00	Aired	0
08/03/16	103461	STAND FOR CHILD	1289967	1	EAST VALLEY	FXNCP	America's Newsroom	07:52:38 AM	1	SFC80116	\$165.00	Aired	0
08/03/16	103461	STAND FOR CHILD	1289967	7	EAST VALLEY	FXNCP	Greta Van Susteren	04:47:13 PM	1	SFC80116	\$138.00	Aired	0
08/03/16	103461	STAND FOR CHILD	1289967	13	EAST VALLEY	FXNCP	The Kelly File	09:53:42 PM	1	SFC80116	\$185.00	Aired	0
08/03/16	103461	STAND FOR CHILD	1289967	16	EAST VALLEY	FXNCP	Greta Van Susteren	11:47:42 PM	1	SFC80116	\$73.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	1	EAST VALLEY	FXNCP	America's Newsroom	07:53:18 AM	1	SFC80116	\$165.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	Happening Now	08:48:00 AM	1	SFC80116	\$83.00	Preempt	0
08/04/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	Happening Now	08:52:30 AM	1	SFC80116	\$83.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	Happening Now	10:21:51 AM	1	SFC80116	\$83.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	Happening Now	10:53:13 AM	1	SFC80116	\$83.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	Your World: Neil Cavu	01:21:22 PM	1	SFC80116	\$83.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	7	EAST VALLEY	FXNCP	Special Report	03:47:53 PM	1	SFC80116	\$138.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	10	EAST VALLEY	FXNCP	The O'Reilly Factor	05:19:26 PM	1	SFC80116	\$220.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	10	EAST VALLEY	FXNCP	The Kelly File	06:14:43 PM	1	SFC80116	\$220.00	Aired	0
08/04/16	103461	STAND FOR CHILD	1289967	13	EAST VALLEY	FXNCP	The Kelly File	09:48:46 PM	1	SFC80116	\$185.00	Aired	0
08/05/16	103461	STAND FOR CHILD	1289967	1	EAST VALLEY	FXNCP	America's Newsroom	06:20:30 AM	1	SFC80116	\$165.00	Sched	0
08/05/16	103461	STAND FOR CHILD	1289967	1	EAST VALLEY	FXNCP	America's Newsroom	07:49:30 AM	1	SFC80116	\$165.00	Sched	0
08/05/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	Happening Now	10:48:00 AM	1	SFC80116	\$83.00	Sched	0
08/05/16	103461	STAND FOR CHILD	1289967	4	EAST VALLEY	FXNCP	The Real Story	11:49:30 AM	1	SFC80116	\$83.00	Sched	0
08/05/16	103461	STAND FOR CHILD	1289967	7	EAST VALLEY	FXNCP	Greta Van Susteren	04:49:00 PM	1	SFC80116	\$138.00	Sched	0
08/05/16	103461	STAND FOR CHILD	1289967	13	EAST VALLEY	FXNCP	The Kelly File	09:49:30 PM	1	SFC80116	\$185.00	Sched	0
08/05/16	103461	STAND FOR CHILD	1289967	16	EAST VALLEY	FXNCP	Hannity	10:49:00 PM	1	SFC80116	\$73.00	Sched	0
08/05/16	103461	STAND FOR CHILD	1289967	16	EAST VALLEY	FXNCP	Greta Van Susteren	11:49:30 PM	1	SFC80116	\$73.00	Sched	0
08/06/16	103461	STAND FOR CHILD	1289967	2	EAST VALLEY	FXNCP	Fox and Friends	05:20:30 AM	1	SFC80116	\$83.00	Sched	0
08/06/16	103461	STAND FOR CHILD	1289967	5	EAST VALLEY	FXNCP	Cashin' In	08:49:00 AM	1	SFC80116	\$50.00	Sched	0
08/06/16	103461	STAND FOR CHILD	1289967	14	EAST VALLEY	FXNCP	Judge Jeanine	09:49:00 PM	1	SFC80116	\$87.00	Sched	0
08/07/16	103461	STAND FOR CHILD	1289967	2	EAST VALLEY	FXNCP	Fox and Friends	05:20:30 AM	1	SFC80116	\$83.00	Sched	0
08/07/16	103461	STAND FOR CHILD	1289967	2	EAST VALLEY	FXNCP	Fox and Friends	06:20:30 AM	1	SFC80116	\$83.00	Sched	0
08/07/16	103461	STAND FOR CHILD	1289967	2	EAST VALLEY	FXNCP	Maria Bartiromo	07:49:00 AM	1	SFC80116	\$83.00	Sched	0
08/07/16	103461	STAND FOR CHILD	1289967	5	EAST VALLEY	FXNCP	MediaBuzz	08:49:30 AM	1	SFC80116	\$50.00	Sched	0
08/07/16	103461	STAND FOR CHILD	1289967	5	EAST VALLEY	FXNCP	America's Election HQ	10:49:30 AM	1	SFC80116	\$50.00	Sched	0
08/07/16	103461	STAND FOR CHILD	1289967	5	EAST VALLEY	FXNCP	America's Election HQ	01:20:30 PM	1	SFC80116	\$50.00	Sched	0
08/07/16	103461	STAND FOR CHILD	1289967	8	EAST VALLEY	FXNCP	Fox News Sunday	03:49:00 PM	1	SFC80116	\$55.00	Sched	0

Air Date	Client		Contract		Zone	Network	Program Name	Air Time	AdCopy		Cost	Status	Road- block ID
	ID	Client Name	ID	Line					ID	AdCopy Name			
08/07/16	103461	STAND FOR CHILD	1289967	14	EAST VALLEY	FXNCP	FOX Report	09:49:30 PM	1	SFC80116	\$87.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	3	EAST VALLEY	FXNCP	America's Newsroom	07:49:30 AM	1	SFC80116	\$165.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	6	EAST VALLEY	FXNCP	Happening Now	10:49:15 AM	1	SFC80116	\$83.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	6	EAST VALLEY	FXNCP	Your World: Neil Cavu	01:48:30 PM	1	SFC80116	\$83.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	9	EAST VALLEY	FXNCP	Greta Van Susteren	04:49:30 PM	1	SFC80116	\$138.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	12	EAST VALLEY	FXNCP	The Kelly File	06:20:30 PM	1	SFC80116	\$220.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	15	EAST VALLEY	FXNCP	Hannity	07:20:30 PM	1	SFC80116	\$185.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	15	EAST VALLEY	FXNCP	The Kelly File	09:49:30 PM	1	SFC80116	\$185.00	Sched	0
08/08/16	103461	STAND FOR CHILD	1289967	18	EAST VALLEY	FXNCP	Hannity	10:49:30 PM	1	SFC80116	\$73.00	Sched	0

Client Name STAND FOR CHILDREN NCCAZ: 51 \$6,334.00

Grand Total 51 \$6,334.00

Exhibit B

From: bob@corpdelservice.com [mailto:bob@corpdelservice.com]

Sent: Monday, September 12, 2016 3:33 PM

To: Veronica Metz <vmetz@stand.org>

Subject: Shipment Alert #178833

Corporate Delivery Service
2222 W. PARKSIDE LN. #124
PHOENIX, AZ 85027
Phone: 623-572-7345
Fax:
www.corpdelservice.com

SHIPMENT ALERT

Control #:178833

Pick Up

STAND FOR CHILDREN
649 N 4 AVE Unit A
Phoenix, AZ
85003

Deliver

Friends of WARREN PETERSON 2016
2085 E AVENIDA BEL VALLE CT Unit
GILBERT, AZ
85298

Weight: 0 Lbs **Service:** Rush (2 hr.)

Reference:

POD: Michelle

Special Instructions

Delivered At: Aug 5 2016 12:42PM

CONTACT CUSTOMER SERVICE AT Corporate Delivery Service 623-572-7345
IF THERE ARE ANY PROBLEMS OR DELAYS WITH THIS SHIPMENT

Doug Ducey
Governor

Thomas M. Collins
Executive Director



Mitchell C. Laird
Chair

Steve M. Titla
Damien R. Meyer
Mark S. Kimble
Galen D. Paton
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

Roopali Desai
Coppersmith Brockelman
2800 N. Central Ave., Ste. 1200
Phoenix, Arizona 85004
RDesai@cblawyers.com

Via E-Mail and First Class Mail

Re: MUR 16-003

Dear Ms. Desai:

We have received your response to the Complaint, as well as the amended report and the advertisement. Additionally, you advised us of a similar complaint lodged with the Arizona Secretary of State's Office. In view of Stand For Children's timely initial report, additional efforts, and the information regarding the additional complaint filed with the Secretary, I am closing complaint pursuant to A.A.C. R2-20-206(A)(3).

However, your letter does warrant a response on several other issues. First, with respect to AR.S. §§ 16-941(D) and -958, no court has declared those statutes unconstitutional and indeed, the Arizona Supreme Court has concluded enforcement of those reports are a "paramount" duty of the Commission *Clean Elections Institute, Inc. v. Brewer*, 209 Ariz. 241, 244 ¶ 13, 99 P.3d 570, 574 (2004), *abrogated on other grounds by Save Our Vote Opposing C-03-2012 v. Bennett*, 231 Ariz. 145, 291 P.3d 242 (2013). As the Court recognized, these duties are independent of any public financing program and involve nonparticipating candidates and independent expenditures. *Id.*

Further, the Secretary of State's campaign finance reporting system specifically directs filers to the Commission's form, and, although the system incorrectly identifies who the form applies to, the Secretary's direction of filers to the Commission is clear.¹ Indeed, your client has successfully and timely filed Clean Elections reports. I appreciate that the report was timely filed, and I would encourage your client to continue to do so.

Third, with respect to R2-20-209(F)(2) and the Governor's Regulatory Review Council (GRRC), your argument is incorrect both factually and legally. Factually, GRRC postponed its purported expiration deadline until 2017. Legally, in addition to other legal deficiencies, GRRC's purported actions plainly violate the Voter Protection Act, a view not exclusive to the Commission, and are of no effect. The Commission's position on this has been public for many months. As such it is unclear why your client would wait until now to challenge the Commission's position on enforcement.

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,

A handwritten signature in blue ink, appearing to read "Thomas M. Collins".

Thomas M. Collins
Executive Director

cc: Constantin Querard, E-mail and First Class Mail
Sara Larsen, E-Mail

¹ As a cursory reading of the campaign finance code demonstrates, the Secretary of State has no authority over the Clean Elections Act. A.R.S. § 16-924(A) ("Unless another penalty is specifically prescribed in this title, if the filing officer for campaign finance reports designated pursuant to section 16-916, subsection A has reasonable cause to believe that a person is violating any provision of this title, *except for violations of chapter 6, article 2...*")