



## **NOTICE OF PUBLIC MEETING AND POSSIBLE EXECUTIVE SESSION OF THE STATE OF ARIZONA CITIZENS CLEAN ELECTIONS COMMISSION**

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**Location:** Citizens Clean Elections Commission

**1616 West Adams, Suite 110**

**Phoenix, Arizona 85007**

**Date:** Thursday, March 22, 2018

**Time:** 9:30 a. m.

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on March 22, 2018. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.

The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on any item listed on the agenda, pursuant to A.R.S. § 38-431.03 (A)(3). The Commission reserves the right at its discretion to address the agenda matters in an order different than outlined below.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for February 15, 2018 meeting.
- III. Discussion and Possible Action on Executive Director's Report and Notice of Administrative Closure of MURS 18-01, -02, & -03.
- IV. Recognition and Appreciation to Sara A. Larsen, Financial Affairs and Compliance Officer, for her Service to the Commission and the State of Arizona.
- V. Discussion and Possible Action Administrative Law Judge Recommendation on MUR 17-01 Jesus Rubalcava.
- VI. Discussion and Possible Action on Legislation Affecting the Commission, Campaign Finance, Election, and Administrative Law.
- VII. Discussion and Possible Action on *Legacy Foundation Action Fund v. Citizens Clean Elections Commission* and related Matter Under Review.

**The Commission may choose to go into executive session on Item VII for discussion or consultation with its attorneys to consider its position and instruct its attorneys regarding the public body's position regarding contracts, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. A.R.S. § 38-431.03(A)(4).**

VIII. Discussion and Possible Action on *Arizona Advocacy Network, et. al v. State of Arizona, et al.*

**The Commission may choose to go into executive session on Item VIII for discussion or consultation with its attorneys to consider its position and instruct its attorneys regarding the public body's position regarding contracts, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. A.R.S. § 38-431.03(A)(4).**

IX. Discussion and Possible Action on Interagency Service Agreement with Arizona Attorney General's Office.

X. Public Comment

This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism

XI. Adjournment.

This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission's office, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

Dated this 20<sup>th</sup> day of March, 2018.

Citizens Clean Elections Commission

Thomas M. Collins, Executive Director

Any person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission at (602) 364-3477. Requests should be made as early as possible to allow time to arrange accommodations.

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THE STATE OF ARIZONA

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CITIZENS CLEAN ELECTIONS COMMISSION

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REPORTER'S TRANSCRIPT OF PUBLIC MEETING

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Phoenix, Arizona

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February 15, 2018

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9:30 a.m.

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COASH & COASH, INC.

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Certificate No. 50699

<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:30 a.m. on 3 February 15, 2018, at the State of Arizona, Clean 4 Elections Commission, 1616 West Adams, Conference Room, 5 Phoenix, Arizona, in the presence of the following Board 6 members: 7 Mr. Damien Meyer, Chairman 8 Mr. Mark S. Kimble 9 Mr. Galen D. Paton 10 11 OTHERS PRESENT: 12 Thomas M. Collins, Executive Director 13 Paula Thomas, Executive Officer 14 Sara Larsen, Financial Affairs Officer 15 Gina Roberts, Voter Education Director 16 Mike Becker, Policy Director 17 Alec Shaffer, Web Content Manager 18 Kara Karlson, Assistant Attorney General 19 Mary O'Grady, Osborn Maledon 20 Joseph LaRue, Assistant Attorney General 21 Stephanie Cooper, Executive Support Specialist 22 Andrea Whitsett, ASU Morrison Institute 23 Joseph Garcia, ASU Morrison Institute 24 Christina Stone, Riester 25 Bob Robson, Self</p>	<p style="text-align: right;">Page 4</p> <p>09:30:47-09:31:52</p> <p>1 moved and seconded. 2 All in favor of approving the minutes from 3 the January 18, 2018 meeting say aye. 4 (Chorus of ayes.) 5 CHAIRMAN MEYER: Any opposition? 6 (No response.) 7 CHAIRMAN MEYER: Any abstention? 8 (No response.) 9 CHAIRMAN MEYER: Motion carries. 10 Roman Numeral III, Item III, discussion and 11 possible action on the executive director's report. 12 Tom? 13 MR. COLLINS: Yes. Mr. Chairman, members, 14 so just to -- just so you know, the live stream is not 15 up, but we are recording the meeting by audio. And 16 we'll have that available on our website later today. 17 There's a lot of election activity going 18 on. As you can see, there's the special primary 19 election on February 27th in CDB, which is in Maricopa 20 County, sort of the west side. There are March 21 elections in February in south Tucson and Tempe. 22 We'll be involved in a number of activities 23 here in the near future on voter education. One of the 24 things, I think, we're really interested and happy to 25 be able to do is to sponsor training for election</p>
<p>09:29:51-09:30:45</p> <p style="text-align: right;">Page 3</p> <p>1 PROCEEDING 2 3 CHAIRMAN MEYER: Good morning. We're going 4 to call to order the Citizens Clean Elections 5 Commission. It's Thursday, February 15, 2018, at 9:30 6 a.m. 7 I'm Commissioner Damien Meyer, and we also 8 have Commissioners Kimble and Commissioners Paton 9 present. Commissioner Chan will not be here today, and 10 we are still waiting for an appointment of the fifth 11 commissioner. 12 Correct? 13 MR. COLLINS: That's correct, Mr. Chairman. 14 CHAIRMAN MEYER: Okay. Item Number II on 15 the agenda is discussion and possible action on 16 Commission minutes for the January 18, 2018 meeting. 17 Any questions or comments on the minutes? 18 COMMISSIONER KIMBLE: Mr. Chairman? 19 CHAIRMAN MEYER: Commissioner Paton -- 20 Kimble. Excuse me. 21 COMMISSIONER KIMBLE: I move we approve the 22 minutes of the Commission meeting of January 18, 2018. 23 CHAIRMAN MEYER: Is there a second? 24 COMMISSIONER PATON: Second. 25 CHAIRMAN MEYER: All right. It has been</p>	<p>09:31:54-09:33:27</p> <p style="text-align: right;">Page 5</p> <p>1 officials put on by the United States Election 2 Assistance Commission staff to cover election security 3 and IT management. That's something that -- the 4 Election Assistance Commission was the commission 5 formed under the Help America Vote Act to, essentially, 6 help to ensure that elections around the country are 7 free and fair and -- from a process perspective. So 8 we're happy to be able to assist the county recorders 9 and others in putting that on, and it's really -- 10 that's an exciting opportunity for the Commission. 11 You can see the numbers of participating 12 candidates. We are starting to fund candidates. 13 Candidates are turning in their paperwork for funding. 14 We have a couple of complaints pending. 15 We'll be resolving those -- well, we're not sure -- 16 well, we'll be looking to resolve those one way or the 17 other here in the next few weeks. Whether or not they 18 come back to you or not remains to be seen. 19 And then, finally, I'd note we do have -- 20 we did have an administrative hearing in front of 21 Administrative Law Judge Diane Mihalsky on 22 Mr. Rubalcava's appeal, and we expect the decision 23 within 20 days of that. So it's 20 days from Monday. 24 And then, at that point, you know, that comes back to 25 you for your review, and you'll have independent</p>

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<p>1 counsel again, as you've had with the probable cause</p> <p>2 process. So that's -- that's where that is. There's</p> <p>3 not really very much I can say about it at this</p> <p>4 juncture.</p> <p>5 And that's really it, unless you have any</p> <p>6 questions.</p> <p>7 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>8 CHAIRMAN MEYER: Commissioner Kimble?</p> <p>9 COMMISSIONER KIMBLE: Mr. Collins, what are</p> <p>10 the -- what's the general nature of the new complaints</p> <p>11 pending in 2018?</p> <p>12 MR. COLLINS: They're -- they are the --</p> <p>13 they are sort of -- I don't want to characterize them</p> <p>14 until we deal with them too much, but they're pretty</p> <p>15 run of the mill. There's nothing -- nothing</p> <p>16 extraordinary. These are -- these are your typical,</p> <p>17 you know, questions about whether or not someone is</p> <p>18 reporting stuff on their campaign finance reports the</p> <p>19 way they ought to and/or -- that's basically the upshot</p> <p>20 of all of them is are the campaign finance reports --</p> <p>21 or campaign finance reporting issues. None of them are</p> <p>22 sort of existential, if you will.</p> <p>23 COMMISSIONER KIMBLE: Okay. Thank you.</p> <p>24 COMMISSIONER PATON: I have a question.</p> <p>25 CHAIRMAN MEYER: Go ahead, Commissioner</p>	<p>1 as the penalty that was imposed by the Commission. The</p> <p>2 administrative law judge, as I understand things, has</p> <p>3 20 days from the hearing to make a decision and then</p> <p>4 send the matter back to you for your review.</p> <p>5 CHAIRMAN MEYER: So did the administrative</p> <p>6 law judge take evidence at this hearing?</p> <p>7 MR. LaRUE: Yes, Chairman Meyer, she did.</p> <p>8 Yes. We --</p> <p>9 CHAIRMAN MEYER: Can you explain why that</p> <p>10 happened or how that happened?</p> <p>11 MR. LaRUE: Yeah. Chairman Meyer, the way</p> <p>12 an administrative hearing works, it's not like what as</p> <p>13 attorneys we're used to with Article 3 courts or with</p> <p>14 state courts where an appeal goes up and the facts are</p> <p>15 reviewed for an abuse of discretion.</p> <p>16 With an administrative hearing, the</p> <p>17 administrative law judge starts with a blank slate, and</p> <p>18 the burden of proof is actually on the Commission to</p> <p>19 prove that there was -- that there were grounds to</p> <p>20 impose the penalty against Mr. Rubalcava. So the</p> <p>21 burden was on you and me, as the attorney representing</p> <p>22 you in this proceeding, to put on evidence</p> <p>23 demonstrating that there was a reasonable basis for you</p> <p>24 to impose the penalty that you did.</p> <p>25 So we actually submitted 28 different</p>		
09:34:51-09:36:23	Page 7	09:38:01-09:39:15	Page 9
<p>1 Paton.</p> <p>2 COMMISSIONER PATON: So on the Rubalcava</p> <p>3 thing, what was the nature of the appeal? I mean, did</p> <p>4 we do something wrong?</p> <p>5 MR. COLLINS: Well -- and, Joe LaRue, if I</p> <p>6 can ask you to help me out here on what is inbounds and</p> <p>7 out of bounds in terms of the -- because of the return.</p> <p>8 I mean, my -- he filed a notice of appeal which was</p> <p>9 simply "I request a hearing." He appeared at the</p> <p>10 hearing. He did a little bit of cross-examination. He</p> <p>11 testified, and I guess -- Joe, I guess, I'd ask you go</p> <p>12 ahead and -- I'd defer to Joe on this.</p> <p>13 MR. LaRUE: Thank you, Tom.</p> <p>14 Chairman Meyer, Commissioner Paton,</p> <p>15 Mr. Rubalcava filed a request for administrative</p> <p>16 hearing in December, and that request, we believe,</p> <p>17 should pertain only to the penalty that was imposed by</p> <p>18 the Commission. The time for Mr. Rubalcava to have</p> <p>19 requested a hearing for the repayment order had already</p> <p>20 lapsed.</p> <p>21 At the hearing, though, which is a public</p> <p>22 event and so I can -- I can speak about without</p> <p>23 compromising anything, Executive Director Collins, at</p> <p>24 the hearing Mr. Rubalcava asserted that his appeal was</p> <p>25 of the entire proceeding, the repayment order as well</p>	<p>1 documents into evidence. Executive Director Collins</p> <p>2 and, also, Ms. Larsen testified on your behalf, and we</p> <p>3 submitted the documents through them. We had them</p> <p>4 authenticate the documents, and these ranged from the</p> <p>5 audits that were prepared of Mr. Rubalcava's campaign</p> <p>6 accounts to various email correspondence between</p> <p>7 Mr. Rubalcava and the Executive Director Collins or</p> <p>8 Ms. Larsen to everything in between, but the reason the</p> <p>9 evidence was presented was because we had to</p> <p>10 substantiate that the Commission acted reasonably in</p> <p>11 imposing the penalty. Mr. Rubalcava, for his part, did</p> <p>12 not present any evidence.</p> <p>13 CHAIRMAN MEYER: Thank you.</p> <p>14 MR. LaRUE: Thank you.</p> <p>15 CHAIRMAN MEYER: Any other questions on</p> <p>16 that, Commissioner Paton?</p> <p>17 COMMISSIONER PATON: None.</p> <p>18 CHAIRMAN MEYER: Any other questions or</p> <p>19 comments on the executive director's report?</p> <p>20 (No response.)</p> <p>21 CHAIRMAN MEYER: Okay. We'll move on to</p> <p>22 Agenda Item Number IV, which is for the recognition and</p> <p>23 appreciation to Commissioner and Past Chairman Steve M.</p> <p>24 Titla for the service to the Commission if the State of</p> <p>25 Arizona. I understand he's in court today and will not</p>		

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<p>1 be joining us.</p> <p>2 MR. COLLINS: We can defer this to a time</p> <p>3 when we can get him here, I suppose, or --</p> <p>4 CHAIRMAN MEYER: We can defer this or we</p> <p>5 can wave the white flag and perhaps send him whatever</p> <p>6 we were going to send him, but we can talk about</p> <p>7 that --</p> <p>8 MR. COLLINS: Yeah, we can -- we can deal</p> <p>9 with that.</p> <p>10 CHAIRMAN MEYER: Sure.</p> <p>11 MR. COLLINS: I think everyone -- I think</p> <p>12 everyone thought he did a wonderful job as chairman.</p> <p>13 CHAIRMAN MEYER: He absolutely did. Yes.</p> <p>14 So Item Number V is the discussion and</p> <p>15 possible action on Arizona State University's Morrison</p> <p>16 Institute Interagency Service Agreement for 2018.</p> <p>17 MR. COLLINS: Mr. Chairman, Commissioners,</p> <p>18 I'd like to kind of frame this a little bit and then we</p> <p>19 have -- staff members of the Morrison Institute are</p> <p>20 here to kind of give you -- fill in the details and</p> <p>21 correct anything I say that's wrong.</p> <p>22 The -- Andrea Whitsett is the current</p> <p>23 executive director. She replaced Tom -- well, Tom --</p> <p>24 MS. WHITSETT: Tom Riley.</p> <p>25 MR. COLLINS: -- Tom Riley who went back to</p>	<p>1 that one of the things that we've really suffered from</p> <p>2 in the last 15 years or so is that the set -- us having</p> <p>3 a set of facts that is shared across regardless of</p> <p>4 party or ideology is -- is not always the case. So I</p> <p>5 think this is an opportunity to do that.</p> <p>6 So with that, I'd turn it over to Andrea</p> <p>7 for specific questions and for her to present, but I</p> <p>8 think -- I'm excited about the opportunity to continue</p> <p>9 our previous partnerships with ASU which have included</p> <p>10 Morrison's study on independent voters and media usage</p> <p>11 and all which have given us some insight and given the</p> <p>12 public some insight into how voters are behaving.</p> <p>13 CHAIRMAN MEYER: Ms. Whitsett?</p> <p>14 MS. WHITSETT: Thank you, and thank you,</p> <p>15 Tom. Thank you, Chairman Meyer, and thank you to the</p> <p>16 commissioners.</p> <p>17 As he said, I'm Andrea Whitsett. I am the</p> <p>18 interim director of Morrison Institute for public</p> <p>19 policy, and, Tom, I think you actually framed that</p> <p>20 quite well. We really appreciate the opportunity to be</p> <p>21 here today and to submit this proposal -- excuse me --</p> <p>22 for your consideration.</p> <p>23 You know, I think the -- at a high level,</p> <p>24 we are here and we are bringing this forward because we</p> <p>25 believe in the value, the need for Arizona to have</p>		
09:40:26-09:42:13	Page 11	09:43:38-09:44:45	Page 13
<p>1 Nevada where he was from.</p> <p>2 The upshot of this is -- from our</p> <p>3 perspective is that this is part of what we're doing on</p> <p>4 voter education with our contractors and with the</p> <p>5 program that Gina administrates but also allows us to</p> <p>6 try to build a relationship and leverage those</p> <p>7 resources through ASU to bring ASU and the Morrison</p> <p>8 Institute's ex-policy expertise to bear on some of --</p> <p>9 on our voter education opportunities and then</p> <p>10 ultimately, we hope, build a bridge to the Legislative</p> <p>11 Academy that the university started last year for new</p> <p>12 members, which was the first -- to the best of my</p> <p>13 knowledge, the first of its kind in the country.</p> <p>14 And so ultimately I think that the -- as we</p> <p>15 continue to build new platforms and Gina has continued</p> <p>16 to build new tools and develop programs, I think if we</p> <p>17 can also -- and develop the relationship with the</p> <p>18 county recorders, this is another example of another</p> <p>19 opportunity for us to build a bridge that leverages our</p> <p>20 resources across platforms and across institutions in a</p> <p>21 way that ultimately ensures that voters have an</p> <p>22 institutional place that they can come to to rely on</p> <p>23 for information that's impartial and objective and, I</p> <p>24 hope, creates a common set of facts for incoming</p> <p>25 legislators and voters to work from because I think</p>	<p>1 strong civic institutions, to have a strong base of</p> <p>2 civic knowledge. And I think it's clear to us and to</p> <p>3 many people that we're really facing a crisis in terms</p> <p>4 of voter engagement, voter participation, whether</p> <p>5 that's people who are registered to vote who are</p> <p>6 infrequent voters or who are not exercising that</p> <p>7 fundamental right or people who are not registered to</p> <p>8 vote at all.</p> <p>9 And one of the strengths that Morrison</p> <p>10 Institute can bring to this is really establishing the</p> <p>11 level of the crisis and doing that through research and</p> <p>12 through empirical evidence. I think we've seen how</p> <p>13 effective that can be if you look, for instance, at the</p> <p>14 opioid epidemic and how you really have to call these</p> <p>15 things out. You have to give them a name if you want</p> <p>16 to galvanize support and really activate people in that</p> <p>17 space.</p> <p>18 As Tom mentioned, we have had the privilege</p> <p>19 of doing quite a bit of work in the area of Arizona's</p> <p>20 electorate largely with support from the Clean</p> <p>21 Elections Commission. As Tom mentioned, we have done</p> <p>22 some really groundbreaking work on the independent</p> <p>23 voter, work that has garnered national media attention</p> <p>24 and has made us a leader in that space. We have done</p> <p>25 work on the emerging Latino vote. We have done work on</p>		

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<p>1 the citizens initiative review which was a really</p> <p>2 effective model for citizen engagement and</p> <p>3 participation and understanding the initiative process</p> <p>4 and reviewing ballot measures.</p> <p>5 And the highlights of the proposal that we</p> <p>6 have submitted, one is establishing that crisis and</p> <p>7 then, two, is bringing forth the content that can make</p> <p>8 it approachable and that can bridge that gap of</p> <p>9 knowledge that we're seeing.</p> <p>10 There's a really nice parallel to the work</p> <p>11 that we have done with the Arizona Legislative Academy,</p> <p>12 and I do see this as a bridge. The Legislative Academy</p> <p>13 was first held last -- a year ago January for the</p> <p>14 incoming freshman class of legislators, and we were</p> <p>15 able to spend two days presenting, essentially, a</p> <p>16 primer for them on issues ranging from water policy,</p> <p>17 education policy, land use. We've amassed a pretty</p> <p>18 significant archive of information, but there is a need</p> <p>19 to then translate it for citizens, for voters, for</p> <p>20 potential voters.</p> <p>21 And I think the Clean Elections Commission</p> <p>22 has a lot of great tools for deploying that</p> <p>23 information, and we can bring the expertise in terms of</p> <p>24 content and the way that we present it to make it</p> <p>25 accessible.</p>		<p>1 impacted by the people that they're electing or</p> <p>2 choosing not to vote for. And it comes back to the</p> <p>3 base knowledge, right? So if we want to activate them,</p> <p>4 I think we have to show them -- they might not have any</p> <p>5 familiarity, for instance, with the Corporation</p> <p>6 Commission and they're not going to care if they can't</p> <p>7 see how that individual could impact their utility</p> <p>8 rate.</p> <p>9 So I think there is such a crisis here,</p> <p>10 such a lack of knowledge that you can't expect people</p> <p>11 to engage if they -- if they don't have the most</p> <p>12 fundamental understanding of how a particular office or</p> <p>13 a particular initiative could touch their individual</p> <p>14 life. And so I think that's what the approach is that</p> <p>15 we would bring.</p> <p>16 COMMISSIONER KIMBLE: But how are you going</p> <p>17 to educate them about what the Corporation Commission</p> <p>18 does?</p> <p>19 MS. WHITSETT: So the tools are largely</p> <p>20 ones that the Clean Elections Commission has already</p> <p>21 invested in, whether it's something like a Chatbot,</p> <p>22 through the web communications. We would be happy and</p> <p>23 would propose to host some public forums across the</p> <p>24 state. I see our piece as being more focussed on the</p> <p>25 content creation, not the deployment side as much.</p>	
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<p>1 CHAIRMAN MEYER: Any questions?</p> <p>2 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>3 CHAIRMAN MEYER: Go ahead, Commissioner</p> <p>4 Kimble.</p> <p>5 COMMISSIONER KIMBLE: Ms. Whitsett, I read</p> <p>6 this -- thing several times, and I'm not clear on</p> <p>7 exactly what it is that you propose doing to get people</p> <p>8 who are not interested on elections interested in them.</p> <p>9 And I don't see a real -- a valid comparison between</p> <p>10 this and the legislative academy which is where people</p> <p>11 who have demonstrated they're very interested in</p> <p>12 politics to the point of running for office and winning</p> <p>13 for office are willing to come and be educated about</p> <p>14 how to be an effective legislator versus what are we</p> <p>15 going to do to get people who have demonstrated they</p> <p>16 have no interest in the political process to even take</p> <p>17 the steps of registering and then voting, which are</p> <p>18 simple steps.</p> <p>19 And I know you talked about a website and</p> <p>20 some other stuff, but what are we going to do to get</p> <p>21 them to actually do something when they've demonstrated</p> <p>22 they don't want to do anything?</p> <p>23 MS. WHITSETT: So I think part of the</p> <p>24 challenge there is when people don't see themselves in</p> <p>25 government and when they don't understand how they're</p>		<p>1 COMMISSIONER KIMBLE: So a public forum</p> <p>2 requires someone to come to a forum.</p> <p>3 MS. WHITSETT: Uh-huh.</p> <p>4 COMMISSIONER KIMBLE: And they've</p> <p>5 demonstrated they're not going to come to the debates</p> <p>6 that we host. What is going to get them to a forum?</p> <p>7 It just seems, like, what are we doing to get them</p> <p>8 interested in the beginning? They need to do</p> <p>9 something, to show some interest. They need to take</p> <p>10 some steps on their own, and I don't know what this</p> <p>11 project does to get that ball rolling.</p> <p>12 MS. WHITSETT: Do you mind if I -- I</p> <p>13 brought Joe Garcia with us, who's our communications</p> <p>14 director and also the director of our Latino Policy</p> <p>15 Center, and I think he might be a good person to field</p> <p>16 that particular question.</p> <p>17 COMMISSIONER PATON: And I have a statement</p> <p>18 about that or an addition to that. I was talking to</p> <p>19 Tom earlier today, and I have the exact same feeling as</p> <p>20 Commissioner Kimble. That's why I wanted to -- we're</p> <p>21 doing a pilot study where we're taking our debates to</p> <p>22 schools to involve the school kids and their parents</p> <p>23 and involve the local school community in the debates</p> <p>24 because I've been to them and there's -- 20 people show</p> <p>25 up: 10 for this guy and 10 for that guy.</p>	

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<p>1 My idea this morning was that why not go to</p> <p>2 employers -- I'm from Tucson -- like TEP, Tucson</p> <p>3 Electric Power, or the University of Arizona or -- I</p> <p>4 know the school district -- I was a teacher for many</p> <p>5 years. I know the Vail School District has a -- has a</p> <p>6 day where all the -- all the employees show up. They</p> <p>7 go to my church because this is the biggest place that</p> <p>8 they can show up. They'll be 700 of them, all</p> <p>9 employees, and something like this, you could take 5,</p> <p>10 10 minutes and impress on them before the primary --</p> <p>11 because many times the primary is the election,</p> <p>12 basically.</p> <p>13 So my idea is maybe if you're going on the</p> <p>14 road, instead of going to a library or something like</p> <p>15 that where we're not going to get many people, like a</p> <p>16 captive audience where we can get the president of TEP</p> <p>17 or Raytheon or, you know, Intel appear or these big</p> <p>18 employers to say, you know, this is part of your civic</p> <p>19 duty. This is all our lives.</p> <p>20 And so, anyway, that's to kind of piggyback</p> <p>21 on what he's saying. I have the same idea -- I have</p> <p>22 the same concerns. I mean, what you're talking about</p> <p>23 is educating people, but they don't want to really be</p> <p>24 educated, for whatever reason. They don't see the</p> <p>25 value in their vote. They think that politicians are</p>		<p>1 that the media took place as far as getting people</p> <p>2 involved. It has changed quite a bit, the media, as</p> <p>3 you know. It is contracting. It's getting smaller.</p> <p>4 The reach is getting smaller as well, and it's -- the</p> <p>5 idea is to make the connection.</p> <p>6 I think the news media right now is very</p> <p>7 good at covering the horse race when it comes to</p> <p>8 elections, but not the issues and not the candidates</p> <p>9 and not the qualifications and not in helping make the</p> <p>10 connection between the individual and their government.</p> <p>11 I agree -- Andrea was pointing out that it is a crisis,</p> <p>12 and I think that is the way to approach it. One is to</p> <p>13 raise the level of public awareness where we're at as a</p> <p>14 democracy and, as you know, we've been graded pretty</p> <p>15 much as a -- as a flawed democracy at this point</p> <p>16 because there isn't the participation that we need.</p> <p>17 And you're right about the primary</p> <p>18 elections. About 80 percent of primary elections are</p> <p>19 decided -- that is the election here in Arizona and</p> <p>20 people just don't know that. People -- independent</p> <p>21 voters don't even know they can vote in the primary</p> <p>22 election oftentimes, you know. I mean, it's held in</p> <p>23 August. I mean, some could argue perhaps not even in</p> <p>24 the best time, but he's right. It's about making the</p> <p>25 connection on why people need to be engaged.</p>	
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<p>1 crooked and it doesn't matter and who's listening to</p> <p>2 me; my vote doesn't count, all of those kind of things</p> <p>3 that we hear. And it's -- and some of my friends say</p> <p>4 those same things, and it's kind of exasperating. So</p> <p>5 maybe while you're talking what he said, maybe you can</p> <p>6 maybe give some ideas about what I -- what I'm</p> <p>7 thinking.</p> <p>8 CHAIRMAN MEYER: So Commissioner Paton is</p> <p>9 making some good points here about how this information</p> <p>10 will be presented. I think Commissioner Kimble is</p> <p>11 asking a question about what is this study going to be</p> <p>12 and how is it going to get the ball rolling on voter</p> <p>13 education? So let's kind of take this piece by piece,</p> <p>14 and let's start with, I guess, the study itself and how</p> <p>15 it's going to be implemented or communicated</p> <p>16 effectively to voters.</p> <p>17 I think that's your question, Commissioner</p> <p>18 Kimble?</p> <p>19 COMMISSIONER KIMBLE: Yeah.</p> <p>20 CHAIRMAN MEYER: And then we'll get to</p> <p>21 the -- to the forum issue.</p> <p>22 Mr. Garcia, good luck.</p> <p>23 MR. GARCIA: Thank you, Mr. Chairman,</p> <p>24 Commissioners. Yeah, I covered the politics for many</p> <p>25 years in my newspaper days, and I understand the role</p>		<p>1 It isn't so much, Mr. -- Commissioner</p> <p>2 Kimble, as far as us providing the apparatus because</p> <p>3 Clean Elections has a lot of good tools, if you will.</p> <p>4 And it somewhat is gaming, if you will. The reason I</p> <p>5 keep pushing the working title -- that's me there on</p> <p>6 the Voter U -- is to -- in preliminary discussions, it</p> <p>7 was even the idea of turning to where people can</p> <p>8 actually get a certificate after they've gone through a</p> <p>9 certain level of understanding how the government works</p> <p>10 and how -- and why they should vote and where they live</p> <p>11 and who represents them because I think there's --</p> <p>12 people are just so overwhelmed now, they don't know</p> <p>13 where to start.</p> <p>14 So there's many levels, including potential</p> <p>15 voters, infrequent voters and steady voters. And they</p> <p>16 all need more information, different levels, different</p> <p>17 formats, but without the content, you don't have</p> <p>18 anything.</p> <p>19 I remember Sue Clark Johnson. She was a</p> <p>20 leader, pioneer, a newspaper editor, the "Republic,"</p> <p>21 "Gannett." I remember one time she asked me if I</p> <p>22 would, you know, build a web -- website for the John</p> <p>23 Kyle Center on Water Policy. Just build a website. I</p> <p>24 said, okay, I can do that. What do you want on it?</p> <p>25 Oh, just build it. I said, you don't understand.</p>	

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<p>1 Without the content, you don't have a website. It's no</p> <p>2 different than the newspaper. Without the content, you</p> <p>3 don't have a newspaper. It's similar to what we have</p> <p>4 here in Clean Elections. I think we have the apparatus</p> <p>5 and the formats to disseminate information, but without</p> <p>6 the content, it won't work.</p> <p>7 So some of the content is going to be very,</p> <p>8 very basic, I mean, one or two sentences. That is</p> <p>9 helping people understand what they need to know. And</p> <p>10 I also teach journalism at ASU, and many of the young</p> <p>11 journalists don't even know the three -- you know, the</p> <p>12 three branches of government. They don't understand</p> <p>13 the difference between federal and state and local. I</p> <p>14 mean, there's some very basic information that needs to</p> <p>15 be conveyed, but once they get it, they get it. So</p> <p>16 it's a matter of providing the content and helping them</p> <p>17 make the connection.</p> <p>18 So, Commissioner Kimble, it is more at this</p> <p>19 point what we provide -- and, Mr. Chairman, it's not</p> <p>20 a -- necessarily a study because we already have the</p> <p>21 information. It's more of giving content that people</p> <p>22 need to know on why they should become involved. And,</p> <p>23 obviously, some people will never be reached, but</p> <p>24 earlier this week I was dealing with the -- a small</p> <p>25 group. We were talking about the future for the</p>		<p>1 Now, how they present that is up to them.</p> <p>2 They're much better at advertising than we are, but</p> <p>3 then if you wanted to go deeper in, you could click on</p> <p>4 that beyond the two sentences and get, you know, a</p> <p>5 little bit more information. And maybe that is, you</p> <p>6 know, one large paragraph, you know, explaining a</p> <p>7 little more in depth. And if you were a more</p> <p>8 intelligent, more engaged voter, you can click on</p> <p>9 further and understand more.</p> <p>10 So it's a matter of levels of content to</p> <p>11 reach voters, but you're right. It has to be started</p> <p>12 with getting people to engage and understand how this</p> <p>13 works, but simplicity is important for the potential</p> <p>14 voters and the non-voters because right now they're so</p> <p>15 overwhelmed they do not know where to start. So it's</p> <p>16 different levels of content through different delivery</p> <p>17 systems to reach many different voters and potential</p> <p>18 voters at different levels.</p> <p>19 CHAIRMAN MEYER: So, Mr. Garcia, if I may,</p> <p>20 I think what I hear you saying is -- and Commissioner</p> <p>21 Kimble was asking about how do we get engagement,</p> <p>22 people to engage. And I think -- if I can summarize</p> <p>23 your answer, what you're telling us is you're going to</p> <p>24 create content that is on multiple levels depending on</p> <p>25 how engaged that voter wants to get, but you're going</p>	
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<p>1 center for the future of Arizona. So it wasn't</p> <p>2 Arizona's future, but the future for the center for the</p> <p>3 future of Arizona and launch your vote. And the whole</p> <p>4 idea was, you know, voter engagement was so key and</p> <p>5 everyone was agreeing that, you know, it's something</p> <p>6 that we don't have.</p> <p>7 This -- this can be -- the reason that we</p> <p>8 are trying to do is to create the buzz for Voter U, and</p> <p>9 the U is playing off of, of course, university because</p> <p>10 there's some knowledge there, but it's also playing the</p> <p>11 voter you, why you need to vote. Why does it affect</p> <p>12 you? Why there is impact? And the individuals that</p> <p>13 we're hoping -- especially with potential voters and</p> <p>14 infrequent voters is to build the base because they can</p> <p>15 serve as ambassadors to help others understand, hey,</p> <p>16 try this out, you know. I learned a lot. I had no</p> <p>17 idea what, you know, a Corporation Commissioner did. I</p> <p>18 had no idea, you know.</p> <p>19 And it's just the idea that right now</p> <p>20 people are so overwhelmed, but as I mentioned the</p> <p>21 levels, some of it can be very basic where you just</p> <p>22 want those two sentences. And, you know, the Clean</p> <p>23 Elections has, as you know, vendors who deal with</p> <p>24 advertising. We would help provide the content for</p> <p>25 that advertising.</p>		<p>1 to start -- that base knowledge that every voter should</p> <p>2 at least start with will be there.</p> <p>3 MR. GARCIA: Exactly.</p> <p>4 CHAIRMAN MEYER: And some of this is a</p> <p>5 bigger question of, you know, we can't make voters, you</p> <p>6 know, get off their couch and turn on their computers</p> <p>7 and go to the website and look at things. And I think</p> <p>8 that's part of what you're asking about, but I think</p> <p>9 what you're telling us is we're going to make that</p> <p>10 content available to them and at a level that will work</p> <p>11 for every voter so they can understand how these issues</p> <p>12 affect them.</p> <p>13 Is that a fair summary of what this</p> <p>14 proposal -- the content you guys are offering to</p> <p>15 provide?</p> <p>16 MR. GARCIA: Yes. Mr. Chairman, you</p> <p>17 actually said it better than I did and more succinctly.</p> <p>18 So congratulations, but yes, I mean, that is -- that is</p> <p>19 exactly what it is because you cannot overwhelm the</p> <p>20 potential voter because that's what's happening now and</p> <p>21 they feel like they're a part of it. And, you know,</p> <p>22 the delivery of the message is on many different</p> <p>23 levels, but it is -- the idea is to get people engaged</p> <p>24 and to have knowledge because the worst thing we can</p> <p>25 do, in my opinion, is to drive people to the polls and</p>	

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<p>1 they have no knowledge. I mean, they could do more</p> <p>2 harm than good in voting. So you need a -- you need --</p> <p>3 you need knowledgeable voters. You need educated</p> <p>4 voters who are making the decisions.</p> <p>5 CHAIRMAN MEYER: And I understand</p> <p>6 Commissioner Kimble's question. I mean, his questions</p> <p>7 are certainly valid, and I think what we're trying to</p> <p>8 do is we're trying to fight apathy, correct? And</p> <p>9 that -- you know, concern here, the alternative to not</p> <p>10 do something like this is to doing nothing, which is</p> <p>11 sort of giving up into the apathy. So I know this is</p> <p>12 something that staff supports and -- and I do want to</p> <p>13 hear a little bit from Tom on this.</p> <p>14 But, Mr. Garcia, thank you.</p> <p>15 Do you have any other questions for</p> <p>16 Mr. Garcia or Ms. Whitsett?</p> <p>17 COMMISSIONER PATON: Well, you heard my</p> <p>18 concern about when Ms. Whitsett said something about</p> <p>19 going on the road. That's -- that's my concern. I'm</p> <p>20 sure the content is fine and these people just don't,</p> <p>21 for whatever reason -- I doubt they're going to start</p> <p>22 clicking on websites -- a lot of them.</p> <p>23 MR. GARCIA: Sure.</p> <p>24 COMMISSIONER PATON: But if we could</p> <p>25 have -- if we could go on the road with content, that</p>	<p>1 great points.</p> <p>2 Mr. Garcia, if I could have you hold off</p> <p>3 for a second.</p> <p>4 Tom, could you give us staff's perspective</p> <p>5 on these issues that are being raised?</p> <p>6 COMMISSIONER KIMBLE: And I --</p> <p>7 CHAIRMAN MEYER: Yeah, go ahead,</p> <p>8 Commissioner Kimble.</p> <p>9 COMMISSIONER KIMBLE: Well, I just</p> <p>10 wanted --</p> <p>11 CHAIRMAN MEYER: And then let's have Tom --</p> <p>12 COMMISSIONER KIMBLE: Okay. I just want to</p> <p>13 say I don't think the problem is a lack of information.</p> <p>14 I think the problem is a lack of incentive, and I don't</p> <p>15 see anything here that addresses that. And I would</p> <p>16 also just note that I hope someone at Morrison</p> <p>17 Institute learns how to spell "Tucson" sometime. It is</p> <p>18 not T-U-S-C-O-N.</p> <p>19 COMMISSIONER PATON: It's a Tucson thing.</p> <p>20 MR. COLLINS: Mr. Chairman, Commissioners,</p> <p>21 you know, the way that I see this is, look, I mean, we</p> <p>22 can -- there are certain things that we can provide</p> <p>23 through our partnership with Riestter that meets some of</p> <p>24 these deliverables, and that's true. So there's -- you</p> <p>25 know, but the goal is not -- so the goal was not to</p>		
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<p>1 would be something that would explain things to them if</p> <p>2 they were a captive audience and then maybe their</p> <p>3 bosses or whoever would impress on them the fact of how</p> <p>4 this is part of our civic duty and it's to your benefit</p> <p>5 to be educated and to vote with a purpose to actually</p> <p>6 know the issues or whatever.</p> <p>7 That's my -- my main concern because I've</p> <p>8 gone door to door with people doing -- and a lot of</p> <p>9 them have no idea. I mean, I remember -- this is many,</p> <p>10 many years. I remember going to -- door to door in</p> <p>11 Green Valley, and the main thing they were mad about</p> <p>12 was because John McCain did something about increasing</p> <p>13 cigarette taxes or -- I forgot exactly what the issue</p> <p>14 was. This was 20 years ago or something, but I was</p> <p>15 kind of struck that that was the main thing that they</p> <p>16 were interested in was he's taking away -- he's making</p> <p>17 my tobacco more expensive. And I was kind of thinking</p> <p>18 this is kind of like the Boston Tea Party or something,</p> <p>19 you know, about the tea taxes going up.</p> <p>20 So, anyway, that's my concern as -- I want</p> <p>21 to see if we can actually go to people where they're</p> <p>22 at, and I don't know if that's part of what your issue</p> <p>23 is or what you can do or our staff can do. So I'm</p> <p>24 concerned about that as well as Mr. Kimble.</p> <p>25 CHAIRMAN MEYER: Commissioner Paton had</p>	<p>1 reinvent the wheel. We could do it that way, and</p> <p>2 that's fine.</p> <p>3 I think that what we -- what we want to</p> <p>4 build to and I think that that will -- this is what</p> <p>5 will take both a media effort and I think expressly in</p> <p>6 the proposal a on-the-ground, sort of, outreach to</p> <p>7 outlying -- especially outlying communities, which</p> <p>8 we've done with Morrison in the past, to start to</p> <p>9 create a climate around this that has an incentive to</p> <p>10 it.</p> <p>11 In other words, if -- you know, we have</p> <p>12 done a very good job in Arizona from, you know, time to</p> <p>13 time of -- and I think that Ms. Whitsett set this out</p> <p>14 quite correctly of demonstrating here's a public health</p> <p>15 crisis we need to address. When the opioid crisis</p> <p>16 became an opioid crisis, they did a bill -- a unanimous</p> <p>17 bill out of the legislature in a day, which never</p> <p>18 happens. You know, you've got -- you've had similar</p> <p>19 times in the past.</p> <p>20 And, frankly, Morrison itself, you know,</p> <p>21 years ago with its five shoes waiting to drop, I don't</p> <p>22 know if -- you know, some folks may remember that --</p> <p>23 really set the tone for a lot of the discussion, you</p> <p>24 know, within at least the folks who are paying</p> <p>25 attention. And then once you -- once you build that</p>		

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<p>1 base, I think then you -- then you have the ability to</p> <p>2 go out and say this is a crisis.</p> <p>3 So I think that the public part of this</p> <p>4 that resonates with me the most is leveraging the</p> <p>5 relationship with ASU and the Commission and with the</p> <p>6 resources the Commission already has to communicate to</p> <p>7 the public that this crisis is just as important to the</p> <p>8 health of democracy as the opioid crisis, for example,</p> <p>9 is to the health of people. And that's -- that's how</p> <p>10 we want to communicate it.</p> <p>11 Now, the proposal is a proposal. So it's</p> <p>12 not written in the language that's going to -- that's</p> <p>13 designed to get, you know, press coverage and that kind</p> <p>14 of thing, but our goal would be to roll this out in a</p> <p>15 way where we're saying to folks, look, what are you</p> <p>16 doing to address the fact that we're not increasing --</p> <p>17 you know, we're increasing the population of the state</p> <p>18 to seven million people. We're not increasing the</p> <p>19 percentage of voter participation in any election.</p> <p>20 Those numbers are static. Those percentages are static</p> <p>21 in the primary. They're static in the off-year</p> <p>22 elections, and they're static in the presidential</p> <p>23 election years.</p> <p>24 And so unless somebody steps up and tries</p> <p>25 to make that analogy work, we're going to continue to</p>	<p>1 make it healthy and then say we have a solution to</p> <p>2 making it healthy with this which is a combination of</p> <p>3 the resources that the Clean Elections provides through</p> <p>4 its existing services and the efforts that Morrison can</p> <p>5 leverage through ASU to get us to a place where we're</p> <p>6 now -- where we're -- where we can have the</p> <p>7 infrastructure in place to do what I hope -- you know,</p> <p>8 things like what Commissioner Paton is talking about,</p> <p>9 getting out beyond the comfort zones of folks who hang</p> <p>10 out at universities or folks who hang out in state</p> <p>11 government buildings and getting out to folks but armed</p> <p>12 with the -- all the tools and a broad partnership to</p> <p>13 accomplish that.</p> <p>14 So that's -- that's certainly my vision of</p> <p>15 how this fits into what we're trying to do. You know,</p> <p>16 I think that we have a commitment from the Morrison</p> <p>17 Institute to make this work for both Clean Elections</p> <p>18 and the public. So I'm not -- you know, when we -- you</p> <p>19 know, we will have to get all this done on paper in</p> <p>20 terms of a contract and all that other stuff, but I</p> <p>21 have some confidence based on our prior experience that</p> <p>22 we will -- we can -- and based on Morrison's prior</p> <p>23 reputation and efforts they've made for us and in other</p> <p>24 ways that we can -- that we can do that, but that's</p> <p>25 really the vision here is to get folks to understand</p>		
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<p>1 drift along because to -- you know, as Commissioner</p> <p>2 Paton has pointed out many times in the past, the party</p> <p>3 system doesn't really care whether or not folks show up</p> <p>4 to vote or not. That's not their gig. Their gig is to</p> <p>5 win elections. And people showing up to vote, well,</p> <p>6 that's a -- that's an X factor that changes the dynamic</p> <p>7 of their system. So this is for voters, not for</p> <p>8 parties.</p> <p>9 And so it's -- so it's sort of stepping</p> <p>10 back from the party system. Let's look at this from</p> <p>11 the voter perspective and are voter's healthy, if you</p> <p>12 will. And the answer to that question is no, they're</p> <p>13 not, for all the reasons that Commissioner Kimble has</p> <p>14 just articulated.</p> <p>15 So if we do this correctly, what we will</p> <p>16 have done is -- you know, if we do this wrong, we do it</p> <p>17 wrong, but if we do it correctly, what we will have</p> <p>18 done is started and hopefully sparked a broader</p> <p>19 dialogue around civics. You know, we already saw the</p> <p>20 governor, you know, require a civics test to graduate</p> <p>21 from high school last year.</p> <p>22 So there's a -- there's definitely a --</p> <p>23 there's a -- there's a bunch of different things going</p> <p>24 on out here. Can we coalesce them into one message</p> <p>25 that says the electorate is not healthy; we need to</p>	<p>1 the electorate is not healthy.</p> <p>2 CHAIRMAN MEYER: So, Tom, I guess staff is</p> <p>3 supportive of this proposal.</p> <p>4 Correct?</p> <p>5 MR. COLLINS: Well, I am. I don't know if</p> <p>6 you want to poll -- poll the staff in general. I</p> <p>7 think --</p> <p>8 CHAIRMAN MEYER: Yeah.</p> <p>9 MR. COLLINS: I mean, you know, I think --</p> <p>10 I think, yes, we wouldn't put it in front of you if we</p> <p>11 wouldn't support it. Let me put it to you that way.</p> <p>12 And I don't know if Gina wants -- Gina can talk about</p> <p>13 how it integrates with the voter education program that</p> <p>14 we're doing. I think she's certainly -- that's her</p> <p>15 area of expertise.</p> <p>16 MS. ROBERTS: Mr. Chairman, Commissioners,</p> <p>17 you've asked some questions that the Voter Education</p> <p>18 team asks every single day, and this is -- this is</p> <p>19 really at the crux of what we do. We look into how can</p> <p>20 we get those voters to actually -- well, even</p> <p>21 non-voters -- how can we actually get them to</p> <p>22 participate? How are we going to reach them, make them</p> <p>23 care, make them want to? What is the incentive to do</p> <p>24 so?</p> <p>25 And as the Commission knows, we work with</p>		

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<p>1 an advertising agency. We've partnered with Riester</p> <p>2 for the past year, and we're working with them for our</p> <p>3 2018 education campaign. And the way we kick off that</p> <p>4 campaign is we do our research. We go back to the</p> <p>5 voters and we talk to them and we say, what is it that</p> <p>6 you need? Why are you voting? Why are you not voting?</p> <p>7 And that's how we develop our education plan.</p> <p>8 And what we've learned in this last go</p> <p>9 around is it is very evident to us that most voters do</p> <p>10 not have that general basic knowledge about what it is</p> <p>11 their elected officials are supposed to be doing for</p> <p>12 them across all levels, whether that's federal or state</p> <p>13 or county. And so they -- they just don't understand</p> <p>14 what it is that the governor is supposed to be doing or</p> <p>15 how their local city council member makes a decision</p> <p>16 that can make impact their daily lives.</p> <p>17 So it comes back to, really, the starting</p> <p>18 point. We have our tools. We have our communication</p> <p>19 channels that we work with Riester on about how best to</p> <p>20 disseminate the content that we provide. We work with</p> <p>21 Riester to develop content, and we have a very</p> <p>22 comprehensive voter education plan where we get</p> <p>23 messages out such as important dates and deadlines, but</p> <p>24 if you'll recall, our campaign this year, our education</p> <p>25 campaign is about making the connection to the voter,</p>	<p>1 campaign. And as far as having those -- you know,</p> <p>2 going on the road and having those shows out there, you</p> <p>3 know, Commissioner -- Commissioner Paton, you've made</p> <p>4 some great suggestions. And part of the talks that</p> <p>5 we've had is we do want to share this information. We</p> <p>6 want to share it with our county partners. We want to</p> <p>7 share it with our city partners.</p> <p>8 Cities have leadership institutes where</p> <p>9 they get their local citizens to come out and learn</p> <p>10 about government and this -- maybe we can incorporate</p> <p>11 this in there. As far as businesses go, we have had</p> <p>12 phone calls from businesses who have asked us, hey,</p> <p>13 we're going to have, you know, a meeting with our</p> <p>14 employees. What information can you give them about</p> <p>15 the upcoming election? We have the opportunity to</p> <p>16 share this information further, but it's really taking</p> <p>17 us back to the starting point.</p> <p>18 As I said, our education campaign right</p> <p>19 now, we're very comprehensive and we touch on all of</p> <p>20 this to some degree, but now we're going back to the</p> <p>21 starting point of, you know, to get people's attention</p> <p>22 to it, we want to establish that crisis because we're</p> <p>23 seeing those voter registration numbers. We're seeing</p> <p>24 the participation rates as Arizona's population is</p> <p>25 growing, and it comes back to do we even understand</p>		
10:12:23-10:13:34	Page 35	10:14:43-10:15:43	Page 37
<p>1 why the voter should care to want to participate. And</p> <p>2 that comes back to showing that personal connection to</p> <p>3 the election.</p> <p>4 So I, you know, as a mother, I may be very</p> <p>5 concerned about education or maybe my library that's a</p> <p>6 mile from my house is going to be staffed and open</p> <p>7 through the city. And so we have that in our existing</p> <p>8 campaign, but what we see through the Morrison</p> <p>9 Institute is they're going to bring us more content</p> <p>10 that focuses on, one, the rules and responsibilities of</p> <p>11 each of these levels of government all the way down</p> <p>12 from federal to local, but also, two, the issues.</p> <p>13 So as you've heard a lot, we have the</p> <p>14 Legislative Academy, and we have this group of folks</p> <p>15 who are interested. They've shown the interest in</p> <p>16 politics and they go there and they learn about the</p> <p>17 issues, but now we want to take that same information</p> <p>18 that is available to them and provide it to voters on a</p> <p>19 level that they can easily digest. And so if the voter</p> <p>20 or a non-voter can now have the understanding of, wow,</p> <p>21 this actually does impact my daily life, maybe they'll</p> <p>22 be more inclined to vote. That's the hope.</p> <p>23 And so we can take the information that we</p> <p>24 will hopefully get from Morrison through this proposal,</p> <p>25 and we're going to incorporate it into our education</p>	<p>1 that this crisis exists that is creeping up on us. And</p> <p>2 we need to go back to the starting point of civics so</p> <p>3 people understand why you should care, why you should</p> <p>4 want to participate.</p> <p>5 And the motivators and the barriers that</p> <p>6 we've learned through our research, you know, the</p> <p>7 motivating -- a strong motivator is the issues. When a</p> <p>8 voter hears about an issue that's going to be on the</p> <p>9 ballot that they care about, they're going to be more</p> <p>10 inclined to cast that ballot. So the more aware we</p> <p>11 make them of the issues that are affecting the state</p> <p>12 today, the same issues that the legislators are</p> <p>13 learning about and making laws and rules that impact</p> <p>14 their daily lives, it's connecting all of it together.</p> <p>15 So everything that we would receive through</p> <p>16 the proposal, we would work with our partner to know</p> <p>17 the best communication channels to get it out there.</p> <p>18 We would frame it so it matches the Commission's tone</p> <p>19 and help to establish that connection and that</p> <p>20 motivator.</p> <p>21 COMMISSIONER KIMBLE: Well, Mr. Chairman?</p> <p>22 CHAIRMAN MEYER: Commissioner Kimble?</p> <p>23 COMMISSIONER KIMBLE: Ms. Roberts, so what</p> <p>24 is the goal of this thing? Is it to figure out why</p> <p>25 people don't vote, or is it to get people to vote?</p>		

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<p>1 CHAIRMAN MEYER: Or both?</p> <p>2 MS. ROBERTS: Mr. Chairman, Commissioner</p> <p>3 Kimble, I would actually answer it a little bit</p> <p>4 different than the way you've phrased the question. I</p> <p>5 see the goal as two form: one, to establish the</p> <p>6 crisis, going back to the beginning to raise awareness</p> <p>7 about it, to raise awareness that there is a lack of</p> <p>8 civic education and knowledge. And that is really one</p> <p>9 of the foundations, a starting point for how we need to</p> <p>10 reach the voters to make them care and then to</p> <p>11 ultimately get them to register and to vote.</p> <p>12 So I think raising the awareness about the</p> <p>13 issue, about the lack of information of -- on civics in</p> <p>14 general that our voters have, as we've learned through</p> <p>15 our research, that's going to be one of the main goals,</p> <p>16 establishing that crisis. And then the second goal is</p> <p>17 we now have the solution to it. So it's going -- not</p> <p>18 so much identifying why they don't. We have a good</p> <p>19 understanding of that from the research we've already</p> <p>20 performed with Riestler.</p> <p>21 And we have the numbers. We know that</p> <p>22 people just aren't getting out there, and we have our</p> <p>23 other solutions that we've been incorporating from the</p> <p>24 overall logistics of elections to let them know the</p> <p>25 important dates, let them know, hey, an election is</p>		<p>1 We have an 18 at 2018 campaign that we're</p> <p>2 working on right now to get our youth involved and</p> <p>3 registered. This can be a component of that where we</p> <p>4 can take it to the high schools. We can take it to and</p> <p>5 post it on our website and have the teachers and the</p> <p>6 college professors -- have those folks -- get them</p> <p>7 informed that we have this information, that this tool</p> <p>8 exists, this resource exists to them.</p> <p>9 So I would say one metric would be how we</p> <p>10 were able to push this information out to the</p> <p>11 communities and how we were able to -- as far from a</p> <p>12 media standpoint, a press standpoint -- you keep</p> <p>13 hearing the reference to the opioid crisis. Well, that</p> <p>14 gets a lot of coverage. And so the media, through the</p> <p>15 press, as they're covering this, then the voters are</p> <p>16 going to hear about it and they're going to see, you</p> <p>17 know, the importance of it.</p> <p>18 So I would also say another metric would be</p> <p>19 from the PR perspective. How are we able to help and</p> <p>20 leverage the press, the media to get this out there so</p> <p>21 the voters care about it? And then, I think,</p> <p>22 ultimately we use our standard metrics. We look at how</p> <p>23 many website hits that we've had from where we are</p> <p>24 pushing this content out, through the tools, through</p> <p>25 our app, through our Chatbot. So there's a number of</p>	
10:16:56-10:18:05	Page 39	10:19:16-10:20:39	Page 41
<p>1 actually happening. So I really do see the goal as</p> <p>2 establishing awareness about where democracy is headed</p> <p>3 with this lack of participation and going back to the</p> <p>4 basic starting point of civics education to get them to</p> <p>5 realize how it impacts their life, make the connection</p> <p>6 and then get them out there to vote.</p> <p>7 COMMISSIONER KIMBLE: So we're sitting here</p> <p>8 a year from now. How are we going to look back at this</p> <p>9 and say it was a success or it was a failure? What</p> <p>10 would be a measure of success?</p> <p>11 MS. ROBERTS: Mr. Chairman, Commissioner</p> <p>12 Kimble, that's a really good question. As we develop</p> <p>13 our education plan, we always put in place our key</p> <p>14 performance indicators. What are our metrics for</p> <p>15 success? With this proposal, what we are doing now is</p> <p>16 Morrison is creating the information and raising the</p> <p>17 awareness. We have not actually established some KPIs</p> <p>18 for this.</p> <p>19 I would say, from my perspective, I think</p> <p>20 that we would look back on this a year from now and say</p> <p>21 it was successful as we document how we distributed</p> <p>22 this information. What groups were interested in</p> <p>23 receiving it? Where did we push it out to across all</p> <p>24 of our -- the partnerships that we've been cultivating,</p> <p>25 the organizations, the businesses?</p>		<p>1 metrics that we can incorporate in there to see did</p> <p>2 this help us through our overall voter education plan?</p> <p>3 Did we see improvement?</p> <p>4 And, you know, it's really the first time</p> <p>5 that we've taken a step back and going -- and are</p> <p>6 focusing more on civics than we are on the education</p> <p>7 standpoint, but there is that connection. So we would</p> <p>8 have to take a step back and identify what those</p> <p>9 metrics for success are, but those are just a few that</p> <p>10 we could consider.</p> <p>11 CHAIRMAN MEYER: Any other questions?</p> <p>12 MS. ROBERTS: Okay.</p> <p>13 COMMISSIONER PATON: I would say that since</p> <p>14 Mr. Garcia was in the newspaper business or whatever, I</p> <p>15 mean, once you have -- we have this content and that we</p> <p>16 advertise it as -- like, doing an op-ed in the "Arizona</p> <p>17 Republic," getting all the major TV channels to do a</p> <p>18 story on it. I mean, say, on this Tuesday, can all of</p> <p>19 the TV channels all over the state, can you all do a</p> <p>20 story on this? And then have our website and that kind</p> <p>21 of thing. That may draw a lot of attention.</p> <p>22 You know, I think we're -- we're frustrated</p> <p>23 maybe because we come here once a month and we argue</p> <p>24 about the little -- little tidbits here and there, and</p> <p>25 this is something that really means something. And so</p>	

10:20:42-10:22:04	Page 42	10:23:16-10:24:02	Page 44
<p>1 we want -- you know, when I -- when I was young -- I'm</p> <p>2 not that old, but when I was younger it was a bigger</p> <p>3 deal to vote, I think. And I guess I wish it was more</p> <p>4 like that, and I'm sure I'm catching Mr. Kimble's</p> <p>5 frustration about the same thing.</p> <p>6 CHAIRMAN MEYER: Let's try to wrap this</p> <p>7 debate up here.</p> <p>8 COMMISSIONER KIMBLE: Okay, Mr. Chairman,</p> <p>9 but what are we being asked, Mr. Collins, today to</p> <p>10 approve? A \$99,000 contract with them, with Morrison?</p> <p>11 MR. COLLINS: Good question, Mr. Chairman,</p> <p>12 Commissioner Kimble. If you -- this is an outline of</p> <p>13 the proposal and the breakdown of the costs. You would</p> <p>14 authorize me to go ahead and draw up a formal</p> <p>15 Interagency Service Agreement between Arizona State and</p> <p>16 the Commission, which we've done in the past. And so</p> <p>17 we would have to break this down into -- into contract</p> <p>18 deliverables and, you know, payment terms and all the</p> <p>19 other -- all the other good stuff.</p> <p>20 CHAIRMAN MEYER: So we have -- like, will</p> <p>21 we see that agreement again?</p> <p>22 MR. COLLINS: You are welcome to do that.</p> <p>23 That's certainly -- the only risk there is it's --</p> <p>24 depending upon what the comfort level of the Morrison</p> <p>25 Institute is. You know, it might -- it might delay</p>	<p>1 reimbursement and the state per diem for -- I think</p> <p>2 it's only one meal or the hotel. These are all really</p> <p>3 low costs. Yes.</p> <p>4 CHAIRMAN MEYER: Okay. So we're talking</p> <p>5 like one trip for the whole proposal?</p> <p>6 MS. WHITSETT: Yeah.</p> <p>7 CHAIRMAN MEYER: Okay. I just wanted to</p> <p>8 make sure.</p> <p>9 Well, I will tell my fellow commissioners,</p> <p>10 I'm in favor of moving forward. I will make a motion</p> <p>11 that we authorize Tom to move forward with the ISA --</p> <p>12 MR. COLLINS: Yeah.</p> <p>13 CHAIRMAN MEYER: -- with ASU on this issue.</p> <p>14 So there's my motion. Do I have a second?</p> <p>15 COMMISSIONER PATON: Second.</p> <p>16 CHAIRMAN MEYER: Okay. It's been moved and</p> <p>17 seconded.</p> <p>18 All in favor say aye.</p> <p>19 (Chorus of ayes.)</p> <p>20 CHAIRMAN MEYER: Any opposition?</p> <p>21 COMMISSIONER KIMBLE: No.</p> <p>22 CHAIRMAN MEYER: Any abstention?</p> <p>23 (No response.)</p> <p>24 CHAIRMAN MEYER: Okay. The motion carries</p> <p>25 two to one.</p>		
10:22:06-10:23:14	Page 43	10:24:06-10:25:11	Page 45
<p>1 things a little bit, but yeah, I'm certainly happy to</p> <p>2 bring that document back next month if you -- if you'd</p> <p>3 rather do that. I think that's --</p> <p>4 CHAIRMAN MEYER: But are you asking us to</p> <p>5 move forward today? Is that --</p> <p>6 MR. COLLINS: I'm asking for the</p> <p>7 authorization to move forward with the contract, but</p> <p>8 that having been said, if you have enough concerns</p> <p>9 about this that you want to revisit it, I will -- I can</p> <p>10 prepare the ISA and have that for next month. If</p> <p>11 you -- rather vote on it today, if you think -- if you</p> <p>12 don't have enough information, it's up to me to provide</p> <p>13 more.</p> <p>14 CHAIRMAN MEYER: Well, I have a question</p> <p>15 for the Morrison folks.</p> <p>16 Do you have the budget worksheet in front</p> <p>17 of you? I have a question on the travel issue as I was</p> <p>18 looking at this. The travel total is only 687. Is it</p> <p>19 supposed to be that 7,510 number that's on the -- kind</p> <p>20 of on the upper left section? So if you look on the --</p> <p>21 on the total travel budget, it's 687, but is that</p> <p>22 supposed to be 7,510? Because 687 seems very light. I</p> <p>23 just -- I can show you what I'm looking at.</p> <p>24 MS. WHITSETT: Yeah. So I actually think</p> <p>25 it is that low amount, and it's only based on mileage</p>	<p>1 Let's move on to Item Number VI.</p> <p>2 Do we need to put a bow on Item V or are</p> <p>3 we --</p> <p>4 MR. COLLINS: No, we're good.</p> <p>5 CHAIRMAN MEYER: Okay. Item VI, discussion</p> <p>6 and possible action on the Citizens Clean Election</p> <p>7 Commission 2017 annual report.</p> <p>8 MR. COLLINS: Yes. Mr. Chairman, Stephanie</p> <p>9 is going to talk a little bit about this. And just so</p> <p>10 she knows, we're on a little bit of a schedule. So as</p> <p>11 succinct as you can be in describing what we're asking</p> <p>12 the Commission to vote on will be helpful. Thank you.</p> <p>13 MS. COOPER: Good morning, Chairman,</p> <p>14 Commissioners.</p> <p>15 CHAIRMAN MEYER: Good morning. There we</p> <p>16 go.</p> <p>17 MS. COOPER: Okay. So this is the 2000</p> <p>18 annual report -- 2017 annual report. I'm just going to</p> <p>19 quickly brief through it. Most of the contents you</p> <p>20 guys -- or that's in here you've seen previously.</p> <p>21 Sorry. Can you hear me?</p> <p>22 CHAIRMAN MEYER: Can you hear her okay?</p> <p>23 Okay. Let's just --</p> <p>24 MS. COOPER: Okay. I'm so sorry. Can you</p> <p>25 hear me now?</p>		

10:25:27-10:26:52	Page 46	10:28:26-10:28:55	Page 48
<p>1 Okay. So, first, we've highlighted our</p> <p>2 voter and public education plan. It showcases our --</p> <p>3 what we've done through 2017 to reach the voters. One</p> <p>4 is our vote informed campaign. This shows the</p> <p>5 components of what we've done to connect the voters to</p> <p>6 our election information. We've highlighted the two</p> <p>7 largest tools that we've developed for 2017, one being</p> <p>8 our ID at the polls tool that's on our website and our</p> <p>9 Facebook Chatbot.</p> <p>10 Also, part of our education is our</p> <p>11 candidate trainings. Sara and I kicked off those in</p> <p>12 July, and by the end of 2017, we had 97 participants</p> <p>13 and 61 of those were candidates.</p> <p>14 We've also touched on our grassroots</p> <p>15 outreach because this really shows how our efforts</p> <p>16 reach the four corners of the state, one which was the</p> <p>17 National Voter Registration Day that I had the</p> <p>18 opportunity of attending. That was really great to get</p> <p>19 out there and connect with the students.</p> <p>20 Our focus group research, Gina touched on</p> <p>21 this a little bit earlier. This was really our</p> <p>22 foundation of our education plan for 2017. That was --</p> <p>23 our website and social media, this shows our statistics</p> <p>24 for our traffic that has visited our social media</p> <p>25 channels and our website.</p>		<p>1 2016?</p> <p>2 MR. COLLINS: Well, we did --</p> <p>3 CHAIRMAN MEYER: The years are all running</p> <p>4 together -- the roundtable.</p> <p>5 MR. COLLINS: The roundtable. Yeah,</p> <p>6 it's --</p> <p>7 MS. COOPER: So there was -- it touched on</p> <p>8 that in our grassroots outreach page.</p> <p>9 CHAIRMAN MEYER: Great.</p> <p>10 MR. COLLINS: Yeah.</p> <p>11 CHAIRMAN MEYER: Great.</p> <p>12 MR. COLLINS: Yeah, that's -- in fact,</p> <p>13 that's the main thrust of the grassroots outreach page.</p> <p>14 CHAIRMAN MEYER: Perfect.</p> <p>15 MR. COLLINS: We can talk about all the --</p> <p>16 CHAIRMAN MEYER: Thank you.</p> <p>17 Any other questions for Stephanie on her</p> <p>18 presentation of the 2017 annual report?</p> <p>19 (No response.)</p> <p>20 CHAIRMAN MEYER: Thank you.</p> <p>21 MS. COOPER: All right. Thank you.</p> <p>22 MR. COLLINS: So, Mr. Chairman --</p> <p>23 CHAIRMAN MEYER: Do we need to approve</p> <p>24 this?</p> <p>25 MR. COLLINS: Yeah. Mr. Chairman, this</p>	
10:26:54-10:28:20	Page 47	10:28:55-10:29:54	Page 49
<p>1 This one is an overview of our financial</p> <p>2 information which you guys had seen in 2000 -- or our</p> <p>3 December meeting that Sara provided you an in-depth</p> <p>4 overview on that.</p> <p>5 Our enforcement audits and litigation, we</p> <p>6 had 29 random audits of candidates who received Clean</p> <p>7 Elections funding in the 2016 election cycle. Our</p> <p>8 rule-making and legislation, this shows the rules that</p> <p>9 were either new or amended in 2017. And we jump into</p> <p>10 the 2017 legislation that impacted the Commission.</p> <p>11 Looking forward to 2018, Gina gave you a</p> <p>12 presentation last Commission meeting that really gave</p> <p>13 you an in-depth view of all what we're looking forward</p> <p>14 to. A few things is our new voter education guide, our</p> <p>15 website redesign, and our voter dashboard tool that we</p> <p>16 are creating. And then it ends with the commissioners</p> <p>17 and staff information, along with the bios of the</p> <p>18 commissioners.</p> <p>19 So that was the annual report briefly. If</p> <p>20 you have any questions for me, then that concludes my</p> <p>21 presentation.</p> <p>22 Thank you.</p> <p>23 CHAIRMAN MEYER: I breezed through this.</p> <p>24 Is there anything in here about the forum</p> <p>25 that we held -- what month was that? Or was that in</p>		<p>1 gets -- this gets submitted to the Governor's office</p> <p>2 every year in March. It has a pro forma letter that</p> <p>3 we've taken the liberty of putting your name on.</p> <p>4 CHAIRMAN MEYER: I saw that.</p> <p>5 MR. COLLINS: And so Stephanie did a lot of</p> <p>6 hard work to get this pulled together so that we would</p> <p>7 be ahead of the curve and make sure we're going to get</p> <p>8 it in well before the deadline, but -- so we're very --</p> <p>9 I'm very, very grateful to her for that, but I would</p> <p>10 appreciate it if you would approve it.</p> <p>11 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>12 CHAIRMAN MEYER: Yes, Commissioner Kimble.</p> <p>13 COMMISSIONER KIMBLE: I move we approve the</p> <p>14 2017 annual report.</p> <p>15 CHAIRMAN MEYER: Is there a second?</p> <p>16 COMMISSIONER PATON: Second.</p> <p>17 CHAIRMAN MEYER: All right. It's been</p> <p>18 moved and seconded.</p> <p>19 All in favor of approving the 2017 annual</p> <p>20 report say aye.</p> <p>21 (Chorus of ayes.)</p> <p>22 CHAIRMAN MEYER: Any opposition?</p> <p>23 (No response.)</p> <p>24 CHAIRMAN MEYER: Any abstentions?</p> <p>25 (No response.)</p>	

10:29:54-10:31:22	Page 50	10:32:54-10:34:12	Page 52
<p>1 CHAIRMAN MEYER: Motion carries</p> <p>2 unanimously.</p> <p>3 Item Number VII, discussion and possible</p> <p>4 action on the legislation affecting the Commission,</p> <p>5 campaign finance election and administrative law.</p> <p>6 MR. COLLINS: Mr. Chairman, you have Mike's</p> <p>7 report on the -- on the bills that we've -- the major</p> <p>8 bills that we think impact the Commission. We are</p> <p>9 working -- we need to tally 2. The first one is right</p> <p>10 on the cover. There's HCR 2007. HCR 2007 is a</p> <p>11 referendum that would go to the voters. It is, as far</p> <p>12 as we can tell, a continuing part of the legislature's</p> <p>13 anger at the Democratic party and misunderstanding of</p> <p>14 the Clean Elections law from the issues that were in</p> <p>15 2016.</p> <p>16 The problem is that this bill is -- there's</p> <p>17 two problems. One, there is -- we made -- I made the</p> <p>18 argument in committee that the Voter Protection Act</p> <p>19 really needs to apply to this just as much as it would</p> <p>20 a bill that is going to the governor for review</p> <p>21 because, in my view, the amendment happens at the</p> <p>22 legislative stage and there is a three-quarter vote</p> <p>23 requirement. And all -- referring to the voters --</p> <p>24 does is shift the veto from the governor to the voters.</p> <p>25 You know, in all practical terms, they're identical.</p>	<p>1 \$100 biannual adjustment under 16-931. Just to show</p> <p>2 you how absolutely absurd this is, currently for this</p> <p>3 year the primary -- had a gubernatorial candidate taken</p> <p>4 Clean Elections funding, they would have received</p> <p>5 \$840,000, roughly; whereas, they could take in seed</p> <p>6 money donations \$160 per person.</p> <p>7 Under this bill, next year the</p> <p>8 gubernatorial candidate could take \$840,000 -- 804 --</p> <p>9 \$840,100, but could take \$260 in seed money donations.</p> <p>10 So the percentages are absurd. The percentage increase</p> <p>11 in the -- in the gubernatorial primary is negligible.</p> <p>12 The percentage increase in the amount of money you can</p> <p>13 take from an individual is practically twice as much.</p> <p>14 It not only doesn't further the purpose. It's -- if</p> <p>15 you believe, as I do, the PO applies. It doesn't</p> <p>16 further any purpose, and it is absurd. And there is an</p> <p>17 absurdity doctrine, and I think if there is one, that</p> <p>18 this is pretty close to it, if not it.</p> <p>19 So I've been --</p> <p>20 CHAIRMAN MEYER: Tom?</p> <p>21 MR. COLLINS: Yeah.</p> <p>22 CHAIRMAN MEYER: Is there -- I mean, do we</p> <p>23 think this is going to pass? Are we taking efforts to</p> <p>24 oppose this?</p> <p>25 MR. COLLINS: We're opposing it. We're</p>		
10:31:25-10:32:50	Page 51	10:34:13-10:35:18	Page 53
<p>1 Thus far, the majority does not agree with me about</p> <p>2 that.</p> <p>3 That having been said, the bill itself is a</p> <p>4 mess. It's not an existential mess in the sense that</p> <p>5 this bill would continue to allow us to do our work,</p> <p>6 but it's sloppily written. It -- first, on the piece</p> <p>7 regarding the party -- and, I guess, they've expanded</p> <p>8 out to 501(c) groups -- they can't spend directly or --</p> <p>9 candidates can't spend -- participating candidates</p> <p>10 can't spend any money, whether it's seed money --</p> <p>11 that's their own private money -- or clean money on</p> <p>12 anything other than a, quote/unquote, voter list, and</p> <p>13 then "voter list" is defined in the bill.</p> <p>14 This is the first time, to my knowledge,</p> <p>15 that a state law has defined what parties can have as</p> <p>16 their voter list, which seems to me to raise obvious,</p> <p>17 obvious association of rights. And if the majority</p> <p>18 continues to throw in NAACP versus Alabama in front of</p> <p>19 our face every time we want a spending report, it seems</p> <p>20 to me the regulating party membership roles and party</p> <p>21 information is way past what we've ever asked in terms</p> <p>22 of regulation, but no one seems to want to -- but we</p> <p>23 have yet to prevail on that one, on that argument.</p> <p>24 It destroys the inflationary adjustment</p> <p>25 that the Clean Elections Act included by requiring a</p>	<p>1 taking every effort to oppose it. We are -- we</p> <p>2 wouldn't be bringing it up with quite so much vigor if</p> <p>3 we weren't fairly concerned that it's going to pass.</p> <p>4 Whether or not -- once it gets to the ballot, what</p> <p>5 happens then is a different question, and we can jump</p> <p>6 off that bridge, you know, if it does.</p> <p>7 CHAIRMAN MEYER: So it will need to go to</p> <p>8 the ballot?</p> <p>9 MR. COLLINS: It will need to go to the</p> <p>10 ballot, but I'm just -- I just pointing out that this</p> <p>11 is --</p> <p>12 CHAIRMAN MEYER: We do not support this.</p> <p>13 MR. COLLINS: We don't support this.</p> <p>14 CHAIRMAN MEYER: Okay.</p> <p>15 MR. COLLINS: It's a nonsense bill that is</p> <p>16 based on -- based on nonsense.</p> <p>17 The one bill that we are having</p> <p>18 constructive conversations with, on the other hand, is</p> <p>19 House Bill 2184 which I think we briefed you on last --</p> <p>20 last time which is -- the general thrust of it is just</p> <p>21 to regularize the rule publication process, and it had</p> <p>22 some language in it that we were troubled by. We sat</p> <p>23 down with the Secretary of State's Office this week,</p> <p>24 got a draft from them we were looking at and they</p> <p>25 realized in some of their things that there are other</p>		

10:35:22-10:36:16	Page 54	10:45:18-10:46:49	Page 56
<p>1 agencies that are exempt that they like that this is</p> <p>2 also going to affect.</p> <p>3 So we're working on that. That's been</p> <p>4 productive so far, and we're hopeful to get back to</p> <p>5 them within the next couple of days about, you know,</p> <p>6 whether or not we have any issues with their proposed</p> <p>7 amendments, but that's been productive.</p> <p>8 So those are the two biggies. I apologize</p> <p>9 for going on quite such a rant about 2007. It's just</p> <p>10 as a lawyer it drives me nuts.</p> <p>11 CHAIRMAN MEYER: No need to apologize.</p> <p>12 MR. COLLINS: Huh?</p> <p>13 CHAIRMAN MEYER: No need to apologize.</p> <p>14 MR. COLLINS: But in any event, that's</p> <p>15 where we are. I don't think we need any authorization</p> <p>16 from you on anything, but that's sort of the briefing.</p> <p>17 If you have any questions on anything else</p> <p>18 that's in the report, please let me know. And,</p> <p>19 otherwise, I would -- that's all. That concludes our</p> <p>20 legislative report unless -- Mike, do you have</p> <p>21 anything? No.</p> <p>22 COMMISSIONER KIMBLE: Mr. Chairman, I would</p> <p>23 like to ask about one other one.</p> <p>24 CHAIRMAN MEYER: Commissioner Kimble, go</p> <p>25 ahead.</p>	<p>1 the Arizona Secretary of State's Office.</p> <p>2 MR. COLLINS: So, Mr. Chairman,</p> <p>3 Commissioners, we've already approved this in terms of</p> <p>4 giving me authority. This is really more of an update.</p> <p>5 We've been working with the Secretary of State to</p> <p>6 finalize the contract. They have -- you can see they</p> <p>7 provided us some information that we've asked for on</p> <p>8 the beta testing which will be -- I'll be reviewing,</p> <p>9 but that information is there for you to look at. It's</p> <p>10 on page -- starting at page 7 in terms of the feedback</p> <p>11 that they received while they were online.</p> <p>12 They also provided us information about how</p> <p>13 they did the outreach in terms of the -- Sara, what do</p> <p>14 you call it? The analytics? Do you call it the</p> <p>15 analytics? Let's call it the analytics -- which gives</p> <p>16 us some kind of picture of what they're -- what they're</p> <p>17 doing. We have heard, I think, that they're also going</p> <p>18 to work on the design some more which I think is not a</p> <p>19 bad thing, as we've talked about.</p> <p>20 And then there's a few -- I think the last</p> <p>21 thing -- the last communication we had with them, which</p> <p>22 has all been very positive, was with their CFO</p> <p>23 yesterday about outstanding issues with -- not with --</p> <p>24 with the back end of See the Money, the campaign</p> <p>25 finance reporting system that Sara and their IT folks</p>		
10:36:16-10:45:10	Page 55	10:46:53-10:48:06	Page 57
<p>1 COMMISSIONER KIMBLE: 2104, that's probably</p> <p>2 not going to go anywhere, is it?</p> <p>3 MR. COLLINS: At this point, we don't</p> <p>4 believe so. I don't even think it's been assigned to a</p> <p>5 committee. I'm not even sure --</p> <p>6 COMMISSIONER KIMBLE: House government.</p> <p>7 MR. COLLINS: Yeah. I guess you're right.</p> <p>8 House -- it hasn't been heard. This is the last week</p> <p>9 for bills to be heard in the House origin, and it's</p> <p>10 not -- it won't be heard. So that's -- that's over.</p> <p>11 CHAIRMAN MEYER: Anything further on Item</p> <p>12 Number VII on the agenda?</p> <p>13 (No response.)</p> <p>14 CHAIRMAN MEYER: Okay. I'm going to call a</p> <p>15 five-minute break here. We've been going about an hour</p> <p>16 and ten minutes. Let's have a five-minute recess and</p> <p>17 we'll be back to reconvene.</p> <p>18 MR. COLLINS: Okay.</p> <p>19 (Whereupon, a recess was taken in the</p> <p>20 proceedings.)</p> <p>21 CHAIRMAN MEYER: We will reconvene this</p> <p>22 meeting.</p> <p>23 We're on to Agenda Item Number VIII, which</p> <p>24 is discussion and possible action on authorization of</p> <p>25 staff to approve the final payment of CY 2017 ISA with</p>	<p>1 are still -- we're trying to still get some information</p> <p>2 to Sara so that she has the access that she needs to do</p> <p>3 her work.</p> <p>4 So we're hoping to get that wrapped up as</p> <p>5 soon as possible. This is really more of an update and</p> <p>6 to make sure that you guys have all the information</p> <p>7 that I have as I go ahead and, once we get this, put a</p> <p>8 button on the IT issue, sign off on this and provide</p> <p>9 the final -- the final payment.</p> <p>10 The fact that they're looking at the</p> <p>11 design, although the design is not a part of the</p> <p>12 contract per se, I think itself is a good sign that</p> <p>13 they want this to continue to develop over time. And</p> <p>14 I'm -- so I'm pleased, you know, with -- with that</p> <p>15 result. And I'm pleased that they're continuing to be</p> <p>16 receptive to providing us, you know, the information</p> <p>17 that we need to move forward. So I'd like to thank</p> <p>18 Secretary Reagan and her staff and Liz Atkinson, the</p> <p>19 CFO there, for their assistance on that, and hopefully</p> <p>20 we'll put a button on this soon.</p> <p>21 And that's all I have to say. There's</p> <p>22 really nothing to approve unless you have questions</p> <p>23 about the info we've received so far or where we go</p> <p>24 from here.</p> <p>25 CHAIRMAN MEYER: Any questions?</p>		

10:48:09-10:49:14	Page 58	10:50:11-10:51:23	Page 60
<p>1 (No response.)</p> <p>2 CHAIRMAN MEYER: Okay. Let's move on to</p> <p>3 Agenda Item Number IX, discussion and possible action</p> <p>4 on the Legacy Foundation Action Fund versus Citizens</p> <p>5 Clean Elections Commission.</p> <p>6 And, Tom, I notice Number X -- excuse me --</p> <p>7 Number IX says the Commission may choose to go into</p> <p>8 executive session on this item. There's the same</p> <p>9 notation for X.</p> <p>10 Should we -- can we handle those both at</p> <p>11 once in executive session, or do we need to go one at a</p> <p>12 time?</p> <p>13 MR. COLLINS: Well, actually, what it might</p> <p>14 be helpful to do just, Mr. Chairman, if you -- would be</p> <p>15 to do X first because we don't have to go into</p> <p>16 executive session and that. I have a very brief</p> <p>17 summary, and then we can then go back to IX.</p> <p>18 CHAIRMAN MEYER: Sure.</p> <p>19 MR. COLLINS: So on X, which is the Arizona</p> <p>20 Advocacy Network, et al., lawsuit against the State of</p> <p>21 Arizona, Secretary of State and Clean Elections</p> <p>22 Commission, the only news update there is that the</p> <p>23 Governor's Regulatory Review had filed a motion to</p> <p>24 dismiss based on the argument they're not a jural</p> <p>25 entity. They have -- in effect, they and the</p>	<p>1 Now we'll go back to Item Number IV.</p> <p>2 Should we move immediately into executive</p> <p>3 session?</p> <p>4 MR. COLLINS: Well, Mr. Chairman, I think</p> <p>5 I'll just say publicly, just for the record, you know,</p> <p>6 we did receive an opinion from the Supreme Court that</p> <p>7 affirmed that, in fact, the jurisdictional deadlines</p> <p>8 that are set forth by the act for appealing to Superior</p> <p>9 Court remain as they were in 2006, and 14 days is the</p> <p>10 limit and it was missed. So that's -- that's a good</p> <p>11 thing. I think that -- I think, I guess -- yeah, I</p> <p>12 guess it would be appropriate to move to go into</p> <p>13 executive session because I think Mary has some</p> <p>14 thoughts on additional issues.</p> <p>15 So -- so, yes, if there was a motion to go</p> <p>16 into executive session, I think that would be</p> <p>17 appropriate at this time.</p> <p>18 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>19 CHAIRMAN MEYER: Commissioner Kimble, go</p> <p>20 ahead.</p> <p>21 COMMISSIONER KIMBLE: Mr. Chairman, I move</p> <p>22 we go into executive session for Item IX.</p> <p>23 CHAIRMAN MEYER: I'll second that motion.</p> <p>24 All in favor of moving into executive</p> <p>25 session, aye.</p>		
10:49:18-10:50:11	Page 59	10:51:23-11:13:22	Page 61
<p>1 plaintiffs have, in effect, settled on plaintiffs'</p> <p>2 re-filing their complaint and naming the GRRC members</p> <p>3 in their official capacity but individually. So that,</p> <p>4 I think, has been filed or will be filed. I'm not sure</p> <p>5 if it has been filed.</p> <p>6 MS. O'GRADY: The amended complaint has</p> <p>7 not.</p> <p>8 MR. COLLINS: The amendment complaint has</p> <p>9 not been filed, but that's what our understanding is</p> <p>10 what's going to happen then. Then GRRC will have the</p> <p>11 final an answer, and so that's really all there is to</p> <p>12 that. There's no other -- there's been no other --</p> <p>13 anything else moving the case at that point.</p> <p>14 So that's -- that would complete my report</p> <p>15 on that case, unless you have any questions.</p> <p>16 CHAIRMAN MEYER: So no substantive changes</p> <p>17 or updates, just some procedural maneuvering?</p> <p>18 MR. COLLINS: That's correct. That's</p> <p>19 correct.</p> <p>20 CHAIRMAN MEYER: Okay. Now, we'll go back</p> <p>21 to Item Number IV -- excuse me.</p> <p>22 Commissioners, any questions on that update</p> <p>23 on Item Number X?</p> <p>24 COMMISSIONER PATON: No.</p> <p>25 CHAIRMAN MEYER: Thank you.</p>	<p>1 (Chorus of ayes.)</p> <p>2 CHAIRMAN MEYER: All -- any opposition?</p> <p>3 (No response.)</p> <p>4 CHAIRMAN MEYER: Abstentions?</p> <p>5 (No response.)</p> <p>6 CHAIRMAN MEYER: All right. We are --</p> <p>7 motion is granted. We are moving to executive session.</p> <p>8 Thank you.</p> <p>9 (The following section of the meeting is in</p> <p>10 executive session and bound under separate cover.)</p> <p>11 * * * * *</p> <p>12</p> <p>13 (End of executive session. Public meeting</p> <p>14 resumes at 11:13 a.m.)</p> <p>15 CHAIRMAN MEYER: All right. We are back in</p> <p>16 open session.</p> <p>17 We only have one item left on the agenda,</p> <p>18 and that is Item Number XI, which is for public</p> <p>19 comment. Now is the time for consideration of comments</p> <p>20 and suggestions from the public.</p> <p>21 Is anyone here of the public? This is your</p> <p>22 time.</p> <p>23 (No response.)</p> <p>24 CHAIRMAN MEYER: Seeing no one, I'll go to</p> <p>25 item Number XII, which is adjournment.</p>		


11:13:25-11:13:42

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1 Do I have a motion to adjourn the meeting?  
2 COMMISSIONER KIMBLE: Mr. Chairman, I move  
3 we adjourn.  
4 COMMISSIONER PATON: Second.  
5 CHAIRMAN MEYER: Okay. It's been moved and  
6 seconded.  
7 All in favor of adjourning the meeting?  
8 (Chorus of ayes.)  
9 CHAIRMAN MEYER: All opposed?  
10 (No response.)  
11 CHAIRMAN MEYER: No oppositions? Motion  
12 carries.  
13 Meeting adjourned.  
14 (Whereupon, the proceedings concluded at  
15 11:13 a.m.)  
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1 STATE OF ARIZONA )  
2 COUNTY OF MARICOPA )  
3 BE IT KNOWN the foregoing proceedings were  
4 taken by me; that I was then and there a Certified  
5 Reporter of the State of Arizona, and by virtue thereof  
6 authorized to administer an oath; that the proceedings  
7 were taken down by me in shorthand and thereafter  
8 transcribed into typewriting under my direction; that  
9 the foregoing pages are a full, true, and accurate  
10 transcript of all proceedings and testimony had and  
11 adduced upon the taking of said proceedings, all done to  
12 the best of my skill and ability.  
13 I FURTHER CERTIFY that I am in no way  
14 related to nor employed by any of the parties thereto  
15 nor am I in any way interested in the outcome hereof.  
16 DATED at Phoenix, Arizona, this 16th day of  
17 February, 2018.

18   
19 \_\_\_\_\_  
20 LILIA MONARREZ, RPR, CR #50699  
21  
22  
23  
24  
25

	<b>advertising (4)</b> 23:24, 25;24:2;34:1	<b>approach (2)</b> 16:14; 20:12		<b>brief (2)</b> 45:19;58:16
<b>\$</b>	<b>Advocacy (1)</b> 58:20	<b>approachable (1)</b> 14:8	<b>B</b>	<b>briefed (1)</b> 53:19
<b>\$100 (1)</b> 52:1	<b>affect (3)</b> 23:11;25:12; 54:2	<b>appropriate (2)</b> 60:12, 17	<b>back (27)</b> 5:18,24;8:4; 10:25;16:2;31:10;34:4, 17;35:2;36:17,20,25; 37:2;38:6;39:3,8,20; 41:5,8;43:2;54:4; 55:17;56:24;58:17; 59:20;60:1;61:15	<b>briefing (1)</b> 54:16
<b>\$160 (1)</b> 52:6	<b>affecting (2)</b> 37:11;50:4	<b>approve (7)</b> 3:21; 42:10;48:23;49:10,13; 55:25;57:22	<b>bad (1)</b> 56:19	<b>briefly (1)</b> 47:19
<b>\$260 (1)</b> 52:9	<b>affirmed (1)</b> 60:7	<b>approved (1)</b> 56:3	<b>ball (2)</b> 17:11;19:12	<b>bring (6)</b> 11:7;13:10; 14:23;16:15;35:9;43:2
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**CITIZENS CLEAN ELECTIONS COMMISSION  
EXECUTIVE DIRECTOR REPORT  
March 22, 2018**

**Announcements:**

- The public can view Commission meetings live via the internet at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). A link is available on our website.
- Voters in the City of Tempe passed a new disclosure measure by a vote of 91 percent in favor in the city's March Election.
- The City of Phoenix City Council voted 6-3 to authorize staff to research potential campaign finance reforms for the 2018 Phoenix ballot.

**Voter Education:**

- On March 9<sup>th</sup>, the Arizona Advisory Committee to the U.S. Commission on Civil Rights held a briefing on voting rights in Arizona. Gina provided testimony on Clean Elections' research, highlighting motivators and barriers to voting and the voter education plan.
- The new website was launched on Friday, March 16<sup>th</sup>.
- The primary and general election debate schedule will be finalized by the end of March. Staff has been working with schools in legislative districts 2, 10 and 14 as part of our pilot project in partnering with high schools to host debates. All debates will be recorded and available on our website for voters who cannot attend a debate in person.
- The next election is the Special General Election to fill the vacancy in Congressional District 8, which will be held on Tuesday, April 24, 2018.
  - The voter registration deadline is: Monday, March 26, 2018.
  - Early voting begins: Wednesday, March 28, 2018.

**2018 Candidate Information:**

- Participating candidates started qualifying and receiving funds this week.
- Participating Legislative Candidates: **57**; Received Funding: **6**
- Participating Statewide Candidates: **23**; Received Funding: **2**
- Clean Elections Training Workshops:
  - Commission staff has conducted 13 Clean Election workshops so far this election cycle and currently have trainings scheduled through March 2018.

**Enforcement – 2018:**

Complaints Pending: 3

- MUR18-01 – Kiana Sears – Closed pursuant to R2-20-206(A)(3), Exhibit 1.
- MUR18-02 – Jason Bell -- Closed pursuant to R2-20-206(A)(3), Exhibit 2.
- MUR18-03 – Kathy Hoffman -- Closed pursuant to R2-20-206(A)(3)

- Request for reconsideration denied 3-19-2018. Exhibit 3.

A Commissioner may direct staff to reinstate the Complaint and generate a reason to believe recommendation.

### **Enforcement – 2017:**

Complaints Pending: 1

- MUR 17-01 – Jesus Rubalcava. – On Monday, February 12, 2018, we had an administration hearing in front of Administrative Law Judge Diane Mihalsky regarding Mr. Rubalcava's appeal. The ALJ Recommendation is on this Agenda.

### **Enforcement – 2014:**

Complaints Pending: 3

- MUR 14-006, -015 (consolidated/conciliated): Horne - pending completion of items in conciliation agreement.
- MUR 14-007: Legacy Foundation Action Fund (LFAF) – On this agenda.

### **Miscellaneous**

- Following the passage of SB1516, the Commission adopted amendments to its participating candidate rules to align them with a provision in the law related to party expenditures for nominees (i.e., candidates who have won their primaries. The purpose of the alignment was to ensure that these party expenditures, which are not contributions under ARS 16-911, would not count against participating candidates. Section 16-911 broadened an exception in law that the Commission has always applied to participating candidates. Nevertheless, a statement in the guidance provided by the Secretary to all candidates could be read as suggesting party expenditures are expenditures by the candidate. I have recently reiterated the Commission's legal position as expressed in statute and rule to ensure there is no confusion. That statement is attached as Exhibit 4.

# Exhibit 1

My name is Susan Allen Gehl.

My full address is 1414 E Shangri La Road, Phoenix, AZ 85020

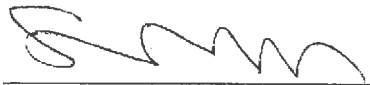
I reviewed the 2017 campaign finance report for Kiana Sears' campaign (SearsforArizona) and discovered what appears to be violations of the Clean Elections rules. It is my understanding that the Clean Elections rules require, "A participating candidate must adhere to expenditure limits, and may not make expenditures in excess of the cash on hand. This includes both early contributions received and candidate funding (A.R.S. 16-941)." [<http://www.azcanelections.gov/en/candidates/running-for-office>]

It appears that on October 5, 2017, Kiana Sears' campaign made expenditures that exceeded her campaign's cash on hand, and her campaign account does not return to a positive balance until a month later, November 6, 2017. On October 8, 2017, she appears to have spent over \$300 beyond her campaign account's cash on hand.

It appears Sears' campaign account used \$5 Clean Elections contributions monies to cover the checks written on her campaign account for operating expenses.

I request the Clean Elections Commission review my complaint and her campaign finance report for 2017, investigate, and take appropriate measures.

EXECUTED this 17 day of January, 2018, by the incorporator.



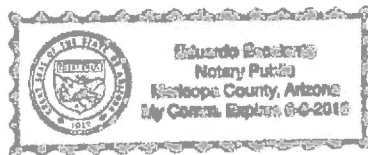
Signature

Susan Allen Gehl

Printed Name

18 JAN 18 PM 12:10 CCEC

SUBSCRIBED AND SWORN to me this 17<sup>th</sup> day of January, 2018.



  
Notary Public


1/31/2018  
Kiana Maria Sears  
C/o Sears for Arizona  
2824 N. Power Road  
Mesa, AZ 85215

18 FEB 1 PM 3:49 CCEC

Dear Clean Elections Commission and Mr. Tom Collins,

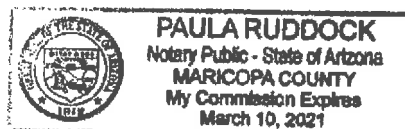
I am Kiana Maria Sears writing to respond to the complaint against Sears for Arizona. I am asking that you take no action against Sears for Arizona. The complaint alleges I did not have cash on hand to write The check to the Arizona Democratic Party for voter data available through the Arizona Democratic Party. I believe that I did have the cash on hand. I am also have complied with have one bank account for campaign fees. My ActBlue and Pay Pal accounts are also attached to this account. I believe I have ensured that all funds are available to produce one check to Clean Elections for the total amount of Clean Elections \$5 contributions via pages 63-66 online and listed in the handbook. I have made no promises to consultants, vendors, anyone, or any person for services regarding expected Clean Elections funds, I believe the complaint is mixed taking that language out on context to apply it to my committee. I have attached my most recurrent bank statement which verifies my balance which does agree with Ms. Gehl's statement that my account does have all the necessary funds to cover Clean Elections Qualifying \$5. I can assure you I have called Clean Elections on a regular basis to ensure that I have been in compliance. My bank statements and transactions do show I have the funds to write a Clean Elections Qualifying Check. Thank you for your consideration, I appreciate your time and look forward to working together to help average citizens like myself serve despite the barrier that finances have on elections.

Respectfully,  
Kiana M. Sears

  
Committee  
Sears for Arizona

STATE OF ARIZONA }  
COUNTY OF MARICOPA } SS

This instrument was acknowledged before me this 1 day  
of Feb 2018 by Kiana M. Sears  
In witness whereof, herewith set my hand and official seal.  
Paula Ruddock NOTARY PUBLIC



**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](http://www.azcleanelections.gov)

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Kiana Sears  
Sears for Arizona  
2824 N. Power Road  
Mesa, AZ 85215  
[kiana.sears@gmail.com](mailto:kiana.sears@gmail.com)

**Via E-Mail Only**  
**Re: MUR 18-01**

Dear Ms. Sears:

We have received your response to the Complaint. Because the response shows that you did not incur debt or make expenditures beyond cash on hand, I am closing the Complaint. Participating candidates may use the money collected in qualifying contributions, provided at the time of qualifying they have sufficient cash on hand to submit the necessary dollar amount.

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](mailto:thomas.collins@azcleanelections.gov).

Sincerely,  
S/Thomas M. Collins  
Executive Director

cc: Susan Gehl, Regular Mail.  
Sara Larsen, E-Mail

# Exhibit 2

My name is Susan Allen Gehl.

My full address is 1414 E Shangri La Road, Phoenix, AZ 85020

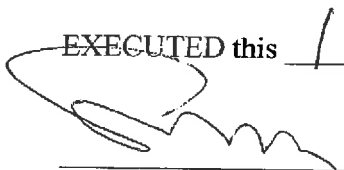
I reviewed the 2017 campaign finance reports for Jacob Bell and discovered what appears to be a violation of the Clean Elections rules. It is my understanding that the Clean Elections rules require, "A participating candidate must adhere to expenditure limits, and may not make expenditures in excess of the cash on hand. This includes both early contributions received and candidate funding (A.R.S. 16-941)." [http://www.azcleelections.gov/en/candidates/running-for-office]

It appears that on December 19, 2017, Jacob Bell's campaign account made a \$500 expenditure that exceeded his cash on hand. His campaign then made three other expenditures while exceeding his campaign account's cash on hand. It also appears that this was not rectified by December 31, 2017.

It appears Bell's campaign account used \$5 Clean Elections contributions monies to cover the checks written on his campaign accounts for operating expenses.

I request the Clean Elections Commission review my complaint and his campaign finance report for 2017, investigate, and take appropriate measures.

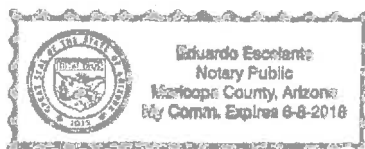
EXECUTED this 17 day of January, 2018, by the incorporator.

  
Signature

Susan Allen Gehl  
Printed Name

18 JAN 18 PM 12:13 CCEC

SUBSCRIBED AND SWORN to me this 17<sup>th</sup> day of January, 2018.



  
Notary Public

**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](http://www.azcleanelections.gov)

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Jason Bell  
349 N. 11th St., #108  
Phoenix, Az 85006  
[Bell2018@jakebell.com](mailto:bell2018@jakebell.com)

**Via E-Mail Only**  
**Re: MUR 18-02**

Dear Mr. Bell:

We have received your response to the Complaint. Because the response shows that you did not incur debt or make expenditures beyond cash on hand, I am closing the Complaint. Participating candidates may use the money collected in qualifying contributions, provided at the time of qualifying they have sufficient cash on hand to submit the necessary dollar amount.

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](mailto:thomas.collins@azcleanelections.gov).

Sincerely,  
S/Thomas M. Collins  
Executive Director

cc: Susan Gehl, Regular Mail.  
Sara Larsen, E-Mail

# Exhibit 3

Erica Fetherston  
4933 E Indianola Avenue  
Phoenix, AZ 85018  
[erica.b.fetherston@gmail.com](mailto:erica.b.fetherston@gmail.com)

'18FEB 2 PM12:33 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](http://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

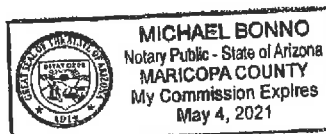
State of Arizona

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

5-11-2021  
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 31<sup>st</sup>, before the complainant sent her supplemental complaint on February 2<sup>nd</sup>. It now shows the correct disbursement. The confirmation email for the amended report is displayed below:

----- Forwarded message -----  
From: No Reply [mailto:campaign@sos.az.gov]  
Date: Wed Jan 31, 2018 at 10:53 PM  
Subject: Urging Confirmation for 2nd Report (4th Quarter)  
To: Elect Kathy Hoffman for Superintendent <elect.kathy.hoffman@gmail.com>  
CC: Katherine Hoffman <kathy.hoffman@gmail.com>, Joe Downs <joe.downs@maricopa.gov>

You filed the "2nd Report (4th Quarter)" report on 1/31/2018 10:52 PM for Committee ID 201650138 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 175633.

You may go to our website ([www.azsos.gov](http://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

*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](http://www.azcleanelections.gov)

---

Kathy Hoffman  
PO Box 10755  
Glendale, AZ 85318  
[kathyhoffman01@gmail.com](mailto: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,<sup>1</sup> 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](mailto:thomas.collins@azcleanelections.gov).

Sincerely,  
S/Thomas M. Collins  
Executive Director

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

---

<sup>1</sup> 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).



## Thomas Collins

---

**From:** Erica Fetherston <erica.b.fetherston@gmail.com>  
**Sent:** Thursday, March 15, 2018 8:56 PM  
**To:** Thomas Collins  
**Subject:** Re: Closure Letter MUR 18-03 Hoffman  
**Attachments:** Voicemail Audio.wav; Voicemail Screenshot.JPG

Dear Mr. Collins,

I received a copy of the letter you sent to Ms. Hoffman, closing the complaint. I noticed that you reserved the right to reinstate the complaint if information that Hoffman provided is determined to be false. I am writing to demonstrate that key information provided to you by Hoffman was false and to implore you to reinstate the complaint.

The key piece of evidence that it appears was used by your office to determine whether or not Hoffman's campaign had violated the disclosure law (16-925) was Hoffman's contention that the message she sent to my phone was an audio SMS. That contention is false.

As is evidenced by the attached screenshot and recording from my phone's visual voicemail application, the message delivered by Hoffman's vendor on December 19, 2017, was delivered as a voicemail to my phone, not as an audio SMS. It is made clear in the article you site in your letter (<https://www.techrepublic.com/article/how-to-send-audio-clips-via-sms-in-android/>) that audio SMS messages are sent and received in the iMessaging app, the same application used to send and receive text messages. Hoffman's message, on the other hand, was received as a voicemail in an entirely different application. It was also available through my voicemail service operated by my cell phone carrier. It was delivered alongside messages from people whose calls I had missed, not alongside text, graphic and audio SMS messages.

This distinction is important because the disclosure exemption in ARS 16-925(E)(1) only applies to SMS messages. As Hoffman's message was not, by definition, an SMS message, it is subject to the statute's disclosure requirements. Hoffman's failure to disclose that the message was paid for by her campaign is a clear violation of the law.

I am also curious as to whether the complaint regarding Hoffman's failure to disclose the disbursement on her campaign finance report (16-926) was closed. Hoffman clearly failed to report the correct vendor and purpose of the disbursement for the automated voice message until after I filed the complaint. Please let me know what the status is of that portion of the complaint.

Thank you.

Erica Fetherston

On Fri, Feb 23, 2018 at 1:50 PM Thomas Collins <[Thomas.Collins@azcleaselections.gov](mailto:Thomas.Collins@azcleaselections.gov)> wrote:

Dear Ms. Hoffman,

Please see the attached letter.

Sincerely,

Tom Collins

Executive Director

Arizona Citizens Clean Elections Commission

602-364-3477

+1 (602) 505-1623

phone



December 19, 2017 at 8:26 PM

Transcription Beta (low confidence)

"Hey sorry I missed you this is Kathy \_\_\_\_\_  
Democratic candidate for state  
\_\_\_\_\_ of the \_\_\_\_\_ and I  
need your help to \_\_\_\_\_ selection for the  
future of our schools and children and proud  
to be one of the many \_\_\_\_\_ running for state  
\_\_ office and a clean elections \_\_\_\_\_ anyways  
I'm right now raising five dollar \_\_\_\_\_ you know I  
can still donations and I need your support to  
donate five dollars it's really easy just go on  
my website Alexa Kathy \_\_\_\_\_ .com your five  
dollar donation \_\_\_\_\_ went and put the power  
\_\_\_\_\_ the people rather than later do you think  
you can do that by this Thursday if you \_\_\_\_\_  
holiday I'm also asking for your \_\_\_\_\_ the  
August primary big thing and \_\_\_\_\_ call or text me  
anytime \_\_\_\_\_ questions at 602-505-1623..."

Was this transcription useful or not useful?

1870

1871

## Thomas Collins

---

**From:** Thomas Collins  
**Sent:** Monday, March 19, 2018 11:34 AM  
**To:** 'Erica Fetherston'  
**Cc:** Sara Larsen  
**Subject:** RE: Closure Letter MUR 18-03 Hoffman  
**Attachments:** Amended 2018 2nd Report 1-31-18.pdf

Ms. Fetherston,

I have reviewed your request that I reconsider the closure of this file pursuant to AAC R2-20-206(A)(3).

For the following reasons, I decline to do so.

1. I have reviewed the voicemail provided. Short messaging service is not defined in statute. As I indicated audio SMS are widely available. I have further reviewed services that provide messages that go to voicemail. These services are limited in the amount of data that can be transmitted, and the thus the length of the message. As such, they are distinguishable from audio SMS that arrive on a phone's text message screen only in the location of the data. Furthermore, absent a statutory definition distinguishing between the two for purposes of campaign finance law raises potential constitutional issues, particularly equal protection in the fundamental rights context. Thus, absent a statutory definition, they remain short message services under the plain terms of the statute. For these reasons I decline to reinstate the complaint because there is no violation.
2. I have re-reviewed the campaign finance reports Ms. Hoffman filed. According to the reports, the amendment with the SMS notation in the memo line was filed no later than January 31. The Complaint was filed February 2. Thus, I decline to reinstate this part of the Complaint because any issue related to the Complaint's claim that the message was not paid for by the Campaign, as argued by the Complaint, is resolved.

The Commission will receive notice of my action in the March 22 Executive Director's report.

**You are free to request the Commission direct staff to reinstate the Complaint at that meeting or approach the Commissioners in any other way consistent with the Open Meeting Law.**

Sincerely,

Thomas M. Collins  
Executive Director  
602-364-3477

**From:** Erica Fetherston [<mailto:erica.b.fetherston@gmail.com>]  
**Sent:** Thursday, March 15, 2018 8:56 PM  
**To:** Thomas Collins  
**Subject:** Re: Closure Letter MUR 18-03 Hoffman

Dear Mr. Collins,

I received a copy of the letter you sent to Ms. Hoffman, closing the complaint. I noticed that you reserved the right to reinstate the complaint if information that Hoffman provided is determined to be false. I am writing to

demonstrate that key information provided to you by Hoffman was false and to implore you to reinstate the complaint.

The key piece of evidence that it appears was used by your office to determine whether or not Hoffman's campaign had violated the disclosure law (16-925) was Hoffman's contention that the message she sent to my phone was an audio SMS. That contention is false.

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This distinction is important because the disclosure exemption in ARS 16-925(E)(1) only applies to SMS messages. As Hoffman's message was not, by definition, an SMS message, it is subject to the statute's disclosure requirements. Hoffman's failure to disclose that the message was paid for by her campaign is a clear violation of the law.

I am also curious as to whether the complaint regarding Hoffman's failure to disclose the disbursement on her campaign finance report (16-926) was closed. Hoffman clearly failed to report the correct vendor and purpose of the disbursement for the automated voice message until after I filed the complaint. Please let me know what the status is of that portion of the complaint.

Thank you.

Erica Fetherston

On Fri, Feb 23, 2018 at 1:50 PM Thomas Collins <[Thomas.Collins@azcanelections.gov](mailto:Thomas.Collins@azcanelections.gov)> wrote:

Dear Ms. Hoffman,

Please see the attached letter.

Sincerely,

Tom Collins

Executive Director

Arizona Citizens Clean Elections Commission

[602-364-3477](tel:602-364-3477)

# Exhibit 4

## Thomas Collins

---

**From:** Thomas Collins  
**Sent:** Monday, March 05, 2018 2:50 PM  
**To:** 'Roopali Desai'  
**Cc:** Sara Larsen  
**Subject:** RE: Coordinated party expenditure questions

Roopali,

1. Is a candidate required to report coordinated party expenditures that are made on her behalf?
  - The answer to this question has to be no, in the absence of a statute so providing. Although as you note, the Secretary's Candidate Manual makes this statement, it offers no citation for this proposition. Furthermore, I cannot find any. The Commission could not enforce a penalty for failure to report on a candidate without a basis in law.
2. Assuming such coordinated party expenditures are reported, or even if they are not reported but were made, do those expenditure amounts go towards a clean candidate's funding limits?
  - Section 16-911(B)(4) provides that the following are not contributions: "The payment by a political party to support its nominee, including: (a) The printing or distribution of, or postage expenses for, voter guides, sample ballots, pins, bumper stickers, handbills, brochures, posters, yard signs and other similar materials distributed through the party [and] (b) [c]oordinated political party expenditures. The Section, which has been expressly adopted in Commission rules, depends on the payment in question being made by a person other than the nominee, namely, a political party. **Thus, that payment cannot be charged against the spending limit of a participating candidate who is a party nominee.**

Sincerely,  
Tom Collins  
Executive Director

---

**From:** Roopali Desai [<mailto:RDesai@cblawyers.com>]  
**Sent:** Friday, March 02, 2018 4:47 PM  
**To:** Thomas Collins  
**Subject:** Coordinated party expenditure questions

Tom,

As you may know, the Secretary of State guide for Candidate Committees (2017) discusses coordinated party expenditures at page 37. It states, without citation to any statute, that coordinated party expenditures "must be reported by the candidate committee" even though "they do not constitute in-kind contributions." I want to get the CCEC's position regarding two points related to this statement:

1. Is a candidate required to report coordinated party expenditures that are made on her behalf?
2. Assuming such coordinated party expenditures are reported, or even if they are not reported but were made, do those expenditure amounts go towards a clean candidate's funding limits?

Thank you in advance for your time and input on this matter. If you have any questions or need clarification regarding the questions set forth above, please do not hesitate to call me.

Regards,  
Roopali

**Roopali H. Desai**

**COPPERSMITH BROCKELMAN PLC**

2800 North Central Avenue, Suite 1900

Phoenix, AZ 85004

602.381.5478 (PH.)

602.772.3778 (FAX)

[rdesai@cblawyers.com](mailto:rdesai@cblawyers.com)

[www.cblawyers.com](http://www.cblawyers.com)

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.azcleelections.gov](http://www.azcleelections.gov)

---

*MEMORANDUM*

**To: Commissioners**

**From: Tom Collins**

**Date: 3-20-18**

**Subject: Attorney General ISA**

---

The Attorney General's Office is obligated to provide legal services to the Commission. As you know, the Commission has entered into Interagency Service Agreements with the AG every year. This year the AG proposes a cost of \$172,000. See Exhibit 1.

The cost supports elections attorneys and support staff. **I am requesting approval to enter into the ISA for \$172,000.**

This represents an increase of \$2,000 over our budget amount for this year. The amount of money the Commission pays the AG has increased over time:

FY2016 = \$158,800

FY2017 = \$164,900

However, the additional amount of money helps with retention of attorneys as well as allowing the Commission to ensure certain needs are met. These monies also support the AG's overall election related work, including defending lawsuits and providing legal advice to the Commission and other state entities. The Commission made a payment under the last ISA in December 2017 of \$86,600.

I am also recommending the Commission request the following stipulations that have been included in prior ISAs:

- Consultation with the Commission or its staff on changes to the personnel assigned to provide legal services.
- Notice of relevant attorney general opinion requests.

Additionally, I intend to request specific language to address situations where, because of workload, the assigned assistant attorney general's are unavailable. A different division handles enforcement of campaign finance complaints referred to the AG by the Secretary. I believe that this division is the appropriate division to handle overflow work because of the subject matter overlap.

OFFICE OF THE ATTORNEY GENERAL  
INTERAGENCY SERVICE AGREEMENT CONTRACT REQUIREMENTS FOR CY2018  
CLIENT AGENCY: CLEAN ELECTIONS COMMISSION  
ISAE70388

	Projected CY2018
Number of FTEs	1.10
Personal Services	111,200
ERE	38,400
Contingency	-
Travel	-
Operating	2,200
P&O	-
Indirect Cost	20,200
Equipment	-
Total Cost	<b>\$172,000</b>

1                                   **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2  
3 In the matter of:

**No. 18F-002-CCE**

4 Rubalcava, Jesus

5 v.

**ADMINISTRATIVE LAW JUDGE**

6  
7 Arizona Citizens Clean Elections  
8 Commission.

**DECISION**

9  
10 **HEARING:** February 12, 2018, at 1:00 p.m.

11 **APPEARANCES:** Jesus Rubalcava appeared on his own behalf; the Arizona  
12 Citizens Clean Elections Commission (“the Commission”) was represented by Joseph  
13 E. La Rue, Esq., Assistant Attorney General.

14 **ADMINISTRATIVE LAW JUDGE:** Diane Mihalsky

15  
16 Former Arizona State Representative Jesus Rubalcava appealed a November  
17 22, 2017 Order by the Arizona Citizens Clean Elections Commission (the  
18 “Commission”) that found Mr. Rubalcava had violated the Citizens Clean Elections Act  
19 (“Act”) and related rules. The Commission ordered Mr. Rubalcava to pay to the  
20 Commission a civil penalty in the amount of \$52,377.00.

21 The Commission presented the testimony of Sara Larsen, its Financial Affairs  
22 and Compliance Officer, and Tom Collins, its Executive Director, to testify about the  
23 Commission’s requirements for Clean Elections candidates and to establish foundation  
24 for the documents that evidenced the Commission’s investigation into Mr. Rubalcava’s  
25 compliance with the Act and related regulations and submitted 28 exhibits. Mr.  
26 Rubalcava testified on his own behalf. Based on the evidence of record, the  
27 Administrative Law Judge makes the following Findings of Fact, Conclusions of Law,  
28 and Recommended Order.

29                                   **FINDINGS OF FACT**

30 1. Mr. Rubalcava testified that before he became a participating Citizens Clean  
Elections candidate for the Arizona legislature, he had been elected to the local school  
board and to the town council. He and his wife have three children.

1           2. On or about January 11, 2016, Mr. Rubalcava filed an Application for  
2 Certification as a Participating Candidate under the Act with the Secretary of State's  
3 office. In the application, Mr. Rubalcava agreed to comply with the Act and associated  
4 regulations.<sup>1</sup>

5           3. On January 15, 2016, Mr. Rubalcava and his campaign, Rubalcava for  
6 House, were informed that the Commission had approved his Application for  
7 Certification as a Participating Candidate. The Commission informed Mr. Rubalcava  
8 that going forward, he was required to comply with the Act and Commission rules.<sup>2</sup>

9           4. Mr. Rubalcava received \$16,044.00 for the primary election and an additional  
10 \$1,415.00 for the general election.<sup>3</sup> Mr. Rubalcava was unopposed in the general  
11 election and subsequently was elected to represent his district in the Arizona legislature.

12           5. The agenda for the Commission's September 15, 2016 public meeting  
13 included the item, "Discussion and Possible action on drawing of candidates for a  
14 random audit pursuant to Clean Elections Rules."<sup>4</sup>

15           6. Mr. Rubalcava was among the thirteen Citizens Clean Elections candidates  
16 whose names were randomly drawn at the September 15, 2016 public meeting of the  
17 Commission for an audit of the candidates' compliance with the Act.<sup>5</sup> The Commission  
18 retained the independent auditing firm, Fester & Chapman, P.C. ("Fester & Chapman"),  
19 to perform the random audits.

20           7. The Commission submitted the 2016 Primary Recap Report that Mr.  
21 Rubalcava filed on September 4, 2016, for the reporting period from August 24, 2016,  
22 through August 30, 2016, which showed a cash balance of \$7,046.72 at the end of the  
23 reporting period.<sup>6</sup>

24           8. On October 18, 2016, Fester & Chapman's auditor, Jill Foley, sent an email to  
25 Mr. Rubalcava, noting that his campaign's Primary Recap Report showed an ending  
26 cash balance of \$7,046.72 and that, although candidates were expected to pay back to  
27

28 <sup>1</sup> See the Commission's Exhibit A.

29 <sup>2</sup> See the Commission's Exhibit B.

30 <sup>3</sup> See the Commission's Exhibit O.

<sup>4</sup> The Commission's Exhibit C at 2 (Item 5).

<sup>5</sup> See the Commission's Exhibit D at 6 (transcript p. 18, ll. 8-13).

<sup>6</sup> See the Commission's Exhibit V.

1 the Commission any unused primary election funding, Ms. Foley did not see any  
2 evidence that Mr. Rubalcava had ever repaid \$7,046.72 to the Commission. Ms. Foley  
3 asked Mr. Rubalcava if he could provide some insight on this issue.<sup>7</sup>

4 9. Mr. Rubalcava subsequently filed an amended 2016 Primary Recap Report  
5 for the period from August 24, 2016, through August 30, 2016, that showed a cash  
6 balance at the end of the reporting period of negative \$2.44.<sup>8</sup>

7 10. Mr. Rubalcava also filed an amended Qualifying Period Recap Report for  
8 the period of August 19, 2016, to August 23, 2016, which showed \$177.00 in Personal  
9 and Family Contributions, \$525.00 in Early Contributions, and \$60.00 in Small  
10 Contributions.<sup>9</sup>

11 11. On or about November 1, 2016, Mr. Rubalcava amended the campaign  
12 finance report for the period from January 1, 2016, through May 31, 2016.<sup>10</sup> Ms. Larsen  
13 testified that the report originally would have been due on June 30, 2016. The amended  
14 campaign finance report for the period from January 1, 2016, through May 31, 2016,  
15 showed \$1,415.00 in qualifying contributions.<sup>11</sup>

16 12. On or about December 13, 2016, Fester & Chapman submitted to the  
17 Commission a report of its audit of Mr. Rubalcava's compliance with the Act. Fester &  
18 Chapman's audit revealed that Mr. Rubalcava had made errors that made it difficult to  
19 confirm that all transactions had been made for campaign purposes and that some  
20 expenditures were unusual.<sup>12</sup>

21 13. Ms. Larsen testified that the auditors randomly selected transactions for  
22 each candidate from the candidates' reports and attempted to match the reported  
23 transactions to documentation from the candidates' campaignbank accounts. Ms.  
24 Larsen testified that she was notified that Mr. Rubalcava had a high balance in the  
25 account, as a result, had been asked whether he had returned funds. Ms. Larsen  
26 testified that she was also informed of some unusual transactions.

27  
28 <sup>7</sup> See the Commission's Exhibit U.

29 <sup>8</sup> See the Commission's Exhibit W.

30 <sup>9</sup> See the Commission's Exhibit S at 2.

<sup>10</sup> See the Commission's Exhibit R.

<sup>11</sup> See the Commission's Exhibit R at 2.

<sup>12</sup> See the Commission's Exhibit E.

1           14. Ms. Larsen testified that Fester & Chapman's December 13, 2016 audit of  
2 Mr. Rubalcava was presented to the Commission at a live meeting to support a request  
3 for a comprehensive audit.<sup>13</sup>

4           15. On February 2, 2017, Ms. Larsen sent a letter to Mr. Rubalcava in care of  
5 his attorney at the time, informing him that based on the random audit, pursuant to  
6 A.A.C. R2-20-402, "the Commission has approved a comprehensive audit and review of  
7 your campaign finance activity including your campaign finance reports, campaign bank  
8 account, and corresponding documentation for expenditures and contributions."<sup>14</sup>

9           16. On or about April 28, 2017, Fester & Chapman completed a comprehensive  
10 audit of Mr. Rubalcava's campaign finances in which it attempted to align his campaign  
11 finance reports with his campaign's bank account statements and supporting  
12 documentation for the reported contributions and expenditures.<sup>15</sup>

13           17. Fester & Chapman's comprehensive audit found that Mr. Rubalcava had  
14 made transfers from a separate bank account totaling \$1,869.33 into his campaign  
15 account, the purpose of which could not be determined, and had made additional  
16 deposits, the purpose of which could not be determined, in the amount of \$3,945.54.<sup>16</sup>

17           18. Fester & Chapman's comprehensive audit also found that during the  
18 general election cycle, between August 31, 2016, and November 8, 2016, the bank  
19 account statements for the campaign account showed that Mr. Rubalcava had made a  
20 total of \$3,677.16 in expenditures.<sup>17</sup> The comprehensive audit also found that Mr.  
21 Rubalcava had failed to include on his Campaign Finance Report(s) expenditures of  
22 \$1,679.53 in September 2016, and \$1,150.08 in October 2016.<sup>18</sup>

23           19. Fester & Chapman's comprehensive audit did not find that Mr. Rubalcava  
24 ever deposited the \$16,044.00 that he received pursuant to the Act for the primary  
25 campaign. Fester & Chapman's comprehensive audit noted according to the bank

26  
27 <sup>13</sup> See the Commission's Exhibit Z at 11 (minutes of January 19, 2017 Commission meeting).

28 <sup>14</sup> The Commission's Exhibit F.

29 <sup>15</sup> See the Commission's Exhibit G.

30 <sup>16</sup> See the Commission's Exhibit G at 8.

<sup>17</sup> See the Commission's Exhibit G at 12-13 (\$2,527.08 in September 2016, and \$1,150.08 in October 2016 (total expenditures of \$23,801.08 for October 2016, less October 24, 2016 check for \$22,651.00 for return of CCEC Funds).

<sup>18</sup> See the Commission's Exhibit G at 12 and 13.

1 statements for the campaign account, on June 17, 2017, Mr. Rubalcava transferred  
2 \$13,280.22 from a personal account.<sup>19</sup>

3 20. Fester & Chapman's comprehensive audit found that according to bank  
4 statements for the campaign account, Mr. Rubalcava had made several other transfers  
5 from separate accounts, consisting of \$2.00 (January 2016), \$60.00 (April 2016),  
6 \$1,190.00 (May 2016), \$150.85 (June 2016), \$59.00 (July 2016), and \$407.48 (October  
7 2016).<sup>20</sup> Fester & Chapman also found that Mr. Rubalcava had made a total of  
8 \$3,945.54 in deposits whose purpose was not determinable.<sup>21</sup> Fester & Chapman  
9 found ATM withdrawals totaling \$683.50.<sup>22</sup> Mr. Rubalcava did not provide any  
10 documentation to Fester & Chapman or at the hearing to explain or verify that these  
11 transactions were for campaign purposes.

12 21. Fester & Chapman's comprehensive audit found that Mr. Rubalcava  
13 transferred a total of \$604.42 from his campaign finance account into his personal  
14 account, that he made \$4,653.41 in non-campaign withdrawals, and that he made  
15 another \$3,635.41 in expenditures whose purpose was not determinable. During the  
16 primary, between January 2016, and August 31, 2016, Mr. Rubalcava made total  
17 withdrawals in the amounts of \$405.22 (January 2016), \$24.81 (February 2016), \$24.81  
18 (March 2016), \$285.84 (April 2016), \$574.19 (May 2016), \$10,478.63 (June 2016),  
19 \$4,594.28 (July 2016), and \$1,147.54 (August 2016).<sup>23</sup>

20 22. Ms. Larsen testified that the Commission's rules allow candidates to  
21 respond to audit findings. On or about April 28, 2017, Mr. Rubalcava filed a written  
22 response to Fester & Chapman's comprehensive audit, stating in relevant part as  
23 follows:

24 I would like to start off by thanking you for the opportunity to  
25 participate as a participating candidate in the 2016 Election  
26 Cycle. Please acknowledge that I am not by any means  
27 challenging the results of the review, nor am I denying any  
28 wrong doing. More so, this is acknowledgement that my  
29 campaign finances were not effectively run and that my

30 <sup>19</sup> See the Commission's Exhibit G at 7.

<sup>20</sup> See the Commission's Exhibit G at 6 – 7.

<sup>21</sup> See the Commission's Exhibit G at 8.

<sup>22</sup> See the Commission's Exhibit G at 13.

<sup>23</sup> See the Commission's Exhibit G at 9 - 12.

1 lesson has been learned. Moving forward, should I be given  
2 the opportunity, I now know what to do and what not to do.

3 . . . .

4 The biggest issue with my campaign was that I used my  
5 bank account that linked with my campaign account. For  
6 example, I would deposit a check into what I thought was  
7 one account and it would end up in another. Another  
8 example, I would use my campaign debit card for a  
9 transaction and it would withdraw from my personal account.  
10 Because this was so confusing to me, I began to use the  
11 filing report with the Secretary of State as my accounting and  
12 balance.

13 I was not able to provide additional documentation other  
14 than my bank statements for the following reason. I am a  
15 Special Education teacher in the Buckeye Elementary  
16 School District. When going through my initial audit. I had  
17 all of my campaign documents in my classroom. Over  
18 holiday break, I was moved into different classrooms 2  
19 times. During this time, many of my personal belongings  
20 and documents were misplaced. I still have not been able to  
21 locate them.<sup>24</sup>

22 23. On or about May 2, 2017, Ms. Larsen send a memorandum to the  
23 Commission that summarized the results of the comprehensive audit. Ms. Larsen noted  
24 Mr. Rubalcava's possible violations of A.R.S. §§ 16-941, 16-948(C), and 16-953(A), and  
25 A.A.C. R2-20-702 and R2-20-703. Ms. Larsen attached to her memorandum the results  
26 of the comprehensive audit.<sup>25</sup>

27 24. On or about May 18, 2017, the Commission held a public meeting at which  
28 Ms. Larsen and Fester and Chapman's auditor, Jill Foley, presented the result  
29 comprehensive audit to the Commission. Mr. Rubalcava participated telephonically in  
30 the meeting. Mr. Rubalcava expressly did not dispute the outcome of the audit.<sup>26</sup>

25 25. On or about May 23, 2017, the Commission's Executive Director, Tom  
26 Collins, sent a letter to Mr. Rubalcava, informing him that the Commission had accepted  
27 the comprehensive audit and had opened an internal complaint against him as result for  
28

29 <sup>24</sup> The Commission's Exhibit H.

30 <sup>25</sup> See the Commission's Exhibit I.

<sup>26</sup> See the Commission's Exhibit T at 8-9.

1 his possible violations of the Act and related rules. Mr. Collins attached to the notice  
2 Fester & Chapman's comprehensive audit.<sup>27</sup>

3 26. On May 30, 2017, Mr. Rubalcava responded to the complaint, again stating  
4 that he was not challenging the results of the comprehensive audit.<sup>28</sup> Mr. Rubalcava  
5 included a table of contributions that he accepted in amounts greater than \$5.00  
6 between December 18, 2015, and March 4, 2016, explaining that he understood that a  
7 candidate "was allowed to receive early contributions with a limit on the amount a  
8 candidate could receive."<sup>29</sup> Mr. Rubalcava attached as exhibits to his response his  
9 Amended Report for the period between January 1, 2015, and May 31, 2016, which  
10 showed Individual Contributions in the amount of \$520.00 and Qualifying Contributions  
11 in the amount of \$1,415.00.<sup>30</sup>

12 27. Mr. Rubalcava stated in his May 30, 2017 response to the complaint that  
13 "[a]ccording to the campaign finance reports submitted to the Secretary of State, I did  
14 not exceed the amount of the adjusted general election spending limit."<sup>31</sup> Mr.  
15 Rubalcava attached to his response his Amended 2016 Post-Primary Election Report.<sup>32</sup>

16 28. On or about June 19, 2017, Mr. Collins on behalf of the Commission issued  
17 a Statement of Reasons showing reason to believe that Mr. Rubalcava may have  
18 violated the Act and the Commission's rules.<sup>33</sup>

19 29. On June 22, 2017, the Commission held a public meeting during which it  
20 discussed the complaint against Mr. Rubalcava for violations of the Act and the  
21 Commission's rules and authorized Mr. Collins on the Commission's behalf to issue  
22 subpoenas for relevant documents and to take testimony under oath.<sup>34</sup>

23 30. On June 23, 2017, Mr. Collins on behalf of the Commission sent Mr.  
24 Rubalcava a subpoena and a letter in which he stated that Mr. Rubalcava was required  
25 to provide documents and information on or before July 10, 2017.<sup>35</sup>

26 <sup>27</sup> See the Commission's Exhibit J.

27 <sup>28</sup> See the Commission's Exhibit L.

28 <sup>29</sup> The Commission's Exhibit L at 1.

29 <sup>30</sup> The Commission's Exhibit L at 11.

30 <sup>31</sup> The Commission's Exhibit L at 2.

<sup>32</sup> See the Commission's Exhibit L at 12.

<sup>33</sup> See the Commission's Exhibit K.

<sup>34</sup> See the Commission's Exhibit M at 26.

<sup>35</sup> See the Commission's Exhibits P and N.

1           31. On August 22, 2017, the Commission held a Special Meeting at which Mr.  
2 Collins presented the evidence of Mr. Rubalcava's violation of the Act and the  
3 Commission's rules. Mr. Rubalcava appeared telephonically at the meeting. After Mr.  
4 Collins recommended that the Commission require Mr. Rubalcava to repay the funds  
5 received for his primary campaign, Mr. Rubalcava stated that he felt that would be unfair  
6 because he was trying to gather the information and documents that the Commission  
7 had requested, but that he needed additional time to do so. The Commission noted that  
8 the subpoena had been served on Mr. Rubalcava on June 23, 2017, and he still had not  
9 provided the documents. The Commission determined to require Mr. Rubalcava to  
10 repay the funds that his campaign received for the primary campaign.<sup>36</sup>

11           32. On August 22, 2017, Mr. Collins on behalf of the Commission issued a  
12 Repayment Order that required Mr. Rubalcava to repay the \$17,459.00 that he had  
13 received within 30 days of the date of the order, plus 10% interest to accrue beginning  
14 30 days after the date of the order if he failed to comply with the order.<sup>37</sup>

15           33. Mr. Rubalcava did not comply with or request a hearing to appeal the  
16 Commission's August 22, 2017 Repayment Order.

17           34. Mr. Collins on behalf of the Commission subsequently extended the time for  
18 Mr. Rubalcava to provide documents and information pursuant to the Commission's  
19 subpoena. On or about September 14, 2017, Mr. Rubalcava sent an email to Mr.  
20 Collins to which he attached approximately 112 pages of documents. Mr. Rubalcava  
21 stated that "[i]f there isn't anything for the time, it's because I was not able to locate it or  
22 because it doesn't exist (such as reimbursements for Gila Bend USD)."<sup>38</sup>

23           35. Mr. Collins testified that the documents that Mr. Rubalcava provided in  
24 response to the Commission's subpoena did not resolve concerns about Mr.  
25 Rubalcava's compliance with the Act and the Commission's rules. Mr. Collins testified  
26 that the documents reiterated the same problematic claimed expenses that initially  
27 cause Fester & Chapman and the Commission to have concerns. Mr. Collins testified  
28 that the subpoenas were meant to help Mr. Rubalcava by requiring him to produce

29 <sup>36</sup> See the Commission's Exhibit Y at 7-8, 10-11.

30 <sup>37</sup> See the Commission's Exhibit O.

<sup>38</sup> See the Commission's Exhibit Q.

documents that would establish direct campaign expenditures. Mr. Collins testified that Mr. Rubalcava never provided documentation to establish his claimed campaign expenditures to the Commission.

36. At the Commission's public meeting on November 16, 2017, Executive Director Mr. Collins presented probable cause that Mr. Rubalcava had violated the Act and the Commission's rules. The Commission voted to assess a civil penalty in the amount of three times the amount of the August 22, 2017 Repayment Order, or \$52,377.00, and to require Mr. Rubalcava to repay the initial amount of \$17,459.00 within 30 days.<sup>39</sup>

37. On November 22, 2018, Mr. Collins on behalf of the Commission issued an Order and Notice of Appealable Agency Action, finding that Mr. Rubalcava had violated the Act and the Commission's rules and, as a result, assessing a civil penalty in the amount of \$53,277.00 against him.<sup>40</sup> On December 22, 2017, the Commission received Mr. Rubalcava request for hearing on the civil penalty.<sup>41</sup>

38. Mr. Collins testified that the intent of the Act was to break the link between campaign donations and corruption posed by the quid pro quo that donors expect for their contributions. Candidates were not required to participate in the Citizens Clean Elections system or to accept funding from the Commission for their campaigns. However, if a candidate chose to run as a Citizens Clean Election candidate, he was required to comply with the Act and the Commission's rules.

39. Mr. Rubalcava testified consistently with his response to the comprehensive audit. Because he already used Wells Fargo for his personal bank account, he chose to also have his campaign bank account at Wells Fargo. Without his knowledge or consent, Wells Fargo linked the two accounts. He kept documentation to support campaign expenditures at his work and during two moves into different classrooms, the documentation was lost, along with other personal possessions. Mr. Rubalcava testified that he was not able to locate witnesses who could have given statements to substantiate some of his claimed campaign expenditures.

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<sup>39</sup> See the Commission's Exhibit X at 8-9.

<sup>40</sup> See the Commission's Exhibit AA.

<sup>41</sup> See the Commission's Exhibit BB.

1           40. Mr. Rubalcava's attention was drawn to the finding of the comprehensive  
2 audit that "[t]he Candidate provided the Campaign bank statements for all months of the  
3 election cycle, however the candidate indicated that he was unable to identify or locate  
4 any documentation supporting the deposits and withdrawals from the Campaign bank  
5 statements."<sup>42</sup>

6           41. Mr. Rubalcava testified that he did incur some campaign expenses. He still  
7 has campaign signs in his garage. Mr. Rubalcava testified that he had a good  
8 relationship with Ms. Foley, the auditor at Fester & Chapman. Mr. Rubalcava testified  
9 that in the initial audit, Ms. Foley asked for documents to substantiate five claimed  
10 transactions, but then the criteria changed. Mr. Rubalcava testified that he provided  
11 some documents to Ms. Foley, but then she asked for more, which he did not have.

12           42. Mr. Rubalcava testified that he received some training for the record-  
13 keeping requirements for Citizens Clean Elections candidates, but that because he had  
14 to take time from work to receive the training, he had to return to work before  
15 completing the training.

16           43. Mr. Rubalcava testified that he paid some individuals to canvas for him. Mr.  
17 Rubalcava pointed out a payment of \$9.78 to Krispy Kreme on March 15, 2016, for  
18 donuts for canvassers that he reported.<sup>43</sup> Mr. Rubalcava did not submit a receipt for  
19 this expenditure.

20           44. Mr. Rubalcava pointed out a receipt for \$28.80 from VistaPrint for business  
21 card for his campaign that he submitted to the Commission in response to the  
22 subpoena.<sup>44</sup> Mr. Rubalcava did not point out where on his campaign finance reports or  
23 bank statements this transaction was listed.

24           45. Mr. Rubalcava pointed to certain transactions that he had identified in his  
25 response to the Commission's subpoena that he testified were definitely for campaign-  
26 related expenses, including \$1,375.00, \$2,699.00, and \$3,374.91 to Factor Sales, who  
27 Mr. Rubalcava testified did this campaign's printing, \$800.00 to the Arizona Democratic  
28 Party for a van purchase, which Mr. Rubalcava testified was a list of registered

29 <sup>42</sup> The Commission's Exhibit G at 3.

30 <sup>43</sup> See the Commission's Exhibit Q at 86.

<sup>44</sup> See the Commission's Exhibit Q at 76.

1 Democratic voters to be used in door-to-door campaigning, and meal expenses for  
2 campaign workers at Cracker Barrel in the amount of \$14.97.<sup>45</sup> Although the list  
3 indicated "invoice attached" for most items, Mr. Rubalcava did not call the  
4 Administrative Law Judge's attention to any invoices that corresponded to the claimed  
5 amounts or to the campaign finance reports and bank statements that corresponded to  
6 these amounts.

7 46. Mr. Rubalcava testified that because his district is the second largest district  
8 in Arizona, his campaign incurred significant travel expenses. He did not point to any  
9 claimed travel expense, corresponding invoice, campaign finance report, or bank  
10 statement.

11 47. The Commission's attorney objected to Mr. Rubalcava's attempt to  
12 substantiate his campaign expenditures because he did not appeal the Repayment  
13 Order, only the civil penalty. Mr. Rubalcava asked if it was too late to provide  
14 documents to substantiate his campaign expenditures, why had the Commission issued  
15 the subpoena and caused him to take the time and incur the substantial expense to  
16 produce documents that were responsive to the subpoena. Mr. Rubalcava testified that  
17 if he had \$17,000.00 to repay the funds he had received from the Commission, he  
18 would not have run as a Citizens Clean Election candidate. When Mr. Rubalcava  
19 testified that he did not know that he could appeal the Repayment Order, his attention  
20 was called to Paragraph 12 of the order, which stated that "[i]f Respondent disputes the  
21 commission repayment determination, he may request an administrative appeal . . . ."<sup>46</sup>

22 48. Ms. Larsen's summary noted that Fester & Chapman found at least  
23 \$4,653.41 in non-campaign withdrawals from the campaign bank account, including a  
24 payment to Starbucks in Los Angeles on April 25, 2016.<sup>47</sup> Mr. Rubalcava testified that  
25 expense was included due to Wells Fargo having linked his campaign and personal  
26 bank accounts. Mr. Rubalcava acknowledged that he had agreed to comply with the  
27 Act and the Commission's rules when he signed the Application for Certification as a  
28 Participating Candidate, including conducting all business through a single bank

29 <sup>45</sup> See the Commission's Exhibit Q at 100.

30 <sup>46</sup> The Commission's Exhibit O at 3.

<sup>47</sup> See the Commission's Exhibit I at 3.

account and returning unused funds.<sup>48</sup>

49. Mr. Rubalcava testified that he intended to comply with the Act and the Commission's rules, but that he had no control over Wells Fargo. Mr. Rubalcava testified that there were not any unused funds that he could return to the Commission.

### **CONCLUSIONS OF LAW**

1. Mr. Rubalcava received funding as a Citizens Clean Elections candidate. This matter therefore lies within the Commission's jurisdiction.<sup>49</sup>

2. The Commission bears the burden of proof to establish that Mr. Rubalcava violated the Act by a preponderance of the evidence.<sup>50</sup> Mr. Rubalcava bears the burden to establish affirmative defenses and matters in mitigation of the penalty by the same evidentiary standard.<sup>51</sup>

3. "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not."<sup>52</sup> A preponderance of the evidence is "[t]he greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other."<sup>53</sup>

4. The Commission established that Mr. Rubalcava made transfers from a separate bank account into the campaign bank account totaling \$1,869.33 and made additional deposits, the purpose of which cannot be determined, into the campaign bank account in the amount of \$3,945.54.<sup>54</sup> Mr. Rubalcava's Amended June 30, 2016 Report stated that he collected \$1,415.00 in qualifying contributions, his Amended Qualifying Period Recap Report stated that he received \$177.00 in personal and family contributions, \$525.00 in early individual contributions, and \$60.00 in small

<sup>48</sup> See the Commission's Exhibit A.

<sup>49</sup> See A.R.S. § 16-956(A)(7).

<sup>50</sup> See A.R.S. § 41-1092.07(G)(3); A.A.C. R2-19-119(B)(1); *see also Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

<sup>51</sup> See A.A.C. R2-19-119(B)(2).

<sup>52</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

<sup>53</sup> BLACK'S LAW DICTIONARY at page 1220 (8<sup>th</sup> ed. 1999).

<sup>54</sup> See Finding of Fact No. 18.

1 contributions.<sup>55</sup> Although the deposits and transfers into the campaign bank account  
2 totaled \$5,814.87, Mr. Rubalcava reported contributions of only \$2,177.00, or \$3,637.87  
3 less than the deposits into the account. Mr. Rubalcava's May 30, 2017 response to the  
4 complaint stated that he accepted contributions other than the \$5.00 qualifying  
5 contributions and attached his campaign finance reports as exhibits. But Fester &  
6 Chapman's comprehensive audit determined that the contributions stated in Mr.  
7 Rubalcava's campaign finance reports did not match the deposits on the bank account  
8 statements. The Commission established that Mr. Rubalcava failed to provide sufficient  
9 documentation for campaign activity with his campaign finance reports, pursuant to  
10 A.A.C. R2-20-703, which supports an inference that a violation has occurred.<sup>56</sup>  
11 Because deposits into the campaign bank account exceeded allowable contributions,  
12 the Commission established that Mr. Rubalcava violated A.R.S. § 16-941(A)(1) (Count I  
13 of the Order and Notice of Appealable Agency Action).<sup>57</sup>  
14

15 <sup>55</sup> See Finding of Fact No. 11.

16 <sup>56</sup> A.A.C. R2-20-703 provides in relevant part as follows:

17 A. In addition to the general books and records requirements prescribed  
18 in R2-20-111, participating candidates shall comply with the following  
19 requirements:

20 1. All participating candidates shall have the burden of proving that  
21 expenditures made by the candidate were for direct campaign purposes.  
22 The candidate shall obtain and furnish to the Commission on request any  
23 evidence regarding direct campaign expenses made by the candidate as  
24 provided in subsection (A)(2).

25 2. All participating candidates shall retain records with respect to each  
26 expenditure and receipt, including bank records, vouchers, worksheets,  
27 receipts, bills and accounts, journals, ledgers, fundraising solicitation  
28 material, accounting systems documentation, and any related materials  
29 documenting campaign receipts and disbursements, for a period of three  
30 years, and shall present these records to the Commission on request.

31 . . . .  
32 C. Any expenditure made by the candidate or the candidate's committee  
33 that cannot be documented as a direct expenditure shall promptly be  
34 repaid to the Fund with the candidate's personal monies.

35 <sup>57</sup> A.R.S. § 16-941(A)(1) provides as follows:

36 Notwithstanding any law to the contrary, a participating candidate:

37 1. Shall not accept any contributions, other than a limited number of five-  
38 dollar qualifying contributions as specified in section 16-946 and early  
39 contributions as specified in section 16-945, except in the emergency  
40 situation specified in section 16-954, subsection F.

1           5. The adjusted general spending limit for Respondent, who was unopposed in  
2 the general elections, was set by the number of \$5.00 qualifying contributions he  
3 submitted multiplied by \$5.00.<sup>58</sup> Accordingly, the general election period limit for Mr.  
4 Rubalcava was \$1,415.00. Fester & Chapman determined that Mr. Rubalcava made a  
5 total of \$3,677.16 in expenditures from the campaign bank account during the general  
6 election period (August 32, 2016, through November 8, 2016).<sup>59</sup> Consequently, Mr.  
7 Rubalcava made a total of \$2,262.16 in excess expenditures. Although Mr. Rubalcava  
8 denied having made excess expenditures in his May 30, 2017 response to the  
9 complaint citing his campaign expenditure reports, Fester & Chapman determined that  
10 the reports did not correspond to statements for Mr. Rubalcava's campaign bank  
11 account and that Mr. Rubalcava had failed to report a total of \$2,829.61 in expenditures  
12 that appeared on his campaign account bank statements.<sup>60</sup> Fester & Chapman  
13 requested that Mr. Rubalcava provide documentation for the expenditures but, as he  
14 testified at the hearing, he informed them that the documentation had been lost when he  
15 moved to a new classrooms. As quoted in the margin, A.A.C. R2-20-703(A)(2) required  
16 Mr. Rubalcava to keep documentation to support expenditures and A.A.C. R2-20-  
17 703(C) required him to promptly repay funds provided under the Act if he could not  
18 provide such documentation. The Commission established that Mr. Rubalcava violated  
19 A.R.S. § 16-941(A)(4) (Count II of the Order and Notice of Appealable Action).<sup>61</sup>

20           6. The Commission established that Respondent received a check in the  
21 amount of \$16,044.00 for the primary election and deposited the check into another  
22 account and later transferred \$13,280.22 from his personal account to his campaign

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23 <sup>58</sup> A.R.S. § 16-953.

24 <sup>59</sup> See Finding of Fact No. 19.

25 <sup>60</sup> See Finding of Fact No. 19.

26 <sup>61</sup> A.R.S. § 16-941(A)(3) and (4) provides in relevant part as follows"

27           A. Notwithstanding any law to the contrary, a participating candidate:

28                     . . . . .  
29                     3. Shall not make expenditures in the primary election period in excess  
30                     of the adjusted primary election spending limit.

                      4. Shall not make expenditures in the general election period in excess  
                      of the adjusted general election spending limit.

The Administrative Law Judge notes that the Order and Notice of Appealable Agency Action in  
Count II charged Mr. Rubalcava with violating A.R.S. § 16-941(A)(3) based on facts that alleged  
excessive spending during the general elections period. The Administrative Law Judge conforms  
the citation to the evidence and facts alleged in the charging document.

1 finance account.<sup>62</sup> There is no record that the difference of \$2,763.78 was ever  
2 transferred into the campaign finance account. The auditors noted transfers from a  
3 separate bank account into the campaign account totaling \$1,869.33 and other deposits  
4 with an unknown purpose totaling \$3,945.54. The origination and purpose of these  
5 deposits cannot be verified because Mr. Rubalcava failed to provide supporting  
6 documentation. Mr. Rubalcava failed to establish a petty cash account, yet the auditors  
7 found ATM withdrawals totaling \$683.50 on the campaign account bank statements that  
8 Mr. Rubalcava failed to document on campaign finance reports. Auditors found that Mr.  
9 Rubalcava had transferred \$604.42 from his campaign account to his personal account,  
10 had made \$4,653.41 in non-campaign withdrawals from his campaign account, and had  
11 withdrawn another \$3,635.41 that auditors were unable to determine whether the funds  
12 were used for an appropriate campaign expense. Mr. Rubalcava reported \$7,046.72 in  
13 unspent funds on his Primary Recap Report, but amended the report to claim a negative  
14 \$2.44 after the auditor requested an explanation. The auditors found that Respondent  
15 reported a total of \$17,501.51 in expenditures during the primary election period. Since  
16 Respondent only could have potentially deposited \$18,221.00 into the campaign bank  
17 account, based on the total of the \$16,044.00 in primary election funding, and the  
18 reported \$1,415.00 in qualifying contributions, \$177.00 in personal and family  
19 contributions, \$525.00 in early individual contributions, and \$60.00 in early  
20 contributions, Respondent should have returned to the Commission a minimum of  
21 \$710.49, as required by A.R.S. § 16-953(A)<sup>63</sup> and A.A.C. R2-20-704(B).<sup>64</sup> The  
22

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23 <sup>62</sup> See Finding of Fact No. 20.

24 <sup>63</sup> A.R.S. § 16-953(A) provides as follows:

25 At the end of the primary election period, a participating candidate who  
26 has received monies pursuant to section 16-951, subsection A,  
27 paragraph 1 shall return to the fund all monies in the candidate's  
28 campaign account above an amount sufficient to pay any unpaid bills for  
29 expenditures made during the primary election period and for goods or  
30 services directed to the primary election.

27 <sup>64</sup> A.A.C. R2-20-704(B) provides as follows:

28 B. The Commission may determine that a participating candidate who  
29 has received payments from the Fund must repay the Fund under any of  
30 the following circumstances:

1. Payments in excess of candidate's entitlement. If the Commission  
determines that any portion of the payments made to the candidate was  
in excess of the aggregate payments to which such candidate was

Commission established that Mr. Rubalcava violated A.R.S. § 16-941(A)(5) (Count III of the Order and Notice of Appealable Action).<sup>65</sup>

7. A.R.S. § 16-941 limits participating candidates' spending and contributions. , A.R.S. § 16-948(C) requires participating candidates to report the amounts of campaign expenditures and the payees' full name, street address, and the nature of the goods or services for which compensation was made.<sup>66</sup> A.A.C. R2-20-703 requires participating

entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.

2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.

3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of state or federal law, or used to defray expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.

4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.

5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an amount equal to the amount determined to be income, less any federal, state or local taxes on such income.

6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.

<sup>65</sup> A.R.S. § 16-941(A)(5) provides in relevant part as follows"

A. Notwithstanding any law to the contrary, a participating candidate:

....

5. Shall comply with section 16-948 regarding campaign accounts and section 16-953 regarding returning unused monies to the citizens clean elections fund described in this article.

<sup>66</sup> A.R.S. § 16-948(C) provides as follows:

The candidate or a person authorized under subsection B of this section shall pay monies from a participating candidate's campaign account directly to the person providing goods or services to the campaign and shall identify, on a report filed pursuant to article 1 of this chapter, the full name and street address of the person and the nature of the goods and services and compensation for which payment has been made.

Notwithstanding the previous sentence, a campaign committee may

1 candidates to report all of this information for any other deposit into or disbursements  
2 from the campaign account.<sup>67</sup> A.A.C. R2-20-115 requires that participating candidates  
3 maintain books and records of financial transactions in a single location and to make  
4 such records available to the Commission upon request.<sup>68</sup> Mr. Rubalcava stated that

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5 establish one or more petty cash accounts, which in aggregate shall not  
6 exceed one thousand dollars at any time. No single expenditure shall be  
7 made from a petty cash account exceeding one hundred dollars.

8 <sup>67</sup> A.A.C. R2-20-703 provides as follows:

9 **A.** In addition to the general books and records requirements prescribed in R2-20-111, participating candidates shall  
10 comply with the following requirements:

11 1. All participating candidates shall have the burden of proving that  
12 expenditures made by the candidate were for direct campaign purposes.  
13 The candidate shall obtain and furnish to the Commission on request any  
14 evidence regarding direct campaign expenses made by the candidate as  
15 provided in subsection (A)(2).

16 2. All participating candidates shall retain records with respect to each  
17 expenditure and receipt, including bank records, vouchers, worksheets,  
18 receipts, bills and accounts, journals, ledgers, fundraising solicitation  
19 material, accounting systems documentation, and any related materials  
20 documenting campaign receipts and disbursements, for a period of three  
21 years, and shall present these records to the Commission on request.

22 3. All participating candidates shall maintain a list of all fixed assets  
23 whose purchase price exceeded \$200 when acquired by the campaign.  
24 The list shall include a brief description of each fixed asset, the purchase  
25 price, the date it was acquired, the method of disposition and the amount  
26 received in disposition.

27 **B.** Upon written request from a candidate, the Commission shall  
28 determine whether a planned campaign expenditure or fundraising  
29 activity is permissible under the Act. To make a request, a candidate  
30 shall submit a written description of the planned expenditure or activity to  
the Commission. The Commission shall inform the candidate whether an  
enforcement action will be necessary if the candidate carries out the  
planned expenditure or activity. The Commission shall ensure that the  
candidate can rely on a "no action" letter. A "no action" letter applies only  
to the candidate who requested it.

**C.** Any expenditure made by the candidate or the candidate's committee  
that cannot be documented as a direct expenditure shall promptly be  
repaid to the Fund with the candidate's personal monies.

25 <sup>68</sup> A.A.C. R2-20-115 provides as follows:

26 **A.** All candidates shall maintain, at a single location within the state, the  
27 books and records of financial transactions, and other information  
28 required by A.R.S. § 16-904.

29 **B.** All candidates shall ensure that the books and records of accounts  
30 and transactions of the candidate are recorded and preserved as follows:

1. The treasurer of a candidate's campaign committee is the custodian of  
the candidate's books and records of accounts and transactions, and  
shall keep a record of all of the following:

a. All contributions or other monies received by or on behalf of the  
candidate.

b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.  
c. Cumulative totals contributed by each individual or political committee.  
d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.  
e. All periodic bank statements or other statements for the candidate's campaign bank account.  
f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.

2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.

3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.

4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.

5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.

6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this Section.

**C.** Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.

1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.

2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.

3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.

4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may

1 because he was confused, he began using the campaign reports as his accounting and  
2 balance. However, the purpose of the campaign finance reports is to demonstrate  
3 compliance with the Act and the Commission's regulations by providing information that  
4 may be reconciled with bank account information and documentation of contributions  
5 and expenditures from disinterested third parties to evidence the transactions, not the  
6 candidate's subjective account of his belief or recollection of contributions and  
7 expenditures. The auditors found that Respondent failed to report an aggregate of  
8 \$9,209.72 in expenditures and \$4,852.55 in deposits on his campaign finance reports.  
9 The auditors could not determine if an additional \$1,362.32 was reported because of  
10 insufficient records. A.A.C. R2-20-110 requires participating candidates' campaign  
11 finance reports to include all receipts and disbursements for their current campaign  
12 account.<sup>69</sup> The comprehensive audit revealed several expenditures that were made

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13 notify the Commission. The Commission may enforce the public  
14 inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(B)  
15 for the production of any books, papers, records, or other items sought in  
16 the public inspection request. The subpoena shall order the candidate to  
17 produce:

18 a. All papers, records, or other items sought in the public inspection  
19 request;

20 b. No later than two business days after the date of the subpoena; and

21 c. To the Commission's office during regular business hours.

22 5. Any person who believes that a candidate or a candidate's campaign  
23 committee has not complied with this Section may appeal to Superior  
24 Court.

25 <sup>69</sup> A.A.C. R2-20-110 provides as follows:

26 A. All participating candidates shall file campaign finance reports that  
27 include all receipts and disbursements for their current campaign  
28 account as follows:

29 1. Expenditures for consulting, advising, or other such services to a  
30 candidate shall include a detailed description of what is included in the  
service, including an allocation of services to a particular election. When  
appropriate, the Commission may treat such expenditures as though  
made during the general election period.

2. If a participating candidate makes an expenditure on behalf of the  
campaign using personal funds, the candidate's campaign shall  
reimburse the candidate within seven calendar days of the expenditure.  
After the 7 day period has passed, the expenditure shall be deemed an  
in-kind contribution subject to all applicable limits.

3. A candidate may authorize an agent to purchase goods or services on  
behalf of such candidate, provided that:

a. Expenditures shall be reported as of the date that the agent promises,  
agrees, contracts or otherwise incurs an obligation to pay for the goods  
or services;

b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and

c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.

4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:

a. Joint expenditures must be allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.

b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.

c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.

d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.

e. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:

i. The activity includes express advocacy of the election or defeat of more than 2 candidates;

ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;

iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;

iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;

v. The timing of the material or activity in relation to the election of a second candidate;

vi. The distribution of the material or the activity is targeted to a second candidate's electorate; or

vii. The amount of control a second candidate has over the material or activity.

For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.

B. Timing of reporting expenditures.

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2 1. Except as set forth in subsection (A)(2) above, a participating  
3 candidate shall report a contract, promise or agreement to make an  
4 expenditure resulting in an extension of credit as an expenditure, in an  
5 amount equal to the full future payment obligation, as of the date the  
6 contract, promise or agreement is made.

7 2. In the alternative to reporting in accordance with subsection (A)(1)  
8 above, a participating candidate may report a contract, promise or  
9 agreement to make an expenditure resulting in an extension of credit as  
10 follows:

11 a. For a month-to-month or other such periodic contract or agreement  
12 that is terminable by a candidate at will and without any termination  
13 penalty or payment, the candidate may report an expenditure, in an  
14 amount equal to each future periodic payment, as of the date upon which  
15 the candidate's right to terminate the contract or agreement and avoid  
16 such future periodic payment elapses.

17 b. For a contract, promise or agreement to provide goods or services  
18 during the general election period that is contingent upon a candidate  
19 advancing to the general election period, the candidate may report an  
20 expenditure, in an amount equal to the general election period payment  
21 obligation, as of the date upon which such contingency is satisfied.

22 c. For a contract, promise or agreement to pay rent, utility charges or  
23 salaries payable to individuals employed by a candidate's campaign  
24 committee as staff, the candidate may report an expenditure, in an  
25 amount equal to each periodic payment, as of the date that is the sooner  
26 of (i) the date upon which payment is made; or (ii) the date upon which  
27 payment is due.

28 **C. Reports and Refunds of Excess Monies by Participating Candidates.**

29 1. In addition to any campaign finance report required by Chapter 6 of  
30 Title 16, Arizona Revised Statutes, participating candidates shall file the  
following campaign finance reports and dispose of excess monies as  
follows:

a. Prior to filing the application for funding pursuant to A.R.S. § 16-950,  
participating candidates shall file a campaign finance report with the  
names of the persons who have made qualifying contributions to the  
candidate.

b. At the end of the qualifying period, a participating candidate shall file a  
campaign finance report consisting of all early contributions received,  
including personal monies and the expenditures of such monies.

i. The campaign finance report shall be filed with the Secretary of State  
no later than five days after the last day of the qualifying period and shall  
include all campaign activity through the last day of the qualifying period.

ii. If the campaign finance report shows any amount of unspent monies,  
the participating candidate, within five days after filing the campaign  
finance report, shall remit all unspent contributions to the Fund, pursuant  
to A.R.S. §

16-945(B). Any unspent personal monies shall be returned to the  
candidate or the candidates' family member within five days.

2. Each participating candidate shall file a campaign finance report  
consisting of all expenditures made in connection with an election, all  
contributions received in the election cycle in which such election occurs,  
and all payments made to the Clean Elections Fund. If the campaign  
finance report shows any amount unspent, the participating candidate,  
within five days after filing the campaign finance report, shall send a

1 and not reported. Respondent referred to his campaign finance reports submitted to the  
2 Secretary of State as proof against allegations of excess spending, but information in  
3 the reports was from Mr. Rubalcava, rather than based on a record provided by a  
4 disinterested third party, and Mr. Rubalcava did not document on his campaign finance  
5 reports numerous expenditures and deposits that appeared on the bank account  
6 statements. The Commission established that Mr. Rubalcava failed to report  
7 expenditures in the amount of \$9,209.72 and contributions in the amount of \$4,852.55.  
8 These amounts are subject to penalty pursuant to A.R.S. § 16-942(B).<sup>70</sup>

9 8. The auditors found that Mr. Rubalcava made some possible campaign  
10 withdrawals from the campaign bank account and that some of the deposits appeared  
11 to be legitimate campaign contributions. But the only receipt that Mr. Rubalcava pointed  
12 out at the hearing from a disinterested third party that was for campaign related  
13 expenses was the \$28.80 from VistaPrint for business cards, which he produced on  
14 response to the Commission's subpoena. The Administrative Law Judge finds that Mr.  
15 Rubalcava had the right to present receipts from disinterested third parties to

16 check from the candidate's campaign account to the Commission in the  
17 amount of all unspent monies to be deposited in the Fund.

18 a. The campaign finance report for the primary election shall be filed  
19 within five days after the primary election day and shall reflect all activity  
20 through the primary election day.

21 b. The campaign finance report for the general election shall be filed  
22 within five days after the general election day and shall reflect all activity  
23 through the general election day.

24 3. In the event that a participating candidate purchases goods or  
25 services from a subcontractor or other vendor through an agent pursuant  
26 to subsection (A)(3), the candidate's campaign finance report shall  
27 include the same detail as required in A.R.S. § 16-948(C) for each such  
28 subcontractor or other vendor. Such detail is also required when petty  
29 cash funds are used for such expenditures.  
30

<sup>70</sup> A.R.S. § 16-942(B) provides as follows:

In addition to any other penalties imposed by law, the civil penalty for a violation by or on behalf of any candidate of any reporting requirement imposed by this chapter shall be one hundred dollars per day for candidates for the legislature and three hundred dollars per day for candidates for statewide office. The penalty imposed by this subsection shall be doubled if the amount not reported for a particular election cycle exceeds ten percent of the adjusted primary or general election spending limit. No penalty imposed pursuant to this subsection shall exceed twice the amount of expenditures or contributions not reported. The candidate and the candidate's campaign account shall be jointly and severally responsible for any penalty imposed pursuant to this subsection.

1 substantiate his claimed campaign expenditures to support his appeal. If Mr.  
2 Rubalcava's failure to appeal the Repayment Order precluded him from presenting any  
3 evidence at the hearing on his appeal of the civil penalty that was based on the same  
4 charged statutory violations, the appeal and hearing would be a meaningless exercise.  
5 However, with the exception of the \$28.80 VistaPrint receipt, Mr. Rubalcava failed to  
6 present any evidence to support his appeal. Although the Commission could have  
7 imposed a greater civil penalty, the Administrative Law Judge recommends that the  
8 \$52,377.00 penalty be reduced by \$86.40, or three times \$28.80, for a total civil penalty  
9 in the amount of \$52,290.60.

### 10 **RECOMMENDED ORDER**

11 **IT IS ORDERED** that the Commission shall affirm the finding that Mr. Rubalcava  
12 violated A.R.S. § 16-941(A)(1).

13 **IT IS FURTHER ORDERED** that the Commission shall affirm the finding that Mr.  
14 Rubalcava violated A.R.S. § 16-941(A)(3).

15 **IT IS FURTHER ORDERED** that the Commission shall affirm the finding that Mr.  
16 Rubalcava violated A.R.S. § 16-941(A)(5).

17 **IT IS FURTHER ORDERED** that the Commission shall affirm the finding that Mr.  
18 Rubalcava violated the reporting requirements of A.R.S. § 16-948(C) and A.A.C. 2-20-  
19 703, R2-20-115, and R2-20-110.

20 **IT IS FURTHER ORDERED** that within thirty (30) days of the effective date of the  
21 Order entered in this matter, Mr. Rubalcava shall pay to the Commission a civil penalty  
22 under A.R.S. § 16-942(B) in the amount \$52,290.60.

23 *In the event of certification of the Administrative Law Judge Decision by the*  
24 *Director of the Office of Administrative Hearings, the effective date of the Order will be*  
25 *five days from the date of that certification.*

26 Done this day, February 28, 2018.

27 /s/ Diane Mihalsky  
28 Administrative Law Judge

29 Transmitted electronically to:

30 Thomas Collins, Executive Director

Citizens Clean Elections Commission

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**Doug A. 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**

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Below are the election bills that may impact the Commission.

HCR 2007 -- Clean Elections; Unlawful Contributions; Rulemaking  
(assigned to House Government, passed 4-3; passed the House 34-25 and  
was assigned to Senate Judiciary)

Sponsor – Reps. Coleman: Shope

- Bars participating candidates from spending any money with parties except for voter files, as defined in statute.
- Strips commission of rulemaking exemption
- Effect on CCEC—Major
  - o Rulemaking change does not advance Commission independence.
  - o Participation limitation affects participating candidates own funds, not just clean funds, thus restricting their activity with no clear quid pro quo link.
  - o Heavily involves the Commission in party business, may have associational issues under the First Amendment.
  - o Ties the Clean Elections Act to the \$100 biennial adjustment in 16-931 resulting in seed money increasing from \$160 to \$260. In addition,
  - o Ties candidate funding to the \$100 biennial adjustment in 16-931, reducing the amount of funding increases as it is no longer tied to the rate of inflation.

### SB 1023 – Campaign Contributions; Reportable Amounts

(assigned to Senate Judiciary, passed 4-3)

Sponsor – Senator Kavanagh

- The bill raises the amount of money that requires a candidate to report the contributor's identification from \$50 to \$200
- Effect on CCEC – May change the reporting requirement for CCEC candidates as they may only receive a maximum contribution of \$160. Would need an exemption in the bill to ensure this is not an issue.

### HB 2182 – Campaign Finance; Candidate Committee; Transfers

(assigned to House Local and International Affairs, passed 4-3, passed the House 31-27; passed Senate Government 4-2)

Sponsor – Reps. Coleman; Shope

- The bill would allow for a candidate to transfer funds from one campaign account to a different campaign account. The two accounts must be registered to the same candidate.
- Effect on CCEC – Unclear. Need to ensure 16-941(B) is not affected. Commission staff will need to continue to review campaign finance reports to ensure transfers did not exceed allotted amounts.

### HB 2184 – Secretary of State; Rulemaking

(assigned to House Government, passed 5-3; passed House 53-4; passed Senate Government 7-0)

Sponsor – Rep. Coleman

- The bill would allow for the Arizona Administrative Code to have the force of law in Arizona. Creates confusion as to when Commission rules are enacted versus what this law would require.
- Effect on CCEC – May create issues if the Code differs from commission rules and the code is enforced as law. Gives the Secretary power to create law, bypassing the legislative process. There is a proposed amendment that would alleviate many of the Commission's concerns.

### SB 1037 – Election and Ethics; Commission; Duties

(assigned to Senate Judiciary and Senate Government)

Sponsor – Senator Quezada

- This bill would establish the Arizona Election and Ethics Commission
- Effect on CCEC – May create issues where the CCEC and the Ethics Commission would be investigating the same complaint creating possible dual penalties.

HB 2049 – Campaign Finance; Corporate Recipients; Registration  
(assigned to House Government)

Sponsor – Reps. Clark: Alston, Andrade, Salman

- This bill would require Corporations, LLCs, and Labor Organizations that make contributions, attempting to influence an election, to file with the Secretary of State and disclose the amount they are spending.
- Effect on CCEC – May create more complaints for lack of timely filing.

HB 2050 – Independent Expenditures; Corporations; Funding Disclosure  
(assigned to House Government)

Sponsor – Reps. Clark: Alston, Andrade, Salman

- This bill would require Corporations, LLCs, and Labor Organizations that make independent expenditures, to file campaign finance reports with the Secretary of State. It would also require a person that makes expenditures for fundraising or advertisements to disclose the four funding sources that made the largest aggregate contributions.
- Effect on CCEC – May create more complaints filed with the CCEC because of the lack of timely filing.

HB 2051 – Presidential Preference Election; Independent Voters  
(assigned to House Government)

Sponsor – Reps. Clark: Alston, Andrade

- This bill would allow Independents to vote in the Presidential Preference Election.
- Effect on CCEC – Minor. CCEC may need to increase voter education to insure Independents understood the change.

HB 2052 – Automatic Voter Registration; Licenses; IDs  
(assigned to House Government)

Sponsor – Reps. Clark: Alston, Andrade, Chavez, Salman

- This bill would allow for anyone applying for or renewing a driver's license to automatically be registered to vote if they are not yet.
- Effect on CCEC – Minimal. CCEC may need to increase voter education to insure the change is understood.

HB 2078 – Electronic Filing System; Political Subdivisions  
(assigned to House Government, passed 8-0 and 7-0 as amended; passed the House 59-0; passed Senate Government 7-0)

Original Sponsor – Rep. Finchem

Strike Everything Sponsor – Rep. Coleman

- Strike Everything Amendment was introduced. The bill amends 16-928 and allows for a filing officer at all levels (city, town, county) to opt into the Secretary of State's electronic filing system without paying a fee.
- Effect on CCEC – None. Unless it interferes with the reports the Commission requires, it would not affect the CCEC.

HB 2104– Clean Elections; County Candidates  
(assigned to House Government)

Sponsor – Rep. Powers Hanley: Alston, Blanc, Clark, Fernandez, Gabaldon, Navarrete, Saldate, Salman

- The bill would allow for County Elected officials to use the CCEC system when running for office.
- Effect on CCEC – Major. This would put a major strain on the CCEC system in terms of funding Statewide, Legislative, and County-wide candidates. May require the re-introduction of the \$5 tax check-off box.

HB 2121 – Ballot Measures; Paid Circulator Definition  
(assigned to House Federalism, Property Rights, and Public Policy(FPP); Passed FPP 5-2; passed the House 33-26; passed Senate Judiciary 4-3)

Sponsor – Rep. Leach

- The bill changes the definition of “paid circulator” removing the way they are currently paid (by the number of signatures). The circulator will now have to be compensated differently.
- Effect on CCEC – None. May be used for other purposes.

HB 2153 – Campaign Finance; Nonprofits; Disclosure  
(assigned to House Federalism, Property Rights, and Public Policy, passed  
6-3, passed the House 33-25; assigned to Senate Judiciary)

Sponsor – Rep. Leach

- The bill exempts 501(c) entities from being required to disclose information regarding their contributors, registering as a political action committee, and submitting to audits, subpoenas, or producing evidence regarding potential campaign finance violations.
- Effect on CCEC – Does not appear to apply and in any event, the Commission has not had a complaint filed against a 501(c) that has resulted in the need for audits, or subpoenas.