

July 11, 2018

Dear Mr. Collins,

\*18 JUL 11 AM 11:40 CCEC

I am writing to submit a complaint regarding campaign finance violations committed by Elect Kathy Hoffman for Superintendent. Hoffman's campaign has clearly violated A.R.S. 16-941(A)(1) by accepting unreported contributions in excess of the limitations on early contributions allowable under A.R.S. 16-945, and the campaign has also clearly violated A.A.C. R2-20-104(D)(6) by incurring significantly more debt than its cash on hand.

According to A.R.S. 16-901(11), a "contribution" means any money, advance, deposit or other thing of value that is made to a person for the purpose of influencing an election." The Clean Elections Commission has previously made clear that "an agreement to postpone payment is a contribution because it is a 'loan [or] advance'" (MUR: No. 14-020 ESTHER LUMM). According to A.R.S. 16-941(A)(1), a participating candidate "shall not accept any contributions, other than a limited number of five-dollar qualifying contributions as specified in section 16-946 and early contributions as specified in section 16-945..." A.R.S. 16-945 says "no participating candidate shall accept contributions from a contributor exceeding one hundred dollars during an election cycle." As you know, that amount has been adjusted for the 2018 election to \$160 by the commission. Therefore, an agreement to postpone payment in an amount in excess of \$160 is an illegal contribution to a Clean Elections participating candidate in violation of A.R.S. 16-941(A)(1).

Additionally, according to A.A.C. R2-20-104(D)(6), "prior to qualifying for Clean Elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand." Although it appears to be lawful to incur debt as a participating candidate, as long as it is not in excess of the early contribution limits under A.R.S. 16-945, that debt cannot exceed a participating candidate's cash on hand.

A.R.S. 16-942 outlines the penalties for violations of A.R.S. 16-941. According to A.R.S. 16-942(A), "the civil penalty for a violation of any contribution or expenditure limit in section 16-941 by or on behalf of a participating candidate shall be ten times the amount by which the expenditures or contributions exceed the applicable limit." Additionally, according to A.R.S. 16-942(C), "any campaign finance report filed indicating a violation of section 16-941, subsections A or B or section 16-941, subsection C, paragraph 1 involving an amount in excess of ten percent of the sum of the adjusted primary election spending limit and the adjusted general election spending limit for a particular candidate shall result in disqualification of a candidate or forfeiture of office." A participating candidate in violation of A.R.S. 16-941(A)(1), is liable for a civil penalty ten times the amount in excess of the contribution limits and, if the amount in excess of the contribution limits is more than 10% of the total primary and general election spending limits for the candidate, to be disqualified from the election.

In the 2<sup>nd</sup> Quarter of 2018 report filed with the Secretary of State by Elect Kathy Hoffman for Superintendent, the campaign reported four payments denoted as "back pay" or "backpay" on Schedule E1. The first payment was to Wunderworks Consulting on 05/02/2018 in the amount of \$3,250.00 listed

as "Back pay for fundraising and messaging consulting." The second payment was to First Downs Consulting LLC on 05/07/2018 in the amount of \$1,330.00 listed as "1 month backpay - consulting svcs including strategy, targeting, marketing, and volunteer outreach." The third payment was to Noah Karvelis on 05/07/2018 in the amount of \$21,550.00 listed as "Complete backpay - campaign management services." It appears that the campaign began incurring expenses for a new campaign manager in March (Christy Chavis was paid \$3,000 on 05/09/2018 for what appears to be a month and a half of campaign management), so the debts to Karvelis for campaign management appear to have all been incurred during or before March of 2018. The fourth payment was to Emily O'Neil on 05/07/2018 in the amount of \$3,000.00 listed as "Backpay - Communications Director." These four payments made between 05/02/2018 and 05/07/2018 total \$29,130.00. The fact that these payments were made between 12 and 17 days after the campaign qualified for participating funding and are denoted as "back pay" or "backpay" demonstrates that the liability for these payments was incurred prior to the campaign's qualification for participating funding.

Three additional payments were made in early May that appear to be for work done in April or earlier. A payment was made to Christy Chavis on 05/09/2018 in the amount of \$3,000.00 listed as "Campaign Manager." A June payment to Chavis amounted to only \$2,000.00, which appears to be the employee's monthly rate. It appears based on the payment schedule that the May payment to Chavis was for work completed in March and April. Another payment was made to Emily O'Neil on 05/10/2018 in the amount of \$500.00 listed as "Communications Director." It appears based on the payment schedule that the May payment to O'Neil was for work completed in April. Another payment was made to First Downs Consulting LLC on 05/11/2018 in the amount of \$1,600.00 listed as "Consulting svcs including Treasurer svcs, strategy, targeting, marketing, and volunteer outreach." It appears based on the payment schedule that the May payment to First Downs was for work completed in April. With the addition of the May payments to Chavis, O'Neil, and First Downs, the "backpay" expended by the campaign between 05/02/2018 and 05/11/2018 totals \$34,230.00. These payments were made between 19 and 21 days after the campaign qualified for participating funding, which demonstrates that the liability for these payments was incurred prior to the campaign's qualification for participating funding.

At the beginning of the 2<sup>nd</sup> Quarter of 2018 reporting period, the campaign had \$2,512.61 in cash on hand, excluding \$5 qualifying contributions (\$11,572.61 cash balance minus \$9,060.00 in qualifying contributions). On 04/20/2018, the campaign was approved for funding by the Secretary of State. Prior to that date, the campaign raised an additional \$1,108.00 and spent an additional \$1,709.45 during the 2<sup>nd</sup> Quarter of 2018 reporting period (between 04/01/2018 and 04/19/2018). That means that on 04/19/2018, the campaign had \$1,911.16 cash on hand. Just 11 days earlier, the campaign's cash on hand was approximately \$500 less than that amount.

On 04/19/2018, the campaign had incurred \$34,230.00 of unreported debt for services performed prior to that date. On 04/19/2018, the campaign had only \$1,911.16 in cash on hand. Those services appear to have been performed as advances to the campaign with agreement to pay once primary participating funds were received from the commission. Agreements to postpone payments in amounts in excess of \$160 are illegal contributions to a Clean Elections participating candidate in violation of A.R.S. 16-941(A)(1). The advances to Elect Kathy Hoffman for Superintendent totaling \$34,230.00 constitute

illegal contributions, in excess of the early contribution limits, from three individuals and two consultants. Because the debt exceeded the campaign's cash on hand on 04/19/2018 by \$32,318.84, the advances were also a violation of the A.A.C. R2-20-104(D)(6) prohibition on debt exceeding a participating candidate's cash on hand.

The Elect Kathy Hoffman for Superintendent campaign has clearly violated the A.R.S. 16-941(A)(1) prohibition on accepting contributions in excess of the early contribution limits and the A.A.C. R2-20-104(D)(6) prohibition on incurring debt in excess of the committee's cash on hand. The amount in question that violates A.R.S. 16-941(A)(1) is \$33,750.00 (\$34,230.00 in advances minus the \$160 per individual that, although not reported as such, the three campaign employees could have lawfully donated as early contributions to the campaign, totaling \$480—it is not lawful for the two consulting companies to have contributed any amount according to A.R.S. 16-945(A)). The amount in question that violates A.A.C. R2-20-104(D)(6) is \$32,318.84 (\$34,230.00 in advances minus the cash on hand amount of \$1,911.16, the campaign's cash on hand on 04/19/2018, which was the date prior to the date of authorization for the campaign to receive primary participating funding).

The A.R.S. 16-942(C) threshold for disqualification of a candidate who has violated A.R.S. 16-941(A)(1) is any amount in excess of the contribution limits that is more than 10% of the total primary and general election spending limits for the candidate. The combined primary and general election spending limit for a candidate for Superintendent of Public Instruction is \$271,948.00. 10% of that total is \$27,194.80. Therefore, given that the amount in violation of 16-941(A)(1) is \$33,750.00, candidate Hoffman should be disqualified from the ballot, in addition to civil penalties required to be levied under 16-942(A).

I appreciate your urgent attention to this matter as I know the commissioners are only scheduled to meet twice between now and the August 28, 2018 primary. My hope is that if Hoffman is to be disqualified, it be before the primary date so that she does not become the nominee only to be later disqualified, preventing both parties from having an opportunity to have candidates on the ballot during the general election. For follow-up on this complaint, please contact me at [helenawegneraz@gmail.com](mailto:helenawegneraz@gmail.com).

Helena Wegner



# Acknowledgment by Individual

State of Arizona County of Maricopa

On this 11<sup>th</sup> day of July, 2018, before me, Macayla Reyes  
Name of Notary Public

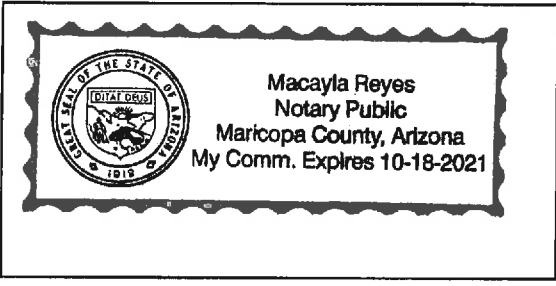
the undersigned Notary Public, personally appeared  
Helena Elise Wegner

Name of Signer(s)

- Proved to me on the oath of \_\_\_\_\_
- Personally known to me
- Proved to me on the basis of satisfactory evidence AZDL D100417487 Exp 11/14/2012  
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Macayla Reyes  
(Signature of Notary Public)

My commission expires 10-18-2021

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer
Top of thumb here

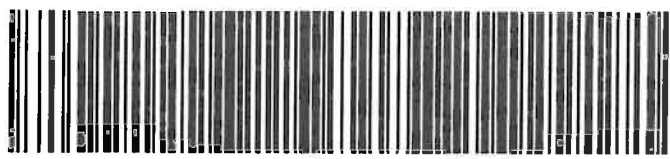
### For Bank Purposes Only

#### Description of Attached Document

Type or Title of Document  
Complaint for Campaign

Document Date 07/11/2018 Number of Pages 4

Signer(s) Other Than Named Above  
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