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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

NOTICE OF COMPLAINT AND OPPORTUNITY TO RESPOND
Via Federal Express and E-mail

August 10, 2018

Eric Kurland
12382 E Lupine Ave.
Scottsdale, AZ 85259
erickurland23@gmail.com

RE: CCEC MUR #18-10

Dear Mr. Kurland:

This letter serves as an internal complaint against you by the Executive Director of the Arizona Citizens Clean Elections Commission.

Complaint

Recently, the Clean Elections Commission Staff reviewed your original Second Quarter Campaign Finance Report. Exhibit 1. That report indicates that on 5/9/2018, 5/10/2018, and 5/13/2108 you made payments of "backpay" or "remainder of payment" to various vendors in the amounts of \$3975.00, \$850.00, and 650.00 respectively. Exhibit 1, Page 7.

Your First Quarter Report, however, stated that you had cash balance of \$3008.50. Exhibit 2. Based on the original report, had you paid the backpay and remainder charges at that time, you would not have had sufficient cash on hand to cover the expenses. Ariz. Admin. Code § 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."). Further, Section R2-20-110(A)(3) states:

"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.

At a minimum, a review of your campaign finance reports indicates there may be a violation of R2-20-104 and 110(A). In addition, if there was not cash on hand, but an agreement to provide services was reached, there may have been a violation of A.R.S. §16-941(A); *see also* A.R.S. 16-945. A contribution is "any money, advance, deposit, or other thing of value made to a person for the purpose of influencing an election." A.R.S. 16-901. Here, to the extent that the services were provided, they may be considered an advance or other form of contribution. Please explain why these charges should not be considered contributions in excess of those

permitted under the Act, and in the case of the Arizona Democratic Party and First Downs Consulting, from entities you cannot accept contributions from at all.

Additionally, without explanation, you filed an amended Second Quarter report changing the memo line on page 7 related to Adam Wilkey from a reference to backpay to "Campaign start-up and management services." Exhibit 3. This is the same day that the Commission staff notified Candidate for Superintendent of Public Instruction of a similar issue about which a Complaint had been filed. You and Ms. Hoffman share a treasurer. Thus, on the same day Ms. Hoffman and her treasurer were made aware of the Complaint against her, you filed an amended report. This gives rise to a strong inference that your amended report was designed to avoid detection.

Under the Act, "[i]n addition to any other penalties imposed by law, the civil penalty for a violation by . . . a candidate shall be" \$160 per day up to twice the amount of the expenditure. *Id.* That penalty is doubled if the expenditure is over a certain threshold. *Id.* Additionally, under A.R.S. § 16-941(C), you "continue to be bound by all other applicable election and campaign finance statutes and rules." These requirements, imposed by the Clean Elections Act, include that a campaign finance report include "[a] certification by the committee treasurer, issued under penalty of perjury, that the contents of the report are true and correct." A.R.S. § 16-926(B)(5). Pursuant to A.R.S. 16-956(A)(7) and Ariz. Admin. Code R2-20-704(B) some or all of the Clean Elections Funding you received may be subject to repayment.

Opportunity for Response

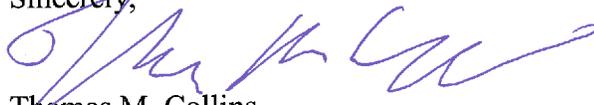
Commission rules require notification to be given to the Respondent of a Complaint. Ariz. Admin. Code R2-20-204(A). Additionally, the rules provide that you be advised of compliance procedures. Those procedures are set forth in Article 2 of the Commission's Rules (Arizona Administrative Code Sections R2-20-201 to R2-20-228) as well as the Clean Elections Act (specifically Arizona Revised Statutes §§ 16-940 to 16-961), which are available on the Commission website at www.azcleanelections.gov.

The Commission's rules provide that a Respondent "be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, *within five days from receipt of a written copy of the complaint*, a letter or memorandum setting forth reasons why the Commission should take no action." Ariz. Admin. Code R2-20-205(A). Your response must be notarized, or the Commission will not consider it. Ariz. Admin. Code R2-20-205(C). Generally, a failure to respond to a complaint within five days may be viewed as an admission to the allegations. *Id.*

The purpose of requesting a response is to determine whether you have violated provisions of the Citizens Clean Elections Act or rules and are subject to penalties and repayment under the Act or rules

Commission rules require that you be given this notice and Complaint. The issuance of this notice and Complaint do not constitute a finding related to the Complaint. A finding, if any, may be made only after the Commission has reviewed the matter. Please contact us if you have any questions at (602) 364-3477 or by e-mail at mike.becker@azcleanelections.gov. Your reply is due no later than **August 17, 2018**.

Sincerely,



Thomas M. Collins

Executive Director

Citizens Clean Elections Commission

cc: Andy Gaona