



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

Location: Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, Arizona 85007

Date: Thursday, April 25, 2019

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 April 25, 2019. 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. 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.

All matters on the agenda may be discussed, considered and are subject to action by the Commission.

Possible action on any Matter Under Review (MUR) identified in this agenda may include authorizing or entering into a conciliation agreement with subject of the MUR, in addition to any other actions, such as finding reason to believe a violation has occurred, finding probable cause to believe a violation has occurred, applying penalties, ordering the repayment of monies to the Clean Elections Fund, or terminating a proceeding.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for March 28, 2019 meeting.
- III. Discussion and Possible Action on Executive Director's Report and Legislative Report. **Possible Action may include directing staff to take positions on legislation or legal issues discussed in the report. The report is typically available on line or via email request at ccec@azcleanelections.gov**
- IV. Discussion and Possible Action on the Voter Education Research and Ongoing Projects.

- V. Discussion and possible action on Legal Advice related to Proposition 306. **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).**
- VI. Discussion and Possible Action of whether there is probable cause to believe a violation occurred in MUR 18-14 U.S. Term Limits, Inc.
- VII. 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
- VIII. 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 23rd day of April, 2019.

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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March 28, 2019

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9:31 a.m.

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ITEM II

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COASH & COASH, INC.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:31 a.m. on March 28, 3 2019, at the State of Arizona, Clean Elections 4 Commission, 1616 West Adams, Conference Room, Phoenix, 5 Arizona, in the presence of the following Board members: 6 Mr. Mark S. Kimble, Chairperson 7 Mr. Damien R. Meyer 8 Mr. Galen D. Paton 9 10 OTHERS PRESENT: 11 Thomas M. Collins, Executive Director 12 Paula Thomas, Executive Officer 13 Mike Becker, Policy Director 14 Alec Shaffer, Web Content Manager 15 Fanessa Salazar, Administrative Assistant 16 Kara Karlson, AZ Attorney General's Office 17 Joseph LaRue, AZ Attorney General's Office 18 Christopher Gilfillan 19 Christina Borrego, RIESTER 20 Ryan Wheelock, RIESTER 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>09:32:28-09:34:05</p> <p>1 on executive director's report and legislative report. 2 Tom? 3 MR. COLLINS: Yes. Commissioners, thank 4 you. 5 Real quick, you know, we had -- the Phoenix 6 mayoral election for -- was last -- was just a couple 7 of weeks ago, and it had -- it had a pretty high 8 turnout for a -- for a -- for a Phoenix election. And 9 there will be a -- but there will be a runoff for the 10 two council districts seats that were not settled by 11 the election that was running at the same time. And 12 then we have some other local elections coming up on 13 May 21st in Chino Valley, San Luis and Wickenburg. So 14 there will be information on that on our website. 15 On the voter education front, also, 16 obviously -- you know, we'll talk a little bit more 17 about that later on the agenda with respect to the 18 18 in 2018 Campaign. Gina couldn't be here today, but we 19 decided that was -- this was a timely time to talk 20 about that. 21 So Gina and Alec will, next week, be in 22 Nashville for a conference on government social media 23 use. So I think that will be -- I think that will be 24 good. I think right now, you know, people look to our 25 voter education department and Gina and Alec for</p>
<p>09:31:45-09:32:25</p> <p style="text-align: right;">Page 3</p> <p>1 PROCEEDING 2 3 CHAIRMAN KIMBLE: Good morning. I'm 4 calling to order the Citizens Clean Election meeting of 5 Thursday, March 28th, 2019. 6 Item Number II, discussion and possible 7 action on Commission meeting minutes for March 4th, 8 2019. 9 Are there any additions or corrections to 10 the minutes? 11 (No response.) 12 CHAIRMAN KIMBLE: If not, is there a motion 13 to approve them? 14 COMMISSIONER MEYER: I move that we approve 15 the minutes. 16 COMMISSIONER PATON: Second. 17 CHAIRMAN KIMBLE: It's been moved and 18 seconded that we approve the minutes for the meeting of 19 March 4th, 2019. 20 All those in favor say aye. 21 (Chorus of ayes.) 22 CHAIRMAN KIMBLE: Any opposed? 23 (No response.) 24 CHAIRMAN KIMBLE: The minutes are approved. 25 Number III, discussion and possible action</p>	<p>09:34:09-09:35:36</p> <p style="text-align: right;">Page 5</p> <p>1 guidance on social media. So I think the opportunity 2 to learn more about that is a good investment. 3 We have one enforcement case left from 2018 4 that is still pending. 5 I do want to call your attention to the 6 article on Rivko Knox, who is, I think, right now in 7 the Senate Judiciary Committee, among other things, 8 asking them probably to vote down House Bill 2724. I 9 thought it was a great -- great article, and, 10 obviously, you all know her from her -- from her being 11 here to keep us informed. 12 On the legislative front, I wanted to call 13 a couple of bills. As I said, right now -- and this 14 has been historically true. Judiciary committees 15 chaired by Chairman Farnsworth have always met on 16 Thursday mornings, and so when he went from the House 17 to the Senate, he kept the same schedule. So we 18 will -- it's unlikely we will be available to testify 19 on House Bill 2724, which is -- which is in committee 20 today, basically, while we're here. 21 However, we did send a letter to Chairman 22 Farnsworth and the committee. A similar letter was 23 sent to the House committee members outlining some of 24 the -- what we see as real legal infirmities in the 25 measure. It's -- it has been claimed by the -- the</p>

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<p>1 measure has a House sponsor, but he's, sort of, a</p> <p>2 sponsor in name only. The people -- the person behind</p> <p>3 this bill has -- as a lobbyist has been, sort of,</p> <p>4 pushing this notion that Prop 306 somehow requires</p> <p>5 additional legislation, and then his proposed</p> <p>6 legislation radically alters the terms of Prop 306.</p> <p>7 So both of those propositions are incorrect</p> <p>8 legally. Prop 306, there's nothing required to execute</p> <p>9 it, and nor did it create a, sort of, black hole into</p> <p>10 which the legislature can put whatever it wants on to</p> <p>11 the Commission via Title 41. I mean, if -- I mean, it</p> <p>12 doesn't even stand to reason because why would they</p> <p>13 have needed to use Title 41 when they could have just</p> <p>14 thrown something in Title 16 or Title 36 or Title --</p> <p>15 you know, Title 13. There's no -- it just doesn't</p> <p>16 make -- it doesn't make a lot of sense.</p> <p>17 It also vitiates or attempts to vitiate the</p> <p>18 Commission's authority over enforcement, which we know</p> <p>19 is expressed in parts of the Act that were not part of</p> <p>20 Prop 306, and we know from Judge Palmer's ruling, or</p> <p>21 integral of the Act, that it violates the VPA to try to</p> <p>22 damage them. And it also ignores what the voters were</p> <p>23 told in Prop 306 which was that it was about rules and</p> <p>24 rule-making and -- and actually tries to import</p> <p>25 elements of Title 41 that only apply to Title 32 into</p>		<p>1 MR. COLLINS: Well, the committee, I</p> <p>2 would -- we -- if we had thought the committee was</p> <p>3 likely to vote this down, we probably would have</p> <p>4 figured -- you know, decided to make up -- you know,</p> <p>5 get somebody there just -- you know; however, this</p> <p>6 committee is not designed that way.</p> <p>7 CHAIRMAN KIMBLE: Okay.</p> <p>8 MR. COLLINS: And, I mean, very</p> <p>9 particularly, in the House, it didn't even go to the</p> <p>10 House Elections Committee, I think, because they didn't</p> <p>11 think that -- assumed that the folks who put this</p> <p>12 together didn't think the Elections Committee was</p> <p>13 reliable and they sent it to a different committee</p> <p>14 altogether.</p> <p>15 CHAIRMAN KIMBLE: So do you have the</p> <p>16 feeling that the Senate attorneys will give the same</p> <p>17 advice that the House attorneys did about the VPA</p> <p>18 issue?</p> <p>19 MR. COLLINS: I don't know. I will tell</p> <p>20 you that the Senate Rules attorney is GRRC -- was</p> <p>21 GRRC's staff attorney throughout the last five years.</p> <p>22 So it remains to be seen whether or not -- I mean, I</p> <p>23 don't know. So we've had a lot of conversations and we</p> <p>24 have a very cordial relationship and we have a very, I</p> <p>25 think, good rapport around talking about the law. You</p>	
09:37:24-09:38:36	Page 7	09:39:43-09:41:00	Page 9
<p>1 the Clean Elections Act.</p> <p>2 And so it's a very -- it's a very</p> <p>3 strange -- strangely constructed thing. The House</p> <p>4 rules attorneys, I'll point out, did tell the members</p> <p>5 that the bill need -- required what they call a VPA</p> <p>6 clause or Voter Protection Act clause which says you</p> <p>7 need a three-quarter vote to enact this. The</p> <p>8 leadership in the -- in the House decided that that</p> <p>9 was -- to ignore the Rules attorney's advice on the</p> <p>10 Prop 105 issue. We will see if the Senate will act</p> <p>11 similarly.</p> <p>12 So we'll see what the -- what the future</p> <p>13 brings, I mean, but the bottom line is that, from a</p> <p>14 legal perspective, even -- I mean, regardless of</p> <p>15 politics, this Act can't be squared with the vote of</p> <p>16 the people in 2018 or the vote of the people in 1998.</p> <p>17 So that's --</p> <p>18 CHAIRMAN KIMBLE: Okay. Mr. Collins, can I</p> <p>19 just stop you for a minute?</p> <p>20 MR. COLLINS: Sure.</p> <p>21 CHAIRMAN KIMBLE: So this is now before the</p> <p>22 Senate Judiciary.</p> <p>23 MR. COLLINS: Right.</p> <p>24 CHAIRMAN KIMBLE: What's the forecast</p> <p>25 there? Do you or Mike have any --</p>		<p>1 know, whether or not, you know he will be persuaded or</p> <p>2 not, I wouldn't want to predict. And I wouldn't want</p> <p>3 to put him in that kind of -- I mean, I just don't</p> <p>4 know. I don't know. He needs to evaluate the</p> <p>5 question, and I'm sure it hasn't yet been presented to</p> <p>6 him.</p> <p>7 Finally -- you know, and then it would go</p> <p>8 to -- if it's unamended, it will go -- it would -- and</p> <p>9 it passes the Senate, the main body of the Senate, it</p> <p>10 would go straight to the governor. So I think that if</p> <p>11 it's -- now, on the other hand, if it's amended, it</p> <p>12 goes back to the House. So, you know, we'll see. I</p> <p>13 mean, the last -- whatever -- however many years, we've</p> <p>14 been -- the Clean Elections Commission has been the</p> <p>15 last bill voted on and it's always been a squeaker,</p> <p>16 even -- even last year. Even though the bill that went</p> <p>17 on the ballot went out, it still was a squeaker.</p> <p>18 And so it's always -- it's always -- and</p> <p>19 for some reason, the folks who back this stuff think</p> <p>20 that it's cute to, you know, roll out the anti-Clean</p> <p>21 Elections bills at 3:00 o'clock in the morning on</p> <p>22 Sunday night, which I think is always -- always a</p> <p>23 fun -- a fun little, I guess, joke they like to play.</p> <p>24 So I don't know.</p> <p>25 CHAIRMAN KIMBLE: Okay. And will someone,</p>	

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<p>1 you or Mike, let us know as it goes along every step --</p> <p>2 MR. COLLINS: Sure.</p> <p>3 CHAIRMAN KIMBLE: -- that this happened?</p> <p>4 Because this is certainly a matter of interest, I</p> <p>5 think, to all of us.</p> <p>6 MR. COLLINS: Sure. Absolutely. And --</p> <p>7 you know, and I think -- I mean, the reality is that,</p> <p>8 just to -- you know, we have -- you know, before their</p> <p>9 staff attorney left, we had had some very good -- as I</p> <p>10 think I said in my executive director's report a couple</p> <p>11 of months ago, we said we had very good meetings with</p> <p>12 them. We had gotten -- we, at least, figured out what</p> <p>13 we thought the issues with 306 would be or could be,</p> <p>14 and we were hoping to work towards some kind of common</p> <p>15 goal.</p> <p>16 With the personnel changes and stuff, we</p> <p>17 haven't had a chance to restart those yet, but I don't,</p> <p>18 you know, like at this point, anticipate there,</p> <p>19 necessarily, a conflict over 306 itself. You know, and</p> <p>20 even if this passes, I mean, there's -- again,</p> <p>21 there's -- you know, there's, you know -- you know, I</p> <p>22 think the single biggest issue will be -- will be two</p> <p>23 things. It will be enforcement and, obviously, if they</p> <p>24 get into other areas of the Act that they haven't</p> <p>25 gotten into, but, you know, those will raise their own</p>		<p>1 CHAIRMAN KIMBLE: Are there any other ones</p> <p>2 you want to highlight, Tom?</p> <p>3 MR. COLLINS: Well, I think -- I mean, I</p> <p>4 just think we're trying to keep track of, really, for</p> <p>5 voter education purposes, some of the different bills</p> <p>6 that are moving through respecting -- you know, there's</p> <p>7 a bill to change the primary date. There's a bill to</p> <p>8 change how the permanent early voter list works, and</p> <p>9 then the governor signed a bill, I think, last week --</p> <p>10 and I'm not sure -- oh, that requires -- now will</p> <p>11 require aligned early voting places with where you vote</p> <p>12 in person with regular polling places and the</p> <p>13 requirement that you show I.D.</p> <p>14 So that was signed by the governor on --</p> <p>15 and that's on page 8 of the report. The governor</p> <p>16 signed that on -- I think, on Monday, I want to say.</p> <p>17 So -- so that's -- those -- that's it. I mean, that's</p> <p>18 really -- those are the things we're keeping track of,</p> <p>19 but not all of them are things that we're necessarily</p> <p>20 pushing any kind of agenda with.</p> <p>21 CHAIRMAN KIMBLE: One other one I wanted to</p> <p>22 mention, SB 1188, the permanent early voter list one.</p> <p>23 MR. COLLINS: Yeah.</p> <p>24 CHAIRMAN KIMBLE: Have we taken a stand on</p> <p>25 that at all?</p>	
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<p>1 issues.</p> <p>2 You know, if you can -- for example, if you</p> <p>3 can go to GRRC on an enforcement matter, it just says</p> <p>4 anybody can go to GRRC on an enforcement matter, not</p> <p>5 the respondent.</p> <p>6 COMMISSIONER MEYER: Right.</p> <p>7 MR. COLLINS: So, from a practical matter,</p> <p>8 if I don't -- if I -- if I don't like you, Respondent,</p> <p>9 and the Commission were to vote to let you off, a</p> <p>10 non-party to that proceeding could go to GRRC and order</p> <p>11 us to reopen the enforcement. And that has due process</p> <p>12 implications because the statute they're amending</p> <p>13 literally says that an order from GRRC on that issue is</p> <p>14 unappealable to the judiciary. So strangers to a</p> <p>15 proceeding can come to GRRC and say reopen this; we</p> <p>16 don't like what you did here, we would be ordered to</p> <p>17 reopen it and no one will be able to appeal that. And</p> <p>18 that's -- that's -- I'm not kidding.</p> <p>19 CHAIRMAN KIMBLE: Okay.</p> <p>20 MR. COLLINS: But that's -- that can't be</p> <p>21 the law. And we would lose the defense of that on due</p> <p>22 process.</p> <p>23 CHAIRMAN KIMBLE: Do any other Commission</p> <p>24 members have any questions about 2724?</p> <p>25 (No response.)</p>		<p>1 MR. COLLINS: We haven't. We -- you know,</p> <p>2 right now it passed out of the -- out of the House</p> <p>3 Elections Committee, I want to say, Tuesday or --</p> <p>4 Tuesday, right? I think it was Tuesday. We haven't,</p> <p>5 and part of the -- part of the issue there is it's --</p> <p>6 from -- you know, you've got some discrepancies between</p> <p>7 the counties and the Secretary's office and some of the</p> <p>8 more active voter rights groups about how many people</p> <p>9 are affected.</p> <p>10 You know, from -- from my perspective, I</p> <p>11 think it's a -- it raises some problems, but on the</p> <p>12 other hand, the permanent early -- the permanent early</p> <p>13 voter list, you know, is only so permanent in the first</p> <p>14 place. In other words, if you move counties, you have</p> <p>15 to reregister. So it's not permanent in that sense.</p> <p>16 If you -- if you are -- if you receive more than a</p> <p>17 certain number of mailings for regular voting material,</p> <p>18 you can be put on the inactive list as a ballot -- as a</p> <p>19 voter, I think.</p> <p>20 And Joe and Kara, correct me if I'm wrong,</p> <p>21 but I think if you're inactive, you're not going to get</p> <p>22 an early ballot as a PEVL voter, correct?</p> <p>23 MS. KARLSON: I believe that's correct.</p> <p>24 MR. COLLINS: Yeah. So it's not -- to me,</p> <p>25 it's a little more complicated than that and a little</p>	

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<p>1 outside of our -- outside of our wheelhouse. On the</p> <p>2 other hand, I mean, we are supposed to promote</p> <p>3 participation, but on the other hand, you know, it's --</p> <p>4 there are some accountability issues here.</p> <p>5 The other, I think, political, slash,</p> <p>6 policy problem is, you know, for many years, certainly</p> <p>7 since early voting and as early voting has expanded or</p> <p>8 mail voting has expanded, you know, the counties'</p> <p>9 biggest issue has been what we call -- what is called</p> <p>10 late earlys, which is when you vote your early ballot</p> <p>11 but then bring it on election day.</p> <p>12 And I think -- I think the policy argument</p> <p>13 that Senator Ugenti-Rita is making is, basically, look,</p> <p>14 if we want to cut that time down, you know, if you're</p> <p>15 not using the permanent early voter list consistently,</p> <p>16 then your permanent -- your mailing ballot</p> <p>17 consistently, then maybe you need to think about</p> <p>18 whether or not you want to receive this. And that</p> <p>19 would -- and that would overall -- now, that does</p> <p>20 result in some number of people will drop off based on</p> <p>21 this policy. How many is where the question lies.</p> <p>22 So -- but from a voter education</p> <p>23 perspective, it's -- you know, it's not an unsolvable</p> <p>24 problem, I think. I mean, I think you just have to --</p> <p>25 you know, folks who are using it consistently, it's not</p>	<p>1 CHAIRMAN KIMBLE: Yeah.</p> <p>2 MR. COLLINS: So -- so I don't, you know,</p> <p>3 again, you know, the County Recorders, I think, are</p> <p>4 opposed to it, and so we'll see. I mean, you know --</p> <p>5 CHAIRMAN KIMBLE: Okay.</p> <p>6 MR. COLLINS: -- how much priority it gets,</p> <p>7 but anyway, that's where we are. That's where we ended</p> <p>8 up. We did not take a position on it.</p> <p>9 COMMISSIONER MEYER: 1046?</p> <p>10 MR. COLLINS: 1188. 2146 -- 2146.</p> <p>11 COMMISSIONER MEYER: 1046 is the early</p> <p>12 mailing --</p> <p>13 MR. COLLINS: That one went away. That</p> <p>14 bill -- that bill never reached the Senate floor</p> <p>15 because there weren't the votes for it.</p> <p>16 COMMISSIONER MEYER: Thank you.</p> <p>17 CHAIRMAN KIMBLE: Any other questions on</p> <p>18 the executive director's report?</p> <p>19 (No response.)</p> <p>20 CHAIRMAN KIMBLE: Thank you.</p> <p>21 Item IV, discussion and possible action on</p> <p>22 final audit approval for the following 2018 General</p> <p>23 Election participating candidates. There's a list of</p> <p>24 23 candidates that -- from the agenda that will be made</p> <p>25 part of the record.</p>		
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<p>1 going to affect them at all and folks who are not using</p> <p>2 it consistently, I mean, they're going to need to be,</p> <p>3 you know, reminded of that. And I think that everyone</p> <p>4 will agree about the notion that we need to -- that</p> <p>5 folks need to be informed about it. I mean, you know,</p> <p>6 so I -- I don't know.</p> <p>7 The last thing I'll say, if I could, just</p> <p>8 to give you the last piece of the policy puzzle, I</p> <p>9 think the biggest problem that there is -- and this is</p> <p>10 what some of the County Recorders have observed -- is</p> <p>11 independent voters have to request their early ballot,</p> <p>12 even if they're on the PEVL, on account of the fact</p> <p>13 that they have to pick a party for purposes of the</p> <p>14 primary. So, you know, that's -- that's really</p> <p>15 probably where the rubber meets the road, and I don't</p> <p>16 know enough about the law in this area to know if</p> <p>17 that -- if that -- if that amounts to any kind of, you</p> <p>18 know, legal issue or not.</p> <p>19 CHAIRMAN KIMBLE: Well, it means that the</p> <p>20 Independents only have to miss two elections to be</p> <p>21 taken off the permanent, as opposed to Democrats and</p> <p>22 Republicans and Libertarians who have to miss four.</p> <p>23 MR. COLLINS: I think that's -- I think</p> <p>24 that's right, and they're also not -- they're also the</p> <p>25 least likely to know.</p>	<p>1 Tom, is there anything you want to say</p> <p>2 about these audits?</p> <p>3 MR. COLLINS: I just, you know, want to,</p> <p>4 you know, say for the record -- and it's in the</p> <p>5 memorandum from Mike -- that -- you know, that the</p> <p>6 auditor's process here is to look at the candidate's</p> <p>7 bank statements, receipts, records and campaign finance</p> <p>8 reports. What we try to do is, if the findings are not</p> <p>9 significant -- and this year, you know, we audited</p> <p>10 every candidate which -- which we -- was a decision we</p> <p>11 made -- that you all made in view of the -- one of the</p> <p>12 cases we had with a candidate to tighten up the</p> <p>13 process.</p> <p>14 I think the good thing on that is we have</p> <p>15 some confidence that there is -- you know, we didn't --</p> <p>16 we did not find the kind of major issues that came up</p> <p>17 in that random audit. You know, I think that -- I</p> <p>18 think that -- and we think we talked last month that</p> <p>19 this process has actually gone as fast or faster than</p> <p>20 when we just did the random audits. And so, you know,</p> <p>21 Mike and Paula have really done good work on that.</p> <p>22 And I think, you know, we've heard from</p> <p>23 some folks that they don't like the idea of more</p> <p>24 audits. On the other hand, I think it's -- I think</p> <p>25 it's the only way to solve for the issue and, you know,</p>		

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<p>1 if you have random audits, you don't know if you're</p> <p>2 going to end up being audited or not. This way you can</p> <p>3 count on it. You should -- you can be ready for it.</p> <p>4 You can -- you can have your stuff prepared and be</p> <p>5 ready to go. So that's really all I have to say --</p> <p>6 sorry.</p> <p>7 CHAIRMAN KIMBLE: Okay. Commissioner</p> <p>8 Paton?</p> <p>9 COMMISSIONER PATON: So is this -- of us</p> <p>10 auditing everybody, is that a big a hassle for our</p> <p>11 staff?</p> <p>12 MR. COLLINS: Commissioner Paton, no. I</p> <p>13 think that we have -- we have not found that because we</p> <p>14 actually were able to get -- we've gotten our audits</p> <p>15 done, basically, on the same timeline that we got them</p> <p>16 done when we were just doing randoms. So it hasn't</p> <p>17 been -- it hasn't been --</p> <p>18 COMMISSIONER PATON: So I would just have a</p> <p>19 comment that I feel a lot better that -- because when</p> <p>20 we had that big issue, it was so stressful on everybody</p> <p>21 that somebody could be so we willy-nilly. And the fact</p> <p>22 that we feel like everybody is aboveboard and</p> <p>23 everything, I feel really good about that.</p> <p>24 MR. COLLINS: Thank you, Commissioner</p> <p>25 Paton. I think -- I think people would agree.</p>	<p>1 MR. GILFILLAN: Sure.</p> <p>2 CHAIRMAN KIMBLE: Any commissioners have</p> <p>3 any questions?</p> <p>4 Commissioner Meyer?</p> <p>5 COMMISSIONER MEYER: Thank you for being</p> <p>6 here today.</p> <p>7 MR. GILFILLAN: Sure.</p> <p>8 COMMISSIONER MYER: Did you find the</p> <p>9 training that you received to be comprehensive and</p> <p>10 everything that you needed to know as far as running</p> <p>11 clean candidate?</p> <p>12 MR. GILFILLAN: Yes. I participated in two</p> <p>13 different trainings with Tom and with legal counsel,</p> <p>14 and both of them I found to be very helpful. I would</p> <p>15 also add that the staff at the Clean Elections has been</p> <p>16 overwhelmingly helpful. If I had a question, I could</p> <p>17 get it answered very quickly and not worry about what</p> <p>18 could happen. So, yes, I found the training to be</p> <p>19 helpful.</p> <p>20 COMMISSIONER MEYER: Thank you.</p> <p>21 CHAIRMAN KIMBLE: Thank you.</p> <p>22 COMMISSIONER PATON: Thank you.</p> <p>23 CHAIRMAN KIMBLE: Thank you very much.</p> <p>24 MR. GILFILLAN: Of course.</p> <p>25 CHAIRMAN KIMBLE: Any other comments about</p>		
09:52:39-09:53:35	Page 19	09:54:21-09:55:17	Page 21
<p>1 I would note a candidate is here. I don't</p> <p>2 know if he wants to address -- Chris, do you want to</p> <p>3 talk to the Commission about your audit, for some</p> <p>4 reason?</p> <p>5 MR. GILFILLAN: I was just here to listen.</p> <p>6 I can -- I can talk generally about the process.</p> <p>7 CHAIRMAN KIMBLE: Could you come up to the</p> <p>8 microphone, please, and state your name --</p> <p>9 MR. GILFILLAN: Yes, sir.</p> <p>10 CHAIRMAN KIMBLE: -- for the record?</p> <p>11 MR. GILFILLAN: My name is Chris Gilfillan,</p> <p>12 and I was a Clean Elections candidate for the House of</p> <p>13 Representatives in LD 20. I was also a</p> <p>14 non-participatory candidate in 2016. So I have, kind</p> <p>15 of, experience with both sides. I found the Clean</p> <p>16 Elections Commission to be very aboveboard and helped</p> <p>17 me just kind of know what I needed to do, how I needed</p> <p>18 to do it and gave me, you know, a good view of where --</p> <p>19 what is expected of me as a candidate.</p> <p>20 And, honestly, I didn't find the audit to</p> <p>21 be too off-putting. It was something that really was</p> <p>22 dotting I's and crossing T's if you were doing the</p> <p>23 right thing.</p> <p>24 CHAIRMAN KIMBLE: Thank you. That's very</p> <p>25 helpful.</p>	<p>1 these audits? The bottom line is that there were no</p> <p>2 significant findings or the findings have been or are</p> <p>3 in the process of being addressed for these 23</p> <p>4 candidates.</p> <p>5 (No response.)</p> <p>6 CHAIRMAN KIMBLE: Do we have a motion to</p> <p>7 accept these audits?</p> <p>8 COMMISSIONER MEYER: I move that we accept</p> <p>9 the audits set forth in our materials --</p> <p>10 COMMISSIONER PATON: Second.</p> <p>11 CHAIRMAN KIMBLE: Do you need to --</p> <p>12 MS. THOMAS: Can you speak into the</p> <p>13 microphone?</p> <p>14 COMMISSIONER MEYER: My apologies. I move</p> <p>15 that we accept the audits for the 2018 General Election</p> <p>16 candidates that are set forth in our materials for</p> <p>17 today's meeting.</p> <p>18 COMMISSIONER PATON: And I would second</p> <p>19 that.</p> <p>20 CHAIRMAN KIMBLE: It's been moved and</p> <p>21 seconded that we accept these audits.</p> <p>22 All those in favor say aye.</p> <p>23 (Chorus of ayes.)</p> <p>24 CHAIRMAN KIMBLE: Anyone opposed?</p> <p>25 (No response.)</p>		

09:55:18-09:56:26	Page 22	09:58:16-09:59:42	Page 24
<p>1 CHAIRMAN KIMBLE: The audits are accepted.</p> <p>2 Item V, discussion and possible action on</p> <p>3 the Commission's 18 in 2018 Voter Education Campaign</p> <p>4 recognition and PR Week award in the best public sector</p> <p>5 category.</p> <p>6 Tom?</p> <p>7 MR. COLLINS: So --</p> <p>8 CHAIRMAN KIMBLE: Is Gina here or not?</p> <p>9 MR. COLLINS: Gina is not here today.</p> <p>10 CHAIRMAN KIMBLE: Okay.</p> <p>11 MR. COLLINS: But we may -- we were talking</p> <p>12 about this, and we decided to go ahead because of the</p> <p>13 timeliness of this, rather than waiting until next</p> <p>14 month, although Alec -- Alex is in the back. So we may</p> <p>15 have to drag him out here.</p> <p>16 Yes. So, you know, I know you all saw the</p> <p>17 emails and maybe saw the Facebook and Twitter things</p> <p>18 that we put out about this. You know, I -- this is</p> <p>19 what -- this is what the award looks like if you're --</p> <p>20 you can see it.</p> <p>21 CHAIRMAN KIMBLE: For those watching</p> <p>22 online.</p> <p>23 MR. COLLINS: Yes. There you go, but we're</p> <p>24 very proud of this. And I'm very proud of the work</p> <p>25 that Gina -- Gina and Alec have done on this project.</p>	<p>1 know, just because it's California and because, you</p> <p>2 know -- you know, and I think that the fact that we're</p> <p>3 able to identify a message, target the right audience</p> <p>4 for it and deliver on it without having to go, you</p> <p>5 know -- you know, without having to break the bank, I</p> <p>6 think, is all -- is all upside and, again, proof of</p> <p>7 concept that the ideas we are working on in voter</p> <p>8 education and that Gina and Alec and RIESTER and Paula</p> <p>9 have brought together, both on the cost side and on the</p> <p>10 deliverable side, have been -- have been -- are</p> <p>11 successful.</p> <p>12 So I just think -- I think it's a good</p> <p>13 thing. I don't mean to go on about it, but -- and,</p> <p>14 obviously, if Gina were here, I would just -- you know,</p> <p>15 we're very happy about -- we're very happy. You know,</p> <p>16 I think everybody in the state, I think, knows, you</p> <p>17 know, that Gina runs a very effective and exciting</p> <p>18 voter education program.</p> <p>19 CHAIRMAN KIMBLE: Well, voter education is,</p> <p>20 I think, one of the most important things we do, which</p> <p>21 seems to be overlooked quite often in more</p> <p>22 controversial matters, but it certainly speaks for</p> <p>23 itself when you look at the other finalists in this</p> <p>24 category: The Centers for Disease Control, the</p> <p>25 California campaign you referenced, Procter & Gamble.</p>		
09:56:33-09:58:09	Page 23	09:59:46-10:00:58	Page 25
<p>1 And we're, obviously, happy that, you know, with the</p> <p>2 work that we've been receiving from RIESTER and, you</p> <p>3 know, I just think that -- the reason I wanted to put</p> <p>4 it on the agenda, in part, was to say, look, I mean,</p> <p>5 first of all, when you look at the -- and we have a</p> <p>6 copy of that, I think, back in the office, but if you</p> <p>7 look at the program for this award and the kinds of</p> <p>8 folks who are -- the kinds of states and kinds of</p> <p>9 spending that were up for it along with us, we're</p> <p>10 talking about, you know, big -- we're talking about</p> <p>11 really big -- really big states, really big</p> <p>12 undertakings with really big national advertising</p> <p>13 firms.</p> <p>14 And I think the fact that our initiative</p> <p>15 could compete with and then be awarded this in that</p> <p>16 category is a pretty -- is a pretty big deal. It,</p> <p>17 also, is, I think, proof of the concept that our work</p> <p>18 is on point, is being evaluated by other professionals</p> <p>19 to, say, look, this is how you should be doing this</p> <p>20 kind of campaign.</p> <p>21 And the cost of it compared to what --</p> <p>22 Cover California was -- is California's initiative to</p> <p>23 get people to enroll in expanded Medi-Cal. I mean,</p> <p>24 that's a huge -- I mean, that's, like -- that's, I</p> <p>25 mean, really a massive public interest campaign. You</p>	<p>1 Obviously, these are far more expensive campaigns with</p> <p>2 very high-powered organizations behind them.</p> <p>3 And I'm very, very proud of Gina. RIESTER,</p> <p>4 I think, has done an outstanding job in helping with</p> <p>5 us -- with this campaign and with many other matters</p> <p>6 for a number of years. And I think this is an</p> <p>7 outstanding accomplishment. Congratulations to Alec</p> <p>8 who, I guess, is hiding in the back.</p> <p>9 MR. COLLINS: Well, he's not hiding.</p> <p>10 He's -- do you want me to drag him out here?</p> <p>11 CHAIRMAN KIMBLE: No. He can continue to</p> <p>12 hide.</p> <p>13 Does anyone else want to make any comments</p> <p>14 on this?</p> <p>15 COMMISSIONER PATON: I'll just say</p> <p>16 congratulations and job well done, and we know the</p> <p>17 value that they give to our Commission. And thank you.</p> <p>18 CHAIRMAN KIMBLE: Thank you.</p> <p>19 COMMISSIONER MEYER: Mr. Chairman, I don't</p> <p>20 have anything to add, but congratulations. And I think</p> <p>21 I've been consistent in saying this in my four-plus</p> <p>22 years as a commissioner is that the voter education</p> <p>23 piece of what we do is as important, if not more</p> <p>24 important, than anything else. And I know it gets lost</p> <p>25 in the shuffle sometimes with all the other stuff we</p>		

10:01:02-10:01:43 Page 26

1 deal with. So great job and keep it up. Thank you.
2 CHAIRMAN KIMBLE: And thank you for putting
3 it on the agenda, Tom. I think it deserves some --
4 some attention.
5 MR. COLLINS: Do you guys have anything you
6 want to --
7 COMMISSIONER MEYER: Yes, we have RIESTER.
8 MR. COLLINS: Anything you want to say?
9 MS. BORREGO: No. I think you covered it
10 all.
11 MR. COLLINS: Okay.
12 MS. BORREGO: Thank you for the opportunity
13 of working with you. It's great.
14 CHAIRMAN KIMBLE: Thank you.
15 Item VI, public comment. Is there anyone
16 in the public who wants to comment?
17 (No response.)
18 CHAIRMAN KIMBLE: It doesn't appear so.
19 Item VII, adjournment.
20 Is there a motion to adjourn?
21 COMMISSIONER PATON: I make a motion to
22 adjourn.
23 COMMISSIONER MEYER: Second.
24 CHAIRMAN KIMBLE: All those in favor say
25 aye.

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1 (Chorus of ayes.)
2 CHAIRMAN KIMBLE: No one opposed?
3 (No response.)
4 CHAIRMAN KIMBLE: We are adjourned.
5 (Whereupon, the proceedings concluded at
6 10:01 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; that the proceedings
6 were taken down by me in shorthand and thereafter
7 transcribed into typewriting under my direction; that
8 the foregoing pages are a full, true, and accurate
9 transcript of all proceedings and testimony had and
10 adduced upon the taking of said proceedings, all done to
11 the best of my skill and ability.
12 I FURTHER CERTIFY that I am in no way
13 related to nor employed by any of the parties thereto
14 nor am I in any way interested in the outcome hereof.
15 DATED at Phoenix, Arizona, this 28th day of
16 March, 2019.



LILIA MONARREZ, RPR, CR #50699

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MEMORANDUM

From: Mike Becker, Policy Director

Date: March 28, 2019

Subject: General Audit Findings Summary

All Legislative and Statewide participating candidates that advanced to the general election were audited in 2018. The auditors reviewed candidates' bank statements, receipts and records, and campaign finance reports for the reporting period. There were no significant findings or the findings have been or are in the process of being addressed for the following candidates:

- A. Rosanna Gabaldon
- B. Johnny Martin
- C. Hazel Chandler
- D. Juan Mendez
- E. Mark Manoil, Statewide candidate
- F. J'aime Morgaine
- G. Gilbert Romero
- H. Jaime Alvarez
- I. Kiana Sears, Statewide candidate
- J. Victoria Steele
- K. Andrea Dalessandro
- L. Jo Craycraft
- M. Elizabeth Brown
- N. Christopher Gilfillan
- O. Kristin Dybvig-Pawelko
- P. Kathy Mohr-Almeida
- Q. Isela Blanc
- R. Shelley Renne Leon
- S. Sally Gonzales
- T. Vasle Thomas Tzitzura
- U. Athena Salman
- V. Julie Gunnigle
- W. Wendy Garcia

ITEM IV – Audit Summary

**CITIZENS CLEAN ELECTIONS COMMISSION
EXECUTIVE DIRECTOR REPORT
April 25, 2019**

Announcements:

- The public can view Commission meetings live via the internet at www.livestream.com/cleanelections. A link is available on our website.
- Staff would like to welcome Avery Oliver to the team. Avery joins Clean Elections as Voter Education Specialist and has a background working on candidate campaigns and legislative issues with the Secretary of State's Office. Avery is a United States Air Force Veteran and a published comic book author! He brings energy, excitement and dedication to helping Arizona voters participate in elections.

Voter Education:

May 21, 2019 Local Elections:

- Town of Chino Valley, City of San Luis, Town of Wickenburg, City of Phoenix (Districts 5 and 8 runoff)
- Voter Registration Deadline = April 22, 2019
- Early Voting Begins = April 24, 2019

Enforcement – 2018:

- MUR 18-14 US Term Limits – This Agenda.

Miscellaneous

- **Outstanding legal matters**
 - Legacy Foundation Action Fund
 - AZAN v. State et. al.

Doug A. Ducey
Governor

Thomas M. Collins
Executive Director



Mark S. Kimble
Chair

Damien R. Meyer
Steve M. Titla
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

Below are the election bills that may impact the Commission.

HCR 2002 – Independent Redistricting Commission; Nine Members

Sponsor – Rep. Fillmore

Assigned to House Government and House Elections

- Gives the Citizens Clean Elections Commission (CCEC) the authority to nominate candidates for the Independent Redistricting Commission (IRC)
- If appointment timelines are not met, then the CCEC has the authority to appoint members to the IRC
- Effect on CCEC
 - o Gives the Commission authority that does not exist now to nominate IRC members.

HCR 2004 – Legislature; Sixty House Districts

Sponsor – Rep. Shope

Has not been assigned a committee yet

- Changes the State Senate districts to consist of two entire House districts that are completely in the Senate district
- Increases the number of House districts to 60 with one member representing each House district
- Effect on CCEC
 - o May increase the number of candidates thus increasing the amount of funds that are distributed.

HB 2076 – Clean Elections; Enforcement; Early Contributions

Sponsor – Rep. Fillmore

Assigned to House Elections; Passed Elections 8-2; Passed the House 59-1 with an amendment and was sent to the Senate; Assigned to Senate Judiciary

- Increase early the early contribution limit from legislative candidates from 10% to 15% of the sum of the original primary and general spending limits.
- Allows for early contributions to be spent any time during the election cycle.

- ~~*This section was amended out of the bill.~~

- ~~* Has been replaced with a Strike Everything Amendment, Peace Officer Training Equipment. The bill as originally drafted is dead.~~

Eliminates the argument of whether or not the Commission has the authority to enforce contribution limits on nonparticipating candidates by expressly authorizing this authority.

- Effect on CCEC

- Positive effect as it allows for more funds for participating candidates without it coming from the Fund.
- More staff may be needed to review nonparticipating candidates campaign finance reports.

HB 2411 – Clean Elections; County Candidates

Sponsor – Rep. Powers-Hannley

Assigned to House Government and House Elections

- Would allow candidates for County Board of Supervisors, County Assessor, County Attorney, County Recorder, County School Superintendent, County Sheriff, and County Treasurer to use the Clean Elections system.

- Effect on CCEC

- Would increase the number of candidates as well as the amount of funds distributed possibly reducing the amount of funding candidates could receive.

HB 2210 – Campaign Finance; Covered Transfers; Disclosure

Sponsor – Rep. Rodriguez

Has not been assigned a committee yet

- The bill changes the definition of “Affiliated Entity” to include the governing board as well as staff of the governing board or representatives of the governing board.
- Adds the definition of “Covered Transfer”
- Eliminates the definition of “Primary Purpose”
- Requires entities to register as a political action committee before making a contribution or expenditure, requires entities formed 10-days prior to the start of early voting to file their statement organization within 24-hours.
- Requires an entity that makes or obligates itself to make independent or ballot measure expenditures in excess of \$1000 in any combination to file a report with the filing officer.
- Effect on CCEC
 - Would increase the workload for the staff to ensure entities are following the new law.

HB 2199 – Primary Election Date

Sponsor – Rep. Carroll

Has not been assigned a committee yet

- Would change the primary date to be on the nineteenth Tuesday before the general election.
- Effect on CCEC
 - Would reduce the qualifying period for candidates

SB 1154– Primary Date; First August Tuesday

Sponsor – Senator Gowan

Assigned to Senate Judiciary; Passed Judiciary 6-1; Passed the Senate 28-2; Assigned to House Elections; Passed Elections 6-4

- Would change the primary election day to the first Tuesday in August
- Effect on CCEC
 - Would reduce the qualifying period for candidates

HB 2050 – May Primary Election Date

Sponsor – Rep. Shope

Has not been assigned a committee yet

- Would change the primary election day to the seventeenth Tuesday before the general election
- Effect on CCEC
 - Would reduce the qualifying period

HB 2410 – Campaign Finance; Contribution Limits

Sponsor – Rep. Powers-Hanley

Assigned to House Elections and House Government

- Dramatically reduces the contribution limits for candidates at all levels.

Individuals may contribute up to \$390 to a candidate for a city, town, county or district office; \$488 to a candidate for a legislative office; \$1,010 to a candidate for a statewide office

- Candidate committees may not accept more than the following from political action committees: \$10,020 for candidates for city, town, county, or district office; \$16,150 for legislative candidates; \$100,110 for statewide candidates

- Effect on CCEC

- o Minimal. Potentially reduces the difference between what a Clean Elections candidate “raises” and a traditional candidate raises.

HB 2340– Campaign Finance; Repeal; Reenactment

Sponsor – Rep. Salman

Has not been assigned to a committee yet

- Would repeal the entire campaign finance law that was put in place by SB 1516 in 2016

- Effect on CCEC

- o The Commission would need to review all of the rules that were enacted based on SB 1516 and possibly repeal them.
- o Potentially need to enact new rules based on the new campaign finance laws.

HB 2131 – State Agencies; Citizen Portal; Access

Sponsor – Rep. Thorpe

Assigned to House Technology; Passed Technology 5-1; Passed Rules 5-1; Passed the House 33-26 and sent to the Senate; Assigned to Senate Government; Passed Government 4-3

- Requires a State Agency that collects personal information from the public to establish a portal where the public can access the information and correct any errors. Access would be limited to only the person’s specific information.

- Effect on CCEC

- o Unknown effect on the Commission. There isn’t a definition of “personal information” for an agency to know what needs to provide to the public. The Commission only has e-mail address from the public.

SB 1188 – Permanent Early Voting List

Sponsor – Senator Ugenti-Rita

Assigned to Senate Judiciary; Passed Judiciary 4-3; Passed Senate 16-14;

Assigned to House Elections; Passed Elections 6-4

- Allows the County to remove a voter from the Permanent Early Voting List (PEVL) if they fail to vote by any method for two consecutive primary and general elections.

- Effect on CCEC

- o No effect on CCEC. Would require more voter education to ensure the information is available to the public.

SB 1032 – On-Site Early Voting; Identification Required

Sponsor – Senator Ugenti-Rita

Assigned to Senate Judiciary

- Requires identification to be presented at on-site early voting locations before the elector is allowed to vote.

- Effect on CCEC

- o No effect on CCEC. Would require more voter education to ensure the public is aware of the change.

SB 1054 – Early Ballots; Deficiencies; Cure Period

Sponsor – Senator Ugenti-Rita

Assigned to Senate Judiciary; Passed Judiciary 7-0; Passed Senate 30-0

and sent to the House; Assigned to House Elections; Passed House

Elections 10-0; Passed the House 59-0; sent to the Governor and signed into law

- Allows for the County Recorders or other officers in charge of elections to contact voters to verify signatures, etc. through the 5th business day after the election.

- Creates a uniform curing process for all counties

- Effect on CCEC

- o No effect on CCEC.

SB 1046 – Early Voting List; Mailing Ballot

Sponsor – Senator Ugenti-Rita

Assigned to Senate Judiciary; Passed Judiciary 4-3

- Prohibits voters on the Permanent Early Voting List (PEVL) to drop off a ballot on Election Day. Mail in ballots must be mailed to be processed by elections officials.
- Allows for PEVL members to vote on Election Day with a provisional ballot.
- Effect on CCEC
 - o No effect on CCEC. Would require more voter education to ensure the public is aware of the change.

HB 2724 – GRRC; Petition to Request Review

Sponsor – Rep. Biasiucci

Assigned to House Regulatory Affairs; Passed Regulatory Affairs 4-3; Passed Rules 5-1; Passed the House 31-27; Assigned to Senate Judiciary; Passed Judiciary 4-2; Passed out of Senate Rules, waiting to be heard on the Senate Floor.

- Allows a person to petition the Governor's regulatory Review Council (GRRC) to request a review of an agency's existing practice, policy statement, enforcement action or final rule. This affects agencies established under Title 16 Chapter 6.
- Effect on CCEC
 - o Continues to erode away at the Commission's authority. Gives GRRC more power and authority over the Commission. Written to specifically target CCEC.

HB 2032 – Strike Everything Amendment: Ballots; Counting Centers

Sponsor – Rep. Townsend

Assigned to House Elections; Passed Elections 10-0; Passed Rules 5-1; Passed the House 60-0 and sent to the Senate; Assigned to Senate Judiciary; removed from Judiciary and assigned to Senate Appropriations; Passed Appropriations 6-3

- Changes the time when tallying of ballots begins from seven days prior to the election to fourteen days prior to the election.
- Requires those that want to be included in the draw to observe the counting center to notify the officer in charge of elections not later than three days before the posted date for the logic and accuracy test.
- Makes clear that only those authorized to process or count ballots or ballot material may touch the ballots.
- Effect on CCEC
 - o No effect on the Commission

HB 2236 – Strike Everything Amendment: Limitation on Appeals of Nomination Petitions; Disqualification of a Candidate

Sponsor – Rep. Townsend

Assigned to House Elections; Passed Elections 10-0; Passed Rules 5-1; Passed the House 60-0 and sent to the Senate; Assigned to Senate Judiciary; Passed Judiciary 7-0; Passed the Senate 29-0; sent to the Governor.

- Adds language that requires the County Recorder to perform signature verification for nomination petition challenges and provide testimony or other evidence on request of any of the parties to the challenge.
- Effect on CCEC
 - o Minimal effect on the Commission. May push \$5 qualifying contribution form reviews to the maximum allowed under the law.

HB 2237 – Strike Everything Amendment: Request for a Ballot; Civil Penalties; Violation

Sponsor – Rep. Townsend

Assigned to House Elections; Passed Elections 10-0

- Allows the County Recorder or other officer in charge of elections to establish early voting locations provided the Board of Supervisors approves the locations in advance.
- Early voting locations may to be operated up to 5:00pm on the Monday immediately preceding Election Day, except that early voting locations may close as needed to ensure that the necessary materials are made available to determine who requested an early ballot, who has voted, and who is on the inactive voter list.
- Effect on CCEC
 - o No effect on the Commission.

HB 2238 – Strike Everything Amendment: Rules; Procedures Manual

Sponsor – Rep. Townsend

Assigned to House Elections; Passed Elections 10-0; Passed the House 59-0; Assigned to Senate Judiciary; Passed Judiciary 7-0; Passed the Senate 28-0; signed by the Governor.

- Requires the Secretary of State to provide an Elections Procedures Manual no later than December 31 of each odd-numbered year immediately preceding the general election.
- The manual must be submitted to the Governor for approval no later than October 1 of the year before each general election.
- Effect on CCEC
 - o No effect on the Commission provided the manual does not attempt to infringe upon the Commissions jurisdiction.

HB 2616 – Registration of Voters; Payment; Prohibition

Sponsor – Rep. Townsend

Assigned to House Elections; Passed Elections 6-4; Passed the House 31-27; Assigned to Senate Judiciary; Passed Judiciary 4-2

- Prohibits individuals from being paid or receiving anything of value for registering people to vote.
- Effect on CCEC
 - o No effect on the Commission.

SB1090 – Emergency Voting Procedures; Board Action

Sponsor – Senator Ugenti-Rita

Assigned to Senate Judiciary; Passed Judiciary 4-3; Passed the Senate 16-14; Assigned to House Elections; Passed Elections 6-4; Passed Rules; Passed the House 31-27 and sent back to the Senate as it was amended; Passed the Senate 16-13; sent to Governor and signed into law.

- Requires a voter that wants to vote based on an emergency to sign an affidavit under penalty of perjury that describes the emergency, states that they did not know about the emergency in advance and that without the emergency voting they would not be able to vote.
- Gives the Board of Supervisors the authority to determine the use of emergency election voting centers, their location, and hours of operations.
- An amendment was adopted to remove the word “affidavit” and replace it with “statement”.
- Effect on CCEC
 - o No effect on the Commission.

SB 1289 – Candidate Petitions; Filing Period

Sponsor – Senator Gowan

Assigned to Senate Judiciary; Passed Judiciary 4-3; Passed the Senate 17-13; Assigned to House Elections; Passed Elections 6-4

- Changes the time a person has to file their nominating petitions from no more than 120 days prior to the primary to no more than 105 days prior to the primary.
- Requires a person to register as a candidate committee if they collect one or more signatures on a candidate nomination petition.
- States that a candidate committee is only required to file a campaign finance report if the candidate committee meets the monetary threshold that triggers registration.
- Effect on CCEC
 - o No effect on the Commission.

Doug Ducey
Governor

Thomas M. Collins
Executive Director



Mark S. Kimble
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PROBABLE CAUSE RECOMMENDATION

To: Commissioners
From: Thomas M. Collins, Executive Director
Date: APRIL 12, 2019
Subject: MUR 18-14 (U.S. Term Limits, Inc., a non-profit corporation based in Washington, D.C.)

I am writing in reference to the Citizens Clean Elections Commission's (the Commission) determination that there is reason to believe U.S. Term Limits, Inc. (USTL or Respondent) may have committed violations of the Citizens Clean Elections Act (collectively, the Act). I recommend that the Commission find probable cause that the Respondent violated the Act in regards to the mailers addressed in the Complaint initiating this matter.

I. Question Presented and Brief Answers

Question: Did Respondent's mailers relating to two Legislative District 24 candidates for the Democratic House nomination constitute express advocacy and require filings under the Act?

Answer: Because USTL's direct mailers expressly advocated for the election Candidate 1 and the Defeat of Candidate 2 and were above the

reporting threshold in cost, USTL violated A.R.S. §§ 16-941(D), -942(B), and -958 by failing to file Clean Elections Independent Expenditure reports.

II. Factual and Procedural Background

On September 11, Chad Campbell (Complainant) filed a Complaint against U.S. Term Limits, Inc., a Washington D.C.-based nonprofit (Respondent).

The Complaint alleges that on August 25, 2018 Respondent “delivered a series of mailers to voters in LD24 related to its mission of imposing term limits on members of the United States Congress.” Exhibit 1 (Complaint) at

2. One mailer stated that Candidate 1 was for term limits and encouraged recipients to call that Candidate and thank him for supporting term limits.

Another mailer was critical of Candidate 2, an incumbent representative seeking reelection for failing to support term limits. It urged recipients to call Candidate 2 at his legislative office and share their disagreement. *Id.*

The Complaint alleges, among other things, that Respondent should have filed Clean Elections Independent Expenditure Reports under A.R.S. § 16-941(D) because the mailers were “express advocacy” under A.R.S. § 16-901.01 and cost more than the threshold requiring spending disclosure.

Respondent filed a timely response arguing that the mailers in question were not express advocacy, but rather “classic issue advocacy,” because they have a meaning other than to advocate for or against a candidate. Exhibit 2, (Response) at 3-4.

Additionally, Respondent filed three independent expenditure reports in the \$4,000-5,000 range in the general election, but reserved their right to challenge whether any reporting was required. Available at <https://storage.googleapis.com/core.usgovcloudapi.net/public/docs/376-Trigger-reports-U-S--Term-Limits-1.pdf>. Furthermore, Respondent has lobbied at the legislature this session on twin measures (SCR1014/HCR2022) to join a constitutional convention on federal term limits, and to make posts on its website encouraging Arizonans to contact at least one lawmaker to urge a yes vote. Available at <https://www.termlimits.com/azfarnsworth/>.

The Commission determined there was reason to believe a violation may have occurred at its January 2019 meeting. I issued a compliance order on February 12, requiring compliance in 14 days, including any additional unreported mailers. Exhibit 3 (Compliance Order). That time was extended and later expired. Nevertheless, I am prepared to address probable cause to believe a violation occurred related to the two mailers that were part of the Complaint. Furthermore, a penalty recommendation, if necessary, will be forthcoming as to those mailers. The staff investigation and a potential public administrative settlement remain open to determine the extent of USTL's mail campaign.

III. Legal Analysis

A. Background Law on Express Advocacy

The controlling case for reporting under this standard is *Committee for Justice in Fairness v. Arizona Secretary of State's Office* (CJF), 235 Ariz. 347 (App. 2014). There, the Court held that an advertisement, targeted at the general electorate of a candidate who, while not identified as a candidate for the office sought, was nevertheless unambiguously a candidate for the office sought, run immediately before the election, but criticizing prior actions, did expressly advocate defeat. *Id.* at 354-55 (citing A.R.S. § 16-901(9)).

The U.S. Supreme Court case *Federal Election Commission v. Wisconsin Right to Life (WRTL)*, 551 U.S. 449 (2007) is persuasive authority here. That case dealt with when an absolute ban on express advocacy could be imposed, in the context of the greater scrutiny that absolute bans require. *Id.* at 464-65. That case held that, in order to impose a ban on express advocacy under the then-existing federal standard, the advertisement in question must, objectively be the functional equivalent of express advocacy “only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *Id.* at 470.

B. Application

The legal issue in these proceedings remains the same: whether certain mailings by USTL constituted express advocacy for or against a candidate in an

amount that requires the filing of a report of the expenditure with the state authorities.¹

Arizona law defines “expressly advocates” as:

- [1.] Making a general public communication, such as in a broadcast medium, newspaper, magazine, billboard or direct mailer
- [2.] referring to one or more clearly identified candidates and
- [3.] targeted to the electorate of that candidate(s)
- [4.] that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement or timing of the communication or the inclusion of statements of the candidate(s) or opponents.

A.R.S. § 16-901.01(A)(2).

Here, there is probable cause to believe elements 1-3 are established. The USTL mailers are direct mail pieces referring to one or more candidates that are targeted to that candidate’s electorate. Nor does there appear to be dispute over the timing of the mailers. Nor does it appear disputed whether, if the mailers are independent expenditures, that their cost exceeded the reporting threshold. *See, e.g.*, Response at 1 (“In short, the mailers do not trigger reports. . . because they do not constitute express advocacy under the law.”)

¹ In its Response to the Complaint, USTL correctly noted that if the Federal Electioneering Communication statute were the law in Arizona, the mailings would likely require reporting. The federal statute (which applies where federal candidacies are in issue) requires reporting of communication referring to a candidate for federal office. See 52 USC § 30104(f)(3)(A)(i). Arizona’s analog to this statute, passed as part of the original Clean Elections Act, was repealed by the Legislature with a 3/4ths vote of both houses in 2012. See 2012 Ariz. Sess. Laws, Ch. 257, § 1, *available at* <https://www.azleg.gov/legtext/50Leg/2R/laws/0257.pdf>. Whether this amendment furthered the purpose of the Clean Elections Act has not been subject to any court ruling.

The standard under § 16-901.01(A)(2), however, still requires the Commission to determine prong 4: whether the mailer “in context [the advertisement] can have no reasonable meaning other than to advocate” for or against a candidate.

Respondent asserted in its response to the Complaint that this matter involves “classic” issue advertisement “they advocate for the issue of imposing term limits on politicians.” Respondent correctly notes that the mailers do not include so-called magic words “such as “vote for,” “elect,” “reelect,” “support,” “endorse,” “cast your ballot for,” “(name of candidate) in (year),” “(name of candidate) for (office),” “vote against,” “defeat,” “reject” or a campaign slogan.” A.R.S. § 16-901.01 (A)(1). Nevertheless, while claiming the mailers are “classic” issue advocacy, Respondent conceded that they are in fact designed to reflect thanks to the candidate and to reinforce the policy position on wayward candidates. Response at 4. Respondent claims these purposes are not related to winning an election. However, that claim does not withstand scrutiny.

Respondent’s counter argument recognizes the mailers were functionally election-driven, though Respondent denies that inference. The Response noted the mailers serve both a thank you “to candidates” for their support or “as a way of buttressing an issue position with the actual candidate who may soon hold office.” Response at 4.

Despite Respondent's contention these are not related to winning an election, they are both expressly driven by the electoral process and holding candidates accountable to it—functionally urging voters to vote for or against the candidates. *CJF* at 354-55 (advertisement unambiguously about a candidate for the office, run immediately before the election, but criticizing prior actions, did expressly advocate defeat.) Respondent's cramped view of election is not reconcilable with the standards in the Clean Elections Act or *CJF*.²

The statute requires that there be no other reasonable meaning for a mailer “as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement or timing of the communication or the inclusion of statements of the candidate(s) or opponent” A.R.S. § 16-901(A)(2). Here, both mailers present the candidates in favorable (Candidate 1) and unfavorable (Candidate 2) light. They were targeted at the district, timed close to the election and included statements of the candidates through their positions. I would conclude that the advertisement had no reasonable meaning other than to advocate for the defeat of Candidate 2 and the nomination of Candidate 1. Consequently, they should have been reported.³

² With respect to the mailer regarding Ferrell, Respondent faces two additional problems. First, while Respondent claims that an issue ad can be directed at a candidate not currently in office, *WRTL*, the case upon which Respondent chiefly relies, states that a mailer regarding “a public official” is one of the indicators that literature or advertising is issue advocacy. 551 U.S. at 470. Moreover, as stated above, the fact that Respondent concedes the functional purpose of the mailers.

³ Additional mailers, which have not yet been reported, would fall under the same analysis, giving rise to the likely inference there is probable cause to believe all of the

There is probable cause to conclude that Respondent has violated A.R.S. §§ 16-941(D), -942(B), and -958. Respondent made independent expenditures during the the primary election and has never filed the required reports as to the mailers in issue here. Therefore, I recommend that the Commission find probable cause that Respondent violated the provisions identified above.

Conclusion

If the Commission determines by an affirmative vote of at least three of its members that there is probable cause to believe that Respondent has violated the Act, the Commission shall authorize the Executive Director to so notify Respondent by an order that states the nature of the violation. The Commission may also assess civil penalties pursuant to A.R.S. § 16-957. A.A.C. R2-20-215(A) & -217.

Dated this 12th day of April, 2019

By: 

Thomas M. Collins
Executive Director

mailers sent by USTL during the 2018 election should have been reported. This memo only requests the Commission address the Complaint related mailers, not other mailers that have been ordered reported, while the staff investigation continues.

Exhibit 1

COPPERSMITH
BROCKELMAN

LAWYERS

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Phoenix, AZ 85004
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September 11, 2018

Via Email & U.S. Mail

Eric Spencer
State Elections Director
Arizona Secretary of State's Office
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007
espencer@azsos.gov

Thomas Collins
Executive Director
Arizona Citizens Clean Elections Commission
1616 W. Adams, Suite 110
Phoenix, AZ 85007
Thomas.Collins@azcleaselections.gov

Re: Campaign Finance Complaint Against U.S. Term Limits, Inc.

Dear Eric & Tom:

On behalf of Chad Campbell, a registered voter in Legislative District 24 ("LD 24"), we write today to file a campaign finance complaint against U.S. Term Limits, Inc. ("U.S. Term Limits"). Specifically, U.S. Term Limits violated A.R.S. §§ 16-925(C), 16-941(D), 16-958, and A.A.C. § R2-20-109(B) by making independent expenditures related to a candidate race in LD 24 without: (1) including the required disclosure on mailers sent to LD 24 voters, and (2) filing independent expenditure reports as required by the Arizona Citizens Clean Elections Act (the "Act").

Based on the facts detailed below, Mr. Campbell respectfully requests that the Secretary of State make a reasonable cause determination against U.S. Term Limits, and further, that the Arizona Citizens Clean Elections Commission (the "Commission") find reason to believe that U.S. Term Limits violated the Act and its implementing regulations.

Background

The facts relevant to this Complaint are simple. U.S. Term Limits is a nonprofit corporation registered in the District of Columbia (file number 903439), and its website

indicates that Suzette Meyers serves as its “Arizona State Director.”¹ As of the date of this letter, it has not filed an independent expenditure report with the Secretary.

On August 25, 2018 – mere days before the primary election – U.S. Term Limits had a series of mailers delivered to voters in LD 24 related to its mission of imposing term limits on members of the United States Congress. The first mailer (the “Pro-Ferrell Mailer”) states that “MARCUS FERRELL AND PRESIDENT OBAMA AGREE” with respect to term limits and urged LD 24 voters to “PLEASE CALL MARCUS FERRELL at (904) 300-6112 and say ‘Thank you for protecting our democracy. THANK YOU FOR SUPPORTING TERM LIMITS.’” [Exhibit 1] The Pro-Ferrell Mailer is clearly sent by U.S. Term Limits, and does not contain a “paid for by” disclosure in any form. [Id.]

The second mailer does not mention Mr. Ferrell, but instead attacks Representative Ken Clark, who was one of Mr. Ferrell’s opponents in the Democratic Party’s primary election for representative in LD 24 (the “Anti-Clark Mailer”). [Exhibit 2] It also does not contain a “paid for by” disclosure in any form.

Discussion

Both the Pro-Ferrell Mailer and Anti-Clark Mailer violate several provisions of Arizona law.

First, U.S. Term Limits clearly violated A.R.S. § 16-925(C) by failing to include the disclosure required by A.R.S. § 16-925(A) on either the Pro-Ferrell Mailer or the Anti-Clark Mailer. Both constitute “advertisement[s],” A.R.S. § 16-901(1), given their reference to clearly-identified candidates, their targeting of voters in LD 24, their presentation of those candidates in a favorable or unfavorable light, and the fact that they were mailed and received just three days before the primary election: *Cf.* A.R.S. § 16-901.01(A)(2).²

Second, U.S. Term Limits also violated A.R.S. §§ 16-941(D), 16-958, and A.A.C. § R2-20-109(B) by making independent expenditures in a legislative race without filing an independent expenditure report as required by the Act and its implementing regulations. For the reasons described above, both the Pro-Ferrell Mailer and Anti-Clark Mailer constitute “express advocacy” as defined by A.R.S. § 16-901.01(A)(2), and these mass mailings (either individually or collectively) surely exceeded the \$740 threshold that triggered U.S. Term Limits’ obligation to file an independent expenditure report.

¹ <https://www.termlimits.com/about/team/>.

² With respect to the Pro-Ferrell Mailer, any argument that it was a mere “issue ad” would be nonsensical because Mr. Ferrell did not hold elected office.

Eric Spencer
Thomas Collins
September 11, 2018
Page 3

Conclusion

We trust that the Secretary and Commission will diligently investigate this matter and agree that U.S. Term Limits violated Arizona law. Please let us know if we can provide any further information as your respective investigations proceed.

Sincerely,

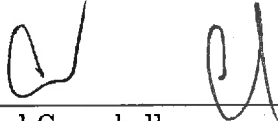


D. Andrew Gaona

DAG:slm
Enclosures

VERIFICATION

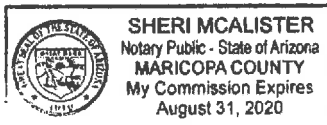
I, Chad Campbell, state that I have read the foregoing "Campaign Finance Complaint Against U.S. Term Limits, Inc. and Marcus Ferrell" (the "Complaint"). To the best of my knowledge, information and belief, the statements made in the Complaint are true and correct.




Chad Campbell

STATE OF ARIZONA)
 :ss.
County of Maricopa)

Subscribed and sworn before me this 29th day of August, 2018, by Chad Campbell.





Notary Public

Exhibit 1

MARCUS FERRELL AND PRESIDENT OBAMA AGREE.

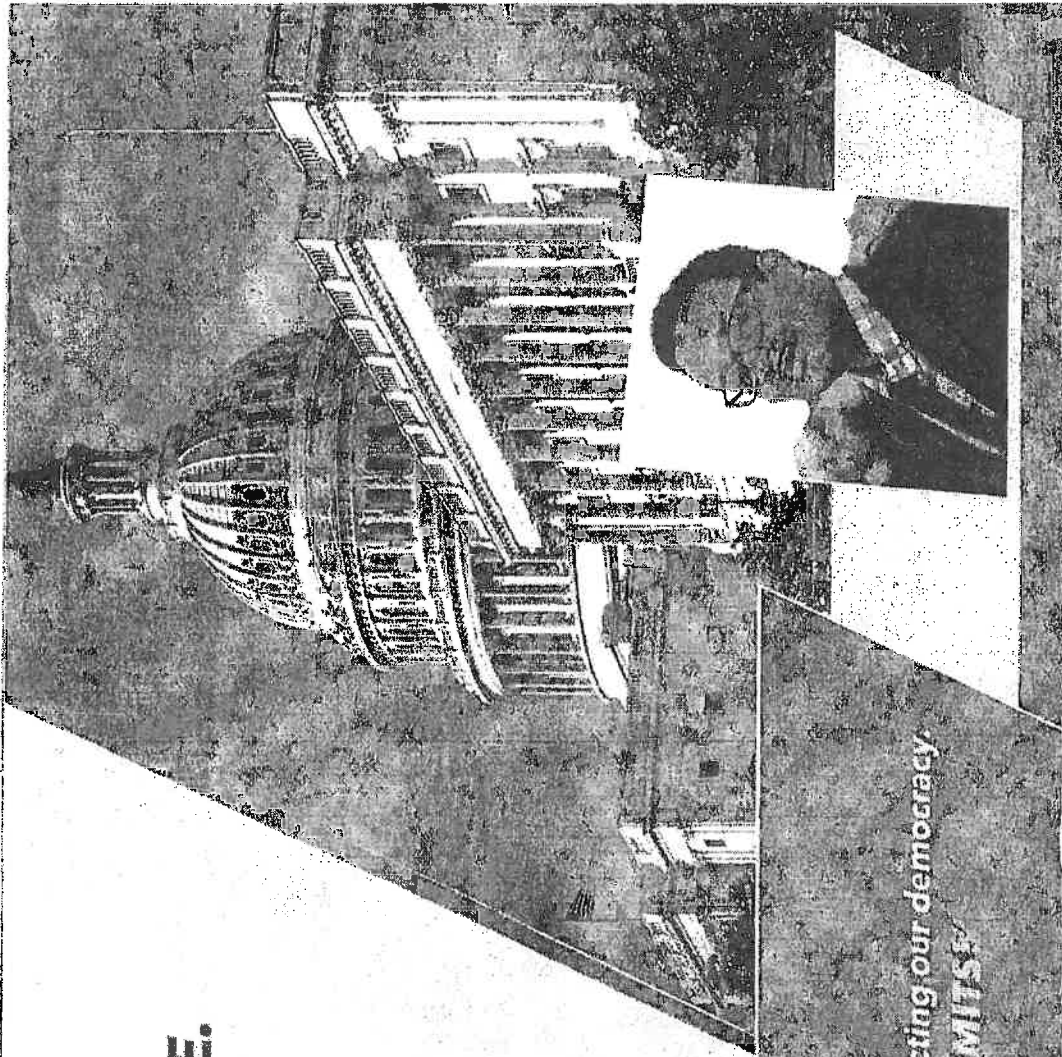
Leaders like President Obama know that politicians who stay in Washington too long can let the people down.

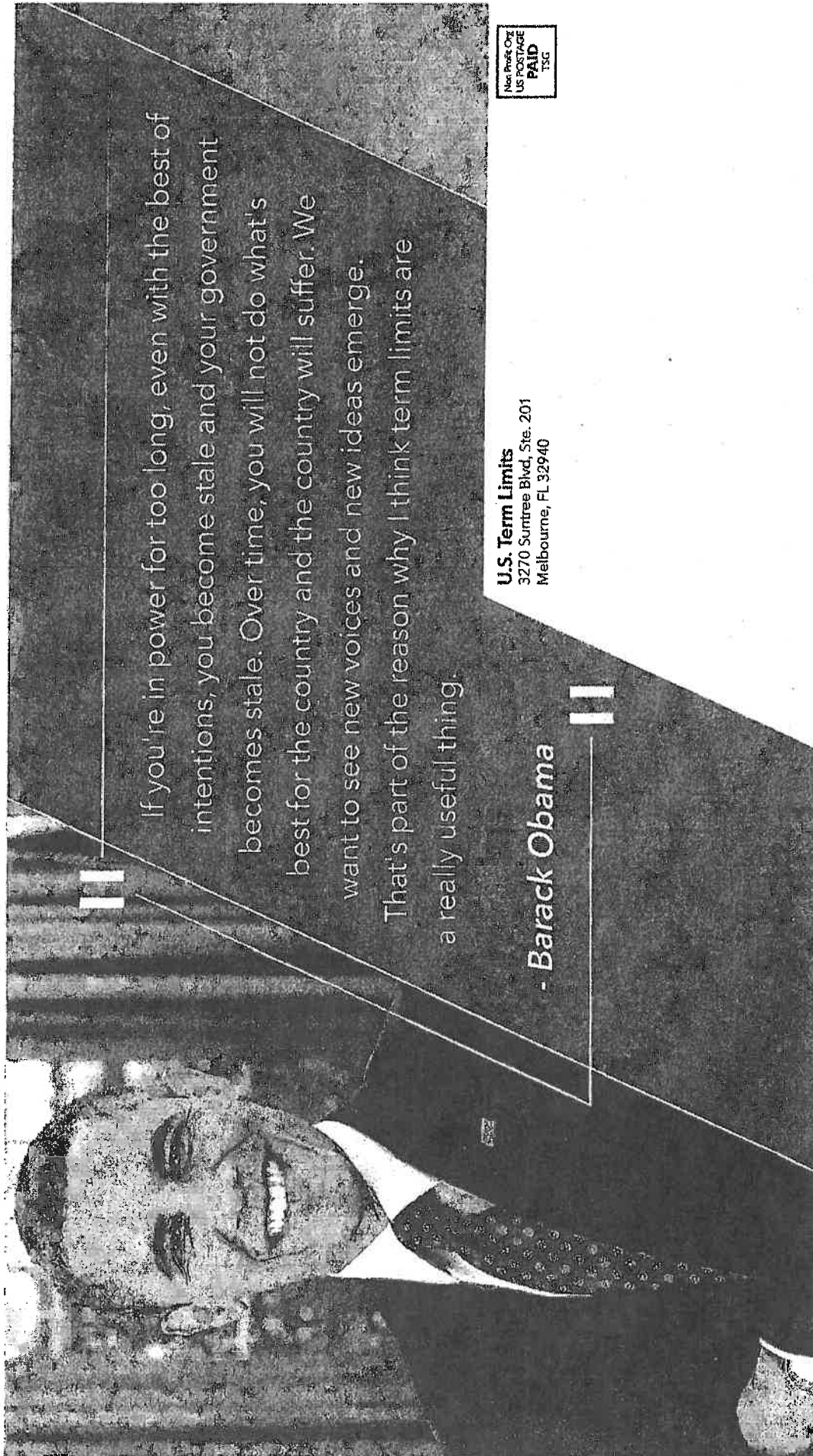
That's why Marcus Ferrell will support legislation to put term limits on members of Congress.

PLEASE CALL MARCUS FERRELL

at (904) 300-6112 and say "Thank you for protecting our democracy."

THANK YOU FOR SUPPORTING TERM LIMITS!





If you're in power for too long, even with the best of intentions, you become stale and your government becomes stale. Over time, you will not do what's best for the country and the country will suffer. We want to see new voices and new ideas emerge. That's part of the reason why I think term limits are a really useful thing.

- Barack Obama

U.S. Term Limits
3270 Suntree Blvd, Ste. 201
Melbourne, FL 32940

Not Postage
Necessary
If Mailed
in the
United States
PAID
TSG

Exhibit 2

**"Politicians and rapers
must be changed often"**

- MARK TWAIN

U.S. Term Limits
3270 Suntree Blvd, Ste. 201
Melbourne, FL 32940

Non Profit Org
US POSTAGE
PAID
TSG

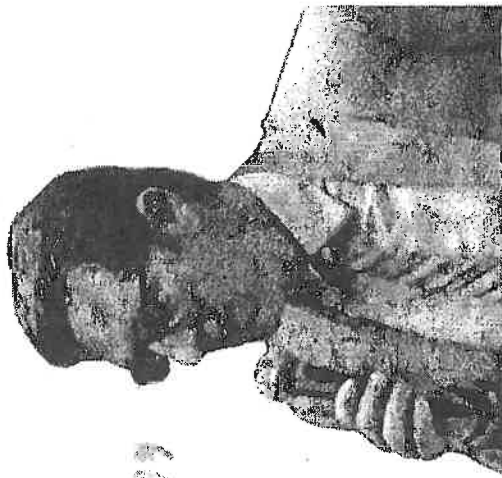
and for the same reason."

We have seen the dysfunction in Washington, DC created by career politicians who are more intent on keeping their seats than finding solutions. We can't afford that broken system any longer.

Ken Clark VOTED AGAINST term limits for Congress, which a scientific poll conducted recently by McLaughlin & Associates found that 82% of Arizona voters support.

Tell Ken Clark: Stop siding with DC career politicians over the people of Arizona. Stop opposing term limits!

Call Ken Clark, let him know you've had enough of career politicians.
(602) 926-3108 kenc Clark@azleg.gov



Roll Call: AZ HCR2024 | 2018

Term Limits for Congress

Name	Yea	Nay
Rep. Ken Clark [D]		X

Exhibit 2

Timothy A. La Sota, PLC

2198 East Camelback, Suite 305

Phoenix, Arizona 85016

P 602-515-2649

tim@timlasota.com

September 27, 2018

18OCT 1 PM 12:04 CCEC

Via email and U.S. mail to:

Thomas M. Collins
Executive Director
Citizens Clean Elections Commission
1616 W. Adams, Suite 110
Phoenix, Arizona 85007
thomas.collins@azcanelections.gov

Eric Spencer
Arizona State Elections Director
Arizona Secretary of State's Office
1700 West Washington Street
Phoenix, Arizona 85007
espencer@azsos.gov

Re: CCEC MUR 18-14, Arizona Secretary of State CF-2017-020 (U.S. Term Limits)

Dear Messrs. Collins and Spencer:

This firm represents U.S. Term Limits.

I write in response to the complaint filed on September 11, 2018 against U.S. Term Limits. The complaint was filed by Andrew Gaona on behalf of Chad Campbell and was addressed to both of you.

Mr. Gaona's letter alleged that U.S. Term Limits failed to file a required independent expenditure report with the Citizens Clean Elections Commission and that U.S. Term Limits failed to include required disclosure statements on mailers that it sent out, in violation of A.R.S. §§ 16-925, 16-941, 19-958, and A.A.C. § R2-20-109(B). [Letter from D. Andrew Gaona to Thomas Collins and Eric Spencer, September 11, 2018].

U.S. Term Limits responds as follows to these baseless allegations. In short, the mailers do not trigger reports and are not required to have a statutorily prescribed disclaimer because they do not constitute express advocacy under the law.

Background

Because it is relevant in the context of the complaint that has been filed, as well as this response, I wanted to provide you with some background on U.S. Term Limits.

U.S. Term Limits has been recognized as a tax-exempt organization by the Internal Revenue Service since 1991. It is not an entity that sprung up yesterday. U.S. Term Limits exists for one reason—to enact term limits for elected officials at every level of government in the United

Messrs. Collins and Spencer
September 27, 2018

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U.S. Term Limits' efforts in Arizona, and elsewhere, are limited to issue advocacy.

The mailers at issue were not independent expenditures under A.R.S. §§ 16-901(31) and 16-901.01 because the mailers are clearly susceptible to an interpretation other than as an appeal to vote for Mr. Ferrell or against Mr. Clark

An "independent expenditure" is "an expenditure by a person, other than a candidate committee, that complies with both of the following:

- (a) Expressly advocates the election or defeat of a clearly identified candidate.
- (b) Is not made in cooperation or consultation with or at the request or suggestion of the candidate or the candidate's agent"¹.

A.R.S. § 16-901(31).

Under Arizona law, "expressly advocates" is defined as:

1. Conveying a communication containing a phrase such as "vote for," "elect," "reelect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject" or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.

2. Making a general public communication, such as in a broadcast medium, newspaper, magazine, billboard or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s) that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement or timing of the communication or the inclusion of statements of the candidate(s) or opponents.

A.R.S. § 16-901.01.

The mailers did not expressly advocate under the first part of subsection (1) because they contained none of the enumerated phrases of advocacy for election or defeat.

Both the second part of subsection (1), and subsection (2), describe communications "that in context can have no reasonable meaning other than to advocate the election or defeat of" a candidate. And the mailers do not constitute express advocacy under this part of the statute

¹ Subpart (b) defines when a qualifying expenditure is truly "independent" and is not at issue here.

Messrs. Collins and Spencer
September 27, 2018

because the mailers clearly have a reasonable meaning other than to advocate the election of a candidate. That is, they are classic issue advocacy—they advocate for the issue of imposing term limits on politicians.

The United States Supreme Court case of *FEC v. Wisconsin Right to Life* is on point. 127 S.Ct. 2652, 2667, 551 U.S. 449, 470 (2007). *Wisconsin Right to Life* dealt with an ad that the FEC claimed was express advocacy, but *Wisconsin Right to Life* claimed was issue advocacy. The Supreme Court proceeded to enunciate the legal standard for determining if an ad is express advocacy, and examine whether the ad met this standard:

In light of these considerations, a court should find that an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. Under this test, WRTL's [*Wisconsin Right to Life's*] three ads are plainly not the functional equivalent of express advocacy. First, their content is consistent with that of a genuine issue ad: The ads focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. Second, their content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office.

127 S.Ct. at 2667, 551 U.S. at 470.

Turning to the mailers produced by U.S. Term Limits, the Supreme Court could just as easily have been talking about U.S. Term Limits' mailers in the block quote above—the ads “focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter.” In addition, the mailers’ “content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office.”

It is true that one of the persons mentioned, Ken Clark, is a member of the Legislature and was a candidate for reelection at the August primary. But election time is when elected officials listen to constituents the most, when the public pays the most attention, and when issue ads are most effective. *McConnell v. Federal Election Commission*, 251 F.Supp.2d 176, 306. (D.D.C. 2003).

It is also true that Mr. Ferrell was not an elected official at the time the mailer was sent, a point that Mr. Gaona made in the complaint letter. But the Arizona statutes cited above, in defining “expressly advocate”, all speak in terms of “candidates”, not elected officials. Mr. Gaona cites no law for why a line should be drawn between what is said about an elected official-candidate, and what is said about a non-elected official candidate. Nor could he—there is no legal support for this distinction.

Messrs. Collins and Spencer
September 27, 2018

In addition, U.S. Term Limits is not a soothsayer and did not know in advance of the primary election which candidates would emerge victorious. It is also true that candidates have been known to forget their promises after securing election—providing a reminder of a promise serves both as a thank you and also as a way of potentially buttressing an issue position with the actual candidate who may soon hold office—two things that have nothing to do with actually winning an election.

It should also be noted that with a regulation of speech on matters of public concern, the First Amendment requires that the benefit of any doubt must be given to “protecting rather than stifling speech.” *Wisconsin Right to Life, Inc.*, 551 U.S. at 469. The mailers here share all of the specific hallmarks mentioned by the Supreme Court in finding that the ad at issue in *Wisconsin Right to Life* was not express advocacy. As such, the mailers do not constitute “express advocacy”, and thus are not subject to disclosure and reporting requirements.

Arizona has declined to follow the federal government and other states in regulating anything constituting an “electioneering communication.”

While U.S. Term Limits’ mailers clearly fall into the category of issue advocacy, in some cases it can be difficult to distinguish between issue and express advocacy. For this reason, the United States Congress, as well as some states, have adopted a regulation that applies not just to “express advocacy”, but to any “electioneering communication.” *See, e.g.*, 52 United States Code Annotated § 30104; Montana Code Annotated § 13-1-101 *et seq.*, Colorado Revised Statutes §§1-45-1-101 to 118. In these jurisdictions, “electioneering communications” are subject to disclosure requirements and reporting.

The federal law on this point defines “electioneering communication” as:

any broadcast, cable, or satellite communication which--

(I) refers to a clearly identified candidate for Federal office;

(II) is made within--

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

52 U.S.C.A. § 30104(f)(3)(A)(i).

These “electioneering communication” statutes were clearly enacted “[t]o capture...issue ads.” *Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 299 F.Supp.3d 83, 87 (D.D.C. 2018). And the power of a governmental entity to impose reporting and disclosure requirements has been upheld by the United State Supreme Court. *Citizens United v. Federal Election Commission*, 558 U.S. 310, 369, 130 S.Ct. 876, 175 L.Ed.2d 753 (2010).

Messrs. Collins and Spencer
September 27, 2018

In Arizona, our elected leaders have decided not to pass something requiring all "electioneering communications" to be regulated. Had they adopted the federal definition, U.S. Term Limits' mailers might fall into it. But they have not adopted this approach. In Arizona, the line between express advocacy and issue advocacy remains the line between what is regulated and what is not. There is no category for "electioneering communications," and U.S. Term Limits' mailers clearly fall into the category of issue advocacy.

Subsequent issue advocacy in Arizona

U.S. Term Limits may well engage in further issue advocacy in Arizona. To avoid frivolous complaints such as the one filed by Mr. Campbell, we may choose to adhere to campaign finance disclosure and reporting laws in the future. This should not be construed as admission that these legal requirements apply.

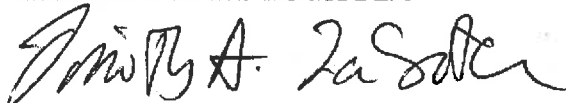
Conclusion

The complaint submitted against U.S. Term Limits is simply sour grapes emanating from an ally of an unsuccessful candidate for office. The mailers are clearly susceptible the interpretation that they are intended to advocate for the "issue" of term limits, and that ends the inquiry. The fact that someone might also draw a negative or positive view of a candidate is immaterial.

For these reasons, we ask that you take no enforcement action.

Very truly yours,

TIMOTHY A. LA SOTA PLC

A handwritten signature in black ink, appearing to read "Timothy A. La Sota", written in a cursive style.

Timothy A. La Sota

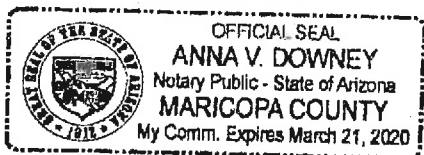
Messrs. Collins and Spencer
September 27, 2018

VERIFICATION

I, Timothy A. La Sota, state that I have read the foregoing Response to Chad Campbell's Complaint against U.S. Term Limits, Inc. To the best of my knowledge, information and belief, the statements made in the Response are true and correct.

STATE OF ARIZONA)
) ss.:
County of Maricopa)

Subscribed and sworn before me this 27th day of September, by Timothy A. La Sota.




Notary Public

Exhibit 3

Doug Ducey
Governor

Thomas M. Collins
Executive Director



Mark S. Kimble
Chair

Steve M. Tittle
Damien R. Meyer
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

ORDER REQUIRING COMPLIANCE
A.R.S. § 16-957 & A.A.C. R2-20-208(A)

Via Electronic Mail and Over Night Delivery

Feb 12, 2019

U.S. Term Limits, Inc.
C/O Tim La Sota
tim@timlasota.com
Tim La Sota PLC
2198 E Camelback Rd Ste 305
Phoenix AZ 85016-4747

RE: CCEC File No.: #18-14- – U.S. Term Limits, Inc.

Dear Mr. LaSota:

On January 31, 2019, the Citizens Clean Elections Commission (“Commission”) found **reason to believe** that U.S. Term Limits, Inc (USTL) may have violated the Citizens Clean Elections Act and Rules.

Violation & Factual Basis Supporting The Finding

Failure to Report Independent Expenditures

Section 16-941(D) of the Arizona Revised Statutes and Arizona Administrative Code Section R2-20-109 provide that all persons shall file reports of independent expenditures above a threshold set forth in the Act. The Commission has reason to believe that in the 2018 election cycle USTL made independent expenditures that expressly advocated the election or defeat of candidates for legislative office in Arizona, including Legislative District 24. A.R.S. §§ 16-941(D); -958; -901.01. It filed no reports of the expenditure in LD24 and may have failed to file other reports during the election. The attached Reason to Believe recommendation provides factual and legal support for this conclusion. Attachment A. It is incorporated by reference.

14 Day Period to Comply

You are hereby ordered to comply with A.R.S. §§ 16-941(D); -958 and A.A.C. R2-20-109 within **14 days** of the date of this order. During that period, you may provide any explanation to the

Commission, comply with the order, or enter into a public administrative settlement with the Commission. A.R.S. § 16-957(A) and A.A.C. R2-20-208(A).

After the 14 days, if the Commission finds that you remain out of compliance, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. A.R.S. § 16-957(B).

If you have any questions, please call (602) 364-3477 or toll free (877) 631-8891.

Issued this 12th day of February, 2019
Citizens Clean Elections Commission

Thomas M. Collins, Executive Director

Attachment

Timothy A. La Sota, PLLC

2198 East Camelback, Suite 305

Phoenix, Arizona 85016

P 602-515-2649

tim@timlasota.com

September 27, 2018

18 OCT 1 PM 12:04 CCEC

Via email and U.S. mail to:

Thomas M. Collins
Executive Director
Citizens Clean Elections Commission
1616 W. Adams, Suite 110
Phoenix, Arizona 85007
thomas.collins@azcleelections.gov

Eric Spencer
Arizona State Elections Director
Arizona Secretary of State's Office
1700 West Washington Street
Phoenix, Arizona 85007
espencer@azsos.gov

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Messrs. Collins and Spencer
September 27, 2018

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Messrs. Collins and Spencer
September 27, 2018

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Messrs. Collins and Spencer
September 27, 2018

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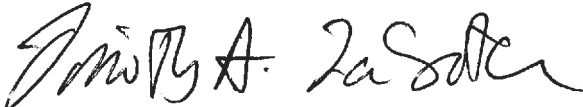
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For these reasons, we ask that you take no enforcement action.

Very truly yours,

TIMOTHY A. LA SOTA PLC

A handwritten signature in black ink, appearing to read "Timothy A. La Sota". The signature is fluid and cursive, with the first name and last name clearly legible.

Timothy A. La Sota

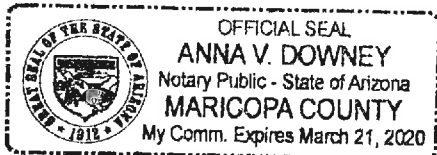
Messrs. Collins and Spencer
September 27, 2018

VERIFICATION

I, Timothy A. La Sota, state that I have read the foregoing Response to Chad Campbell's Complaint against U.S. Term Limits, Inc. To the best of my knowledge, information and belief, the statements made in the Response are true and correct.

STATE OF ARIZONA)
) ss.:
County of Maricopa)

Subscribed and sworn before me this 27th day of September, by Timothy A. La Sota.





Notary Public