



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

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

**Date:** Tuesday, August 22, 2017

**Time:** 10:30 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 special meeting, which is open to the public on August 22, 2017. This meeting will be held at 10:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). **Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.**

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

**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 Executive Director's Report.
- III. Discussion and Possible Action on MUR 17-01 Jesus Rubalcava, including proposed repayment order submitted by the Executive Director.

IV. 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

V. 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 18<sup>th</sup> day of August, 2017.

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.

**CITIZENS CLEAN ELECTIONS COMMISSION  
EXECUTIVE DIRECTOR REPORT  
August 22, 2017**

**Announcements:**

- The public can view Commission meetings live via the internet at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). A link is available on our website.

**Miscellaneous**

**New Publication by the Arizona Secretary of State's Office**

As some of you may know the Secretary of State purported to "expire" the Commission's rules relating to independent expenditures and traditional candidates. This action is futile because the Citizens Clean Elections Act ("the Act") is plain and the Commission follows the Act. It is also illegal because the Governor's Regulatory Review Council has no authority to expire commission rules and is engaged in a mission creep (beyond even CEC) that I have described in other Executive Director reports.

However, this action by Secretary Reagan represents a reversal of her office's position mere months ago. Issue 26 of the Register was consistent with a neutral approach, publishing a notice from GRRC and the Commission's correcting notice. Attachment A. Issue 27 of the register, however, abandons that neutral approach and purports to remove R2-20-109 and R2-20-111 in a regulatory action on behalf of GRRC by listing them as "expired" in the Register's Rulemaking Activity Index. Ariz. Admin. Register, Vol. 23, Issue 27, page 1827, Rulemaking Activity Index, Citizens Clean Elections Commission. Attachment B. By stating in the administrative record that the Commission's rules were "expired" the Secretary's office reversed the neutral approach it had informed staff it was going to take. Although the legal dispute between the Commission and GRRC is noted in the "Editor's Note" preceding the Commission's rules in the codified update of the Administrative Code, both R2-20-109 and R2-20-111 are listed as "expired" and the text of these rules has been omitted completely from the Register. Ariz. Admin. Code, Supp. 17-2. Attachment C. But at no time did the Secretary indicate to the Commission staff it would take action in a regulatory matter by removing the rules from the Administrative Code. Until *last week*, the version of the code that was publicly available for download on the Secretary's website did not show either rule as expired but instead showed the rules as of December 31, 2016. This demonstrates an action in a regulatory matter by the Secretary.

Furthermore, this regulatory matter action removing the rules is an action by Secretary Reagan that seeks to prevent voters from learning about spending done by 501(c)(4) groups and others and to undermine independent oversight of state campaign finance pursuant to the Act. The Commission has yet to make a payment toward the ISA. Unlike prior instances where we have updated on rulemaking publications, the Commission staff received no courtesy notice that this new and different regulatory action was being taken by Secretary Reagan.

It is particularly problematic because it calls into question the Commission's contract with the Secretary which sought to both ensure reports mandated by the Act are part of the Campaign Finance Reporting System and visible in See the Money *and* to develop the See the Money

program. Indeed, the Secretary spent some \$500,000 on this project with nothing to show for it before turning to the Commission. Mary Jo Pitzl, "Arizona secretary of state's website to track political spending triples in cost," The Arizona Republic, March 29, 2017, available at <http://www.azcentral.com/story/news/politics/elections/2017/03/29/arizona-secretary-states-website-track-political-spending-triples-cost/99554600/>; Evan Wyloge, "State election chief seeks new funds for hobbled campaign finance website overhaul" Arizona Center For Investigative Reporting, Mar 22, 2017, available at <http://azcir.org/news/2017/03/22/arizona-secretary-of-state-michele-reagan-campaign-finance-website/>.

Specifically the contract the office signed stated that the Secretary "consents and agrees that the Commission's determination of its own jurisdiction, authority, and powers shall supersede any view of the Secretary regarding the Commission's jurisdiction, authority, and powers. In furtherance of this consent and agreement the Secretary agrees that her office will not participate in any lawsuit *or other regulatory matter challenging the authority of the Commission to obtain information from Reporting Parties*. . . " ISA at 3, paragraph I. Attachment B. She is in fact participating in a regulatory matter at GRRC's behest. We will have a full legal briefing next week.

# Attachment A

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Arizona Administrative Register  
Rhonda Paschal



## NOTICES OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

This section of the *Arizona Administrative Register* contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(J), if an agency does not file a five-year rule review report with the Governor's Regulatory Review Council (including a revised report); or if an agency does not file an extension before the due date of the report; or if an agency files an extension but does not submit a report

within the extension period; the rules scheduled for review expire.

The Council is required to notify the Secretary of State that the rules have expired and are no longer enforceable. The notice is published in the *Register*, and the rules are removed from the *Code*.

### GOVERNOR'S REGULATORY REVIEW COUNCIL NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

#### DEPARTMENT OF ADMINISTRATION STATE PROCUREMENT OFFICE

[R17-107]

1. **Agency name:** Department of Administration
2. **Title and its heading:** 2, Administration
3. **Chapter and its heading:** 7, Department of Administration - State Procurement Office
4. **Articles and their headings:** 2, Procurement Organization  
7, Cost Principles  
10, Intergovernmental Procurement
5. **As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of May 9, 2017:**
  - R2-7-205. Procurement Requests by Purchasing Agencies
  - R2-7-208. Authorization of Electronic Transactions
  - R2-7-701. Cost Principles
  - R2-7-1008. Contract Awards Directed by the Committee

6. **Signature is of Nicole Ong Colyer** **Date of Signing**  

/s/  
 Nicole Ong Colyer  
 Chairwoman

June 6, 2017

### GOVERNOR'S REGULATORY REVIEW COUNCIL NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

#### CITIZENS CLEAN ELECTIONS COMMISSION

[R17-108]

1. **Agency name:** Citizens Clean Elections Commission
2. **Title and its heading:** 2, Administration
3. **Chapter and its heading:** 20, Citizens Clean Elections Commission
4. **Articles and their headings:** 1, General Provisions
5. On February 2, 2016, the Governor's Regulatory Review Council (Council), in accordance with A.R.S. § 41-1056(E), determined that R2-20-109 was materially flawed and required the rule to be amended by the repeal of subsections (F)(2) - (F)(12) and (G) by August 2, 2016. The Council voted to extend the deadline for compliance with this requirement on three separate occasions, most recently from March 7, 2017 to June 7, 2017.  
  
Provisions in R2-20-109(F) which were required to be repealed by the Council have been renumbered to R2-20-109(B), but have not been repealed as the Council required. In addition, R2-20-109(G) has been renumbered to R2-20-111 but has not been repealed as the Council required. Under A.R.S. § 41-1056(G), if an agency "does not amend or repeal the rule by the date specified by the [C]ouncil under subsection E of this section or the extended date under subsection F of this section, the rule automatically expires." Therefore,



as required by A.R.S. § 41-1056(G), the Council provides notice that the following rules have automatically expired as of June 7, 2017:

R2-20-109. Independent Expenditure Reporting Requirements

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

**6. Signature is of Nicole Ong Colyer**

/s/

Nicole Ong Colyer

Chairwoman

**Date of Signing**

June 8, 2017





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**NOTICES OF PUBLIC INFORMATION**

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Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

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**NOTICE OF PUBLIC INFORMATION****CITIZENS CLEAN ELECTIONS COMMISSION**

[M17-125]

1. **Agency name:** Citizens Clean Elections Commission
2. **Title and its heading:** 2, Administration
3. **Chapter and its heading:** 20, Citizens Clean Elections Commission
4. **Article and its heading:** 1, General Provisions
5. **Section numbers:** R2-20-109 and R2-20-111

**6. The public information relating to the listed Sections:**

On December 15, 2016, the Citizens Clean Elections Commission unanimously approved a notice stating that the Governor's Regulatory Review Council cannot effectively repeal the rules of the Citizens Clean Elections Commission. Moreover, the Council cannot change the terms of the Clean Elections Act itself. Consequently, persons subject to the Act and Rules are advised that it is the Commission's position that an action by GRRC or the Secretary of State cannot relieve them of their obligations under the Act and Rules.

This notice applies to:

- R2-20-109. Independent Expenditure Reporting Requirements  
R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

**7. Signature is of Thomas Collins**

/s/  
Thomas Collins  
Executive Director

**Date of Signing**

June 8, 2017

# Attachment B

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# Arizona Administrative REGISTER

*Published by the Department of State ~ Office of the Secretary of State*

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Secretary of State  
MICHELE REAGAN

**RULES MANAGING EDITOR**  
Arizona Administrative Register  
Rhonda Paschal

1827

# Attachment C



**Arizona Administrative Code**  
The official compilation of Arizona Rules  
**Replacement Check List**

For rules filed in the second quarter  
between April 1 - June 30  
2017

Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

**TITLE 2. Administration**

**Chapter 20. Citizens Clean Elections Commission**

Sections, Parts, Exhibits, Tables or Appendices modified  
R2-20-109, R2-20-111

☐ REMOVE Supp. 16-4  
Pages: 1 - 26

☐ REPLACE with Supp. 17-2  
Pages: 1 - 25

*The Council can answer questions about expired rules in this Chapter:*

Name: Governor's Regulatory Review Council  
Address: 100 N. 15th Ave #305  
Phoenix, AZ 85007  
Telephone: (602) 542-2058  
Website: <https://grrc.az.gov/>

*The agency's contact person who can answer questions about rules in this Chapter:*

Agency: Citizens Clean Elections Commission  
Name: Thomas M. Collins, Executive Director  
Address: 1616 W. Adams St., Suite 110, Phoenix, AZ 85007  
Phone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: [thomas.collins@azcleelections.gov](mailto:thomas.collins@azcleelections.gov)

*Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.*

**PUBLISHER**

**Arizona Department of State**  
**Office of the Secretary of State, Administrative Rules Division**

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION  
June 30, 2017

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### RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

### ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31  
Second Quarter: April 1 - June 30  
Third Quarter: July 1 - September 30  
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

### ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

### HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

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### SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, [www.azsos.gov/services/legislative-filings](http://www.azsos.gov/services/legislative-filings).

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.*

## TITLE 2. ADMINISTRATION

## CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

*Editor's Note: The Citizen's Clean Elections Commission has filed a Notice of Public Information with the Office of the Secretary of State (Office) stating the Governor's Regulatory Review Council (G.R.R.C.) "cannot effectively repeal the rules" in this Chapter. The Notice also states, "persons subject to the Act and Rules are advised that it is the Commission's position [sic] that an action of G.R.R.C.... cannot relieve them of their obligations under the Act and Rules." [published at 23 A.A.R. 1761] The Office has received a Notice of Rule Expiration from the G.R.R.C. stating R2-20-109 and R2-20-111 have automatically expired [published at 23 A.A.R. 1757]. Under A.R.S. § 41-1056(G), our Office publishes filed G.R.R.C. notices and has included the rule expiration in this Chapter. Since the Office is merely the publisher, it has not, nor will it interpret the legality of the G.R.R.C. authority to "effectively repeal rules."*

*Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-1).*

*Editor's Note: This Chapter contains rules that were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 16-956(D). Exemption from A.R.S. Title 41, Chapter 6 means that these rules were not certified by the Attorney General or the Governor's Regulatory Review Council. Because this Chapter contains rules that are exempt from the regular rulemaking process, the Chapter is printed on blue paper. The rules affected by this exemption appear throughout this Chapter.*

## ARTICLE 1. GENERAL PROVISIONS

*Article 1, consisting of Sections R2-20-101 through R2-20-113, repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001; new Article 1, consisting of Sections R2-20-101 through R2-20-112, made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1).*

*Article 1, consisting of Sections R2-20-101 through R2-20-113, adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2).*

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**ARTICLE 1. GENERAL PROVISIONS****R2-20-101. Definitions**

In addition to the definitions provided in A.R.S. § 16-961, the following shall apply to the Chapter, unless the context otherwise requires:

1. "Act" means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. "Audit" means a written report pertaining to an examination of a candidate's campaign finances that is reviewed by the Commission in accordance with A.A.C. Title 2, Chapter 20, Article 4.
3. "Campaign account" means an account at a financial institution designated by a political committee that is used solely for political campaign purposes.
4. "Candidate" means a natural person who receives or gives consent for receipt of a contribution for the person's nomination for or election to any office in this state, and includes the person's campaign committee, the political committee designated and authorized by the person, or any agents or personnel of the person. When not otherwise specified by statute or these rules, "Candidate" includes a Candidate for Statewide Office or a Legislative Candidate.
5. "Candidate for Statewide Office" means: A natural person seeking the office of governor, attorney general, secretary of state, treasurer, superintendent of public instruction, or mine inspector.
6. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
7. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
8. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
9. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
10. "Executive Director" means the highest ranking Commission staff member, who is appointed pursuant to A.R.S. § 16-955(J) and is responsible for directing the day-to-day operations of the Commission.
11. "Expressly advocates" means:
  - a. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "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.
  - b. Making a general public communication, such as in 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.
- c. A communication within the scope of subsection (10)(b) shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
12. "Extension of credit" means the delivery of goods or services or the promise to deliver goods or services to a candidate in exchange for a promise from the candidate to pay for such goods or services at a later date.
13. "Family member" means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons.
14. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
15. "Fixed Asset" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.
16. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
17. "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.
18. "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not eligible for recognition on the ballot.
19. "Legislative Candidate" means: A natural person seeking the office of state senator or state representative.
20. "Officeholder" means a person who has been elected to a statewide office or the legislature in the most recent election, as certified by the Secretary of State, or who is appointed to or otherwise fills a vacancy in such office.
21. "Person," unless stated otherwise, or having context requiring otherwise, means: A corporation, company, partnership, firm, association or society, as well as a natural person.
22. "Prior campaign account" means a campaign account used solely for campaign election purposes in a prior election.
23. "Public funds" includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
24. "Solicitor" means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.
25. "Unopposed" means in reference to state senate candidates and statewide candidates other than Corporation Commission, that the candidate is opposed by no candidates who will appear on the ballot. In reference to candidates for the House of Representatives and Corporation Commission, "unopposed" means that no more candidates will appear on the ballot than the number of seats available for the office sought.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 3515, effective September 27, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 23 A.A.R. 113, effective December 15, 2016 (Supp. 16-4).

**R2-20-102. Repealed****Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Repealed by exempt rulemaking at 19 A.A.R. 3518, effective September 27, 2013 (Supp. 13-4).

**R2-20-103. Communications: Time and Method**

- A. General rule: in computing any period of time prescribed or allowed by the Act or these rules, unless otherwise specified, days are calculated by calendar days, and the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. The term "legal holiday" includes New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the state.
- B. Special rule for periods less than seven days: when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- C. Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission by regular mail, three calendar days shall be added to the prescribed period.
- D. Whenever the Commission or any person is required to do some act within a prescribed period after the service of paper by or upon the Commission by overnight delivery, the time period shall begin on the date the recipient signs for the overnight delivery.
- E. The Commission shall use the address of the candidate that is provided on the application for certification filed pursuant to A.R.S. § 16-947. A candidate may designate in writing for the Commission to send written correspondence to a person other than the candidate.
- F. If possible, the Commission shall furnish a copy of all communications electronically.
- G. Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with a person of suitable age and discretion residing therein, by mailing a copy by overnight delivery to his or her last known address, or by any other method whereby actual notice is given.
- H. When the person to be served is not an individual, delivery of subpoenas, orders and notifications may be made by mailing a

copy by overnight delivery to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by overnight delivery to such representative at his or her last known address, or by any other method whereby actual notice is given.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

**R2-20-104. Certification as a Participating Candidate**

- A. A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-941(B), but later chooses to run as a participating candidate, shall:
  1. Make the change to participating candidate status during the exploratory and qualifying periods only;
  2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
  3. Return all Political Action Committee (PAC) monies received;
  4. Not have made expenditures exceeding the early contribution limit, or have spent any part of a contribution exceeding the early contribution limit;
  5. Comply with all provisions of A.R.S. § 16-941 and Commission rules.
  6. Return all contributions received from another candidate's candidate committee.
- B. Money from prior election. If a nonparticipating candidate has a cash balance remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
  1. Transferring money from the prior campaign account to the candidate's current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C), and shall contain contributions received from individuals only;
  2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign purpose and does not meet the definition of "expenditure" under A.R.S. § 16-901(24); and the event or item purchased is completed or otherwise used and depleted prior to April 30 of an election year;
  3. Remitting the money to the Fund; or
  4. Holding the money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this Section.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission-approved application and a campaign finance report reflecting all campaign activity to date. In the application, a candidate shall certify under oath that the candidate:
  1. Agrees to use all Clean Elections funding for direct campaign purposes only;
  2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;

3. Will comply with all requirements of the Act and Commission rules;
  4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
  5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
  6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
  7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
  8. Will submit the name and mailing address of the person who is entitled to receive primary and general election funding on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this subsection shall not be effective until submitted to the Commission in a letter signed or submitted electronically, by the candidate or the committee treasurer;
  9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
  10. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
  11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D.** If certified as a participating candidate, the candidate shall:
1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
  2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
  3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
  4. Conduct all campaign activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate's current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in Article 7 of these rules;
  5. Attend a Commission sponsored candidate training class within 60 days of being certified or within 60 days of the beginning of the qualifying period if the candidate is certified before the beginning of the qualifying period. If the candidate is unable to attend a training class, the candidate shall:
    - a. Notify the Commission that the candidate is unable to attend a training class. The Commission then will send that person the Commission training materials; and
    - b. The candidate shall sign and send to the Commission a statement certifying that he or she has received and reviewed the Commission training materials; and
  6. Limit campaign expenditures. 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. Upon approval for funding by the Secretary of State, a candidate may incur debt, or make expenditures, not to exceed the sum of the cash on hand and the applicable spending limit.
- E.** Loans. A participating candidate may accept an individual contribution as a loan or may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of the contribution received or personal funds and loans shall not exceed the expenditure limits set forth in A.R.S. § 16-941(A)(1) and (2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a financial institution or bank, to a candidate used for the purpose of influencing that candidate's election shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).
- F.** A participating candidate may raise early contributions for election to one office and choose to run for election to another office.
- G.** Contributions to officeholder expense accounts are subject to the restrictions of A.R.S. § 41-1234.01, contributions prohibited during session; exceptions.

#### Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 2, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1420, effective April 30, 2010 (Supp. 09-3). Subsection R2-20-104(C)(8) amended by exempt rulemaking at 19 A.A.R. 1685, effective October 6, 2011; Subsection R2-20-104(D)(5) amended by exempt rulemaking at 19 A.A.R. 1685, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 115, effective December 15, 2016 (Supp. 16-4).

#### R2-20-105. Certification for Funding

- A.** After a candidate is certified as a participating candidate, pursuant to A.R.S. § 16-947, in accordance with the procedure set forth in R2-20-104, that candidate may collect qualifying contributions only during the qualifying period.
- B.** A participating candidate must submit to the Secretary of State, a list of names of persons who made qualifying contributions, an application for funding prescribed by the Secretary of State, the minimum number of original reporting slips, and an amount equal to the sum of the qualifying contributions collected pursuant to A.R.S. § 16-950 no later than one week after the end of the qualifying period. Any and all expenses associated with obtaining the qualifying contributions, including credit card processing fees must be paid for from the candi-

date's early contributions or personal monies. A candidate may develop his or her own three-part reporting slip for qualifying contributions, or one that is photocopied or computer reproduced, if the form substantially complies with the form prescribed by the Commission. The candidate must comply with the Act and ensure that the original qualifying slip is tendered to the Secretary of State, a copy remains with the candidate, and that a copy is given to the contributor.

- C. A candidate may accept electronic \$5 qualifying contributions for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report in a manner that indicates the transaction fees have been accumulated and transferred.
- D. A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a qualified elector of this state. If a contribution is received unsolicited, the candidate or contributor may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. Nothing in this rule shall prohibit the use of direct mail or the internet to obtain qualifying contributions as long as an original signature is provided on the qualifying contribution form. The candidate may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. For qualifying contributions received in accordance with subsection (C) of this Section, the residential address and signature of the solicitor is not required.
- E. The Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:
  1. Unsigned by the contributor;
  2. Undated; or
  3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.
- F. The Secretary of State will notify the candidate and the Commission regarding the approval or denial of Clean Elections funds. A candidate who is denied Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.
- G. The amount equal to the sum of the qualifying contributions collected and tendered to the Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the amount tendered will not be returned to a candidate if a candidate is denied Clean Elections funding.

H. In accordance with the procedure set forth at A.R.S. § 16-950(C), if the Secretary of State determines that the result of the five percent random sample is less than 110 percent of the slips needed to qualify for funding, then the Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the Secretary of State if all of the following apply:

1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
3. The period for filing qualifying contributions slips has not expired.

I. The Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.

#### Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R.

1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 30, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2).

Subsection R2-20-105(C) amended by exempt rulemaking at 19 A.A.R. 1688, effective October 6, 2011; Subsection R2-20-105(J) amended by exempt rulemaking at 19 A.A.R. 1688, effective May 23, 2013 (Supp. 13-2).

Amended by final exempt rulemaking at 23 A.A.R. 117, effective January 1, 2017 (Supp. 16-4).

#### R2-20-106. Distribution of Funds to Certified Candidates

A. Before the initial disbursement of funds, the Commission shall review the candidate's funding application and all relevant facts and circumstances and:

1. Verify that the number of signatures on the candidate's nominating petitions equals or exceeds the number required pursuant to A.R.S. § 16-322 as follows:

- a. If the application is submitted before the March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions equals or exceeds 115 percent of the number required pursuant to A.R.S. § 16-322 based on the prior election voter registration list as determined by the Secretary of State; or

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- b. If the application is submitted after the current year March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions is equal to or greater than the number required pursuant to A.R.S. § 16-322.
- 2. Determine that the required number of qualifying contributions have been received and paid to the Secretary of State for deposit in the Fund; and
- 3. Determine whether the candidate is opposed in the election.
- B. In making the determinations described in subsection (A)(3), the Commission shall consider all relevant facts and circumstances, and it shall not be bound by election formalities such as the filing of nominating petitions by others in determining whether an applicant is opposed. Among other evidence the Commission may consider is the existence of exploratory committees or filings made to organize campaign committees of opponents and other like indicia.
- C. The Commission may review and affirm or change its determination that the candidate is or is not opposed until the ballot for the election is established.
- D. Within seven days after a primary election and before the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of votes, has at least two percentage points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least two percentage points, of the total ballots cast, larger than the vote total cast for the candidate with the third highest vote total.
- E. Promptly after the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not been made. If a participating candidate has received funds from the Commission pursuant to subsection (D) and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the Fund within 10 days after such determination is made. That candidate shall make no expenditures from general election funds from the date of the canvass.
- F. The Commission may refuse to distribute funds to participating candidates in cases in which the Commission finds evidence of fraud or illegal activity committed by the participating candidate.
- G. Pursuant to A.R.S. § 16-953(A), a participating candidate shall return to the Fund all of his or her primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

**R2-20-107. Candidate Debates**

- A. The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections. Except as set forth in the subsection below, the Commission shall not be required to sponsor a debate if there is no participating candidate in the election for a particular office.
- B. In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:
  - 1. There are more candidates appearing on the ballot than there are seats available for the political party's nomination for general election candidates, and
  - 2. At least one of the candidates is a participating candidate.
- C. The following candidates will not be invited to participate in debates as follows:
  - 1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
  - 2. In the general election, write-in candidates.
- D. In the event that there is no participating candidate in a primary or general election but there is an election involving candidates who are not unopposed, a candidate may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
  - 1. A nonparticipating candidate who requests a debate pursuant to this rule shall complete and return the invitation form sent to the candidate by the Commission by the deadline identified on the form. Forms received by the Commission past the deadline may still be considered at the discretion of the Commission. Commission staff shall notify all invited candidates if a debate will be sponsored by the Commission and which candidates will participate.
  - 2. If a candidate requests that the Commission sponsor a debate and fails or refuses to attend the debate, or a candidate agrees to participate in a debate and subsequently fails or refuses to attend the debate sponsored by the Commission, each candidate who fails or refuses to attend the debate shall reimburse the Commission for the cost of debate preparations not to exceed \$10,000 for a non-participating candidate for the legislature and \$25,000 for a non-participating candidate for statewide office. In the event that a candidate requests a general election debate or agrees to participate in a general election debate but does not advance to the general election, the candidate shall not be liable for the reimbursement.
- E. Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- F. Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.

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- G. A participating candidate may request to be exempt from participating in a required debate by doing the following:
1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
  2. State the reasons and circumstances justifying the request for exemption.
- H. After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
1. Beyond the control of the candidate; or
  2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- I. A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
1. The candidate's request for excused absence shall:
    - a. State the reason the candidate failed to participate in the debate, and
    - b. State the reason the candidate failed to request an exemption in advance, and
    - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
  2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
    - a. Beyond the control of the candidate; or
    - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- J. When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- K. In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period debate, as applicable, the debate will be held and will consist of a 30-minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the procedures established by the Commission staff.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 1690, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 4213, effective November 21, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 21 A.A.R. 1627, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 119, effective December 15, 2016 (Supp. 16-4).

**R2-20-108. Termination of Participating Candidate Status**

- A. A candidate may voluntarily request termination of his or her participating candidate status at any time prior to notification

by the Commission that such candidate has qualified for Clean Elections funding. To withdraw from participating candidate status, a candidate shall send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal. The candidate shall not accept any private monies until the withdrawal is approved by the Commission. The Commission shall act on the withdrawal request within seven days. If the Commission takes no action within the seven-day time period, the withdrawal is automatic.

- B. A candidate's participating candidate status shall automatically terminate if:
1. The candidate fails to make such submissions to the Secretary of State as prescribed in R2-20-105(B) within seven days after the end of the qualifying period, or
  2. The candidate is denied Clean Elections funding by the Secretary of State and the candidate is ineligible to make a supplemental filing with the Secretary of State in accordance with R2-20-105(G).
- C. A candidate whose participating candidate status has been terminated in accordance with this Section shall be ineligible to receive Clean Elections funding for that election cycle unless he/she reapplies for certification and is in compliance with R2-20-104(A) and (C).
- D. In the event that a candidate who has collected qualifying contributions decides not to seek certification as a participating candidate, the candidate shall return all qualifying contributions received from contributors who have not given written permission to use their qualify contributions as campaign contributions. Written permission may include a check box on the original \$5 form that authorizes a candidate to treat the qualifying contribution as a general campaign contribution if he or she decides not to participate in the Clean Elections system. If a good faith attempt to return the funds to the contributor is unsuccessful, the contributions shall be submitted to the Fund.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 17 A.A.R. 1950, effective August 25, 2011 (Supp. 11-3).

**R2-20-109. Expired****Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 152, effective January 29, 2010 (Supp. 10-1). Subsections R2-20-109(A), (A)(4), and (B) through (E) amended by exempt rulemaking at 19 A.A.R. 2923, effective October 6, 2011; Subsections R2-20-109(A) and (C)(2) amended by exempt rulemaking at 19 A.A.R. 2923, effective August 29, 2013; Subsection R2-20-109(C)(3) amended by exempt rulemaking at 19 A.A.R. 2923, effective January 1, 2014 (Supp. 13-3). Amended by exempt rulemaking at 19 A.A.R. 3519, effective September 27, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1329,

effective May 22, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 2804, effective September 11, 2014 (Supp. 14-3). Subsection R2-20-109(D) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 29, 2015; subsection R2-20-109(F) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 30, 2015 (Supp. 15-4). Amended by exempt rulemaking at 22 A.A.R. 2892, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 121, effective January 1, 2017 (Supp. 16-4). Section expired under A.R.S. § 41-1056(G) at 23 A.A.R. 1757, effective June 7, 2017 (Supp. 17-2).

#### **R2-20-110. Participating Candidate Reporting Requirements**

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

1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate's campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.
3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
  - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
  - b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and
  - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
  - a. Joint expenditures must be allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
  - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
  - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
- d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
- e. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:
  - i. The activity includes express advocacy of the election or defeat of more than 2 candidates;
  - ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
  - iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
  - iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
  - v. The timing of the material or activity in relation to the election of a second candidate;
  - vi. The distribution of the material or the activity is targeted to a second candidate's electorate; or
  - vii. The amount of control a second candidate has over the material or activity.

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

#### **B. Timing of reporting expenditures.**

1. Except as set forth in subsection (A)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
2. In the alternative to reporting in accordance with subsection (A)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
  - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
  - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
  - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which



payment is made; or (ii) the date upon which payment is due.

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

1. In addition to any campaign finance report required by Chapter 6 of Title 16, Arizona Revised Statutes, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
  - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
  - b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.
    - i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
    - ii. If the campaign finance report shows any amount of unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.
2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited in the Fund.
  - a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
  - b. The campaign finance report for the general election shall be filed within five days after the general election day and shall reflect all activity through the general election day.
3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 19 A.A.R. 1693, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1629, effective July 23, 2015 (Supp. 15-3). Section R2-20-110 renumbered to Section R2-20-114; new Section R2-20-110 made by

exempt rulemaking at 22 A.A.R. 2897, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 124, effective January 1, 2017 (Supp. 16-4).

**R2-20-111. Expired**

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by final exempt rulemaking at 21 A.A.R. 1631, effective July 23, 2015 (Supp. 15-3). Section R2-20-111 renumbered to R2-20-115 at 22 A.A.R. 2904; new Section R2-20-111 made by exempt rulemaking at 22 A.A.R. 2899 effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 126, effective January 1, 2017 (Supp. 16-4). Section expired under A.R.S. § 41-1056(G) at 23 A.A.R. 1757, effective June 7, 2017 (Supp. 17-2).

**R2-20-112. Political Party Exceptions**

The provisions of A.R.S. § 16-911(B)(4) shall apply to a candidate, whether participating or nonparticipating, who becomes a nominee as defined in A.R.S. § 16-901(38).

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by final exempt rulemaking at 23 A.A.R. 128, effective January 1, 2017 (Supp. 16-4).

**R2-20-113. Candidate Statement Pamphlet**

- A. The Commission shall publish a candidate statement pamphlet in both the primary and general elections as required by A.R.S. § 16-956(A)(1). Commission staff shall send invitations for submission of a 200 word statement to every statewide and legislative candidate who has qualified for the ballot.
- B. The following candidates will not be invited to submit a statement for the candidate statement pamphlet:
  1. In the primary election: write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
  2. In the general election: write in candidates.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597,

effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 15 A.A.R. 1567, effective September 2, 2009 (Supp. 09-3). Amended by exempt rulemaking at 16 A.A.R. 1200, effective January 8, 2010 (Supp. 10-2). Repealed by exempt rulemaking at 19 A.A.R. 1694, effective October 6, 2011 (Supp. 13-2).

New Section made by final exempt rulemaking at 21 A.A.R. 1633, effective July 23, 2015 (Supp. 15-3).

#### **R2-20-114. Candidate Campaign Bank Account**

- A. Each participating candidate shall designate a single campaign bank account for conducting campaign financial activity. During an election cycle, each participating candidate shall conduct all campaign financial activities through a single, current election campaign bank account and any petty cash accounts as are permitted by law.
- B. A participating candidate may maintain a campaign bank account other than the current election campaign bank account described in subsection (A) if the other campaign bank account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.
- C. During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior election cycle if the funds are deposited in the bank account for that prior campaign. A candidate shall not deposit debt-retirement contributions into the current election campaign bank account.

#### **Historical Note**

New Section R2-20-114 renumbered from R2-20-110 by exempt rulemaking at 22 A.A.R. 2897 and 22 A.A.R. 2902, effective January 1, 2017 (Supp. 16-3).

#### **R2-20-115. Books and Records Requirements**

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
  1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
    - a. All contributions or other monies received by or on behalf of the candidate.
    - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
    - c. Cumulative totals contributed by each individual or political committee.
    - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
    - e. All periodic bank statements or other statements for the candidate's campaign bank account.
    - f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.
  2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.

3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this Section.
- C. Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
  1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
  2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
  3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
  4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(B) for the production of any books, papers, records, or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
    - a. All papers, records, or other items sought in the public inspection request;
    - b. No later than two business days after the date of the subpoena; and
    - c. To the Commission's office during regular business hours.
  5. Any person who believes that a candidate or a candidate's campaign committee has not complied with this Section may appeal to Superior Court.

**Historical Note**

New Section R2-20-115 renumbered from R2-20-111 by exempt rulemaking at 22 A.A.R. 2899 and 22 A.A.R. 2904, effective January 1, 2017 (Supp. 16-3).

**ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES****R2-20-201. Scope**

These rules provide procedures for processing possible violations of the Citizens Clean Elections Act.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-202. Initiation of Compliance Matters**

Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-203. Complaints**

- A. Any person who believes that a violation of any statute or rule over which the Commission has jurisdiction has occurred or is about to occur may file a complaint in writing to the Executive Director.
- B. A complaint shall conform to the following:
  1. Provide the full name and address of the complainant; and
  2. Contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.
- C. All statements made in a complaint are subject to the statutes governing perjury. The complaint shall differentiate between statements based upon personal knowledge and statements based upon information and belief.
- D. The complaint shall conform to the following provisions:
  1. Clearly identify as a respondent each person or entity who is alleged to have committed a violation;
  2. Statements which are not based upon personal knowledge shall be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;
  3. Contain a clear and concise recitation of the facts which describe a violation of a statute or rule over which the Commission has jurisdiction; and
  4. Be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-204. Initial Complaint Processing; Notification**

- A. Upon receipt of a complaint, the Administrative Counsel shall review the complaint for substantial compliance with the technical requirements of R2-20-203, and, if it complies with those requirements, shall within five days after receipt notify each respondent that the complaint has been filed, advise each respondent of Commission compliance procedures, and provide each respondent a copy of the complaint.

- B. If a complaint does not comply with the requirements of R2-20-203, the Administrative Counsel shall so notify the complainant and any person or entity identified therein as respondent, within the five-day period specified in subsection (A), that no action should be taken on the basis of that complaint. A copy of the complaint shall be provided with the notification to each respondent.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by final exempt rulemaking at 21 A.A.R. 1634, effective July 23, 2015 (Supp. 15-3).

**R2-20-205. Opportunity for No Action on Complaint-generated Matters**

- A. A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within 5 days from receipt of a written copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.
- B. The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the 5 day period specified in subsection A.
- C. The respondent's response shall be sworn to and signed in the presence of a notary public and shall be notarized. The respondent's failure to respond in accordance with subsection A within 5 days of receiving the written copy of the complaint may be viewed as an admission to the allegations made in the complaint for purposes of the reason to believe finding pursuant to A.A.C. R2-20-206.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1636, effective July 23, 2015 (Supp. 15-3).

**R2-20-206. Executive Director's Recommendation on Complaint-generated Matters**

- A. Following either the expiration of the 5 day period specified by A.A.C. R2-20-205 or the receipt of a response as specified by A.A.C. R2-20-205(A), whichever occurs first, the Executive Director:
  1. May recommend to the Commission whether it should find reason to believe that a respondent has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction;
  2. May recommend that the Commission find that there is no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of A.A.C. R2-20-205(A); or
  3. May close the complaint generated matter without a reason to believe recommendation from the Executive Director based upon Respondent complying with the statute or rule on which the complaint is founded and in such case shall notify the Commission.
- B. Neither the complainant nor the respondent has the right to appeal the Executive Director's recommendation made pursuant to subsection (A) because the recommendation is not an appealable agency action.

- C. If the complaint relates to a violation of A.R.S. § 16-941(B) by a non-participating candidate or that candidate's campaign committee, the Executive Director shall not proceed pursuant to R2-20-206(A) or R2-20-207(A), without first receiving Commission approval to initiate an inquiry.
- D. The respondent shall not have the right to appeal the Commission's decision to authorize an inquiry pursuant to subsection (C) because the Commission's decision whether or not to authorize an inquiry is not an appealable agency action.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 20 A.A.R. 1332, effective May 22, 2014 (Supp. 14-2). Amended by final exempt rulemaking at 21 A.A.R. 1638, effective July 23, 2015 (Supp. 15-3).

**R2-20-207. Internally Generated Matters; Referrals**

- A. On the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities, or on the basis of a referral from an agency of the state, the Executive Director may recommend in writing that the Commission find reason to believe that a person or entity has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction.
- B. If the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur, the Executive Director shall notify the respondent of the Commission's decision and shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

**R2-20-208. Complaint Processing; Notification**

- A. If the Commission, either after reviewing a complaint-generated recommendation as described in R2-20-206 and any response of a respondent submitted pursuant to R2-20-205, or after reviewing an internally-generated recommendation as described in R2-20-207, determines by an affirmative vote of at least three of its members that it has reason to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding, setting forth the sections of the statute or rule alleged to have been violated and the alleged factual basis supporting the finding. In accordance with A.R.S. § 16-957(A), the Commission shall serve on the respondent an order requiring compliance within 14 days. During that period, the respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission.
- B. If the Commission finds no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, or otherwise terminates its proceedings, the Executive Director shall so notify both the complainant and respondent.
- C. The complainant may bring an action in Superior Court in accordance with A.R.S. § 16-957(C) if the Commission finds there is no reason to believe a violation of a statute or rule over

which the Commission has jurisdiction has occurred or otherwise terminates its proceedings.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

**R2-20-209. Investigation**

- A. The Commission shall conduct an investigation in any case in which the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Commission's investigation may include, but is not limited to, field investigations, audits, and other methods of information gathering.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-210. Written Questions Under Order**

The Commission may issue an order requiring any person to submit sworn, written answers to written questions and may specify a date by which such answers must be submitted to the Commission.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

**R2-20-211. Subpoenas and Subpoenas Duces Tecum; Depositions**

- A. The Commission may authorize its Executive Director or Assistant Attorney General to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.
- B. If the Commission orders oral testimony to be taken by deposition or for documents to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. The Commission may authorize its Executive Director to take a deposition and have the power to administer oaths.
- C. The deponent shall have the opportunity to review and sign depositions taken pursuant to this rule.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

**R2-20-212. Repealed****Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-213. Motions to Quash or Modify a Subpoena**

- A. Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than five days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accom-

panying such application with a brief statement of the reasons therefore.

- B. The Commission may deny the application, quash the subpoena or modify the subpoena.
- C. The person subpoenaed and the Executive Director may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

#### R2-20-214. The Probable Cause to Believe Recommendation; Briefing Procedures

- A. Upon completion of the investigation conducted pursuant to R2-20-209, the Executive Director shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Executive Director shall notify each respondent of the recommendation and enclose a copy of his or her brief.
- C. Within five days from receipt of the Executive Director's brief, the respondent may file a brief with the Commission setting forth the respondent's position on the factual and legal issues of the case.
- D. After reviewing the respondent's brief, the Executive Director shall promptly advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

#### R2-20-215. Probable Cause to Believe Finding

- A. If the Commission, after having found reason to believe and after following the procedures set forth in R2-20-214, determines by an affirmative vote of at least three of its members that there is probable cause to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall authorize the Executive Director to so notify the respondent by an order, that states the nature of the violation, pursuant to A.R.S. § 16-957.
- B. If the Commission finds no probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise orders a termination of Commission proceedings, it shall authorize the Executive Director to notify both respondent and complainant by letter that the proceeding has ended. The Executive Director's letter also will inform the parties that the Commission is not precluded from taking action on this matter in the future if evidence is discovered which may alter the decision of the Commission.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt

rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

#### R2-20-216. Conciliation

- A. Upon a Commission finding of probable cause to believe that the respondent has violated a statute or rule over which the Commission has jurisdiction, the Executive Director shall attempt to settle the matter as authorized by A.R.S. § 16-957(A) by informal methods of administrative settlement or conciliation, and shall attempt to reach a tentative conciliation agreement with the respondent.
- B. A conciliation agreement pursuant to subsection (A) of this Section is not binding upon either party unless and until it is signed by the respondent and by the Executive Director upon approval by the affirmative vote of at least three members of the Commission.
- C. If a conciliation agreement is reached between the Commission and the respondent, the Executive Director shall send a copy of the signed agreement to both complainant and respondent.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

#### R2-20-217. Enforcement Proceedings

- A. Upon a finding of probable cause that the alleged violator remains out of compliance, the Executive Director may recommend to the Commission that the Commission authorize the issuance of an order and assessment of civil penalties pursuant to A.R.S. § 16-957(B).
- B. The Commission may, by an affirmative vote of at least three of its members, authorize the Executive Director to issue an order and assess civil penalties pursuant to A.R.S. § 16-957(B).
- C. Subsections (A) and (B) of this rule shall not preclude the Commission, upon request of a respondent, from entering into a conciliation agreement pursuant to R2-20-216 even after the Commission authorizes the Executive Director to issue an order and assess civil penalties pursuant to subsection (B). Any conciliation agreement reached under this subsection is subject to the provisions of R2-20-216(B) and shall have the same force and effect as a conciliation agreement reached under R2-20-216(D).

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

#### R2-20-218. Repealed

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

#### R2-20-219. Repealed

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section

repealed by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

#### **R2-20-220. Ex Parte Communications**

- A. In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to its compliance procedures, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commission staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff make or entertain any such ex parte communications.
- B. This rule shall apply from the time a complaint is filed with the Commission or from the time that the Commission determines on the basis of information ascertained in the normal course of its statutory responsibilities that it has reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or may occur, and remains in force until the Commission has finally concluded all action with respect to the matter in question.
- C. Nothing in this Section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or the Administrative Counsel or the Assistant Attorney General in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by a Commission attorney or staff member shall bind or estop the Commission.

#### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### **R2-20-221. Representation by Counsel; Notification**

- A. If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:
  1. The name, address, and telephone number of the counsel; and
  2. A statement authorizing such counsel to receive any and all notifications and other communications from the Commission on behalf of respondent.
- B. Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent. The Commission will send a copy of this letter to the respondent's attorney.

#### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### **R2-20-222. Civil Penalties**

- A. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or impose a penalty not to exceed \$1,000 for a participating candidate for the legislature and 5,000 for a participating candidate for statewide office.
- B. If the Commission has reason to believe by a preponderance of the evidence that a person other than a participating candidate

is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed \$1,000.

#### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1697, effective May 23, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3524, effective September 27, 2013 (Supp. 13-4).

#### **R2-20-223. Notice of Appealable Agency Action**

If the Commission makes a probable cause finding pursuant to R2-20-215 or decides to initiate an enforcement proceeding pursuant to R2-20-217, the Assistant Attorney General (AAG) shall draft and serve notice of an appealable agency action pursuant to A.R.S. § 41-1092.03 and § 41-1092.04 on the respondent. The notice shall identify the following:

1. The statute or rule violated and specific facts constituting the violation;
2. A description of the respondent's right to request a hearing and to request an informal settlement conference; and
3. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.

#### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 2921, effective July 1, 2011; filed in the Office October 27, 2015 (Supp. 15-4).

#### **R2-20-224. Request for an Administrative Hearing**

- A. The respondent must file a request for a hearing with the Commission within 30 days of receipt of the notice prescribed in R2-20-223.
- B. If the respondent requests a hearing, the AAG shall notify the Office of Administrative Hearings (OAH) of the appeal and shall coordinate a hearing date with the Commission's AAG and Commission staff that may be called as witnesses and OAH. The hearing must be held within 60 days after the notice of appeal is filed with the Commission.
- C. The AAG shall prepare and serve a notice of hearing on all parties to the appeal at least 30 days before the hearing date, unless and expedited hearing is requested and granted. The notice of hearing shall be drafted in accordance with A.R.S. § 41-1092.05(D).

#### **Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### **R2-20-225. Informal Settlement Conference**

- A. If the respondent requests an informal settlement conference, the informal settlement conference shall be held within 15 days after the Commission receives the request. A request for an informal settlement conference shall be in writing and must be filed with the Commission no later than 20 days before the hearing date. A person with the authority to act on behalf of the Commission must represent the Commission at the conference. The AAG shall attend the settlement conference, but shall not be the individual authorized to act on behalf of the Commission.
- B. The Commission representative shall notify the appellant in writing that the statements, either written or oral, made by the

appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference waive their right to object to the participation of the agency representative in the final administrative decision.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-226. Administrative Hearing

- A. If the matter continues to a hearing, the hearing shall be held in accordance with A.R.S. § 41-1092.07. The Administrative Law Judge (ALJ) must issue a written recommended decision within 20 days after the hearing is concluded.
- B. If the enforcement action occurs within six months of the primary or general election, the Commission will request an expedited review of the matter

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-227. Review of Administrative Decision by Commission

- A. Within 30 days after the date OAH sends a copy of the ALJ's decision to the Commission, the Commission may review the ALJ's decision and accept, reject or modify the decision.
- B. If the Commission declines to review the ALJ's decision, the Commission shall serve a copy of the decision on all parties. If the Commission modifies or rejects the decision, the Commission shall file with OAH and serve on all parties, a copy of the ALJ's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification. If the Commission accepts, rejects or modifies the decision, the Commission's decision will be certified as final.
- C. If the Commission does not accept, reject or modify the decision within 30 days after OAH sends the ALJ's decision to the Commission, the ALJ's decision will be certified as final.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-228. Judicial Review

A party may appeal a final administrative decision pursuant to A.R.S. § 12-901 et seq. (Judicial Review of Administrative Decisions). A party does not have the right to judicial review unless that party first exhausts its administrative remedies by going through the above steps. After a hearing has been held and a final administrative decision has been entered pursuant to § 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-229. Repealed

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

#### R2-20-230. Repealed

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

#### R2-20-231. Repealed

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

### ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES

#### R2-20-301. Purpose and Applicability

- A. The Commission is committed to implementing the Act in an honest, independent, and impartial fashion and to seeking to uphold public confidence in the integrity of the electoral system. To ensure public trust in the fairness and integrity of the Arizona elections process, all Commissioners and employees must observe the highest standards of conduct. This Article prescribes standards of ethical conduct for Commissioners and employees of the Commission relating to conflicts of interest arising from outside employment, private businesses, professional activities, political activities, and financial interests. The avoidance of misconduct and conflicts of interest on the part of the Commissioners and the employees through informed judgment is indispensable to the maintenance of these prescribed ethical standards. Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law.
- B. This Article applies to all persons included within the terms "employee" and "Commissioner" of the Commission.
- C. These Standards of Conduct shall be construed in accordance with any applicable laws, regulations, and agreements between the Commission and a labor organization.
- D. Pursuant to A.R.S. § 16-955(I), for three years after a Commissioner completes his or her tenure, Commissioners shall not seek or hold any public office, serve as an officer of any political committee, or employ or be employed as a lobbyist.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-302. Definitions

The following terms apply in all Citizens Clean Elections Act matters:

1. "Commission" means the Citizens Clean Elections Commission of Arizona.
2. "Commissioner" means a voting member of the Commission, appointed pursuant to A.R.S. § 16-955.
3. "Conflict of interest" means a situation in which a Commissioner's or an employee's private interest is or appears to be inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.
4. "Employee" means an employee or staff member of the Commission.
5. "Former employee" means one who was, and is no longer, an employee of the Commission.
6. "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.



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7. "Outside employment" or "outside activity" means any work, service or other activity performed by a Commissioner or employee other than in the performance of the Commissioner's or employee's official employment duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.
8. "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-303. Notification to Commissioners and Employees**

The Executive Director shall provide to each Commissioner and employee of the Commission, upon commencement of his or her term or employment and at least annually thereafter, a copy of this Article and such other information regarding standards of conduct as the Commission and/or applicable law may prescribe.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

**R2-20-304. Interpretation and Advisory Service**

Commissioners or employees seeking advice and guidance on questions of conflict of interest and on other matters covered by this Article shall consult with the Commission's Chair or Executive Director. The Commission's Chair or Executive Director shall be consulted prior to the undertaking of any action that might violate this Article governing the conduct of Commissioners or employees.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

**R2-20-305. Reporting Suspected Violations**

- A. Commissioners and employees who have information, which causes them to believe that there has been a violation of a statute or a rule set forth in this Article, shall report promptly, in writing, such incident to the Commission's Chair or Executive Director.
- B. When information available to the Commission indicates a conflict between the interests of a Commissioner or employee and the performance of his or her Commission duties, the Commissioner or employee shall be provided an opportunity to explain the conflict or appearance of conflict in writing.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-306. Disciplinary and Other Remedial Action**

- A. A violation of this Article by an employee may be cause for disciplinary action, which may be in addition to any penalty prescribed by law.
- B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminat-

ing the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.

- C. Remedial action pursuant to subsection (B) of this Section may include, but is not limited to:

1. Changes in assigned duties;
2. Divestment by the employee of his or her conflicting interest;
3. Disqualification for particular action; or
4. Disciplinary action.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-307. General Prohibited Conduct**

- A. A Commissioner or employee shall avoid any action whether or not specifically prohibited by this Section that might result in, or create the appearance of:

1. Using public office for unlawful private gain;
2. Giving favorable or unfavorable treatment to any person or organization due to any partisan or political consideration;
3. Impeding Commission efficiency or economy;
4. Losing impartiality.
5. Making a Commission decision without Commission approval; or
6. Adversely affecting the confidence of the public in the integrity of the Commission.

- B. A Commissioner or employee of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

1. Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
2. Conducts operations or activities that are regulated or examined by the Commission; or
3. Has an interest that may be substantially affected by the performance or nonperformance of the Commissioner or employee's official duty.

- C. Subsection (B) of this Section shall not apply in the following circumstances:

1. When circumstances make it clear that obvious family or personal relationships, rather than the business of the persons concerned, are the motivating factors;
2. To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;
3. To the acceptance of unsolicited advertising or promotional material or other items of nominal value such as pens, pencils, note pads, calendars; and
4. To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.

- D. A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this subsection does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a spe-



cial occasion such as birthday, holiday, marriage, illness, or retirement.

- E. This Section does not preclude a Commissioner or employee from receipt of reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Article for which no state payment or reimbursement is made. However, this Section does not allow a Commissioner or employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow a Commissioner or employee to be reimbursed by a person for travel on official business under Commission orders when reimbursement is prescribed by statute.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-308. Outside Employment or Activities

- A. A Commissioner or employee shall not engage in outside employment that is incompatible with the full discharge of his or her duties as a Commissioner or employee.
- B. Incompatible outside employment or other activities by Commissioners or employees include, but are not limited to:
1. Outside employment or other activities that involve illegal activities;
  2. Outside employment or other activities that would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved;
  3. Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, a conflict of interest;
  4. Outside employment or other activities that might bring discredit upon the state or Commission;
  5. Outside employment or other activities that establish relationships or property interests that may result in a conflict between the Commissioner's or the employee's private interests and official duties;
  6. Outside employment or other activities which would involve any contractor or subcontractor connected with any work performed for the Commission or would involve any person or organization in a position to gain advantage in its dealings with the state through the Commissioner's or employee's exercise of his or her official duties;
  7. Outside employment or other activities that may be construed by the public to be the official acts of the Commission. In any permissible outside employment, care shall be taken to ensure that names and titles of Commissioners and employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission's activities;
  8. Outside employment or other activities which would involve use by a Commissioner or employee of his or her official duty time; use of official facilities, including office space, machines, or supplies, at any time; or use of the services of other employees during their official duty hours;
  9. Outside employment or other activities which impair the Commissioner's or employee's mental or physical capacities to perform Commission duties and responsibilities in an acceptable manner; or
  10. Use of information obtained as a result of state employment that is not freely available to the general public or would not be made available upon request. However,

written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.

- C. Commissioners and employees shall not receive any salary or anything of monetary value from a private source as compensation for the Commissioner's or employee's services to the state.
- D. Commissioners and employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this Article. However, Commissioners and employees shall not, either with or without compensation, engage in teaching or writing that is dependent on information obtained as a result of his or her Commission employment, except when that information has been made available to the public or will be made available on request, or when the Commission gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.
- E. This Section does not preclude a Commissioner or employee from participating in the activities of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational, recreational, public service, or civic organization.
- F. An employee who intends to engage in outside employment shall obtain the approval of the Executive Director. The request shall include the name of the person, group, or organization for whom the work is to be performed, the nature of the services to be rendered, the proposed hours of work, or approximate dates of employment, and the employee's certification as to whether the outside employment (including teaching, writing, or lecturing) will depend in any way on information obtained as a result of the employee's official position. The employee will receive, from the Executive Director, written notice of approval or disapproval of any written request. A record of the decision shall be placed in each employee's official personnel folder.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-309. Financial Interests

- A. Commissioners and employees shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through the Commissioner's or employee's duties or employment.
- B. Commissioners and employees shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's official duties and responsibilities, except in cases where the Commissioner or employee makes full disclosure, and disqualifies himself or herself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or in any proceeding of the Commission in which the financial interest is or appears to be affected. Full disclosure by a Commissioner or employee will require that individual to submit a written statement to the Executive Director or Chair disclosing the particular financial interest which conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's duties and responsibilities.
- C. Commissioners and employees shall disqualify themselves from a proceeding in which the Commissioner's or employee's impartiality might reasonably be questioned, such as in a situation where the Commissioner or employee knows that he or she, or his or her family member, has an interest in the subject matter in controversy or is a party to the proceeding, or has

any other interest that could be substantially affected by the outcome of the proceeding.

- D. This Section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Commission, as long as the Commissioner's or employee's financial interest does not conflict with official Commission duties.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-310. Political and Organization Activity

- A. Due to the Commission's role in the political process, the following restrictions on political activities are required:
1. Commissioners and employees shall not advocate for the election or defeat of a candidate, nor make contributions to a candidate, political party, or political committee subject to the jurisdiction of the Commission. Commissioners and employees, however, are not prohibited from signing candidate nomination petitions;
  2. Commissioners and employees shall not provide volunteer or paid services for a candidate, political party, or political committee subject to the jurisdiction of the Commission; and
  3. Commissioners and employees not shall display partisan buttons, badges, or other insignia on Commission premises.
- B. Employees on leave, leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted, are subject to the restrictions of this Section. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he or she does not return to state employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office despite any understanding that he or she will resign his or her position if nominated or elected.
- C. A Commissioner or employee is accountable for political activity by another person acting as his or her agent or under the Commissioner's or employee's direction or control if the Commissioner or employee is thus accomplishing what he or she may not lawfully do directly and openly.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-311. Membership in Associations

Commissioners or employees who are members of nongovernmental associations or organizations shall avoid activities on behalf of those associations or organizations that are incompatible with their official positions.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-312. Use of State Property

A Commissioner or employee shall not directly or indirectly use, or allow the use of, state property of any kind, including property leased to the state, for other than officially approved activities. Commissioners and employees have a positive duty to protect and conserve state property including equipment, supplies, and other property entrusted or issued to him or her.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

### ARTICLE 4. AUDITS

#### R2-20-401. Purpose and Scope

This article prescribes procedures for conducting examinations and audits of participating candidates' campaign finances.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 19 A.A.R. 1699, effective October 6, 2011 (Supp. 13-2).

#### R2-20-402. General

The Commission may conduct an examination and audit of the receipts, disbursements, debts and obligations of each candidate. In addition, the Commission may conduct other examinations and audits as it deems necessary to carry out the provisions of the Act and regulations. Information obtained pursuant to any audit and examination may be used by the Commission as the basis, or partial basis, for its repayment determinations.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

#### R2-20-402.01. Random Audits of Participating Legislative Candidates

To ensure compliance with the Act and Commission rules, the Commission shall conduct random audits of participating legislative candidates after each primary election period and each general election period. Random audits shall include the review of campaign finance reports and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the random audits. The selection of legislative candidates for audit shall be determined by random lot at a Commission meeting. Candidates shall not be subject to selection for random audit for the general election period that were selected for random audit following the primary election period.

#### Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 3529, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1700, effective October 6, 2011 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1640, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 130, effective December 15, 2016 (Supp. 16-4).

#### R2-20-402.02. Audits of Participating Statewide Candidates

All participating statewide candidates shall be audited after each primary election period and each general election period.

#### Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 131, effective December 15, 2016 (Supp. 16-4).

#### R2-20-403. Conduct of Fieldwork

- A. The Commission will provide the candidate two days notice of the Commission's intention to commence fieldwork on the audit and examination. The Commission will conduct fieldwork at a site provided by the candidate. During or after fieldwork, the Commission may request additional or updated information, which expands the coverage dates of information previously provided. During or after fieldwork, the Commission may also request additional information that was created

by or becomes available to the candidate that is of assistance in the Commission's audit. The candidate shall produce the additional or updated information no later than two days after service of the Commission's request.

- B. On the date scheduled for the commencement of fieldwork, the candidate shall facilitate the examination or audit by making records available in one central location, such as the Commission's office space, or shall provide the Commission with office space and records. The candidate shall be present at the site of the fieldwork. The candidate shall be familiar with the candidate's records and shall be available to the Commission to answer questions and to aid in locating records.
- C. If the candidate fails to provide adequate office space, personnel or records, the Commission may seek judicial intervention to enforce the request or assess other penalties.
- D. If, in the course of the examination or audit process, a dispute arises over the documentation sought, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within five days after the disputed Commission request is made, describing the dispute and indicating the candidate's proposed alternatives.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

#### R2-20-404. Preliminary Audit Report

- A. After the completion of fieldwork, the auditors may prepare a written preliminary audit report, which will be provided to the candidate after it is reviewed by the Executive Director. The preliminary audit report may include:
  1. An evaluation of procedures and systems employed by the candidate to comply with applicable provisions of the Act and Commission rules,
  2. The accuracy of statements and campaign finance reports filed with the Secretary of State by the candidate, and
  3. Preliminary findings.
- B. The candidate may submit in writing within 10 days after receipt of the preliminary audit report, legal and factual materials disputing or commenting on the proposed findings contained in the preliminary audit report. In addition, the candidate shall submit any additional documentation requested by the Commission.
- C. If the preliminary audit report cannot be completed, the Commission shall notify the candidate in writing that the audit report will not be completed.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2).

#### R2-20-405. Final Audit Report

- A. Before voting on whether to approve and issue a final audit report, the Commission will consider any written legal and factual materials timely submitted by the candidate in accordance with R2-20-404. The Commission-approved final audit report may address issues other than those contained in the preliminary audit report.
- B. The final audit report may identify issues that warrant referral for possible enforcement proceedings.
- C. Addenda to the final audit report may be approved and issued by the Commission from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based on follow-up fieldwork conducted, or information ascertained by the Commission in the normal

course of carrying out its responsibilities. The procedures set forth in R2-20-404 and subsections (A) and (B) will be followed in preparing such addenda.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

#### R2-20-406. Release of Audit Report

- A. The Commission will consider the final audit report specified in R2-20-405 in an open meeting. The Commission will provide the candidate with copies of the final audit report to be considered in an open meeting 24 hours prior to the public meeting.
- B. Following Commission approval of the final audit report, the report will be forwarded to the candidate within five days after the public meeting.

#### Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

### ARTICLE 5. RULEMAKING

#### R2-20-501. Purpose and Scope

This Article prescribes the procedures for the submission, consideration, and disposition of rulemaking petitions filed with the Commission, establishes the conditions under which the Commission may identify and respond to petitions for rulemaking, and informs the public of the procedures the agency follows in response to such petitions.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-502. Procedural Requirements

- A. Any interested person may file with the Commission a written petition for the issuance, amendment, or repeal of an administrative rule implementing any of the Citizens Clean Elections Act.
- B. The petition shall:
  1. Include the name and address of the petitioner or agent. An authorized agent of the petitioner may submit the petition, but the agent shall disclose the identity of his or her principal;
  2. Identify itself as a petition for the issuance, amendment, or repeal of a rule;
  3. Identify the specific Section of the regulations to be affected;
  4. Set forth the factual and legal grounds on which the petitioner relies, in support of the proposed action; and
  5. Be addressed and submitted to the Commission.
- C. The petition may include draft regulatory language that would effectuate the petitioner's proposal.
- D. The Commission may, in its discretion, treat a document that fails to conform to the format requirements of subsection (B) of this Section as a basis for rulemaking addressing issues raised in a petition.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-503. Processing of Petitions

- A. Within 10 days of receiving a petition, the Commission shall send a letter to the petitioner acknowledging the receipt of the petition and informing the petitioner that the Commission will review and decide whether to deny or accept the petition. To assist in determining whether a rulemaking proceeding should

be initiated, the Commission may publish a Notice of Availability on the Commission web site or otherwise post notice, stating that the petition is available for public inspection in the Commission's Office and that statements in support of or in opposition to the petition may be filed within a stated period after publication of the Notice of Availability.

- B. If the Commission decides a public hearing on the petition would help determine whether to commence a rulemaking proceeding, it will publish an appropriate notice of the hearing on the Commission web site or otherwise post notice, to notify interested persons and to invite their participation in the hearing.
- C. The Commission will consider all comments regarding whether rulemaking proceedings should be initiated.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-504. Disposition of Petitions

- A. After considering the comments and any other information relevant to the subject matter of the petition, the Commission will decide whether to initiate rulemaking based on the filed petition.
- B. If the Commission decides to initiate rulemaking proceedings, it shall file a Notice of Proposed Rulemaking and the proposed rule, in the format prescribed in A.R.S. § 41-1022, with the Secretary of State's office for publication in the Arizona Administrative Register. After the Commission approves the proposed rule, the Commission will accept public comments on the proposed rule for 60 days. After consideration of the comments received in the 60-day comment period, the Commission may adopt the rule in open meeting.
- C. If the Commission decides not to initiate rulemaking, it will give notice of this action by publishing a Notice of Disposition on the Commission web site, or otherwise post notice, and by sending a letter to the petitioner. The Notice of Disposition will include a brief statement of the grounds for the Commission's decision.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-505. Commission Considerations

The Commission's decision on the petition for rulemaking may include, but will not be limited to, the following considerations:

1. The Commission's statutory authority;
2. Policy considerations;
3. The desirability of proceeding on a case-by-case basis;
4. The necessity or desirability of statutory revision;
5. Available agency resources; and
6. Substantive policy statements.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-506. Administrative Record

- A. The Commission record for the petition process consists of the following:
  1. The petition, including all attachments on which it relies, filed by the petitioner;
  2. Written comments on the petition that have been circulated to and considered by the Commission, including attachments submitted as a part of the comments;
  3. Agenda documents, in the form they are circulated to and considered by the Commission in the course of the petition process;

4. All notices published on the Commission web site and in the Arizona Administrative Register, including the Notice of Availability and Notice of Disposition;
  5. The transcripts or audiotapes of any public hearing on the petition;
  6. All correspondence between the Commission and the petitioner, other commentators and state agencies pertaining to Commission consideration of the petition; and
  7. The Commission's decision on the petition, including all documents identified or filed by the Commission as part of the record relied on in reaching its final decision.
- B. The administrative record specified in subsection (A) of this Section is the exclusive record for the Commission's decision.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

### ARTICLE 6. EX PARTE COMMUNICATIONS

#### R2-20-601. Purpose and Scope

This Article prescribes procedures for handling ex parte communications made regarding Commission audits, investigations, and litigation. Rules governing such communications made in connection with Commission enforcement actions are found at R2-20-220.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-602. Definitions

- A. "Ex parte communication" means any written or oral communication, by any person outside the agency to any Commissioner or any employee, which imparts information or argument regarding prospective Commission action or potential action concerning:
  1. Any ongoing audit;
  2. Any pending investigation; or
  3. Any litigation matter.
- B. "Ex parte communication" does not include the following communications:
  1. Public statements by any person in a public forum; or
  2. Statements or inquiries by any person limited to the procedural status of an open proceeding involving a Commission audit, investigation, or litigation matter.

#### Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

#### R2-20-603. Audits, Investigations, and Litigation

- A. In order to avoid the possibility of prejudice, real or apparent, in Commission decision making, no person outside the Commission shall make, or cause to be made, to any Commissioner or employee, any ex parte communication regarding any audit undertaken by the Commission or any pending or prospective Commission decision regarding any investigation or litigation, including whether to initiate, settle, appeal, or any other decision concerning an investigation or litigation matter.
- B. A Commissioner or employee who receives an oral ex parte communication concerning any matters addressed in subsection (A) of this Section shall attempt to prevent the communication. If unsuccessful in preventing the communication, the Commissioner or employee shall advise the person making the communication that he or she will not consider the communication and shall, as soon after the communication as is reasonably possible, but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, prepare a statement setting forth the substance and circumstances of the communication,

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and deliver the statement to the Executive Director for placement in the applicable case file.

- C. A Commissioner or employee who receives a written ex parte communication concerning any matters addressed in subsection (A) of this Section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, deliver a copy of the communication to the Executive Director for placement in the applicable case file.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**R2-20-604. Sanctions**

Any person who becomes aware of a possible violation of this Article shall notify the Executive Director in writing of the facts and circumstances of the alleged violation. The Executive Director shall recommend to the Commission the appropriate action to be taken. The Commission shall determine the appropriate action by at least three votes.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

**ARTICLE 7. USE OF FUNDS AND REPAYMENT****R2-20-701. Purpose and Scope**

A participating candidate may spend clean elections monies only for reasonable and necessary expenses that are directly related to the campaign of that participating candidate.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).  
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-702. Use of Campaign Funds**

- A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B. A participating candidate's payment from a campaign account to a political committee or civic organization is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered, such as for printing voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received.
- C. A participating candidate shall not use funds in the candidate's campaign account for:
1. Costs of legal defense in any campaign law enforcement proceeding or for any affirmative claim or litigation in court or before the Commission regarding a campaign. This prohibition does not bar use of campaign funds for payments to attorneys or certified accountants for proactive compliance advice and assistance.
  2. Food and beverages for staff and volunteers exceeding \$11 for breakfast, \$16 for lunch, and \$27 for dinner, per person.
  3. Personal use, which includes, but is not limited to, any item listed below:
    - a. Household food items or supplies.
    - b. Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
- c. Tuition payments, other than those associated with training campaign staff.
  - d. Mortgage, loan, rent, lease or utility payments:
    - i. For any part of any personal residence of the candidate or a member of the candidate's family; or
    - ii. For real or personal property that is owned or leased by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
  - e. Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign activity.
  - f. Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
  - g. Gifts or donations.
  - h. Extended warranties or other similar purchase options that extend beyond the campaign.
4. Payment to a candidate or a candidate's family member, as defined in R2-20-101(13), or an enterprise owned in whole or part by a candidate or family member, for the provisions of goods or services to the extent the payments exceed the fair market value of the goods or services. All payments made to family members or to enterprises owned in whole or part by the candidate or a family member shall be clearly itemized and indicated as such in all campaign finance reports.
- D. Participating candidates may purchase fixed assets with a value not to exceed \$800. Fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more shall be turned into the Commission no later than 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimbursing the Commission for 80 percent of the original purchase price including the cost of accessories.
- E. During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The sum of early contributions received plus public funds disbursed through the primary election period; less
  2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- F. During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The amount of public funds disbursed during and for the general election period; less
  2. All other expenditures made during and for the general election period.
- G. Transportation expenses.
1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
  2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:

- a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.
  - b. Use campaign funds to pay for direct fuel purchases for the candidate's automobile only and shall be reported. If a candidate chooses to use campaign funds for direct fuel purchases, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement could have been made.
3. Use of airplanes.
    - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
    - b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.
  4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 17 A.A.R. 1267, effective April 12, 2011 (Supp. 11-2). Since language in subsections R2-20-702(C)(3)(d)(i) and (ii) and R2-20-702(C)(4) and (5) are substantively identical, the Commission requested to remove the redundant language in R2-20-702(C)(3)(d)(i) and (ii) under A.R.S. § 41-1011(C), Office File No. M11-345, filed October 3, 2011 (Supp. 11-2). Amended by exempt rulemaking at 19 A.A.R. 1702, effective October 6, 2011 (Supp. 13-2).

Amended by exempt rulemaking at 22 A.A.R. 2906, effective January 1, 2017 (Supp. 16-3).

**R2-20-702.01. Use of Assets**

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate's current campaign pays for the assets in an amount equal to the fair market value of the assets, which amount shall in no event be less than one-fifth (1/5) the original purchase price of such assets. If the candidate was a participating candidate during the prior election cycle, the cash payment shall be made to the Fund. If the candidate was not a participating candidate during the prior election cycle, the cash payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate.

**Historical Note**

New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2).

**R2-20-703. Documentation for Direct Campaign Expenditures**

- A. In addition to the general books and records requirements prescribed in R2-20-111, participating candidates shall comply with the following requirements:
  1. All participating candidates shall have the burden of proving that expenditures made by the candidate were for direct campaign purposes. The candidate shall obtain and furnish to the Commission on request any evidence regarding direct campaign expenses made by the candidate as provided in subsection (A)(2).
  2. All participating candidates shall retain records with respect to each expenditure and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related materials documenting campaign receipts and disbursements, for a period of three years, and shall present these records to the Commission on request.
  3. All participating candidates shall maintain a list of all fixed assets whose purchase price exceeded \$200 when acquired by the campaign. The list shall include a brief description of each fixed asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition.
- B. Upon written request from a candidate, the Commission shall determine whether a planned campaign expenditure or fundraising activity is permissible under the Act. To make a request, a candidate shall submit a written description of the planned expenditure or activity to the Commission. The Commission shall inform the candidate whether an enforcement action will be necessary if the candidate carries out the planned expenditure or activity. The Commission shall ensure that the candidate can rely on a "no action" letter. A "no action" letter applies only to the candidate who requested it.
- C. Any expenditure made by the candidate or the candidate's committee that cannot be documented as a direct expenditure shall promptly be repaid to the Fund with the candidate's personal monies.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11

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A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by final exempt rulemaking at 21 A.A.R. 1641, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 133, effective January 1, 2017 (Supp. 16-4).

**R2-20-704. Repayment**

- A. In general, the Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund as determined by the Commission.
1. A candidate who has received payments from the Fund shall pay the Fund any amounts that the Commission determines to be repayable. In making repayment determinations, the Commission may utilize information obtained from audits and examinations or otherwise obtained by the Commission in carrying out its responsibilities.
  2. The Commission will notify the candidate of any repayment determinations made under this section as soon as possible, but not later than one year after the day of the election.
  3. Once the candidate receives notice of the Commission's repayment determination, the candidate should give preference to the repayment over all other outstanding obligations of the candidate, except for any taxes owed by the candidate.
  4. Repayments may be made only from the following sources: personal funds of the candidate, funds in the candidate's current election campaign account, and any additional funds raised subject to the limitations and prohibitions of the Act.
  5. The Commission may withhold the portion of funds required to be repaid from future payments to a participating candidate if the Commission has made a repayment determination.
- B. The Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund under any of the following circumstances:
1. Payments in excess of candidate's entitlement. If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.
  2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.
  3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of state or federal law, or used to defray expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.
  4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.
  5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an

amount equal to the amount determined to be income, less any federal, state or local taxes on such income.

6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.
- C. Repayment determination procedures. The Commission's repayment determination will be made in accordance with the following procedures:
1. Repayment determination. The Commission will send a repayment determination pursuant to Article 2, Compliance and Enforcement Procedures, and will set forth the legal and factual reasons for such determination, as well as the evidence upon which any such determination is based. The candidate shall repay, in accordance with subsection (D), the amount that the Commission has determined to be repayable.
  2. Administrative review of repayment determination. If a candidate disputes the Commission's repayment determination, he or she may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq.
- D. Repayment period.
1. Within 30 days of service of the notice of the Commission's repayment determination, the candidate shall repay the amounts the Commission has determined must be repaid. Upon application by the candidate, the Commission may grant an extension of time in which to make repayment.
  2. If the candidate requests an administrative appeal of the Commission's repayment determination of this Section, the time for repayment will be suspended until the Commission has concluded its review of the Administrative Law Judge's (ALJ) decision. Within 30 days after service of the notice of the Commission's review of the ALJ's decision, the candidate shall repay the amounts that the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 30 days in which to make repayment.
  3. Interest shall be assessed on all repayments made after the initial 30-day repayment period or the 30-day repayment period established by this Section. The amount of interest due shall be the greater of:
    - a. An amount calculated in accordance with A.R.S. § 44-1201(A); or
    - b. The amount actually earned on the funds set aside or to be repaid under this Section.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1643, effective July 23, 2015 (Supp. 15-3).

**R2-20-705. Additional Audits or Repayment Determinations**

- A. The Commission may conduct an additional audit or examination of any candidate in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Commission may make additional repayment determinations after it has made an initial repayment determination pur-

suant to R2-20-704. The Commission may make additional repayment determinations where there exist facts not used as the basis for any previous determination. Any such additional repayment determination will be made in accordance with the provisions of this Article.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-706. Repealed**

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-707. Repealed**

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section

repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-708. Repealed**

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-709. Repealed**

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

**R2-20-710. Repealed**

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).



# Attachment D

Interagency Service Agreement by and between  
the Citizens Clean Elections Commission and  
the Office of the Secretary of State

17 MAY 1 AM 11:28 CCEC

158 This INTERAGENCY SERVICE AGREEMENT (the "Agreement") is made as of the day of MAY 2017 between the CITIZENS CLEAN ELECTIONS COMMISSION (hereinafter referred to as the "Commission") and the OFFICE OF THE SECRETARY OF STATE (hereinafter referred to as the "Secretary"), pursuant to A.R.S. § 35-148.

WHEREAS, the Commission has a duty to enforce the provisions of Title 16, Chapter 6, Article 2, Arizona Revised Statutes and to exercise the powers granted to it under that Article; and,

WHEREAS, the Commission has the authority under A.R.S. §§ 16-940 to -941 to pay reasonable and necessary expenses of administration and enforcement, to make expenditures for public education and voter education and to make expenditures to implement the Citizens Clean Elections Act; and,

WHEREAS, the Commission has the duty to prescribe forms for reports, statements, and notices to be filed through a reporting system jointly approved for use by candidates by the Commission and the Secretary of State pursuant to A.R.S. § 16-956(A)(3). The Commission also has authority to adopt rules to implement the reporting requirements of A.R.S. § 16-958(D)-(E) and to adopt rules to carry out the purposes of Title 16, Chapter 6, Article 2. A.R.S. §§ 16-956(A)(6); -956(B). The Commission enforces provisions of Title 16, Chapter 6, Article 2. A.R.S. §§ 16-956(A)(7), 16-957; and,

WHEREAS, the Secretary of State has the duty to accommodate electronic collection, filing, and dissemination of statements of campaign contributions and expenditures pursuant to A.R.S. §§ 16-916, -916.01, -941, 956, and -958, including additional reports required of participating candidates by those rules; and,

WHEREAS, the Commission and the Secretary desire to increase voter education and transparency and improve the electronic, web-based, filing system prescribed by A.R.S. § 16-958(E).

NOW THEREFORE, the Secretary of State and the Commission agree as follows:

**1. Agreement Term.**

The term of this Agreement shall begin on MAY, 18 2017 and shall remain in effect until the Agreement until terminated as provided in this Agreement.

**2. Definitions.**

A. "See The Money" means the modified computer programs, displays, and interfaces, funded by this ISA, as a World Wide Web-based system and for the display of campaign-related financial information to the public. The system shall:

1. have the capability of displaying to users state and local campaign finance related information reported to the system from any jurisdiction using the system.

2. allow users to identify contributors or vendors and their multi-directional relationships to the different types of committees and entities. For example, users should be able to see: all the committees that have made expenditures to a specific vendor; all the contributors that have made contributions to a specific committee and; all the committees that have received contributions from a specific donor.

3. permit users to download their results in a tabular or csv format, run summaries of committee and other entity activity, and have access to a regularly updated copy of the entire database via the web.

4. permit users to see searches often previously requested by prior users.

5. be reasonably mobile device compatible for mobile web browsers.

B. "Authorized" or "authorization" means a request, requirement, or other authorization by the Commission pursuant to Title 16, Chapter 6, Arizona Revised Statutes, or Arizona Administrative Code, Title 2, Chapter 20, made of any reporting party or the Secretary.

C. "Filing(s)" means any report, statement, notice, or other document required by law.

D. "Campaign Finance Reporting System" is the computer based system in which committees, including candidate committees, and other entities file campaign finance reports, notices, and other materials.

E. "Administer" means the act of technically operating See The Money and the Campaign Finance Reporting System, including the provisions of access to reporting parties and the provisions of public access to filings. Administer does not include the authority, power, or jurisdiction to supersede, alter or amend the Commission's jurisdiction, authority, and powers or the authority, power, or jurisdiction to decline, reject, or alter a Commission authorization.

F. "Reporting Party" means a person authorized to file reports related to campaigns and includes a corporation, company, partnership, firm, association, or society, as well as a natural person.

### **3. Responsibilities.**

#### **A. The Secretary shall:**

Develop See the Money. The Project Plan provided to the Commission by the Secretary currently projects See the Money being able to receive data from Reporting Parties on January 2, 2018. The Secretary shall provide the Commission with such reports regarding the development of See the Money as the Commission may reasonably request. The Secretary will revise and update the See the Money Project Plan as material changes to the Plan may occur. All the execution of all duties and responsibilities of either the Secretary or the Commission respecting See the Money shall follow the See the Money Project Plan, as it may be revised and modified from time to time. No modification to the See the Money Project Plan is effective until approved, in writing, by the Executive Director of the Commission or its designee.

B. Ensure that the Campaign Finance Reporting System will provide a complete means for any Reporting Party to fully comply with the Reporting Party's obligations pursuant to Title 16, Chapter 6.

C. Ensure that a log-in for reporting parties other than committees that permits them to make authorized or voluntary filings on demand.

D. Provide the Commission and its staff "read only access" to any data, filing, or other information the Commission or its staff deem reasonably necessary to the execution of any of its duties.

E. Provide electronic means to the Commission staff to deliver notifications and other communications to committees and other entities of filing obligations of standard, defined reports with defined reporting dates in the Campaign Finance Reporting System that the Commission or its staff deem reasonably necessary. In fulfillment of the obligations of this subsection the Secretary agrees to provide the Commission with email addresses of all persons authorized to enter information into the Campaign Finance Reporting System by a Reporting Party. The Commission may utilize these email addresses to fulfill the Commission's statutory and regulatory communications responsibilities.

F. Provide quality assurance access to the Commission and its staff for training and research purposes. Such access shall include the ability to mimic filings by reporting parties in real time.

G. Ensure that See the Money shall include an introductory page that includes representation of both the Commission's and the Secretary's seals in equal proportion and placement. The See the Money website shall be accessible from the Commission's designated Web sites. The See the Money website shall include a disclosure as follows: "Paid For by the Arizona Secretary of State's Office and With Voter Approved Funding From the Clean Elections Fund". The obligations of this subsection shall be substantially complete by January 2, 2018 unless this completion date shall be modified as provided for in this Agreement.

H. Administer the See the Money website and the Campaign Finance Reporting System throughout the term of this Agreement.

In addition, the Secretary:

I. Agrees that an authorization does not require or represent the endorsement of the Secretary of any Commission action, but further consents and agrees that the Commission's determination of its own jurisdiction, authority, and powers shall supersede any view of the Secretary regarding the Commission's jurisdiction, authority, and powers. In furtherance of this consent and agreement the Secretary agrees that her Office will not participate in any lawsuit or other regulatory matter challenging the authority of the Commission to obtain information from Reporting Parties or to deny or inhibit a Reporting Party's ability to use See the Money to provide the Commission with the Commission's required reports. This consent and agreement is

limited to the obligations of Reporting Parties as set forth in Title 16, Chapter 6, Article 2, Arizona Revised Statutes.

**J. The Commission shall:**

1. Transfer to the Secretary the amounts set forth in Exhibit One in accordance with the schedule set forth therein. To facilitate the scheduled transfer the Commission will create an ITI document in the Arizona Financial Information System ("AFIS"), copy it forward and attach an electronic copy of the signed agreement and invoice (provided by Secretary) with verification of completion to the ITA document. The Commission will notify the Secretary when the ITA document is ready to be processed. The Secretary will enter the funding information in the 2nd Party Accounting tab, and submit it through workflow (more detailed instructions are found in the AFIS General Accounting Training Guide Section 7). The Secretary's accounting contact is:

Evelia McGee, Fiscal Services Specialist  
Phone: 602-926-3816  
emcgee@azsos.gov

2. Exhibit One shall set forth the objectives and deliverables for each phase of development and maintenance of See the Money. When the Secretary shall have achieved and delivered the objectives set forth in any particular phase of the See the Money project the Secretary shall request the Commission make the corresponding transfer. The Commission and the Secretary agree and acknowledge that the See the Money project plan as well as the objectives and deliverables set forth in Exhibit One are subject to revision with the written consent of the Executive Director of the Commission or its designee. The Commission and the Secretary agree that the Secretary may request payment for delivering some objectives of a particular phase of the project without having delivered every objective of a particular phase. The Secretary's inability to deliver every objective of a particular phase of the project as set forth in the project plan will not be deemed to be a breach of the Agreement so long as the Secretary is using reasonable efforts and diligence to deliver the required objectives of each phase of the project. In the event the Secretary fails to complete every objective, the Commission shall have discretion to make payments on a pro rata basis reflective of the work actually completed by the Secretary. Notwithstanding any other provision of this Agreement, the Commission shall not transfer any funds in excess of two hundred thousand dollars (\$200,000.00).

**3. Other Provisions.**

A. The Secretary warrants that, in undertaking and completing the responsibilities prescribed by Section 3(a)-(g) of this agreement, that any work product does not and will not

infringe upon, violate, or misappropriate any patent, copyright, trade secret, trademark, contract, or proprietary right of any third party.

B. The Secretary and the Commission agree and acknowledge that one of their mutual objectives is to facilitate adoption and utilization of See the Money and the Campaign Finance Reporting System by as many county, municipal and other jurisdictions as possible. The Commission and the Secretary will work together to achieve this objective, including agreeing to modify either See the Money or the Campaign Finance Reporting System as both parties may, by mutual agreement, deem necessary to maximize adoption and utilization by local jurisdictions.

C. The Commission and the Secretary may determine it is in their mutual best interests to charge fees to other jurisdictions for their use of See the Money or the Campaign Finance Reporting System. In the event the Commission and the Secretary determine such fees are appropriate the Secretary and the Commission agree to negotiate with one another in good faith as to how such fees shall be allocated among the parties, the uses of such fees and the reporting from one party to the other regarding sources and uses of fee revenue.

D. Every payment of obligation of the Commission under this Agreement is conditioned upon the availability of funds allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this agreement, this Agreement may be terminated by the Commission or any other agency of State of Arizona at the end of the period for which funds are available. No liability shall accrue to the Commission nor any other agency of the State of Arizona in the event this provision is exercised, and neither the Commission nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

E. If the Secretary fails to receive an appropriation necessary for the performance of its obligations hereunder, this Agreement may be terminated at the end of the period for which such funds are available. No liability for failure to perform shall accrue in the event this provision is exercised, and the Secretary shall not be obligated or liable for any damages as a result of termination under this paragraph. Notwithstanding the foregoing, this provision does not release the Secretary for any prior or outstanding liability at the time of termination under this paragraph.

F. Pursuant to A.R.S. § 35-148(A), the Secretary of State shall make an accounting of expenditures prior to invoicing the Commission.

G. Pursuant to A.R.S. § 35-148, this interagency service agreement is for the advancement and/or payment from the Commission's resources to the Secretary of State for the provision of goods and services.

H. In the event either party shall deem the other to be in material breach of this Agreement they shall:

1. Provide the other with written notice of the claim.
2. The party receiving notice of the breach shall have ten business days to provide the other party with either a written response denying that a breach exists and/or a statement setting forth the efforts and schedule the party has or will undertake to remediate the matters that are the subject of the notice.

3. The party receiving either the written notice denying a breach exists and/or a remediation plan shall have ten business days to accept or reject in writing the proposal.

All notices shall be delivered at the addresses indicated below. Both the Commission and the Secretary agree that they will not pursue any other right or remedy for a breach of this Agreement until they have complied with this section.

I. Notices, correspondence, and reports from the Commission to the Secretary shall be sent to:

Arizona Department of State  
Attention: Deputy Secretary of State  
1700 W. Washington St., 7th Floor  
Phoenix, Arizona 85007

Notices, correspondence, and reports from the Secretary to the Commission shall be sent to:

Arizona Citizens Clean Elections Commission  
Attention: Executive Director  
1616 W. Adams St., Suite 110  
Phoenix, Arizona 85007

The Secretary and the Commission agree that generally they shall communicate with one another via electronic mail and that each party shall provide the other with a current list of key contacts and their email addresses.

J. The Secretary shall permit the Commission or any reporting party to access any function necessary to make reports requested or required by the Commission or its Executive Director, unless a required outage is mandated for the functionality of the system which all Parties will be made aware prior to the event whenever possible. Violation of this term is a material breach. The obligations of this subsection shall continue notwithstanding any claim of breach by either party and shall remain in full force and effect until the Agreement is terminated.

K. Pursuant to A.R.S. §§ 35-214 and 35-215, both parties shall retain all data, books, and other records ("records") relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to the inspection and audit by the State of Arizona at reasonable times. Upon request, either party shall produce the original of any or all such records to the other.

L. The parties shall comply with Executive Order 2009-9 which mandates that all persons, regardless of race, color religion, sex, age, national origin, or political affiliation, shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin, or disability.

M. This Agreement may be amended or modified at any time by mutual agreement. No agent, employee, or other representative of either party is empowered to alter any of the terms of the Agreement, unless done in writing and signed by the authorized representative of the respective parties.

N. This Agreement contains all of the agreements of the parties with respect to the subject matter of the Agreement and no other agreements or oral representations from any party are binding.

O. The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

P. This Agreement shall be construed in accordance with the laws of the State of Arizona.

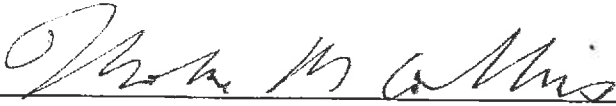
Q. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511. In such event, Section 4(A) shall apply

R. In the event of any legal action related to or arising from this agreement, each party shall bear its own attorneys' fees and costs. In no event shall the either Party indemnify, reimburse, pay, or be liable for any kind of loss, nor indemnify, provide, pay, or be liable for any attorneys' fees or costs incurred in relation to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Interagency Service Agreement under the Authority of A.R.S. § 35-148(A) as of the date first above written.

Citizens Clean Elections Commission

By:



Its:

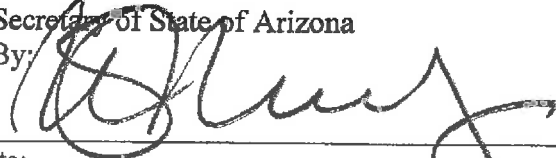
Executive Director

Date:

5/1/2017

Secretary of State of Arizona

By:



Its:

DEPUTY SECRETARY OF STATE

Date:

MAY 1, 2017

17 MAY 1 AM 11:28 CCEC



## Exhibit One

**Project Phase: Application Development – Release into Public Beta**

**Deliverable Date: October 2, 2017**

**Deliverable Amount: \$150,000**

**Deliverable Detail:**

**Design and Wire Frame**

**Proof of Concept**

**Coding/Programming of Core Business Requirement**

**Private Beta Testing**

**Project Phase: Go Live – General Availability**

**Deliverable Date: January 2, 2018**

**Deliverable Amount: \$50,000**

**Deliverable Detail:**

**Public Beta Testing**

**Updates and Debugging found in Beta Testing**

**Sign-off on Beta Testing, Alpha Testing, Release Testing**

**See the Money Website Available to the public**



Tom -

This is ~~good~~ to go with no. 1  
signed 2 copies. Please sign  
both and keep one for the ~~cc~~  
Please send me 1 executed  
original.

Max. *[Signature]*

SECRETARY OF STATE

Doug Ducey  
Governor

Thomas M. Collins  
Executive Director



Steve M. Titla  
Chair

Damien R. Meyer  
Mark S. Kimble  
Galen D. Paton  
Amy B. Chan  
Commissioners

**State of Arizona  
Citizens Clean Elections Commission**

1616 W. Adams - Suite 110 - Phoenix, Arizona 85007 - Tel (602) 364-3477 - Fax (602) 364-3487 - [www.azcleanelections.gov](http://www.azcleanelections.gov)

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August 18, 2017

**Via Overnight Mail and E-Mail**

Mr. Jesus Rubalcava  
806 W. Margaret St.  
Gila Bend, AZ 85337

Dear Mr. Rubalcava,

Attached is a form of order filed with the Commission regarding your repayment obligations. The Commission will take up this order at its meeting on August 22, 2017 at 10:30 am at the Citizens Clean Elections Commission Hearing Room, 1616 W. Adams, Suite 110, Phoenix, Arizona 85007.

In addition, the Commission may seek additional civil penalties against you pursuant to A.R.S. § 16-957.

You may appear at the August meeting either in person or by telephone. If you choose to appear by telephone, please contact the Commission office at 602-364-3477 as soon as possible to make arrangements.

If the repayment order is approved, you may "dispute[] the Commission's repayment determination, [by] request[ing] an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq." Ariz. Admin. Code § R2-20-704(D)(2).

Sincerely

Thomas M. Collins  
Executive Director

Enclosure

STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

In the Matter of:

Jesus Rubalcava, Respondent

MUR No. 17-01

**[Proposed] Repayment Order**

Pursuant to the its authority under ARS § 16-956(A)(7) "to ensure that money from the fund is placed in candidate campaign accounts or otherwise spent as specified in this article and not otherwise," and Ariz. Admin. Code §§ R2-20-702, R2-20-703 and R2-20-704, the Citizens Clean Elections Commission (the "Commission"), hereby orders Jesus Rubalcava ("Respondent"), a participating candidate for Legislature in 2016, to repay the amount of \$17,459. This order is effective upon approval of the Commission and is based on the following legal and factual reasons:

- A. Respondent received \$17,459 for his campaign in 2016, including \$16,044 for the primary election and an additional \$1,415 for the general election.
- B. Respondent was subject to a random audit that found he could not provide documentation for the transactions selected for audit. Exhibit 1, Random Audit Report.
- C. The Commission ordered a Comprehensive Audit and Review of all of Respondent's campaign finance activities in the 2016 election.
- D. Respondent provided no documentation of direct campaign expenditures to the auditors during the Comprehensive Audit and Review for the 2016 election. Exhibit 2, Comprehensive Audit and Review of 2016 Election Campaign Finances.

1 E. Respondent stated that "I accept the report on findings as a way to acknowledge and  
2 learn from what was done incorrectly and how to do things the correct way. I am willing  
3 to accept the consequences of my wrongdoing and ask that the commission allow me  
4 to take corrective actions in order to comply; whether this be repaying back any  
5 unaccounted monies and fees set forth by the commission." *Id.* Additionally,  
6 Respondent told the Commission he did not "disput[e] the outcome of the audit." Clean  
7 Elections Commission Meeting, 5/18/2017, Tr.30:8-11 ("I do acknowledge and I am  
8 taking responsibility that there was poor accounting and practices during this campaign  
9 cycle.").

10 F. The Commission found reason to believe a violation of §§ R2-20-702 and R2-20-703  
11 may have occurred. Exhibit 3.

12 G. An Order of Compliance was served on Respondent, June 23, 2017. He has taken no  
13 action in response.

14 H. Candidates bear the burden of showing that expenditures of Clean Elections Funding  
15 are for direct campaign purposes. Ariz. Admin. Code §§ R2-20-702, R2-20-703.

16 I. Respondent agreed to these conditions in his sworn application for certification. Exhibit  
17 4.

18 J. Respondent has not met his burden because he has failed to provide to documentation  
19 and because he admitted he will provide repayment as ordered.

20 WHEREFORE, the Commission enters the following orders in addition to any other action regarding  
21 this matter:

- 22 1. The Commission has jurisdiction over Respondent pursuant to A.R.S. § 16-956(A)(7)  
23 and the Arizona Administrative Code.
- 24 2. The Commission orders Respondent to repay \$17,459 immediately.
- 25 3. All payments shall be made from Respondent's personal funds by check or money  
26 order payable to the Citizens Clean Elections Fund and delivered to the Citizens Clean  
Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona, 85007.

4. Interest shall accrue and becomes immediately payable on any amount that remains unpaid thirty days after the date of this Order. Interest shall accrue at the statutory rate of ten percent (10%) pursuant to A.R.S. § 44-1201(A).
5. This Order constitutes a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and not compensation for actual pecuniary loss; and pursuant to 11 USC § 523 such obligations are not subject to discharge in bankruptcy.
6. In the event legal action is necessary to enforce collection hereunder, Respondent shall additionally pay all costs and expenses of collection, including without limitation, reasonable attorneys' fees in an amount equal to thirty-five percent (35%) of monies recovered.
7. In the event that any paragraph or provision of this Order shall be ruled unenforceable, all other provisions hereof shall be unaffected thereby.
8. This Order does not prevent the Commission from seeking additional penalties and repayments from Respondent.
9. This Order does affect or impair any investigatory activities undertaken by the Commission staff pursuant to prior Commission authorizations in this matter.
10. No delay, omission or failure by the Commission to exercise any right or power hereunder shall be construed to be a waiver or consent of any breach of any of the terms of this Order by the Respondent.
11. The Commission authorizes the Executive Director to sign this order making it effective upon the Executive Director's signature.
12. If Respondent disputes the Commission repayment determination, he may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092, et. seq., Ariz. Admin. Code § R2-20-704(C)(2).

Dated this \_\_\_\_ day \_\_\_\_, 2017.

By: \_\_\_\_\_  
Thomas M. Collins, Executive Director  
Citizens Clean Elections Commission



# Exhibit 1



**CITIZENS CLEAN ELECTIONS COMMISSION**

**Report on Agreed-Upon Procedures**

**Jesus Rubalcava  
Participating Candidate for  
State Representative – District No. 4  
Primary Election 2016**

**Independent Accountants' Report on  
Applying Agreed-Upon Procedures**

Chairman and Members of the Commission  
Citizens Clean Elections Commission  
Phoenix, Arizona

We (the Contractor) have performed the procedures enumerated below, which were specified and agreed to by the State of Arizona Citizens Clean Elections Commission (the Commission), solely to assist the Commission in evaluating whether Rubalcava for House (the Candidate) Campaign Finance Reports for both the Pre-Primary (June 1, 2016 to August 18, 2016) and the Post-Primary (August 19, 2016 to September 19, 2016) reporting periods were prepared in compliance with Title 16, Articles 1 and 2 of the Arizona Revised Statutes, Campaign Contributions and Expenses, and the Citizens Clean Elections Act, and whether the reports complied with the rules of the Citizens Clean Elections Commission. The Candidate's management is responsible for the Pre-Primary and Post-Primary Campaign Finance Reports. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

1. Preliminary Procedures

- a) Commission Staff will obtain a copy of the candidate's campaign finance report for the reporting period and provide the records to the Contractor.

**Finding**

We obtained both the Pre-Primary (June 1, 2016 to August 18, 2016) and Post-Primary (August 19, 2016 to September 19, 2016) Campaign Finance Reports from the Arizona Secretary of State's website.

- b) Perform a desk review of the receipts reported in the candidate's campaign finance report as follows:

- (i) Determine whether the candidate accepted contributions only from individuals.

**Finding**

The contributions received during the periods reviewed appeared to be only from individuals.

- (ii) Determine whether any contributions received from individuals exceed the early contribution limit.

**Finding**

Contributions received from individuals during the periods reviewed did not exceed the \$160 early contribution limit.

- (iii) Check compliance with the maximum early contribution limits.

**Finding**

Early contributions received during the periods reviewed did not exceed the \$4,011 limit for a legislative candidate.

- (iv) Check compliance with the maximum personal contribution limits.

**Finding**

Early contributions received during the periods reviewed did not exceed the \$720 limit for a legislative candidate.

- c) Perform a desk review of the disbursements reported in the candidate's campaign finance report to identify any unusual items requiring follow-up during fieldwork.

**Finding**

We noted six disbursements to family members of the candidate, however the Campaign finance report did not indicate that the expenditures were made to family members. Per the Citizens Clean Elections Act & Rules Manual rule R2-20-701(C)(4), all payments made to family members or to enterprises owned in whole or part by the candidate or a family member shall be clearly itemized and indicated as such in all campaign finance reports.

In addition, there were three loans outstanding on the Post-Primary finance report that were made to the Campaign by the Candidate in December 2015, totaling \$69.93, that do not appear to have been repaid to the Candidate. In addition, supporting documentation for these loans was not maintained by the Campaign. Per the Citizens Clean Elections Act & Rule Manual rule R2-20-104(E), if the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. The Campaign received its Clean Elections funding on June 15, 2016.

It was further noted that the Campaign finance report had significantly fewer transactions than what was shown on the Campaign bank statements. Per discussion with the Candidate, the financial institution linked his personal bank account with the Campaign bank account, and therefore when he used his personal debit card, the Campaign bank account was debited. We noted approximately forty-one personal transactions consisting of out of state restaurant purchases, travel and other non-Campaign related items on the Campaign bank statement, totaling \$3,461.74; three ATM withdrawals, totaling \$243.50; five overdraft fees, totaling \$175.00; and three transfers from the Campaign bank account to the Candidate's personal bank account, totaling \$223.42. The Candidate indicated that he reimbursed the Campaign for these personal transactions, however deposits for these specific amounts was not provided. We noted eleven possible reimbursements to the Campaign on the bank statements, totaling \$2,270.19.

- d) Contact the candidate or the campaign treasurer, as appropriate, to schedule a date to perform fieldwork. Discuss the nature of the documentation, which will be needed to perform the engagement and ascertain the location of the necessary documentation.

### **Finding**

We contacted the Candidate to discuss the agreed-upon procedures, the timing of our procedures, and the documentation needed.

2. Fieldwork Procedures

- a) Commission staff will contact the candidate to request the records for an agreed-upon procedures attest engagement. Candidates chosen for a Primary Election Audit shall provide records from the Pre-Primary Election Report and the Post-Primary Election Report. Candidates chosen for a General Election Audit shall provide records from the Pre-General Election Report and the Post-General Election Report.

**Finding**

Commission staff sent an initial notice of primary random audit selection to the Candidate and informed the Candidate that we would be contacting him. We then communicated to the Candidate in a written request, the purpose of the engagement, agreed-upon procedures to be performed, documentation needed and potential future requirements of the Candidate.

- b) Commission staff will provide the records to the Contractor upon receipt. The Contractor shall contact the candidate and/or his or her representative(s) to discuss the purpose of the engagement, the general procedures to be performed and potential future requirements of the candidate, such as possible repayments to the Fund.

**Finding**

See comment in a) above.

- c) The Contractor shall contact or conduct an interview with the candidate and/or his or her representative(s) to discuss the bookkeeping policies and procedures utilized by the campaign committee.

**Finding**

The Candidate provided written bookkeeping policies and procedures utilized by the campaign committee.

- (i) Review the names of the candidate's family members. Family members include parents, grandparents, spouse, children, siblings and a parent or spouse of any of those persons.

### **Finding**

We obtained and reviewed the names of the Candidate's family members.

- (ii) Review bank statements for each of the months in the reporting period and perform the following:
  - Select a sample of deposits and withdrawals from the bank statements and determine that the transaction is properly reflected in the candidate's records and campaign finance report.

### **Finding**

We selected five deposits and five withdrawals from the bank statements for the periods reviewed and determined that none appeared to be properly recorded in the Candidate's campaign finance reports.

The five withdrawals tested were personal purchases, made by the Candidate, totaling \$1,454.72. Per discussion with the Candidate, the financial institution linked his personal bank account with the Campaign bank account, and therefore when he used his personal debit card, the Campaign bank account was debited. He indicated that he reimbursed the Campaign for the personal purchases, however deposits for these specific amounts was not provided. He further indicated that the errors continued after he notified the financial institution.

The five deposits tested, per discussion with the Candidate, were reimbursements to the Campaign for personal purchases made in error by the financial institution, totaling \$1,717.99.

It was further noted that the Campaign finance report included the Primary Election Commission funding totaling \$16,044.00 on 6/15/16. The Campaign bank account did not include a corresponding deposit for this amount, however it did include a transfer from the Candidate's personal bank account for \$13,280.22, which represents a variance of \$2,763.78 of Commission monies that does not appear to have been deposited into the Campaign bank account. Per the Citizens Clean Elections Act & Rules Manual rule 16-948(A), a participating candidate shall conduct all financial activity through a single campaign account of the candidate's campaign committee.

- Perform a proof of receipts and disbursements for the reporting period.

### **Finding**

After performing proof of cash procedures, we calculated a Post-Primary ending cash balance of \$20,181.06, however the Amended Post-Primary campaign finance report reflected an ending balance of \$23,202.06, reflecting a variance of \$3,021.00, and indicating that the Campaign overspent by this amount. Per the Citizens Clean Elections Act & Rules Manual rule 16-941 (A)(3), a participating candidate: shall not make expenditures in the primary election period in excess of the adjusted primary election spending limit.

In addition, during this testwork it was noted that ten of the expenditure items in the Post-Primary campaign finance report, totaling \$2,214.50, had not cleared the bank as of September 30, 2016. Per discussion with the Candidate, he paid these vendors with cash, however no petty cash fund had been set up for the Campaign, and these expenditures were not reported as reimbursements to the Candidate on the Campaign finance report.

- d) Judgmentally select a sample of early contributions reported in the candidate's campaign finance report and agree to supporting documentation, which reflects the name of the contributor (for all contributions) and for individuals who contributed greater than \$50, which reflects the contributor's address, occupation and employer.

### **Finding**

We reviewed the supporting documentation for one early contribution (total population) reported in the Candidate's campaign finance report, and determined the name of the contributor for the contribution was included on the support. For individuals who contributed greater than \$50, we determined that the contributor's address, occupation and employer were also included on the support.

- (i) For other types of cash receipts reported in the candidate's campaign finance report, review supporting documentation and review for compliance with regulatory rules and laws and agree the receipt to inclusion in the campaign account bank statement.

**Finding**

No other types of cash receipts were reported in the Candidate's campaign finance reports during the periods reviewed.

- (ii) For in-kind contributions, review the supporting documentation and determine the methodology utilized to value the contribution and assess the reasonableness.

**Finding**

No in-kind contributions were reported in the Candidate's campaign finance reports during the periods reviewed.

- e) Judgmentally select a sample of cash expenditures reported in the candidate's campaign finance report and perform the following:
  - (i) Review supporting invoice or other documentation and agree amount to the amount reported in the candidate's finance report.

**Finding**

We reviewed five expenditures and agreed amounts to supporting invoices or other documentation and to the Candidate's finance report, with no exceptions noted.

- (ii) Determine that the name, address and nature of goods or services provided agree to the information reported in the candidate's campaign finance report.

**Finding**

We reviewed five expenditures and agreed the name, address and nature of goods or services provided to the information reported in the Candidate's Campaign finance report with no exceptions noted, however three of the expenditures tested were made were to family members of the Candidate and the Campaign finance report did not indicate that they were family members. Per the Citizens Clean Elections Act & Rules Manual rule R2-20-701(C)(4), all payments made to family members or to enterprises owned in whole or part by the candidate or a family member shall be clearly itemized and indicated as such in all campaign finance reports.



Agree the amount of the expenditure to the campaign account bank statement.

**Finding**

We reviewed five expenditures and agreed amounts to the campaign account bank statements with one exception. The Campaign finance report included a \$264.50 expenditure for newspaper advertising, however this amount was not present on the Campaign bank statement. Per discussion with the Candidate, he paid this vendor in cash, however no petty cash fund had been set up for the Campaign and this expenditure was not reported as a reimbursement to the Candidate on the Campaign finance report.

- (iii) Determine whether the expenditure was made for a direct campaign purpose. Direct campaign purpose includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of the candidate.

**Finding**

We reviewed five expenditures and agreed the name, address and nature of goods or services provided to the information reported in the Candidate's Campaign finance report with no exceptions noted.

- If the expenditure is a joint expenditure made in conjunction with other candidates, determine that the amount paid represents the candidate's proportionate share of the total cost.

**Finding**

None of the expenditures we tested appeared to be for joint expenditures.

- f) Determine whether any petty cash funds have been established and, if so, determine how expenditures from these funds have been reflected in the accounting records. Determine whether aggregate petty cash funds exceed the limit of \$1,420.

### **Finding**

Based on inquiry of the Candidate, the Candidate did not establish a petty cash fund during the periods reviewed, however per review of the Campaign bank statement, several ATM withdrawals were made and per discussion with the Candidate, multiple vendors were paid with cash.

- (i) If applicable, judgmentally select a sample of expenditures made from the Candidate's petty cash fund(s) and obtain supporting documentation for the expenditure. Determine whether the expenditure was for a direct campaign expense and whether the expenditure was in excess of the \$160 limit on petty cash expenditures.

### **Finding**

Based on inquiry of the Candidate, the Candidate did not establish a petty cash fund during the periods reviewed.

- g) Determine whether a legal defense fund has been established.

### **Finding**

Based on inquiry of the Candidate, the campaign did not establish a legal defense fund.

- (i) If a legal defense fund was established, how were these funds accounted for?

### **Finding**

Based on inquiry of the Candidate, the campaign did not establish a legal defense fund.

- h) Contact the Candidate and/or his or her representative(s) to discuss the preliminary engagement findings and recommendations that the Contractor anticipates presenting to the CCEC. During this conference, the Contractor will advise the Candidate and/or his or her representative(s) of their right to respond to the preliminary findings and the projected timetable for the issuance of the final issuance of the report.

### Finding

We discussed our findings with the Candidate and the Candidate did not provide responses to our findings.

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on the Pre-Primary and Post-Primary Campaign Finance Reports of Rubalcava for House. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Citizens Clean Elections Commission, and is not intended to be and should not be used by anyone other than this specified party.

*Foster & Chapman P.C.*

December 13, 2016

# Exhibit 2

**CITIZENS CLEAN ELECTIONS COMMISSION**

**Report on Agreed-Upon Procedures**

**Jesus Rubalcava  
Participating Candidate for  
State Representative – District No. 4  
2016 Election Cycle Finance Activity Comprehensive Review**

**Independent Accountants' Report on  
Applying Agreed-Upon Procedures**

Chairman and Members of the Commission  
Citizens Clean Elections Commission  
Phoenix, Arizona

We (the Contractor) have performed the procedures enumerated below, which were specified and agreed to by the State of Arizona Citizens Clean Elections Commission (the Commission), solely to assist the Commission in evaluating whether Rubalcava for House (the Candidate), Campaign Finance Reports, Campaign bank account and corresponding documentation for expenditures and contributions for the 2016 election cycle (January 15, 2016 to January 31, 2017) were prepared or maintained in compliance with Title 16, Articles 1 and 2 of the Arizona Revised Statutes, Campaign Contributions and Expenses, and the Citizens Clean Elections Act, and whether the reports complied with the rules of the Citizens Clean Elections Commission. The Candidate's management is responsible for the Campaign Finance Reports. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

1. The Contractor shall review bank statements for each of the months in the election cycle and perform the following:
  - a) Select 100% of the deposits and withdrawals from the campaign bank statements and determine that the transaction is properly reflected in the candidate's records and campaign finance report.

### **Finding**

The Candidate provided the Campaign bank statements for all months of the election cycle, however the Candidate indicated that he was unable to identify or locate any documentation supporting the deposits and withdrawals from the Campaign bank statements. The attached Bank Statement Deposit Summary and Bank Statement Withdrawal Summary describe the deposits and withdrawals noted in the Campaign bank statements.

- b) Select 100% of cash disbursements and withdrawals from the campaign bank statement and perform the following:
  - (i) Review supporting invoice or other documentation and agree amount to the amount reported in the candidate's finance report.

### **Finding**

The Candidate indicated that he was unable to identify or locate any documentation supporting the withdrawals from the Campaign bank statements. The attached Bank Statement Withdrawal Summary describe the withdrawals noted in the Campaign bank statements.

- (ii) Determine that the name, address and nature of goods or services provided agree to the information reported in the candidate's campaign finance report.

### **Finding**

The Candidate indicated that he was unable to identify or locate any documentation supporting the withdrawals from the Campaign bank statements, therefore the name, address and nature of goods or services provided could not be agreed to the information reported in the Candidate's Campaign finance report. The attached Bank Statement Withdrawal Summary describe the withdrawals noted in the Campaign bank statements.

- (iii) Determine whether the expenditure was made for a direct campaign purpose. Direct campaign purpose includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of the candidate.

**Finding**

The Candidate indicated that he was unable to identify or locate any documentation supporting the withdrawals from the Campaign bank statements, therefore expenditures made for a direct Campaign purpose could not be determined. The attached Bank Statement Withdrawal Summary describe the withdrawals noted in the Campaign bank statements.

- If the expenditure is a joint expenditure made in conjunction with other candidates, determine that the amount paid represents the candidate's proportionate share of the total cost.

**Finding**

The Candidate indicated that he was unable to identify or locate any documentation supporting the withdrawals from the Campaign bank statements, therefore joint expenditures were unable to be identified. The attached Bank Statement Withdrawal Summary describe the withdrawals noted in the Campaign bank statements.

- c) Determine whether a legal defense has been established.

**Finding**

Based on inquiry of the Candidate, the Campaign did not establish a legal defense.

- (i) Has any Clean funding been used to pay for legal services?



**Finding**

Based on inquiry of the Candidate, the Campaign did not establish a legal defense.

- (ii) What is the cost or value of legal services being provided for the comprehensive audit and review of the finance activity?

**Finding**

Based on inquiry of the Candidate, the Campaign did not establish a legal defense.

- d) Contact the Candidate and/or his or her representative(s) to discuss the preliminary engagement findings and recommendations that the Contractor anticipates presenting to the CCEC. During this notification, the Contractor will advise the Candidate and/or his or her representative(s) of their right to respond to the preliminary findings and the projected timetable for the issuance of the final issuance of the report.

**Finding**

We discussed our findings with the Candidate and the Candidate provided responses to our findings, which are included on pages 14-15 of this report.

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on the comprehensive audit and review of the finance activity of Rubalcava for House. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Citizens Clean Elections Commission, and is not intended to be and should not be used by anyone other than this specified party.

*Foster & Chapman P.C.*

April 28, 2017

### Bank Statement Deposit Summary

January 2016			
Date	Amount	Description	On Finance Report?
1/4/2016	\$ 200.00	ATM Cash Deposit	Undeterminable, significant number of contributions noted on report
1/4/2016	\$ 3.00	ATM Cash Deposit	No
1/4/2016	\$ 200.00	ATM Cash Deposit	Undeterminable, significant number of contributions noted on report
1/11/2016	\$ 2.00	Transfer from personal bank account	No
	<b>\$ 405.00</b>	<b>January Deposit Total:</b>	

January totals from above		Campaign Finance Report Totals	
\$ 2.00	Transfers from separate account	Included in Campaign Finance Report	\$ -
\$ 400.00	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 5.00
\$ 3.00	Purpose not determinable	Undeterminable	\$ 400.00
<b>\$ 405.00</b>			<b>\$ 405.00</b>

February 2016			
Date	Amount	Description	On Finance Report?
No deposit activity noted			

March 2016			
Date	Amount	Description	On Finance Report?
3/10/2016	\$ 25.00	ATM Check Deposit	Yes
3/31/2016	\$ 100.00	ATM Cash Deposit	Yes
3/31/2016	\$ 60.00	ATM Cash Deposit	Undeterminable, significant number of contributions noted on report
	<b>\$ 185.00</b>	<b>March Deposit Total:</b>	

March totals from above		Campaign Finance Report Totals	
\$ -	Transfers from separate account	Included in Campaign Finance Report	\$ 125.00
\$ 125.00	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ -
\$ 60.00	Purpose not determinable	Undeterminable	\$ 60.00
<b>\$ 185.00</b>			<b>\$ 185.00</b>

April 2016			
Date	Amount	Description	On Finance Report?
4/4/2016	\$ 70.00	ATM Cash Deposit	Undeterminable, significant number of contributions noted on report
4/15/2016	\$ 30.00	Transfer from personal account	No
4/18/2016	\$ 30.00	Transfer from personal account	No
	<b>\$ 130.00</b>	<b>April Deposit Total:</b>	

April totals from above		Campaign Finance Report Totals	
\$ 60.00	Transfers from separate account	Included in Campaign Finance Report	\$ -
\$ -	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 60.00
\$ 70.00	Purpose not determinable	Undeterminable	\$ 70.00
<b>\$ 130.00</b>			<b>\$ 130.00</b>

May 2016			
Date	Amount	Description	On Finance Report?
5/6/2016	\$ 600.00	Transfer from personal account	No
5/11/2016	\$ 607.12	eDeposit IN Branch/Store	Undeterminable
5/11/2016	\$ 75.00	ATM Check Deposit	Yes
5/12/2016	\$ 500.00	Transfer from personal account	No
5/17/2016	\$ 100.00	ATM Cash Deposit	Undeterminable, significant number of contributions noted on report
5/23/2016	\$ 25.00	ATM Check Deposit	Undeterminable, significant number of contributions noted on report
5/31/2016	\$ 90.00	Transfer from personal account	No
	<b>\$ 1,997.12</b>	<b>May Deposit Total:</b>	

May totals from above		Campaign Finance Report Totals	
\$ 1,190.00	Transfers from separate account	Included in Campaign Finance Report	\$ 75.00
\$ 75.00	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 1,190.00
\$ 732.12	Purpose not determinable	Undeterminable	\$ 732.12
<b>\$ 1,997.12</b>			<b>\$ 1,997.12</b>

June 2016			
Date	Amount	Description	On Finance Report?
6/2/2016	\$ 100.20	ATM Check Deposit	Undeterminable, significant number of contributions noted on report
6/2/2016	\$ 45.00	Transfer from personal account	No
6/9/2016	\$ 52.85	Transfer from personal account	No
6/13/2016	\$ 53.00	Transfer from personal account	No
6/17/2016	\$ 13,280.22	Transfer from personal account	This is presumed to be part of the Commission Primary Election funding. Total funding = \$16,044.00, difference of \$2,763.78.
	<b>\$ 13,531.27</b>	<b>June Deposit Total:</b>	

June totals from above		Campaign Finance Report Totals	
\$ 150.85	Transfers from separate account	Included in Campaign Finance Report	\$ 13,280.22
\$ 13,280.22	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 150.85
\$ 100.20	Purpose not determinable	Undeterminable	\$ 100.20
\$ 13,531.27			\$ 13,531.27

July 2016			
Date	Amount	Description	On Finance Report?
		No deposit activity noted	

August 2016			
Date	Amount	Description	On Finance Report?
8/4/2016	\$ 770.14	ATM Check Deposit	No
8/8/2016	\$ 77.00	eDeposit IN Branch/Store	Yes
8/9/2016	\$ 350.00	ATM Cash Deposit	No
8/29/2016	\$ 20.00	ATM Cash Deposit	No
8/29/2016	\$ 9.00	Transfer from personal account	No
8/30/2016	\$ 50.00	Transfer from personal account	No
	<b>\$ 1,276.14</b>	<b>August Deposit Total:</b>	

August totals from above		Campaign Finance Report Totals	
\$ 59.00	Transfers from separate account	Included in Campaign Finance Report	\$ 77.00
\$ 77.00	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 1,199.14
\$ 1,140.14	Purpose not determinable	Undeterminable	\$ -
\$ 1,276.14			\$ 1,276.14

September 2016			
Date	Amount	Description	On Finance Report?
9/6/2016	\$ 24,066.00	eDeposit IN Branch/Store	Yes
9/6/2016	\$ 320.00	ATM Cash Deposit	No
9/19/2016	\$ 500.00	ATM Cash Deposit	No
	<b>\$ 24,886.00</b>	<b>September Deposit Total:</b>	

September totals from above		Campaign Finance Report Totals	
\$ -	Transfers from separate account	Included in Campaign Finance Report	\$ 24,066.00
\$ 24,066.00	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 820.00
\$ 820.00	Purpose not determinable	Undeterminable	\$ -
\$ 24,886.00			\$ 24,886.00

October 2016			
Date	Amount	Description	On Finance Report?
10/3/2016	165.00	Transfer from personal account	No
10/5/2016	115.00	Transfer from personal account	No
10/12/2016	60.00	Transfer from personal account	No
10/24/2016	500.00	ATM Cash Deposit	No
10/24/2016	520.08	ATM Check Deposit	No
10/25/2016	33.00	Transfer from personal account	No
10/27/2016	34.48	Transfer from personal account	No
	<b>\$ 1,427.56</b>	<b>October Deposit Total:</b>	

October totals from above		Campaign Finance Report Totals	
\$ 407.48	Transfers from separate account	Included in Campaign Finance Report	\$ -
\$ -	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 1,427.56
\$ 1,020.08	Purpose not determinable	Undeterminable	\$ -
\$ 1,427.56			\$ 1,427.56

November 2016			
Date	Amount	Description	On Finance Report?
No deposit activity noted			

December 2016			
Date	Amount	Description	On Finance Report?
No deposit activity noted			

Total Period Deposits		Campaign Finance Report Totals	
\$ 0.58	Beginning Bank Balance, 01/01/16	Beginning Bank Balance, 01/01/16	\$ 0.58
\$ 1,869.33	Transfers from separate account	Included in Campaign Finance Report	\$ 37,623.22
\$ 38,023.22	Possible Campaign Deposits	Not included in Campaign Finance Report	\$ 4,852.55
\$ 3,945.54	Purpose not determinable	Undeterminable	\$ 1,362.32
\$ 43,838.67			\$ 43,838.67

## Bank Statement Withdrawal Summary

### January 2016

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
1/4/2016	\$ 100.00	ATM Withdrawal	Not determinable	n/a	No
1/4/2016	\$ 2.12	Family Dollar	Not determinable	n/a	No
1/4/2016	\$ 100.00	ATM Withdrawal	Not determinable	n/a	No
1/7/2016	\$ 100.00	ATM Withdrawal	Not determinable	n/a	No
1/11/2016	\$ 54.00	Transfer to personal account	No	n/a	No
1/11/2016	\$ 30.00	Western Union	No	n/a	No
1/11/2016	\$ 19.10	Pride Travel Center	Yes	Fuel	Yes
<b>\$ 405.22 January Withdrawal Total</b>					

#### January totals from above

\$ 300.00	ATM Withdrawals
\$ 54.00	Transfers to personal account
\$ 30.00	Non-Campaign Withdrawals
\$ 19.10	Possible Campaign Withdrawals
\$ 2.12	Purpose not determinable
<b>\$ 405.22</b>	

#### Campaign Finance Report Totals

Included in Campaign Finance Report	\$ 386.12
Not included in Campaign Finance Report	\$ 19.10
	<b>\$ 405.22</b>

### February 2016

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
No bank statement activity noted					

### March 2016

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
3/17/2016	\$ 2.82	Quiktrip Tolleson AZ	Not determinable	n/a	No
3/18/2016	\$ 19.99	Western Union	No	n/a	No
3/18/2016	\$ 2.00	Swa Inflight Service	No	n/a	No
<b>\$ 24.81 March Withdrawal Total</b>					

#### March totals from above

\$ -	ATM Withdrawals
\$ -	Transfers to personal account
\$ 21.99	Non-Campaign Withdrawals
\$ -	Possible Campaign Withdrawals
\$ 2.82	Purpose not determinable
<b>\$ 24.81</b>	

#### Campaign Finance Report Totals

Included in Campaign Finance Report	\$ -
Not included in Campaign Finance Report	\$ 24.81
	<b>\$ 24.81</b>

### April 2016

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
4/1/2016	\$ 10.25	Quiktrip Tolleson AZ	Not determinable	n/a	No
4/1/2016	\$ 60.00	ATM Withdrawal	No	n/a	No
4/4/2016	\$ 4.37	Burger King #9984 Buckeye AZ	Not determinable	n/a	No
4/4/2016	\$ 54.99	Western Union	No	n/a	No
4/6/2016	\$ 100.00	Check #101	Yes	Table fee for Yuma Co Fair	Yes
4/18/2016	\$ 10.01	Shell Service Station Gila Bend AZ	Not determinable	n/a	No
4/18/2016	\$ 27.99	Western Union	No	n/a	No
4/20/2016	\$ 4.82	Quiktrip Phoenix AZ	Not determinable	n/a	No
4/22/2016	\$ 8.00	Transfer to personal account	No	n/a	No
4/25/2016	\$ 5.41	Starbucks L3257 Los Angeles CA	No	n/a	No
<b>\$ 285.84 April Withdrawal Total</b>					

#### April totals from above

\$ 60.00	ATM Withdrawals
\$ 8.00	Transfers to personal account
\$ 88.39	Non-Campaign Withdrawals
\$ 100.00	Possible Campaign Withdrawals
\$ 29.45	Purpose not determinable
<b>\$ 285.84</b>	

#### Campaign Finance Report Totals

Included in Campaign Finance Report	\$ 100.00
Not included in Campaign Finance Report	\$ 185.84
	<b>\$ 285.84</b>

**May 2016**

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
5/9/2016	\$ 319.00	Transfer to personal account	No	n/a	No
5/11/2016	\$ 80.00	ATM Withdrawal	No	n/a	No
5/12/2016	\$ 59.50	Sams Club	Not determinable	n/a	No
5/23/2016	\$ 20.00	Sams Club	Yes	Fuel	Yes
5/31/2016	\$ 95.69	Renaissance Hotel Phoenix AZ	Not determinable	n/a	No
	<b>\$ 574.19</b>	<b>May Withdrawal Total</b>			

May totals from above		
\$ 80.00	ATM Withdrawals	
\$ 319.00	Transfers to personal account	
\$ -	Non-Campaign Withdrawals	
\$ 20.00	Possible Campaign Withdrawals	
\$ 155.19	Purpose not determinable	
<b>\$ 574.19</b>		

Campaign Finance Report Totals		
Included in Campaign Finance Report	\$	20.00
Not included in Campaign Finance Report	\$	554.19
	<b>\$</b>	<b>574.19</b>

**June 2016**

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
6/1/2016	\$ 52.13	Reathrey Sekon Phoenix AZ	Not determinable	n/a	No
6/1/2016	\$ 24.65	Lin's Buffet Phoenix AZ	Not determinable	n/a	No
6/2/2016	\$ 80.00	ATM Withdrawal	No	n/a	No
6/6/2016	\$ 18.91	Popeye's #10632 Phoenix AZ	Not determinable	n/a	No
6/8/2016	\$ 1,415.00	Check #102	Yes	Submittal of \$5 qualifying contributions	Yes
6/9/2016	\$ 35.00	Overdraft fee	No	n/a	No
6/13/2016	\$ 12.52	Dial Cab CO. Washington DC	No	n/a	No
6/13/2016	\$ 53.00	Cobalt Washington DC	No	n/a	No
6/13/2016	\$ 197.70	Uber	No	n/a	No
6/14/2016	\$ 35.00	Overdraft fee	No	n/a	No
6/14/2016	\$ 35.00	Overdraft fee	No	n/a	No
6/21/2016	\$ 14.97	Cracker Barrel 1780 S Yuma AZ	Yes	Meal expense	Yes
6/21/2016	\$ 23.00	Sam's Club Phoenix AZ	Not determinable	n/a	No
6/22/2016	\$ 439.19	AT&T*Bill Payment	No	n/a	No
6/22/2016	\$ 10.86	Panda Express #153 Goodyear AZ	Not determinable	n/a	No
6/23/2016	\$ 23.50	Love S Country0000 Gila Bend AZ	Not determinable	n/a	No
6/23/2016	\$ 12.41	McDonald's F1373 Washington DC	No	n/a	No
6/24/2016	\$ 25.00	American Air001028 Fort Worth TX	No	n/a	No
6/24/2016	\$ 21.80	Phx Delux Burger N Phoenix AZ	Not determinable	n/a	No
6/24/2016	\$ 28.45	Taxicharge- Washin Washington DC	No	n/a	No
6/24/2016	\$ 10.58	Dial Cab CO. Washington DC	No	n/a	No
6/24/2016	\$ 46.00	El Paso Cafe Arlington VA	No	n/a	No
6/24/2016	\$ 2,699.00	Check #103	Yes	Campaign literature & signs	Yes
6/27/2016	\$ 200.00	Southwest Title Loan	No	n/a	No
6/27/2016	\$ 63.50	ATM Withdrawal	No	n/a	No
6/27/2016	\$ 2.50	ATM fee	No	n/a	No
6/27/2016	\$ 46.00	Cafe Paradiso Washington DC	No	n/a	No
6/27/2016	\$ 12.16	Uber	No	n/a	No
6/27/2016	\$ 12.88	Uber	No	n/a	No
6/27/2016	\$ 25.00	District Kitchen L Washington DC	No	n/a	No
6/27/2016	\$ 8.80	Filiberto's Mexica Buckeye AZ	Yes	Meal expense	Yes
6/28/2016	\$ 25.17	Omni Shoreham Washington DC	No	n/a	No
6/28/2016	\$ 25.01	American Tap Room Arlington VA	No	n/a	No
6/28/2016	\$ 55.00	Sky Harbor Parking Phoenix AZ	No	n/a	No
6/28/2016	\$ 149.64	Omni Shoreham Washington DC	No	n/a	No
6/28/2016	\$ 29.00	Circle K 00225 Gila Bend AZ	Not determinable	n/a	No
6/29/2016	\$ 800.00	Check #104	Yes	VAN	Yes
6/30/2016	\$ 200.00	Check #107	Yes	Canvass	Yes
6/30/2016	\$ 104.96	Lowe's	Yes	Pounder/Wire	Yes
6/30/2016	\$ 30.43	Lowe's	Yes	Pounder	Yes
6/30/2016	\$ 3,374.91	Check #106	Yes	Signs/Lit/Paper	Yes
	<b>\$ 10,478.63</b>	<b>June Withdrawal Total</b>			

June totals from above	
\$ 143.50	ATM Withdrawals
\$ -	Transfers to personal account
\$ 1,483.21	Non-Campaign Withdrawals
\$ 8,648.07	Possible Campaign Withdrawals
\$ 203.85	Purpose not determinable
\$ 10,478.63	

Campaign Finance Report Totals	
Included in Campaign Finance Report	\$ 8,648.07
Not included in Campaign Finance Report	\$ 1,830.56
	\$ 10,478.63

#### July 2016

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
7/1/2016	\$ 100.00	Check #108	Not determinable	n/a	No
7/1/2016	\$ 150.00	Check #111	Not determinable	n/a	No
7/5/2016	\$ 7.01	The Home Depot 402 Yuma AZ	Not determinable	n/a	No
7/5/2016	\$ 255.85	Check #105	Yes	Rebar	Yes
7/6/2016	\$ 300.00	Cashed Check #116	Yes	Canvass	Yes
7/7/2016	\$ 29.00	Shell Service Station Gila Bend AZ	Not determinable	n/a	No
7/7/2016	\$ 138.42	Transfer to personal account	No	n/a	No
7/7/2016	\$ 29.41	Lin's Buffet Phoenix AZ	Not determinable	n/a	No
7/7/2016	\$ 100.00	ATM Withdrawal	No	n/a	No
7/7/2016	\$ 200.00	Check #114	Not determinable	n/a	No
7/7/2016	\$ 200.00	Check #112	Not determinable	n/a	No
7/8/2016	\$ 281.72	Frys Food 2626 83Rd Av Phoenix AZ	Not determinable	n/a	No
7/11/2016	\$ 30.88	Marisco's MI Lindo Phoenix AZ	Not determinable	n/a	No
7/11/2016	\$ 23.00	Sam's Club Avondale AZ	Not determinable	n/a	No
7/12/2016	\$ 26.00	Sam's Club Phoenix AZ	Not determinable	n/a	No
7/13/2016	\$ 110.00	Main Event/Mty Air CA	No	n/a	No
7/13/2016	\$ 30.00	Cracker Barrel 1780 S Yuma AZ	Not determinable	n/a	No
7/14/2016	\$ 186.96	Southwest	No	n/a	No
7/14/2016	\$ 15.00	Southwest	No	n/a	No
7/14/2016	\$ 5.47	Taco Bell #23212 Buckeye AZ	Not determinable	n/a	No
7/14/2016	\$ 15.00	Southwest	No	n/a	No
7/14/2016	\$ 24.00	Arco #42258 Ampm Yuma AZ	Yes	Fuel	Yes
7/14/2016	\$ 130.00	Cashed Check #120	Yes	Canvass	Yes
7/14/2016	\$ 852.86	Check #118	Yes	Lawn signs	Yes
7/14/2016	\$ 200.00	Check #115	Yes	Canvass	Yes
7/15/2016	\$ 49.40	Michaels Stores Inc206 Goodyear AZ	Not determinable	n/a	No
7/18/2016	\$ 40.88	Hooters Yuma Yuma AZ	Not determinable	n/a	No
7/18/2016	\$ 24.99	Western Union	No	n/a	No
7/18/2016	\$ 430.87	Hilton Advance Pur Memphis TN	No	n/a	No
7/18/2016	\$ 18.95	Uber	No	n/a	No
7/18/2016	\$ 18.81	Uber	No	n/a	No
7/18/2016	\$ 15.00	Chevron 0307165 Alpine CA	No	n/a	No
7/18/2016	\$ 22.00	Frys Food & Drug 11203 Yuma AZ	Not determinable	n/a	No
7/19/2016	\$ 54.00	Hilton Garden Inn San Diego CA	No	n/a	No
7/19/2016	\$ 86.00	Coaster Saloon San Diego CA	No	n/a	No
7/19/2016	\$ 14.99	Smartfinal499 Phoenix AZ	Not determinable	n/a	No
7/19/2016	\$ 23.50	Circle K 03397 Buckeye AZ	Yes	Fuel	Yes
7/19/2016	\$ 35.00	Transfer to personal account	No	n/a	No
7/19/2016	\$ 190.00	Check #119	Yes	Tradeshelper, Salt River Project	Yes
7/20/2016	\$ 8.20	Sheraton Phoenix P Phoenix AZ	Not determinable	n/a	No
7/20/2016	\$ 29.11	Uber	No	n/a	No
7/21/2016	\$ 35.00	Overdraft Fee	No	n/a	No
7/21/2016	\$ 22.00	Barrio Cafe T43003 Phoenix AZ	Not determinable	n/a	No
7/22/2016	\$ 35.00	Overdraft Fee	No	n/a	No
<b>\$ 4,594.28</b>		<b>July Withdrawal Total</b>			

July totals from above	
\$ 100.00	ATM Withdrawals
\$ 173.42	Transfers to personal account
\$ 1,074.69	Non-Campaign Withdrawals
\$ 1,976.21	Possible Campaign Withdrawals
\$ 1,269.96	Purpose not determinable
\$ 4,594.28	

Campaign Finance Report Totals	
Included in Campaign Finance Report	\$ 1,976.21
Not included in Campaign Finance Report	\$ 2,618.07
	\$ 4,594.28

**August 2016**

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
8/5/2016	\$ 50.00	Transfer to personal account	No	n/a	No
8/5/2016	\$ 16.50	Sam's Club Avondale AZ	Not determinable	n/a	No
8/8/2016	\$ 57.87	Wal-Mart Super Center Phoenix AZ	Not determinable	n/a	No
8/8/2016	\$ 20.00	Circle K 03397 Buckeye AZ	Not determinable	n/a	No
8/8/2016	\$ 10.93	Little Caesars #32 Buckeye AZ	Not determinable	n/a	No
8/8/2016	\$ 48.57	Target T- 1515 N Litch Goodyear AZ	Not determinable	n/a	No
8/9/2016	\$ 150.00	Venmo 855-812-4430 NY	Not determinable	n/a	No
8/9/2016	\$ 378.84	AT&T*Bill Payment	No	n/a	No
8/17/2016	\$ 200.00	Check	Not determinable	n/a	No
8/22/2016	\$ 13.00	Charlie's Phoenix Phoenix AZ	Not determinable	n/a	No
8/24/2016	\$ 20.00	Loves Cntry St Gila Bend AZ	Not determinable	n/a	No
8/29/2016	\$ 44.54	American Air	No	n/a	No
8/29/2016	\$ 25.00	LA Tasca (King Str Alexandria VA	No	n/a	No
8/29/2016	\$ 18.19	Uber	No	n/a	No
8/30/2016	\$ 12.10	Georgetown Market Arlington VA	No	n/a	No
8/30/2016	\$ 27.00	Sky Harbor Parking Phoenix AZ	No	n/a	No
8/30/2016	\$ 55.00	Pullanos Pizza Glendale AZ	Not determinable	n/a	No

**\$ 1,147.54 August Withdrawal Total**

August totals from above	
\$ -	ATM Withdrawals
\$ 50.00	Transfers to personal account
\$ 505.67	Non-Campaign Withdrawals
\$ -	Possible Campaign Withdrawals
\$ 591.87	Purpose not determinable
<b>\$ 1,147.54</b>	

Campaign Finance Report Totals	
Included in Campaign Finance Report	\$ -
Not included in Campaign Finance Report	\$ 1,147.54
	<b>\$ 1,147.54</b>

**September 2016**

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
9/7/2016	\$ 300.00	Check #192	Yes	Canvass	Yes
9/7/2016	\$ 300.00	Check #191	Yes	Canvass	Yes
9/8/2016	\$ 10.00	Quiktrip Phoenix AZ	Not determinable	n/a	No
9/12/2016	\$ 28.00	Charlie's Phoenix	Not determinable	n/a	No
9/13/2016	\$ 48.54	Pullanos Pizza Glendale AZ	Not determinable	n/a	No
9/13/2016	\$ 197.10	Tm *Sia	No	n/a	No
9/15/2016	\$ 250.00	Check #198	Not determinable	n/a	No
9/15/2016	\$ 300.00	Check #197	Not determinable	n/a	No
9/19/2016	\$ 11.20	American Air	No	n/a	No
9/19/2016	\$ 75.00	American Air	No	n/a	No
9/19/2016	\$ 36.33	Birrieria Obregon Phoenix AZ	Not determinable	n/a	No
9/19/2016	\$ 142.37	My Ticket Tracker	No	n/a	No
9/20/2016	\$ 21.00	Arco #42533 Ampm Phoenix AZ	Not determinable	n/a	No
9/23/2016	\$ 56.00	Mariscos Altata Phoenix AZ	Not determinable	n/a	No
9/23/2016	\$ 306.50	Centurylink/Speedp	No	n/a	No
9/26/2016	\$ 127.21	Fairfield Inn & Su Phoenix AZ	No	n/a	No
9/26/2016	\$ 8.28	Federicos Buckeye AZ	Not determinable	n/a	No
9/26/2016	\$ 27.00	Circle K 00225 Gila Bend AZ	Not determinable	n/a	No
9/29/2016	\$ 35.00	Arizona List Tucson AZ	Not determinable	n/a	No
9/29/2016	\$ 247.55	4Imprint	Yes	Table runner	Yes

**\$ 2,527.08 September Withdrawal Total**

September totals from above	
\$ -	ATM Withdrawals
\$ -	Transfers to personal account
\$ 859.38	Non-Campaign Withdrawals
\$ 847.55	Possible Campaign Withdrawals
\$ 820.15	Purpose not determinable
<b>\$ 2,527.08</b>	

Campaign Finance Report Totals	
Included in Campaign Finance Report	\$ 847.55
Not included in Campaign Finance Report	\$ 1,679.53
	<b>\$ 2,527.08</b>



**October 2016**

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
10/11/2016	60.00	Under Review Sport Surprise AZ	Not determinable	n/a	No
10/18/2016	520.08	Marriott San Jose San Jose CA	No	n/a	No
10/19/2016	200.00	Check	Not determinable	n/a	No
10/19/2016	300.00	Check	Not determinable	n/a	No
10/21/2016	35.00	NSF Return Item Fee	No	n/a	No
10/24/2016	22,651.00	Check	Yes	Return of CCEC funds	Yes
10/25/2016	35.00	Overdraft Fee	No	n/a	No
<b><u>\$ 23,801.08</u> October Withdrawal Total</b>					

<b>October totals from above</b>		
\$ -	ATM Withdrawals	
\$ -	Transfers to personal account	
\$ 590.08	Non-Campaign Withdrawals	
\$ 22,651.00	Possible Campaign Withdrawals	
\$ 560.00	Purpose not determinable	
<b><u>\$ 23,801.08</u></b>		

<b>Campaign Finance Report Totals</b>		
Included in Campaign Finance Report	\$	22,651.00
Not included in Campaign Finance Report	\$	1,150.08
	<b><u>\$</u></b>	<b><u>23,801.08</u></b>

**November 2016**

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
No withdrawal activity noted					

**December 2016**

Date	Amount	Vendor or Check #	Possible Campaign Purpose	Purpose	On Finance Report?
No withdrawal activity noted					

<b>Total Election Cycle Withdrawals</b>		
\$ 683.50	ATM Withdrawals	
\$ 604.42	Transfers to personal account	
\$ 4,653.41	Non-Campaign Withdrawals	
\$ 34,261.93	Possible Campaign Withdrawals	
\$ 3,635.41	Purpose not determinable	
<b><u>\$ 43,838.67</u></b>		

<b>Campaign Finance Report Totals</b>		
Included in Campaign Finance Report	\$	34,628.95
Not included in Campaign Finance Report	\$	9,209.72
	<b><u>\$</u></b>	<b><u>43,838.67</u></b>

April 28, 2017

To: Chairman and Members of the Commission  
Citizens Clean Elections Commission

From: Jesus Rubalcava, Participating Candidate  
for State Representative – District No. 4

Re: 2016 Election Cycle Finance Activity Comprehensive Review

Dear Chairman and Members,

I would like to start off by thanking you for the opportunity to participate as a participating candidate in the 2016 Election Cycle. Please acknowledge that I am not by any means challenging the results of the review, nor am I denying any wrong doing. More so, this is acknowledgement that my campaign finances were not effectively run and that my lesson has been learned. Moving forward, should I be given the opportunity, I now know what to do and what not to do. This letter is to explain and clarify some questions you may have in regards to the issues and concerns brought before you.

It is important to know that this was my first time running for such position. I had never had to file full campaign accounts and never had to form a committee for the purpose of running for office. Many things I did not know. For example, I did not know that I needed to set up a petty cash account. I did not know where or how to disclose family members that worked for my campaign. I did not know that I needed to hire legal counsel. I did call the Citizens Clean Elections Commission office twice to ask for 1) what or how much to pay individuals working for the campaign and 2) where to obtain a mileage reimbursement form. I did not receive a concrete answer for either questions, rather was told to attend the CCEC Orientation again. Again, this is not justification or an excuse.

The biggest issue with my campaign was that I used my bank account that linked with my campaign account. For example, I would deposit a check into what I thought was one account and it would end up

in another. Another example, I would use my campaign debit card for a transaction and it would withdraw from my personal account. Because this was so confusing to me, I began to use the filing report with the Secretary of State as my accounting and balance.

I was not able to provide additional documentation other than my bank statements for the following reason. I am a Special Education teacher in the Buckeye Elementary School District. When going through my initial audit, I had all of my campaign documents in my classroom. Over holiday break, I was moved into different classrooms 2 times. During this time, many of my personal belongings and documents were misplaced. I still have not been able to relocate them.

I ask the commission to please consider the reasoning for such flaws in this campaign finance. I accept the report on findings as a way to acknowledge and learn from what was done incorrectly and how to do things the correct way. I am willing to accept the consequences of my wrongdoing and ask that the commission allow me to take corrective actions in order to comply; whether this be repaying back any unaccounted monies and fees set forth by the commission.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'JR' followed by a stylized surname.

Jesus A Rubalcava

# Exhibit 3

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**  
**MUR: No. 17-01 JESUS RUBALCAVA**  
**STATEMENT OF REASONS OF EXECUTIVE DIRECTOR**

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On behalf of the Citizens Clean Elections Commission (“Commission”), the Executive Director hereby provides the Statement of Reasons showing reason to believe that violations of the Citizens Clean Elections Act and or the Commission rules (collectively, the “Act”) may have occurred.

**I. Procedural Background**

Jesus Rubalcava (“Respondent”), a 2016 participating candidate for State Representative of Legislative District 4, was selected for a random primary election audit on September 15, 2016. Based on findings from the random audit (**Exhibit A**), the Commission approved a comprehensive audit and review for Respondent and Respondent’s candidate campaign committee on January 19, 2017. On April 28, 2017, the independent auditors, Fester & Chapman P.C., submitted the final comprehensive audit to the Commission (**Exhibit B**).

On May 23, 2017, the Executive Director served Respondent with an internal Complaint regarding the findings of the comprehensive audit and review (**Exhibit C**). The Complaint alleges Respondent may have violated the Clean Elections Act and Rules by: (1) accepting contributions other than individual contributions and \$5 qualifying contributions; (2) making expenditures in excess of the personal money contribution limit; (3) making expenditures in excess of the adjusted primary election spending limit; (4) making expenditures in excess of the adjusted general election spending limit; (5) failing to comply with A.R.S. §16-948 regarding campaign accounts; and (6) failing to comply with A.R.S. §16-953 regarding the return of unused monies to the Citizens Clean Elections Fund. The Complaint also noticed Respondent of potential reporting violations and related penalties.

On May 30, 2017, Respondent submitted a Response to the Complaint (**Exhibit D**).

Because of the audit and Respondent’s related admissions noted below, it is clear that numerous violations may have occurred. The failure to document transactions properly, coupled with the usage of funds and dual bank accounts noted in the audits, gives rise to potentially serious violations. An investigation will determine whether there is probable cause to believe a violation has occurred, as well as the scope of the violation.

**II. Alleged Violations**

**A. Exceeding early contribution limit**

Pursuant to A.R.S. §16-941(A)(1), a participating candidate shall not accept any contributions, other than a limited number of five-dollar qualifying and early individual contributions.

The auditors found that Respondent made transfers from a separate bank account to the campaign bank account totaling \$1,869.33 and made additional deposits, whose purpose cannot be determined, into the campaign bank account in the amount of \$3,945.54. Respondent's Amended June 30<sup>th</sup> Report details that Respondent collected \$1,415 in qualifying contributions (**Exhibit E**). Respondent's Amended Qualifying Period Recap Report details that Respondent received \$177 in personal and family contributions, \$525 in early individual contributions, and \$60 in small contributions (**Exhibit F**). The total combined amount of received contributions as reported by Respondent is \$2,177. Respondent deposited into his bank account a total of \$5,814.87 (not including Clean Elections Funding); this is \$3,637.87 more than the total combined qualifying contributions, individual contributions, small contributions, and personal and family contributions Respondent reported on his campaign finance reports.

In his Response, Respondent states he did accept contributions other than the \$5 qualifying contributions, but he received early contributions from individuals and referenced his campaign finance reports as an exhibit. However, the campaign finance reports referenced by Respondent do not match the deposits made in the bank account. Moreover, Respondent does not "disput[e] the outcome of the audit." Clean Elections Commission Meeting, 5/18/2017, Tr. 30:8-11 ("I do acknowledge and I am taking responsibility that there was poor accounting and practices during this campaign cycle.") (**Exhibit G**); *accord* Response at 1 ("Please acknowledge that I am not by any means challenging the results of the review, nor I am denying any wrong doing."). Additionally, Respondent failed to provide sufficient documentation for all campaign activity in his campaign finance reports, pursuant to R2-20-104. As such, the auditors and Commission staff are unable to determine if contributions comply with the limits. A.R.S. § 16-941(A)(1) ("[A] participating candidate. . . [s]hall not accept any contributions, other than a limited number of five-dollar qualifying contributions as specified in section 16-946 and early contributions as specified in section 16-945, except in the emergency situation specified in section 16-954, subsection F.").

For the reasons set forth above, I recommend the Commission find reason to believe a violation may have occurred.

#### **B. Exceeding the limit for expenditures paid with personal monies**

Pursuant to A.R.S. §16-941(A)(2), a participating legislative candidate shall not make expenditures of more than a total of seven hundred and twenty dollars of the candidate's personal monies.

The auditors found that Respondent had made transfers from a separate bank account to the campaign bank account totaling \$1,869.33 and made additional deposits, whose purpose cannot be determined, into the campaign bank account in the amount of \$3,945.54. If Respondent only received \$2,000 from his qualifying contributions, early individual contributions, and small contributions combined, as reported on his campaign finance reports, then Respondent received \$3,814.87 in personal and family contributions. Respondent only reported receiving \$177 in personal and family contributions.

In his Response, Respondent states he contributed \$177 of his personal money to his campaign. However, Respondent failed to provide sufficient documentation for all campaign activity, as required by R2-20-104. Again, Respondent does not “disput[e] the outcome of the audit.” Clean Elections Commission Meeting, 5/18/2017, Tr. 30:8-11 (“I do acknowledge and I am taking responsibility that there was poor accounting and practices during this campaign cycle.”); *accord* Response at 1 (“Please acknowledge that I am not by any means challenging the results of the review, nor I am denying any wrong doing.”). As such, the auditors and Commission staff are unable to determine if use of personal monies is within the limits. A.R.S. § 16-941(A)(2)(“[A] participating candidate. . . shall not make expenditures of more than a total of five hundred dollars of the candidate's personal monies for a candidate for the legislature or more than one thousand dollars for a candidate for statewide office.”).

For the reasons set forth above, I recommend the Commission find reason to believe a violation may have occurred.

### **C. Exceeding general election spending limit**

Pursuant to A.R.S. §§16-941(A)(3) and -941(A)(4), a participating candidate shall not make expenditures exceeding the adjusted primary spending limit (\$16,044) and adjusted general spending limit (\$1,415).

The auditors found that Respondent made a total of \$3,677.16 in expenditures from the campaign bank account during the general election period (August 31, 2016 through November 8, 2016). Respondent’s adjusted general election spending limit was \$1,415 since Respondent was not contested in the general election. Respondent made a total of \$2,262.16 in excess expenditures during the general election period.

In his Response, Respondent states that he “did not exceed the amount of the general election spending limit.” He also states that he did not receive general election funding because he was unopposed and learned that he was unopposed in late September. However, Respondent did receive general funding on August 31, 2016 (**Exhibit H**) but it was determined that Respondent would be unopposed in the general election; therefore, the next day on September 1, 2016, Respondent was notified by the Executive Director, through e-mail and overnight delivery, that he would need to return \$22,651 in general election funding and he could only retain the amount of the \$5 qualifying contributions (\$1,415) he submitted to the Secretary of State’s Office (**Exhibit I**). Respondent acknowledged the notification the same day but did not return the general election funds until September 28, 2016.

Respondent also provides his campaign finance reports as evidence that he did not exceed the general election spending limit. However, the auditors found that Respondent’s campaign finance reports do not accurately reflect the campaign finance activity in the Respondent’s campaign bank account. Respondent does not “disput[e] the outcome of the audit.” Clean Elections Commission Meeting, 5/18/2017, Tr. 30:8-11 (“I do acknowledge and I am taking responsibility that there was poor accounting and practices during this campaign cycle.”); *accord* Response at 1 (“Please acknowledge that I am not by any means challenging the results of the review, nor I am denying any wrong doing.”). The auditors found that \$2,829.61 in expenditures

from the campaign bank account during the general election period were not reported on Respondent's campaign finance reports.

The auditors requested supporting documentation for the expenditures but Respondent claimed to have been unable to "locate the box" containing the information. Every Clean Elections candidate has the burden of proving expenditures are made for direct campaign purposes, pursuant to A.A.C. R2-20-104(C). We are unable to determine whether expenditures were for direct campaign purposes and in compliance with the adjusted general spending limit. A.R.S. § 16-941(A)(4)("[A] participating candidate . . . [s]hall not make expenditures in the general election period in excess of the adjusted general election spending limit.").

For the reasons set forth above, I recommend the Commission find reason to believe a violation may have occurred.

**D. Failure to return unused monies to the Commission after the primary and general elections and exceeding the primary election spending limit.**

Pursuant to A.R.S. § 16-941(A)(5), participating candidates must comply with A.R.S. §16-953 stating that at the end of the primary and general elections participating candidates must return monies in the campaign account to the Commission.

The auditors found a transfer from the Respondent's campaign bank account to Respondent's personal account equaling \$604.42. Respondent made \$4,653.41 in non-campaign withdrawals from the campaign bank account. An additional \$3,635.41 was withdrawn and auditors were unable to provide a determinable purpose. Participating candidates must return Clean Elections funding that was not used for direct campaign purposes, as required by R2-20-704(B).

On October 18, 2016, the auditors contacted Respondent regarding a high ending balance on the Primary Recap Report (**Exhibit J**). At that time Respondent should have returned \$7,046.72 in unspent primary election funding based on the timely filing of his Primary Recap Report (**Exhibit K**). On November 1, 2016, Respondent filed amendments to his campaign finance reports. The new ending balance on the Amended Primary Recap Report was -\$2.44 (**Exhibit L**).

The auditors found that Respondent made \$17,501.51 in expenditures from the campaign bank account during the primary election period. Since Respondent could have only potentially deposited \$18,221 into the campaign bank account during the primary period (based upon primary election funding, early contributions, \$5 qualifying contributions, small contributions and personal contributions), Respondent should have returned to the Clean Elections Fund at least \$710.49. This does not take into account the expenditures that were made for personal use and should have also been returned to the fund. Moreover, absent evidence to support the expenditures during the primary, Respondent may have exceeded the primary spending limit he took on himself.



Respondent states that “according to the reports filed with the Arizona Secretary of State, there wasn’t [sic] any unused monies that were not returned to the Citizens Clean Elections Commission.” And that because his personal bank account and campaign account were linked, he “began to use the filing report with the Secretary of State as [his] accounting and balance.” However, Respondent amended his reports several months after the transactions had taken place so it is improbable that he was able to utilize the Secretary of State’s campaign finance reporting system to keep track of his campaign finance activity. Confirming this, Respondent does not “disput[e] the outcome of the audit.” Clean Elections Commission Meeting, 5/18/2017, Tr. 30:8-11 (“I do acknowledge and I am taking responsibility that there was poor accounting and practices during this campaign cycle.”); *accord* Response at 1 (“Please acknowledge that I am not by any means challenging the results of the review, nor I am denying any wrong doing.”).

For the reasons set forth above, I recommend the Commission find reason to believe a violation may have occurred. A.R.S. § 16-941(A)(3) (“[A] [participating candidate. . . [s]hall not make expenditures in the primary election period in excess of the adjusted primary election spending limit.”); § 16-941(A)(5)([A] participating candidate. . . [s]hall comply with section . . . section 16-953 regarding returning unused monies to the citizens clean elections fund described in this article.”).

#### **E. Failure to conduct campaign activity through a single bank account**

Pursuant to A.R.S. § 16-941(A)(5), participating candidates must comply with A.R.S. § 16-948 stating that all financial campaign activity must be conducted through a single campaign account and a participating candidate shall not make any deposits into the campaign bank account other than early and qualifying contributions. A.R.S. § 16-948(C) and R2-20-114(A) require candidates who establish a petty cash account to adhere to an aggregate limit of \$1,420 and each expenditure may not exceed \$160. Participating candidates utilizing petty cash accounts must include additional, detailed information on their campaign finance reports, as required by A.A.C. R2-20-115.

On June 15, 2016, Respondent physically received his check for the primary election. Bank records show that \$16,044 was deposited into a personal bank account and \$13,280.22 was transferred from Respondent’s personal bank account to a campaign bank account on June 17, 2016. The difference of \$2,763.78 was not transferred to the campaign account. The auditors noted transfers from a separate bank account to the campaign account equaling \$1,869.33 and other deposits with undeterminable purposes equating to \$3,945.54. The deposits cannot be verified due to Respondent’s failure to provide supporting documentation.

Respondent neglected to establish a petty cash account and provide detailed information on campaign finance reports. The auditors found ATM withdrawals totaling \$683.50 that Respondent failed to document on his campaign finance reports. The withdrawals cannot be verified due to the lack of supporting documentation. Respondent does not “disput[e] the outcome of the audit.” Clean Elections Commission Meeting, 5/18/2017, Tr. 30:8-11 (“I do acknowledge and I am taking responsibility that there was poor accounting and practices during this campaign cycle.”); *accord* Response at 1 (“Please acknowledge that I am not by any means challenging the results of the review, nor I am denying any wrong doing.”).

For the reasons set forth above, I recommend the Commission find reason to believe a violation may have occurred. A.R.S. § 16-941(A)(5) ([A] participating candidate . . . [s]hall comply with section 16-948 regarding campaign accounts. . . .”).

#### **F. Failure to report expenditures and receipts**

Pursuant to A.R.S. § 16-941, participating candidates shall comply with A.R.S. § 16-948 stating that candidates are required to report expenditures made directly from their campaign bank account, as required by A.R.S. § 16-948(C). Information to be provided on the campaign finance reports includes recipient’s full name, address, nature of good and services, and compensation. A.A.C. R2-20-703 requires candidates to report all receipts and disbursements from the campaign account similarly. In addition, A.A.C. R2-20-115 contends that participating candidates maintain books and records of financial transactions in a single location, and such records be accessible upon request.

The auditors found that Respondent failed to report an aggregate of \$9,209.72 in expenditures and \$4,852.55 in deposits on his campaign finance reports. It could not be determined if an additional \$1,362.32 was reported because of insufficient records.

Respondent states that out of confusion he “began to use the filing report with the Secretary of State as [his] accounting and balance.” As required by A.A.C. R2-20-110, participating candidates’ campaign finance reports are to include all receipts and disbursements for their current campaign account. However, Respondent does not “disput[e] the outcome of the audit.” Clean Elections Commission Meeting, 5/18/2017, Tr. 30:8-11 (“I do acknowledge and I am taking responsibility that there was poor accounting and practices during this campaign cycle.”); *accord* Response at 1 (“Please acknowledge that I am not by any means challenging the results of the review, nor I am denying any wrong doing.”). The comprehensive audit revealed several expenditures were made and not reported. Respondent made reference to his campaign finance reports submitted to the Secretary of State as proof against allegations of excess spending, but information in reports is recorded by the candidate and numerous expenditures and deposits were never documented by Respondent.

For the reasons set forth above, I recommend the Commission find reason to believe a violation may have occurred. A.R.S. § 16-942(B); Ariz. Admin. Code R2-20-109 (2016).

#### **G. Failure to utilize Clean Elections funding for direct campaign expenditures**

Pursuant to A.R.S. §16-941, participating candidates shall comply with A.R.S. §16-948 stating that Clean Elections funding must be utilized only for direct campaign expenditures. Additionally, A.A.C. R2-20-702(C) prohibits participating candidates from using funds within the candidate’s campaign account for personal use.

Auditors noted that Respondent transferred \$604.42 from his campaign bank account to Respondent’s personal account. Respondent made \$4,653.41 in non-campaign withdrawals from the campaign bank account. An additional \$3,635.41 was withdrawn and auditors were unable to provide a determinable purpose. Non-campaign withdrawals are exemplified by, but not limited

to, Respondent's expenditures for: airline fees, hotel fees in the states of Tennessee, California, and the District of Columbia, and AT&T bill payments.

However, Respondent failed to provide sufficient documentation for all campaign activity including possible direct campaign expenditures, as required by R2-20-104. . Respondent does not "disput[e] the outcome of the audit." Clean Elections Commission Meeting, 5/18/2017, Tr. 30:8-11 ("I do acknowledge and I am taking responsibility that there was poor accounting and practices during this campaign cycle."); *accord* Response at 1 ("Please acknowledge that I am not by any means challenging the results of the review, nor I am denying any wrong doing."). As such, the auditors and Commission staff are unable to determine if any of the expenditures were for direct campaign purposes as required by A.R.S. §§16-941 and -948, A.A.C. R2-20-104 and R2-20-702(C) .

For the reasons set forth above, I recommend the Commission find reason to believe a violation may have occurred. *See* A.R.S. § 16-941(A).

### **III. Investigation After Reason to Believe Finding**

If the Commission determines by an affirmative vote of at least three (3) of its members that it has reason to believe a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding setting forth: (i) the sections of the statute or rule alleged to have been violated; (ii) the alleged factual basis supporting the finding; and (iii) an order requiring compliance within fourteen (14) days. During that period, the Respondent 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) & A.A.C. R2-20-208(A).

After the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, the Commission shall conduct an investigation. A.A.C. R2-20-209(A). The Commission may authorize the Executive Director to subpoena all of the Respondent's records documenting disbursements, debts, or obligations to the present, and may authorize further audits. I request that the Commission authorize such subpoenas now to allow the investigation to proceed in due course.

After fourteen (14) days and upon completion of the investigation, the Executive Director will recommend whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred. A.A.C. R2-20-214(A). Upon a finding of probable cause that the alleged violator remains out of compliance, by an affirmative vote of at least three (3) of its members, the Commission may issue of an order and assess civil penalties pursuant to A.R.S. § 16-957(B), including removal from office. A.A.C. R2-20-217. The Commission may order the repayment of funds expended in violation of A.A.C. R2-20-702. A.A.C. R2-20-704(B).

Dated this 19<sup>th</sup> day of June, 2017  
Thomas M. Collins, Executive Director

# Exhibit 4



0000349236

- ☐ Initial Application  
☐ Amended Application



STATE OF ARIZONA  
APPLICATION FOR CERTIFICATION  
AS A PARTICIPATING CANDIDATE

SECRETARY OF STATE

2016 JAN 14 PM 1:14

Pursuant to Arizona Revised Statutes §§16 -947 and 948 and AAC R2-20-104 (D)


COMMITTEE ID NUMBER

201600368

NAME OF CANDIDATE <b>JESUS A RUBALCAVA</b>		DATE <b>01/11/2016</b>	
OFFICE SOUGHT <b>STATE REPRESENTATIVE - DISTRICT 4</b>	PARTY AFFILIATION <b>DEMOCRATIC</b>	ELECTION CYCLE <b>2016</b>	
CANDIDATE'S ADDRESS <b>806 W MARGARET ST PO BOX 863</b>	CITY <b>GILA BEND</b>	STATE <b>AZ</b>	ZIP <b>85337</b>
CANDIDATE'S TELEPHONE # <b>(602) 295-2102</b>	CANDIDATE'S FAX #	CANDIDATE'S EMAIL ADDRESS	
NAME OF POLITICAL COMMITTEE <b>RUBALCAVA FOR HOUSE</b>			
COMMITTEE ADDRESS <b>806 W MARGARET ST.</b>		CITY <b>GILA BEND</b>	STATE <b>AZ</b> ZIP <b>85337</b>
COMMITTEE MAILING ADDRESS (if different from above) <b>PO BOX 863</b>		CITY <b>GILA BEND</b>	STATE <b>AZ</b> ZIP <b>85337</b>
COMMITTEE TELEPHONE # <b>(602) 295-2102</b>	COMMITTEE FAX #	COMMITTEE EMAIL ADDRESS <b>JESUSARUBALCAVA@GMAIL.COM</b>	
NAME OF DESIGNATED INDIVIDUAL WITH AUTHORITY TO WITHDRAW FUNDS (IF APPLICABLE) (A.R.S. §16 -948)			
DESIGNATED INDIVIDUAL'S ADDRESS		CITY	STATE ZIP
DESIGNATED INDIVIDUAL'S TELEPHONE #	DESIGNATED INDIVIDUAL'S FAX #	DESIGNATED INDIVIDUAL'S EMAIL	
LIST THE NAME OF THE FINANCIAL INSTITUTION FROM WHICH THE CANDIDATE AND THE DESIGNATED INDIVIDUAL WILL CONDUCT ALL FINANCIAL ACTIVITY FOR THE CANDIDATE'S CAMPAIGN COMMITTEE (Do not list account numbers ). (A.R.S. §16-948(A))			
NAME OF FINANCIAL INSTITUTION <b>WELLS FARGO BANK, N.A.</b>			

DESIGNATED CANDIDATE'S STATEMENT (if applicable) (A.R.S. §16-948(B)): I hereby  
designate \_\_\_\_\_ as my duly authorized Designated Individual,  
with the authority to withdraw funds and make expenditures from my campaign account on my behalf.

  
Candidate's Signature

  
Date

Committee ID: 201600368

Date: 01/11/2016

Form ID: 0000349236

Application for Certification - Part II

**CANDIDATE AND DESIGNATED INDIVIDUAL'S STATEMENT (A.R.S. §16-947):**

I, the undersigned, upon my oath and under penalty of perjury, certify that the following statements are true and accurate to the best of my knowledge and belief:

1. I have complied with the restrictions of A.R.S. §16-941 (A) during the election cycle to date, which are as following:
  - a) Not accepted contributions other than early contributions as specified in A.R.S. §16-945;
  - b) Not made expenditures that exceed the candidate's personal money limit; and
  - c) Conducted all financial activity through a single campaign account.
2. I will continue to comply with the restrictions in paragraph 1 during the remainder of the election cycle and will:
  - a) Not make expenditures in the primary election period in excess of the adjusted primary election spending limit;
  - b) Not make expenditures in the general election period in excess of the adjusted general election spending limit; and
  - c) Return unused monies to the fund in accordance with A.R.S. §16-953.
3. I have filed all campaign finance reports required under Title 16, Chapter 6, Article I, during the election cycle to date, and the reports are complete and accurate.
4. I agree to use all Clean Election funding for direct campaign purposes only.
5. I will file, with this application, a campaign finance report showing all campaign activity to date in the current election cycle.
6. I will comply with all requirements of the Act and Commission rules.
7. I am subject to all enforcement actions by the Commission as authorized by the Act and Commission rules.
8. I have the burden of proving that expenditures made by or on behalf of the candidate were for direct campaign purposes.
9. I will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request in accordance with Commission rules.
10. I will permit an audit and examination of all receipts and expenditures including those made by the candidate, the candidate's authorized committee, or any agent or person authorized to make expenditures on behalf of the candidate or committee. The candidate and the candidate's authorized committee shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate and authorized committee shall facilitate the audit and examination and shall pay any amounts required to be repaid.
11. I will submit the name and mailing address of the person who is entitled to receive equalizing fund payments on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this paragraph shall not be effective until submitted to the Commission in a letter signed by the candidate or the committee treasurer.
12. I will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate.
13. I will file all campaign finance reports with the Secretary of State in an electronic format in a timely manner.

State of Arizona

County of Maricopa

} ss.

[Signature]  
Candidate's Signature

SUBSCRIBED AND SWORN TO before me this 11<sup>th</sup> day

of January 2016.

[Signature]  
Notary Public

State of Arizona

County of \_\_\_\_\_

} ss.

\_\_\_\_\_  
Designated Individual's Signature

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day

of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Comm. Expires Apr 9, 2019  
Notary Public - Arizona  
TABITHA TREECE  
Maricopa County



## Thomas Collins

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**From:** Miller, Lee <lmiller@azsos.gov>  
**Sent:** Monday, August 21, 2017 1:10 PM  
**To:** Thomas Collins  
**Cc:** O'Grady, Mary (mogrady@omlaw.com)  
**Subject:** RE: Executive Director's Report

Tom and Mary –

I am troubled by the tone and tenor of the draft Executive Director's report item discussing the most recent update published by the Secretary of State's Office to the Arizona Administrative Code. First, we have kept Commission staff fully apprised of this conundrum throughout the past few months as this matter was working through the publishing process. As part of those ongoing conversations we have repeatedly made clear that the SOS merely serves as a printer and has zero discretion as to what to print in the Code. We take that which we are provided by agencies, boards and commission and adjust that material for nothing more than form and format.

Our lack of discretion is found in **statute**. More specifically:

§ 41-1056. Review by agency

G. The agency shall notify the council of an amendment or repeal of a rule for which the council has set an expiration date under subsection E of this section. If the agency does not amend or repeal the rule by the date specified by the council under subsection E of this section or the extended date under subsection F of this section, the rule automatically expires. The council shall file a notice of rule expiration with the secretary of state and notify the agency of the expiration of the rule.

H. The council may reschedule a report or portion of a report for any rule that is scheduled for review and that was initially made or substantially revised within two years before the due date of the report as scheduled by the council. I. If an agency finds that it cannot provide the written report to the council by the date it is due, the agency may file an extension with the council before the due date indicating the reason for the extension. The timely filing for an extension permits the agency to submit its report on or before the date prescribed by the council.

J. If an agency fails to submit its report, including a revised report, pursuant to subsection A or C of this section, or file an extension before the due date of the report or if it files an extension and does not submit its report within the extension period, the rules scheduled for review expire and the council shall:

1. Cause a notice to be published in the next register that states the rules have expired and are no longer enforceable. [We published this in the Register]
2. Notify the secretary of state that the rules have expired and that the rules are to be removed from the code. [We removed from the Code]
3. Notify the agency that the rules have expired and are no longer enforceable.

We have received a proper notice from Governor's Regulatory Review Council (GRRRC) that CCEC Rules R2-20-109 and 20-111 have "expired." While we take no position on whether GRRRC has the legal authority to issue this notice nonetheless it has issued. Given that fact we believe we must fulfill our statutory obligation as set forth in 41-1056.J. and "remove" the rules from the Code.

This statute, and this legal requirement, have existed since at least 2010. The staff of the Office that manages the Administrative Code have addressed this matter in exactly the same manner and with exactly the same notice that they provide every other board, commission or agency. It is wrong and not factually accurate to say that the Secretary of State's Office handled this particular matter differently or incorrectly.

We are also full aware that the Commission disputes that GRRRC has any jurisdiction over the CCEC's rules including whether GRRRC may declare a rule "expired." First, we urge the CCEC to immediately avail itself of the necessary and appropriate legal remedies to resolve this jurisdictional matter. In this dispute between these two commissions our office is merely the messenger. No forward progress will be made in resolving this matter by getting mad at the messenger. Second, we have asked the Attorney General's Office whether we may restore the two disputed rules to the Code with a note that the rules may or may not be enforceable. I will promptly share with you whatever legal advice we receive from counsel. We can restore to the disputed rules to the electronic version of the Code nearly immediately if this is approved the Attorney General.

Commission staff seems particularly concerned that the disputed rules are labeled as "expired." Again, the Secretary of State's Office does not choose these labels, that is the label ascribed by statute. And again, statute directs us what to do when we received an expired certificate from GRRRC; we have made no choices in this matter. It is wrong to infer some kind of intent to this Office's actions in managing the printing of the Code.

We look forward to a speedy resolution of the dispute between the CCEC and GRRRC. In the meantime if the AG permits us to restore the rule to the Code with a note about its enforceability we will promptly do that.

Lee Miller  
Deputy Secretary of State  
State of Arizona  
1700 West Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007-2888  
602.542.4919

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**From:** Thomas Collins [mailto:Thomas.Collins@azcleelections.gov]  
**Sent:** Monday, August 21, 2017 10:30 AM  
**To:** Miller, Lee  
**Cc:** O'Grady, Mary (mogrady@omlaw.com)  
**Subject:** Executive Director's Report

Lee,

Attached, as a courtesy, is the Executive Director's Report for tomorrow's Clean Elections Commission meeting.

Please follow up with Mary O'Grady if you have questions for the time being.

You are of course welcome to attend the meeting or watch on line.

Thanks,  
Tom





**Mary R. O'Grady**

mogrady@omlaw.com

2929 North Central Avenue  
21st Floor  
Phoenix, Arizona 85012

Direct Line 602.640.9352

Telephone 602.640.9000

Facsimile 602.640.9050  
omlaw.com

August 21, 2017

***Via E-mail and U.S. Mail***

Lee Miller  
Assistant Secretary of State  
Arizona Secretary of State  
1700 W. Washington St. Fl 7  
Phoenix, AZ 85007-2808

Re: Publication of Clean Election Rules

Dear Lee:

I represent the Citizens Clean Elections Commission on issues related to the effort of the Governor's Regulatory Review Council (GRRC) to repeal certain Commission rules. I am writing because the Secretary of State's Office omitted Commission rules R2-20-109 and R2-20-111 from Supplement 17-2 of the Commission's rules (Title 2, Chapter 20) in the Arizona Administrative Code as published on the Secretary's website.

It was my client's clear understanding that the Secretary of State's Office was going to remain neutral in the dispute between GRRC and the Commission and simply publish both GRRC's notice of expiration of Commission rules R2-20-109 and R2-20-111 as well as the Commission's statement disputing GRRC's authority to take that action. Issue 26 of the Register was consistent with this neutral approach. Issue 27 of the Register, however, abandons that neutral approach and purports to remove R2-20-109 and R2-20-111 in a regulatory action on behalf of GRRC by listing them as "expired" in the Register's Rulemaking Activity Index. Further, the Secretary has now published a supplemental version of Title 2, Chapter 20 of the Administrative Code on her website that excludes the text of R2-20-109 and R2-20-111. Although the legal dispute between the Commission and GRRC is noted in the "Editor's Note" preceding the Commission's rules in the codified update of the Administrative Code now available on the Secretary's website, both R2-20-109 and R2-20-111 are listed as "expired" and the text of these rules has been omitted completely from the Code.

We believe that the text of the rules should be published in the Code, with an Editor's Note explaining the dispute concerning the rules' expiration. This is consistent with your office's role as the Code's publisher and permits your office to remain neutral in this dispute with GRRC. It was my client's understanding that this was the course of action that the Secretary was taking on this matter. Although the Secretary of State's office previously urged GRRC to take this type of action concerning Commission rules, the Secretary of State and Clean Elections had made great strides this year by agreeing on a new ISA for the "Show Me the Money" program. The removal of the Commission's rules from the Code seriously damages the work that has been done to repair the working relationship between these agencies.

To remedy the problem created by the purported removal of R2-20-109 and R2-20-111 from the Code, the Secretary of State should publish the text of the rules at issue, with an Editor's Note about the legal dispute, in the next issue of the Register. The Secretary should also remove the supplemental version of the Commission's rules that is currently available on her website and should post a new supplement with the full text of R2-20-109 and R2-20-111 and an Editor's Note about the legal dispute. These actions are consistent with the Secretary of State's role as the publisher and avoid depriving the public with notice of the language of the rules that are the subject of this dispute. It is also consistent with your responsibilities under the Interagency Services Agreement between your office and Clean Elections.

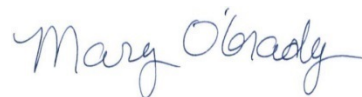
Because this matter may, unfortunately, result in litigation, I also ask you to preserve all documents relating to the dispute between Clean Elections and GRRC and regarding the related notices in the Administrative Register that are referenced above. This includes records on any state email account and any private email account of any Secretary of State officer or employee and any texts or messages on any public or personal phone or other device.

In addition to preserving the records referenced above, please provide me with copies, in native form, of any records concerning the expiration of R2-20-109 and R2-20-111 from June 6, 2017 to the present. This request includes records on any state email account or private email account of any Secretary of State officer or employee and any texts or messages on any public or personal phone or other device of officers and employees of the Secretary of State's office. If you withhold or redact any documents requested, please provide a log of those documents and an explanation of the reason those documents have been withheld or redacted.

Consistent with this letter, by August 28, 2017, please provide me with written confirmation that the text of Commission rules R2- 20-109 and R2-20-111 will be published in the next issue of the Administrative Register with an editor's note about the legal dispute concerning their expiration and that a revised version of Title 2, Chapter 20 of the Administrative Code containing the full text of R2- 20-109 and R2-20-111 will be published on the Secretary's website. In addition, please provide me with the records that I have requested in this letter by August 28.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Mary O'Grady". The signature is fluid and cursive, with the first name "Mary" and last name "O'Grady" clearly distinguishable.

Mary R. O'Grady

MRO:pln