

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