



## **STATE ETHICS COMMISSION**

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Jeremy D. Farris, Executive Director

June 29, 2023

### **Via U.S. Mail and Electronic Mail**

Andrew Thornton  
New Mexico Values PAC  
7700 Menaul Blvd. NE, Ste. E  
Albuquerque, NM 87110  
[Newmexicovaluespac1@gmail.com](mailto:Newmexicovaluespac1@gmail.com)

- and -

Sara Ridley  
New Mexico Values PAC  
15700 Cinca Terra Dr.  
Austin, TX 78738  
[newmexicovaluespac@gmail.com](mailto:newmexicovaluespac@gmail.com)

Re: Demand for civil penalty and compliance with the Campaign Reporting Act

Dear Mr. Thornton and Ms. Ridley,

I am an attorney for the New Mexico State Ethics Commission, an independent state agency authorized to enforce the civil compliance provisions of New Mexico's Campaign Reporting Act. *See* N.M. Const. Art. V, § 17; NMSA 1978, § 1-19-34.6(C) (2021); NMSA 1978, § 10-16G-9(A)(1) & (F) (2021). I write to you in your capacity as organizer and treasurer, respectively, of the New Mexico Values PAC, and in this letter I will refer to you collectively as "New Mexico Values PAC."

It has come to the State Ethics Commission's attention that the week before the June 7, 2022 Primary Election, New Mexico Values PAC mailed campaign advertisements opposing the election of Representative Susan Herrera, then a candidate for the Democratic Primary of the New Mexico House of Representatives. Because these mailers referred to a clearly identified candidate within thirty days of a primary election, they were independent expenditures. *See* NMSA 1978, § 1-19-26(N)(3)(c) (2019).

The Campaign Reporting Act requires that any person making an independent expenditure of more than \$1,000 in a nonstatewide election that is "not otherwise required to be reported" by the Act disclose information about the expenditures and the sources of contributions used to fund those expenditures. *See* NMSA 1978, § 1-19-27.3 (2019). Such disclosures should be made within three days of making the expenditure. *See* § 1-19-27.3(A). New Mexico Values PAC disclosed that it made one expenditure on the campaign advertisements targeting Representative Herrera on June 1, 2022; thus, it was required to disclose information about that

expenditure on June 4, 2022, before the 2022 primary election. *See* § 1-19-27.3(A). Instead of disclosing information about the independent expenditure targeting Representative Herrera within three days of making it, as Section 1-19-27.3 requires, New Mexico Values PAC instead disclosed information about the independent expenditure on July 7, 2022 in a Fourth Primary Report—over a month after making the independent expenditure and after the June 2022 primary election had occurred.

While a political committee's contributions and expenditures are "otherwise required to be reported" according to NMSA 1978, Section 1-19-29 (2019), and NMSA 1978, Section 1-19-31 (2019), a political committee is defined as an association of two or more people who "received more than five thousand dollars in contributions or made independent expenditures of more than five thousand dollars in the election cycle." NMSA 1978, § 1-19-26(Q)(4) (2019). New Mexico Values PAC did not receive more than \$5,000 in contributions or make more than \$5,000 in expenditures during the 2022 election cycle; consequently, New Mexico Values PAC is not a political committee under Section 1-19-26(Q)(4). Nor do the other definitions of a political committee in Section 1-19-26 encompass New Mexico Values PAC. Because New Mexico Values PAC was not a political committee, the disclosure of its contributions and expenditures were not "otherwise required to be reported" according to Section 1-19-31. As a result, Section 1-19-27.3 required New Mexico Values PAC to report information about its June 1, 2022 independent expenditure targeting Representative Herrera within three days of making it.

There are two additional issues with New Mexico Values PAC's disclosures. First, in its disclosure report, New Mexico Values PAC disclosed that it received \$2,500.00 from Community Empowerment Fund on June 1, 2022, and further identified one lump-sum expenditure, in the amount of \$2,432.91, also on June 1, 2022, to the United States Postal Service as the "entity to whom an expenditure was made" for the purpose of "Campaign paraphernalia/misc." New Mexico Values PAC did not disclose any other expenditures or in-kind contributions regarding the funding, design, production, printing, and mailing of the advertisements on June 1, 2022. In order to accomplish producing, printing, addressing, and sending the campaign advertisements, it is unlikely that New Mexico Values PAC made only the one expenditure to the post office, meaning it made other expenditures or received other in-kind contributions, which were unreported.

Second, the timing of New Mexico Values PAC's purported registration as a political committee on May 24, 2022, the contribution from Community Empower Fund to New Mexico Values PAC (reported as received on June 1, 2022), New Mexico Values PAC's sole disclosed expenditure on that same day, New Mexico Values PAC's June 2, 2022 Third Primary Report disclosing no expenditures for May 2022, and New Mexico Values PAC's post-election disclosure on July 7, 2022 suggest that New Mexico Values PAC purported to register as a political committee and then made expenditures with an intent to conceal, until after the June 2022 primary election, the names of the persons who were the source of the funds used to make the independent expenditures, in violation of NMSA 1978, Section 1-19-34.3(B) (2019).

Under Section 1-19-34.6(C), the State Ethics Commission may

institute a civil action in district court if a violation has occurred . . . .  
Relief may include a permanent or temporary injunction, a  
restraining order or any other appropriate order, including an order  
for a civil penalty of up to one thousand dollars (\$1,000) for each  
violation not to exceed a total of twenty thousand dollars (\$20,000).

Considering this provision and the foregoing, the Commission has authorized its attorney staff to  
commence a civil action against you. *See* Attach. 1, Draft Compl.; *see also* Ex. 1 to Attach. 1,  
Resolution No. 2023-02 (June 2, 2023).

I. Offer of settlement

The Commission has also authorized settlement with you. To avoid the expense and  
burden of litigation, the Commission through its Executive Director will agree to forebear from  
filing a civil enforcement action if, by August 1, 2023, you agree to the following terms:

- By August 15, 2023, you register New Mexico Values PAC with the Office of the  
Secretary of State as an independent expenditure filer and disclose all  
expenditures New Mexico Values PAC made and contributions it received during  
the 2022 election cycle, providing a copy of the disclosure form to the State  
Ethics Commission upon filing; and
- By August 15, 2023, New Mexico Values PAC or its agent delivers by hand  
delivery or U.S. Mail to the State Ethics Commission, 800 Bradbury Dr. SE, Suite  
215, Albuquerque, New Mexico, 87106, a \$1,000.00 civil penalty made payable  
to the State of New Mexico.

Please indicate your agreement by signing and returning this letter.



Andrew Thornton  
New Mexico Values PAC

 , attorney in fact.

Sara Ridley  
New Mexico Values PAC

II. Demand for preservation of evidence

New Mexico law recognizes a duty not to destroy, mutilate, or alter potential evidence for the purpose of defeating recovery in a civil action. Accordingly, please take immediate action to preserve all electronically stored information ("ESI"), copies and backup, along with any paper files which you maintain, that might contain evidence related to this matter. Accordingly, I request that you immediately take the following actions:

- a. You immediately stop any destruction or alteration of documents or ESI in your possession, custody or control, including e-mail, instant messages, text messages, voice mail, electronic calendars, telephone logs, photographs, word processing documents, spreadsheets, and databases, including all underlying metadata, that might be relevant to this matter.
- b. You immediately take steps to secure and preserve any ESI, backup tapes, hard drives, CDs, paper and other archival storage media in your possession, custody or control, including those provided by third-party vendors, that might be relevant to this matter.

Failure to respond to these demands may lead to investigative or enforcement actions by the State Ethics Commission.

Please do not hesitate to contact me with any questions or concerns.

Sincerely yours,



Caroline "KC" Manierre  
Special Counsel  
State Ethics Commission