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Citizens Clean Elections Commission

6
7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MARICOPA**

9 TOM HORNE, individually,

No. CV2014-009404

10 Plaintiff,

FINAL JUDGMENT

(Assigned to the Honorable Dawn Bergin)

11 v.

12 ARIZONA CITIZENS CLEAN
ELECTIONS COMMISSION, a public
13 entity.

14 Defendant.

15 On August 11, 2014, the Court heard oral argument on Plaintiff's application for
16 order to show cause and for preliminary and permanent injunctive relief. On August 20,
17 the Court entered its under advisement ruling, in which it denied all relief sought by
18 Plaintiff. That ruling is attached as Exhibit A and incorporated by reference as if fully set
19 forth herein. On August 22, 2014, Plaintiff filed a motion for reconsideration.

20 It is **ORDERED, ADJUDGED, AND DECREED** as follows.

21 1. Pursuant to Rule 65(a)(2) of the Rules of Civil Procedure and the parties'
22 September 4, 2014 stipulation, trial on the merits was consolidated with the August 11,
23 2014 hearing on the application for preliminary injunction.

24 2. Plaintiff's request for injunctive relief is denied for the following reasons:

25 a. Plaintiff has not demonstrated a strong likelihood of success on the
26 merits because:

27 i. The authority of the Citizens Clean Elections Commission (the
28 "Commission") to investigate and impose penalties under the

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Citizens Clean Election Act (“CCEA”) is not limited to candidates participating in public financing. The Commission has authority to investigate and impose penalties for violations of the CCEA by privately funded candidates in accordance with A.R.S. §§ 16-941(B), -942(B), -942(C), -956, and -957.

- ii. The disqualification and/or forfeiture of office provision, § 16-942(C), expressly references § 16-941(B), which contains contribution limits for privately funded candidates. This reference shows the voters’ intent to provide the Commission with jurisdiction to investigate non-participating candidates who violate the contribution limits set forth in § 16-941(B). The last sentence of § 16-941(B) does not divest the Commission of jurisdiction to investigate violations of that subsection.
 - iii. The recent amendment adding § 16-905(O) likewise does not divest the Commission of jurisdiction in this case because it is not retroactive and the alleged conduct by Plaintiff predated the effective date of the amendment. In addition, § 16-905(O) does not divest the Commission of jurisdiction to investigate non-participating candidates who violate the contribution limits and reporting requirements set forth in §§ 16-941(B), -942(B) and -942(C) because § 16-905(O) is limited to violations of Article 1 of Chapter 6, Title 16, whereas § 16-941(B), -942(B) and -942(C) are codified in the CCEA, which is contained in Article 2 of Chapter 6, Title 16.
- b. Plaintiff has not established the possibility of irreparable harm given the fact that there are investigations being conducted by other agencies, and any injury to Plaintiff from additional media coverage due to the Commission’s investigation is speculative.

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c. The balance of harms neither tips in favor of Plaintiff nor Defendant because any harm to Plaintiff if injunctive relief is denied is speculative and any harm to the Commission if injunctive relief is granted is negligible given that it may reinstate the investigation if the injunction is later dissolved; and

d. Public policy favors denial of injunctive relief because this matter involves giving effect to the intent of Arizona voters in enacting the CCEA.

3. Each side shall bear its own attorneys' fees and costs.

4. No further matters remain pending and judgment is entered pursuant to Rule 54(c) of the Rules of Civil Procedure.

Dated: _____

Judge Dawn Bergin

eSignature Page 1 of 1

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Granted with Modifications



/S/ Dawn Bergin Date: 10/28/2014
Judicial Officer of Superior Court

ENDORSEMENT PAGE

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JOSEPH KANEFIELD

TIMOTHY A LASOTA