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NEW MEXICO SECRETARY OF STATE

RULE HEARING

Held July 18, 2017

Albuquerque/Bernalillo County Government Center

One Civic Plaza NW

Albuquerque, New Mexico 87102

9:00 a.m. to 11:00 a.m.

REPORTED BY:Jeannine K. Sims, NM CR #12
Paul Baca Professional Court Reporters
500 Fourth Street NW, Suite 105
Albuquerque, New Mexico 87102

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EXHIBITS

PAGE

| | | |
|-----------|---|----|
| EXHIBIT 1 | | 15 |
| | Michael Daly Statement to SOS | |
| EXHIBIT 2 | | 15 |
| | Michael Daly Statement to SOS (continued) | |
| EXHIBIT 3 | | 18 |
| | Tom Greer Statement to SOS | |
| EXHIBIT 4 | | 59 |
| | Attendance sheet | |

1

2 HEARING OFFICER LANGE: Okay. This hearing
3 will now come to order. Today is July 18, 2017. The
4 time is 9:02. And we're assembled at the Vincent Griego
5 Chambers of the Albuquerque/Bernalillo County,
6 Albuquerque, New Mexico. My name is Dylan Lange, I'm an
7 Assistant Attorney General and I'll be acting as the
8 presiding officer for this public comment rule hearing.

9 The purpose of this rule hearing is for the
10 New Mexico Office of Secretary of State to receive public
11 comment, views, argument, testimony and data on its
12 proposed rule to be codified as 1.10.13 NMAC. The
13 Secretary of State welcomes everyone present at this
14 hearing whether in person or remotely.

15 MS. TOULOUSE OLIVER: Good morning, ladies
16 and gentlemen. I'm Maggie Toulouse Oliver, Secretary of
17 State. I just wanted to extend a thank you to all of you
18 and a welcome for you being here this morning. We are
19 looking forward to hearing your comments; particularly,
20 any constructive suggestions that you have for how to
21 improve this rule.

22 But I want you-all to know we really
23 appreciate the robust participation in this process and
24 for each of you having a caring interest in being here
25 today. And thank you very much. With that I'll hand it

1 back to Dylan.

2 I also want to thank my staff that are here
3 today. And our county clerk Linda Stover and her staff
4 who have graciously volunteered to help here today as
5 well. Thank you, Linda. I appreciate it very much.

6 HEARING OFFICER LANGE: This hearing is
7 being conducted pursuant to and in accordance with
8 NMSA 1978 Section 1-19-26.2, which authorizes the
9 Secretary of State to adopt and promulgate rules and
10 regulations to implement the provisions of the Campaign
11 Reporting Act, the APA and NMSA Chapter 12, Article 8 and
12 the State Rules Act, Chapter 14, Article 4.

13 Public notice of this hearing was advertised
14 in the New Mexico Register on June 13th, 2017; in the
15 Albuquerque Journal, Santa Fe, New Mexican, and the Las
16 Cruces Sun News on June 13, 2007 [sic], as well.

17 Copies of the proposed rule have been
18 available at the Secretary of State's Office since the
19 notices were published. Copies of the proposed rules
20 were also published on the Secretary of State's website
21 and were available to anyone who requested them as of
22 June 13, 2017.

23 Copies of the proposed rules are also
24 available to the public attending this hearing located
25 near the door. This hearing is also being live streamed

1 on the Secretary of State's website at
2 <http://www.sos.state.nm.us>.

3 May I remind everyone to sign the attendance
4 sheet that will later be entered as an exhibit into the
5 record for this hearing. Let the record show that staff
6 of the Secretary of State's Office is present. The
7 Secretary of State Maggie Toulouse Oliver, Deputy
8 Secretary of State John Blair, Elections Director and
9 Chief Information Officer Kari Fresquez, and Deputy
10 Elections Director Mandy Vigil.

11 This is a formal proceeding, and a court
12 reporter has been designated to transcribe the
13 proceedings. The transcript from this hearing will
14 become part of the rule hearing record; therefore,
15 persons recognized to speak or testify are asked to
16 identify yourself each time you speak and speak loudly
17 and clearly so the court reporter can hear you.

18 The hearing will be conducted in the
19 following manner: I will open the hearing for testimony
20 and comments from the audience. First, if you have
21 indicated that you would like to testify on a specific
22 section of the proposed rule, please sign your name on
23 the corresponding attendance sheet. It's up in the
24 front.

25 So if you intend to speak on Part 7 of the

1 rule - Definitions, you need to be signed up on the
2 attendance sheet which is located in the front.

3 We will proceed in numerical sequence
4 through each part of the proposed rule. I will call the
5 individuals who identify themselves as interested in
6 testifying.

7 After public comment is given on a specific
8 section I will call to see if the general public has
9 comments for the individual speaker. If you would like
10 to give a general comment about the proposed rule, please
11 save your comments until the end of the section comment
12 period. We will call for general comments at the end.

13 And to go along with this, speakers will
14 address only one part of the rule at a time. Please
15 limit your testimony only to the part of the rule that we
16 are receiving testimony on. However, you may refer to
17 other parts of the rules that reasonably relate to that
18 part of the rule that you're discussing or which may
19 relate to your comments. I further ask that people do
20 not applaud or voice opposition after hearing a
21 particular comment.

22 The Secretary of State does not follow the
23 rules of evidence but shall in the interest of efficiency
24 reserve the right to limit all exhibits, testimony,
25 commentary, or other evidence deemed irrelevant,

1 redundant, or unduly repetitious.

2 The decision as to whether such exhibits,
3 testimony, commentary, or other evidence is irrelevant or
4 unduly repetitious shall be made by me, the presiding
5 officer.

6 May I have a show of hands of the number of
7 people who intend to testify here today. Great. So we
8 will call up the individual sections. If you've signed
9 up for that section please give your testimony at that
10 particular time.

11 After a person has testified or offered
12 comment, any member of the audience wishing to question
13 that person may do so after being recognized by me.
14 However, such questions will be only limited to
15 clarifying questions of the individual speaker giving
16 testimony.

17 In asking clarifying questions please be
18 aware that this is a hearing that is scheduled for three
19 hours and we need to be respectful for everyone's time.
20 This is a public hearing and is intended to provide the
21 public with an opportunity to voice opinions about the
22 proposed rule.

23 This public hearing is now open. The
24 Secretary of State will incorporate by reference all
25 exhibits that were held and admitted into evidence from

1 the first rule hearing that took place in Santa Fe marked
2 as Exhibits 1 through 15.

3 They include the legal notice published in
4 the New Mexico Register, the legal notice published in
5 the Albuquerque Journal, Santa Fe New Mexican, the Las
6 Cruces Sun News. The proposed rule as codified as
7 1.10.13.1, and all written comment received at that
8 public hearing.

9 If you would like to offer written testimony
10 today we will admit that into the record as well. I ask
11 that any person who will be testifying or commenting at
12 this rule hearing please rise and be sworn in. So if you
13 plan to testify please rise. Please raise your right
14 hand.

15 (All witnesses are sworn in.)

16 HEARING OFFICER LANGE: Let the record show
17 that all persons intending to testify or comment at this
18 hearing have sworn or affirmed that his or her testimony
19 or commentary will be truthful.

20 The proposed rule has been introduced into
21 the record. I will now open the floor to ask the
22 audience for testimony and comments on each part of a
23 particular rule.

24 To begin may I see a show of hands of the
25 people who support -- who are here in support of the

1 rule. May I now see a show of hands of people who oppose
2 the rule. Thank you.

3 We will now begin receiving testimony. The
4 first section of the rule is Part 1, Issuing Agency. No
5 one has signed up to speak on this section. Is there
6 anyone who would like to comment on Section 1, Issuing
7 Agency? No? Okay.

8 We'll move on -- seeing none we'll move on
9 to Section 2, Scope. No one has signed up to speak on
10 scope. Is there anyone now in the audience who would
11 like to speak on Scope, Part 2?

12 Seeing no one on Section Part 2 we'll move
13 on. Section Part 3, Statutory Authority. Would anyone
14 like to give public comment on statutory authority? No
15 one has signed up.

16 Seeing none we'll move to Part 4, Duration.
17 No one has signed up for Part 4, Duration. Is there
18 anyone in the public who would wish to comment on Part 4?

19 Seeing none, we will move on to Part 5,
20 Effective Date. No one has signed up to speak on
21 effective date. Is there anyone in the audience would
22 wish to speak on effective date?

23 Seeing none, we will move on to Part 6,
24 Objective. No one has signed up to speak on Part 6,
25 objective. Is there anyone in the audience would like to

1 speak on part 6, objective?

2 Seeing none we'll now move to Part 7.

3 Ms. Fresquez, will you enter into evidence Part 7.

4 MS. FRESQUEZ: Mr. Lange, Part 7 is
5 entitled, "Definitions." This section defines important
6 terms used in the rule and the Campaign Reporting Act
7 such advertisement, ballot measure, coordinated
8 expenditure, independent expenditure, loans, debt,
9 treasurer and others.

10 HEARING OFFICER LANGE: Thank you. The
11 first person on the list to testify and provide public
12 comment on Section 7 is Heather Ferguson.

13 MS. HEATHER FERGUSON: Madam Secretary,
14 members. My name is Heather Ferguson. I'm the
15 legislative director for Common Cause New Mexico. And we
16 wanted to thank the Secretary for all the hard work that
17 has gone into all of the positions that we've had to look
18 at in these rules as well as looking at all of the
19 different court cases. And wanted to support the
20 independent expenditure definition.

21 It's something that is very critical that
22 our public has stated well over 92 percent of registered
23 voters in New Mexico; that includes every party from
24 every demographic, from every geographic area, wants to
25 know who is behind the spending that is coming in from

1 these independent expenditure groups.

2 And as we approach the 2018 election we feel
3 that having this now match with the case law so that we
4 have a constitutional definition is critical to these
5 rules. Thank you.

6 HEARING OFFICER LANGE: Thank you. Any
7 members from the public who would like to make a comment?
8 Okay. Thank you. Ms. Ferguson was the only person
9 signed up on Section 7. Is there anyone from the public
10 who has not signed up to speak on behalf of Section 7 but
11 would like to speak now?

12 Seeing none, we will move on. The next
13 section is Part 8, Candidate Campaign Committee
14 Registrations. No one has signed up to speak on
15 Section 8. Is there someone in the public now who would
16 like to speak on Section 8?

17 Seeing none, we will move to Part 9,
18 Withdrawing from Candidacy. No one has signed up to give
19 comment on withdrawing from candidacy. Is there someone
20 from the public who would like to give a comment now on
21 Part 9?

22 Seeing none we'll move on to Part 10,
23 Political Committee Registrations. No one has signed up
24 to speak on Part 10. Is there someone from the public
25 who would like to speak on Part 10 here?

1 Seeing none we will move to Section 11.

2 Ms. Fresquez.

3 MS. FRESQUEZ: Mr. Lange, Section 11
4 entitled, "Reporting of Independent Expenditures." This
5 section clarifies how entities shall disclose independent
6 expenditures with the Secretary of State including when
7 and how to disclose the source of funds used for the
8 advertisement as well as the dollar thresholds that
9 trigger the required disclosure. This section further
10 clarifies that candidates are not required to report
11 independent expenditures.

12 HEARING OFFICER LANGE: Thank you. The
13 first person on the list is Michael Daly.

14 MR. MICHAEL DALY: Good morning. Here?
15 Good morning, Mr. Chairman, members of the committee and
16 staff, ladies and gentlemen. My name is Michael Daly.
17 I'm here on my own behalf. I live at 1408 Linda Drive,
18 Gallup, New Mexico. I've been a resident of New Mexico
19 for a long time but not my entire life.

20 I'm happy to see this passed, a proposal of
21 the \$1,000 disclosure rule. I think it's not only
22 reasonable but called for given the flood of money in
23 politics today. A thousand dollars represents more than
24 five percent of the average income of a Gallupian.

25 And somebody that's that vested in an

1 election it's -- be nice to know who they are. What's
2 even more interesting would be to know somebody that's
3 out of the jurisdiction that wants to get involved.

4 Dark money is the penicillin-resistant
5 syphilis destroying the American democracy. We've had a
6 flood of money every since Buckley versus Valeo, and it's
7 only gotten worse. This country seems to be for sale.

8 I have here, I'll drop these off later.
9 Here is an enlarged color copy of a portion of a mailer
10 submitted to 20,000 residents opposing this. And it's
11 from the Concerned Veterans for America and the Americans
12 for Prosperity.

13 The Concerned Veterans of America are in
14 Arlington, Virginia. I talked to Dave Cryer, who runs
15 the group of Veterans in Gallup. When I discussed this
16 issue with him he said, "This is something we should get
17 behind."

18 At their biweekly luncheons they have
19 between 100 and 150 veterans show up. On Memorial Day
20 they had 1500 participants. They're not here to speak
21 against this. They didn't send the mailer. But veterans
22 from Virginia seemed to think it critically important
23 that this information be secret.

24 We've got Americans for Prosperity. Now,
25 I've got this piece of paper on Common Cause. It's

1 saying the Americans for Prosperity and Concerned
2 Veterans of America are largely funded. I only get 30
3 seconds?

4 HEARING OFFICER LANGE: I'm sorry. You can
5 have more time than three minutes. We're actually not
6 keeping a three-minute time at this particular time.
7 Excuse me. You can continue testimony.

8 MR. MICHAEL DALY: The supporters of this
9 are from out of state. The large supporters mentioned by
10 Common Cause are the Koch brothers. Well, they're out of
11 Wichita, Kansas. Why don't they worry about the rules in
12 Kansas.

13 The laws in New Mexico affect New Mexicans.
14 The politicians we elect affect New Mexicans. The dark
15 money is just destroying us and we need to at least know
16 who's submitting these.

17 When this comes in the mailer two days
18 before the election, when I'm running for office and it
19 says I've been having sex with goats or chickens I have
20 no time to argue against it.

21 But if it says the Concerned Citizens for
22 Gallup, there's no way now to find out that George and
23 Bill were the people that elicited the dirty trick to not
24 get me elected. I think the rule is quite reasonable.
25 Thank you.

1 HEARING OFFICER LANGE: Thank you. Next on
2 the list is Tom Greer. I guess as you're coming up,
3 Mr. Daly, you'd like us to accept these as written
4 testimony, the handouts you provided?

5 MR. MICHAEL DALY: You don't have to have it
6 but ...

7 HEARING OFFICER LANGE: Okay. We'll admit
8 any written testimony. Just please indicate that you are
9 providing it to us. We'll mark that as Exhibit 1,
10 written testimony submitted by Mr. Daly -- or Mr. Greer.

11 (Marked Exhibit No. 1.)

12 (Marked Exhibit No. 2.)

13 MR. TOM GREER: Would you like me to submit
14 this after?

15 HEARING OFFICER LANGE: You can do it after.

16 MR. TOM GREER: Okay. Thank you. I'm Tom
17 Greer, the state field director for Concerned Veterans of
18 America. And this group of veterans who are here don't
19 live in Arlington, they live here.

20 And I stand before you simply because I
21 think this proposal is an attack on our First Amendment
22 rights, which include privacy. And I agree the
23 discussion when you were talking about this from Common
24 Cause and the 92 percent of the people who supported
25 this.

1 I don't believe they were talking about the
2 \$200 donor. I think the conversation and those numbers
3 are based on what people refer to as the dark money.

4 And my concern with this as individuals is
5 that this First Amendment protects our right of every
6 citizen to stand up and speak about issues passionately.

7 And that doesn't mean that it has to be done
8 publicly. I've heard comments that say, "Well, when
9 somebody gets up and talks passionately about something,
10 I mean, they've have made a public statement. Everybody
11 knows."

12 But the ability of them to be able to donate
13 small amounts of money to charitable causes that they
14 believe in with the understanding that they have a level
15 of privacy there and that there's no records being filed
16 with the state where there's always the potential of some
17 sort of retribution.

18 I'm just concerned when we talk about the
19 \$200 donor having to have that information revealed.
20 Also, for some of these smaller nonprofits I'm also
21 concerned about the additional time, energy, and costs of
22 being able to keep, maintain, and collect these records
23 to be able to file them.

24 Many of the little nonprofits that I have
25 worked with barely have enough volunteers and dollars to

1 accomplish the mission that's before them, rather than
2 having to deal with the compliance issues that this might
3 create.

4 This information seems not so much to
5 provide transparency but the possibility that supporters
6 of certain causes can be threatened or harassed or
7 intimidated for their beliefs. And we know about things
8 in the past in government lists that collect that data
9 that those things are possible and can happen. This
10 really isn't a left or right issue. Whoever controls the
11 list controls the outcome from that list.

12 The language -- the other part of this with
13 due respect to the Secretary is that this started out as
14 B-96, as the legislative process and was vetoed by the
15 Governor, which probably should have been the end to
16 this.

17 But this administrative ruling seems to be
18 kind of an end run around to accomplish the objectives
19 that go contrary to our legislative process.

20 Anyway, I'm just concerned about protecting
21 the First Amendment rights of -- and privacy of the
22 people who are like my group that's here behind us at
23 these lower levels. And I think that this brings these
24 levels of reporting down too low, asks too much of
25 compliance of these organizations.

1 And I think it throws a chilling effect on
2 people contributing to small causes who may not be
3 politically inclined at all who will end up on these
4 lists as supporters of these organizations and sort of
5 outed for what happened to be and should be their private
6 concerns. I appreciate the time. Thank you.

7 HEARING OFFICER LANGE: Thank you. And
8 we'll accept your written testimony now. Thank you,
9 Mr. Greer.

10 (Marked Exhibit No. 3.)

11 HEARING OFFICER LANGE: Next on the list is
12 Ms. Ferguson.

13 MS. HEATHER FERGUSON: Madam Secretary,
14 members, Heather Ferguson, legislative director with
15 Common Cause New Mexico. I'd like to address a few
16 points that came up and I wanted to keep my initial
17 comments on the definitions succinct without getting into
18 too much detail. But in this I wanted to make sure that
19 we had some public clarity.

20 So one of the issues we had back with the
21 definitions in Section 7 is that it drastically narrows
22 the unconstitutionally broad definition that is set forth
23 in our current law and brings that definition within the
24 constitutional limits that the courts have established.

25 This -- this deals specifically with the New

1 Mexico Youth Organized case. And when we look here at
2 Section 11, the narrower reporting of the independent
3 expenditure groups by non-political committees, this
4 section sets forth the reporting requirements for those
5 who make independent expenditures but do not satisfy the
6 definition of a political committee because those --
7 those independent expenditures are not their primary
8 purpose.

9 This rule and this section addresses groups
10 like my own in Common Cause New Mexico to any other
11 nonprofit. And one of the specific issues that it does
12 address in this with the \$200 donation information is
13 that when you look carefully at Section 11, Section C,
14 and it refers to a person who makes independent
15 expenditures totaling \$3,000 or less during an election
16 cycle shall report.

17 Any person who has made contributions of
18 more than \$200 that were earmarked. And that is
19 something that is really critical here. That were
20 earmarked or made in response to a solicitation to fund
21 independent expenditures.

22 This is something that specifically
23 addresses some of the concerns that had come out in some
24 of the earlier federal elections that we saw with the 527
25 groups starting to come forward. These are issues that

1 have been addressed specifically in case law.

2 And the \$200 threshold is something that
3 again, it can come from somebody who is contributing even
4 a portion of their paycheck to go into a fund that may be
5 participating in election year activities, but it would
6 have to be earmarked expressly for that purpose.

7 Which means that there is knowing and intent
8 from both parties that they want to have -- that they
9 want to take action in an election. So that is a really
10 critical piece of this.

11 The other issue is that the effect of this
12 rule is to narrow the literal reporting requirements of
13 our current statute to a more limited kind of disclosure
14 that the courts have held constitutional to be compelled
15 from groups who do not have a primary purpose of
16 publishing express advocacy or election communications.

17 So this will also address those groups and
18 individuals that may be more shadowy. It is not to try
19 to get ahold of anybody's donor list, member list, or any
20 information from a 501(c)(3), nor would having this rule
21 in effect have that effect on those people. Thank you.

22 HEARING OFFICER LANGE: Thank you. That's
23 all the individuals who signed up to speak on Section 11.
24 Is there anyone who has not signed up to give testimony
25 on Section 11 who would now like to give testimony on

1 Section 11? Please come forward.

2 MS. JESSA BUNKER: Good morning. My name is
3 Jessa Bunker and I am a resident of Valencia County where
4 I am actively involved in my community both personally
5 and through work for the well-being of children.

6 And I stand in support of these rules. The
7 more I've learned about some systemic problems in our
8 state we really need to have a good understanding of
9 where money and resources are affecting our election
10 outcomes. And so for that I stand in strong support of
11 these rules. Thank you so much.

12 HEARING OFFICER LANGE: Is there any other
13 people from the public who would like to talk
14 specifically about Section 11?

15 Seeing none, we will move on to Section 12.
16 No one has signed up to speak on Section 12, General
17 Reporting Rules. Is there anyone in the members of the
18 public who would like to speak on Part 12?

19 Seeing none, we will move to Part 13.
20 Part 13 is entitled, No Activity. No one has signed up
21 to speak on Part 13. Is there any members of the
22 audience would like to give public comment on Part 13?

23 Seeing none we'll move to Part 14,
24 Supplement Reports. No one has signed up. Is there
25 anyone here who would like to give testimony on Part 14?

1 Seeing none we'll move on to Part 15.
2 Part 15, Late Filing of Reports. No one has signed up.
3 Is there a member of the public who would like to comment
4 on Part 15?

5 Seeing none, we'll move on to Part 16,
6 Loans. No one has signed up to speak on Part 16. Is
7 there any member of the public who would like to speak on
8 Part 15, Loans?

9 Seeing none we'll move to Part 17, Campaign
10 Debts. Is there anyone who would like to speak on
11 Part 17, Campaign Debts?

12 Seeing no one on the sign-in sheets or
13 members of the audience wishing to speak on Part 17 we'll
14 move on to Part 18, In-Kind Contribution. No one has
15 signed up for in-kind contributions. Any member of the
16 public would like to speak on Part 18?

17 Seeing none we'll move on to Part 19,
18 Volunteers. No one has signed up for Part 19. Is there
19 a member of the public who would like to give testimony
20 on Part 19?

21 Seeing none we'll move on to Part 20,
22 Contributions. No one has signed up for Part 20. Is
23 there a member of the public who would like to speak
24 specifically on Part 20?

25 Seeing none we'll move on to Part 21,

1 Candidate Designations of Contributions Over the Limit.
2 No one has signed up to speak on Part 21. Is there any
3 member of the public who would like to speak on Part 21?

4 Moving on to Part 22, Excessive or
5 Prohibited Contributions. Ms. Fresquez.

6 MS. FRESQUEZ: Yes, Mr. Lange. Part 22 is
7 entitled, "Excessive or Prohibited Contributions." This
8 section provides further clarification of provisions of
9 the Campaign Reporting Act regarding the handling and
10 responsibilities of campaigns in regards to excessive or
11 prohibited contributions.

12 HEARING OFFICER LANGE: We do have one
13 person signed up to speak on Section 22, Angela Merkert.
14 Please state your name for the record.

15 MS. ANGELA MERKERT: Angela Merkert. Thank
16 you. May I wait until general comments at the end?

17 HEARING OFFICER LANGE: You bet.

18 MS. ANGELA MERKERT: I wasn't aware of the
19 time at the beginning. Thank you.

20 HEARING OFFICER LANGE: You may. Is there
21 any member of the public who would like to speak on
22 Section 22?

23 Seeing none we'll move on to Part 23, Date a
24 Contribution is Made Versus Date of Receipt. No one has
25 signed up to speak on this matter. Is there any member

1 of the public who would now like to speak on Part 23?
2 Please.

3 MS. DEDE FELDMAN: Thank you, Mr. Hearing
4 Officer and good morning, Madam Secretary and members of
5 your staff. Thank you for holding these hearings here in
6 Albuquerque.

7 And just to introduce myself, I am Dede
8 Feldman and I am currently a consultant with Common Cause
9 New Mexico but previously served 16 years in the New
10 Mexico state legislature, was a candidate in six
11 elections, and I am the sponsor of the bill which
12 these -- which these regulations are implementing as it
13 goes to candidates.

14 So I was -- in 2009 we passed a contribution
15 limit on candidate -- or contributions to candidates.
16 And that is the subject of many of these portions,
17 specifically 23, and also the few before that as well.

18 So just let me say thank you for clarifying
19 many of those areas which were a little vague in the law.
20 And one of them of course was in Section 23 and this has
21 caused TV reports and confusion amongst the candidates as
22 to when is a contribution actually given? When is it
23 received?

24 And this I think clarifies this very
25 precisely and will relieve a lot of anxiety on the part

1 of both contributors and candidates. So thank you for
2 that.

3 Thank you also for the clarification in
4 Section 21 as to what happens when a candidate receives a
5 contribution over the limit. Can they apply it to a -- a
6 forthcoming election or one -- or a debt that they have
7 had from a previous election? So that's very helpful.

8 As is the Section 19 on volunteers. This
9 was a perennially a topic of discussion in the
10 legislature whether volunteers should be counted as
11 in-kind contributions and recorded as such.

12 So this clearly indicates when that is --
13 when that should be done and when it -- when in most
14 cases it should not be done. So I want to -- I want to
15 thank you for that. And I will have a couple of comments
16 on the next sections as they apply to candidates. Thank
17 you.

18 HEARING OFFICER LANGE: Is there any other
19 member of the public who would like to give testimony on
20 Part 23?

21 Seeing none we'll move to Part 24,
22 Earmarking. No one has signed up to give comment on
23 earmarking. Is there a member of the audience who would
24 like to talk about earmarking?

25 Seeing none, we'll move on to Part 25,

1 Candidate Expenditures. No one has signed up for
2 candidate expenditures. Is there a member of the
3 audience who would now like to speak to candidate
4 expenditures? Ms. Fresquez.

5 MS. FRESQUEZ: Mr. Lange, Section 25 is
6 entitled, "Candidate Expenditures." This section
7 provides guidance to candidates on how to report
8 expenditures of a campaign in order to promote
9 transparency in their reports. It further provides that
10 expenses that would exist for a person even if they were
11 not a candidate or public official are not allowable. It
12 provides guidance regarding tracking and reporting
13 mileage and per diem and provides for a mechanism for a
14 candidate to seek an agency opinion or a declaratory
15 ruling on the lawfulness of a particular expenditure.

16 MS. DEDE FELDMAN: Thank you, Madam
17 Secretary and members of staff, Kari. I should have
18 signed in but I couldn't find the paper, so sorry.

19 Regarding the candidate expenditures in 25,
20 I want to thank you for clarifying that a candidate
21 cannot simply put down on his expenditure or her
22 expenditure report that they used it to pay off their
23 credit card. That is a very common practice now and this
24 clarifies that you need to disclose exactly what that
25 credit card bill was for.

1 So I think that that is very helpful. And I
2 will note -- and thank you also for clarifying in general
3 about vehicles; when it is permissible to count vehicle
4 expenditures for your campaign and when it is not.

5 And kind of the general rule there is that
6 if the expenditure would be made anyway regardless of the
7 campaign then it should not count as a -- as a legitimate
8 campaign expenditure.

9 I will note in Section 3 and 4 of this that
10 an interesting -- an interesting difference. And that is
11 legal expenses specifically related to the campaign or
12 legislative rolls are permissible uses of campaign funds.
13 And candidate -- but payment of fines are not uses --
14 legitimate uses of campaign funds.

15 However, political committees can use
16 campaign funds to pay fines and penalties. So that's --
17 you know, that's a difference that in some ways
18 disadvantages candidates as opposed to political PACs.
19 So thank you.

20 HEARING OFFICER LANGE: Thank you. Let the
21 record reflect that that again was Ms. Dede Feldman. Any
22 other person wishing to speak on section -- or Part 25?

23 Seeing none we will move to Part 26,
24 Charitable Donations. No one has signed up. Is there a
25 member of the audience who would now like to give

1 testimony on Part 26, Charitable Donations?

2 Seeing none we'll move to Part 27, Primary
3 and General Election Cycles. No one has signed up. Is
4 there a member of the audience who would like to
5 participate and give comment on Part 27?

6 Seeing none, we will move to Part 28,
7 Coordinated Expenditures. No one has signed up. Is
8 there a member of the audience would now like to comment
9 on Part 28?

10 MS. FRESQUEZ: Mr. Lange, Part 28 is
11 entitled, "Coordinated Expenditures." This section
12 clarifies how a campaign shall report coordinated
13 expenditures as in-kind contributions and further
14 activities which do not constitute a coordinated
15 expenditure.

16 HEARING OFFICER LANGE: Thank you.

17 MS. DEDE FELDMAN: Thank you, Madam
18 Secretary and members of the staff, Hearing Officer.
19 Thank you for clarifying here that one candidate
20 endorsing another candidate does not count as a
21 coordinated expenditure.

22 I think that has had I wouldn't say a
23 chilling effect, but has given some candidates pause in
24 supporting their -- in supporting their colleagues. So
25 thank you for that.

1 HEARING OFFICER LANGE: Thank you. Let the
2 record reflect that was again Ms. Dede Feldman.

3 Is there any other member of the public who
4 would like to give comment on Part 28, Coordinated
5 Expenditures?

6 Seeing none, we'll move to Part 29, Records
7 Retention. No one has signed up to speak on Part 29. Is
8 there a member who has not signed up to provide comment
9 who would now wish to give comment on this section?

10 Seeing none we'll move on to Part 30, Random
11 Report Selection and Report Review Process.

12 Again, no one has signed up to provide
13 comment on this section. Is there now a member of the
14 audience who would like to provide comment on this
15 section?

16 Seeing none, we'll move on to Section 31.
17 Ms. Fresquez.

18 MS. FRESQUEZ: Mr. Lange, Section 31 is
19 entitled, "Disclaimer Notices on Advertisements." This
20 section provides for guidance in regards to when printed
21 disclaimers on campaign advertisements are required for
22 candidates or independent expenditures.

23 HEARING OFFICER LANGE: Thank you.
24 Ms. Ferguson.

25 MS. HEATHER FERGUSON: Madam Secretary,

1 members, my name is Heather Ferguson with Common Cause.
2 I was always taught by Senator (unintelligible) to either
3 talk or you can try to pass your bill. So I just want to
4 keep my statement on this one short.

5 Because this deals specifically when we talk
6 about the free speech aspects of this and whether or not
7 disclosure on advertisements is required. Many times
8 people refer to the McEntire case as being something that
9 had shifted that away from giving higher protections to
10 anonymous speech.

11 Free speech is vital to our democracy as the
12 public right to know where these messages come from and
13 who is paying for them. And in that court's decision it
14 was far too narrow in looking at that, which is why we
15 set a spending threshold that would be acceptable by the
16 courts so that they will need to put their name on their
17 advertisements. Thank you.

18 HEARING OFFICER LANGE: Thank you. Any
19 other member of the public who would like to give,
20 provide testimony on Part 31?

21 Seeing none, we will finish by -- everyone
22 now has given testimony or an opportunity to give
23 testimony on a specific section of the proposed rule.
24 We'll now open the hearing for general comments regarding
25 the rule.

1 Right now, I'll call forward Angela who had
2 moved her comment to general comments. And we'll -- and
3 the rest if you would like to give general comment we'll
4 call you up after. So thank you.

5 MS. ANGELA MERKERT: Thank you, Madam
6 Secretary, Hearing Officer, and staff. My name is Angela
7 Merkert. My address is 3305 Calle Cuervo Northwest,
8 No. 1018, Albuquerque 87114. I'm a former executive
9 director of a couple of nonprofits.

10 Thank you very much for holding these
11 hearings and for addressing campaign finance. I think
12 the whole concept of by the people, for the people -- of
13 the people, by the people, for the people is key here.
14 And the key to democracy working is an informed public.

15 With support of this kind of ruling, we --
16 we both support free speech but we also have a positive
17 impact on protecting an informed public which our
18 historians and people of the past who have cautioned us
19 about can be -- can fracture our democracy.

20 I think that we have happening now is
21 without conspiracy theory is truly we have an assault on
22 our democracy and we have oligarchs who are attempting to
23 hold capitalism above the value of democracy.

24 And one of the ways that that works is how
25 campaigns are funded. And through that there has been

1 voter suppression with the negativity and the onslaught
2 of campaign ads that don't actually inform to issues, but
3 that rather are doing character assassination and
4 creating major dissension among our ranks.

5 And I think putting a light on what --
6 what's behind the messaging and identifying how it's
7 happening, who's funding it, and to what ends are a part
8 of that is crucial for our democracy.

9 And so I applaud that we're addressing this
10 in the state and that you've taken it up as Secretary of
11 State when we couldn't make it work through the
12 legislature.

13 It doesn't mean that we shouldn't be
14 addressing it, because the strategy of those who want to
15 bring change is to make binding change through our laws
16 and not allow the of the people, by the people, for the
17 people to occur.

18 They see -- the forces are they are the
19 makers and we are the takers. And they don't want to --
20 they want to have the freedom to raise as much capital as
21 they -- as is possible and not to have government what
22 they consider intervening to create change to do the
23 taxation that supports a democracy that's set for the
24 common good.

25 So I just want to highlight that there's

1 history to affirm the kind of actions that are being
2 taken within this rule. And I applaud that this is
3 occurring in our state. Thank you.

4 HEARING OFFICER LANGE: Thank you. Who else
5 wishes to give public comment? Please come forward.
6 State your name for the record.

7 MR. DAVID MONTES: Yes. My name is David
8 Montes and I'm the field director for the Libre
9 Initiative, one of nonpartisan nonprofits that may be
10 affected by this. Ultimately though I just would like to
11 say and I didn't catch the woman's name who just went up.
12 I apologize.

13 Yeah. I think right there you see the
14 display of what this is all about. The voters and
15 citizens really in America are divided amongst two
16 different fears.

17 One fear is government and one fear is
18 money, wealth, corporations. As far as there being a
19 capitalist conspiracy to steal democracy so that
20 capitalists can continue to exploit, okay.

21 Talk about oligarchs. As far as Common
22 Cause itself, very, very quick search shows it gets money
23 from open society foundations, from Tides foundations
24 which all are mechanisms of the George Soros, billion,
25 trillion dollar oligarch network that absolutely does get

1 very involved at the highest levels of government and has
2 done for the past 30 years or so. This is not even
3 controversial.

4 What's interesting is as written by authors
5 Richard Poe and David Horowitz, essentially they're
6 documenting a speech that Gorge Soros gave in 1994,
7 November 30th, at the Columbia University School of
8 Medicine.

9 He finished up his speech which was kind of
10 about end of life care and not really necessarily pulling
11 the plug but not necessarily plugging in it.

12 And part of that essentially closing the
13 same -- you know, we've got to do something about the
14 distortion on our electoral process by the excessive use
15 of TV advertising.

16 Well, around 1994 what was going on, in the
17 President Clinton administration, First Lady Hillary
18 Clinton was pushing what was known back then as Hillary
19 care, which failed. George Soros and others essentially
20 saw this, "Oh, my gosh. There's advertisements going up
21 against something we want, we're pushing for. Therefore
22 let's go shut them up."

23 Money was given to -- from the Soros
24 organizations to Russ Feingold, Senator Feingold of the
25 McCain-Feingold Act, which essential was the next step at

1 that point in restricting speech through transparency.

2 I don't think "dark money" had been coined
3 back then. But essentially it's the same idea of the
4 government getting involved in the people's electoral
5 process and in their speech, whether it's in advertising
6 or not, which goes back to the two ideologies. Which do
7 you fear more? The guys with the money or the guys with
8 the guns and the prisons?

9 So I may disagree with the other side on who
10 to fear most. But I think objectively we know from our
11 state constitution, we know from our federal constitution
12 what those constitutions were designed for and why this
13 nation was established in the first place.

14 It wasn't because of fear of the wealthy.
15 It was fear of legal authority. Which in 2017 translates
16 into politicians and bureaucrats, people who themselves
17 raise money, who themselves campaign, who themselves are
18 part of that process.

19 If I were an incumbent I would love this
20 rule. It would discourage people to run as against me
21 and holding me accountable for what I've done in my term.
22 So there's a lot going on with this sort of regulation.

23 But to frame it as simply "dark money"
24 that's already transparent to the federal rule, that's
25 already being documented, you could call it excessive or

1 not, but this would be much more excessive.

2 As far as really being concerned about bad
3 actors and bad players getting involved to really do
4 damage that's not disclosed, that's not at all
5 transparent, it's like any black market economy. It's
6 going to be done without anyone here knowing about it and
7 there's no enforcement to that.

8 Instead this sort of enforcement is going to
9 be -- yeah, it's going to be selective right now. If
10 there's a -- someone of left of center in office they may
11 use it against their political enemies on the other side
12 and vice versa.

13 Which is why in general the default position
14 of America, New Mexico, should be liberty. Should be
15 freedom. As opposed to saying, "Well, I trust this
16 politician to trust [sic] me from the bad politicians by
17 taking away our rights or restricting them."

18 And then saying it's based on some sort of
19 grand narrative about a class. At the end of the day
20 both sides have oligarchs, both sides are heavily
21 involved.

22 What's interesting is that some groups are a
23 little bit smarter than the others. For instance,
24 there's a group here in town called Ole, who used to
25 be -- actually, it's a rebrand of an organization called

1 Acorn which you may have found back in 2009 was defunded
2 or in 2010 was defunded and exposed for very, very
3 corrupt practices. They were -- received billions of
4 dollars of taxpayer money.

5 So Ole set up, it got a foundation and they
6 have a state PAC. So essentially they're able to
7 receive -- the foundation is able to receive monies from
8 Kellogg Foundation, all sorts of other groups, lots of
9 big money.

10 Go into this, it can be deducted, then that
11 can get sent to the state PAC which essentially is not
12 restricted by the (c)(3)s and (c)(4)s, limitations on
13 speech.

14 So if you have these mechanisms in place
15 it -- it behooves your side to make sure that the other
16 side, if they're not doing that, restrict them more on
17 what they're already disclosing.

18 Anyhow, there's a whole lot of insider
19 baseball on this and I don't want to get too much in the
20 weeds; however, the idea it's simply big evil, rich
21 people who are vaguely evil, whatever it is that they may
22 or may not believe, and that it's the job of the
23 politicians to save the rest of us simple folk from
24 these -- from these oligarchs.

25 But at the end of the day this is about

1 power. Money is power, speech is power. And this --
2 these regulations threaten both the freedom for people to
3 exercise their own, whether in concert with other
4 individuals or part of an organization or on their own.

5 So I -- you know, both sides can agree or
6 disagree. But let's be clear on what it actually isn't a
7 real threat. The darkest of the money will never be
8 caught. That essentially there's already transparency on
9 many levels. And that this is as much about partisan
10 politics at -- as it is about protecting some sort of
11 vague, one-sided idea of what the common good is. Thank
12 you for your time.

13 HEARING OFFICER LANGE: Is there anyone else
14 who would to give general comment? Please come forward.
15 State your name for the record.

16 MR. DUANE GLASS: Hi. Greetings, Madam
17 Secretary and staff. My name is Duane Glass. I live in
18 Los Lunas at 11 Thelma Road. I'm a Hoosier by birth, New
19 Mexican by choice. My military career spans from 1964 to
20 the present; I'm still -- I'm retired Air Force and
21 retired Air National Guard, the Tacos.

22 I am currently a U.S. Army civilian. I have
23 been a part of every major war since Vietnam. I'm
24 troubled by some things that I -- I see. For one thing
25 I'm a little bit troubled by the fact I've never -- the

1 only two times I've been in Arlington is on my senior
2 trip in 1964 when I saw John F. Kennedy's grave still
3 covered with a grave cloth, and in 1992 when I went back
4 to my son's wedding at Oceania Naval Air Station.

5 I live in New Mexico. And I live here --
6 I've raised three boys here. One of which did 22 years
7 in the Navy and the other one did six years in the Army.
8 I volunteer for Concerned Veterans for America. And I
9 know we get a bad rap.

10 But the causes that I look at are those that
11 I fought for. They're neither Democrat nor they're
12 Republican. They are American values. We just recently
13 helped pass the 2017 Veteran's Accountability and
14 Whistleblower Act.

15 And last week 500 people finally were let
16 go. People that actually had committed criminal acts in
17 maintaining two lists; one that was the real list and the
18 other one.

19 If I falsified information to the Army or to
20 the Air Force I would -- I would incur severe penalties.
21 And so what -- what I see is a slippery slope. The
22 Patriot Act was done in about right after two -- 9/11.

23 It probably had good parts to it. But when
24 it got into the hands of certain people we see that as a
25 result of that we find out that the NSA is spying on

1 every one of us.

2 Then we see that during -- before the last
3 election that Lois Lerner and the IRS intimidated and
4 harassed True the Vote, which were nonprofit
5 organizations.

6 So sometimes our best intentions put in the
7 wrong hands can become a detriment instead of anything
8 positive. Thank you.

9 HEARING OFFICER LANGE: Thank you. The next
10 public comment. Please state your name for the record.

11 MR. DON MANNING: My name is Don Manning.
12 I'm speaking as a private citizen. I live at 308 Truman
13 in Albuquerque. And I think this is a good thing. What
14 we want is we want to know who's spending what where.

15 And to speak to what the gentleman said
16 before, if you don't want other people to know that you
17 put money into something or you're ashamed of it, you
18 shouldn't donate to them. You shouldn't put your money
19 there.

20 If what you've decided is is that you need
21 to create some statement about how everybody else is bad,
22 instead of speaking to this rule that we're talking about
23 which I think makes, you know, New Mexicans smarter
24 because it makes them aware of the money that's being
25 spending, well then, you're not coming to support our

1 community, our support, our state. You're coming to
2 support whatever group you're playing with.

3 And what I want to do today is I just want
4 to make sure that everyone understands that every effort
5 that we make to try and do things better, to make sure
6 that our elections are more transparent and that we know
7 who's throwing what dollars at our state -- we're a poor
8 state. We're cheap. It won't take much to buy us,
9 right?

10 So what the hell. Let's make sure that --
11 that what we do is we're at least aware of where people
12 are spending money and who they are. And if you don't
13 want to be known, don't come to New Mexico. Thank you.

14 MS. HEATHER FERGUSON: Madam Secretary,
15 Heather Ferguson with Common Cause. I wanted to first
16 specifically address some of the issues that were brought
17 up earlier.

18 One thing that I would like to state very
19 clearly is that Common Cause of New Mexico has never
20 received one solitary, single dime from Soros or from
21 Tides just as a point of clarification, although we are
22 always trying to raise money. So putting it out there.

23 One of the issues that we had come up here
24 with this and that we really appreciate you working on
25 these rules is that we have been floundering in this

1 state since 2010 in order to bring our statutes into
2 compliance with the rulings that have come out of not
3 just Buckley-Valeo, but back to New Mexico Youth
4 Organized versus Herrera, Republican Party v. King. The
5 list goes on and on and on.

6 That every two minutes it seems like another
7 ruling comes out of the 10th Circuit addressing more
8 things about our Campaign Reporting Act and all of the
9 ridiculously unconstitutional language that we have had
10 languishing in there for the last seven years.

11 We're coming up on another really big
12 election. One of the issues that we've seen as every
13 single election has gone forward, both at a municipal
14 level, county level, and at a state level.

15 The amount of money that is involved in
16 these races not only per candidate who are running for
17 unpaid legislative seats typically has compounded so much
18 exponentially that we think that especially for the
19 mayor's race that we have coming up here should probably
20 be somewhere around a million dollars to start.

21 Then you've got all of these other unpaid
22 state legislative seats that typically a few years ago
23 used to go for \$10,000. Now they're going for \$50,000,
24 \$100,000, \$500,000 at a state level.

25 There's a tremendous amount of money that

1 has been going through. The Santa Fe soda tax that just
2 happened. That in itself. The last mayoral race in
3 Santa Fe only totalled for all candidates' spending
4 \$250,000.

5 Now, in this, that was just some of the
6 contributions that came in were totalling \$240,000 for
7 one of them.

8 So when you're looking at how much money is
9 being spent to influence individuals, how much they are
10 being blanketed with information, what the public really
11 wants to know is who is paying for these things.

12 In the Citizens United case, while they
13 have, you know, supported the Buckley-Valeo stance that
14 money is free speech, what they did also rule in a
15 majority opinion of eight to one is that this is also
16 with the presumption that all of the states had
17 constitutionally enforceable statutory requirements for
18 reporting and disclosure. They were very specific about
19 that.

20 New Mexico has been languishing behind the
21 times for too long. And because of that confusion
22 reigns. There's dark money going all over the place
23 that doesn't -- that it doesn't have to be dark enough to
24 be evil money, it just has to be -- if you're going to
25 buy a ticket you're going to ride the ride. And you're

1 going to have to show everybody why are you saying
2 something about another individual candidate or about a
3 ballot measure. And that I think is what this
4 specifically requires.

5 And if I may, I have a question to ask of
6 the Secretary. If these rules that you have to put
7 together that you promulgated from all the cases in case
8 law would be stayed somehow through this process and
9 would not be published, would you still be required to
10 enforce the statute that would have to refer back to the
11 state law or to the case law when particular specific
12 sections of the statute were not constitutional?

13 MS. TOULOUSE OLIVER: I'll actually let our
14 Assistant Attorney General answer that question.

15 HEARING OFFICER LANGE: Well, I guess you're
16 going to need to ask your question again. I wasn't
17 listening. However, I do understand that, you know, this
18 really is about public comment and not asking questions.
19 But yeah. You may ask the question.

20 MS. HEATHER FERGUSON: My question was since
21 we have certain sections of our statute currently, and
22 the Secretary of State is charged with enforcing the
23 Campaign Reporting Act, if those sections are
24 unconstitutional is she then charged with referring to
25 current case law in order to make a determination about

1 whether or not someone is required to report?

2 HEARING OFFICER LANGE: Yeah. So if
3 particular provisions of our Campaign Reporting Act are
4 unconstitutional we are tasked with incorporating all
5 current laws that we have under the books here in New
6 Mexico and in federal laws.

7 MS. HEATHER FERGUSON: Thank you. So what I
8 understand from that is that since all of these rules
9 have been promulgated based on current case law coming
10 out of the 10th Circuit, this is going to be something
11 that is going to be happening regardless of any kind of
12 temporary injunctions or not having them published. And
13 I think that the public and everyone else might really
14 just appreciate having them published so they have
15 something to refer to.

16 Because if not it's going to have to still
17 incur enforcement actions. And we really appreciate all
18 the hard work coming into this. Thank you.

19 HEARING OFFICER LANGE: Anyone who hasn't
20 given public comment who would also like to give public
21 comment please come forward.

22 MS. DEDE FELDMAN: Dede Feldman from the
23 North Valley of Albuquerque. I want to thank you again
24 for going through all of this. And here's why I think
25 it's important.

1 During the past 15, 20 years the New Mexico
2 legislature has done its utmost to try to return
3 elections to the people. It has enacted two public
4 financing statutes for the -- for the PRC and the state
5 courts.

6 It has, as mentioned earlier, limited
7 campaign contributions. And it has required, remember,
8 back in the early 2000s campaign contributions were not
9 on the web; they were filed in the Secretary of State's
10 Office where very few members of the public had access to
11 them.

12 And despite all the work that had been done
13 other the years when Citizens United was passed, when the
14 advent of all these big independent expenditure groups
15 became apparent, all of our work was circumvented.

16 So we are -- we are now at risk of being
17 overwhelmed by outside money. In the 2016 election \$160
18 million of independent expenditures was spent around the
19 country.

20 In the recent Georgia primary, \$28 million
21 of independent cash was spent on largely negative
22 advertising. And this is on both sides; this is not a
23 partisan issue. This is Democrat and Republicans.

24 But what happens in New Mexico to our
25 politics here is when these campaigns for what

1 essentially are volunteer positions in the legislature
2 and in other local and state offices, when -- when all of
3 this independent money comes into New Mexico from out of
4 state it's usually based on some wedge issues.

5 And it makes it -- and the candidates don't
6 have any say over these -- these expenditures. And
7 whereas they would like to have been talking about, you
8 know, whether we needed a sewer system in Jemez Springs
9 or some -- some more mundane issues that there is
10 agreement on, what happens is it becomes more and more
11 difficult to agree on things.

12 It makes the -- it makes it harder to
13 compromise when all of this public -- all of this cash is
14 coming in driving the candidates apart, defining the
15 differences between the conservative and the liberal or
16 the pro life and the pro choice.

17 That has made our politics far more
18 partisan, far more divisive. And right now the only
19 remedy we have is to at least see where these
20 contributions are coming from so that the public can make
21 an informed choice. So thank you for doing your part to
22 ensure that.

23 HEARING OFFICER LANGE: Anyone else who
24 hasn't spoken would like to give a public comment?

25 MR. DOUG NICKLE: Good morning. My name is

1 Doug Nickle, I'm with Take Back Our Republic. Madam
2 Secretary, thank you. Staff, thank you for facilitating
3 this. And to my fellow citizens also in attendance,
4 thank you for joining today.

5 Take Back our Republic is a good governance
6 reform organization and we engage in research, education,
7 and advocacy on common sense campaign finance reforms.

8 We know that the world is run by those who
9 show up, as is our American democracy. So I thank you
10 all here and as well my fellow citizens for showing up.

11 This is an important step in this day and
12 age of extremely divisive politics. So whether you're
13 for or against these regulations or specific subsets of
14 them, the fantastic fact is that we're all here to
15 discuss them in a respectful, civic-minded way.

16 As Mr. Greer and Ms. Feldman have mentioned,
17 campaign finance issues are indeed nonpartisan. That was
18 evidenced by the fact that SB 96 passed with overwhelming
19 public support as well as bipartisan support in the state
20 house.

21 And I think what's happening now with these
22 rules at -- they can be argued that while the Governor
23 vetoed the provisions of SB 96, the Secretary of State
24 and these rules are actually getting back closer to the
25 direct democracy, both in the support, the tacit support

1 in public polling, but also in terms of the bipartisan
2 support in the legislature.

3 So as we continue to work together to
4 advocate for common sense reforms, Take Back Our Republic
5 looks forward to engaging further on this issue at the
6 state level and federal level.

7 And we're confident that working together,
8 which is most important during this -- during this era of
9 divisive politics, we're excited to be able to continue
10 to do so and so we support the rules and regulations as
11 set forth. Thank you.

12 HEARING OFFICER LANGE: Is there any further
13 comment from someone who hasn't given public comment?
14 Please come forward if you haven't given comment.

15 MS. DONNA DOWELL: Good morning, Madam
16 Secretary and staff. My name is Donna Dowell, I'm a
17 family nurse practitioner. I'm also a community advocate
18 as of January 2017, although I've been informed about
19 politics and -- I decided actively to get involved when
20 President Trump was elected. Or Candidate Trump.

21 I am disgusted like most Americans of the
22 amount of money spent in political campaigns and
23 elections and politics and policy and how these things
24 seem to be up for sale.

25 In light of the enormous problems that we

1 have in our country; our failing infrastructure, our
2 healthcare system, poverty especially here in New Mexico.
3 And I am in agreement -- and with this -- these rules and
4 I'm in support of them. And I think most of what I would
5 like to say has already been said. I just wanted to add
6 my support. Thank you.

7 HEARING OFFICER LANGE: Thank you.

8 Mr. Daly, would you like to give public comment?

9 MR. MICHAEL DALY: Good morning. Michael
10 Daly again from Gallup, New Mexico. In response to one
11 gentleman I'd like to say I'm probably more afraid of the
12 government than I am of the dark money. It's bigger and
13 more pervasive.

14 But I see the purpose of government in this
15 regard to create a level -- level playing field. And I
16 think that's important. And the dark money that the lady
17 just talked about, we've been talking about, I understand
18 what the other veteran said. I'm a veteran too.

19 The Bush administration lied to us about the
20 reason for going to war. Tortured prisoners of war.
21 Wire tapped Americans. The NSA, now all their staff's
22 information has been hacked. Probably poetic justice but
23 their information isn't safe with us.

24 But I'd like -- I'd like to -- some
25 references. There's a person I would consider a

1 psychopath who's been involved since Nixon, from Nixon to
2 Trump in politics in the background. Roger Stone.

3 He epitomizes the problem that we have and
4 we need to watch for. A recent Netflix documentary, "Get
5 Me Roger Stone," goes through his life.

6 He starts in elementary school supporting
7 Kennedy. He liked Kennedy's hairstyle better than Nixon.
8 He later changed his mind, he decided on Nixon. But he
9 stood at the end of the food line and told every student,
10 "Nixon wants to have school on Saturdays."

11 And you know what? When the mock election
12 was held in Connecticut at that elementary school Kennedy
13 won. This man learned at an early age to lie and cheat
14 and do anything. And he's explicit in this -- in this
15 documentary. Anything to win. If it not illegal, let's
16 do it.

17 And he's -- he was a Watergate agent. But
18 he's been involved in politics. And this is the kind of
19 perniciousness that the extra money allows. We need
20 exposure in politics. Thank you.

21 HEARING OFFICER LANGE: Any other person
22 wishing to give public comment who hasn't given public
23 comment?

24 MR. DAVID MONTES: I have a question. Would
25 I be able to make a point of clarification in response to

1 certain evidence brought up?

2 HEARING OFFICER LANGE: You will after
3 everyone has provided testimony.

4 MR. TIM EVANS: Tim Evans, Albuquerque, New
5 Mexico. I'm a ten-year veteran of the United States
6 Marine Corps and I'm also a combat veteran. I'd like to
7 thank the Secretary of State for having this so that we
8 can come up and make our opinions known.

9 I come out against it primarily. One
10 gentleman said that you shouldn't be ashamed of who you
11 give your money to. It's not that. It's -- I'm not
12 ashamed whether it's to Planned Parenthood or the NRA.
13 It really doesn't matter.

14 My concern is if I give \$100 to either one
15 of those I don't want my name on a list for some whacko
16 on the other side to have access to.

17 We've all seen what happens to individual
18 Americans when they may or may not have the same -- the
19 same political leanings as those in power whether it's on
20 the right or the left.

21 I grew up as a sharecropper, definitely not
22 one of the one percenters. I'm pretty much Joe Six-pack
23 as you get. But when it comes to items like this, again,
24 I guess I'm on the slippery slope side of things.

25 That, you know, if I'm giving my money

1 somewhere as an individual it's nobody else's business
2 who I give my money to. And so I do not support this.
3 Thank you for the opportunity. Secretary.

4 HEARING OFFICER LANGE: Is there anyone else
5 wishing to give public comment who hasn't provided
6 comment? Please come forward. Please identify yourself.

7 MR. JASON VAILLANCOURT: I will. I didn't
8 last time. Hi, everybody. I 'm Jason Vaillancourt. I'm
9 here representing me and my son Ryan, who's 12.

10 You know, there's good arguments on both
11 sides of this. And I certainly understand the arguments
12 on both sides. I think we all want dark money out of
13 politics. But I think that that is a dreamy ideal.

14 Politics are dirty and I talked about this
15 the last time I got to meet with you guys. Politics are
16 just inherently nasty and dirty and volatile.

17 And I brought up the fact that when those
18 guys signed the Declaration of Independence they
19 ultimately were signing their death warrants. And I want
20 you to put that in perspective.

21 I realize that our political landscape isn't
22 quite that volatile. But man, there's some crazy stuff
23 going on in this country. Representatives are being
24 shot, it's a risky proposition to be in public office.

25 I told you guys last time I don't envy any

1 of you and the positions that you hold. But I do
2 sincerely appreciate you doing this for all of us. We
3 don't have this process without you. So again, my
4 gratitude to people who serve other people.

5 With that in mind, I think it is imperative
6 that you remember that privacy does matter and speaking
7 truth to power is dangerous and scary. And some people
8 need other people to do it for them and they need that
9 anonymity. So I hope that you will keep that into
10 consideration when you guys are moving forward with this.

11 The last thing that I would like to say is
12 that if I genuinely believed that this rule change would
13 somehow stop dark money in politics, the Soros and the
14 Kochs and whoever else we're calling dark money.

15 If I genuinely believed that this would stop
16 this, I would get behind you guys. I don't. I think
17 it's a well-intended measure. I think it's been done the
18 wrong way. But all of that is irrelevant.

19 I think the fact that it's not going to work
20 the way it's intended is the thing that I would hope that
21 you will all focus on the best. Government-intended
22 consequences are not generally what we all expect.

23 So keep that in mind, please, when you're --
24 when you're reviewing this and moving forward. I do
25 highly recommend that we try to get another bill through

1 the legislation and back on the Governor's desk.

2 To just keep slamming our process down the
3 throat of our country instead of hey, let's just -- you
4 know, people aren't going to support this, the Governor's
5 not going to support this. We'll just make this rule and
6 people will live with it.

7 I don't think that that is the message that
8 we want to send to our state. So I appreciate you all
9 for doing this. Please consider what I've said. Thank
10 you.

11 MR. DOUGLAS CARVER: Thank you, Mr. Lange,
12 Madam Secretary. My name is Douglas Carver, I'm
13 executive director of New Mexico Ethics Watch. And I
14 just have a couple of quick comments.

15 In general without going into the specifics
16 of the rule, New Mexico Ethics Watch supports efforts to
17 bringing additional transparency to our elections in this
18 state.

19 I think every side of the political divide
20 people have recognized that's -- the importance of that.
21 I've heard. But I want to comment on are the less
22 glamorous sections of this rule.

23 And really I'm just echoing what Former
24 Senator Feldman said in her specific comments on specific
25 sections of the rule. I want to applaud the Secretary's

1 Office for taking the time to clarify some of the
2 statutes so that candidates can have a better sense of
3 what they're supposed to do to follow the rule.

4 As a former drafter of some election
5 legislation at the Legislative Council Service, I know
6 that sometimes holes are left in the legislation and
7 candidates are left scratching their heads. I applaud
8 the Secretary's efforts for filling in some of those
9 holes, making things clearer.

10 I do have one specific comment. And I
11 apologize for not making it at the time. I caught it
12 when I was reviewing it. On 1.10.13.29 on Records
13 Retention.

14 And I don't have the Campaign Finance
15 Reporting Act handy, but I notice that the limit for
16 retention of records was two years.

17 And the rule -- if the statutes permit it I
18 would recommend making that either a three-year retention
19 or a five-year retention since our state representatives
20 have -- run every two years, our senators run every four
21 years, the Governor run every four years.

22 It would make sense I believe to have those
23 records retained by the candidates over the course of two
24 election cycles.

25 Again, I don't know the Campaign Finance

1 Report Act would allow that. But and -- if it wouldn't
2 then of course we would have to change the statute. But
3 if it would allow it I would recommend that the rule be
4 changed so that they have to hold their records longer.

5 And that ties to a final general point I
6 would like to make. I heard some comments both today and
7 in the previous hearing in Santa Fe, I watched the
8 webcast of that, referring to small nonprofits and the
9 troubles they might have keeping track of donors.

10 Now, I'm the executive director of a
11 nonprofit but I'm also on the board of a very small
12 community theater nonprofit. And I would just state to
13 anyone who's listening and has those concerns as a
14 nonprofit that you might need to reconsider how you're
15 organizing your nonprofit.

16 The boards of the nonprofit have a fiscal
17 responsibility both to the nonprofit and to the state to
18 make the obligation that they will keep track of the
19 monies that come into the nonprofit.

20 So if a nonprofit can't keep track of the
21 donors coming into the nonprofit, you have governance
22 issues that you might want to consider.

23 I don't think that's an issue that actually
24 impacts the effect of this rule.

25 Thank you for your time and thank you again

1 for the openness and transparency in this process. I
2 know your office is underfunded, understaffed, and
3 overburdened and yet you're talking the time to hold
4 hearings here and in Santa Fe and in Las Cruces. And I
5 really appreciate your openness to the people of New
6 Mexico. Thank you very much.

7 HEARING OFFICER LANGE: Is there any further
8 comment from anyone who hasn't given public comment at
9 this time? Mr. Montes.

10 MR. DAVID MONTES: Thank you for this extra
11 time. I just wanted to comment about -- comment on
12 Common Cause. I have to say Common Cause generally is a
13 national organization founded in the 1970s. It's in 35
14 states.

15 They have received money from Tides and open
16 societies. So I don't know if that trickled down into
17 the state of New Mexico's chapter. So I just wanted to
18 be clear on that.

19 Although it's ironic that that wasn't
20 transparent this whole time that Common Cause is actually
21 part of a national association as well. Thank you.

22 HEARING OFFICER LANGE: Are there any
23 further public comments that anyone who would like to
24 give sitting here today? Are there any person wishing to
25 submit written comment? Please identify yourself.

1 Seeing none and seeing no further comment,
2 has everyone present signed the attendance sheet in the
3 back of the room? Please make you sure you do that.
4 Because at this time we're going to mark the attendance
5 sheet as an exhibit and enter it as an exhibit into the
6 public hearing. So if you haven't done so please sign
7 your name.

8 (Marked Exhibit No. 4.)

9 HEARING OFFICER LANGE: Are there any
10 questions on the attendance sheet generally? Okay.
11 Well, I'll move to admit the attendance sheet as an
12 exhibit into this hearing.

13 The hearing record is now closed. No
14 further oral testimony will be heard. However, written
15 comment will be accepted by the Secretary of State's
16 Office up until July 19th, that's tomorrow, at 5:00 p.m.

17 Please know that the arguments, testimony
18 and comments submitted and written comments submitted
19 today will be duly considered by the Secretary of State.
20 Secretary of State is having one other public comment
21 hearing in Las Cruces at the Dona Ana County Government
22 Center, 845 North Motel Boulevard, Las Cruces, tomorrow
23 at 9:00 a.m.

24 You're all encouraged to come as well. Any
25 rules adopted by the Secretary of State's Office will be

1 filed with the State Records and Archive Center in
2 accordance with the State Rules Act. Any rules adopted
3 may be postponed for future discussion in a definite
4 future in time.

5 I would like to thank you all for your
6 public participation here today. And let the record
7 reflect that the hearing was adjourned at 10:25 a.m. on
8 July 18th, 2017. Thank you.

9 (Hearing concluded at 10:25 a.m.)

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