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August 27, 2021

Via Electronic Mail Only

cela@fec.gov

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20463

Re: ProgressNow AZ – Federal response in re RR 21L-57

Dear Ms. Dennis:

Barton Mendez Soto PLLC is ProgressNow AZ – Federal’s (the “Committee”) designated counsel in this matter. This response is brief for two reasons. First, while the Committee’s errors were not intentional, and the Committee has taken steps to prevent such errors from occurring in the future, the Committee does not deny that it missed the reports listed in the Commission’s notice letter of August 16, 2021. Second, the Committee has already provided the Commission both its explanation for what happened and its steps to prevent it from happening again in the Committee’s response to the Requests for Additional Information associated with each missed report.

The Committee Accepts Responsibility and Has Taken Corrective Action

The Committee acknowledges that it failed to timely file five (5) 48-Hour Reports totaling \$509,223.45 to support nine (9) independent expenditures disclosed on the 2020 October Quarterly Report, failed to file two (2) 48-Hour Reports totaling \$125,220.00 to support two (2) independent expenditures disclosed on the 2020 12-Day Pre-General Report, and failed to timely file one (1) 48-Hour Report totaling \$120,000.00 to support one (1) independent expenditure disclosed on the 2020 Year-End Report, made up to and including the 20th day before the 2020 General Election.

As is clear from the communications between the Reports Analyst Division and then Committee Treasurer Mary Chlan detailed in the RAD Referral, especially on pages 1-2, the Committee’s Treasurer was attempting to comply with the mandatory reporting requirements,

but was unable to keep up with the required reports. The Committee provided the following, in part, to the Commission on March 26, 2021:

Affirmative Corrective Action. The Committee has retained an outside campaign finance compliance firm to track future expenditures. The Committee is also in the process of licensing third-party software that will allow for better tracking of expenditures due to more robust book keeping features.

. . . The Committee accepts responsibility for the filing errors and omissions in 2020, is confident that the steps described in this paragraph will prevent future infractions, and hopes the Commission will take these into consideration in addressing the matter”

A few weeks later on May 5, 2021, with its professional consultants firmly in place, the Committee further clarified:

The amended Pre-General Report filed on May 5, 2021 now accurately reflects the MEMO Schedule E for the \$120,000 Independent Expenditure Supporting Joseph Biden. - The Committee has retained an outside campaign finance compliance firm to track future expenditures. In addition, they have performed an internal audit of the Committee books and have filed amendments to all reports for 2020 to correct and properly disclose all contributions and expenditures for the regularly scheduled campaign finance reports. The Committee has also subscribed to third-party filing software that will allow for better tracking of expenditures due to more robust book keeping features.

The Commission should be aware that in addition to obtaining professional campaign finance consultants who have provided these services to numerous campaigns and committees for decades across the country, and obtain third-party software that will assist in tracking and cross-checking reports, the Committee can report that its former Treasurer has no part in, and will not have any part in the future in, campaign finance reporting, or any aspect of the Committee’s bookkeeping or recordkeeping.

The Timing Created A Potential Misperception of Excessive Neglect

On at least two occasions, as quoted in the RAD Referral, the Committee noted the unfortunate timing associated with the issuance of Requests For Additional Information and missed reports. The Committee’s responses have explained that “[u]nfortunately, due to the pace of campaigns and the time to review filings, once it realized that its internal system[s] were inadequate to comply with FEC reporting guidelines, it had already committed a number of violations.” More specifically, the first RFAI related to a missed 24- or 48-hour report was issued on October 22, detailing nine independent expenditures for which the appropriate 24- or

48- hour reports had not been made. Importantly, at this point the 12-Day Pre-General Election Report, which would later be the subject of another RFAI issued on December 3, 2020, had also already been filed. That is, while the discrepancy would not give rise to a citation for some time, they had actually occurred prior to the Commission's issuing its October 22 RFAI.

The Committee offers this timeline to ensure that the Commission does not view the number of failures to file as an indication of willful neglect. To the contrary, the current Treasurer was frequently on the phone with her RAD Analyst, but failed to realize the scope of her deficiencies until the deed was done.

Conclusion

The Committee accepts full responsibility for its failures and has made substantial staff and infrastructure changes to prevent future mistakes. While the errors are undeniable, and the Committee does not deny them, it hopes the Commission will take into consideration the sincere effort to comply demonstrated by the Committee even prior to obtaining the assistance of more experienced and qualified professionals.

Respectfully submitted,

A handwritten signature in black ink that reads "James E. Barton II". The signature is written in a cursive style with a large, stylized initial 'J'.

James E. Barton II