STATECRAFT
LAW • GOVERNMENT • CRISIS MANAGEMENT

THOMAS BASILE
Attorney
(602) 382-4066
tom@statecraftlaw.com

June 12, 2026

Thomas Collins
Executive Director, Arizona Citizens Clean Elections Commission
1110 West Washington Street, Suite 250
Phoenix, Arizona 85007
ccec@azcleanelections.gov
VIA EMAIL ONLY

Re: MUR 26-04: Response to Complaint

Dear Mr. Collins:

This firm represents Fortify AZ (committee ID 102154), a political action committee registered with the Secretary of State, in connection with the above-referenced complaint, which alleges that Fortify AZ is a "covered person" within the meaning of A.R.S. § 16-971(7). The complainant could have saved himself much ink—and the Commission and Fortify AZ much time—if he had reviewed the Commission's Advisory Opinion 2023-01 before churning out his prolix product. The disbursements upon which the complaint is premised—to wit, costs associated with the printing and circulation of initiative petitions—are not "campaign media spending." If those expenses are properly excluded, there inarguably is no evidence that Fortify AZ has sponsored more than $50,000 in campaign media spending during this election cycle.

FACTUAL BACKGROUND

Fortify AZ is the sponsor of the Arizona Empowerment Scholarship Accounts Reform and Accountability Act, which the Secretary of State has assigned the serial number I-10-2026 (the "Initiative"). As the complaint recounts, Fortify AZ's Q1 2026 campaign finance report, which was timely filed with the Secretary of State, disclosed three disbursements: (1) two payments to AZ Petition Partners, totaling $1,250,000; and (2) one payment to Marson Media for $7,000.

Fortify AZ has engaged AZ Petition Partners to obtain petition signatures in support of the Initiative. The above-referenced disbursements represent remuneration to AZ Petition Partners for strategic advice on ballot access and for the printing and circulation of petition sheets (to include compensation paid to AZ Petition Partners' circulator subcontractors). AZ Petition Partners has not provided or participated in any way in the development or formulation of "public communications," such as mailers, digital advertising, TV or radio advertising, etc., in connection with the Initiative.

The disbursement to Marson Media represents a retainer for public relations and media consulting advice. These services did not pertain specifically or solely to public communications that promote, attack, support, or oppose any identified ballot measure.

DISCUSSION

An entity becomes a "covered person" when its total "campaign media spending" for the election cycle exceeds $50,000 in connection with statewide ballot measure campaigns. A.R.S. § 16-971(7). "Campaign media spending" is defined, in relevant part, as disbursements for "a public communication that promotes, supports, attacks, or opposes the qualification or approval of any state or local initiative or referendum." *Id.* § 16-971(2)(iv). A "public communication" is "a paid communication to the public by means of broadcast, cable, satellite, internet or another digital method, newspaper, magazine, outdoor advertising facility, mass mailing or another mass distribution, telephone bank or any other form of general public political advertising or marketing, regardless of medium." *Id.* § 16-971(17).

A. Disbursements to AZ Petition Partners

Fortify AZ's payments to AZ Petition Partners were entirely unrelated to any "public communication," and thus are not "campaign media spending." The Commission expressly held in Advisory Opinion 2023-01 that "[e]xpenses related only to the collection of ballot measure petition signatures," including the printing of petition sheets, the recruitment and training of circulators, circulators' wages, and quality control processes, do not themselves constitute "campaign media spending."[1]

AZ Petition Partners' services fall squarely within this ambit. As noted above, Fortify AZ's disbursements to AZ Petition Partners represent compensation for advice on ballot access matters, developing and implementing a strategic plan to qualify the Initiative for the ballot, and out-of-pocket costs associated with those objectives, such as the printing of petition sheets and wages paid to petition circulators. None of these services and activities either constitutes or pertains to "public communications," as defined in A.R.S. § 16-971(17) and Advisory Opinion 2023-01. It follows that the associated expenditures do not qualify as "campaign media spending" under A.R.S. § 16-971(2)(iv).

Because the disbursements to AZ Petition Partners are "indistinguishable in all [their] material aspects from the transaction or activity" upon which Advisory Opinion 2023-01 was predicated, Fortify AZ is entitled to rely upon that pronouncement as an absolute defense to this enforcement proceeding. Ariz. Admin. Code R2-20-208(C)(3). And even if the Commission were inclined to abrogate or materially narrow Advisory Opinion 2023-01, foundational due process principles of fair notice would prohibit the retroactive application of any such change in the Commission's regulatory position. *See Fed. Commc'ns. Comm'n. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (recognizing in the context of administrative agency enforcement actions "two connected but discrete due process concerns: first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way.").

[1] The Commission's rationale—*i.e.*, that canvassing and face-to-face advocacy activities are fundamentally different from the types of mass media efforts encapsulated in the definition of "public communication"—was subsequently buttressed by an advisory opinion of the Federal Election Commission, which likewise concluded that field activities are not "public communications" under the cognate federal statute. *See* FEC Adv. Op. 2024-01 (Texas Majority PAC).

B. Disbursement to Marson Media

According to the Commission's regulations, amounts expended for consulting services constitute campaign media spending only if such services "are specifically conducted in preparation for or in conjunction with" activities that are themselves campaign media spending. Ariz. Admin. Code R2-20-801(B); *see also* CCEC Adv. Op. 2024-01.

Marson Media provides Fortify AZ with wide-ranging and multifaceted strategic advice on media relations. To date, Marson Media's services have not been "specifically conducted in preparation for or in conjunction with" public communications that promote, attack, support, or oppose the qualification or passage of any identified ballot measure. Accordingly, Fortify AZ's payment of a retainer to Marson Media was not "campaign media spending." And even if it were, that $7,000 disbursement does not even remotely approach the $50,000 "campaign media spending" threshold that is a condition precedent to "covered person" status.

***

For these reasons, Fortify AZ is not a "covered person," and the complaint's associated allegations of ostensible disclosure violations—all of which are contingent upon and derivative of "covered person" status, *see* A.R.S. § 16-973—are inviable. The Commission accordingly should dismiss the complaint without further action. Please do not hesitate to contact me if you require any additional information.

Respectfully,

/s/ Thomas Basile
Thomas Basile

State of Arizona)
) ss.
County of Maricopa)

I, Grant Hanna, being first duly sworn upon oath, deposes and says that I have read the foregoing response to the complaint in MUR 26-04, and the factual statements and representations contained therein are true and correct.

Signature

Subscribed and sworn to before me this 12th day of June, 2026.

CARLYN COVEY
Notary Public - Arizona
MARICOPA COUNTY
Commission # 679645
Expires January 30, 2029

Carlyn Covey #679645
Notary Public

My Commission Expires:
January 30, 2029