



New Mexico
Office of the Secretary of State
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2020 Campaign Finance Random Examination Report

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Introduction

The New Mexico Campaign Reporting Act (CRA) [NMSA 1978, §1-19-25 to §1-19-36 (2021)] requires the Office of the New Mexico Secretary of State (SOS) “to conduct a thorough examination of at least ten percent” (10%) of the campaign reports filed during the campaign reporting year following each general election. *See* §1-19-32.1 NMSA 1978.

The purpose of this examination is to review a sample of random reports to ensure that candidate campaigns or political committees have complied with provisions of the CRA to ensure both accountability and integrity to the public. This examination also aids the office in determining areas in which additional training may be needed regarding the CRA. This report is an explanation of the process and findings of the examination conducted by the SOS after the 2020 General Election.

The review process included an examination of all reports filed during the 2020 calendar year for 100 randomly selected candidates and political committees. Out of the one hundred (100) reporting entities reviewed, the SOS identified thirty (30) with one or more potential violations, errors, or discrepancies on their campaign reports and nine (9) filers with outstanding reports or late filing penalties. An additional ten (10) filers, who were otherwise not included in the randomized list, were identified as having a violation, error, or discrepancy based upon a cross reference to reports included on the random listing. This resulted in a total of forty-nine (49) inquiry letters being sent to candidates and political committees requesting additional explanation or corrective action.

The SOS is responsible for the education and administration efforts of the CRA and is charged to “at all times seek to ensure voluntary compliance with the provisions of the CRA.” *See* Section 1-19-34.4(C) NMSA 1978. Therefore, all 49 reporting entities were afforded an opportunity to provide information or corrective action to resolve any perceived violations, errors, omissions, or discrepancies.

Based upon passage of House Bill 244 during the 2021 regular legislative session, the SOS is required to prepare an annual report of any unresolved discrepancies and transmit the report to the State Ethics Commission (SEC) and the Attorney General (AG) for enforcement. As of the date of this publication, ten (10) unresolved discrepancies are being forwarded as further described in the body of this report. An additional six (6) filers with unresolved discrepancies continue to seek voluntary compliance and work with the SOS to resolve their discrepancies.

Random Report Selection and Report Review Process

To determine which reports would be reviewed, and pursuant to Section 1-19.32.1(A), a randomly selected list¹ of 100 candidates and political committees was generated, utilizing a

¹ See Appendix A for complete list of campaign reporting accounts identified and reviewed via the process described in this report.

random selection audit report available within the SOS's Campaign Finance Information System (CFIS) software.²

The system randomly selects reporting entities and attempts to identify potential violations following system established business rules. SOS staff then reviewed all reports submitted for the 2020 calendar year by the candidates and political committees included in the randomly generated list to identify potential violations, errors, omissions, or discrepancies as further described below.

In August 2020, prior to the 2020 First General Report or 2020 Second Biannual Report deadline, the SOS implemented a new electronic reporting system which includes some automated compliance features not available in the old system. These features are meant to aid filers with filing accurate reports as well as improving auditing features to aid the SOS with identifying potential report violations.

All filers have access to a home screen or "campaign dashboard" inside the new CFIS. This dashboard provides filers with information regarding potential violations prompting the filer to take corrective action. The dashboard also provides filers with a list of political contributions reported by other reporting entities in CFIS for cross-check purposes.

The system has some ability to cross-check reports and determine if another reporting individual made a contribution not reported by the recipient. While this automation can aid in the report examination process, SOS staff must complete a manual review of reports to confirm findings and to identify compliance issues that may not have surfaced in the system aided review.

During the 2020 election cycle, the 2020 primary election reports were filed in the legacy system and the 2020 general election reports were filed in the new CFIS. Therefore, the more advanced compliance features were only available for the general election reports. All primary reports were subject to a manual review only, based upon the random list generated in the new system.

The results outlined below are a result of the thorough examination conducted by the SOS following the 2020 General Election. Pursuant to Section 1-19-32.1(A), the SOS must notify potential violators of the CRA that a possible discrepancy has been found in their report(s) and allow the individuals or entities to file a written explanation for the discrepancy within ten (10) working days of the notice.

Often, further communication occurs between the SOS and the filer to assist the filer in taking the appropriate corrective action to resolve the discrepancy. The SOS is charged to "at all times seek to ensure voluntary compliance with the provisions of the Campaign Reporting Act."

² CFIS "Random Selection Audit Report" Generator was used to create a report of 10% of the entities that filed reports in 2020. The report requires the user to set 1) the percentage of reports, 2) the year, and 3) the violations to review.

Therefore, if a discrepancy can be cured and a reporting entity is actively engaged in a cure with the SOS, the SOS will not refer the entity for civil enforcement.

The SOS then prepares an annual report including any unresolved discrepancies to be transmitted to the SEC and AG for further review and enforcement pursuant to the civil and criminal penalties of the CRA. Items forwarded as an unresolved discrepancy may or may not result in a finding of violation of the CRA. Unresolved discrepancies include individuals who did not respond to our initial inquiry or issues that otherwise require further investigation by one of the enforcement agencies to determine whether a violation has occurred.

Report Discrepancy Details

Appendix A includes reporting entities that were sent a letter based upon the SOS identifying a potential discrepancy on one or more reports filed during the 2020 calendar year.

In accordance with 1.10.13.30(B) NMAC, areas of review during the report examination include:

- (1) Campaign committees or political committees who fail to register or fail to register timely;
- (2) Contributions, including loans and anonymous contributions, which exceed allowable contribution limits;
- (3) Expenditures that may not be permissible; and
- (4) To the extent possible, cross checking with other reporting entities including those filing under the Lobbyist Regulation Act.

Additionally, the SOS identified other discrepancies associated with incomplete reports pursuant to Section 1-19-31 NMSA 1978, such as missing occupation or incomplete reporting of reimbursements for using personal accounts by candidates to make campaign expenditures, or otherwise not disclosing the original donor of a contribution.

The report examination process resulted in inquiry letters being sent out requesting written explanation and corrective action based on the SOS identifying a potential discrepancy during the report examination process. A summary of findings and outcomes is included in the table below:

Discrepancy Type	Identified	Resolved	Outstanding
(1) Failure to register or register timely	2	1	1

Discrepancy Type	Identified	Resolved	Outstanding
(2) Excess Contributions	5	4	1 – filer is working with SOS to resolve
(3) Impermissible Expenditures	4	2	2 – One filer is working with SOS to resolve; the other is being referred
(4) Contribution Crosscheck ³	12	11	1
(5) Other – Incomplete reporting ⁴	15	14	1 – appears to be double reporting error
(6) Other – failure to disclose originating donor	3	2	1

Outstanding Fines & Reports

All candidates and political committees on the randomly generated list were also reviewed for reporting compliance and outstanding penalties for filing late reports.

In accordance with 1.10.1.15 NMAC, the following steps are taken for each reporting entity who fails to timely file a report in CFIS:

1. A notice is sent to the candidate and the candidate’s treasurer or the PAC treasurer via email and USPS mail the day after a report deadline.
2. The letter provides ten (10) business days from the date of the notice for the filer to file and submit a written explanation indicating why the report was not timely filed.

³ Crosscheck included filers who reported an in-kind donation but, upon inquiry, recipient indicated they were unaware of the in-kind donation, so the discrepancy was cleared.

⁴ Incomplete reporting includes filers who failed to provide occupation or business type of donor where required or filers who incompletely reported reimbursements from a campaign to a personal account.

3. After the timeframe provided in the initial notice, if a filer still has not filed a report, a notice of final action is issued by the SOS requiring payment of the statutorily set fine of \$50 per day up to the maximum fine of \$5,000 per report.

Additionally, to allow filers maximum opportunity to acclimate to the new CFIS, an extended grace period was afforded to filers filing 2020 general reports. This allowed the opportunity for filers to request assistance and otherwise work with the SOS to file reports before issuance of a final action instituting a fine.

Appendix A includes nine (9) reporting entities on the randomly generated list that were identified during the review as having outstanding reports and/or outstanding fines caused by late filing of reports in election year 2020 or prior.

As part of the review process, seven (7) of the individuals were identified as prior candidates with existing and open campaign accounts. These individuals were sent a notice offering that the SOS would consider petitioning the court to remit the outstanding fines pursuant to Section 1-19-36(D)⁵ NMSA 1978, if the entities in question filed a final report expending any remaining account balance and attest that the campaign bank account had been closed, and that no campaign debt continued to exist within ten (10) working days. Filing a final report effectively ends the entity's filing obligation with the SOS.

Two of the reporting entities identified to have outstanding fines during the review are political action committees. The treasurers of these two organizations were sent a notice offering that the SOS would consider petitioning the court to remit the outstanding fines pursuant to Section 1-19-36(D), if the treasurers attend a training on the CRA and sign an acknowledgement of responsibility pursuant to Section 1-19-26.5 NMSA 1978.

A summary of the outcome of this effort is shown in the table below:

Filer Type	Outstanding Reports or Fines	Resolution in Process	Outstanding
Candidate Accounts	7	2	5 – Referred to the SEC
PAC Accounts	2	2	0

Reporting entities identified as “resolution in process” in this table are actively working with the SOS to comply with the most recent notice and the SOS intends to petition the court pursuant to Section 1-19-36(D) to have outstanding fines waived for good cause. If the entities disengage or

⁵ This option was recently added to the CRA due to the passage of HB244 during the 2021 special session.

the courts do not ultimately grant the request of the petition, these individuals may be referred to the SEC at a later date.

Referrals

As part of the report examination process, the SOS was unable to resolve ten (10) discrepancies which are being referred to the SEC and AG. An additional six (6) filers with unresolved discrepancies continue to seek voluntary compliance with the SOS and are not being referred at this time.

As a result of the 2021 passage of House Bill 244, Section 1-19-32.1 was amended such that the SOS is required to prepare an annual report that includes any unresolved discrepancies after examination of a random sample of reports. This final report is transmitted to the SEC and AG for possible civil and criminal enforcement pursuant to the provisions outlined in Sections 1-19-34.6 and 1-19-36 NMSA 1978.

In all cases, the SOS provided the opportunity for filers to provide an explanation and corrective action to resolve the discrepancy prior to being referred. If a reporting entity fails to resolve the discrepancy, the filer is referred which may or may not ultimately result in a finding or penalty as determined by the SEC or AG.

Conclusion

In keeping with the Secretary of State's desire to ensure the public is informed about the public accountability activities conducted by the office, and to ensure transparency in its processes and findings, this report has been made public pursuant to Section 1-19-32.1(B).

For further information about the Secretary of State's Office, its constitutional and statutory mandates, and the requirements of candidates, campaigns, and political committees pursuant to the Campaign Reporting Act, please visit our website at <http://www.sos.state.nm.us>.

Appendix A – 2020 Campaign Finance Report Examination - Master List

See attached spreadsheet

Candidate/Committee Name	Report Review or Cross Reference	Discrepancy/ Fines/Both	Discrepancy Detail	Outstanding fines as of Sept 2020	Discrepancy Resolved
Adair, Rod	Report Review	No			N/A
Aguayo, Susan	Report Review	No			N/A
Ahkee-Caczkiewicz, Leah Michelle	Report Review	Discrepancy	missing occupations; missing contributions		Yes
Alcon, Eliseo	Report Review	Discrepancy	expenditures may not be permissible; missing business type		Yes
Alcorn, Marilyn Jean	Report Review	No			N/A
Allen, Merritt	Report Review	No			N/A
Ashley, Tim L	Report Review	No			N/A
Astorga, Oscar	Report Review	No			N/A
Barela-Shepherd, Denise	Report Review	No			N/A
Begay, Edwin	Report Review	No			N/A
Bizzell, Joseph	Report Review	Discrepancy	expenditures may not be permissible; used campagin funds to pay late filing fine		No - Filer working w SOS to resolve discrepancy
Brown, Cathrynn	Report Review	Discrepancy	missing occupation		Yes
Brown, Randal	Report Review	Discrepancy	missing occupation		Yes
Browne, Harry	Report Review	Discrepancy	missing occupation		Yes
Cadena, Micaela Lara	Report Review	No			N/A
Carrillo, Steven	Report Review	Discrepancy	missing occupation; inaccurate filing of ActBlue contribution		Yes
Cases, Darryl D.	Report Review	No			N/A
Castrillo, Marisa	Report Review	No			N/A
Cates, Roy Isaac	Report Review	No			N/A
Chapman, Donald	Report Review	No			N/A
Chavez, Michael	Report Review	No			N/A
Chick, Cameron	Report Review	Fines	has not filed reports since 2018; has \$0 account balance but with unfiled (pending) contributions	\$27,400	No - Refer to SEC
Crowder, Randal	Report Review	Discrepancy	incomplete expenditure reporting (reimbursements to self)		Yes
Cummins, E Tim	Report Review	Discrepancy	missing contribution		No - Refer to SEC
Dana, Dara	Report Review	No			N/A
Ely, Daymon B	Report Review	No			N/A
Ezell, Candy	Report Review	Discrepancy	missing business type		Yes
Fletcher, Ian	Report Review	No			N/A
Garcia, Harry	Report Review	Discrepancy	missing occupation		Yes
George, Zachariah	Report Review	Fines	outstanding 2019 arbitration order issued for \$800; has outstanding reports/fines for 2020 with \$78 account balance	\$11,400	No - Refer to SEC/SOS to petition court to collect on Arbitration Order
Gresham, Patsy	Report Review	No			N/A
Griego, Phil	Report Review	Fines	outstanding fines; \$41,796.08 account balance	\$17,900	No - Refer to SEC
Hernandez, Daniel	Report Review	No - school board candidate			N/A
Homer, Andrew	Report Review	Fines	2018 candidate; outstanding finnes/2021 1st biannual; \$7.83 account balance	\$5,000	No - Refer to SEC
Ivey-Soto, Daniel	Report Review	Discrepancy	missing contribution		Yes
Kiesling, Clayton	Report Review	No			N/A
Lassiter, Roland "Skeater" R	Report Review	No			N/A
Long, Charley	Report Review	No			N/A
Lopez, Linda	Report Review	Discrepancy	expenditures may not be permissible		Yes

Candidate/Committee Name	Report Review or Cross Reference	Discrepancy/ Fines/Both	Discrepancy Detail	Outstanding fines as of Sept 2020	Discrepancy Resolved
Lujan, Tara	Report Review	Discrepancy	missing contributions		Yes
Martinez, Gus	Report Review	No			N/A
Martinez, Phyllis	Report Review	No - school board candidate			N/A
Mcdaniel, Ben L	Report Review	No			N/A
Medina, Kenneth	Report Review	No			N/A
Miranda, Rubena	Report Review	No			N/A
Mora, Anthony	Report Review	No			N/A
Morrison, Timothy	Report Review	Fines	2018 candidate; outstanding reports/fiine; \$100 account balance	\$18,400	No - Refer to SEC
Nicotine, Natalie	Report Review	No - school board candidate			N/A
O'Malley, M Debbie	Report Review	Discrepancy	missing contribution		Yes
Padilla, Michael	Report Review	Discrepancy	exceed contribution limit		Yes
Payne, William	Report Review	No			
Pyskoty, Charlene	Report Review	Discrepancy	missing contribution		Yes
Ramos, Gabriel J	Report Review	Discrepancy	expenditures may not be permissible		No - Refer to SEC
Rausch, Sandra	Report Review	Both	incomplete expenditure reporting (reimbursements to self); 2020 candidate - outstanding fines	\$1,300	No - Filer working w SOS to resolve discrepancy
Rivera, Jose	Report Review	No			N/A
Rodriguez, Nancy	Report Review	Discrepancy	missing contribution		Yes
Romero, Andrea	Report Review	No			
Romo, Paloma G	Report Review	Fines	2020 candidate - outstanding fines; \$999 account balance	\$7,500	No - Filer working w SOS to resolve discrepancy
Sanchez, Manuel	Report Review	No			N/A
Santistevan, Paula Marie	Report Review	No			N/A
Sedillo Lopez, Antoinette	Report Review	No			N/A
Serrano, Robert E "Bubba"	Report Review	No			N/A
Sloan, Jacqueline Katherine	Report Review	No			N/A
Toulouse Oliver, Maggie	Report Review	No			N/A
Trujillo, Pablo	Report Review	No			N/A
White, Ellen	Report Review	No			N/A
A Prosperous NM PAC	Report Review	No			N/A
ActBlue New Mexico	Report Review	No			N/A
Apartment Assoc. of New Mexico Political Action Committee	Report Review	Discrepancy	excess contribution/failure to disclose donor		Yes
Associated Contractors of New Mexico	Report Review	No			N/A
Cibola County Democratic Party	Report Review	No			N/A
Colfax County Democratic Central Committee	Report Review	No			N/A
Committee to Elect Senate Democrats	Report Review	No			N/A
Conservation Voters of New Mexico	Report Review	Discrepancy	requested beneficiary of in-kind contributions for cross check		Yes
Courage to Serve PAC	Report Review	No			N/A
Create Jobs Dona Ana	Report Review	No			N/A
Curry County Republican Party	Report Review	Discrepancy	incomplete or excess anonymous contributions; possible contribution from unregistered PAC - Curry County Republican Women		No - Filer working w SOS to resolve discrepancy
Democratic Party of Roosevelt County	Report Review	No			N/A

Candidate/Committee Name	Report Review or Cross Reference	Discrepancy/ Fines/Both	Discrepancy Detail	Outstanding fines as of Sept 2020	Discrepancy Resolved
Enchantment PAC	Report Review	Discrepancy	incomplete reporting of independent expenditure		Yes
Espa Fire PAC	Report Review	No			N/A
Justice for America	Report Review	Fines	outstanding fines (2019 report filed late)	\$5,000	No - Filer working w SOS to resolve discrepancy
Keep Our Freedom New Mexico	Report Review	No			N/A
Lea County Federated Republican Women	Report Review	Discrepancy	in-kind expenditure not reported by C. Diamond (resolved); Disclosure of original donor (mention of "operating account" transfer)		No - Refer to SEC
Legacy PAC	Report Review	Discrepancy	incomplete reporting of independent expenditure		Yes
New Mexicans for Working Families	Report Review	No			N/A
New Mexico House Democratic Campaign Committee	Report Review	No			N/A
New Mexico Medical Political Action Committee	Report Review	Discrepancy	reported donation to Lujan not reported by Lujan (check not cashed)		Yes
NM Future PAC	Report Review	No			N/A
NM Senate Majority Leadership Fund	Report Review	No			N/A
NMACEP PAC	Report Review	No			N/A
NMHA Health PAC	Report Review	No			N/A
NMHRCC-New Mexico House Republican Campaign Committee	Report Review	No			N/A
People for Las Cruces PAC	Report Review	No			N/A
Planned Parenthood Voters New Mexico Coordinated Committee	Report Review	Discrepancy	excess contributions; coordinated contributions not reported by all beneficiary candidates		Yes
Progress New Mexico	Report Review	No			N/A
Reform Sandoval County PAC	Report Review	No			N/A
Sierra County Democratic Party	Report Review	Both	incomplete or excess anonymous contributions; incomplete reporting of in-kind contributions; incomplete reporting of expenditures (resolved); outstanding fines (2020 Second Primary Report filed late)	\$700	No - Fine outstanding/filer working w SOS to resolve discrepancy
Teamsters Local 492 PAC	Report Review	Discrepancy	incomplete reporting of contributions		Yes
The Committee for Promoting Healthcare in McKinley County	Report Review	No			N/A
Women for New Mexico	Report Review	No			N/A
Dallago, David	Cross Reference Review - Conservation Voters of New Mexico	Discrepancy	failure to report in-kind contribution		Yes
Diamond, Crystal	Cross Reference Review - Lea County Federated Republican Women	Discrepancy	failure to report in-kind contribution		Yes
Talbert, Lonnie	Cross Reference Review - T. Cummins	Discrepancy	reported donation to Cummins not reported by Cummins		Yes
Varela, Lucky (via Jeff Varela)	Cross Reference Review - N. Rodriguez	Discrepancy	double reported a contribution to N. Rodriguez - once from PAC; once from campaign account		No - Refer to SEC

Candidate/Committee Name	Report Review or Cross Reference	Discrepancy/ Fines/Both	Discrepancy Detail	Outstanding fines as of Sept 2020	Discrepancy Resolved
Pinto, Shannon	Cross Reference Review - Planned Parenthood Voters New Mexico Coordinated Committee	Discrepancy	failure to report in-kind contribution		Yes
Soules, William	Cross Reference Review - Planned Parenthood Voters New Mexico Coordinated Committee	Discrepancy	failure to report in-kind contribution		Yes
Martinez, Rodolpho	Cross Reference Review - Planned Parenthood Voters New Mexico Coordinated Committee	Discrepancy	failure to report in-kind contribution		Yes
Curry County Republican Women	Cross Reference Review - Curry County Republican Party	Discrepancy	donated to Curry County Republican Party - Failure to register as PAC		No - Refer to SEC
Lea County Federated Republican Committee	Cross Reference Review - Lea County Federated Republican Women	Discrepancy	failure to register as PAC		Yes
Zia 52	Cross Reference Review - T. Lujan	Discrepancy	reported donation to Lujan not reported by Lujan (check not cashed)		Yes