

AZPIA REPLY TO RESPONDENT'S AUGUST 7 SUBMISSION

ARIZONA PUBLIC INTEGRITY ALLIANCE

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August 12, 2026

Submitted Via Electronic Mail

Thomas M. Collins, Executive Director

Citizens Clean Elections Commission

1110 W. Washington St., Suite 250

Phoenix, Arizona 85007

RE: AZPIA Complaint of August 3, 2026 (as supplemented August 8, 2026) — Second Supplement and Memorandum Responding to Respondent's August 7, 2026 Submission in MUR-26-06

Dear Director Collins and Members of the Commission:

Respondent's August 7, 2026 submission in MUR-26-06 responds to Ms. Everett's complaint, but the legal theory it advances reaches the same sign program at the center of AZPIA's own pending complaint, and its concluding request — dismissal and release of \$370,000 in public funds — would resolve issues raised in both matters. AZPIA therefore submits this memorandum in further support of its complaint and for the Commission's consideration in MUR-26-06.

Respondent asks the Commission to dismiss, and to release \$370,000 in public funds, on the theory that a statewide sign deployment was a vendor "extension of credit" that is "neither a contribution ... nor an expenditure ... until such time as payment is made." The theory rests on a single misunderstanding, so AZPIA begins with the rules that govern it — because once they are stated, the rest follows.

I. THREE RULES DECIDE THIS MATTER

Rule 1 — Spending happens when the campaign obligates itself, not when it pays. "An expenditure or disbursement is deemed made either on the date the committee **authorizes the monies to be spent** or the date the monies are withdrawn from the committee's account." A.R.S. § 16-926(C)(2). The Commission's rules say the same thing for participating candidates: an expenditure is made "as of the date upon which the candidate or campaign **promises, agrees, contracts or otherwise incurs an obligation to pay** for goods or services," R2-20-110(A)(5), and an extension of credit must be reported "**as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made,**" R2-20-110(B)(1). This is how spending works everywhere: a purchase on a credit card is spending when the card is swiped, not when the statement is paid. No one's December shopping happens in January because that is when the bill came due.

Rule 2 — Payment is not the reporting trigger; the obligation is — and even unpaid credit is itself a mandatory line item. Every campaign finance report must itemize

"[e]xtensions of credit that remain outstanding, including identification of the creditor and the purpose of the extension." A.R.S. § 16-926(B)(2)(a)(xiv). The statute does not wait for repayment; it requires the *outstanding* obligation to appear, each period, on a report the treasurer certifies "under penalty of perjury." § 16-926(B)(5). Repayment triggers nothing. The obligation triggers everything.

Rule 3 — The spending limits measure the campaign the voters saw, not the checkbook. "Notwithstanding any law to the contrary, a participating candidate ... [s]hall not make expenditures **in the primary election period** in excess of the adjusted primary election spending limit." A.R.S. § 16-941(A)(3). Because an expenditure is "made" at the obligation (Rule 1), goods ordered, received, and deployed during the capped period count against that period's cap — whatever the payment schedule. The source of funds changes nothing either: contributions are barred, § 16-941(A)(1); personal monies are capped at \$1,000, § 16-941(A)(2); loans are contributions to the extent outstanding, § 16-901(11)(d); and the Commission's own Candidate Guide instructs that a participating candidate "may not make expenditures in excess of the cash on hand." Borrowed, credited, contributed, or personal — the Act caps the *spending*, and each source carries its own separate prohibition besides.

Respondent's contrary rule — that credit purchases are invisible until paid — would repeal the spending limit in practice. A participating candidate could order every sign, mailer, and service of the campaign on net-180 terms, deploy all of it inside the capped primary period, win, and "make" the expenditures whenever payment suited him: after the primary, after certification, after the general. The adjusted primary spending limit would measure nothing but the candidate's patience with his creditors. Voters did not enact a spending limit that can be evaded with an invoice date — and the Act operates "[n]otwithstanding any law to the contrary," § 16-941(A), as a voter-protected initiative the Legislature's 2016 general-law exemptions cannot narrow. Ariz. Const. art. IV, pt. 1, § 1(6)(C).

II. UNDER THOSE RULES, RESPONDENT'S SUBMISSION IS A SET OF ADMISSIONS

Respondent's letter and affidavit establish: the campaign placed the sign order in late April 2026 — during the qualifying period, before the primary election period opened on or about May 19, 2026 (the nine-week period ending on the July 21, 2026 primary, § 16-961(B)(4)); the signs were delivered in late May; nothing was reported; and the obligation remains outstanding and unbilled today. Applying the rules:

1. **A reporting violation is admitted.** An outstanding extension of credit is a mandatory line item on every certified report. § 16-926(B)(2)(a)(xiv). Respondent concedes the obligation exists and concedes the reports omit it — his offer to amend "as a matter of form" is the admission. Penalties accrue under § 16-942(B) (\$300 per day for statewide candidates by statute; \$600 per day as adjusted by the Commission; doubled where the unreported amount exceeds ten percent of the adjusted spending limit) from the date disclosure was due, not from the date counsel offers it. The candidate's own conduct is consistent with the admission: as the Executive Director's July 20, 2026 Notice of Qualification and Withholding reflects, funding remains undisbursed because Mr. Heap has declined to submit the sworn statement affirming the accuracy of his reports that disbursement requires. R2-20-106(A). Faced with the choice between swearing to his reports and forgoing the funds, Mr. Heap chose a third course: on July 31, 2026 — ten days after winning a primary conducted on the program's terms — he asked to withdraw from the program entirely, a request the Commission unanimously denied on August 4. R2-20-108(A). His counsel's letter —

captioned "Dr. Heap's Reports Are Accurate" — offers argument in the place of the oath the candidate himself has twice declined to give.

2. **The expenditure was made in April, in the capped period.** Rule 1. The order was the authorization; the obligation arose then; R2-20-110(B)(1) required it reported then, in the full amount. The administrative-deference argument fails for want of a conflict: the rule restates § 16-926(C)(2). (*The Power of Fives*, an unpublished superior-court minute entry binding no one, concerned a rule said to expand a statutory definition; R2-20-110 expands nothing.)
3. **The account could not lawfully carry it.** A participating candidate must have "sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations." R2-20-110(A)(3)(b). The committee's account holds \$9,554.80. If the sign obligation exceeds that — as a statewide deployment of four-foot signs plainly suggests — the campaign incurred an obligation it could not lawfully incur, which is presumably why it appears on no report.

III. THE ARITHMETIC: THE CONDUCT OCCURRED IN THE WRONG PHASE FOR ANY OF IT TO BE LAWFUL

A participating candidate's campaign has phases, and each phase has its own money. (Dollar figures below are the Commission's current published 2026 amounts for Corporation Commission, azcleelections.gov, "How Clean Funding Works," accessed August 12, 2026; the qualification-timeline facts are drawn from the Commission's August 4, 2026 special meeting packet and transcript.)

Phase	What may be spent	Ceiling
Exploratory/qualifying period (through July 14, 2026)	Early contributions ($\leq$ \$220/person) plus personal monies	\$36,959 aggregate early + \$1,910 personal — and never more than cash on hand
Primary election period (nine weeks ending July 21, 2026, i.e., from about May 19)	Public primary funding disbursed at the period's start, plus any remaining early contributions	\$147,836 (adjusted primary spending limit)
General election period (after the primary)	Public general funding	\$221,754

Against that framework: **the signature operation (August 2025–March 2026) and the sign order (late April 2026) occurred entirely within the qualifying period.** The lawful spending capacity of the Heap campaign during that phase was not \$147,836 — that figure belongs to a nine-week window that had not yet opened and to public funds that were never disbursed. Its capacity was early contributions plus limited personal monies: **\$38,869 at the absolute theoretical maximum**, and in fact far less — the committee's total reported receipts for the entire campaign are **\$19,136.30**, and the Commission's rules forbid expenditures beyond cash on hand and require funds in the account sufficient to cover an expenditure when made. R2-20-110(A)(3)(b).

Now the amounts. AZPIA's August 8 supplement documented, from the same vendors' own client pricing, that the fair market value of the signature operation alone is **\$28,791 to \$77,933, most likely about \$66,326** — roughly **3.5 times the committee's total lifetime receipts** at the median, and 1.8 times the § 16-942(C) disqualification threshold of **\$36,959** (ten percent of the combined adjusted limits), before counting a single sign. The sign obligation's amount is known to Respondent and concealed from the Commission: the affidavit states no figure. The Commission need not take AZPIA's estimates on faith; it need only compel the invoice and the petition-operation records, add, and compare the sum to the qualifying-period capacity actually available, and to \$36,959. The existing record already answers both comparisons; the invoice will answer them precisely.

Nor can Respondent rescue the spending by stacking it against the \$147,836 primary limit. That argument fails three ways. *First*, the expenditures were made — the obligations incurred — before the primary period opened (Rule 1); the primary limit does not reach back to authorize qualifying-period spending under a ceiling that did not yet apply. *Second*, the \$147,836 is not an allowance a candidate may spend against in the abstract: it is public funding, disbursed only to a candidate who has qualified, spendable only from the campaign account, and returnable within days of the primary if unspent. The Commission's own records fix the dates: Mr. Heap submitted his \$5 qualifying contributions in the first week of July 2026 and **did not qualify for funding until July 20, 2026 — the day before the primary** — whereupon the Executive Director the same day issued the Notice of Qualification and Withholding under R2-20-106(A) because Mr. Heap had not filed the sworn statement that his reports are complete and accurate. So when the sign order was placed in April, and throughout the signature drive and virtually the entire primary period, the campaign held no entitlement of any kind to public funds; the "repayment source" for the credit was a contingency that ripened one day before the primary and remains undisbursed. A spending *limit* is a ceiling, not spending power, and the cash-on-hand rule and R2-20-110(A)(3)(b) forbid spending money the account does not hold — let alone money the candidate had not yet qualified to receive. *Third*, consuming goods and services before or during the capped period against a promise to pay after public funds arrive is not compliance with the limit — it is the financing structure the Act's phases exist to prevent, and it is, in substance, the very "pay it back when you get your funding" arrangement a sitting Commissioner has publicly described being offered in 2022.

This is why the credit label decides nothing. If the obligation is an expenditure (Rules 1–3), it was made in the qualifying period, unreported, on an account that could not lawfully hold or cover it. If Respondent were somehow right that it is not yet an expenditure, then the campaign received and deployed tens of thousands of dollars of goods it has not paid for — value "provided without charge," which is an in-kind contribution, § 16-901(32), that a participating candidate may never accept, § 16-941(A)(1). And on Respondent's own reading, the deemed-contribution date arrives in late November 2026 — after the general election — at which point the campaign will have accepted a contribution the Act flatly bars, from a commercial vendor; if that vendor is a corporation, the contribution is one the Arizona Constitution independently prohibits, as Respondent's own brief acknowledges. Ariz. Const. art. XIV, § 18. Every path through Respondent's theory ends at a violation; the paths differ only in date.

IV. THE EXEMPTION'S ELEMENTS ARE NOT ESTABLISHED IN ANY EVENT

A point of clarity first: **AZPIA does not allege that Mesa Sign Shop or Mr. Torgeson violated any law.** As AZPIA's original Complaint stated, a print shop that sells signs at fair market value commits no violation and has no duty to police a candidate's compliance. The statute Respondent invokes says the same: even when unpaid credit converts at six months, "the committee is deemed to have received a contribution **but the creditor is not deemed to have made a contribution.**" §§ 16-911(B)(6)(d), 16-921(B)(4)(d). The duties at issue are the campaign's alone.

On the campaign's side, the exemption requires terms "substantially similar to extensions of credit to nonpolitical debtors that are of similar risk **and size of obligation**," plus a "commercially reasonable attempt to collect." The submitted record contains: **no amount** (so "similar size of obligation" cannot be assessed, nor compliance with the cash-on-hand rule); **no terms** — no contract (Aff. ¶ 4), no due date, no written payment window, and an invoice "prepared" but **not yet been sent** more than ten weeks after delivery (¶ 5); and **no identified orderer or obligor** — the affidavit never says who placed the order or who owes the debt (counsel's letter supplies it: "the

campaign placed an order," which concedes a campaign obligation and triggers Parts I–III). Whatever the reason, an obligation on which no demand has ever issued, with no written terms and no stated amount, cannot be found "substantially similar" to commercial credit; from the campaign's side it is indistinguishable from value received free of charge unless and until someone elects to collect.

Nor does the affidavit reach the conduct complained of. It describes the printing of one order, "made available for pickup." It says nothing about who transported and installed hundreds of four-foot signs across multiple counties — the major unreported cost the complaints identify — nothing about signs documented in the field relative to this order's timeline, nothing about earlier orders, and nothing about the signature-gathering operation in AZPIA's August 8 supplement. An affidavit about one print job cannot support dismissal of any complaint, still less the release of \$370,000.

V. THE QUESTION THE SUBMISSION RAISES: WHO STRUCTURED THIS

The arrangement has a shape: the campaign received and deployed the benefit during the capped primary period; no obligation appeared on any certified report; no invoice issued; and the statute's deemed-contribution date arrives only after the general election. A print shop does not design campaign-finance timing; candidates rarely do either. Someone decided how this purchase would be papered, when it would be billed, and that it need not be reported — the same categories of decision at issue in the sign-installation and petition operations described in AZPIA's supplement, for a campaign whose reports disclose **no consultant of any kind**. AZPIA does not allege who that was; it asks the Commission to find out. The Commission should compel the campaign to identify every person who advised it concerning the sign purchase, the financing or billing arrangement, or the position that the obligation was not reportable, and to produce the related communications — and should take the same evidence up through the examination AZPIA proposed in Sections III–IV of its supplement.

VI. REQUESTED ACTION

AZPIA respectfully requests that the Commission: (1) decline to dismiss, and treat the admitted omission of the outstanding extension of credit as a reporting violation accruing under § 16-942(B); (2) compel production of the sign order records — order date and orderer, artwork transmittal, quantity and invoice amount, the unsent invoice, pickup identity, and all arrangements for transport and installation, together with all Mesa Sign Shop orders for the committee in 2025–2026; (3) compel identification of every person who advised the campaign on the purchase, its financing or billing, or its reporting treatment, with the related communications; (4) determine the total of unreported expenditures and in-kind value received — sign obligation, installation, and the signature operation valued in AZPIA's supplement — and compare that total to the \$36,959 threshold of § 16-942(C) and the \$147,836 adjusted primary spending limit; and (5) continue withholding Clean Elections funding pending resolution of this matter and AZPIA's August 8 supplement.

Respectfully submitted,

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT BASED ON MY KNOWLEDGE, INFORMATION AND BELIEF.

Executed this ____ day of August, 2026.

Tyler Montague

Arizona Public Integrity Alliance

Sworn to and subscribed before me this ____ day of August, 2026.

Notary Public