



DAVID A. FITZGIBBONS III
DENIS M. FITZGIBBONS
DANIEL G. HARRINGTON
ANN F. SCHROOTEN
TINA L. VANNUCCI
EDWINUS M. VAN VIANEN
MURDOCK E. HOLLOWAY
NICHOLAS S. COOK
MICHAEL W. STARRETT
KEVIN P. FITZGIBBONS

DAVID A. FITZGIBBONS
(1930-1995)
E.D. McBRYDE
(1919-1998)
HOWARD H. KARMAN
(1926-2013)

MEMORANDUM

To: Chris Payne, Gilbert Town Attorney

From: Tina Vannucci 

Date: July 6, 2021

RE: Election Sign Investigation

EXECUTIVE SUMMARY

The Town of Gilbert (the “Town”) retained Fitzgibbons Law Offices, PLC to investigate a potential violation of campaign finance rules and regulations. The specific allegation included in the complaint filed by Matt Nielsen was that Tyler Montague (“Montague”) of the Public Integrity Alliance Committee (“Committee”) posted political signs without the required disclosures in violation of A.R.S. §16-925(A) (the “Complaint”). After reviewing the Complaint, the Phoenix City Clerk determined that reasonable cause exists that a violation of A.R.S. §16-925(A) may have occurred. Therefore, due to the conflict of interest of the Town Attorneys’ Office, the Complaint and determination were provided to our office to serve as the enforcement officer to investigate and make a final determination regarding the Complaint.

According to A.R.S. §16-925(A), “[a] person that makes an expenditure for an advertisement or fund-raising solicitation, other than an individual, shall include [certain] disclosures in the advertisement or solicitation...” Based on my investigation, as more specifically set forth below, because it cannot be established in what capacity Montague acted, I do not believe legal sufficiency exists to establish a violation of A.R.S. §16-925(A).

BACKGROUND

On November 11, 2020, the Town received a campaign finance report complaint from Matt Nielsen against the Public Integrity Alliance Committee. The Complaint stated that on November 2, 2020, Montague, acting on behalf of the Committee, placed numerous political signs without the disclosures required by A.R.S. §16-925(A). The Complaint included an investigative report from Arizona Investigative Associates, PLLC completed by investigator Justin Yentes (the “Report”).

According to the Report, Mr. Yentes observed several signs within the Town with verbiage against mayoral candidate Matt Nielsen which did not have the required statutory disclosures. Mr.

Yentes was advised that Doralise Liddell, a local resident, had seen the person placing the signs at issue. According to Liddell, the signs were knocked down two days previously but she didn't put them back up because they weren't properly stamped. On November 3, 2020, Liddell saw a man putting up more of these same signs and she took a photo of his license plate. Liddell started removing the signs because they didn't have the required disclosures when the man returned and told her she was committing a misdemeanor and she should not touch his signs. Yentes was able to identify the man as Montague from the license plate.

Gordon Ray, another Town resident, was made aware of the signs on November 2, 2020 and had retrieved several of them after confirming with a Town Code Enforcement employee that the signs were illegal. The Code Enforcement employee noted the Town would remove the signs as well but he could not say when the signs would be removed. Ray believed he removed about 46 signs from different polling locations in the Town.

After the Complaint was turned over to the City of Phoenix to determine whether reasonable cause of a violation exists, the City of Phoenix asked Montague for a response to the allegations. According to Montague's email, he noticed several of the signs described in the complaint laying on the ground while driving by the polling place at the Gilbert Recreation Center. He replaced four or five of these signs even though he did not originally place those signs. Montague noted that he witnessed Liddell remove those replaced signs and he notified her it was illegal to take down political signs without authorization.

Montague replied to the City of Phoenix as the President of the Committee. According to this response, the activities described in the Complaint were not an expenditure or operation of the Committee.

INVESTIGATION SUMMARY

After reviewing the Complaint and the information received by the City of Phoenix, I sent a subpoena to Americopy requesting any and all information related to the signs at issue in the Complaint and/or Tyler Montague or the Committee's purchase of these signs. A true and correct copy of this subpoena is attached hereto as Exhibit "A." In response to this subpoena, I received an email from Alan Heywood including two files related to the Complaint. A true and correct copy of this email and the attached files is attached hereto as Exhibit "B." The first was the artwork for the signs at issue in the Complaint and the second was an invoice showing that Montague purchased 90 of these signs in October 2020. According to Mr. Heywood, Montague ordered and paid for the signs with cash but he could not confirm who picked up the signs. Mr. Heywood also volunteered that the Committee paid for signs supporting Brigitte Peterson around this same time.

I also sent a subpoena to Montague requesting any and all information he had on behalf of himself and on behalf of the Committee related to the signs at issue and the contact information of the vendor who made the signs for the Committee as referenced in his response to the City of Phoenix. A true and correct copy of this subpoena is attached hereto as Exhibit "C." In response, Montague provided an email attaching an invoice from Americopy for the signs purchased and sponsored by the Committee, which were not the signs at issue in the Complaint. Also attached was a copy of the Town's Independent Expenditure Notification Form showing the expenditures for the Committee in

support of Brigitte Peterson. A true and correct copy of this email and the attached files is attached hereto as Exhibit "D." And Montague noted that the signs that are the subject of the Complaint were not funded by himself or the Committee.

I followed up with a letter to Montague giving him a chance to respond to the invoice received from Americopy showing that he ordered and paid for the signs at issue. A true and correct copy of this letter is attached hereto as Exhibit "E." In response, Montague stated that he knew Americopy has an invoice with his name on it but "that's because [he] volunteered to pick up those up for a friend who funded them. Public Integrity Alliance was not involved in any way." A true and correct copy of this email is attached hereto as Exhibit "F." In his email, Montague also noted the exclusion for individuals set forth in A.R.S. §16-925(A) and stated that even if it were him funding the signs, he believed he was exempted.

FINDINGS AND CONCLUSIONS

A.R.S. §16-925(A) states that "[a] person that makes an expenditure for an advertisement or fund-raising solicitation, *other than an individual* [emphasis added], shall include the following disclosures in the advertisement or solicitation:

1. The words "paid for by", followed by the name of the person making the expenditure for the advertisement or fund-raising solicitation.
2. Whether the expenditure was authorized by any candidate, followed by the identity of the authorizing candidate, if any."

It is clear from the information provided that Montague picked up the signs at issue in the Complaint opposing mayor candidate Matt Nielsen from Americopy and installed or replaced several of these signs as witnessed by Liddell. It is also clear that the Committee purchased and placed properly labeled signs around the same time supporting mayoral candidate Brigitte Peterson. However, there is not legal sufficiency to establish that Montague acted in his capacity as President of the Committee, or on behalf of the Committee, or that the Committee purchased the signs at issue in the Complaint which were not properly labeled. Due to this lack of legal sufficiency related to the Committee and the exclusion for individuals in A.R.S. §16-925(A), I cannot conclude that a violation of A.R.S. §16-925(A) exists.

EXHIBIT A



DAVID A. FITZGIBBONS III
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(1926-2013)

March 29, 2021

VIA U.S. MAIL & CERTIFIED MAIL

Americopy
Attn: Tyler Wilson
856 E. Main Street
Mesa, AZ 85203

***Re: Subpoena / Complaint CFC 03-20
Campaign Finance Complaint***

Mr. Wilson:

Please be advised that Fitzgibbons Law Offices has been retained by the Town of Gilbert to serve as the Election Enforcement Officer related to a Campaign Finance Complaint filed against Tyler Montague, who is also associated with the Public Integrity Alliance. The Complaint is in regards to certain signage displayed for the 2020 election for the Mayor of the Town of Gilbert and your company was listed on the requisite expenditure notification form as a vendor used by Public Integrity Alliance.

Pursuant to the subpoena powers set forth in A.R.S. §16-938, I hereby request that you provide the following information within thirty (30) days from the date of this letter:

1. Any and all information related to Tyler Montague or Public Integrity Alliance's purchase of any signs from Americopy during 2020 that reference Matt Nielsen. Such information shall include, but not be limited to, purchase orders, receipts, wording included on the signs, any images of the signs and who picked up the signs.
2. Any and all information related to the signs depicted in Exhibit "A," attached hereto by reference. Such information shall include, but not be limited to, the party responsible for purchasing these signs, purchase orders and receipts and who picked up the signs if it was different than the party who purchased the sign.

Mr. Tyler Wilson
March 29, 2021
Page 2

If you have any questions regarding the information requested or need additional time to respond to this subpoena, please contact me as soon as possible.

Thank you very much.

Very truly yours,

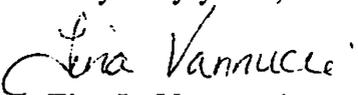

Tina L. Vannucci

EXHIBIT "A"



EXHIBIT B

Tina Vannucci

From: Alan Heywood - Amagine <alan@amaginecomm.com>
Sent: Thursday, April 22, 2021 2:13 PM
To: Tina Vannucci
Subject: Subpoena Docs
Attachments: 93414 TMONTAG Yard Signs.pdf; 82706_signs.pdf

Ms. Vannucci,

I am in receipt of your letter dated March 29, 2021 - Subpoena.

It is addressed to:
Americopy
Attn: Tyler Wilson

I do not believe that a Tyler Wilson has ever been an employee of Americopy – certainly not in the past several years. I do not recognize that name.

Attached are two files – one file contains the artwork for the signs that reference Matt Nielsen (Tyler Montague purchased 30 of each sign for a total of 90 signs) and the other file contains the invoice for those 90 signs that reference Matt Nielsen and were purchased by Tyler Montague in October of 2020.

I'm am not sure who actually picked up the signs – but Tyler Montague ordered the signs and paid for the signs with cash.

There was another purchase of signs around the same time – but they did not reference Matt Nielsen (they were in support of Brigette Peterson) and were paid for with a check from Arizona Public Integrity Alliance.

Please let me know if I can be of any further help.

Thank you,
Alan Heywood
President

E-mail firewall made the following annotations

-- NOTICE --

This message and all contents are for the designated recipient only and may contain information which is confidential, privileged, proprietary or otherwise protected from disclosure. If you have received it in error, please notify the sender immediately and delete and destroy the original and any copy or printout. Unintended recipients are prohibited from making any disclosure, copy, distribution or any other use of this message. Although we have taken reasonable precautions to ensure no viruses are present in this e-mail, we accept no liability for any loss or damage arising from the use of this e-mail or attachments, or for any delay or errors or omissions in the contents which result from e-mail transmission.



INVOICE

856 E. Main Street
Mesa, AZ 85203
(480) 632-8100
FAX: (480) 632-1076

INVOICE NUMBER: 0093414-IN
INVOICE DATE: 10/21/2020
ORDER NUMBER: 0082706
SALESPERSON: 0937
CUSTOMER NUMBER TMONTAG

BJA21

SOLD TO:
Tyler Montague
x
Mesa, AZ 85201

SHIP TO:
Tyler Montague
x
Mesa, AZ 85201

CONTACT:

CUSTOMER P.O.	TERMS Cash on Delivery	INVOICE BALANCE:		\$500.00		
ITEM NUMBER	UNIT	ORDERED	SHIPPED	BACK ORD	AMOUNT	
Yard Signs	EACH	90.00	90.00	0.00	461.68	

INVOICES ARE IN U.S. DOLLARS (USD)

Received By: _____

Net Invoice:	461.68
Less Discount:	0.00
Freight:	0.00
Sales Tax:	38.32
Invoice Total:	500.00

**Tell Matt Nielsen
DON'T Apache
Junction our
Gilbert!**

Matt Nielsen
= bad roads &
fewer parks!

**Matt Nielsen
will Defund
the Police!!**

EXHIBIT C



DAVID A. FITZGIBBONS III
DENIS M. FITZGIBBONS
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(1919-1998)
HOWARD H. KARMAN
(1926-2013)

March 29, 2021

VIA U.S. MAIL & CERTIFIED MAIL

Mr. Tyler Montague
534 N. Orange
Mesa, AZ 85201

***Re: Subpoena / Complaint CFC 03-20
Campaign Finance Complaint***

Mr. Montague:

Please be advised that Fitzgibbons Law Offices has been retained by the Town of Gilbert to serve as the Election Enforcement Officer related to the Campaign Finance Complaint filed against you as an individual and as an associate of Public Integrity Alliance.

Pursuant to the subpoena powers set forth in A.R.S. §16-938, I hereby demand that you provide the following information on behalf of yourself as an individual and on behalf of Public Integrity Alliance within thirty (30) days from the date of this letter:

1. Any and all information related to the purchase of any signs pertaining to the 2020 election for the Mayor of the Town of Gilbert that reference Matt Nielsen. Such information shall include, but not be limited to, the name and contact information for any vendor that made such signs, purchase orders, receipts, wording included on the signs and any images of the signs.
2. Any and all information related to the signs depicted in Exhibit "A," attached hereto by reference, which were placed along N. Oak Street between W. Elliot Road and W. Bruce Avenue in Gilbert, Arizona during the last Town of Gilbert election. Such information shall include, but not be limited to, the party or entity responsible for purchasing these signs, the vendor who made the signs, the party or entity responsible for the placement of these signs, and whether there was any interaction or any conversations that occurred while placing or replacing these signs. If any interaction or conversation occurred, then I would also like the

following information: when it occurred, where it occurred, with who it occurred and the details of the discussion.

3. The name and contact information for the vendor that made the signs referenced in your response to this Complaint as being sponsored by Public Integrity Alliance which were placed at two Gilbert polling locations on November 3, 2020. Please also include the name and location of the polling locations where such signs were placed and when they were placed.

If you have any questions regarding the information requested or need additional time to respond to this subpoena, please contact me as soon as possible.

Thank you very much.

Very truly yours,

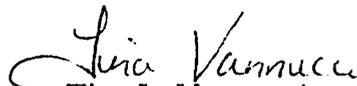

Tina L. Vannucci

EXHIBIT "A"



EXHIBIT D

Tina Vannucci

From: Tyler Montague <tjmontague@gmail.com>
Sent: Friday, April 30, 2021 5:44 PM
To: Tina Vannucci
Subject: subpoena/complaint CFC-03-20
Attachments: Signed expenditure report, Gilbert mayor 2020.pdf; 93413 PUBLIC 4x8 Signs.pdf

Ms Vannucci,

I am responding to your letter dated Mar 29th

I am attaching our invoice for the signs purchased and sponsored by Public Integrity Alliance. I don't believe there are any complaints related to those signs. Those signs, as well as a video produced, are the extent of PIA's participation in the Gilbert mayoral election.

The signs which are the subject of the complaint were not funded by myself personally, nor by PIA.

Regards,
Tyler
602-717-3518

CITY/TOWN OF Gilbert
INDEPENDENT EXPENDITURE NOTIFICATION FORM FOR
CORPORATIONS, LIMITED LIABILITY COMPANIES, AND LABOR ORGANIZATIONS

Election Cycle: 2020 General	Committee ID:	Expenditure Status: Verified: _____ Unverified: _____ Delinquent: _____
<input checked="" type="checkbox"/> Initial Expenditure	Total Amount of Expenditures this Notification:	
<input type="checkbox"/> Additional Expenditure		

Full Name of Organization Public Integrity Alliance, Inc.			
Address 534 N Orange St	City Mesa	State AZ	Zip Code 85201
Phone Number 602-717-3518	E-mail Address tjmontague@gmail.com		

Expenditure Date:	10/22/2020	Expenditure Amount:	\$600
Vendor/Payee Name:	Americopy		
Candidate Name:	Brigette Peterson	<input checked="" type="checkbox"/> Supports	<input type="checkbox"/> Opposes
Communication Type:	<input checked="" type="checkbox"/> Communications <input type="checkbox"/> Travel <input type="checkbox"/> Professional Services <input type="checkbox"/> Event Expenses <input type="checkbox"/> Overhead <input type="checkbox"/> Administration <input type="checkbox"/> Miscellaneous		
Description of Purchase:	Please use a description from the list of subcategories provided. Pro-Peterson 4X8 street signs.		

Expenditure Date:	10/24/2020	Expenditure Amount:	\$5,000
Vendor/Payee Name:	Brian Nissen		
Candidate Name:	Brigette Peterson	<input checked="" type="checkbox"/> Supports	<input type="checkbox"/> Opposes
Communication Type:	<input checked="" type="checkbox"/> Communications <input type="checkbox"/> Travel <input type="checkbox"/> Professional Services <input checked="" type="checkbox"/> Event Expenses <input type="checkbox"/> Overhead <input type="checkbox"/> Administration <input type="checkbox"/> Miscellaneous		
Description of Purchase:	Please use a description from the list of subcategories provided. Pro-Peterson video creation and ad creation/promotion		

See other side or attached form for additional expenditures for this notification.



 Signature

 11/16/20
 Date



INVOICE

856 E. Main Street
Mesa, AZ 85203
(480) 632-8100
FAX: (480) 632-1076

INVOICE NUMBER: 0093413-IN
INVOICE DATE: 10/21/2020
ORDER NUMBER: 0082705
SALESPERSON: 0937
CUSTOMER NUMBER PUBLIC

BJA21

SOLD TO:
Public Integrity Alliance
534 N Orange St
Mesa, AZ 85201

SHIP TO:
Public Integrity Alliance
534 N Orange St
Mesa, AZ 85201

CONTACT:

CUSTOMER P.O.

TERMS
Cash on Delivery

INVOICE BALANCE: \$600.00

ITEM NUMBER	UNIT	ORDERED	SHIPPED	BACK ORD	AMOUNT
4x8 Signs	EACH	16.00	16.00	0.00	554.02

INVOICES ARE IN U.S. DOLLARS (USD)

Received By: _____

Net Invoice:	554.02
Less Discount:	0.00
Freight:	0.00
Sales Tax:	45.98
Invoice Total:	600.00

EXHIBIT E



DAVID A. FITZGIBBONS III
DENIS M. FITZGIBBONS
DANIEL G. HARRINGTON
ANN F. SCHROOTEN
TINA L. VANNUCCI
EDWINUS M. VAN VIANEN
MURDOCK HOLLOWAY
NICHOLAS S. COOK
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KEVIN P. FITZGIBBONS

DAVID A. FITZGIBBONS
(1930-1995)
E.D. McBRYDE
(1919-1998)
HOWARD H. KARMAN
(1926-2013)

May 7, 2021

VIA U.S. MAIL & CERTIFIED MAIL

Mr. Tyler Montague
534 N. Orange
Mesa, AZ 85201

***Re: Subpoena / Complaint CFC 03-20
Campaign Finance Complaint***

Mr. Montague:

I am in receipt of your April 30, 2021 email response to the subpoena regarding the Campaign Finance Complaint filed against you as an individual and as an associate of Public Integrity Alliance.

Please be advised that, as part of my investigation into this Complaint, I received the enclosed invoice and artwork showing that you purchased the election signs at concerning Matt Nielsen from AmeriCopy. It is my understanding that you purchased 30 of each sign for a total of 90 signs and you paid cash for these signs. Because this invoice and information was not included in your April 30, 2021 email response, I wanted to give you an opportunity to address this information before I render a final decision as the Election Enforcement Officer.

Please provide any additional information you would like me to consider before I render a final decision within ten (10) days from the date of this letter.

Thank you very much.

Very truly yours,


Tina L. Vannucci

Enclosures

tina@fitzgibbonslaw.com
1115 E. Cottonwood Lane - Suite 150 - Casa Grande, Arizona 85122-2950
P.O. Box 11208 - Casa Grande, Arizona 85130-0148
Office: (520) 426-3824 - Facsimile: (520) 426-9355 - Website: www.fitzgibbonslaw.com



INVOICE

856 E. Main Street
Mesa, AZ 85203
(480) 632-8100
FAX: (480) 632-1076

INVOICE NUMBER: 0093414-IN
INVOICE DATE: 10/21/2020
ORDER NUMBER: 0082706
SALESPERSON: 0937
CUSTOMER NUMBER TMONTAG

BJA21

SOLD TO:
Tyler Montague
x
Mesa, AZ 85201

SHIP TO:
Tyler Montague
x
Mesa, AZ 85201

CONTACT:

CUSTOMER P.O.

TERMS
Cash on Delivery

INVOICE BALANCE: \$500.00

ITEM NUMBER	UNIT	ORDERED	SHIPPED	BACK ORD	AMOUNT
Yard Signs	EACH	90.00	90.00	0.00	461.68

INVOICES ARE IN U.S. DOLLARS (USD)

Net Invoice:	461.68
Less Discount:	0.00
Freight:	0.00
Sales Tax:	<u>38.32</u>
Invoice Total:	500.00

Received By: _____

**Tell Matt Nielsen
DON'T Apache
Junction our
Gilbert!**

**Matt Nielsen
= bad roads &
fewer parks!**

**Matt Nielsen
will Defund
the Police!!**

EXHIBIT F

Tina Vannucci

From: Tyler Montague <tjmontague@gmail.com>
Sent: Monday, May 24, 2021 4:57 PM
To: Tina Vannucci
Subject: Re: subpoena/complaint CFC-03-20

 **CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you, Tina. Everything I've sent to you is correct. I know they have an invoice with my name on it, but that's because I volunteered to pick those up for a friend who funded them. Public Integrity Alliance was not involved in any way.

Am I correct in reading ARS 16-925 (which is the subject of the complaint, right?) that it excludes an individual? That is my understanding of the law, and I advised the individual putting up the signs that this was the case. Even if it were me funding the signs (and it's not) I would be exempted.

"A. A person that makes an expenditure for an advertisement or fund-raising solicitation, **other than an individual**, shall include the following disclosures in the advertisement or solicitation"

Can we conclude this complaint based on that point?

Regards,
Tyler
602-717-3518

On Thu, May 20, 2021 at 3:18 PM Tina Vannucci <Tina@fitzgibbonslaw.com> wrote:

Tyler,

It was a pleasure speaking with you earlier today. As we discussed, attached is my May 7, 2021 letter asking if you would like to respond to the attachments, which I received as part of my investigation. As you can see, I requested a response within ten (10) days of the letter but based on our discussion today I will extend that deadline for another week. Therefore, please provide any additional information you would like me to consider as part of my investigation into this complaint by May 27, 2021.

Thank you.

Tina L. Vannucci, Esq

Fitzgibbons Law Offices, P.L.C.

1115 E. Cottonwood Lane, Suite 150

Casa Grande, AZ 85122

(520) 426-3824

(520) 381-9982 (direct line)

(520) 426-9355 (fax)

tina@fitzgibbonslaw.com



PLEASE VISIT US AT OUR NEW WEBSITE: www.fitzgibbonslaw.com



From: Tyler Montague <tjmontague@gmail.com>

Sent: Friday, April 30, 2021 5:44 PM

To: Tina Vannucci <Tina@fitzgibbonslaw.com>

Subject: subpoena/complaint CFC-03-20

Ms Vannucci,

I am responding to your letter dated Mar 29th

I am attaching our invoice for the signs purchased and sponsored by Public Integrity Alliance. I don't believe there are any complaints related to those signs. Those signs, as well as a video produced, are the extent of PIA's participation in the Gilbert mayoral election.

The signs which are the subject of the complaint were not funded by myself personally, nor by PIA.

Regards,

Tyler

602-717-3518