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Reply to: Reno

March 9, 2020

Office of the Secretary of State  
Attention: Sandra Edwards  
101 N. Carson Street, Suite 3  
Carson City, NV 89701-3714

**Re: File No. C20-05 SOS**

Dear Ms. Edwards,

Our office represents Fair Maps Nevada. This letter will serve as a response to the letter from your office dated March 5, 2020 and seeking a response to allegations raised by Mr. Kevin Benson, which were raised in an Election Integrity Violation Report dated February 3, 2020 (the "Complaint"). The Complaint is limited to allegations against Fair Maps Nevada.

Your letter asks for a response to two allegations. The first allegation is whether Fair Maps Nevada, a registered PAC, "failed to list all affiliates within the Committee Registration Form." The second allegation is whether Fair Maps Nevada "failed to indicate all contributions and expenditures within the Contributions and Expenses Annual Report." We will respond to each allegation in turn.

**First Allegation – Affiliation**

As an initial matter, your letter notes that NRS 294A.230 requires a PAC that is affiliated with other organizations to list certain information for those organizations. Your letter does not identify what persons or groups are alleged to be affiliated with Fair Maps Nevada. A review of the Complaint does not appear to allege any violation of NRS 294A.230.

Nonetheless, NAC 294A.260 provides that a PAC is affiliated with another organization if either: (1) the PAC and the organization "have the same officers, directors or registered agents;" or (2) the "same persons have authority or influence over decision making" at both the PAC and the organization.

The Fair Maps Nevada PAC registration form lists the League of Women Voters of Nevada as an affiliation. Beyond this disclosure, given the lack of detail in both your letter and the Complaint, we are unable to ascertain what other affiliations may be at issue. If there are any

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organizations that you feel Fair Maps Nevada should list as an affiliate, please identify those organizations and we will provide a further response.

### **Second Allegation – Contributions and Expenditures**

On January 15, 2020, Fair Maps Nevada timely filed its contributions and expense report, covering calendar year 2019.

As best as we can discern, the Complaint suggests that Fair Maps Nevada should have disclosed, in 2019, any contributions from the League of Women Voters of Nevada and Indivisible Northern Nevada, and that Fair Maps Nevada should have disclosed, in 2019, any legal expenses paid to counsel.

A contribution or expense is reportable at the time the contribution is received or the expense is paid. See NRS 294A.007; NRS 294A.0075. With respect to a PAC advocating the passage or defeat of a ballot question, only contributions or expenses in excess of \$1000 are reportable. See NRS 294A.150(1); NRS 294A.220. Fair Maps Nevada did not receive any contributions in excess of \$1000 or make any expenditures in excess of \$1000 in 2019.

Moreover, an “expenditure” is defined as money paid “to advocate expressly the election or defeat of a clearly identified candidate or group of candidates or the passage or defeat of a clearly identified question or group of questions on the ballot . . .” NRS 294A.0075. Any legal costs to draft a petition or defend against a challenge brought against a petition pursuant to NRS 295.061 are related to efforts to preserve the right to circulate a ballot petition for signatures and are not express advocacy for the passage of the ballot petition itself. See *Buckley v. Valeo*, 424 U.S. 1 (1976) (holding that express advocacy consists of using words such as “vote for,” “elect,” or “support” in political communications). Furthermore, Nevada law provides for a temporal consideration on the determination of express advocacy, based on the closeness in time of the advocacy to the election when the question will appear on the ballot. NAC 294A.135. Assuming the ballot petition filed by Fair Maps Nevada survives an ongoing legal challenge and gathers and submits the requisite signatures, the petition will not appear on a ballot until the general election in November 2020, approximately nine months from the filing of the Complaint. For all of these reasons, legal costs to draft a petition and defend against pre-election challenges are not reportable expenditures.

It should be noted that the Complaint was filed by counsel for the Rev. Leonard Jackson, the same individual who filed the lawsuit against Fair Maps Nevada’s ballot petition. As an individual, the Rev. Jackson is exempt from filing as a PAC and consequently has no obligation to report his own contributions and expenses despite his ongoing efforts to cast stones at Fair Maps Nevada. As such, the public is left entirely in the dark as to who is funding the Rev. Jackson’s opposition to the ballot petition filed by Fair Maps Nevada.

**Conclusion**

Fair Maps Nevada identified an affiliation with the League of Women Voters of Nevada. Beyond that affiliation, the Complaint fails to identify any other organizations that should be listed as affiliates.

Fair Maps Nevada had no reportable contributions or expenses in 2019. Any reportable contributions and expenses for 2020 will be reported in the appropriate time period as contributions are received and expenses are paid.

Thank you for the opportunity to respond and please let us know if you need anything further.

Sincerely,



Joshua Hicks