



STATE OF NEW MEXICO

MARY HERRERA
SECRETARY OF STATE

DON FRANCISCO TRUJILLO II
DEPUTY SECRETARY OF STATE

November 1, 2008

Jerome D. Block, Jr.
1308 Lejano Lane
Santa Fe, NM 87504

Re: Notice of Final Action Regarding Violation of the Campaign Practices Act and the Voter Action Act

Dear Mr. Block:

We have received your October 29, 2008 response to this office's October 17, 2008 Notice of Violation of the Campaign Practices Act and the Voter Action Act ("the Notice"). Having reviewed that correspondence and the materials attached, the Secretary of State is issuing this Notice of Final Action pursuant to NMSA 1978, § 1-19-34.4(C). Under that provision, the Secretary of State may "partially or fully waive any fine imposed" if "good cause exists." Your October 29, 2008 correspondence does not constitute "good cause" for a waiver of any fine imposed by this office, and it is the decision of this office to enforce the fines identified in the Notice. Accordingly, you are obligated to pay fines in the amount of \$11,000 to this office no later than **November 14, 2008**. In addition, you are required to return by the same date \$10,000 of the public campaign funds disbursed to you in this election cycle and the \$700 donation to the Hillary Clinton campaign.

The material you have provided to this office fails to rebut the allegation that you failed to accurately report a \$2,500 payment made by your campaign to the band Wyld Country. The band never played any event for your campaign in return for that payment, and the information you have provided fails to indicate that the statement in your July 3, 2008 Report of Expenditures and Contributions regarding that payment was accurate. The \$5,000 fine identified in the October 17 Notice thus stands.

Your response also fails to rebut the allegation that your payment to Wyld Country constituted the improper use in the general election of funds earmarked for the primary. Regardless of whether you had any agreement with Wyld Country that the band would play at a future event, the funds for the primary election were not properly "encumbered" as that term is used in NMSA 1978, § 1-19A-7(E). We are therefore fining you \$5,000 for this violation of the Voter Action Act.

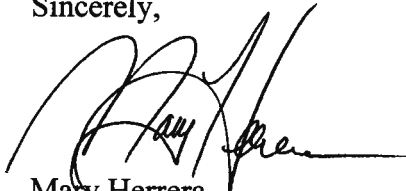
Finally, your response does not address the \$700 donation you made to the Hillary Clinton campaign on August 25, 2008. We are thus enforcing that \$1,000 fine as well.

October 31, 2008
Jerome D. Block, Jr.
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You suggest in your response that this office has not been consistent in its enforcement of the Campaign Practices Act and the Voter Action Act, and reference information you provided to us about an opponent of yours in the primary election. This office carefully considers all such inquiries, and treats each separately on its merits. While you may disagree with our decision in that particular case, it has no bearing on your conduct, or on the statutory consequences of such conduct.

Pursuant to NMSA 1978, § 1-19-34.4(D), you have ten business days from your receipt of this Notice of Final Action to either: (1) pay the \$11,000 in fines and return the required \$10,000 of public campaign money and \$700 donated to the Hillary Clinton campaign, or (2) appeal this office's decision by "submitting on a prescribed form a written request for binding arbitration." Such a form is attached to this letter. Should you request arbitration, we will provide you with a list of five potential arbitrators, and it will be your responsibility to select the sole arbitrator who will hear the dispute. *See* NMSA 1978, § 1-19-34.4(E). As before, if you or any legal counsel you may retain have any questions, please direct them to our legal counsel for this matter, Scott Fuqua, at the Attorney General's Office. You can reach him at 505.827.6920.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Herrera", written over a horizontal line.

Mary Herrera
Secretary of State

C: Hon. Gary King, Attorney General
Zack Shandler, Assistant Attorney General, SOS Legal Counsel
Scott Fuqua, Assistant Attorney General, SOS Legal Counsel

Attachment



**Campaign Reporting Act
ARBITRATION PROCEDURES**

Office of the Secretary of State
Ethics Administration
325 Don Gaspar – Suite 300
Santa Fé, New Mexico 87503
505.827.3600

If you wish to protest the Secretary of State's determination and any penalty imposed by a Notice of Final Action, please complete and sign the Request for Arbitration on the attached sheet and submit it for filing within ten working days of the date of the Notice of Final Action.

You must include in the Request for Arbitration the name, address and telephone number of the arbitrator (see attached list).

Neither the Secretary of State nor a person subject to the *Campaign Reporting Act* (Sections 1-19-25 through 1-19-36 NMSA 1978), the *Lobbyist Regulation Act* (Sections 2-11-1 through 2-11-9) or the *Financial Disclosure Act* (Sections 10-16A-1 through 10-16A-8) may serve as an arbitrator.

In accordance with Section 1-19-34.4 (F) NMSA 1978, the arbitrator shall conduct the hearing within thirty days of the request for arbitration. The arbitrator may impose any penalty the Secretary of State is authorized to impose. The arbitrator shall state the reasons for their decision in a written document that shall be a public record. The decision shall be final and binding. The decision shall be issued and filed with the Secretary of State within thirty days of the conclusion of the hearing.

The Secretary of State may refer a matter to the Attorney General or a District Attorney for a civil injunctive or other appropriate order for criminal enforcement.

This office will contact the arbitrator to confirm a hearing date and location. We will then notify you. Please do not contact the arbitrator to present your side of the matter prior to the hearing. If you have any questions, please contact Deputy Secretary of State, Don Francisco Trujillo II at 575.741.0909.

Please refer to the attached list of five arbitrators and the Request for Arbitration form.



OFFICE OF THE SECRETARY OF STATE
Ethics Administration
325 Don Gaspar, Suite 300
Santa Fé, New Mexico 87503
505.827.3600

ARBITRATOR LIST

Claudine Sattler 3900 Juan Tabo Blvd. NE Albuquerque, NM 87111	505.299.0345
Ms. Stefanie Beninato, PhD, JD P.O. Box 1601 Santa Fé, NM 87504	505.988.8022
Donald Peterson 321 Montaña del Sol Placitas, NM 87043	505.771.8580
Karen S. Mendenhall 6565 Americas Parkway, NE Suite 950 Albuquerque, NM 87110	505.888.4300
Rita Siegal 202 Gerard, SE Albuquerque, NM 87106	505.232-0099



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Ethics Administration
325 Don Gaspar – Suite 300
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505.827.3600

CAMPAIGN REPORTING ACT
REQUEST FOR ARBITRATION

I hereby protest the Secretary of State's determination as stated in the Notice of Final Action, dated _____, including any penalty imposed, and hereby request binding arbitration pursuant to subsection D of Section 1-19-34.4 of the Campaign Reporting Act. In accordance with subsection E of Section 1-19-34.4, I hereby designate the following person to serve as arbitrator.

(PLEASE PRINT)

NAME OF ARBITRATOR: _____

ADDRESS: _____

TELEPHONE #: _____

I have read the information attached to this form, and I have retained a copy of this form for my records.

Signature of Requestor

Address

Printed Name

Home Phone

Business Phone

E-mail