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September 9, 2022

VIA EMAIL ONLY

Tom Liddy
Maricopa County Attorney's Office
225 W. Madison Street
Phoenix, Arizona 85003
liddy@mcao.maricopa.gov

Re: *Poll Worker Staffing Inadequacies*

Dear Mr. Liddy:

As you know, this firm represents the Republican National Committee (RNC) with respect to oversight of Arizona election administration in the 2022 elections.

I write to address serious concerns about Maricopa County's maldistribution of Republican poll workers and board workers during the August primary election, and the potential for this inequity to be repeated in the forthcoming general election. I request the County promptly and fully allay these concerns, which fall into three principal categories.

First, public records show that the County hired 857 Democrat poll workers during the primary election but only 712 Republicans. It is difficult to attribute this disparity to mere chance. A.R.S. § 16-531(A) requires that the inspector, marshal and judges at voting locations "shall be divided equally" between Republicans and Democrats, and across all voting locations "[t]here shall be an equal number of inspectors . . . who are members of the two largest political parties." The statutory scheme should have virtually guaranteed an equal distribution by party affiliation. The RNC requests a written explanation why relative parity was not achieved in the primary.

Second, public records show that 11 vote centers utilized during the primary election did not have *any* Republican poll workers whatsoever.¹ The chairwoman of the Maricopa County Republican Committee, Mickie Niland, provided the County with a list of several hundred

¹ These vote centers were the San Lucy District Administration Building, Fowler School, Memorial Presbyterian Church, Cartwright School District Annex, Charles W. Harris School, David Crockett School, Salt River Pima Community Center, El Tianguis Mercado, Brophy College Prep, Estrella Mountain Community College, and Aguila Fire Department. In contrast, only 2 vote centers lacked any Democratic Party poll workers.

Republican poll worker names (along with contact information) in May 2022, and therefore the County had an ample talent pool from which to recruit. According to the Election Procedures Manual, “the officer in charge of elections shall document when and how the political parties in the county were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties” for each voting location.² Upon information and belief, Chairwoman Niland was not contacted about any last-minute shortfall in Republican poll workers in the primary. Accordingly, please provide the RNC with the written documentation that demonstrates the County’s efforts to hire Republican poll workers at the 11 voting locations in question. If any Republican poll workers failed to show up on election day, or otherwise decommitted from these locations prior to election day, please provide documentation showing any efforts to find replacement workers for these locations.

Finally, your records indicate a significant disparity between political parties in the central processing boards utilized at the Maricopa County Tabulation and Election Center (MCTEC) during the primary. Republicans filled 88 positions (28%) while Democrats filled 148 positions (47%), with the greatest disparity found in the receiving/inspection boards in the warehouse (10 Republicans vs. 58 Democrats). The Election Procedures Manual requires that each central board must be “comprised of two members of different political parties” and “County party chairpersons may nominate persons to fill board positions.”³ Chairwoman Niland dutifully supplied the County with hundreds of potential names for these positions in May. Please explain in writing why the County could not achieve greater parity by utilizing Ms. Niland’s list.⁴

A related problem is the durational requirements imposed on these central board positions, including special election boards. Several positions apparently require a multi-day/multi-week commitment, including the necessity to work long hours or late hours. Rigorous working conditions are not uncommon during an election, but the County has artificially limited its pool of board workers (especially Republican board workers) by refusing to allow more manageable shifts. There are more than enough qualified Republican board workers to work half-day shifts or shifts on non-consecutive days, without unduly impacting the County’s efficiency. Please provide documentation regarding the County’s durational requirements for central board workers, the legal basis for such requirements (if any), and an explanation why greater flexibility was not provided in light of the substantial Republican volunteer workforce ready and willing to serve.

In closing, while it is critically important to understand how these disparities resulted in the primary election, it is equally (if not more) important to ensure that poll worker and central board staffing for the general election comply with the letter of the law and be beyond reproach. Chairwoman Niland supplied the County with nearly 500 poll worker names and nearly 100 central

² 2019 Election Procedures Manual, pg. 134 n.38.

³ 2019 Election Procedures Manual, pg. 197.

⁴ “If it is impossible to sufficiently staff the boards with members of different political parties, the officer in charge of elections . . . shall document when and how the political parties were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties.” 2019 Election Procedures Manual, pg. 197 n. 51.

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board worker names on August 10, 2022 for the purpose of fully staffing each location and position with Republicans in the general election. The RNC requests confirmation that all of those prospective workers will be contacted by the County to serve in the general election,⁵ that the County will make best efforts to achieve complete parity between Republicans and Democrats in each location and board, and that the County will promptly contact Chairwoman Niland for Republican workers in the event the County is having any trouble achieving this parity.

I look forward to hearing from you. It is critical that the County provide this information as soon as possible, and no later than September 16, in order to assure the RNC and countless stakeholders that the requisite number of Republican workers will be recruited, trained, and assigned to all locations and positions for the forthcoming general election. The RNC is prepared to pursue all available legal remedies if you fail to respond to this letter or adequately explain the issues discussed above.

Sincerely,

Snell & Wilmer L.L.P.

A handwritten signature in blue ink, appearing to read 'E. Spencer', with a large, stylized flourish at the end.

Eric H. Spencer

cc: Joseph LaRue, Maricopa County Attorney's Office (laruej@mcao.maricopa.gov)

⁵ To the extent the County plans to re-employ Republicans as judges who served in the primary election, and therefore use Chairwoman Niland's August 10th list for the purpose backfilling clerk positions in those locations, please provide documentation with each such judge's name and the voting location where that judge will be retained.