

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION  
P.O. Box 185  
Trenton, New Jersey 08625-0185

NEW JERSEY ELECTION LAW  
ENFORCEMENT COMMISSION,

COMPLAINT AND NOTICE OF  
OPPORTUNITY FOR A HEARING

Complainant,

v.

DARLENE R. BARBER  
Candidate for County Freeholder,  
Cumberland County,

C-3 0600 03 01-P2013  
C-3 0600 01 01-G2013

and  
KEVIN P. McCANN  
Treasurer,

Respondents.

PLEASE TAKE NOTICE that the New Jersey Election Law Enforcement Commission (**Commission**) hereby files a Complaint against Darlene R. Barber (**Respondent Candidate**) and Kevin P. McCann (**Respondent Treasurer**) (collectively, **Respondents**) and offers Respondents an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., to determine whether Respondents failed to comply with the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (**Campaign Act**) and N.J.A.C. 19:25-1 et seq., (**Commission Regulations**), and whether penalties provided by the Campaign Act should be imposed.

The Commission by way of Complaint alleges:

## COUNT ONE

### PROPOSED FINDINGS OF FACT:

1. Respondent Candidate sought election to County Freeholder in Cumberland County, in the 2013 primary election held on June 4, 2013 (**primary election**).
2. On or about May 10, 2013, Respondent Candidate opened the campaign depository account “Election Fund of Darlene R. Barber” at TD Bank, 53 South Laurel Street, Bridgeton, NJ 08302 (**campaign account**).
3. On or about May 13, 2013, \$10,700.00 was deposited into the campaign account.
4. On June 6, 2013, Respondent Candidate filed a Single Candidate Committee – Certificate of Organization and Designation of Campaign Treasurer and Depository (**Form D-1**) reporting the establishment of the campaign account for Respondent’s single candidate committee.
5. The Form D-1 named Respondent Treasurer as the campaign treasurer. All Respondents certified Form D-1.

### PROPOSED CONCLUSIONS OF LAW:

6. At all times relevant to Counts One through Three of this Complaint, Respondent Candidate was a candidate in the primary election as defined by N.J.S.A. 19:44A-3c and was therefore subject to the requirements of the Campaign Act and Commission Regulations.
7. Respondent Treasurer was at all times relevant to Counts One through Three of this Complaint, the campaign treasurer for Respondent’s single candidate committee for the primary election and was therefore subject to the requirements of the Campaign Act and Commission Regulations.
8. Respondent Candidate was required by N.J.S.A. 19:44A-9 and N.J.A.C. 19:25-4.1A to file Form D-1 for the primary election no later than May 20, 2013, that is within ten days of opening the campaign account.
9. Respondent Candidate violated N.J.S.A. 19:44A-9 and N.J.A.C. 19:25-4.1A by filing Form D-1 on June 6, 2013 (17 days late).

10. Respondent Candidate is subject to imposition of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which may not be more than \$7,600.00 for each transaction which has not been reported in the manner or in the time prescribed by the Campaign Act or Commission Regulations.

## COUNT TWO

### PROPOSED FINDINGS OF FACT:

11. The Proposed Findings of Fact contained in Count One are repeated and incorporated herein.

12. On May 8, 2013, Respondent Candidate filed a Candidate Sworn Statement – (**Form A-1**) for the primary election certifying that the committee would not exceed an expenditure amount of \$4,500.00 for the primary election.

13. On May 24, 2013, Respondents filed a certified Report of Contributions and Expenditures (**Form R-1**) as a primary election 11-day pre-election report (**primary election 11-day report**), reporting contributions received and expenditures made from May 4, 2013 to May 21, 2013 (**primary election 11-day reporting period**).

14. Respondents reported receipt of a \$500.00 contribution from an LLC on May 13, 2013.

15. Respondents did not report occupation and employer information for two contributions in excess of \$300.00 from individuals, totaling \$3,100.00.

### PROPOSED CONCLUSIONS OF LAW:

16. The Proposed Conclusions of Law contained in Count One are repeated and incorporated herein.

17. Respondents were required, pursuant to N.J.S.A. 19:44A-16, N.J.A.C. 19:25-8.4(c) and 19:25-8.2, to report all contributions in excess of \$300.00 received during the primary election 11-day reporting period on May 24, 2013.

18. For each contribution in excess of \$300.00, Respondents were required to report the (1) date of receipt; (2) contribution amount; and (3) contributor's name and address, pursuant to N.J.S.A. 19:44A-

16 and N.J.A.C. 19:25-10.2. Where the contributor was an individual, N.J.A.C. 19:25-10.2A required Respondents to report his or her occupation, and the name and address of his or her employer.

19. Pursuant to N.J.A.C. 19:25-11.10(c), LLCs are not permitted to make contributions as entities. For each contribution drawn on the account of an LLC, Respondents were required, pursuant to N.J.A.C. 19:25-11.10(c), to determine the individual contributing member or members, and maintain a record of contribution information.

20. For each contribution in excess of \$300.00 from a contributing member of an LLC, Respondents were required, pursuant to N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2, 19:25-10.2A and 19:25-11.10(c), to report the (1) name and address of the individual contributor; (2) contribution amount; (3) date of receipt; (4) contributor's occupation; and the (5) name and address of the individual contributor's employer.

21. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2, 19:25-10.2A and 19:25-11.10(c) by failing to report contribution information for the contributing member or members for the contribution described in paragraph 14. Respondents continue to violate by failing to report the information as of the date of this Complaint.

22. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-8.2, 19:25-8.4, 19:25-10.2 and 19:25-10.2A by failing to report occupation and employer information for the contributions described in paragraph 15. Respondents continue to violate by failing to report the information as of the date of this Complaint.

23. Respondents are each subject to imposition of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which may not be more than \$7,600.00 for each transaction which has not been reported in the manner or in the time prescribed by the Campaign Act or Commission Regulations.

### COUNT THREE

#### PROPOSED FINDINGS OF FACT:

24. The Proposed Findings of Fact contained in Counts One and Two are repeated and incorporated herein.

25. On June 24, 2013, Respondents filed a certified Form R-1 as a primary election 20-day post election report (**primary election 20-day report**), reporting contributions received and expenditures made from May 22, 2013 to June 21, 2013 (**primary election 20-day reporting period**).

26. Respondents reported a \$1,000.00 contribution from an individual, but did not report occupation and employer information for this contribution.

#### PROPOSED CONCLUSIONS OF LAW:

27. The Proposed Conclusions of Law contained in Counts One and Two are repeated and incorporated herein.

28. Respondents were required, pursuant to N.J.S.A. 19:44A-16, N.J.A.C. 19:25-8.4(c) and 19:25-8.2, to report all contributions in excess of \$300.00 received during the primary election 20-day reporting period on June 24, 2013.

29. For each contribution in excess of \$300.00, Respondents were required to report the (1) date of receipt; (2) contribution amount; and (3) contributor's name and address, pursuant to N.J.A.C. 19:25-8.4(c) and 19:25-10.2. Where the contributor was an individual, N.J.A.C. 19:25-10.2A required Respondents to report his or her occupation, and the name and address of his or her employer.

30. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-8.2, 19:25-8.4, 19:25-10.2 and 19:25-10.2A by failing to report occupation and employer information for the contribution in paragraph 26. Respondents continue to violate by failing to report the information as of the date of this Complaint.

31. Respondents are each subject to imposition of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which may not be more than \$7,600.00 for each transaction which has not been reported in the manner or in the time prescribed by the Campaign Act or Commission Regulations.

## COUNT FOUR

### PROPOSED FINDINGS OF FACT:

32. The Proposed Findings of Fact contained in Counts One through Three are repeated and incorporated herein.

33. Respondent Candidate sought election to County Freeholder in Cumberland County, in the 2013 general election held on November 5, 2013 (**general election**).

34. On October 4, 2013, Respondents filed a certified Form R-1 as a general election 29-day pre election report (**general election 29-day report**), reporting contributions received and expenditures made from June 22, 2013 to October 4, 2013 (**general election 29-day reporting period**).

35. Respondents reported a \$1,000.00 contribution from an individual, but did not report occupation information for this contribution.

36. Respondents reported three contributions from LLCs or LLPs, totaling \$3,000.00.

### PROPOSED CONCLUSIONS OF LAW:

37. The Proposed Conclusions of Law contained in Counts One through Three are repeated and incorporated herein.

38. At all times relevant to Counts Four through Seven of this Complaint, Respondent Candidate was a candidate in the general election as defined by N.J.S.A. 19:44A-3c and was therefore subject to the requirements of the Campaign Act and Commission Regulations.

39. Respondent Treasurer was at all times relevant to Counts Four through Seven of this Complaint, the campaign treasurer for Respondent's single candidate committee for the general election and was therefore subject to the requirements of the Campaign Act and Commission Regulations.

40. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2 to report all contributions received and expenditures made during the general election 29-day reporting period on October 7, 2013.

41. For each contribution in excess of \$300.00, Respondents were required to report the (1) date of receipt; (2) contribution amount; and (3) contributor's name and address, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-10.2. Where the contributor was an individual, N.J.A.C. 19:25-10.2A required Respondents to report his or her occupation, and the name and address of his or her employer.

42. Pursuant to N.J.A.C. 19:25-11.10, LLPs and LLCs are not permitted to make contributions as entities. For each contribution drawn on the account of an LLP or LLC, Respondents were required, pursuant to N.J.A.C. 19:25-11.10, to determine the individual contributing member or members, and maintain a record of contribution information.

43. For each contribution in excess of \$300.00 from a contributing member of an LLP or LLC, Respondents were required, pursuant to N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2, 19:25-10.2A and 19:25-11.10, to report the (1) name and address of the individual contributor; (2) contribution amount; (3) date of receipt; (4) contributor's occupation; and (5) name and address of the individual contributor's employer.

44. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-8.2, 19:25-10.2 and 19:25-10.2A by failing to report occupation and employer information for the contribution described in paragraph 35. Respondents continue to violate by failing to report the information as of the date of this Complaint.

45. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2, 19:25-10.2A and 19:25-11.10 by failing to report contribution information for the contributing member or members for the contributions described in paragraph 36. Respondents continue to violate by failing to report the information as of the date of this Complaint.

46. Respondents are each subject to imposition of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which may not be more than \$7,600.00 for each transaction which has not been reported in the manner or in the time prescribed by the Campaign Act or Commission Regulations.

**COUNT FIVE**

PROPOSED FINDINGS OF FACT:

47. The Proposed Findings of Fact contained in Counts One through Four are repeated and incorporated herein.

48. On October 24, 2013, Respondents filed a certified Form R-1 as a general election 11-day pre election report (**general election 11-day report**), reporting contributions received and expenditures made from October 5, 2013 to October 22, 2013 (**general election 11-day reporting period**).

49. Upon information and belief, Respondents received five contributions, each in excess of \$300.00 when aggregated with prior contributions from the same source, totaling \$1,500.00, during the general election 11-day reporting period. As of the date of this Complaint, Respondents have not reported these contributions.

50. Respondents reported one contribution of \$600.00 from an individual, but did not report occupation and employer information for this contribution.

PROPOSED CONCLUSIONS OF LAW:

51. The Proposed Conclusions of Law contained in Counts One through Four are repeated and incorporated herein.

52. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and 19:25-8.2, to report all contributions received and expenditures made during the general election 11-day reporting period on October 25, 2013.

53. For each contribution in excess of \$300.00, either alone or when aggregated with prior contributions from the same contributor, Respondents were required to report the (1) date of receipt; (2) contribution amount; and (3) contributor's name and address, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-10.2. Where the contributor was an individual, N.J.A.C. 19:25-10.2A required Respondents to report his or her occupation, and the name and address of his or her employer.



54. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2 and 19:25-10.2A by failing to report the contributions in paragraph 49. Respondents continue to violate by failing to report the contributions as of the date of this Complaint.

55. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2 and 19:25-10.2A by failing to report occupation and employer information for the contribution in paragraph 50. Respondents continue to violate by failing to report the information as of the date of this Complaint.

56. Respondents are each subject to imposition of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which may not be more than \$7,600.00 for each transaction which has not been reported in the manner or in the time prescribed by the Campaign Act or Commission Regulations.

### COUNT SIX

#### PROPOSED FINDINGS OF FACT:

57. The Proposed Findings of Fact contained in Counts One through Five are repeated and incorporated herein.

58. On December 12, 2013, Respondents filed a certified Form R-1 as a general election 20-day post election report (**general election 20-day report**), reporting contributions received and expenditures made from October 23, 2013 to November 22, 2013 (**general election 20-day reporting period**).

59. Upon information and belief, Respondents received one contribution of \$250.00, which when aggregated with a prior contribution from the same source, totaled \$1,250.00, during the general election 20-day reporting period. As of the date of this Complaint, Respondents have not reported this contribution.

60. Respondents reported receipt of five contributions, each in excess of \$300.00, totaling \$5,400.00, but did not report occupation and employer information for these contributions.

61. Respondents reported two expenditures, totaling \$3,900.00, but did not report payee addresses for these expenditures.

PROPOSED CONCLUSIONS OF LAW:

62. The Proposed Conclusions of Law contained in Counts One through Five are repeated and incorporated herein.

63. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2, to report all contributions received and expenditures made during the general election 20-day reporting period on November 25, 2013.

64. For each contribution in excess of \$300.00, Respondents were required to report the (1) date of receipt; (2) contribution amount; and (3) contributor's name and address, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-10.2. Where the contributor was an individual, N.J.A.C. 19:25-10.2A required Respondents to report his or her occupation, and the name and address of his or her employer.

65. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-12.2, to report the payee addresses for all expenditures made.

66. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2 and 19:25-10.2A by failing to report the contribution in paragraph 59. Respondents continue to violate by failing to report the contribution as of the date of this Complaint.

67. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-10.2 and 19:25-10.2A by failing to report occupation and employer information for the contributions in paragraph 60. Respondents continue to violate by failing to report the information as of the date of this Complaint.

68. Respondents violated N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-12.2 by failing to report the payee addresses for the expenditures in paragraph 61. Respondents continue to violate by failing to report the information as of the date of this Complaint.

69. Respondents are each subject to imposition of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which may not be more than \$7,600.00 for each transaction which has not been reported in the manner or in the time prescribed by the Campaign Act or Commission Regulations.

## COUNT SEVEN

### PROPOSED FINDINGS OF FACT:

70. The Proposed Findings of Fact contained in Counts One through Six are repeated and incorporated herein.

71. On July 14, 2014, Respondents filed a certified Form R-1 as a second quarterly report (**2014-Q2 report**) reporting contributions received and expenditures made from April 1, 2014 to June 30, 2014 (**2014-Q2 reporting period**).

72. On or about July 3, 2014, Respondents withdrew \$212.48 and closed the campaign account.

73. On the 2014-Q2 report, Respondents reported the expenditure purpose as “close account”.

74. Upon information and belief, Respondents contributed \$212.48 to the Cumberland County Democratic Committee.

### PROPOSED CONCLUSIONS OF LAW:

75. The Proposed Conclusions of Law contained in Counts One through Six are repeated and incorporated herein.

76. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2, to report all contributions received and expenditures made during the 2014-Q2 reporting period on July 15, 2014.

77. Pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-12.2(a)(3), Respondents were required to report the purpose of the expenditure. Pursuant to N.J.A.C. 19:25-12.2(b), Respondents were required to provide a specific election-related reason for the expenditure.

78. Respondents violated N.J.S.A. 19:44A-16, N.J.A.C. 19:25-12.2(a)(3) and 19:25-12.2(b) by failing to report a specific election-related purpose for the expenditure in paragraph 72.

79. Respondents are each subject to imposition of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which may not be more than \$7,600.00 for each transaction which has not been reported in the manner or in the time prescribed by the Campaign Act or Commission Regulations.

OPPORTUNITY FOR HEARING:

Pursuant to N.J.A.C. 19:25-17.1, Respondents shall have the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 *et seq.*, and 52:14F-1 *et seq.*, and N.J.A.C. 1:1. Respondents may appear personally or by attorney. However, if Respondents fail to file a written answer with the Commission within 20 days after service of the Complaint, the Commission may enter a Final Decision including imposition of a monetary penalty, pursuant to N.J.A.C. 19:25-17.1A.

NEW JERSEY ELECTION LAW  
ENFORCEMENT COMMISSION

BY: \_\_\_\_\_  
Candice N. Kashani, Esq.  
Assistant Legal Counsel

DATE: March 14, 2018

Darlene R. Barber, Candidate  
CERTIFIED MAIL NO.: 7007 1490 0002 5783 7808  
RETURN RECEIPT REQUESTED

Kevin P. McCann, Treasurer  
CERTIFIED MAIL NO.: 7007 1490 0002 5783 7792  
RETURN RECEIPT REQUESTED