

State of Colorado



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Selina Baschiera, *Vice-Chair*
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Independent Ethics Commission
1300 Broadway, Suite 240
Denver CO 80203
Phone: (720) 625-5697
www.colorado.gov/iec

Dino Ioannides, *Executive Director*

January 19, 2022

Via Email to:

Ms. Tina Peters
c/o Mr. Scott Gessler, Esq.
Gessler Blue Law
7350 E. Progress Pl., Suite 100
Greenwood Village, CO, 80111
sgessler@gesslerblue.com

Re: Ethics Complaint 22-07, Tina Peters, Respondent

Dear Ms. Peters:

On January 18, 2022, the Colorado Independent Ethics Commission (“IEC”) reviewed an ethics complaint filed against you pursuant to Art. XXIX, § 5, of the Colorado Constitution. The IEC deemed the complaint non-frivolous. A copy of the complaint is enclosed with this letter.

You have the right to be represented by counsel of your choice. If you retain counsel, your counsel should enter an appearance as soon as possible and from that point forward any communications will be with counsel rather than with you directly.

You also have the right to file a response to the complaint pursuant to Rule 7.J. of the Commission’s Rules of Procedure. If you file a response, it must be in writing, signed by the person submitting the response, and may explain, rebut, or provide information, including documentation, concerning the facts and allegations in the complaint. If you file a response, it must also include a statement that, to the best of your knowledge, information and belief, any statements set out in the response are true. The response must be filed with the IEC within thirty (30) days of the date of this letter. If you do not intend to file a response, please advise me of that fact as soon as possible.

A copy of the IEC’s Rules of Procedure may be found on the IEC’s website at iec.colorado.gov/rules/rules-of-procedure. You may contact me if you have any questions.

Sincerely,

Dino Ioannides
Executive Director

encl.

Independent Ethics Commission – Formal Complaint Form

Before the Independent Ethics Commission
of the State of Colorado

For Commission Use Only

Received date: 13-Jan-2022

Case No.: 22-07

The Complainant is: Anne Landman
(name)

Mailing Address: 671 Moonridge Circle
Grand Junction, CO 81505

Daytime telephone number: (970) 216-9842

Email address: landman.anne@gmail.com

The Respondent is: Tina Peters, Mesa County Clerk
(name)

Mailing Address: Mesa County Clerk and Recorder's Office
200 S. Spruce Street
Grand Junction, CO 81501

Daytime telephone number: (970) 244-1664

Email address: tina.peters@mesacounty.us

When did the alleged violation occur: Website was registered on 9/5/21, media reported on it on 9/23/21

Describe the specific acts or things complained of, with facts that provide a full understanding of the alleged violation(s). If possible, cite the specific ethical standards alleged to have been violated and describe how the violation(s) occurred. Use additional pages if necessary. Attach any documentary evidence you wish to submit.

I allege that Mesa County Clerk Tina Peters operating a criminal legal defense fund in violation of Colorado Constitution Article XXIX, specifically Sections 1c and 1d. She is violating the public trust by attempting to realize personal financial gain through her public office beyond that provided to her by law. Clerk Peters appears to be operating the fund without adhering to the provisions in the Independent Ethics Commission's Advisory Opinion 13-01, which provides the guidance for "Solicitations and Acceptance of Funds for Defense in Criminal Actions."

Description of acts or things complained of (continued):

In early September, 2021, Mesa County Clerk Tina Peters set up a criminal legal defense fund at the website <https://standwithtina.org/>.

Speaking to supporters at Appleton Christian Church at an event on Sept. 16 upon returning to Mesa County after five weeks in hiding, Peters vowed to fight for "election integrity" and asked the audience to donate to her legal defense fund by going to the website StandWithTina.org.

A video of Peters' Sept. 16 talk can be seen at the following link. Starting at 15:20 in the video, Peters specifically asks the audience for financial contributions to her legal defense fund:
<https://www.facebook.com/StandFortheConstitutionGrandJuntion/videos/806758956877559>

If the above video gets removed, this crucial moment of the video can also be seen here:
<https://www.youtube.com/watch?v=6O3sEh4M4r8>.

On September 23, 2021, Colorado Politics reported that Peters' legal defense fund could violate Colorado ethics rules, citing attorney Jane Feldman, former Executive Director of the IEC:

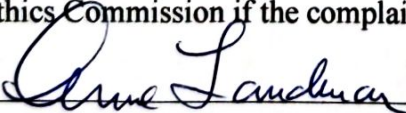
https://www.coloradopolitics.com/news/mesa-county-clerks-legal-defense-fund-could-violate-colorado-ethics-rules-experts-say/article_f990318e-1ca1-11ec-b063-a71f8c6b6de4.html

Jane Feldman was Executive Director of the IEC in 2013, at the time the IEC issued Advisory Opinion 13-01 in response to Scott Gessler's request to the IEC for guidance in how he could legally set up a criminal defense fund. In the Colorado Politics article, Feldman noted that Mesa County is not a home-rule county, so Tina Peters is subject to the jurisdiction of Article XXIX and the jurisdiction of the Colorado Independent Ethics Commission. In addition, IEC Advisory Opinion 13-01, which provides guidance on how to legally operate such a fund, specifies the criteria that such a criminal defense fund must adhere to.

[CONTINUED ON ATTACHED PAGES LABELED "Page 3" and "Page 4"]

Advisement regarding remedies and penalties: Pursuant to Colo. Const. art. XXIX, § 6, a covered individual found to have breached the public trust for private gain is liable for double the amount of the financial equivalent of any benefits obtained by such actions. The manner of recovery and additional penalties may be provided by law. The Commission does not assess criminal penalties, award injunctive relief, or award damages to complainants.

I hereby acknowledge that the facts presented herein are true to the best of my knowledge, and I will cooperate in the process regarding this complaint and will appear at any proceeding of the Independent Ethics Commission if the complaint is scheduled for a hearing.

Signature: 

Attorney (if applicable): N/A

Dated at Grand Junction (City), Colorado, this 13th day of January, 2022.

Created by Article XXIX of the Colorado Constitution, the Independent Ethics Commission may review and hold hearings on matters falling within its jurisdiction as outlined in Article XXIX.

It states that all donations to the legal defense fund must be publicly disclosed; that the fund must be administered by someone not directly affiliated with the Clerk; that no donations may be accepted if the donor is a lobbyist, and that the fund must collect affidavits from donors who are not relying on the special occasion exemption. The affidavits must specify the nature of any family or friendship relationship ties with the Clerk, and must also state that the donor has no pending or foreseen business with the Clerk's office.

According to the defense fund website, Peters is operating the fund as "the courageous County Clerk of Mesa County, Colorado, in charge of the county's elections," so she is clearly operating it in her capacity as an elected official, and not as a private individual.

Since she is operating it in her capacity as an elected official, on 10/28/21 I sent a CORA request to Mesa County Administration for any documents listing the donors to Peters' legal defense fund. On November 1, I received a response from Assistant Mesa County Attorney John Rhoads saying "The County is not the custodian of this report." Rhoads directed me to the Secretary of State's office, but the Secretary of State's office likewise did not have any information pertaining to Peters' legal defense fund.

The StandWithTina.org website does not appear to be adhering to any of the requirements in the IEC Advisory Opinion 13-01. The fund is also completely non-transparent. The website does not provide any contact information and it does not indicate who is operating the fund.

Today at a press conference at the Mesa County Justice Center, Tina Peters announced that she will be running to be Mesa County Clerk again this year. Coincidentally today Mesa County District Attorney Dan Rubinstein and Colorado state Attorney General Phil Weiser also announced they are empaneling a grand jury to investigate Peters'

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alleged tampering with election equipment and misconduct in office, so criminal charges against her are likely to proceed, which means her legal defense fund is likely to persist as well.

Arne Landrum