

## **Somos Un Pueblo Unido**

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February 23, 2011

Hon. Dianna Duran  
Secretary of State  
325 Don Gaspar Avenue #300  
Santa Fe, NM 87501-4401

### Violation by Martínez Campaign of §1-19-29.1 NMSA

Dear Mme. Secretary:

We are writing to call your attention to an apparent clear violation of the Campaign Reporting Act by Governor Martínez and her campaign staff.

A report by Sean Olson in this morning's Albuquerque Journal states that "Gov. Susana Martinez's campaign committee, which had just under \$500,000 left over from the 2010 election when it last disclosed in December, paid for radio ads urging people to call their elected officials over the driver's license issue." The radio ads themselves confirm that they were indeed paid for by Governor Martínez's gubernatorial campaign.

This disposition of unused campaign funds constitutes a clear violation of Section 1-19-29.1 NMSA 1978, the "spend-down" provision of the New Mexico Campaign Reporting Act (CRA). That section, a copy of which is attached, narrowly restricts the ways in which left-over campaign funds can be disposed of following the conclusion of a campaign. It allows such funds to be used only for the payment of campaign debts, donations to charities or the state's general fund, contributions to other candidates or political parties and refunds to the contributors. The section expressly states that "it is unlawful for a candidate or the candidate's agent" to dispose of the unused campaign funds in any other way. The use of the governor's left-over campaign funds to pay for radio ads concerning a legislative issue is therefore a clear violation of this section.

Section 1-19-34.6 of the CRA provides that "[i]f the secretary of state reasonably believes that a person committed, or is about to commit, a violation of the Campaign Reporting Act, the secretary of state shall refer the matter to the attorney general or a district attorney for enforcement" Since the violation of the Act in this case has been expressly admitted by the governor's campaign, a "reasonable belief" on your part that the violation has occurred is unavoidable in this case. It is therefore your legal obligation under the statute to "refer the matter

to the attorney general or a district attorney for enforcement."  
We hope you will promptly carry out your statutory duty.

Thank you for your attention.

Yours truly,

Marcela Díaz