

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.

C-9 1307 02 01-G2012

JENNIFER NICOLAY,  
Candidate for Municipal Office,  
Belmar Borough,  
Monmouth County,

and

MAUREEN DOHERTY,  
Treasurer,

Respondents.

PLEASE TAKE NOTICE that the New Jersey Election Law Enforcement Commission (**Commission**) hereby files a Complaint against Jennifer Nicolay, (**Respondent Nicolay**), and Maureen Doherty (**Respondent Doherty**), 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, neglected, or omitted to file any such report or information at the time and in the manner prescribed by law, or in any other way violated the provisions of the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (**Act**) and N.J.A.C. 19:25-1 et seq., (**Commission Regulations**), and are therefore subject to penalties provided by the Act. The hearing will be conducted under the legal authority and jurisdiction conferred upon the Commission to impose monetary penalties for violations of the Act, specifically Sections 6(b) and 22.

The Commission by way of Complaint alleges:

## COUNT ONE

### **I. 2012 General Election**

#### A. 29-Day Preelection Reporting Period

##### i. Failure to File Complete Occupation and Employer Information

#### PROPOSED FINDINGS OF FACT:

1. Respondent Nicolay sought election to Municipal Office in Belmar Borough, Monmouth County, in the 2012 general election held on November 6, 2012 (**election**).

2. On July 5, 2012, Respondent Nicolay filed a certified Single Candidate Committee – Certificate of Organization and Designation of Campaign Treasurer and Depository (**Form D-1**), reporting the establishment of a single candidate committee, “Nicolay for Council,” for the purpose of making transactions for her candidacy.

3. The Form D-1 designated an account maintained at Investors Bank as the campaign depository account (**campaign account**) and named Respondent Doherty as the treasurer.

4. On October 9, 2012, Respondents filed a certified Report of Contributions and Expenditures (**Form R-1**) as a 29-day preelection report for the election (**29-day report**), reporting contributions received and expenditures made from June 23, 2012 through October 5, 2012 (**29-day reporting period**).

5. Respondents reported on the 29-day report the receipt of a \$100.00 currency contribution on August 3, 2012 and a \$1,500.00 contribution on August 3, 2012.

6. As of the date of this Complaint, Respondents have failed to report complete occupation and employer information for the two contributions described in paragraph 5.

#### PROPOSED CONCLUSIONS OF LAW:

7. Respondent Nicolay was at all times relevant to this Complaint a candidate, as is defined at N.J.S.A. 19:44A-3c, for Municipal Office, Belmar Borough, Monmouth County, in the election, and therefore is subject to the reporting requirements of the Act and Commission Regulations.

8. Respondent Doherty was at all times relevant to this Complaint the campaign treasurer for Respondent Nicolay’s single candidate committee for the election and was therefore subject to the requirements of the Act and Commission Regulations.

9. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2, to file a certified Form R-1 as a 29-day report on October 9, 2012, reporting all contributions received and all expenditures made during the 29-day reporting period.

10. Pursuant to N.J.A.C. 19:25-10.2, Respondents were required to report on the 29-day report all moneys received during the 29-day reporting period. For each contribution exceeding \$300.00 and all currency contributions, Respondents were required to state the (1) date of receipt; (2) contribution amount; (3) contributor's name; and (4) contributor's address. Where the contributor was an individual, N.J.A.C. 19:25-10.2A required Respondents to include (5) his or her occupation, and (6) the name and address of his or her employer.

11. Respondents violated and continue to violate, as of the date of this Complaint, N.J.S.A. 19:44A-16 and 19:44A-11.8 and N.J.A.C. 19:25-8.2, 19:25-10.2, and 19:25-10.2A by failing to report complete contribution information for two contributions received during the 29-day reporting period, totaling \$1,600.00.

12. Respondents are each subject to imposition by the Commission of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which penalties may not be more than \$6,800.00 for each reporting transaction not reported in the manner or time prescribed by the Act or Commission Regulations.

## **COUNT TWO**

### **ii. Failure to Report Currency Contributions**

#### **PROPOSED FINDINGS OF FACT:**

13. The Proposed Findings of Fact contained in Count One are repeated and incorporated herein as if set forth in full below.

14. During the 29-day reporting period, Respondents received and deposited currency contributions totaling \$550.00.

15. Respondents reported on the 29-day report the receipt of two currency contributions, totaling \$150.00.

16. As of the date of this Complaint, Respondents have failed to report contribution information for \$400.00 in currency contributions received during the 29-day reporting period.

## PROPOSED CONCLUSIONS OF LAW:

17. The Proposed Conclusions of Law contained in Count One are repeated and incorporated herein as if set forth in full below.

18. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2, to file a certified Form R-1 as a 29-day report on October 9, 2012, reporting all contributions received and all expenditures made during the 29-day reporting period.

19. Pursuant to N.J.A.C. 19:25-10.2, Respondents were required to report on the 29-day report all moneys received during the 29-day reporting period. For each contribution exceeding \$300.00 and all currency contributions, Respondents were required to state the (1) date of receipt; (2) contribution amount; (3) contributor's name; and (4) contributor's address. Where the contributor was an individual, N.J.A.C. 19:25-10.2A required Respondents to include (5) his or her occupation, and (6) the name and address of his or her employer.

20. Respondents violated and continue to violate, as of the date of this Complaint, N.J.S.A. 19:44A-16 and 19:44A-11.8 and N.J.A.C. 19:25-8.2, 19:25-10.2, and 19:25-10.2A by failing to report contribution information for currency contributions received during the 29-day reporting period, totaling \$400.00.

21. Respondents are each subject to imposition by the Commission of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which penalties may not be more than \$6,800.00 for each reporting transaction not reported in the manner or time prescribed by the Act or Commission Regulations.

## **COUNT THREE**

### iii. Late Filing of Expenditure Information

#### PROPOSED FINDINGS OF FACT:

22. The Proposed Findings of Fact contained in Counts One and Two are repeated and incorporated herein as if set forth in full below.

23. Respondents reported on the 29-day report an expenditure of \$99.51 to "10<sup>th</sup> Avenue Burrito" on September 16, 2012.

24. On April 15, 2013, Respondents filed a certified Form R-1 as an amended 29-day preelection report (**amended 29-day report**), reporting the correct expenditure amount of \$200.00 for the expenditure described in paragraph 23.

## PROPOSED CONCLUSIONS OF LAW:

25. The Proposed Conclusions of Law contained in Counts One and Two are repeated and incorporated herein as if set forth in full below.

26. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2, to file a certified Form R-1 as a 29-day report on October 9, 2012, reporting all contributions received and all expenditures made during the 29-day reporting period.

27. Pursuant to N.J.A.C. 19:25-12.2, for each expenditure, Respondents were required to report the (1) date expenditure was made; (2) full name and address of payee; (3) purpose; (4) amount; and (5) check number.

28. Respondents violated N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2 and 19:25-12.2 by reporting the correct expenditure amount for one expenditure of \$200.00 on April 15, 2013 (188 days late).

29. Respondents are each subject to imposition by the Commission of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which penalties may not be more than \$6,800.00 for each reporting transaction not reported in the manner or time prescribed by the Act or Commission Regulations.

## **COUNT FOUR**

### B. 20-Day Postelection Reporting Period

#### i. Failure to Report Expenditure Information

## PROPOSED FINDINGS OF FACT:

30. The Proposed Findings of Fact contained in Counts One through Three are repeated and incorporated herein as if set forth in full below.

31. On November 26, 2012, Respondents filed a certified Form R-1 as a 20-day postelection report for the election (**20-day report**), reporting contributions received and expenditures made from October 24, 2012 through November 23, 2012 (**20-day reporting period**).

32. Respondents reported on the 20-day report an expenditure of \$539.26 to “Market Me” on November 19, 2012.

33. As of the date of this Complaint, Respondents have not reported the purpose of the expenditure described in paragraph 32.

PROPOSED CONCLUSIONS OF LAW:

34. The Proposed Conclusions of Law contained in Counts One through Three are repeated and incorporated herein as if set forth in full below.

35. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2, to file a certified Form R-1 as a 20-day report on November 26, 2012, reporting all contributions received and all expenditures made during the 20-day reporting period.

36. Pursuant to N.J.A.C. 19:25-12.2, for each expenditure, Respondents were required to report the (1) date expenditure was made; (2) full name and address of payee; (3) purpose; (4) amount; and (5) check number.

37. Respondents violated and continue to violate, as of the date of this Complaint, N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2 and 19:25-12.2 by failing to report the purpose of one expenditure of \$539.26.

38. Respondents are each subject to imposition by the Commission of the penalties prescribed by N.J.S.A. 19:44A-22 and N.J.A.C. 19:25-17.1 *et seq.*, which penalties may not be more than \$6,800.00 for each reporting transaction not reported in the manner or time prescribed by the Act or Commission Regulations.

**COUNT FIVE**

C. 2013 Second Quarter

i. Late Reporting and Failure to Report Correct Expenditure Information

PROPOSED FINDINGS OF FACT:

39. The Proposed Findings of Fact contained in Counts One through Four are repeated and incorporated herein as if set forth in full below.

40. On April 15, 2013, Respondents filed a certified Form R-1 as the 2013 first quarterly report (**2013 Q1 report**).

41. The 2013 first quarter reporting period (**2013 Q1 period**) was from November 24, 2012 through March 31, 2013.

42. Respondents reported one transaction on the 2013 Q1 report, a \$1,087.61 expenditure to Belmar Democrats at 1340 Highway 36, Suite 28, Hazlet, N.J. on April 11, 2013.

43. The Belmar Democratic Committee is located at 1320 State Route 71, Unit 107, Belmar, N.J. 07719.

44. On February 9, 2015, Respondents filed a certified Form R-1 as the 2013 second quarterly report (**2013 Q2 report**).

45. Respondents, on the 2013 Q2 report, reported for the first time the correct recipient name, check number, and payment date for the expenditure described in paragraph 42.

46. As of the date of this Complaint, Respondents have failed to report the correct address for the Belmar Democratic Committee.

#### PROPOSED CONCLUSIONS OF LAW:

47. The Proposed Conclusions of Law contained in Counts One through Four are repeated and incorporated herein as if set forth in full below.

48. Respondents were required, pursuant to N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.2, to file a certified Form R-1 as a 2013 Q2 report on July 15, 2013, reporting all contributions received and all expenditures made during period of time from April 1, 2013 through June 30, 2013 (**2013 Q2 period**).

49. Pursuant to N.J.A.C. 19:25-12.2, for each expenditure, Respondents were required to report the (1) date expenditure was made; (2) full name and address of payee; (3) purpose; (4) amount; and (5) check number.

50. Respondents violated N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.3 and 19:25-12.2 by reporting the correct payment date, check number, and recipient committee name for an expenditure of \$1,087.61, made during the 2013 Q2 period, on February 9, 2015 (574 days late).

51. Respondents violated and continue to violate, as of the date of this Complaint, N.J.S.A. 19:44A-16 and N.J.A.C. 19:25-8.3 and 19:25-12.2 by failing to report the correct payee address information for one expenditure of \$1,087.61.

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

OPPORTUNITY FOR HEARING:

Pursuant to N.J.A.C. 19:25-17.1, Respondents and all parties shall have the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 *et seq.* Respondents may appear personally or by attorney. However, failure of each Respondent to file with the Commission a written answer within twenty (20) days after service of this Complaint shall constitute a default pursuant to N.J.A.C. 19:25-17.1A.

NEW JERSEY ELECTION LAW  
ENFORCEMENT COMMISSION

BY: \_\_\_\_\_  
BENJAMIN KACHURINER, Esq.  
Assistant Legal Counsel

DATE: July 25, 2016

Jennifer Nicolay  
CERTIFIED MAIL NO. 7013 2250 0001 7157 3525  
RETURN RECEIPT REQUESTED

Maureen Doherty  
CERTIFIED MAIL NO. 7013 2250 0001 7157 3518  
RETURN RECEIPT REQUESTED