

FILED

IN THE SUPREME COURT OF THE CHEROKEE NATION

2019 SEP 17 AM 8:39

CHEROKEE NATION
SUPREME COURT
KENDALL BIRD, COURT CLERK

Lynn Wilson, Roger Johnson,)
Carla Porter, William Pearson,)
Charles Dale Hornbuckle)
Ronnette Patterson, James)
Wade Prater, Norman Crowe and)
Phillip Viles)
)
Petitioners,)
)
V.)
)
Cherokee Nation Election)
Commission)
)
Respondent.)

Case No. SC-2019-12

ANSWER

COMES NOW Cherokee Nation Election Commission ("CNEC"), by and through its attorney, Harvey L. Chaffin, and for Answer to the Petition and allegations in Exhibit "B" attached to said Petition filed herein alleges and States as follows: CNEC denies generally and specifically each and every material allegation in this Petition, except such as are hereinafter specifically admitted.

Petitioners have used the form for Appeal of a Decision for their request for a Writ, which does not appear to be the proper form; however, in order to bring the issues before the Court without undue delay with judicial efficiency, CNEC will answer the allegations in Exhibit "B" to the Petition, by reference to its unnumbered paragraphs sequential order, which appear to contain allegations that would be in a petition, all without prejudice to CNEC's filing of a dispositive Motion.

Un-numbered paragraph #1: This is a summary of Petitioners and their claim and no response is required, except to deny the Petitioners' claims and to deny that they are entitled to a Writ.

Un-numbered paragraph #2: Admitted, but denied that Petitioners are entitled to a Writ and denied that Petitioners allegations have any basis in law or fact.

Un-numbered paragraph #3: First, Petitioners have misinterpreted the cited opinion, which states that complaints of this nature should be brought to the CNEC prior to the Election. The Election was long past when Petitioners' complaint was lodged.

Second, CNEC admits that it received the letter from the Attorney for Petitioners attached to their Petition and responded to said letter in the form attached to the Petition, which responding letter is incorporated into this Answer as though fully set forth herein, in response to the Petition. The use of the term "campaign management company", created by Petitioners, to describe the activities of Cherokee Future LLC is a misnomer. The Supreme Court in SC-2019-10 stated that Cherokee Futures did nothing but pay bills.

Un-numbered paragraph #4: First sentence is admitted, except that the Cite of Petitioners should be Article IX. With regard to the remainder of the paragraph, Petitioners do not correctly characterize the letter and such allegations are denied. The letter which has been incorporated herein speak for itself.

The CNEC audits all financial reports pursuant to 26 CNCA

11.C.12.f., as it had done with regard to the reports of which Petitioners complain; CNEC found no violations with respect to said financial reports; and, this finding was supported by this Court's Decision in SC-2019-10 and SC-2019-11. The said Section also requires that any accusations concerning campaign activities be reported to the Attorney General and Petitioners accusations were reported to the Attorney General by the CNEC.

CNEC denies that it admonished the Attorney, but alleges that it simply pointed out the facts.

Un-numbered paragraph #5: First sentence is denied, CNEC conducted an audit when the financial reports were initially received.

With regard to the second sentence, Petitioners are again misconstruing the Court's Decision; and when the opinion is read in full, it is clear that the Court found no violation of campaign law with the use of Cherokee Futures, LLC.

The third and fourth sentences are denied.

With regard to Paragraph 5, the CNEC has complied with the sections cited by Petitioner.

With regard to Paragraph 6 and 7, CNEC denies Petitioners, allegations that the candidates were not in compliance with the election law.

Un-numbered paragraph #6: First sentence is admitted. The CNEC reasoned that asking for removal from office of an elected candidate was a challenge to election results.

Second sentence is denied.

With regard to the third sentence, the CNE follows the Law and its own regulations as affirmed by this Court on multiple occasions.

Fourth, fifth, sixth, and seventh sentences are admitted.

Un-numbered paragraph #7: First sentence is admitted.

With regard to the second sentence, again, Petitioners misinterpret the law and the Courts Decision. The Supreme Court of the Cherokee Nation issued an opinion on said complaint in SC-2019-10 and SC-2019-11. They stated quite clearly:

"There is no evidence that Cherokee Future solicited or accepted campaign contributions. Cherokee Future did not provide funds or any in kind contributions to the Hoskin/Warner campaign. The opposite is true. The campaign donations went from the campaign to Cherokee Future to pay campaign related expenses. In other words, no money or payments in kind went upstream to the campaign - it was all paid downstream by the campaign through Cherokee Future to vendors who provided services to their campaign. Most importantly, the campaign disclosed it payments to Cherokee Future and Cherokee Future never solicited or received campaign contributions and therefore did not violate the prohibition against corporate contributions."

With regard to the third sentence, Petitioners again refer to a campaign management company, and to the extent the cited Attorney

General's Opinion is inconsistent with the Supreme Court's Opinion, the Attorney General's Opinion is overruled. The Court found that Cherokee Future, LLC was not a Financial Agent as defined by the Election Code because it did not accept Contributions.

Un-numbered paragraph #8: First sentence is admitted.

With regard to the second sentence, it is denied that there was not full disclosure and further denied that campaigns were financially supplemented by a campaign management company.

Third and fourth sentence are denied. Petitioners claim the law "requires that a campaign management company be declared a financial agent." 26 CNCA Sec. 41.3 defines a "financial agent" as: "...the person or persons authorized by a candidate to accept contributions **and** pay obligations related to the candidate's campaign pursuant to 26 CNCA Sec. 42." Emphasis added. While Petitioners' use of 26 CNCA Sec. 41.3 is correct, the definition of "Financial Agent" provided in the Law renders their assertion pointless. According to financial records provided, Cherokee Future LLC did not accept contributions for these candidates. Ergo, Cherokee Future, LLC need not be named as a Financial Agent, and was not a financial agent, just a bill payer.

The fifth sentence is denied because it is based on assumptions set forth in sentences 2, 3 and 4 which are unfounded in law and/or fact.

Un-numbered paragraph #9: The first sentence is admitted. Not only is the demand for an audit not timely, there is no provision in the

Election Code for candidates or Cherokee Citizens to demand an audit of Financial Reports. The Election Code requires that the CNEC audit Financial Reports when they are received, which occurred for all Financial Reports for this election cycle (including the ones of which petitioners are demanding an audit) and which subject reports were not found by CNEC, the Attorney General or the Supreme Court to be in Violation of Law.

With regard to the second sentence, CNEC denies any violation of law occurred, Petitioners reference to 26 CNCA 47.E. provides that there may be liability to the CNEC or a Candidate for double the amount of a campaign expenditure or contribution in violation of law. As stated, CNEC does not find a violation of law and apparently no Candidates appear as petitioners and further the said Section requires the action to be brought in District Court.

With regard to the third sentence, CNEC denies any violation of law occurred, Petitioners reference to 26 CNCA 47.E. provides for criminal sanctions over which the CNEC has no control in that the filing of Criminal Charges fall within the providence of the Attorney General and the Attorney General has previously found no violation of law with regard to Petitioners' allegations.

Un-numbered paragraph #10: Unnumbered Paragraph 10 consists of self-aggrandizing statements by the Petitioners and does not require a response; however, to the extent a response is required, CNEC is without sufficient evidence to admit or deny, and to the extent the allegation becomes a relevant fact, strict proof thereof

is demanded.

Un-numbered paragraph #11: This is in effect Petitioners Prayer for Relief and CNEC denies Petitioners are entitled to the relief prayed for in this Paragraph.

WHEREFORE, CNEC prays that Petitioners take nothing in this by their Petition; that their request for a Writ be denied; that CNEC be discharged herefrom with costs, including a reasonable attorney's fee under the American Rule.

Cherokee Nation Election Commission

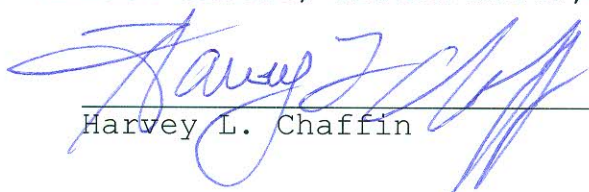
BY:



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CERTIFICATE OF MAILING

I, Harvey L. Chaffin, do hereby certify that on this 17th day of September, 2019, I mailed a true and correct copy of the within and foregoing Answer via United States Mail, with postage thereon prepaid, addressed to Deborah A. Reed and Tom Walker at Suite 112, 3101 N. Hemlock Circle, Broken Arrow, OK 74012.



Harvey L. Chaffin