October 21, 2016

*VIA ELECTRONIC MAIL AND HAND
DELIVERY*

Brad Nelson, (CERA)
Pima County Elections Director
6550 S. Country Club Road
Tucson, AZ 85756
Email: Brad.Nelson@pima.gov

Re: Public Records Request under A.R.S. §§ 39-121 et. seq. and 16-590 and 16-603

Dear Mr. Nelson:

This law firm represents Richard Hernandez, "Rocky" Roque De La Fuente, and AUDIT-AZ, a non-partisan, not-for-profit organization of concerned citizens (collectively my "Clients"). This letter is their formal request under A.R.S. § 39-121 et seq., for the following records:

1. An electronic copy of all Ballot Image Files generated by the ES&S DS850 scanners used by Pima County to count the vote from the August 30, 2016 Primary Election, in the form or forms in which it is ordinarily maintained including any and all metadata associated with those files.

2. An electronic copy of the Cast Vote Record (CVR) for the vote from the August 30, 2016 Primary Election, in the form or forms in which it is ordinarily maintained including any and all metadata associated with those files and including the file name for each corresponding Ballot Image File.

3. An electronic copy of All Ballot Image Files generated by the ES&S DS850 scanners used by Pima County to count the vote in the upcoming November 8, 2016 general election, in the form or forms in which it is ordinarily maintained including any and all metadata associated with those files.

4. An electronic copy of the Cast Vote Record (CVR) for the November 8, 2016 General Election, in the form or forms in which it is ordinarily maintained including any and all metadata associated with those files and including the file name for each corresponding Ballot Image File.

My Clients are seeking to knowledge of the manner in which your department undertakes its duty to count the vote for the August 30, 2016 Primary and the November 8, 2016 General Election. Specifically, they are seeking to understand the manner in which the ES&S DS850 scanners interpret the ballot image files.
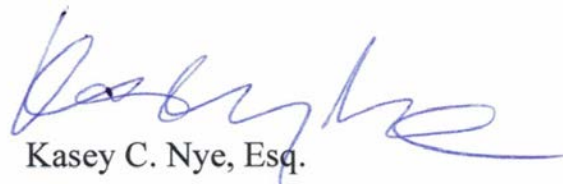
Further, it is our understanding that the CVR can be programed so that the record for each cast vote links to — or at least so that it identifies the file name for — the corresponding image file. Furthermore, it is our understanding that serial numbers can be printed onto each ballot prior to scanning and referenced in the CVR so as to facilitate chain of custody record between the ballot, the ballot image and the counted vote.

I understand that capability was not enabled for the August 30, 2016 Primary, and that your position is that it need not be enabled under state law and the current *Elections Procedures Manual* published by the Arizona Secretary of State (the "**Manual**"). But, by the same token, there is nothing that I am aware of that prohibits you enabling that capability of the ES&S DS850 Scanners in the Manual or State Law. Indeed, this is a function that the ES&S DS850 Scanners are certified to perform by both the United States and the Arizona Secretary of State.

Accordingly, without conceding that it is not required, we respectfully request that for the November 8, 2016 election, the ES&S DS850 scanners be enabled to print serial numbers on ballots prior to scanning and for the CVR to link to (or at least reference the file name) the image corresponding image file.

Please do not hesitate to contact me if you have any questions.

Best regards,
KASEY C. NYE, LAWYER, PLLC,

Kasey C. Nye, Esq.

CC: Daniel Jurkowitz (Via E-Mail)
          Karen S. Friar (Via E-Mail)
          Clients (Via E-Mail)