

COMPLAINT

June 17, 2021

New Jersey Election Law Enforcement Commission
Attn: Review and Investigation Section
P.O. Box 185
Trenton, New Jersey 08625-0185

Re: Request for Investigation of Campaign Finance Violations

To Whom It May Concern:

I write to urge the Election Law Enforcement Commission (“ELEC”) to investigate whether Jack Ciattarelli, candidate for governor in the 2021 election, and his campaign committee, Ciattarelli for Governor, violated the law by undertaking activities and incurring expenditures to solicit general election contributions prior to the primary election.

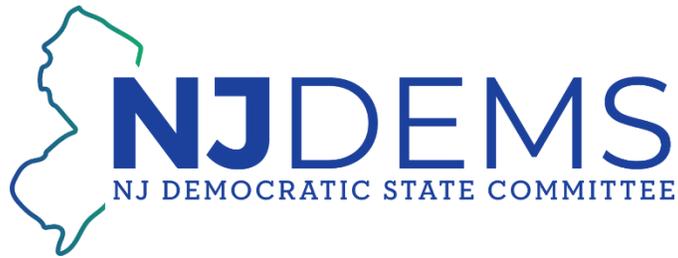
Any general election funds that Ciattarelli for Governor impermissibly solicited before the primary should be deemed ineligible for match and must be returned to donors. Any expenditures incurred prior to the primary must be allotted against Ciattarelli for Governor’s spending cap. **Prior to awarding any matching funds to Ciattarelli for Governor, therefore, ELEC must account for and disregard any impermissibly solicited funds.** If that leaves Ciattarelli for Governor short of the \$490,000 threshold, ELEC cannot award him matching funds based on his first submission.

As early as May 27, 2021 -- weeks *before* the primary -- Ciattarelli for Governor produced and began circulating an invitation to a cocktail reception to be held on June 23, 2021, weeks *after* the primary, presumably in support of Assemblyman Ciattarelli’s *general election* candidacy for governor.¹ The invitation solicited \$2,500 to be an event cohost and \$250 to be a guest at the event, with the option to pay online through the campaign’s account with WinRed, a fundraising platform.² The disclaimer on the invitation states the invitation was “Paid for by Ciattarelli for Governor, Inc.”³ The Bergen County Republican Organization posted the invitation to its

¹ See Exhibit A.

² See Exhibit B.

³ See Exhibit A.



Facebook page on May 27, 2021 at 6:48 am.⁴

The production and distribution of the invitation and the apparent collection of funds through a fundraising platform that incurs expenses is a clear violation of ELEC’s ban on undertaking activities and incurring expenditures to solicit general election contributions prior to the primary election.

As such, I formally request that the ELEC undertake a prompt and thorough investigation and institute swift remedial action to protect the integrity of the public financing system.

Overview of the Applicable Law

New Jersey law provides that no moneys deposited into a publicly-financed gubernatorial candidate’s primary election bank account may be expended for general election expenses, and that no funds deposited into a publicly-financed gubernatorial candidate’s general election bank account may be expended for primary election expenses or transferred or expended until the day following the primary election.⁵ To enforce this rule, ELEC made clear in 2001 that a gubernatorial campaign “may not until the day after the ... primary election, undertake activities to solicit ... general election contributions.”⁶ In the same opinion, ELEC opined that “the statute and regulations prohibit [a] primary election candidate committee from spending its funds on general election expenses” and likewise prohibit a “general election candidate committee ... from spending any funds prior to the day after the primary election.”⁷ Finally, ELEC underscored that “[t]here is no exception in either the statute or regulations to permit expenditures of primary or general election funds for general election fundraising activities before the day after the primary election.”⁸

In articulating this clear prohibition, ELEC reasoned that “[i]nherent in conducting an event or specific solicitation for general election contributions is the necessity that funds be expended to communicate to contributors political information about the candidate.”⁹ And “[s]uch spending

⁴ See Exhibit C. See also Bergen County Republican Organization, Facebook Page, [https://www.facebook.com/bcrohq/posts/3966915896695344?_cft__\[0\]=AZUwBr8frpuHliIlg1aSGcq3GwcPpA27SJl3WoVPY_rQt2piQHA9_qUfPVQd8P8MuLz5SYe-bsUTLeAB3vtIU6AzEk5zq0MgpSRWCGa-quuFfzKdhAQe5zI0vJnQj1GH2TKEC8qwjjbY-ykRmU7D4Z5&_tn_=%2CO%2CP-R](https://www.facebook.com/bcrohq/posts/3966915896695344?_cft__[0]=AZUwBr8frpuHliIlg1aSGcq3GwcPpA27SJl3WoVPY_rQt2piQHA9_qUfPVQd8P8MuLz5SYe-bsUTLeAB3vtIU6AzEk5zq0MgpSRWCGa-quuFfzKdhAQe5zI0vJnQj1GH2TKEC8qwjjbY-ykRmU7D4Z5&_tn_=%2CO%2CP-R) (last accessed June 16, 2021).

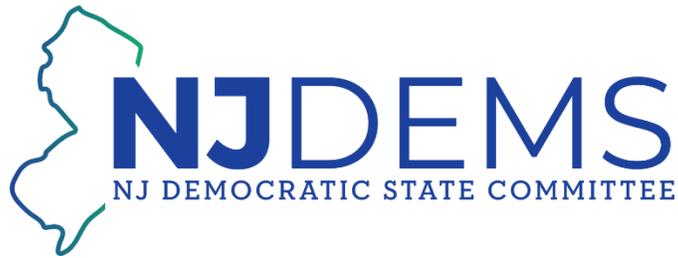
⁵ See N.J.A.C. 19:25-15.7(a), (c), (e), (f); -16.15(a), (b), (e), (f).

⁶ ELEC Adv. Op. 02-2001 at 5 (April 19, 2001), <https://www.elec.state.nj.us/pdf/ao/2001/ao022001.pdf>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*



would give an early advantage to a general election candidate.”¹⁰ This rule, in other words, reflects ELEC’s “belief that the prohibition on general election spending before the primary election was intended to permit general election candidates to start their campaigns on a level ... playing field.”¹¹ Allowing otherwise would result in “the level playing field [to] be compromised.”¹²

New Jersey law defines the term “expenditure” broadly, to include “every transfer of money. . . and any pledge or other commitment or assumption of liability” to transfer funds.¹³ An expenditure is deemed to have been made on the date when a commitment is made or liability is assumed to transfer candidate committee funds.¹⁴ Therefore, a campaign that enters into contracts or places deposits for fundraising facilities, food, entertainment, or other items by definition makes an expenditure. A campaign also makes an expenditure when it pays a fundraising platform a fee for processing a contribution.

ELEC did recognize some limited exemptions but, as explained below, neither applies here. First, ELEC permits campaigns to incur necessary administrative and compliance costs in connection with processing *unsolicited* general election contributions prior to the primary election.¹⁵ Second, ELEC allows campaign staff to engage in internal “event planning,” provided that no public solicitations are made and no expenditures (other than their salary expenses, which are fixed) are incurred.¹⁶

Violations

Assemblyman Ciattarelli is a “candidate” in the 2021 gubernatorial election, as defined by N.J.S.A. 19:44A-3(c), and Ciattarelli for Governor is his “campaign committee,” as defined by N.J.S.A. 19:44-3(q), and therefore both are subject to the requirements of the applicable law and ELEC regulations.

I. Ciattarelli for Governor undertook activities to solicit general election contributions before the date of the primary, in violation of New Jersey law

As early as May 27, 2021, weeks before the June 8 primary election, Ciattarelli for Governor produced and began advertising for a *general election* cocktail reception fundraiser for Assemblyman Ciattarelli’s gubernatorial candidacy, scheduled for June 23.¹⁷ The invitation asked

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

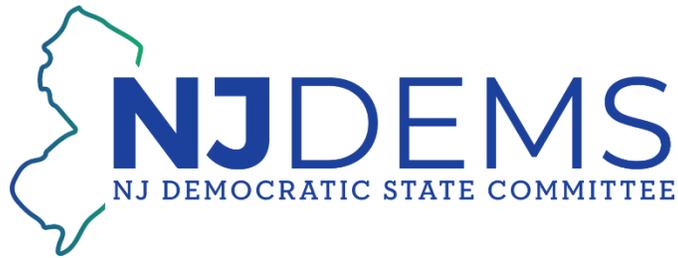
¹³ N.J.A.C. 19:25-1.7.

¹⁴ *Id.*

¹⁵ ELEC Adv. Op. 02-2001 at 4.

¹⁶ *Id.* at 5.

¹⁷ *See* Exhibit A.



prospective donors to “join us ... for a cocktail reception in support for Jack Ciattarelli” a “Candidate for Governor” to be held at Sear House Grill in Closter.¹⁸ The invitation requested a \$2,500 contribution to be an event co-host and a \$250 contribution to be a guest.¹⁹ The invitation provided a link to the WinRed fundraising platform where donors could make an immediate contribution.²⁰ When contributions are made on this platform, a fee is charged to the campaign.²¹

It cannot be disputed that the invitation and the link to the fundraising website are “solicitations” for funds under New Jersey law. The preparation and distribution of the invitation, the scheduling of the event at Sear House Grill, and the posting of the invitation on the WinRed platform are impermissible “activities” that Ciattarelli for Governor undertook to “solicit general election contributions” in violation of N.J.A.C. 19:25-15.7 and -16.15 and ELEC rulings.

II. Ciattarelli for Governor incurred expenditures to solicit general election contributions before the date of the primary, in violation of New Jersey law

Each time that a donor contributed for this event on the WinRed platform, the Ciattarelli for Governor campaign was charged a fee.²² These fees are “expenditures” as a matter of law. Likewise, any funds paid or obligated to the Sear House Grill for the event are “expenditures” under New Jersey law. Because Ciattarelli for Governor made or incurred these expenses for the general election *before* the primary election, Ciattarelli for Governor unequivocally violated N.J.A.C. 19:25-15.7 and -16.15.

Remedies

Ciattarelli for Governor’s solicitation of general election contributions during the primary election is a clear violation of New Jersey law, regulations and ELEC guidance. Each expenditure made and incurred in connection with the event prior to June 8, 2021 likewise would have violated the law. State law necessarily restricts certain fundraising activities in order to maintain the fairness and integrity of New Jersey’s elections. In this spirit, I request that the ELEC commence a prompt investigation of Ciattarelli for Governor’s premature general election fundraising activities and promptly impose any restrictions and penalties that may be warranted.

If Ciattarelli for Governor is found to have violated the law, ELEC should impose the following remedies: (1) assess any expenditures made or incurred in connection with the general

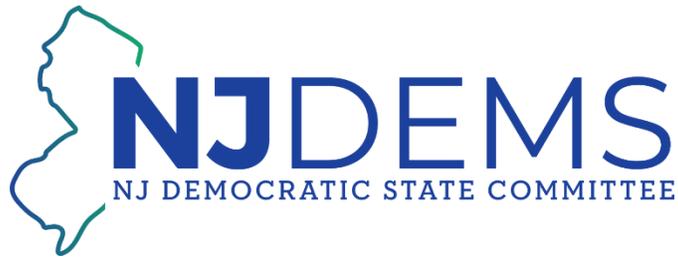
¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Exhibits A and B.

²¹ See WinRed, Where Does My Donation Go?, <https://donors.winred.com/en/articles/3773571-where-does-my-donation-go> (“WinRed charges a 3.8% + \$0.30 processing fee for every transaction made.”).

²² See *id.*



election fundraising event against Ciattarelli for Governor's general election spending cap²³; (2) require Ciattarelli for Governor to return any contributions that it received before the primary election in connection with the event; and (3) determine that any contributions Ciattarelli for Governor received before the primary election in connection with the event are ineligible for match and do not count toward Ciattarelli for Governor's general election public financing threshold.

Prior to awarding any matching funds to Ciattarelli for Governor, therefore, ELEC must account for and disregard any impermissibly solicited funds. Allowing Ciattarelli for Governor to keep contributions that it unlawfully solicited, and to further recognize those contributions toward the campaign's general election public financing threshold, would disadvantage other candidates who complied with the law. ELEC has recognized that the prohibition on general election fundraising activity before the primary election is "intended to permit general election candidates to start their campaigns on a level ... playing field."²⁴

Ciattarelli for Governor impermissibly attempted to tip the playing field in its favor. I respectfully urge ELEC to re-balance the playing field and carry out the intent of the law.

Very truly yours,

Saily Avelenda
Executive Director, New Jersey Democratic State Committee

²³ See N.J.A.C. 19:25-16.15(e); see also ELEC Adv. Op. 02-2001.

²⁴ ELEC Adv. Op. 02-2001 at 5.

*Paid for by New Jersey Democratic State Committee
196 West State Street, Trenton NJ 08608*

EXHIBIT A

Jack4NJ.com
JACK
GOVERNOR
LET'S FIX NEW JERSEY

Please Join Us

RENEE SISCA TOSCANO
&
TOMMY TOSCANO

for a cocktail reception

in support of

JACK CIATTARELLI
Candidate for Governor

Wednesday, June 23, 2021
5:00 pm to 7:00 pm

Sear House Grill
411 Piermont Road
Closter, NJ

Contribution Information:
Event Co-Host \$2,500
Guests \$250

To Pay Online:

<https://secure.winred.com/ciattarelli-for-governor/toscano0623>



For information or to RSVP, please contact:
Jamie Montgomery 856-296-1796 | jmontgomery@jack4nj.com

Paid for by Ciattarelli for Governor, Inc. Stephen P. Johnson, Treasurer

EXHIBIT B

SUPPORT
JACK
CIATTARELLI

FOR GOVERNOR

Renee Sisca Toscano

Tommy Toscano

invite you to join them for a

Cocktail Reception

on June 23, 2021

Reserve your space

and make a donation here:

Donated before using an account? [Login](#)

Other

Attendee Names

Campaign finance law requires us to collect your employment information.

I'm retired.

Employer*	Occupation*
Address*	Zip*
City*	State* 

Phone

Type Your Digital Signature to Continue*

By clicking "Submit", you certify that the following statements are true and accurate:· By typing my name in the signature field, I am indicating my intent to sign this authorization to make this contribution utilizing the credit card provided.· I am a United State citizen or lawfully admitted permanent resident.· My contribution is made from my personal funds and not those provided to me by another individual or organization for the purpose of making this contribution.· This contribution is made using my personal credit or debit card for which I have the legal obligation to pay, and not the credit card of another individual or entity. I am at least 18 years of age.State of New Jersey law requires us to collect and report the name, mailing address, occupation and employer of each individual whose cumulative contributions exceed \$300 in an election cycle.Contributions are limited to \$4,900 per individual or company per election.New Jersey law prohibits entities operating in certain regulated industries (casinos, financial institutions, insurance companies, and utilities) from contributing.Vendors doing or seeking to do business with the State of New Jersey and certain individuals associated with those vendors may also be prohibited from contributing amounts in excess of \$300 per election. Please consult N.J.S.A. 19:44A-20.13 et seq. and Executive Order 117, regarding a vendor that holds or is seeking a contract with the State of New Jersey or its agencies or authorities in an amount in excess of \$17,500.Contributions or gifts to Ciattarelli for Governor, Inc. are not deductible for income tax purposes.

I agree to the terms above*



or



Continue with credit card

now

EXHIBIT C

Sign Up

Email or Phone

Password

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Bergen County Republican Organization

May 27 at 6:48 AM ·

Jack4NJ.com
JACK GOVERNOR
 LET'S FIX NEW JERSEY

Please Join Us

RENEE SISCA TOSCANO & TOMMY TOSCANO

for a cocktail reception

in support of
JACK CIATTARELLI
Candidate for Governor

Wednesday, June 23, 2021
 5:00 pm to 7:00 pm

Sear House Grill
 411 Piermont Road
 Closter, NJ

Contribution Information:
 Event Co-Host \$2,500
 Guests \$250

To Pay Online:
<https://secure.winred.com/ciattarelli-for-governor/toscano0623>

☆☆☆

For information or to RSVP, please contact:
 Jamie Montgomery 856-296-1796 | jmontgomery@jack4nj.com

Paid for by Ciattarelli for Governor, Inc. Stephen P. Johnson, Treasurer

6

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Bergen County Republican Organization

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REQUEST FOR INVESTIGATION
STATE OF NEW JERSEY
NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION
P.O. Box 185, Trenton, NJ 08625-0185
(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)
Website: www.elec.nj.gov

FORM RFI

FOR STATE USE ONLY

The New Jersey Election Law Enforcement Commission ("ELEC") investigative authority is limited to violations of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., the Personal Financial Disclosure Act, N.J.S.A. 19:44B-1 et seq., and the Legislative and Governmental Processes Activities Disclosure Act, N.J.S.A. 52:13C-18 et seq. ELEC does not have jurisdiction over the conduct of an election, the balloting process, or the misapplication or use of Government (taxpayer) funds for campaign purposes.

The identity of the person filing this Request for Investigation shall remain confidential.

Person(s) Bringing Request: (Print or Type)

Name: Saily Avelenda Daytime Phone: (609) 392-3367

Address: 196 West State Street Evening Phone: (609) 392-3367
Trenton, NJ 08608

Name: _____ Daytime Phone: () _____

Address: _____ Evening Phone: () _____

Name: _____ Daytime Phone: () _____

Address: _____ Evening Phone: () _____

Individual/Entity that is the subject of this request for investigation:

(List all persons/entities that are the subject of your request for investigation.)

Candidate or Committee/Entity Name	Office Sought/Election type and year	Successful (select one)
<u>Jack Ciattarelli</u>	<u>Governor 2021</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<u>Ciattarelli for Governor</u>	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Election District/Municipality Statewide County _____

Indicate which of the above entities files with ELEC Ciattarelli for Governor

Please list all enclosures:

1. COMPLAINT
2. EXHIBITS A - C
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

6/17/2021
Date


Signature

Date

Signature

Date

Signature

Note: Requests For Investigation must contain original signature(s) and can only be submitted via regular mail, or other mail, or delivered in person to the Commission. Any Request For Investigation submitted via facsimile will not be considered by the Commission.