

COPPERSMITH
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October 30, 2017

Via Email and U.S. Mail

Vanessa Bueras, City Clerk
City of Maricopa
39700 W. Civic Center Plaza
Maricopa, AZ 85138
vanessa.bueras@maricopa-az.gov

Re: Complaint Against Maricopa Citizens Protecting Taxpayers

Dear Ms. Bueras:

As you know, this firm represents Private Motorsports Group, LLC ("PMG"). Pursuant to A.R.S. §§ 16-937 and 16-938, we write today to file a campaign finance complaint against Maricopa Citizens Protecting Taxpayers (the "Committee"), a political committee that filed a statement of organization with your office on May 11, 2017. As detailed below, the Committee: (1) has not filed campaign finance reports as required by A.R.S. §§ 16-926 and 16-927 despite, among other things, gathering referendum petition signatures with paid circulators and filing a lawsuit to challenge your decision not to transmit signatures for certification, and (2) is clearly sponsored by Danrick Builders, LLC ("Danrick"), and/or its principal, Daniel Erickson ("Mr. Erickson"), but has not identified either as its sponsor as required by A.R.S. § 16-906(B)(1)(b). PMG respectfully requests that you find "reasonable cause" that Arizona's campaign finance laws have been violated, and refer this matter to the City Attorney for enforcement proceedings.

Factual Overview

On May 11, 2017, the Committee filed a statement of organization with your office, one that did not identify a "sponsor" or include the name of any such "sponsor" in its name. That same day, the Committee filed an application for referendum serial number in furtherance of its attempt to refer CUP 17-01 to the ballot. On June 2, 2017, the Committee submitted 86 petition sheets to you for processing and review; nearly all (if not all) of those petition sheets indicated that they had been gathered by paid petition circulators. As is evident from the sheets themselves, the Committee gathered signatures in both May and June of 2017.

On June 20, 2017, you sent a letter to the Committee indicating that your office would not be transmitting the petition sheets to the Pinal County Recorder for further processing because "the approval of CUP 17-01 . . . is an administrative act, rather than a legislative act

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and therefore, not subject to referendum.” [Exhibit A] Shortly thereafter, the Committee – represented by attorney Timothy La Sota – filed a lawsuit in Pinal County Superior Court challenging your decision. After expedited proceedings, the result was a complete vindication of the position taken in your June 20 letter to the Committee.

The Committee’s opposition to CUP 17-01 did not take place in a vacuum. Indeed, it is now clear that the Committee’s activities were but one piece of a comprehensive strategy employed by Danrick and its principal, Mr. Erickson, to fight with every available tool the construction of the motorsports facility authorized by CUP 17-01 (known as “APEX”). Mr. Erickson made as much clear in a recent opinion piece published in the Pinal Central. See Dan Erickson, *Maricopa project should be done properly*, PINAL CENTRAL (Oct. 12, 2017), http://www.pinalcentral.com/opinion/columns/erickson-maricopa-project-should-be-done-properly/article_8835cfa0-b32b-5157-a657-31dbe07035df.html.

It is also clear from other communications and engagements that have recently come to light that Mr. Erickson is the mastermind and financier of all attacks on APEX’s development in the City of Maricopa, including the referendum effort and subsequent litigation. If the City has any doubts about the source of the Committee’s funding, it should consider investigating this matter and issuing subpoenas to the Committee, its officers, and its vendors to follow the trail of money, which will lead straight to Mr. Erickson.

In short, it is clear that either Mr. Erickson or his company, or both – directly or indirectly – provided the Committee with the financial resources necessary to gather signatures for the (ultimately unsuccessful) referendum effort described above, as well as the Committee’s lawsuit.

As you confirmed to us on October 30, 2017 [Exhibit B], the Committee has not filed a single campaign finance report with you. This blatant violation of the law flies in the face of Arizona’s and the City’s interest in transparency relating to elections and campaign finance.

Failure to File Campaign Finance Report – Violation of A.R.S. § 16-927

First, the Committee violated A.R.S. § 16-927 by failing to file a campaign finance report in July 2017 and again violated the law by failing to file a report in October 2017. Arizona’s campaign finance law regime requires political committees to file comprehensive campaign finance reports with the requisite filing officer that detail – among other things – contributions received and disbursements made. A.R.S. § 16-926. In a calendar quarter without an election (as were the second and third quarters of 2017 in the City), a committee is required to file such a report “not later than the fifteenth day after the calendar quarter,” with the report “[c]omplete through the last day of the calendar quarter.” A.R.S. § 16-927(A)(1).

Here, there is no question that: (1) the Committee did not file a campaign finance report on or before July 15, 2017, (2) the Committee did not file a campaign report on or before October 15, 2017, and (3) the Committee authorized significant disbursements (*i.e.*, in excess of \$250) in May and June of 2017 in the form of paid petition circulation and litigation that should have been captured on such reports. This constitutes a clear violation of A.R.S. § 16-927, and more importantly, has left the people of the City in the dark as to who funded a flawed referendum effort that ultimately caused the City to incur thousands of dollars in attorneys' fees. Civil penalties are therefore appropriate, *see* A.R.S. § 16-937(B), and PMG requests that you make a reasonable cause finding and refer this matter to the City Attorney for enforcement proceedings to ensure that those penalties are imposed and paid.

Failure to Identify Sponsor– Violation of A.R.S. § 16-906

Second, and more fundamentally, the Committee violated A.R.S. § 16-906(B)(1)(b) by failing to identify in its name its “sponsor’s name or commonly known nickname.” As set forth above, and as the City now knows well, the Committee is clearly the brainchild and outsourced operation of Mr. Erickson. This would be evident from the Committee’s campaign finance reports, had they been filed as required by law. In any event, because the evidence makes clear that Danrick and/or Mr. Erickson provided the Committee with significant (or complete) financial support, the Committee’s very formation was flawed.

A.R.S. § 16-906(B) sets forth certain requirements for a valid political committee statement of organization, and with respect to the Committee’s name, states that it must include “[f]or a political action committee that is sponsored, the sponsor’s name or commonly known nickname.” A.R.S. § 16-906(B)(1)(b). The term “sponsor” is very broadly defined to mean “any person that establishes, administers *or contributes financial support to the administration of a political action committee* or that has common or overlapping membership or officers with that political action committee.” (Emphasis added). This is precisely the case with Danrick and/or Mr. Erickson, and at no point in the life of the Committee has its name identified either. As a consequence, the Committee never registered and properly formed as a Committee, and has been improperly operating in the City. *See, e.g., Israel v. Town of Cave Creek*, 196 Ariz. 150, 155 n.7 (App. 1999) (discussing the consequence of a committee circulating petitions without a proper organizational filing); *Stilo Dev. Grp. USA, LP v. Citizens for Sustainable Growth in Support of 2011-12-01-01*, 2012 WL 1067216, at *4 (Ariz. Ct. App. Mar. 28, 2012) (same).

The Committee failed to properly identify its “sponsor” in its name, and violated A.R.S. § 16-906 as a result. As with its failure to file timely campaign finance reports, the effect of the Committee’s noncompliance with governing campaign finance laws serves only to conceal from the people of the City the identity of those who have meddled in its administrative affairs at great expense. The people deserve better, and thus a reasonable cause finding should be made with respect to this violation as well.

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Conclusion

PMG has every confidence that you will fully and promptly investigate the issues raised above. Please let me know if you require any further information or assistance throughout the course of your investigation.

Sincerely,



Roopali H. Desai

RHD:slm
Enclosures
cc: Denis Fitzgibbons

Exhibit A

Exhibit A

June 20, 2017

VIA U.S. Mail and Email (maricopacitizens@gmail.com)

Maricopa Taxpayers Protecting Citizens
Attn: Robert Rebich, Chairman
20987 N. John Wayne Parkway, #B104-129
Maricopa, AZ 85139

Re: Notice of Refusal to Transmit Signatures to the Pinal County Recorder
Referendum 17-01

Mr. Rebich,

On June 2, 2017, the Maricopa Taxpayers Protecting Citizens committee filed approximately 86 petitions purportedly containing 1133 signatures for Referendum 17-01 in an effort to refer City of Maricopa CUP 17-01, relating to the operation of a private motorsports facility by Apex Motorsports, to City voters. Under the Arizona Constitution, the power of referendum is limited to those actions that are legislative acts of the City Council (Arizona Constitution Art. 4, Pt 1, §1(8)). The City of Maricopa determined that the approval of CUP 17-01, the subject matter of Referendum 17-01, is an administrative act, rather than a legislative act and, therefore, not subject to referendum. This Office will not transmit the petitions pursuant to A.R.S. §19-121.01.

For your information, while the City was determining whether this matter was referable, I conducted the requisite review of the submitted signatures pursuant to A.R.S. §19-121.01. The enclosed spreadsheet sets forth the 30 signatures that I determined are deficient and the reason for such determination. In addition, although I am not required to decide this issue for the purposes of A.R.S. §19-121.01 disqualification, the margins on the petitions appear to be less than required by law.

Please be advised that I will retain protective custody of the petitions to preserve their integrity during the period within which legal relief may be sought pursuant to A.R.S. §19-122.

Sincerely,



Vanessa Bueras
City Clerk, CMC

Enclosure
cc: City Manager
City Attorney

REF 17-01

Petition Sheet Number	Line Number	Reason for Removal	A.R.S. § 19-121.01(A)(3)(b)	A.R.S. § 19-121.01(A)(3)(f)	A.R.S. § 19-112 (A)	A.R.S. § 19-121.01(A)(3)(C)
2	2	City Missing	X			
2	3	City Missing	X			
2	4	City Missing	X			
4	1	Zip Code Missing	X			
4	2	Zip Code Missing	X			
4	7	Incomplete Name		X	X	
10	11	City Missing	X			
11	1	Incomplete Name		X	X	
18	1	Actual Address Missing	X			
22	2	Zip Code missing/dated before serial number issued	X			X
22	3	Zip Code missing	X			
22	4	Zip Code missing	X			
22	5	Zip Code missing	X			
22	6	Zip Code missing	X			
34	7	Incomplete name		X	X	
44	12	Actual Address missing	X			
44	13	Actual Address missing	X			
59	6	Dated after notarization				X
59	7	Dated after notarization				X
59	8	Dated after notarization				X
59	9	Dated after notarization				X
61	11	Actual Address Missing	X			
62	5	Incomplete name		X	X	
65	13	Actual Address Missing	X			
70	2	Missing city	X			
70	3	Missing city	X			
75	1	Incomplete name		X	X	
75	2	Incomplete name		X	X	
77	12	Actual Address Missing	X			
84	7	Actual Address Missing	X			

Exhibit B

Exhibit B

From: [Chaveli Sanchez](#)
To: [Andrew Gaona](#)
Cc: [Sheri McAlister](#)
Subject: Public Records Request 11533190935
Date: Monday, October 30, 2017 10:09:20 AM
Attachments: [image001.png](#)

Good Morning,

In response to your recent records request (PRR 11533190935), there have not been any campaign finance reports filed with our office. Please let me know if you have any questions or concerns.

Thank You,

Chaveli R. Sanchez

Chaveli R. Sanchez
Records Coordinator
City Clerk Department

p: 520-316-6972

f: 520-568-9120

chaveli.sanchez@maricopa-az.gov

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City Hall Open Monday-Thursday, 7:00 a.m.-6:00 p.m., closed Friday



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