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October 26, 2012

Hon. Ken Bennett  
Arizona Secretary of State  
Capitol Executive Tower, 7th Floor  
1700 West Washington Street  
Phoenix, AZ 85007-2888

RE: A FORMAL COMPLAINT REGARDING: CAMPAIGN FINANCE AND ELECTION LAW VIOLATIONS BY *VOTE TANNER BELL* CAMPAIGN AND BY THE PURPORTED "INDEPENDENT" EXPENDITURE COMMITTEE *RESTORING PRIDE IN PIMA COUNTY*; CAMPAIGN VIOLATIONS BY THE DELAWARE CORPORATION *ARIZONANS FOR A BRIGHTER FUTURE* WHICH IS CONDUCTING UNREGISTERED POLITICAL ACTIVITY AND COMMITTING OTHER CRIMINAL AND CIVIL VIOLATIONS OF ARIZONA LAW.

Dear Mr. Bennett:

On behalf of Sharon Bronson for Pima County Supervisor, we are submitting this complaint to you for immediate action.

**OVERVIEW**

The Vote Tanner Bell campaign has violated Arizona law because purported "independent expenditures" by a committee called "Restoring Pride in Pima County" (RPPC) are simply not independent under any reading the law, thus resulting in unlawful contributions to Tanner Bell's committee. In addition, the primary funder of this non-independent committee is a secretive corporate entity "Arizonans for a Brighter Future" (ABF) that is by its own terms, apparently violating federal law and is not a real business advocacy league as they claim, but instead is a "foreign"<sup>1</sup> corporate entity designed to evade Arizona's campaign finance and disclosure laws while deceiving voters. This entity appears to be committing criminal and civil violations of Arizona advocacy organization registration laws, and defrauding Arizona voters.

The Tanner Bell committee has also engaged in additional election violations detailed below, including failure to report such contributions and expenditures. As a

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<sup>1</sup> Under Arizona law A.R.S. § 10-140.25, a corporation that is incorporated in any place outside Arizona is defined as a "foreign corporation," whereas entities incorporated inside the State of Arizona are defined to be an Arizona "corporation" or "domestic corporation."

result, the expenditures by these groups constitute unlawfully concealed in-kind and corporate contributions to the Vote Tanner Bell campaign.

There are open investigations by your office into complaints about similar violations of the independent expenditure laws filed by Republican candidates Mike Hellon and Stuart McDaniel (see [Attachment 1](#)), and Democratic candidate Nancy Young-Wright. (See [Attachment 2](#).) Those three previous complaints all involve Tagline Media Group which is central to this complaint.

We request that your office take immediate action against these entities which are illegally operating in violation of Arizona law, and impose sanctions on all of the entities for what may be up to hundreds of thousands of dollars of secret "dark money" being spent on this race. The attachments are hyper-linked to supporting documents. We are providing copies of this Complaint to other agencies but request that you refer these matters to appropriate law enforcement agencies as well.

## **1. TIES TO INDEPENDENT EXPENDITURE CAMPAIGN**

The alleged independent committee Restoring Pride in Pima County is violating Arizona law because its agents and employed political consultant worked directly for the candidate and/or his campaign during this same election. The alleged independent committee "Restoring Pride in Pima County" is not independent. It has also used the same campaign designed and produced material in producing certain material for its advocacy.

Here, former employees or agents (political consultants) that were employed by Tanner Bell have by their own admission simply switched over to become the employees and agents of the Restoring Pride in Pima County Committee. (See [Attachment 3](#).) And their claim that there is no further work being done on the campaign – which was asserted by them -- does not provide any legal excuse or safe harbor. The law is still being violated.

Arizona law (A.R.S. § 16-901.14) states: "Independent expenditure" means

"an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. Independent expenditure includes an expenditure that is subject to the requirements of section 16-917, which requires a copy of campaign literature or advertisement to be sent to a candidate named or otherwise referred to in the literature or advertisement. An expenditure is not an independent expenditure if any of the following applies:

(a) Any officer, member, employee or agent of the political committee making the expenditure is also an officer, member, employee or agent of the committee of the candidate whose election or whose opponent's defeat is being advocated by the expenditure or an agent of the candidate whose election or whose opponent's defeat is being advocated by the expenditure.

b) There is any arrangement, coordination or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure, including any officer, director, employee or agent of that person.

(c) In the same election the person making the expenditure, including any officer, director, employee or agent of that person, is or has been:

(i) Authorized to raise or expend monies on behalf of the candidate or the candidate's authorized committees.

(ii) Receiving any form of compensation or reimbursement from the candidate, the candidate's committees or the candidate's agent.

(d) The expenditure is based on information about the candidate's plans, projects or needs, or those of his campaign committee, provided to the expending person by the candidate or by the candidate's agents or any officer, member or employee of the candidate's campaign committee with a view toward having the expenditure made.

Thus, Arizona law is clear. When someone who worked for the candidate's campaign as an employee or agent then becomes an employee or agent of another "independent" committee, that new committee is not independent. That is precisely what has happened here.

When this sort of coordination or lack of independence exists, all expenditures that were made by the group are considered contributions to the candidate's campaign.

As was similarly and recently found by the Maricopa County Attorney in a Compliance Order against Attorney General Tom Horne's 2010 campaign committee and another purported independent committee Business Leaders for Arizona (BLA), a campaign is not independent if there is coordination and if a party working on the purported independent expenditure committee worked at all on the candidate's campaign during the full election cycle. Arizona law deems expenditures that are not independent as reportable "in-kind" contributions to the candidate. If such contributions are not properly disclosed and reported, that results in a campaign finance reporting violations for all committees. Such contributions are unlawful for the candidate to the extent that they exceed applicable contribution limits. Finally, when made by a corporation, such "in-kind" contributions to a candidate by a corporation are illegal under A.R.S. § 16-919A. (See [Attachment 4](#).)

Tagline Media handled the *Vote Tanner Bell Campaign* but then purportedly terminated those services to take on new clients, "Arizonans for a Brighter Future" and "Restoring Pride in Pima County."

In the September 20, 2012 edition of the Tucson Weekly (see [Attachment 3](#)), Debra Weisel of Tagline Media stated:

She has severed ties with all of the Republican candidates, because she's now working for a few independent-campaign efforts that are backing the Republican in various ways. Since the law prohibits coordination between candidates and independent expenditure campaigns, Weisel chose to go with the indie committees, which include Arizonans for a Brighter Future, a non-profit business league that does not have to disclose its donors.

First, as discussed earlier, the prior representation of the candidate's campaign does not permit Tagline or its employees to simply switch to an "independent" committee during the election cycle. This is not independent.

The definition of an independent expenditure campaign as defined in Arizona Revised Statutes § 16-901.14 is clearly not met by these circumstances.

"Independent expenditure" means an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. Independent expenditure includes an expenditure that is subject to the requirements of section 16-917, which requires a copy of campaign literature or advertisement to be sent to a candidate named or otherwise referred to in the literature or advertisement.

Furthermore, the Vote Tanner Bell committee's most recent campaign disclosure reports for the general election show payments to both Tagline Media Group and an employee of Tagline Media Group and even if the payments were for past services, they provide further indisputable evidence of the lack of independence of the "Independent Expenditure." (See [Attachment 5](#)) Simultaneously, campaign disclosure reports by Restoring Pride for Pima County also show payments to Tagline Media Group. (See [Attachment 6](#).)

In addition, Tagline Media Group has represented and worked for Arizonans For a Brighter Future throughout this election, as evidenced by their work for the group, which was noted in media reports as far back as July, 2012. (See [Attachment 14](#).)

Ultimately, the expenditures by these groups constitute unlawfully concealed in-kind and apparent corporate contributions to the Vote Tanner Bell campaign.

**2. ARIZONANS FOR A BRIGHTER FUTURE IS ACTING AS A POLITICAL COMMITTEE AND THUS VIOLATING ARIZONA ELECTION LAW, AND IS OPERATING WITHOUT LEGAL AUTHORITY UNDER ARIZONA LAW; THE CORPORATION HAS COMMITTED A CRIME BY FAILING TO REGISTER IN VIOLATION OF ARIZONA'S CHARITABLE ORGANIZATION REGISTRATION LAWS FOR ADVOCACY GROUPS, THE CORPORATION HAS DEFRAUDED ARIZONA VOTERS, AND IT ALSO APPEARS TO HAVE COMMITTED A CRIME BY MISREPRESENTING THAT IT IS AN ARIZONA ORGANIZATION**

Arizonans for a Brighter Future (ABF) claims to be a 501(c)(6) "business league" organization that is exempt from federal taxes under Federal tax laws. (See [Attachment 7](#) [incorporation papers] and [Attachment 8](#) [website].) However, this Delaware corporate entity has provided the sole funding for Restoring Pride in Pima County (RPPC) with the exception of \$100, which came from Mr. Michael Farley. Mr. Farley is the chairman of Restoring Pride in Pima County, which has registered as a political committee with the Pima County Elections Division. (See [Attachment 9](#).) Mr. Farley is also the only listed corporate officer of Arizonaans for a Brighter Future (See [Attachment 7](#)).

Arizonans for a Brighter Future filed incorporation papers in Delaware, which makes it a "foreign corporation" under Arizona law even though its own name and website clearly state that it is strictly concerned with Pima County and Arizona. (See [Attachment 7](#).) A business league can accept membership dues and donations. But according to IRS regulations, although some of those dues may be utilized for political purposes, this may not be the primary activity of the entity under Federal tax regulations.

However, according to ABF's very own web site 100% of those fees collected are expected to spent on political purposes ("the corporation expects that all amounts you contribute will be used in connection with activities described in 162(e)(1) of the Internal Revenue Code and therefore are not deductible..."). (See [Attachment 10](#); see also [Attachment 18](#).) It is apparent that ABF was formed to hide the identity of the donors to RPPC. Indeed, Tagline Media Group created the website for ABF, and its principal Deb Weisel told the Tucson Weekly that the donors did not want their identities disclosed. (See [Attachment 11](#).)

Significantly, the RPPC is expending enormous sums of money on television and print advertising directly advocating the election of Tanner Bell and against candidate Sharon Bronson. As reflected by information from just one television station, over \$23,000 was spent on television advertising, which was ultimately funded by the Delaware Corporation. (See [Attachment 12](#)). This outside "dark" corporate money being spent by the Delaware Corporation is direct advocacy by a

corporate entity, which is apparently laundering money into the RPPC committee, but does not want to disclose its contributors.

The ABF is also providing money to RPPC, which also endorses Tanner Bell, as well as the other candidates for the Board of Supervisors, including Ally Miller, Fernando Gonzalez, and James Kelly. (See [Attachment 13](#).)

This foreign corporation has additionally violated Arizona law by apparently failing to register with the State of Arizona as a foreign corporation in order to obtain lawful authority to transact business in the State of Arizona, as required by A.R.S. § 10-1501. (Authority to transact business required; “A foreign corporation shall not transact business in this state until it is granted authority to transact business in this state”.)

The ABF Corporation has thus been raising and spending money in Arizona to directly influence the election with direct advocacy by its agent RPPC. However, ABF has defrauded the Arizona public by claiming that it is a business advocacy organization. ABF has claimed to be a tax exempt business league, an advocacy entity instead of a political committee. Because the corporation is incorporated in a different state, it is considered to be a foreign corporation under Arizona law. As noted earlier, according to ABF’s very own web site 100% of the donations that it collects are intended solely for political purposes. (See [Attachment 10](#).)

The funds expended have been for the purpose of influencing the election, and are advocating for the direct election of one candidate, and against another candidate. As such, they should have registered as an independent corporate political committee under Arizona law.

Moreover, the group has also violated Arizona’s charitable organization laws and appears to have committed additional fraudulent acts and criminal activity.

Under the Arizona’s charitable entity laws, any person or entity which holds itself out to be an advocacy or civic group and solicits funds is an organization for charitable purposes and must register with the Arizona Secretary of State before raising any money in the state. A.R.S. § 44-6552(A). This law applies not only to 501(c)(3) charitable organizations, but to any person or entity “who is or who is held out to be established for a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic or other eleemosynary purpose ....” A.R.S. § 44-6551.2(b).<sup>2</sup>

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<sup>2</sup> Indeed, even the political committee RPPC, in its fundraising solicitation form, has misrepresented that it is a “non-profit corporation” instead of a registered political committee. (See [Attachment 17](#).)

Failure to register is a criminal offense at the most serious misdemeanor level. A.R.S. § 44-6561(B) (Class 1 misdemeanor). Moreover, to the extent any political consultants were paid contractors in soliciting funds for ABF and knowingly misrepresented that ABF was a charitable organization as defined by Arizona law, i.e., a tax exempt advocacy or civic group, this could be a felony offense. A.R.S. § 44-6561(C) (felony offense for paid fundraiser to violate the law by misrepresenting charitable purpose, etc.) and A.R.S. § 44-6551(b) (civic, advocacy, patriotic, social welfare organizations, etc., are charitable organizations under Arizona law).

Violations such as these also constitute “unlawful practices under [Arizona’s Consumer Fraud Law] section 44-1522 that the attorney general may investigate and for which the attorney general may take appropriate action....” A.R.S. § 44-6561(A). Individuals also have the right of a private action to enforce Arizona’s consumer fraud law. *Sellinger v. Freeway Mobile Home Sales, Inc.*, 110 Ariz. 573, 521 P.2d 1119 (1974); *Dunlap v. Jimmy GMC of Tucson, Inc.*, 136 Ariz. 338, 666 P. 2d 83 (App. 1983).

In addition to the criminal penalties described, the Attorney General may also bring a civil penalty using Arizona’s Consumer Fraud laws to impose a civil penalty of not more than one thousand dollars per violation. A.R.S. § 44-6551(E).

Significantly, ABF spent substantial funds in television ads making demonstrably false attacks against the Pima County Board of Supervisors prior to the funding of the alleged independent committee. The false allegations were the subject of extensive investigative reporting by the Tucson Weekly, which concluded the allegations were “bogus” (See [Attachment 14](#)), and were also thoroughly debunked by Pima County government officials, as explained in a series of staff analyses and letters examining the false allegations (See [Attachment 15](#)). In fact, in an interview published on August 2, 2012 in the Tucson Weekly, Mr. Farley, the Chairman of RPPC and also the authorized corporate officer for ABF, essentially admitted that the assertions of missing county money were untrue, “Is the money unaccounted for?” Farley says, “Nah, it’s probably in there.” (See [Attachment 11](#)). The demonstrably false and deceptive advertising by a Delaware corporate entity constitutes corporate consumer fraud against the voters of Pima County, in direct violation of A.R.S. § 44-1521 et seq., Arizona’s Consumer Fraud laws.

Furthermore, the advertising distributed by *Arizonans For a Brighter Future* did not disclose in any way that this was not an organization founded or based in Arizona, but instead a Delaware Corporation, thus deceiving voters with the geographic name Arizonans for a Brighter Future. (The ABF television advertising videos are online and available for viewing at [www.azbrighterfuture.com](http://www.azbrighterfuture.com).) This constituted criminal conduct by this corporate entity because it is a crime to misrepresent a business entity’s geographic location when advertising in the State of Arizona (A.R.S.



§ 44-1221 provides that it is a Class 2 misdemeanor offense to misrepresent the geographic location of a business.)

**3. VOTE FOR TANNER BELL HAS RECEIVED FROM TAGLINE MEDIA AN EXTENSION OF CREDIT TO THE CANDIDATE TO HELP INFLUENCE THE ELECTION, WHICH MAKES THOSE AMOUNTS REPORTABLE AS CONTRIBUTIONS. A CORPORATE CONTRIBUTION IS BOTH ILLEGAL AND ALSO VIOLATES THE CONTRIBUTION LIMITS, AND VOTE TANNER BELL HAS ALSO UNLAWFULLY FAILED TO DISCLOSE SUCH CONTRIBUTIONS.**

According to filed disclosure reports, *Vote for Tanner Bell* has apparently incurred obligations of \$10,248.49 for services rendered by Tagline Media. But Tanner Bell's report indicate that he has only paid \$6,543.46, leaving a stated outstanding debt of \$3,705.03. (See [Attachment 5](#)). ALL of his current outstanding debt is to Tagline Media. Tucson Weekly reported on September 20th that Tanner Bell stated that "he is not sure where his debt now stands." According to Bell, "[s]ince we [the candidate's campaign] were fired unexpectedly by the company [Tagline Media] months ago, we are currently waiting for a final aggregate statement of all the products/services that we purchased from them." (See [Attachment 3](#).)

In that same Tucson Weekly article, Deb Weisel of TagLine Media claimed to be "pretty surprised" that the candidate still owed her so much money, adding that sometimes candidates just don't pay their bills. Ms. Weisel further stated that she does not conduct credit checks on her candidate clients. (See [Attachment 3](#).)

Similarly, the payment that is still due to Tagline Media conclusively establishes that the efforts are not independent as defined by law. Tagline Media Group is expected to be reimbursed during the election. Because Tagline Media is still receiving compensation from the candidate's campaign, and also receiving compensation from the alleged independent groups, there is no independence.

Furthermore, these debts have been lingering for several months. By now, such unpaid obligations are in effect an extension of credit to the candidate to help influence the election, which makes those amounts immediately reportable as contributions. A corporate contribution is both illegal and also violates the contribution limits, and Vote Tanner Bell has also unlawfully failed to disclose such amounts as contributions. Under Arizona Revised Statutes § 16-901.5(xii):

An extension of credit for goods and services made in the ordinary course of the creditor's business if the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation and if the creditor makes a commercially reasonable attempt to collect the debt, except that any extension of credit under this item made for the purpose of influencing an election that remains unsatisfied by the candidate after six months, notwithstanding good



faith collection efforts by the creditor, shall be deemed receipt of a contribution by the candidate but not a contribution by the creditor.

This status is further delineated in A.R.S. § 16-906:

A. A loan to a political committee or to a candidate made for the purpose of influencing an election that exceeds the lender's contribution limitations prescribed in section 16-905 remains unlawful whether or not it is repaid.

B. A loan to a political committee or to a candidate made for the purpose of influencing an election made within the contribution limitations prescribed in section 16-905 remains a contribution to the extent it remains unpaid. A loan is no longer a contribution to the extent it is repaid.

C. Except as provided in subsection D of this section, the making of a loan that is made for the purpose of influencing an election results in a contribution by each endorser or guarantor. The endorser's or guarantor's contribution is that portion of the total amount of the loan for which he agreed in writing to be liable or, if not stated in writing, the contribution is in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. Any reduction in the unpaid balance of the loan reduces proportionately the amount of the contribution of each endorser or guarantor.

Therefore, this debt should now be considered a contribution from a business entity and no longer a debt and as such is in direct violation to A.R.S. § 16-919.

Except as provided in section 16-914.02, it is unlawful for a corporation or a limited liability company to make an expenditure or any contribution of money or anything of value for the purpose of influencing an election, and it is unlawful for the designating individual who formed an exploratory committee, an exploratory committee, a candidate or a candidate's campaign committee to accept any contribution of money or anything of value from a corporation or a limited liability company for the purpose of influencing an election.

#### **4. FAILURE TO NOTIFY MENTIONED CANDIDATE WITHIN 24 HOURS**

Certain expenditures by the purported independent committee *Restoring Pride for Pima County* are also violating Arizona laws, specifically A.R.S. § 16-917.

That committee recently mailed two printed postcards in direct violation of this statute because these direct mail pieces were not sent by certified mail to the named candidate within 24 hours after depositing it for mailing. As such, the alleged independent committee must pay a penalty of 3 times the cost of the mailings that were distributed.

A.R.S. § 6-917 states:

Independent expenditures; in-kind contribution; civil penalty

A. A political committee, corporation, limited liability company or labor organization that makes independent expenditures for literature or an advertisement relating to any one candidate or office within sixty days before the day of any election to which the expenditures relate, shall send by certified mail a copy of the campaign literature or advertisement to each

candidate named or otherwise referred to in the literature or advertisement twenty-four hours after depositing it at the post office for mailing, twenty-four hours after submitting it to a telecommunications system for broadcast or twenty-four hours after submitting it to a newspaper for printing.

B. The copy of the literature or advertisement sent to a candidate pursuant to subsection A of this section shall be a reproduction that is clearly readable, viewable or audible.

C. An expenditure by a political committee, corporation, limited liability company, labor organization or a person that does not meet the definition of an independent expenditure is an in-kind contribution to the candidate and a corresponding expenditure by the candidate unless otherwise exempted.

D. A person who violates this section is subject to a civil penalty of three times the cost of the literature or advertisement that was distributed in violation of this section. This civil penalty shall be imposed as prescribed in section 16-924.

The purported independent committee, paid by the foreign corporation, made at least two (2) mailings (copies attached) in violation of Arizona law requiring disclosure to the candidate by certified mail within 24 hours. (See [Attachment 16](#)).

The committee(s) must pay a penalty of 3 times the cost of mailing as a penalty. The cost of such mailings could be substantial.

## **CONCLUSION**

There is simply no real independence between the candidate's committee and the RPPC and ABF as the result of Vote Tanner Bell committee's consultant Tagline Media Group, switching over to work for this alleged independent committee and the foreign corporate entity that was obviously formed just to evade Arizona's disclosure laws, as demonstrated above.

The RPPC expenditures all constitute in-kind contributions to the Vote Tanner campaign. ABF, a sham corporate entity is in practice nothing more than an unregistered political committee seeking to influence this election while evading Arizona law. Because of its lack of independence, its expenditures for electioneering are illegal in-kind corporate contributions to the Tanner Bell campaign. The additional failure to disclose contributions or account for debt being allowed to linger without payment to influence the election, and the unregistered political activity is unlawful.

In addition, both the unregistered fundraising in Arizona by this sham business advocacy group, along with its deceptions that it is an Arizona-based organization constitutes criminal activity that has defrauded Arizona voters.

Because RPPC and ABF is spending significant sums of money and because ABF is unlawfully participating in this election in violation of Arizona law, your office is urged to take immediate action with a cease and desist order for the current onslaught of unlawful advertising and issue an order of compliance ordering Vote

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Tanner Bell, RPPC, and ABF to pay the appropriate penalties which could range up to 3 times the amount of the cost of the advertising.

We request your immediate regulatory action and appropriate referral to criminal prosecution entities for investigation of the potential criminal violations described above. Time is of the essence. Indifference or delay by you or your office will allow this mockery of Arizona election law to continue.

We look forward to your prompt response and action.



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CC: Brad Nelson, Pima County Elections Director  
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