

**STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION**

MUR 14-014

Arizona Future Fund

STATEMENT OF REASONS OF THE EXECUTIVE DIRECTOR

On behalf of the Citizens Clean Elections Commission (“Commission”), the Executive Director hereby provides the following Statement of Reasons why there is reason to believe that a violation of the Citizens Clean Elections Act and Commission rules (collectively, the “Act”) may have occurred.

I. Procedural Background

On August 13 and August 20, 2014, Michael Liburdi (“Complainant”) filed complaints (collectively the “Complaint”) with the Commission and with the Arizona Secretary of State’s Office against an entity known as the Arizona Future Fund (“AFF” or “Respondent”) alleging that Respondent had violated Arizona’s campaign finance laws, including the Citizens Clean Elections Act. Exhibits 1, 2. Respondent filed two timely responses at the request of Commission staff, on August 28 and November 18, 2014. Exhibits 3, 4 The Arizona Secretary of State referred the matter to the Maricopa County Recorder’s Office, who, in turn, referred the matter to an outside attorney. Exhibit 5. That attorney concluded that there was reasonable cause to believe a violation of Article 1 of Chapter 6, Title 16. *Id.* Based on that conclusion, the Secretary of State’s office issued a reasonable cause determination on September 10, 2014 stating “the [Respondent] has violated provisions of Title 16, Chapter 6, Article 1 of the Arizona Revised

Statutes, specifically A.R.S. § 16-914.02(A)(1), 16-914.02(F) and 16-914.02(K), and other applicable statutes related to the failure to perform a duty as required by law.” *Id.*

II. Legal Analysis

This complaint involves a television advertisement and a newspaper advertisement involving Mayor Scott Smith, then a candidate for the Republican Nomination for Governor.

The script of the television advertisement is as follows:

[Voice Over]: Tired of Empty Promises and All the He Said She Said

[VO] There’s a better choice.

[VO] As Mayor of Mesa Scott Smith cut taxes, created jobs, and reduced crime.

[VO] The result has been called the Mesa Miracle

[VO] Now Scott’s ready to put the same proven government and entrepreneurial experience to work for all of Arizona.

[VO] He knows the best solutions for problems on our border come from here, not Washington.

[VO] Republicans and independents agree, Scott Smith sounds just right.

Screen shots are attached as Exhibit 6. These show two of Smith’s opponents for the Republican nomination, then pictures of Smith with text underscoring the advertisement’s script, stating “There’s a better choice for governor” and concluding with the words “Scott Smith.” *Id.* The value of the television advertisement was \$74,247. Exhibit 1.

The print advertisement, which ran in the Prescott Daily Courier, is reproduced in Exhibit 2. It includes a campaign photograph of Smith and

advertises Governor Jan Brewer’s endorsement of Smith and stated that Smith “[b]rought better jobs, schools and roads as Mayor—Just what we need in a Governor.”

Finally, internet advertising was purchased urging viewers to “take action” by “support[ing] Scott Smith’s real leadership.” This advertisement is reproduced in Exhibit 2.

These advertisements unequivocally constitute express advocacy under Arizona law and are independent expenditures on behalf of Scott Smith that were required to be reported under the Clean Elections Act. A.R.S. §§ 16-901(14); -901.01; -941(D); -942(B); -958. Arizona law defines “expressly advocates” as:

- [1.] Making a general public communication, such as in a broadcast medium, newspaper, magazine, billboard or direct mailer
- [2.] referring to one or more clearly identified candidates and
- [3.] targeted to the electorate of that candidate(s)
- [4.] that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement or timing of the communication or the inclusion of statements of the candidate(s) or opponents.

A.R.S. § 16-901.01(A)(2).

The pro-Smith advertisements easily satisfy all of the requirements. The advertisements appeared in broadcast, print media and on the Internet and referred clearly to Smith, a candidate for governor. *See* A.R.S. § 16-901(4) (defining

clearly identified candidate as the appearance of “the name, a photograph or a drawing of the candidate.”). The targets included areas that reached the Republican gubernatorial electorate. Finally, in context, the communications cannot be viewed as urging anything other than a vote for Scott Smith: The advertisements stated:

Television: there was a “better choice” for governor and that Republicans and independents supported Smith;

Print: Smith and his mayoral record are what is “needed in a Governor”;

Internet: viewers should “take action” by supporting Smith.

These advertisements ran in the weeks leading up to the 2014 primary election.

Based on a review of the text, video, voice-over, and timing of the advertisements in relation to Smith’s candidacy for governor, the advertisements had no reasonable meaning other than to advocate for the election of Smith for governor.

See Comm. for Justice & Fairness v. Arizona Sec’y of State’s Office, 235 Ariz. 347

¶ 26, 332 P.3d 94, 101 (App. 2014) (holding that plaintiff’s advertisement constituted express advocacy under the Arizona statute).

In its responses AFF argues that the definition of express advocacy in Arizona should be limited to so-called magic words and that the term “purpose of influencing the results of an election” as used in A.R.S. § 16-901(8) defining expenditures must be limited in order to be constitutional. Exhibits 3, 4 (citing *Buckley v. Valeo*, 424 U.S. 1 (1976)). This argument is foreclosed by the text of the Clean Elections Act, including A.R.S. § 16-901.01, and is inconsistent with the

Court of Appeals' decision in *Comm. for Justice & Fairness*, which recognizes that Arizona is not limited to so-called magic words in providing for disclosure of election spending.

The entity AFF is not a corporation and does not appear to dispute the value of the expenditures involved.

III. Recommendation

Because AFF made express advocacy communications and filed no reports, it is subject to enforcement under the Citizens Clean Elections Act and Rules for violating A.R.S. §§ 16-941(D) and -958(A) and (B). If the Commission determines by an affirmative vote of at least three (3) of its members that it has reason to believe AFF has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify AFF of the Commission's finding setting forth: (i) the sections of the statute or rule alleged to have been violated; (ii) the alleged factual basis supporting the finding; and (iii) an order requiring compliance within fourteen (14) days. During that period, the Respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission. A.R.S. § 16-957(A) & Ariz. Admin. Code R2-20-208(A).

If the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, the Commission shall conduct an investigation. Ariz. Admin. Code R2-20-209(A). The Commission

may authorize the Executive Director to subpoena all of the Respondent's records documenting disbursements, debts, or obligations to the present, and may authorize an audit.

Upon expiration of the fourteen (14) days, if the Commission finds that the alleged violator remains out of compliance, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty in accordance with A.R.S. § 16-942, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. A.R.S. § 16-957(B).

After fourteen (14) days and upon completion of the investigation, the Executive Director will recommend whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred. Ariz. Admin. Code R2-20-214(A). Upon a finding of probable cause that the alleged violator remains out of compliance, by an affirmative vote of at least three (3) of its members, the Commission may issue of an order and assess civil penalties pursuant to A.R.S. § 16-957(B). Ariz. Admin. Code R2-20-217.

Dated this 9th day of December, 2014.

By: s/Thomas M. Collins
Thomas M. Collins, Executive Director

Snell & Wilmer

L.L.P.
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DENVER
LAS VEGAS
LOS ANGELES
LOS CABOS
ORANGE COUNTY
PHOENIX
RENO
SALT LAKE CITY
TUCSON

August 13, 2014

VIA EMAIL AND U.S. MAIL

Thomas.Collins@azcleelections.gov

Thomas M. Collins
Executive Director
Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, AZ 85007

Re: Arizona Future Fund

Dear Mr. Collins:

This is a campaign finance complaint against Arizona Future Fund ("AFF"), which purports to be an entity recognized by the IRS as having 501(c)(4) status. See www.arizonafuturefund.com. Our research indicates that AFF is an association that obtained 501(c)(4) status from the IRS in June 2014. The contact person is William B. Canfield III, and its address is 1900 M. Street NW, Washington, DC 20036.

On Friday, August 8, the Ducey 2014 campaign was informed that AFF made a \$74,247 media buy for television advertisements in the Phoenix, Tucson, and Yuma cable markets. See Table 1, below. The start date of the advertisement is reported as of Saturday, August 9, 2014. The advertisement expressly advocates in favor of Scott Smith. AFF's advertisement is available on its website.

Table 1: AFF Cable Buy

Phoenix	Cable ONE/Arizona Regional, AZ	
Phoenix	Cox Media/DirectTV- I+ Phoenix IC, AZ	
Phoenix	Cox Media/DISH- I+ Phoenix IC, AZ	
Phoenix	Cox Media/Phoenix Interconnect, AZ	\$ 61,188
Tucson/Nogales	Cox Media/Tucson DMA Interconnect, AZ	\$ 10,553
Yuma/El Centro	Time Warner/El Centro, CA	\$ 2,506
	Total:	\$ 74,247

Thomas M. Collins
August 13, 2014
Page 2

Legal Violation: Failure to Register as an Independent Expenditure Organization (A.R.S. §§ 16-914.02(A), 16-941(D) and 16-958)

For an independent expenditure made in a statewide race, A.R.S. § 16-914.02(A) mandates that a corporation, limited liability company, or labor organization file a registration to the Secretary of State “not later than one day after making the expenditure, excluding Saturdays, Sundays and other legal holidays.” The expenditure threshold is any single expenditure or aggregate expenditures of \$5,000 or more. A.R.S. § 16-914.02(A)(1). Arizona law broadly defines “expenditure” to include events where money is exchanged and also those events in which a person makes a promise of future payment. A.R.S. § 16-901(8) (defining “expenditure” to include any “purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by a person for the purpose of influencing an election in this state . . . and a contract, promise or agreement to make an expenditure resulting in an extension of credit . . .”). According to the law, AFF’s expenditure was made, at the latest, on Friday, August 8, 2014 because AFF made a “purchase, payment, distribution, loan, advance, [or] deposit” or otherwise entered into a “contract, promise, or agreement” to purchase airtime on or before that date.

At \$74,247, AFF’s media buy from last week well exceeds the \$5,000 registration threshold. Assuming that it made the expenditure on Friday, August 8, 2014, AFF was required to register with the Secretary of State no later than Monday, August 11, 2014. Of course, AFF’s expenditure could have been made earlier than August 8, 2014, and the requirement to register with the Secretary of State would have been one day following the actual expenditure date. Moreover, under the Clean Elections Act, A.R.S. §§ 16-941(D) and 16-958, AFF was required to submit expenditure reports with the Secretary of State, according to a specified schedule, which it has not done.

For these reasons, there is reason to believe that AFF has violated A.R.S. §§ 16-914.02(A)(1), 16-941(D) and 16-958, and we ask that you recommend that the Commission find reasonable cause that a campaign finance violation has occurred.

I declare under penalty of perjury that the foregoing is true and correct.



Michael T. Liburdi

Thomas M. Collins
August 13, 2014
Page 3

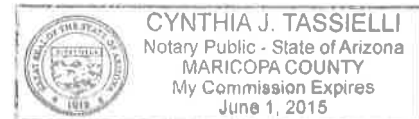
State of Arizona)
)
County of Maricopa)

Subscribed and sworn (or affirmed) before me this 13th day of August, 2014, by
Michael T. Liburdi.



Notary Public

cc: Christina Estes-Werther
Karen Osborne



ML/ct
19904709.1

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DENVER
LAS VEGAS
LOS ANGELES
LOS CABOS
ORANGE COUNTY
PHOENIX
RENO
SALT LAKE CITY
TUCSON

August 20, 2014

VIA EMAIL AND U.S. MAIL

Christina Estes-Werther
Election Director
Secretary of State's Office
1700 West Washington, 7th Floor
Phoenix, AZ 85007
cwerther@azsos.gov

Thomas M. Collins
Executive Director
Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, AZ 85007
Thomas.Collins@azcanelections.gov

Re: Arizona Future Fund

Dear Ms. Estes-Werther and Mr. Collins:

This is a campaign finance complaint against Arizona Future Fund ("AFF"), which purports to be an entity recognized by the IRS as having 501(c)(4) status. See www.arizonafuturefund.com. As we mentioned in our August 13, 2014 complaint letter, we believe that AFF is an association that obtained 501(c)(4) status from the IRS in June 2014. The contact person is William B. Canfield III, and its address is 1900 M. Street NW, Washington, DC 20036.

Today, August 20, 2014, AFF ran an advertisement in the *Prescott Daily Courier* advocating the election of Scott Smith. Attached hereto are three photographs of the advertisement.

AFF has also paid for advertisements on the internet advocating the election of Mr. Smith. Attached hereto is a screenshot of one of the advertisements.

Legal Violation: Failure to Register as a Political Committee and Disclose (A.R.S. §§ 16-902, 16-902.01, 16-914.02(A)(1), (F) & (K), 16-941(D) and 16-958)

For an independent expenditure made in a statewide race, A.R.S. § 16-914.02(A) mandates that a corporation, limited liability company, or labor organization file a registration to the Secretary of State "not later than one day after making the expenditure, excluding Saturdays,

Christina Estes-Werther
Thomas M. Collins
August 20, 2014
Page 2

Sundays and other legal holidays.” The expenditure threshold is any single expenditure or aggregate expenditures of \$5,000 or more. A.R.S. § 16-914.02(A)(1). As we mentioned in our August 13, 2014 letter, AFF’s broadcast advertisement expenditures (\$74,247) exceeded the \$5,000 mark on or about August 8, 2014. To this day, AFF has not registered with the Secretary of State’s office and provided reports as required by the Arizona Citizens Clean Elections Act.

AFF has now made another electioneering expenditure with the *Prescott Daily Courier*, and yet another expenditure on internet advertising, but is still has not registered with the Secretary of State nor has it submitted the required reports.

As you know, A.R.S. § 16-914.02(K) states that an entity “that is organized primarily for the purpose of influencing an election” must register and report with the Secretary of State as a political committee. In a matter of weeks, AFF has spent tens of thousands of dollars – perhaps over \$100,000 – advocating for the election of their favored candidate and, despite media coverage and our August 13, 2014 complaint, has failed to register the organization and report their spending. As far as we can tell, AFF has no activity other than to advocate the election of their favored Arizona candidate and it appears to us that it is not eligible for the registration and reporting procedures under A.R.S. § 16-914.02 but, instead, must register as a political committee.

Moreover, at this point in the cycle, their failure to follow the law and heed the public call to do so suggests that they have no intention of registering and reporting and perhaps have made the calculated decision to either (i) evade responsibility for their actions or (ii) pay any fines after the election simply as a cost of doing business. This, if true, is absolutely unacceptable.

Finally, AFF’s disclaimers fail to include the required statement “not authorized by any candidate or candidate’s committee.” A.R.S. § 16-914.02(F).

For these reasons, there is reason to believe that AFF has violated A.R.S. §§ 16-902, 16-902.01, 16-914.02(A)(1), (F) & (K), 16-941(D) and 16-958, among other laws. We respectfully ask for the following relief:

1. That the Secretary of State refer this matter to the Attorney General under A.R.S. § 16-924 without delay for the reasons stated herein; and

2. That the Citizens Clean Elections Commission find reasonable cause that a campaign finance violation of the Citizens Clean Elections Act’s reporting requirements has occurred under A.R.S. §§ 16-941(D) and 16-958.

Christina Estes-Werther
Thomas M. Collins
August 20, 2014
Page 3

I declare under penalty of perjury that the foregoing is true and correct.

Michael T. Liburdi

Michael T. Liburdi

State of Arizona)
)
County of Maricopa)

Subscribed and sworn (or affirmed) before me this 20th day of August, 2014, by
Michael T. Liburdi.

Cynthia J. Tasselli

Notary Public

Enclosures:

1. Prescott Daily Courier (Aug 20, 2014) photographs
2. Screenshot of AFF internet advertisement

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- **PLANTS**

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From page 111

Over the summer, O'Brien and his colleagues attached sensors to the front ends of more than 100 cars in the state's largest city to track the cars' location, speed, and quality of the traffic. The sensors, which were developed by the California Institute of Technology, were able to collect data on the cars' location, speed, and quality of the traffic. The sensors were able to collect data on the cars' location, speed, and quality of the traffic. The sensors were able to collect data on the cars' location, speed, and quality of the traffic.

Plate 100: *Forest conservation*
 1900-1910: *Forest conservation*
 1910-1920: *Forest conservation*
 1920-1930: *Forest conservation*
 1930-1940: *Forest conservation*
 1940-1950: *Forest conservation*
 1950-1960: *Forest conservation*
 1960-1970: *Forest conservation*
 1970-1980: *Forest conservation*
 1980-1990: *Forest conservation*
 1990-2000: *Forest conservation*
 2000-2010: *Forest conservation*
 2010-2020: *Forest conservation*
 2020-2030: *Forest conservation*
 2030-2040: *Forest conservation*
 2040-2050: *Forest conservation*
 2050-2060: *Forest conservation*
 2060-2070: *Forest conservation*
 2070-2080: *Forest conservation*
 2080-2090: *Forest conservation*
 2090-2100: *Forest conservation*

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11

ing the last three days and for the first time in 100 years. But Sunday (Jan. 10) was the day that the Southern states voted them to give out up almost 4 million more school children a

**Brought better jobs, schools and roads as Mayor.
Just what we need in a Governor.**

Label	Significance	Time
1	10 min	10 min
2	15 min	15 min
3	20 min	20 min
4	25 min	25 min
5	30 min	30 min
6	35 min	35 min
7	40 min	40 min
8	45 min	45 min
9	50 min	50 min
10	55 min	55 min
11	60 min	60 min
12	65 min	65 min
13	70 min	70 min
14	75 min	75 min
15	80 min	80 min
16	85 min	85 min
17	90 min	90 min
18	95 min	95 min
19	100 min	100 min
20	105 min	105 min
21	110 min	110 min
22	115 min	115 min
23	120 min	120 min
24	125 min	125 min
25	130 min	130 min
26	135 min	135 min
27	140 min	140 min
28	145 min	145 min
29	150 min	150 min
30	155 min	155 min
31	160 min	160 min
32	165 min	165 min
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55	280 min	280 min
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57	290 min	290 min
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60	305 min	305 min
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62	315 min	315 min
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67	340 min	340 min
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69	350 min	350 min
70	355 min	355 min
71	360 min	360 min
72	365 min	365 min
73	370 min	370 min
74	375 min	375 min
75	380 min	380 min
76	385 min	385 min
77	390 min	390 min
78	395 min	395 min
79	400 min	400 min
80	405 min	405 min
81	410 min	410 min
82	415 min	415 min
83	420 min	420 min
84	425 min	425 min
85	430 min	430 min
86	435 min	435 min
87	440 min	440 min
88	445 min	445 min
89	450 min	450 min
90	455 min	455 min
91	460 min	460 min
92	465 min	465 min
93	470 min	470 min
94	475 min	475 min
95	480 min	480 min
96	485 min	485 min
97	490 min	490 min
98	495 min	495 min
99	500 min	500 min
100	505 min	505 min
101	510 min	510 min
102	515 min	515 min
103	520 min	520 min
104	525 min	525 min
105	530 min	530 min
106	535 min	535 min
107	540 min	540 min
108	545 min	545 min
109	550 min	550 min
110	555 min	555 min
111	560 min	560 min
112	565 min	565 min
113	570 min	570 min
114	575 min	575 min
115	580 min	580 min
116	585 min	585 min
117	590 min</	

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phoristics in the past 15 seasons—is more a result of design than luck.

Hammond's accomplishments on the court are impressive. At 37, she is a six-time WNBA All-Star and twice has been named to the All-League team. She is sev-

*Journalist Alan Johnson, author of *Minor League*, said there could be a professor in her.*

erned at SUNY and maintaining a full-time career. Johnson, author of *Minor League*, said there could be a professor in her.

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When Arizonans choose a new governor,

What former governors of other states think?
Or what your own governor thinks?

"It is of the utmost importance that our next governor tells us the truth about where we stand, not feel-good sound bites that litter modern-day politics."



Not for Profit Fund, A Tax-Exempt 501(c)(4) Organization. Donations Are Not Deductible for Federal Income Tax Purposes.

Scott★Smith

**Brought better jobs, schools and roads as Mayor.
- Just what we need in a Governor.**

When Arizonans choose a new governor, what's more important?

What former governors of other states think?
Or what your own governor thinks?

"It is of the utmost importance that our next governor tells us the truth about where we stand, not feel-good sound bites that litter modern-day politics."

— Governor Janet Brewer



Atlanta
Manager: W. H.
Pittsburgh
Pitcher: L. B.
Catcher
First Base
Second Base
Third Base
Left Field
Center Field
Right Field
Manager: A. J.

Brewer
Toronto

Payroll	1
McCam	1
Baugh	1
Enrico	1
Diener	1
Orlando	1
Diener	1
James	1
Valencia	1
Kaiser	1
Stiller	1
Happ	1
McGee	1
Hicks	1
Edmond	1
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***feel-good sound bites that litter
modern-day politics.”***

— Governor Janet Brewer

id For By Arizona Future Fund, A Tax Exempt 501c4 Organization. Donatio



The Beatles
Here Comes The Sun
Abbey Road



Please confirm your account information.



**TIRED OF PARTISAN
BICKERING?
SUPPORT SCOTT SMITH'S
REAL LEADERSHIP.**

TAKE ACTION

PAID FOR BY ARIZONA FUTURE FUND



0:01

-3:04

William B. Canfield III
Attorney at Law
Suite 600
1900 M Street, North West
Washington, D.C. 20036
(202) 530-3332
canfieldwilliam@gmail.com

14 SEP 2 PM 1:47 CCEC

August 28, 2014

Ms. Sara A. Larsen
Campaign Finance Manager
Citizens Clean Elections Commission
1616 W. Adams
Suite 110
Phoenix, AZ 85007

Re: **CCEC MUR NO. 14-014**

Dear Ms. Larsen:

As you know, I represent the Arizona Future Fund (the "AFF"). The AFF is an unincorporated association of individuals formed pursuant to the statutes of the District of Columbia. The AFF was organized as such on February 6, 2014. The AFF is recognized by the Internal Revenue Service as a social welfare organization under paragraph 501c4 of the Internal Revenue Code of 1986, as amended. The Internal Revenue Service formally granted the AFF its status as a tax-exempt, social welfare organization on July 10, 2014.

This letter will serve as the response of the AFF to the unsubstantiated assertions made by Michael T. Liburdi in his letter to your office of August 20, 2014. I have carefully reviewed the assertions made in Mr. Liburdi's letter and respectfully suggest to you that these assertions are without any factual basis and more importantly, the assertions are not supported by any factual evidence. As a result, the assertions should be determined to be unsupported and thus dismissed. In addition, I note for the record that, upon information and belief, Mr. Liburdi does not come before the Citizens Clean Elections Commission with the requisite "clean hands" of a disinterested amicus curiae for the reason that Mr. Liburdi now represents Arizona Treasurer Doug Ducey, a public office holder currently seeking a higher office in the state. It is without argument that Mr. Liburdi's vested interest in seeing that Mr. Ducey will be elevated to higher office appears to be best served by limiting a robust public debate on the very policy issues embraced by the AFF.

The AFF was created for one purpose and one purpose only, to communicate with the public on a set of public policy issues facing the citizens of Arizona over the next decade. In developing the criteria by which AFF embraced certain public policy issues and not others, AFF initiated a comprehensive review of media commentary within the state on a broad range of public policy issues and AFF established a website that contains an on-line forum through which the citizens of Arizona can express their opinion as to the specific public policy issues of most concern to them. The results of that public policy polling are prominently displayed on the AFF website and were the factual basis upon which AFF selected the policy issues which it supports.

Having used the website opinion poll and media commentary to determine the policy issues to be embraced by AFF, the AFF thereafter reviewed the public policy positions and pronouncements of a large number of opinion leaders within Arizona. The policy pronouncements of opinion leaders reviewed by AFF included those made by newspaper editors, business executives, labor leaders and public office holders. In the considered judgment of AFF, one opinion leader, former mayor Scott Smith of Mesa had the public policy background and leadership skills that would be most likely to advance the policy initiatives of the AFF. For this reason, and this reason only, AFF initiated a public communications effort with the citizens of the state to explain the policy initiatives of AFF and to commended former mayor Smith for his leadership on those very same policy issues.

In communicating with the public on the policy issues embraced by AFF, which had been previously supported by Smith during his successful term as mayor of Mesa, the AFF did NOT seek to influence any election in Arizona. As a social welfare organization operating under paragraph 501c4 of the IRC of 1986, AFF was guided by experienced counsel and took considerable care to insure that no language or text employed in these public communications might constitute an endorsement of any candidate for public office. Similarly, AFF took great care to insure that no language or text employed in these public communications could be construed as advocating the election or defeat of an identified candidate for public office. As you know, the United States Supreme Court has provided definitive guidance on what can be deemed an "electioneering communication" and thus be the subject of a narrowly defined governmental regulation that remains consistent with the strict protections offered to free public speech under the First Amendment to the U. S. Constitution.

Mr. Liburdi appears to suggest that AFF should have chosen to conduct its communications efforts as an "independent expenditure" committee under ARS § 16-914.02A rather than as a social welfare organization under paragraph 501c4 of the IRC of 1986. I respectfully disagree with that premise. An "independent expenditure" committee is, under both federal and state law, a political committee whose principal purpose is to influence an election by making an "electioneering expenditure." As "evidence" to support his thesis, Mr. Liburdi simply asserts that an AFF communication in the Prescott (AZ) Daily Courier of August 20, 2014 and unspecified AFF internet communications constituted electioneering communications because they advocated "the election of Mr. Smith." Unfortunately, Mr. Liburdi fails to cite any specific language used by AFF in either of these two communications that he contends advocated the election of Mr. Smith. In these communications, AFF was careful to reference the public policy positions undertaken by Mr. Smith during his service as mayor of Mesa and simply asked the reader or viewer to judge for themselves whether former mayor Smith's policy initiatives were the kinds of public policies that should be adopted broadly within Arizona over the next decade.

Because the AFF is not a political committee and does not seek to advocate the election or defeat of any identified candidate, the AFF could not have carried out its social welfare and public

communications mission as an "independent expenditure" committee under Arizona law. However, under the regulations of the Internal Revenue Service, the AFF, as a tax-exempt 501c4 organization, is completely free to coordinate any or all of its efforts, including content, placement and forum, with any third party, to include former mayor Smith. However, the AFF chose not to coordinate any of its public communications efforts with any third party. The facts are that the AFF did not coordinate any of its activities with either Mr. Smith or any individuals consulting with Mr. Smith. Neither Mr. Smith nor any of his colleagues exercised any direction or control over the communications initiated by the AFF.

As a social welfare organization operating under paragraph 501c4 of the IRC of 1986, the AFF has an on-going obligation to the Internal Revenue Service to insure that its social welfare obligation is met and that its principal purpose remains the education of the public on substantive policy issues. As regulated by the Internal Revenue Service, the AFF files an annual informational tax return (IRS Form 990). On its Form 990 return, AFF discloses to the Internal Revenue Service all donations received and expenditures made in furtherance of its social welfare obligation. In addition, the Form 990 filed with the Internal Revenue Service discloses to the Service the identity of all donors to the AFF. A copy the AFF Form 990 return will be made available for public inspection at my office, once it has been filed.

Because there is no evidence to support the generalized assertions made by M. Liburdi in his letter of August 20, 2014 and because of obvious function as a partisan agent for Mr. Ducey, I would respectfully request that the Citizens Clean Elections Commission dismiss the complaint and take no further action with respect to the AFF. If I can be of any additional assistance, please feel free to contact me directly.

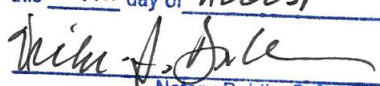
With best wishes,

Sincerely,



William B. Canfield III
Counsel to the Arizona Future Fund

JURAT:

District of Columbia : SS
Subscribed and Sworn to before me, in my presence,
this 29TH day of AUGUST, 2014

Notary Public, D.C.
My commission expires 4/30/2015



William B. Canfield III
Attorney at Law
Suite 600
1900 M Street, North West
Washington, D.C. 20036
(202) 530-3332
canfieldwilliam@gmail.com

November 17, 2014

Ms. Sara A. Larsen
Mr. Thomas Collins
Citizens Clean Elections Commission
1616 W. Adams
Suite 110
Phoenix, AZ 85007

Re: **CCEC MUR NO. 14-014**

Dear Ms. Larsen and Mr. Collins:

I received, via an email attachment on Friday, November 14, 2014, your cover letter of that date as well as a complaint dated August 13, 2014 which appears to have been received by your office on that same date. As we discussed by phone on November 14, 2014, your email attaching the complaint of August 13, 2014 was the **first and only indication** I had as to the very existence of this complaint. Had I been timely apprised of your receipt of this complaint, I would have immediately responded to it as required by the rules of the Commission. Notwithstanding the more than ninety days that have transpired since the complaint was filed, I now respond out of deference to the Commission and in a good-faith effort to settle MUR NO. 14-014 in a mutually agreeable manner.

The complaint of August 13, 2014, prepared and filed by an attorney for the committee supporting Governor-elect Ducey, suggests that the Arizona Future Fund (the "Fund"), a tax-exempt association of individuals conducting its social welfare purpose under section 501(c)(4) of the Internal Revenue Code of 1986, as amended, violated certain specified sections of Arizona Statutes, to wit, sections 16-914.02(A), 16-941(D) and 16-958, by failing to file as an "independent expenditure" committee and disclose its activities to the State of Arizona. As defined in A.R.S. 16-901(8), the term "expenditure" means a payment made "for the purpose of influencing an election." As set forth in my letter to the Commission of August 28, 2014, which is specifically incorporated by reference hereby, the Arizona Future Fund did not make an "independent expenditure" and is not a "political committee" for the reasons set forth in my letter of August 28, 2014. The phrase to "influence an election" is so amorphous and subjective that the United States Supreme Court in the seminal decision of Buckley v. Valeo held that the term could withstand a First Amendment challenge only if the speech at issue contained words of "express advocacy" such as "elect," "defeat," "vote for," or "vote against" an identified candidate. The complainant in this matter fails to cite a single word or phrase in the print or broadcast messages paid for by the Fund that constitute "express advocacy" as outlined in the Buckley decision. Because the public policy speech paid for by the Fund is Constitutionally-protected by the First Amendment, as applied to the states by the Fourteenth Amendment, the burden of the complainant and the Commission is extremely high when seeking to regulate the legitimate issue advocacy speech of a tax-exempt social welfare entity such as the Fund. That burden remains unmet.

As we have discussed over the last few months, the Fund is prepared to enter into a good-faith conciliation effort with the Commission so as to put this matter behind us and allow the Fund to terminate its activities by the close of its tax year on December 31, 2014 and file a terminating Form 990 (the Informational Return) with the Internal Revenue Service thereafter. The Fund has neither raised nor expended any financial resources since the end of August of this year. Because of the publicity generated by the complainant following the filing of these complaints, there is absolutely no prospect of the Fund being able to obtain additional donations going forward. As we have also discussed, funds remaining available to the Fund from prior donations are extremely limited at this point. Additional expenses incurred by counsel in bringing this matter to a mutually agreeable conclusion simply serve to further deplete the Fund's remaining resources. It is in that context that I would seek the cooperation of the Commission in framing a draft conciliation agreement for my review. As I have also discussed with you, any such conciliation agreement that is suitable to the Commission must also be agreed to by the Arizona Attorney General's Office so as to preclude the necessity of the Fund reaching an agreement with the Commission only to find that the Office of the Attorney General opposes that agreement.

In that context, I would like the record before the Commission to reflect the fact that I wrote to the State Elections Director on September 17, 2014 (a copy of which was provided to your office on that date) to point out that the private attorney retained by Maricopa County (Jeffrey Messing) to render findings of fact and law regarding the complaint of the Ducey committee filed with the Secretary of State's Office utterly failed in his obligation to allow the Fund timely notice and the right to respond to the complaint he was retained to review by the County. That obligation is required by the "due process" clause of the Fifth Amendment as applied to the states by the Fourteenth Amendment to the U.S. Constitution. I also note for the record that notwithstanding the Constitutional "due process" challenge raised in my letter of September 17, 2014, the State Elections Director referred the compromised findings of fact and law of Mr. Messing to the office of the Attorney General on a date unknown to me. The record should further reflect that since that referral, the Office of the Attorney General has not contacted me nor sought to explain exactly why that Office intends to rely upon the challenged findings of fact and law referred to it by the State Elections Director.

Should the Commission entertain my proposal to conduct a good-faith negotiation that would lead to a mutually agreeable conciliation agreement between the Commission, the Attorney General's Office and the Fund, please feel free to apprise me of the Commission's determination at the earliest possible date.

With best wishes,

Sincerely,

William B. Canfield III
Counsel to the Arizona Future Fund

SEP 16 2014



KEN BENNETT
SOLICITOR GENERAL'S OFFICE
SECRETARY OF STATE
STATE OF ARIZONA



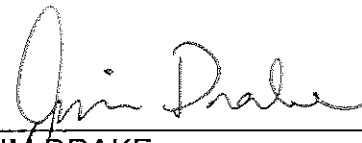
IN THE MATTER OF:

Arizona Future Fund
(No SOS Filer ID)

REASONABLE CAUSE NOTICE

The Arizona Secretary of State, having referred this matter for review to Maricopa County due to a conflict of interest and based upon a finding by Maricopa County's outside counsel Jeffrey Messing that reasonable cause exists to believe that the above-named entity has violated provisions of Title 16, Chapter 6, Article 1 of the Arizona Revised Statutes, specifically A.R.S. § 16-914.02(A)(1), 16-914.02(F) and 16-914.02(K), and other applicable statutes related to the failure to perform a duty as required by law, hereby notifies the Attorney General of this finding solely in our ministerial role pursuant to A.R.S. § 16-924.

DATED this 10th day of September, 2014.


JIM DRAKE
Deputy Secretary of State



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



TO: Paula Bickett
Assistant Attorney General
Arizona Attorney General's Office

FROM: Christina Estes-Werther *CW*
State Election Director

DATE: September 10, 2014

SUBJECT: Reasonable Cause Notice
Arizona Future Fund
(No SOS Filer ID)

Attached is the notice finding reasonable cause to believe that Arizona Future Fund has violated A.R.S. § 16-914.02, and other statutory provisions relating to the failure to perform a duty as required by law.

On August 12, 2014 and subsequently on August 20, 2014, complaints were filed by Michael T. Liburdi against Arizona Future Fund involving television advertisements and an advertisement in the Prescott Daily Courier advocating the election of Scott Smith. The complaints alleged that Arizona Future Fund failed to properly register as a political committee or alternatively as an independent expenditure organization and failed to include the full disclaimer on its advertisements pursuant to A.R.S. §§ 16-902, 16-902.01 and 16-914.02.

Due to a conflict of interest, the Secretary of State's Office referred this matter to Maricopa County who hired outside counsel, Jeffrey Messing, to review the complaint. Based upon Mr. Messing's finding of reasonable cause and pursuant to strict adherence of A.R.S. § 16-924, we are submitting a reasonable cause notice that finds that Arizona Future Fund has violated Arizona's campaign finance statutes by not meeting A.R.S. § 16-914.02 requirements. We therefore refer this matter to your office for appropriate enforcement.

Thank you for your attention to this matter. If you have any questions about the matter, please contact Mr. Messing at the contact information provided in his letter. I can be reached at (602) 542-6167 or cwerther@azsos.gov.

Attachments (Case File)

POLI & BALL, P.L.C.

ATTORNEYS AT LAW

2999 NORTH 44TH STREET

SUITE 500

PHOENIX, ARIZONA 85018

Telephone: (602) 840-1400

Facsimile: (602) 840-4411

SECRETARY OF STATE

2014 SEP 10 AM 11:51

Jeffrey Messing

Direct Line: (602) 808-5816
E-mail: messing@poliball.com

September 9, 2014

Christina Estes-Werther
State Elections Director.
Arizona Secretary of State
1700 W Washington Street
Phoenix AZ 85007

Re: Complaint -- Against Arizona Future Fund

Dear Ms. Estes-Werther:

As you know, the Office of the Secretary of State referred the attached Campaign Finance Complaints filed by Michael Liburdi on behalf of Ducey 2014 to the Maricopa County Elections Department due to a conflict of interest on August 12, 2014, as well as a subsequent Complaint filed on August 20, 2014 (e-mail) and August 20, 2014 (letters attached as Exhibit A & B). The Maricopa County Attorney's Office retained this office as counsel for the Maricopa County Elections Department due to a separate conflict of interest.

As far as we could determine, Arizona Future Fund is not registered as a legal entity with either the Arizona Secretary of State or the Arizona Corporation Commission. Kristi Passarelli, the Department's Campaign Finance & Jurisdictional Manager, sent copies of the Complaints to the address shown in the records of the IRS, as well as to the e-mail address shown on the Fund's website and an address in Canada discovered through an internet search on August 14, 2014 and August 20, 2014 (copies attached, without attachments, as Exhibits C & D).

When the Department received no response from those letters, I contacted the vendors identified in the Complaint and asked if they could provide additional addresses or contact information. Of those vendors only Cox Media responded to my inquiry. Denise Miller of Cox Media explained that the Committee did not purchase the advertisement time directly but instead used an agency to make the purchases. Ms. Miller agreed to forward the prior letters to the "sales contact" that purchased the broadcast time for the Committee and assured me that that contact would be able to get the Requests to the Committee. A copy of my e-mail to Ms. Miller with the attachments is attached as Exhibit E. Miller's acknowledgement e-mail is attached as Exhibit F.

POLI & BALL, P.L.C.
ATTORNEYS AT LAW

Christina Estes-Werther
September 9, 2014
Page 2

After I sent that e-mail to Ms. Miller, the Department received back the copy of the Complaint and Request for Response it had originally mailed to the Committee at the address shown in the records of the IRS as undeliverable. Copy attached as Exhibit G. Despite extending the time for a response through September 8, 2014, the Department also received no response from the Committee in response to my e-mail to Ms. Miller of Cox Media. It is possible that additional and/or better contact information could be obtained by subpoenaing records from Cox Media and/or the other vendors involved, but at this stage of the proceedings the Department lacks the ability to compel those entities to provide additional information.

After carefully considering the attached Complaint the Department has instructed me to notify you that it has determined that reasonable cause exists to believe that Arizona Future Fund violated A.R.S. § 16-914.02(A)(1), A.R.S. § 16-914.02(F) and A.R.S. § 16-914.02(K).

Respectfully,



Jeffrey Messing

Enclosures as Stated.

Copy to: Michael T. Liburdi, Esq.
William B. Canfield III
Arizonafuturefund.org@contactprivacy.com
Arizona Future Fund

EXHIBIT A



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



August 12, 2014

Karen Osborne, Director
Maricopa County Elections
111 South 3rd Avenue, #102
Phoenix, Arizona 85003

Dear Ms. Osborne:

Our office has received the enclosed email complaint alleging that Arizona Future Fund may have failed to comply with Arizona campaign finance requirements.

The Secretary of State's office is conflicted out of reviewing this complaint so we are referring this complaint to Maricopa County Elections for your reasonable cause review.

If you have any questions, please contact Nancy Read at (602) 364-1562 or by email at nread@azsos.gov.

Sincerely,

Christina Estes-Werther

Christina Estes-Werther
State Election Director

Enclosures

cc: Michael T. Liburdi

Estes-Werther, Christina

From: Liburdi, Mike <mlliburdi@swlaw.com>
Sent: Tuesday, August 12, 2014 5:16 PM
To: Estes-Werther, Christina
Subject: Campaign Finance Complaint -- Arizona Future Fund (ARS 16-914.02(A) & (F))
Attachments: Scott Smith_ Just Right.mp4

Categories: Immediate

Dear Ms. Estes-Werther:

This is a campaign finance complaint against Arizona Future Fund ("AFF"), which purports to be an entity recognized by the IRS as having 501(c)(4) status. See www.arizonafuturefund.com. On Friday, August 8, the Ducey 2014 campaign was informed that AFF made a \$74,247 media buy for television advertisements in the Phoenix, Tucson, and Yuma cable markets. See Table 1, below. The start date of the advertisement is reported as of Saturday, August 9, 2014. The advertisement expressly advocates in favor of Scott Smith. AFF's advertisement is available on its website and we have attached a video file copy to this email.

Table 1: AFF Cable Buy

Phoenix	Cable ONE/Arizona Regional, AZ	
Phoenix	Cox Media/DirecTV- I+ Phoenix IC, AZ	
Phoenix	Cox Media/DISH- I+ Phoenix IC, AZ	
Phoenix	Cox Media/Phoenix Interconnect, AZ	\$ 61,188
Tucson/Nogales	Cox Media/Tucson DMA Interconnect, AZ	\$ 10,553
Yuma/El Centro	Time Warner/El Centro, CA	\$ 2,506
Total:		\$ 74,247

Failure to Register as an Independent Expenditure Organization (A.R.S. 16-914.02(A))

For an independent expenditure made in a statewide race, A.R.S. 16-914.02(A) mandates that a corporation, limited liability company, or labor organization file a registration to your office "not later than one day after making the expenditure, excluding Saturdays, Sundays and other legal holidays." The expenditure threshold is any single expenditure or aggregate expenditures of \$5,000 or more. A.R.S. 16-914.02(A)(1). Arizona law broadly defines "expenditure" to include events where money is exchanged and also those events in which a person makes a promise of future payment. A.R.S. 16-901(8) (defining "expenditure" to include any "purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by a person for the purpose of influencing an election in this state . . . and a contract, promise or agreement to make an expenditure resulting in an extension of credit . . ."). According to the law, AFF's expenditure was made, at the latest, on Friday, August 8, 2014 because AFF made a "purchase, payment, distribution, loan, advance, [or] deposit" or otherwise entered into a "contract, promise, or agreement" to purchase airtime on or before that date.

At \$74,247, AFF's media buy from last week well exceeds the \$5,000 registration threshold. Assuming that it made the expenditure on Friday, August 8, 2014, AFF was required to register with your office no later than Monday, August 11, 2014. Of course, AFF's expenditure could have been made earlier than August 8, 2014, and the requirement to register with your office would have been one day following the actual expenditure date.

For these reasons, there is reason to believe that AFF has violated A.R.S. 16-914.02(A)(1), and we ask that your office refer the matter to the Attorney General.

Failure to Include Disclaimer (A.R.S. 16-914.02(F))

A.R.S. 16-914.02(F) requires that any corporation, limited liability company, or labor organization making an independent expenditure include the words "paid for by," followed by its name, and also include the additional disclaimer "not authorized by any candidate or candidate's committee." Attached hereto is a video file of AFF's advertisement, captured on August 12, 2014. The video does not include the phrase "not authorized by any candidate or candidate's committee." The lack of this disclaimer violates A.R.S. 16-914.02(F), and we ask that your office refer the matter to the Attorney General.

Please let me know if I can provide you any further information.

Best regards,
Michael T. Liburdi

MICHAEL T. LIBURDI
Snell & Wilmer L.L.P.
One Arizona Center
400 East Van Buren Street, Suite 1900
Phoenix, Arizona 85004
mlliburdi@swlaw.com
(602) 382-6170 (direct)
(602) 369-6070 (cell)
(602) 382-6070 (fax)
Twitter: @mlliburdi

EXHIBIT B



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



August 20, 2014

Karen Osborne, Director
Maricopa County Elections
111 South 3rd Avenue, #102
Phoenix, Arizona 85003

Dear Ms. Osborne:

Our office has received the enclosed email complaint alleging that Arizona Future Fund may have failed to comply with Arizona campaign finance requirements.

The Secretary of State's office is conflicted out of reviewing this complaint so we are referring this complaint to Maricopa County Elections for your reasonable cause review.

If you have any questions, please contact Nancy Read at (602) 364-1562 or by email at nread@azsos.gov.

Sincerely,

Christina Estes-Werther

Christina Estes-Werther
State Election Director

Enclosures

cc: Michael T. Liburdi

One Arizona Center
400 East Van Buren Street
Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000
602.382.6070 (Fax)
www.swlaw.com

Michael T. Liburdi
602.382-6170
miliburdi@swlaw.com

SECRETARY OF STATE

2014 AUG 20 PM 3: 02

DENVER
LAS VEGAS
LOS ANGELES
LOS CABOS
ORANGE COUNTY
PHOENIX
RENO
SALT LAKE CITY
TUCSON

August 20, 2014

VIA EMAIL AND U.S. MAIL

Christina Estes-Werther
Election Director
Secretary of State's Office
1700 West Washington, 7th Floor
Phoenix, AZ 85007
cwerther@azsos.gov

Thomas M. Collins
Executive Director
Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, AZ 85007
Thomas.Collins@azcleanelections.gov

Re: Arizona Future Fund

Dear Ms. Estes-Werther and Mr. Collins:

This is a campaign finance complaint against Arizona Future Fund ("AFF"), which purports to be an entity recognized by the IRS as having 501(c)(4) status. See www.arizonafuturefund.com. As we mentioned in our August 13, 2014 complaint letter, we believe that AFF is an association that obtained 501(c)(4) status from the IRS in June 2014. The contact person is William B. Canfield III, and its address is 1900 M. Street NW, Washington, DC 20036.

Today, August 20, 2014, AFF ran an advertisement in the *Prescott Daily Courier* advocating the election of Scott Smith. Attached hereto are three photographs of the advertisement.

AFF has also paid for advertisements on the internet advocating the election of Mr. Smith. Attached hereto is a screenshot of one of the advertisements.

Legal Violation: Failure to Register as a Political Committee and Disclose (A.R.S. §§ 16-902, 16-902.01, 16-914.02(A)(1), (F) & (K), 16-941(D) and 16-958)

For an independent expenditure made in a statewide race, A.R.S. § 16-914.02(A) mandates that a corporation, limited liability company, or labor organization file a registration to the Secretary of State "not later than one day after making the expenditure, excluding Saturdays,

Christina Estes-Werther
Thomas M. Collins
August 20, 2014
Page 2

Sundays and other legal holidays.” The expenditure threshold is any single expenditure or aggregate expenditures of \$5,000 or more. A.R.S. § 16-914.02(A)(1). As we mentioned in our August 13, 2014 letter, AFF’s broadcast advertisement expenditures (\$74,247) exceeded the \$5,000 mark on or about August 8, 2014. To this day, AFF has not registered with the Secretary of State’s office and provided reports as required by the Arizona Citizens Clean Elections Act.

AFF has now made another electioneering expenditure with the *Prescott Daily Courier*, and yet another expenditure on internet advertising, but is still has not registered with the Secretary of State nor has it submitted the required reports.

As you know, A.R.S. § 16-914.02(K) states that an entity “that is organized primarily for the purpose of influencing an election” must register and report with the Secretary of State as a political committee. In a matter of weeks, AFF has spent tens of thousands of dollars – perhaps over \$100,000 – advocating for the election of their favored candidate and, despite media coverage and our August 13, 2014 complaint, has failed to register the organization and report their spending. As far as we can tell, AFF has no activity other than to advocate the election of their favored Arizona candidate and it appears to us that it is not eligible for the registration and reporting procedures under A.R.S. § 16-914.02 but, instead, must register as a political committee.

Moreover, at this point in the cycle, their failure to follow the law and heed the public call to do so suggests that they have no intention of registering and reporting and perhaps have made the calculated decision to either (i) evade responsibility for their actions or (ii) pay any fines after the election simply as a cost of doing business. This, if true, is absolutely unacceptable.

Finally, AFF’s disclaimers fail to include the required statement “not authorized by any candidate or candidate’s committee.” A.R.S. § 16-914.02(F).

For these reasons, there is reason to believe that AFF has violated A.R.S. §§ 16-902, 16-902.01, 16-914.02(A)(1), (F) & (K), 16-941(D) and 16-958, among other laws. We respectfully ask for the following relief:

1. That the Secretary of State refer this matter to the Attorney General under A.R.S. § 16-924 without delay for the reasons stated herein; and
2. That the Citizens Clean Elections Commission find reasonable cause that a campaign finance violation of the Citizens Clean Elections Act’s reporting requirements has occurred under A.R.S. §§ 16-941(D) and 16-958.

Christina Estes-Werther
Thomas M. Collins
August 20, 2014
Page 3

I declare under penalty of perjury that the foregoing is true and correct.

Michael T. Liburdi
Michael T. Liburdi

State of Arizona)
)
County of Maricopa)

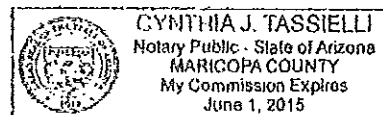
Subscribed and sworn (or affirmed) before me this 20th day of August, 2014, by
Michael T. Liburdi.

Cynthia J. Tassielli
Notary Public

Enclosures:

1. Prescott Daily Courier (Aug 20, 2014) photographs
2. Screenshot of AFF internet advertisement

ML/ct
19938797.1



SCOTT SMITH

Brought better jobs, schools and roads as Mayor.

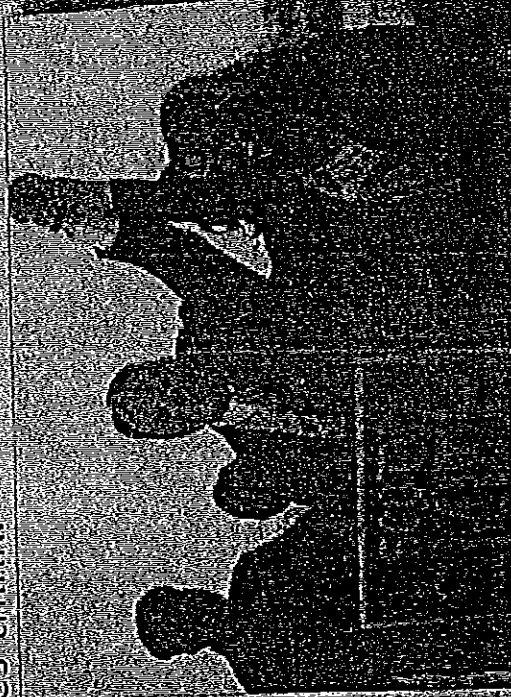
- Just what we need in a Governor.

When Arizonans choose a new governor, what's more important?

What former governors of other states think?
Or what your own governor thinks?

*"It is of the utmost importance
that our next governor tells us the
truth about where we stand, not
feel-good sound bites that litter
modern-day politics."*

— Governor Janet Brewer



*feel-good sound bites that litter
modern-day politics."*

— Governor Janet Brewer

Verizon 3G

3:56 PM

100%



The Beatles
Here Comes The Sun
Abbey Road



x

Please confirm your account information.



**TIRED OF PARTISAN
BICKERING?
SUPPORT SCOTT SMITH'S
REAL LEADERSHIP.**

TAKE ACTION

PAID FOR BY ARIZONA FUTURE FUND



0:01

-3:04

EXHIBIT C



Maricopa County
Elections Department

Karen Osborne, Director

11 S. 3rd Avenue, Suite 102

Phoenix, Arizona 85003-2235

Phone: (602) 506-1511

fax: (602) 506-3069

DD: (602) 506-1517

August 14, 2014

Arizona Future Fund
William B Canfield III
1900 M Street NW
Washington DC 20036

Arizona Future Fund
96 Mowat Ave
Toronto, ON M6K 3L7

Re: Campaign Finance Complaint

Dear Committee,

Attached is a copy of a campaign finance complaint filed with the Arizona Secretary of State on August 12, 2014. The Secretary of State has referred this complaint to Maricopa County Elections Department.

This office is required to conduct a reasonable cause review of the complaint pursuant to A.R.S. § 16-924. Please provide any information or materials you would like us to consider in connection with that review no later than 5:00 p.m. on Friday, August 22, 2014.

Respectfully,

A handwritten signature in cursive script, appearing to read "Passarelli".

Kristi Passarelli
Campaign Finance & Jurisdictional Manager

cc: arizonafuturefund.org@contactprivacy.com

EXHIBIT D



Maricopa County
Elections Department

Karen Osborne, Director

1 S. 3rd Avenue, Suite 102

Phoenix, Arizona 85003-2235 August 20, 2014

Phone: (602) 506-1511

Fax: (602) 505-3069

TDD: (602) 506-1517

Arizona Future Fund
William B Canfield III
1900 M Street NW
Washington DC 20036

Arizona Future Fund
96 Mowat Ave
Toronto, ON M6K 3L7

Re: Campaign Finance Complaint

Dear Committee,

Attached is a copy of a campaign finance complaint filed with the Arizona Secretary of State today August 20, 2014. The Secretary of State has referred this complaint to Maricopa County Elections Department.

This office is required to conduct a reasonable cause review of the complaint pursuant to A.R.S. § 16-924. Please provide any information or materials you would like us to consider in connection with that review no later than 5:00 p.m. on Friday, August 29, 2014.

Respectfully,

A handwritten signature in cursive script, appearing to read "K. Passarelli".

Kristi Passarelli
Campaign Finance & Jurisdictional Manager

cc: arizonafuturefund.org@contactprivacy.com

EXHIBIT E

Jeffrey Messing

From: Jeffrey Messing
Sent: Monday, August 25, 2014 3:05 PM
To: 'denise.miller@coxmedia.com'
Subject: Campaign Finance Complaints against Arizona Future Fund
Attachments: SKMBT_75114082514430.pdf; SKMBT_75114082514431.pdf

Ms. Miller

Thank you for taking the time to speak with me. As I explained, during our telephone conversation, the Arizona Secretary of State referred the underlying Campaign Finance complaints to the Maricopa County Elections Department due to a conflict of interest. (The referral letters are attached to the respective complaints). This office was retained by the Maricopa County Attorney's Office as counsel for the Maricopa County Elections Department due to a separate conflict of interest.

As you can see from the attachments, the Department sent a separate Request for Response for each of the two Complaints to three addresses (2 physical and an e-mail address) it was able to locate on the internet and/or was provided by the complaining party. As of this date, the Department has not received any response from Arizona Future Fund with regard to either Complaint and asked me to contact you in hopes we could verify the accuracy of the existing addresses or obtain better contact information. As you indicated that you could and would forward the Complaints and Requests for Response to your sales contact who could get them to Arizona Future Fund I am attaching copies of all of the material previously sent.

The first Request asked for a response by August 22, 2014 and the second asked for a Response by August 29, 2014. Given that it is now August 25, 2014, the Department has agreed to extend the deadline for both responses through and including 5:00 p.m. on Monday September 8, 2014.

Again, I appreciate your help in making sure these materials do reach Arizona Future Fund.

Jeffrey Messing
POLI & BALL, P.L.C.
2999 North 44th Street, Suite 500
Phoenix, Arizona 85018
Phone: (602) 840-1400
Facsimile: (602) 840-4411

This email and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e mail or any attachments is prohibited. If you have received this email in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.



Maricopa County
Elections Department

Karen Osborne, Director

1001 North Central Avenue, Suite 102

Phoenix, Arizona 85003-2239

tel: (602) 506-1517

(602) 506-3069

fax: (602) 506-1517

Arizona Future Fund
William B. Canfield III
1900 M Street NW
Washington, DC 20036

Arizona Future Fund
96 Mowat Ave
Toronto, ON M6K 3L7

Re: Campaign Finance Complaint

Dear Committee:

Attached is a copy of a campaign finance complaint filed with the Arizona Secretary of State on August 12, 2014. The Secretary of State has referred this complaint to Maricopa County Elections Department.

This office is required to conduct a reasonable cause review of the complaint pursuant to A.R.S. § 16-924. Please provide any information or materials you would like us to consider in connection with that review no later than 5:00 p.m. on Friday, August 22, 2014.

Respectfully,

A handwritten signature in cursive script, appearing to read "K. Passarelli".

Kristi Passarelli
Campaign Finance & Jurisdictional Manager

cc: arizonafuturefund.org@contactprivacy.com



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



August 12, 2014

Karen Osborne, Director
Maricopa County Elections
111 South 3rd Avenue, #102
Phoenix, Arizona 85003

Dear Ms. Osborne:

Our office has received the enclosed email complaint alleging that Arizona Future Fund may have failed to comply with Arizona campaign finance requirements.

The Secretary of State's office is conflicted out of reviewing this complaint so we are referring this complaint to Maricopa County Elections for your reasonable cause review.

If you have any questions, please contact Nancy Read at (602) 364-1562 or by email at nread@azsos.gov.

Sincerely,

Christina Estes Werther

Christina Estes-Werther
State Election Director

Enclosures

cc: Michael T. Liburdi

Snell & Wilmer

L.L.P.
LAW OFFICES

One Arizona Center
400 East Van Buren Street
Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000
602.382.6070 (Fax)
www.swlaw.com

Michael T. Liburdi
602.382-6170
mliburdi@swlaw.com

DENVER
LAS VEGAS
LOS ANGELES
LOS CABOS
ORANGE COUNTY
PHOENIX
RENO
SALT LAKE CITY
TUCSON

August 13, 2014

VIA EMAIL AND U.S. MAIL

Thomas.Collins@azcanelections.gov
Thomas M. Collins
Executive Director
Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, AZ 85007

Re: Arizona Future Fund

Dear Mr. Collins:

This is a campaign finance complaint against Arizona Future Fund ("AFF"), which purports to be an entity recognized by the IRS as having 501(c)(4) status. See www.arizonafuturefund.com. Our research indicates that AFF is an association that obtained 501(c)(4) status from the IRS in June 2014. The contact person is William B. Canfield III, and its address is 1900 M. Street NW, Washington, DC 20036.

On Friday, August 8, the Ducey 2014 campaign was informed that AFF made a \$74,247 media buy for television advertisements in the Phoenix, Tucson, and Yuma cable markets. See Table 1, below. The start date of the advertisement is reported as of Saturday, August 9, 2014. The advertisement expressly advocates in favor of Scott Smith. AFF's advertisement is available on its website.

Table 1: AFF Cable Buy

Phoenix	Cable ONE/Arizona Regional, AZ	
Phoenix	Cox Media/DirectTV- I+ Phoenix IC, AZ	
Phoenix	Cox Media/DISH- I+ Phoenix IC, AZ	
Phoenix	Cox Media/Phoenix Interconnect, AZ	\$ 61,188
Tucson/Nogales	Cox Media/Tucson DMA Interconnect, AZ	\$ 10,553
Yuma/El Centro	Time Warner/El Centro, CA	\$ 2,506
	Total:	\$ 74,247

Thomas M. Collins
August 13, 2014
Page 2

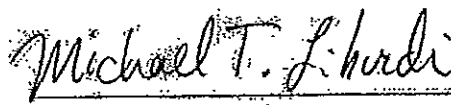
Legal Violation: Failure to Register as an Independent Expenditure Organization (A.R.S. §§ 16-914.02(A), 16-941(D) and 16-958)

For an independent expenditure made in a statewide race, A.R.S. § 16-914.02(A) mandates that a corporation, limited liability company, or labor organization file a registration to the Secretary of State "not later than one day after making the expenditure, excluding Saturdays, Sundays and other legal holidays." The expenditure threshold is any single expenditure or aggregate expenditures of \$5,000 or more. A.R.S. § 16-914.02(A)(1). Arizona law broadly defines "expenditure" to include events where money is exchanged and also those events in which a person makes a promise of future payment. A.R.S. § 16-901(8) (defining "expenditure" to include any "purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by a person for the purpose of influencing an election in this state . . . and a contract, promise or agreement to make an expenditure resulting in an extension of credit . . ."). According to the law, AFF's expenditure was made, at the latest, on Friday, August 8, 2014 because AFF made a "purchase, payment, distribution, loan, advance, [or] deposit" or otherwise entered into a "contract, promise, or agreement" to purchase airtime on or before that date.

At \$74,247, AFF's media buy from last week well exceeds the \$5,000 registration threshold. Assuming that it made the expenditure on Friday, August 8, 2014, AFF was required to register with the Secretary of State no later than Monday, August 11, 2014. Of course, AFF's expenditure could have been made earlier than August 8, 2014, and the requirement to register with the Secretary of State would have been one day following the actual expenditure date. Moreover, under the Clean Elections Act, A.R.S. §§ 16-941(D) and 16-958, AFF was required to submit expenditure reports with the Secretary of State, according to a specified schedule, which it has not done.

For these reasons, there is reason to believe that AFF has violated A.R.S. §§ 16-914.02(A)(1), 16-941(D) and 16-958, and we ask that you recommend that the Commission find reasonable cause that a campaign finance violation has occurred.

I declare under penalty of perjury that the foregoing is true and correct.


Michael T. Liburdi

Thomas M. Collins
August 13, 2014
Page 3

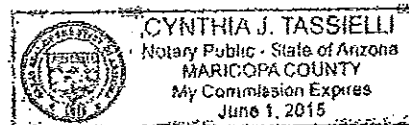
State of Arizona)
)
County of Maricopa)

Subscribed and sworn (or affirmed) before me this 13th day of August, 2014, by
Michael T. Liburdi,

Cynthia J. Tasselli
Notary Public

cc: Christina Estes-Werther
Karen Osborne

ML/ct
19904709.1





Maricopa County
Elections Department

Karen Osborne, Director

1. 3rd Avenue, Suite 102

Phoenix, Arizona 85003-2235

☎ (602) 506-1511

(602) 506-3069

☎ (602) 506-1517

August 20, 2014

Arizona Future Fund
William B Canfield III
1900 M Street NW
Washington DC 20036

Arizona Future Fund
96 Mowat Ave
Toronto, ON M6K 3L7

Re: Campaign Finance Complaint

Dear Committee,

Attached is a copy of a campaign finance complaint filed with the Arizona Secretary of State today August 20, 2014. The Secretary of State has referred this complaint to Maricopa County Elections Department.

This office is required to conduct a reasonable cause review of the complaint pursuant to A.R.S. § 16-924. Please provide any information or materials you would like us to consider in connection with that review no later than 5:00 p.m. on Friday, August 29, 2014.

Respectfully,

A handwritten signature in cursive script, appearing to read "Kristi Passarelli".

Kristi Passarelli
Campaign Finance & Jurisdictional Manager

cc: arizonafuturefund.org@contactprivacy.com

Snell & Wilmer

LLP
LAW OFFICES

One Arizona Center
400 East Van Buren Street
Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000
602.382.6070 (Fax)
www.swlaw.com

Michael T. Liburdi
602.382-6170
mliburdi@swlaw.com

SECRETARY OF STATE

2014 AUG 20 PM 3:02

DENVER
LAS VEGAS
LOS ANGELES
LOS CABOS
ORANGE COUNTY
PHOENIX
RENO
SAUL LAKE CITY
TUCSON

August 20, 2014

VIA EMAIL AND U.S. MAIL

Christina Estes-Werther
Election Director
Secretary of State's Office
1700 West Washington, 7th Floor
Phoenix, AZ 85007
cwerther@azsos.gov

Thomas M. Collins
Executive Director
Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, AZ 85007
Thomas.Collins@azcleelections.gov

Re: Arizona Future Fund

Dear Ms. Estes-Werther and Mr. Collins:

This is a campaign finance complaint against Arizona Future Fund ("AFF"), which purports to be an entity recognized by the IRS as having 501(c)(4) status. See www.arizonafuturefund.com. As we mentioned in our August 13, 2014 complaint letter, we believe that AFF is an association that obtained 501(c)(4) status from the IRS in June 2014. The contact person is William B. Canfield III, and its address is 1900 M. Street NW, Washington, DC 20036.

Today, August 20, 2014, AFF ran an advertisement in the *Prescott Daily Courier* advocating the election of Scott Smith. Attached hereto are three photographs of the advertisement.

AFF has also paid for advertisements on the internet advocating the election of Mr. Smith. Attached hereto is a screenshot of one of the advertisements.

Legal Violation: Failure to Register as a Political Committee and Disclose (A.R.S. §§ 16-902, 16-902.01, 16-914.02(A)(1), (F) & (K), 16-941(D) and 16-958)

For an independent expenditure made in a statewide race, A.R.S. § 16-914.02(A) mandates that a corporation, limited liability company, or labor organization file a registration to the Secretary of State "not later than one day after making the expenditure, excluding Saturdays,

Christina Estes-Werther
Thomas M. Collins
August 20, 2014
Page 2

Sundays and other legal holidays." The expenditure threshold is any single expenditure or aggregate expenditures of \$5,000 or more. A.R.S. § 16-914.02(A)(1). As we mentioned in our August 13, 2014 letter, AFF's broadcast advertisement expenditures (\$74,247) exceeded the \$5,000 mark on or about August 8, 2014. To this day, AFF has not registered with the Secretary of State's office and provided reports as required by the Arizona Citizens Clean Elections Act.

AFF has now made another electioneering expenditure with the *Prescott Daily Courier*, and yet another expenditure on internet advertising, but is still has not registered with the Secretary of State nor has it submitted the required reports.

As you know, A.R.S. § 16-914.02(K) states that an entity "that is organized primarily for the purpose of influencing an election" must register and report with the Secretary of State as a political committee. In a matter of weeks, AFF has spent tens of thousands of dollars – perhaps over \$100,000 – advocating for the election of their favored candidate and, despite media coverage and our August 13, 2014 complaint, has failed to register the organization and report their spending. As far as we can tell, AFF has no activity other than to advocate the election of their favored Arizona candidate and it appears to us that it is not eligible for the registration and reporting procedures under A.R.S. § 16-914.02 but, instead, must register as a political committee.

Moreover, at this point in the cycle, their failure to follow the law and heed the public call to do so suggests that they have no intention of registering and reporting and perhaps have made the calculated decision to either (i) evade responsibility for their actions or (ii) pay any fines after the election simply as a cost of doing business. This, if true, is absolutely unacceptable.

Finally, AFF's disclaimers fail to include the required statement "not authorized by any candidate or candidate's committee." A.R.S. § 16-914.02(F).

For these reasons, there is reason to believe that AFF has violated A.R.S. §§ 16-902, 16-902.01, 16-914.02(A)(1), (F) & (K), 16-941(D) and 16-958, among other laws. We respectfully ask for the following relief:

1. That the Secretary of State refer this matter to the Attorney General under A.R.S. § 16-924 without delay for the reasons stated herein; and
2. That the Citizens Clean Elections Commission find reasonable cause that a campaign finance violation of the Citizens Clean Elections Act's reporting requirements has occurred under A.R.S. §§ 16-941(D) and 16-958.

Christina Estes-Werther
Thomas M. Collins
August 20, 2014
Page 3

I declare under penalty of perjury that the foregoing is true and correct.

Michael T. Liburdi
Michael T. Liburdi

State of Arizona)
)
County of Maricopa)

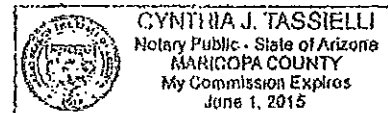
Subscribed and sworn (or affirmed) before me this 20th day of August, 2014, by
Michael T. Liburdi.

Cynthia J. Tasselli
Notary Public

Enclosures:

1. Prescott Daily Courier (Aug 20, 2014) photographs
2. Screenshot of AFF internet advertisement

ML/ct
19938797.1



WOMEN

The women of the state are... (text continues in columns)

Scott Smith

Brought better jobs, schools and roads as Mayor.
 - Just what we need in a Governor.



When Arizonans choose a new governor,
 what's more important?

What former governors of other states think?
 Or what your own governor thinks?

"It's of the utmost importance
 that our next governor tells us the
 truth about where we stand, not
 just good sound bites that fill
 modern day politics."
 Governor John Brown



© 1994 by Scott Smith. All rights reserved. Printed in the United States of America.

SCOTT SMITH

Brought better jobs, schools and roads as Mayor.

Just what we need in a Governor.

When Arizonans choose a new governor, what's more important?

What former governors of other states think?

Or what your own governor thinks?

*"It's of the utmost importance
that our next governor tells us the
truth about where we stand, not
feel-good sound bites that flier
modern-day politics."
— Governor Janet Brewer*



*feel-good sound bites that litter
modern-day politics."*

— Governor Janet Brewer

Verizon 3G

3:56 PM

100% 



The Beatles
Here Comes The Sun
Abbey Road



x

Please confirm your account information.



**TIRED OF PARTISAN
BICKERING?
SUPPORT SCOTT SMITH'S
REAL LEADERSHIP.**

TAKE ACTION

PAID FOR BY ARIZONA FUTURE FUND



0:01

3:04



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



August 20, 2014

Karen Osborne, Director
Maricopa County Elections
111 South 3rd Avenue, #102
Phoenix, Arizona 85003

Dear Ms. Osborne:

Our office has received the enclosed email complaint alleging that Arizona Future Fund may have failed to comply with Arizona campaign finance requirements.

The Secretary of State's office is conflicted out of reviewing this complaint so we are referring this complaint to Maricopa County Elections for your reasonable cause review.

If you have any questions, please contact Nancy Read at (602) 364-1562 or by email at nread@azsos.gov.

Sincerely,

Christina Estes-Werther

Christina Estes-Werther
State Election Director

Enclosures

cc: Michael T. Liburdi

EXHIBIT F

Jeffrey Messing

From: Miller, Denise C. (CMI-Southwest) <Denise.Miller@coxmedia.com>
Sent: Monday, August 25, 2014 3:58 PM
To: Jeffrey Messing
Subject: RE: Campaign Finance Complaints against Arizona Future Fund

Hi Jeff,

I have sent this off to our rep firm and have asked for this to be forwarded to the appropriate people for a response.
Thanks.

COX Media

Denise Miller | National Sales Manager, Cox Media
4600 E Washington Street, Suite 200 | Phoenix, AZ 85034
623.328.2089 tel | 623.341.8659 cell | 623.328.1938 fax coxmedia.com

-----Original Message-----

From: Jeffrey Messing [mailto:Messing@poliball.com]
Sent: Monday, August 25, 2014 3:05 PM
To: Miller, Denise C. (CMI-Southwest)
Subject: Campaign Finance Complaints against Arizona Future Fund

Ms. Miller

Thank you for taking the time to speak with me. As I explained, during our telephone conversation, the Arizona Secretary of State referred the underlying Campaign Finance complaints to the Maricopa County Elections Department due to a conflict of interest. (The referral letters are attached to the respective complaints). This office was retained by the Maricopa County Attorney's Office as counsel for the Maricopa County Elections Department due to a separate conflict of interest.

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Again, I appreciate your help in making sure these materials do reach Arizona Future Fund.

Jeffrey Messing
POLI & BALL, P.L.C.
2999 North 44th Street, Suite 500
Phoenix, Arizona 85018

Phone: (602) 840-1400

Facsimile: (602) 840-4411

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EXHIBIT G

United States Postal Service®

Sorry We Missed You! We Re Deliver for You

Today's Date
8/26/14

Sender's Name

Item is at:
Post Office (See back)

Available for Pick-up After
8/26/14 9:00
Time

For Redelivery
Go to usps.com/redelivery
or see reverse.

☒ Letter For Delivery: (Enter total number of items delivered by service type.)

Large envelope, magazine, catalog, etc. For Notice Left: (Check applicable item)
☐ Priority Mail ☐ Insured Mail
☐ Express™

Parcel: (Must claim within 15 days or article will be returned)
☐ Registered Mail™ ☐ Signature Confirmation™
☐ Restricted Delivery ☐ Adult Signature

Perishable item: (Must claim within 15 days or article will be returned)
☐ Registered Mail™ ☐ Signature Confirmation™
☐ Restricted Delivery ☐ Adult Signature

Other: ☐ Registered Mail™ ☐ Signature Confirmation™
☐ Restricted Delivery ☐ Adult Signature

Article Requiring Payment
☐ Postage ☐ COD ☐ Customs Amount Due
☐ Due ☐ Final Notice: Article will be returned to sender on:

☐ If checked, you or your agent must be present at time of delivery to sign for item.

USPS Tracking # or Article Number(s)
7206 2150 0005 4511 8926

Notice Left Section

Customer Name and Address
William Crawford

1900 W Street NW
Delivered By and Date

PS Form 3849, July 2013

usps.com

Delivery Notice/Reminder/Receipt

02 12
005553
MAILED 4



EFFICIENT
ADDRESSES

Arizona Future Fund
William B Canfield III
1900 M Street NW
Washington DC 20036

1A
25/11/19

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

7. Article Addressed to:

Arizona Future Fund
William B Canfield III
1900 M Street NW
Washington DC 20036

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

☐ Agent

☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

☐ Yes
☐ No

3. Service Type

Certified Mail®

☐ Priority Mail ExpressSM☐ Registered

~~Return Receipt for Merchandise~~

☐ Insured Mail☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee)

☐ Yes

Tired of empty promises?



He said...

...She said.

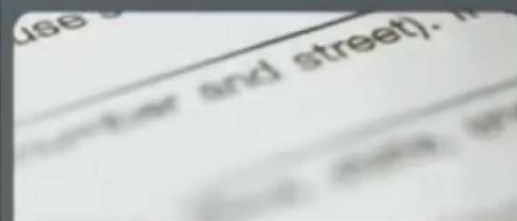
Press Esc to exit full screen mode.

There's a better choice
for Governor.

Tired



Scott Smith



CUT TAXES



CREATED JOBS



REDUCED CRIME



▶ 🔊 0:10 / 0:31



Press Esc to exit full screen mode.

"THE MESA MIRACLE"

Photo courtesy of [unclear] [unclear] [unclear]



Tired



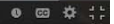
Press Esc to exit full screen mode.



**'Pragmatic' Smith
touts Mesa success**

- The Arizona Republic, July 22, 2014

0:16 / 0:31



Press Esc to exit full screen mode.



Press Esc to exit full screen mode.

**The best solutions
are found here,
not in Washington.**





Scott Smith

arizonafuturefund.org

PAID FOR BY ARIZONA FUTURE FUND, A TAX EXEMPT 501c4 SOCIAL WELFARE ORGANIZATION

STATE OF ARIZONA

CITIZENS CLEAN ELECTIONS COMMISSION

In the Matter of:

Arizona Future Fund, Respondent

MUR Nos. 14-014

CONCILIATION AGREEMENT

Pursuant to ARS § 16-957(A), the Citizens Clean Elections Commission (the "Commission"), the Arizona Attorney General's Office and Arizona Future Fund ("AFF" or "Respondent") enter this Conciliation Agreement (the "Conciliation Agreement") in the manner described below:

- A. On December 18, 2014, the Commission adopted the Statement of Reasons (the "Statement of Reasons"), a copy of which is attached hereto and incorporated herein by reference, setting forth the recommendation of the Executive Director that there is reason to believe Respondent may have committed a violation of the Citizens Clean Elections Act and Commission rules (collectively, the "Act").
- B. Any person making independent expenditures must abide by the Clean Elections Act and Rules and the Commission has authority to enforce the Act and Rules pursuant to A.R.S. § 16-956(A)(7), including penalties that apply for failure to file reports.
- C. Respondent made independent expenditures and filed no reports.
- D. The Arizona Secretary of State issued a reasonable cause notice to Respondent concluding there was reason to believe Respondent violated A.R.S. §§ 16-914.02(A)(1); -914.02(F) and -914.02(K), and other applicable statutes.

1 E. This Conciliation Agreement concludes the Commission's enforcement proceeding
2 respecting the facts outlined in the attached Statement of Reasons. The Arizona
3 Attorney General's Office agrees to be bound by this agreement and concludes its
4 enforcement based on the Reasonable Cause notice described above.
5

6 WHEREFORE, the Commission enters the following orders in lieu of any other action regarding this
7 matter:

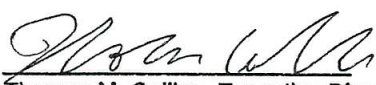
- 8 1. Respondent acknowledges that pursuant to A.R.S. §§ 16-941(D) and -958 any person
9 who makes an independent expenditure above a threshold set forth in the Clean
10 Elections Act must file reports required by the person and that under A.R.S. § 16-
11 942(B) the statutory penalty for any reporting violation is up to \$860 per day up to twice
12 the value of the unreported amount.
- 13 2. Respondent acknowledges the violations set forth in the attached Statement of
14 Reasons.
- 15 3. Respondent agree to settles this matter for \$10,000.00.
- 16 4. To satisfy the debt amount acknowledged above, Respondent shall pay to the
17 Commission \$10,000.00 by December 26, 2014.
- 18 5. Respondent agrees to file reports accounting for all independent expenditures and
19 agrees to provide the Commission with receipts verifying the amount of the
20 expenditures. The receipts shall be provided no later than December 26, 2014 and the
21 filing shall be completed no later than December 26, 2014. Respondent agrees to
22 provide Commission staff with any supplemental information necessary in view of
23 Commission staff to verify their existing, amended or proposed amended reports.
- 24 6. All payments shall be made by check or money order payable to the Citizens Clean
25 Elections Fund and delivered to the Citizens Clean Elections Commission, 1616 West
26 Adams, Suite 110, Phoenix, Arizona, 85007.

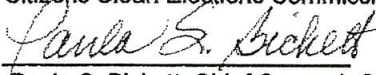
- 1 7. The Commission shall not commence any legal action against Respondent to collect
2 the claims so long as they are not in default.
- 3 8. Respondent shall be in default of this Agreement and any outstanding matters will be
4 forwarded to the Office of the Attorney General upon the occurrence of any of the
5 following:
- 6 a. Respondent fails to make any payment required hereunder within five (5) working
7 days following the date due;
- 8 b. Respondent files a petition under the bankruptcy laws or any creditor of the
9 Respondent files any petition under said laws against the Respondent;
- 10 c. Any creditor of Respondent commences a foreclosure action to foreclose (by suit
11 or trustee sale) on real property of the Respondent or commences garnishment,
12 attachment, levy or execution against the Respondent's property; or;
- 13 d. Respondent provides false information to the Commission.
- 14 9. In the event of default hereunder, at the option of the Commission, all unpaid amounts
15 hereunder shall be immediately due and payable. In addition, interest shall accrue on
16 the unpaid balance from the date that the payments become due and payable. Interest
17 shall accrue at the statutory rate of ten percent (10%) pursuant to A.R.S. § 44-1201(A).
- 18 10. Nothing contained in this Agreement shall be construed to prevent any state agency
19 which issues licenses for any profession from requiring that the debt in issue be paid in
20 full before said agency will issue Respondent a new license.
- 21 11. The Commission may waive any condition of default without waiving any other
22 condition of default and without waiving its rights to full, timely future performance of
23 the conditions waived.
- 24 12. In the event legal action is necessary to enforce collection hereunder, Respondent shall
25 additionally pay all costs and expenses of collection, including without limitation,
26 reasonable attorneys' fees in an amount equal to thirty-five percent (35%) of monies
 recovered.

- 1 13. The Attorney General's Office has exercised its discretion and concluded not to take
2 additional enforcement actions against Respondent beyond this Conciliation
3 Agreement.
- 4 14. Respondent acknowledges that all obligations payable pursuant to this Agreement
5 constitute a fine, penalty, or forfeiture payable to and for the benefit of a governmental
6 unit, and not compensation for actual pecuniary loss; and that pursuant to 11 USC §
7 523 such obligations are not subject to discharge in bankruptcy.
- 8 15. This Agreement shall be construed under the laws of the State of Arizona.
- 9 16. In the event that any paragraph or provision hereof shall be ruled unenforceable, all
10 other provisions hereof shall be unaffected thereby.
- 11 17. This Agreement shall constitute the entire agreement between the parties regarding the
12 subject matter. This Agreement shall not be modified or amended except in a writing
13 signed by all parties hereto.
- 14 18. This Agreement shall not be subject to assignment.
- 15 19. No delay, omission or failure by the Commission to exercise any right or power
16 hereunder shall be construed to be a waiver or consent of any breach of any of the
17 terms of this Agreement by the Respondent.
- 18 20. Respondent has obtained independent legal advice in connection with the execution of
19 this Agreement or have freely chosen not to do so. Any rule construing this Agreement
20 against the drafter is inapplicable and is waived.
- 21 21. This Agreement shall be void unless executed by the Respondent and delivered to the
22 Commission not later than December 19, 2014.
- 23 22. All proceedings commenced by the Commission in this matter will be terminated and
24 the matter closed upon receipt of the final payment of the civil penalty and compliance
25 with the other terms set forth in this Agreement. The Arizona Attorney General's Office
26 agrees to conclude any enforcement matter pending from the Reasonable Cause
notice identified in the recitals and be bound by this Agreement.

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Dated this 18th day of December, 2014.

By: 
Thomas M. Collins, Executive Director
Citizens Clean Elections Commission

By: 
Paula S. Bickett, Chief Counsel, Civil Appeals
Arizona Attorney General's Office

By:  12/19/14
Bill Canfield for AFF, Respondent