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VIA ELECTRONIC SUBMISSION & HAND DELIVERY

Chairman Susan Bitter Smith
Commissioner Tom Forese
Commissioner Doug Little
Commissioner Bob Stump
Commissioner Bob Burns
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission

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RE: Docket No. AU-00000A- 15-0309

Dear Chairman Bitter Smith and Commissioners:

On behalf of business organizations across Arizona, we strongly encourage the Arizona Corporation Commission ("Commission") not to formally request regulated and unregulated entities that appear before the Commission to voluntarily abstain from participating in Arizona's political process. The United States Supreme Court has made clear that these entities have a First Amendment right to contribute to electoral campaigns subject to the restrictions of validly enacted state and federal laws. It is well beyond the Commission's constitutional and statutory mandate to coerce these entities to forego their rights or face public scrutiny of their private financial records.

We remind the Commission that "no judicial power is vested or can be exercised by [it] unless that power is expressly granted by the constitution."¹¹¹ Nothing about the perceived "quasi-judicial" nature of the Commission's duties justifies the election regulation now before it.

To be clear, the Commission has every right to petition the Secretary of State or recommend policy changes to the Legislature if its members find the current enforcement or draftsmanship of Arizona's election laws flawed. Indeed, the Commission freely admits it has no jurisdiction over the construction or enforcement of campaign finance restrictions. This should be the end of the matter. There is no place in our government for one agency to take unilateral action that is within the clear jurisdiction of another agency or a coordinate branch of government. Such a slippery slope is untenable and causes uncertainty in the application of laws and regulations.

Make no mistake: there is nothing "voluntary" about an entity relinquishing its protected rights in the face of threatened government action. Taking this path would create a *de facto* election regulation by the Commission that is sure to cause confusion between the already complex and competing election rules and regulations in Arizona. Such action would drag the Commission into the realm of partisan politics more than any campaign contribution ever could. Instead, the Commission should continue its efforts on its core mission established by the Arizona Constitution.

Even more troubling is the speech-chilling precedent the proposed action would set for Arizona's business and non-profit communities. In essence, the Commission purports to make the very political choice that campaign speech from certain groups is legal, but undesirable. Under the proposed

¹¹¹ *Trico Elec. Co-op. v. Ralston*, 67 Ariz. 358, 363, 196 P.2d 470, 473 (1948).

action, if these groups do not voluntarily cease their undesirable speech, the Commission could target them for reprisal in the form of costly audits and additional scrutiny.

We respectfully request the Commission decline to take this action. Instead, we encourage the Commission to work collaboratively with the Secretary of State and the Legislature to propose true election reforms where they are needed to protect all Arizonans' rights and privileges. That is the path to meaningful change; this arbitrary proposal is not. We appreciate the Commission's thoughtful consideration of this very important decision.

Very truly yours,

Arizona Chamber of Commerce & Industry
Greater Phoenix Chamber of Commerce
Greater Phoenix Leadership
Greater Flagstaff Chamber of Commerce
Arizona Business Coalition
Arizona Small Business Association
Arizona Cattlemen's Association