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August 30, 2010

VIA EMAIL AND HAND DELIVERY

The Honorable Terry Goddard
Arizona Attorney General
1275 West Washington Street
Phoenix, Arizona 85007

The Honorable Richard Romley
Maricopa County Attorney
301 West Jefferson Street
Phoenix, Arizona 85003

The Honorable Dennis Burke
U.S. Attorney for the District of Arizona
Two Renaissance Square
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004

Re: Request for Investigation of Possible Voter Fraud

Dear Mr. Goddard, Mr. Romley, and Mr. Burke:

I am writing to you on behalf of the Arizona Democratic Party to request that your offices conduct an investigation into possible voter fraud perpetrated by individuals affiliated with the Arizona Republican Party who have conspired to have Republicans re-register as members of the Arizona Green Party and then file as write-in candidates for that party when, in fact, they do not adhere to the Green Party's platform, have no intention of representing the Green Party, and have the explicit intent of deceiving voters and taking votes away from legitimate candidates. The purpose of this scheme is to ensure the election of Republican candidates. The evidence of this conspiracy is

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compelling, and given the impending ballot printing deadlines for the November 2, 2010 general election, urgent action by your offices is required.

The Arizona Green Party

The Arizona Green Party filed petitions in 2008 to become a “recognized political party” pursuant to A.R.S. § 16-803, but it failed to obtain the requisite number of votes in the 2008 general election to be entitled to “continued representation” as a political party. *See* A.R.S. § 16-804(A). Consequently, the Arizona Green Party was required to petition for recognition again for the 2010 elections.

On April 14, 2010, in response to the petitions submitted by the Arizona Green Party pursuant to A.R.S. § 16-803, the Secretary of State certified the Arizona Green Party as a “recognized political party,” allowing it access to the statewide ballot. Such recognition does not, however, entitle the Arizona Green Party to “continued representation” on the ballot. Rather, the Arizona Green Party must obtain at least 5% of the votes cast for governor in the upcoming general election to qualify for continued representation on the ballot. *See* A.R.S. § 16-804(A).¹

The 2008 Experiment

During the 2008 election, several individuals filed as Arizona Green Party candidates but refused to participate with the Arizona Green Party, to represent its values and platform, or to campaign on issues important to the Arizona Green Party.

For example, one candidate, Dr. David Corl, originally a registered Republican, filed as a candidate for the state legislature as a Green Party candidate. Before re-registering with the Green Party, Dr. Corl had no ties to or relationship with the Green Party. To say that Dr. Corl put minimal effort into his campaign would be an

¹ In the alternative, a new political party is entitled to continued representation on the ballot “if, on November 1 of the year immediately preceding the year in which the general election for state or county officers . . . such party has registered electors in the party equal to at least two-thirds of one per cent of the total registered electors in such jurisdiction.” A.R.S. § 16-804(B).

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overstatement. In fact, Dr. Corl failed to gather enough valid signatures to even appear on the ballot, and when a legal action was filed challenging his petitions, Dr. Corl quickly withdrew his candidacy. Luckily, Dr. Corl's efforts to influence the results of the 2008 election were short-lived and yielded little success.

Another candidate, however, did succeed in influencing the 2008 election by mounting a fake campaign designed to deceive voters and to take votes from legitimate legislative candidates. Margarite Dale ran as a Green Party candidate in Legislative District 10 and was the subject of media scrutiny because of her close ties to the Republican Party and its candidates and elected officials. Speculation arose that she ran as a Green Party candidate at the suggestion of the Republican Party in order to draw votes away from the Democratic Party's nominee, the incumbent legislator Jackie Thrasher, in Legislative District 10. See Mary Jo Pitzl, *Dems See Red as Republicans Run as Greens*, ARIZ. REPUBLIC, Oct. 11, 2008, <http://www.azcentral.com/arizonarepublic/news/articles/2008/10/11/20081011greenparty1011.html>; Sarah Fenske, *The Dirty Truth About "Clean" Elections*, PHOENIX NEW TIMES, Apr. 2, 2009, <http://www.phoenixnewtimes.com/2009-04-02/news/the-dirty-truth-about-clean-elections> (both attached hereto). Ms. Dale's campaign succeeded in causing the Democratic Party's nominee to lose in the general election. Ms. Dale received 2,358 votes, while Ms. Thrasher lost her seat by just 553 votes.

This year, following the success of the experiment in 2008, more "former" Republicans and a few others have filed as Arizona Green Party candidates without having any ties to the Green Party and without espousing its fundamental beliefs. Unlike in 2008, however, there is clear evidence that these individuals have conspired to defraud the voters of a fair and honest election.

The 2010 Conspiracy

Because the Arizona Green Party does not have continued representation on the ballot, it is subject to a different scheme for write-in candidates than that which applies to the other major parties in Arizona. Under A.R.S. § 16-645(D), a write-in candidate for a party that lacks continued representation on the ballot must obtain only a plurality of the votes cast for that party for the office sought by that candidate. That means an individual who runs unopposed as a Green Party write-in candidate **need obtain only one vote** in

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order to become the Green Party's official nominee and to appear on the general election ballot as such.

In contrast, an unopposed major-party candidate must obtain write-in votes equal to "the same number of signatures required by § 16-322 for nominating petitions for the same office." A.R.S. § 16-645(E). This statutory provision for major-party candidates helps ensure that the write-in candidate has a fair amount of support from his own party or independents in order to obtain that party's nomination and appear on the general election ballot. For example, a Republican statewide candidate must have gathered 5,609 signatures on his nominating petitions or the same number of write-in votes in the primary in order to gain access to the general election ballot. A Green Party candidate for a statewide office, on the other hand, must have gathered **1,231 valid signatures** on his nominating petition in order to obtain a place on the primary ballot, *see* <http://www.azsos.gov/election/2010/Info/GreenSigReq.htm>, while an unopposed Green Party write-in candidate for a statewide office needs to obtain **only one write-in vote** in order to become the party's nominee. This statutory provision appears to have inspired these individuals to file as shame Green write-in candidates.

Arizona law, thus, has created a perfect opportunity for unscrupulous individuals to take advantage of a system designed to foster access to and participation in the electoral process. Unfortunately, certain individuals—many of whom were recently registered Republicans—appear to have developed a scheme to gain easy access to the general election ballot under the Arizona Green Party's name and have filed as write-in candidates for a variety of statewide and legislative offices. There are 15 Green Party write-in candidates, and of those, only two have been endorsed by the Green Party. Based on information obtained from the Maricopa County Elections Department, the following are the names of the Green write-in candidates who claim to be affiliated with the Green Party but have not garnered the Green Party's endorsement nor are involved with that party, and the dates on which they switched their party affiliation to Green:

Candidate Name	Party and Date of Re-registration	Office Sought
Ryan Blackman	Original registration July 13, 2010	Congress District 5

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Richard Grayson	Date unknown (previously Republican)	Congress District 6
Christopher Campbell	July 15, 2010 (previously Republican)	State Senate District 10
Gail Ginger	July 15, 2010 (previously Republican)	State Senate District 10
Anthony Goshorn	May 17, 2010 (previously Libertarian)	State Senate District 17
Matthew Shusta	June 1, 2010 (previously Democrat)	State Senate District 23
Clint Clement	July 13, 2010 (previously Republican)	State House District 17
Drew Blischak	July 13, 2010 (previously Republican)	State House District 20
Tim Hensley	July 5, 2002 (currently Republican)	State House District 22
Michelle Lochmann	July 15, 2010 (previously Republican)	Secretary of State
Thomas Meadows	July 15, 2010 (original registration)	State Treasurer
Theodore Gomez	July 15, 2010 (original registration)	Corp. Commissioner
Benjamin Percy	July 14, 2010 (previously Republican)	Corp. Commissioner

As noted in the table above, of the thirteen Green write-in candidates, none was a member of the Green Party more than a few days before becoming a Green Party

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candidate and none is endorsed by the Arizona Green Party.² Additionally, nine individuals filed as Green Party candidates for the primary election and collected nominating petition signatures in order to qualify for the ballot. In stark contrast to the write-in candidates, the Arizona Green Party endorsed seven people who filed nominating petitions as Green candidates. The remaining two unendorsed candidates are: Larry Gist, candidate for governor, and Justin Dahl, candidate for State Representative in District 12.³

Evidence of Intent to Commit Voter Fraud

While it is patently suspicious for so many individuals—many of whom were recently registered Republicans—to have filed as Green Party write-in candidates, as well as Mr. Gist who filed as a regular candidate, despite having no ties to the Green Party nor seeking to establish those ties, this information alone would not be sufficient to allege fraud and a conspiracy to commit fraud. The evidence, however, does not stop there. There is much evidence pointing to the conclusion that members of the Republican Party have conspired to run fraudulent Green Party candidates in an effort to deceive voters and take votes away from the Democratic nominees in the November election.

Legislative District 10

In Legislative District 10, there are two Green write-in candidates for State Senate, neither of whom has been endorsed by or is known to the Green Party: Chris Campbell and Gail Ginger. It appears that Ms. Ginger may have tried to file as a candidate for the State House. Her \$500 threshold exemption statement lists “office sought” as State Representative – District 10, but her Nomination Paper indicates that she is a candidate

² Mr. Goshorn originally filed as a Green Party candidate for the Arizona House of Representatives for District 17, and thus registered with the Green Party on May 17, 2010. But following a legal challenge to his petition signatures, he withdrew as a House candidate and later filed as a write-in candidate for the State Senate in District 17.

³ The Arizona Green Party has indicated that it is considering endorsing Mr. Dahl but has not done so as of the date of this letter. See <http://azgp.org/content/arizona-green-party-azgp-announces-endorsed-candidates-2010-elections>.

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for State Senator – Legislative District 10. It is currently unknown whether the Secretary of State's office considers her a candidate for the senate or house.

It is certain, however, that Mr. Campbell is a candidate for State Senate in District 10. Until the day he filed as a Green Party write-in candidate, he was a registered Republican. He will be facing incumbent Republican Linda Gray and Democrat Justin Johnson in the general election. Mr. Campbell has admitted that he was approached by members of the Republican Party to run as a Green Party candidate in Legislative District 10 with the specific intent to take votes away from the Democratic nominee, not to actually win the election or to promote the Green Party's values or platform. He admits to knowing Senator Gray, and he lives with the daughter of former house speaker, Republican Jim Weiers. As noted above, until the day Mr. Campbell filed as a Green Party write-in candidate—which was also the last possible day to file as a write-in candidate—he was a registered Republican. Below is an excerpt of a phone conversation between Mr. Campbell and a registered Independent whom Mr. Campbell did not know and to whom he had not spoken previously.

Caller: Okay, so this will help Linda Gray, then?

Chris Campbell: Yes, it will. The likelihood of me even winning is incredibly small. You know, basically one in a million, all right But just having my name on the ballot is going to take votes away from the Democrats.

. . . .

Chris Campbell: Okay, I was approached by Republicans to basically say, hey do you mind running to get your name out even if you aren't Green Party. Because honestly, I'm more Libertarian than I am Green, period. But I'm just trying to get, more or less I'm taking votes away from the Democrats.⁴

⁴ The entire transcript, as well as an electronic copy of the phone conversation, are enclosed herewith.

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Mr. Campbell's admission provides concrete evidence that he has registered as a member of the Arizona Green Party and filed as a write-in candidate with the explicit intent to defraud Arizona voters who may believe he adheres to the Green Party platform and is running as a *bona fide* Green Party candidate. Nothing could be further from the truth. Mr. Campbell has sought to put his name on the general election ballot as part of a conspiracy designed to ensure that Senator Gray is reelected and Mr. Johnson is defeated.

Likewise, it appears that Gail Ginger, the other candidate in Legislative District 10, was also approached by members of the Republican Party to become a member of the Green Party and to file as a write-in candidate in order to deceive voters into voting for her rather than the Democratic Party's nominee. Her candidacy is part of the concerted effort to re-elect Senator Gray, or perhaps the incumbent house candidates. In a brief phone conversation, Ms. Ginger implicated prominent Republican Party members Representative Jim Weiers and John Mills as individuals with knowledge of this scheme, and gave the caller Mr. Mills' cell phone number. Ms. Ginger explained that John Mills works for the Republican caucus at the State House of Representatives.⁵

Legislative District 17

Additionally, it appears that several Green write-in candidates with residences in Tempe have been recruited by members of the Republican Party to defraud voters in Legislative District 17, as well as across the State. District 17 is known to be a competitive legislative district, and if these Green candidates pull votes away from the Democratic nominees, the Republicans may win these seats. These Green candidates are Anthony "Grandpa" Goshorn, Thomas Meadows, Theodore Gomez, and Benjamin Percy. As noted above, none of these candidates is endorsed by the Green Party nor have they expressed any interest in participating in the Green Party's activities or espousing its platform and beliefs. They, too, appear to be pawns in the Republican Party's scheme to defraud voters and change the election results.

Further, the handwriting on each of the candidates' Nomination Papers appears the same, and it appears to match that of Steve May, Republican write-in candidate for Legislative District 17 and a former Republican member of the Arizona House of

⁵ A transcript and electronic copy of this phone conversation is attached hereto.

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Representatives from another district. *See* candidate nomination and financial disclosure documents enclosed herewith. The media has reported that Mr. May “had been pushing Anthony ‘Grandpa’ Goshorn” for the Green Party’s nomination for the House seat in District 17, and following Mr. Goshorn’s and Republican Augustus Shaw’s withdrawals from that race, Mr. May filed as a Republican write-in candidate for that office. *See* Mary Jo Pitzl, *Former Rep. Steve May Seeks Return*, POLITICAL INSIDER, Jun. 29, 2010, <http://www.azcentral.com/members/Blog/PoliticalInsider/87954>; *see also* attached screenshot of Steve May’s Facebook page showing a picture of Mr. Goshorn and Mr. May when Mr. Goshorn filed as a candidate. Moreover, Goshorn, Percy, Meadows, and Gomez use the same P.O. Box address for their campaigns’ mailing address, and all but Goshorn use an address for a Starbucks in downtown Tempe as their campaigns’ filing address (420 S. Mill Avenue). Republican candidate May, and Green candidates Goshorn, Percy, and Gomez filed their write-in nomination papers at the exact same minute: 11:43 on July 15, 2010. Each of the four also used the same notary for his nomination papers.

Violations of Arizona Criminal Laws

There are several provisions in Title 16 that define crimes involving elections and crimes against the elective franchise, but those provisions are not the exclusive remedies when an individual has taken action that threatens the legitimacy of the electoral process. *See* A.R.S. §§ 16-1001-1021; *State v. Jones*, 222 Ariz. 555, 562-63, 218 P.3d 1012, 1019-20 (Ct. App. 2009) (affirming dismissal of criminal charges against legislator for filing nominating petitions with false verifications but noting that other criminal statutes may be applicable to cases in which a false statement is included in a written instrument).

The activities outlined above may fall under several Arizona, as well as federal, statutes. For example, by filing as Green write-in candidates and presumably voting for themselves on early ballots, the individuals listed above may have marked early ballots “with the intent to fix an election for [their] own benefit or for that of another person.” A.R.S. § 16-1005. Additionally, there may be a violation of A.R.S. § 16-1006(A)(1), which prohibits an individual from knowingly attempting to influence a voter in casting his ballot by any corrupt means or to defraud a voter “by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for,” *id.* § (3). Here, the Green write-in candidates have attempted to influence general election voters who will be deceived into believing that a vote in favor

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of these candidates is actually for someone who supports the Green Party platform, when in fact, the candidates do not espouse those beliefs at all and are only running with the intent to pull votes away from Democratic nominees. If those Green candidates run under their actual party affiliations, such as Republican or Libertarian, they would be less likely to garner the votes of those who support the Green Party's platform.

A further investigation into these activities may reveal that valuable consideration has been provided to the write-in candidates, thereby implicating A.R.S. § 16-1014(A), which makes it unlawful for an individual to knowingly give valuable consideration to or for a voter or other person to induce the voter to vote or refrain from voting at an election for any particular person.

Arizona's general criminal statutes may also apply in this situation. For example, A.R.S. § 13-2002 defines forgery as falsely making or completing a written instrument or offering or presenting an instrument that contains false information. Here, the Green write-in candidates appear to have completed their voter registration and candidate forms with false information regarding their actual affiliations with the Green Party and their intent to run as *bona fide* Green Party candidates. Likewise, A.R.S. § 13-2310(A), which proscribes fraudulent schemes and artifices, makes it unlawful for an individual "who, pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions." The Green Party write-in candidates have obtained a benefit—placement on the general election ballot—by deceiving Arizona voters into believing they are actually Green Party adherents, when in fact their intent is only to take votes away from the Democrats.

Because the Green Party write-in candidates have submitted paperwork to both county and state government offices, they appear to have violated A.R.S. § 13-2311, which applies to "any matter related to the business conducted by any department or agency of this state or any political subdivision thereof" and makes it unlawful for anyone to conceal a material fact or make any false writing or document knowing that such document is false or contains a fraudulent statement. Finally, A.R.S. § 13-2407(A) establishes a class 6 felony for tampering with a public record. That crime involves the making, completing or filing of a written instrument that is a public record, such as a voter registration form and candidate filing paperwork, "knowing that it is falsely made."

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Violations of Federal Criminal Laws

Because federal candidates will appear on the general election ballot, federal jurisdiction is established. Federal Prosecution of Election Offenses 6, May 2007, *available at* <http://www.justice.gov/criminal/pin/> (“In such cases [in which both state and federal candidates appear on the ballot], the federal interest is based on the presence of a federal candidate, whose election may be tainted, or appear tainted, by the fraud, a potential effect that Congress has the constitutional authority to regulate under Article I, Section 2, clause 1; Article I, Section 4, clause 1; Article II, Section 1, clause 2; and the Seventeenth Amendment.”). “Every voter in a federal primary election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes.” *Anderson v. United States*, 417 U.S. 211, 227 (1974).

Federal law, like that in Arizona, includes penal provisions related to elections and voter fraud. For example, it is unlawful to intimidate a voter or to interfere with the voter’s ability to choose the federal candidate of his choice. 18 U.S.C. § 594. If anything of valuable consideration were involved in the recruitment of these individuals to vote for themselves as Green write-in candidates, both the candidates and their recruiters would have violated 18 U.S.C. § 597, which makes it unlawful to make or accept an expenditure to any individual to either vote or abstain from voting for or against any candidate. *See also id.* § 600.

Additionally, 18 U.S.C. § 1001 makes it unlawful to knowingly falsify or make materially false or fraudulent statements, and 18 U.S.C. § 241 makes it unlawful for two or more people to conspire to injure or threaten a person’s constitutional rights, including those related to the elective franchise. *See United States v. Classic*, 313 U.S. 299 (1941); *Ex parte Yarborough*, 110 U.S. 651 (1884).

Federal law also provides criminal penalties for those who engage in fraud in the voter registration process: 42 U.S.C. § 1973i(c) prohibits an individual from knowingly providing false information on a voter registration form and from conspiring with another to vote illegally.

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Conclusion

Based on the evidence presented above, I request that your offices investigate the possible voter fraud that has been committed by the sham Green candidates as well as the Republican officials whom they have identified as recruiting and organizing them in an effort to deceive voters in the general election. Please do not hesitate to contact me if I can be of any further assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rhonda L. Barnes". The signature is written in a cursive style with a large, stylized "R" and "B".

Rhonda L. Barnes

RLB/kdl
Enclosures