Bryan James Blehm (AZ Bar #023891) 1 We the People Arizona Alliance 2 DEC 13 2024 7030 W. Oakland St., Suite 101 Chandler, Arizona 85226 3 (602) 753-6213 4 bjblehm@gmail.com 5 Plaintiff 6 7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 8 IN AND FOR THE COUNTY OF MARICOPA 9 CV2024-036136 10 WE THE PEOPLE ARIZONA NO. ALLIANCE, an Arizona non-profit 11 organization, 12 VERIFIED COMPLAINT FOR STATUTORY SPECIAL ACTION TO Plaintiff, 13 SECURE ACCESS TO PUBLIC 14 RECORDS FROM DEFENDANT VS. 15 STEPHEN RICHER, in his official 16 capacity as the Maricopa County Recorder, et al. 17 18 Defendant. 19 We The People Arizona Alliance (hereinafter "Plaintiff") hereby submits its 20 Verified Complaint for Statutory Special Action to Secure Access to Public Records 21 pursuant to A.R.S. § 39-121, et seq., and Ariz. R. Special Actions 1-6, and allege as 22 follows: 23 SUMMARY OF THE CASE 24 Defendant Stephen Richer is Maricopa County's elected Recorder serving 25 in office from January of 2021 until January of 2025. 26 27 28

- 2. Defendant Richer also serves as a subject matter expert for the National Security Agency's Cybersecurity and Infrastructure Security Agency (hereinafter "CISA").
- 3. CISA has been described by one court as so pervasive that "the United States Government seems to have assumed a role similar to an Orwellian 'Ministry of Truth'" and "arguably involves the most massive attack against free speech in United States' history." *See State of Missouri v. Joseph R. Biden, Jr.*, Case No. 3:22-CV-01213 at 154, U.S. Dist. Ct., Western District Of Louisiana (2023).
- 4. On July 31, 2022, Defendant Richer, acting as Maricopa County Recorder, sent an email to the Directors of ASU's School of Criminology and Criminal Justice seeking to have a faculty associate terminated from ASU for sharing a Tweet. *See* **Exhibit A.** Defendant's email also shows that the Recorder, in his capacity as Maricopa County Recorder, intended to seek sanctions against the faculty member through the State Bar of Arizona as the faculty member was also an attorney licensed to practice law in Arizona. *Id.*
- 5. On August 1, 2022, Sam Bo Dul, an attorney working for States United Democracy Center (hereinafter "SUDC"), responded to Defendant's email which was subsequently produced but heavily redacted. *See* **Exhibit B.** Ms. Bo Dul's responsive email was sent to several individuals inside and outside of Maricopa County Elections Department and Recorder's Office.
- 6. Prior to joining SUDC, Ms. Bo Dul served as General Counsel for the Arizona Secretary of State's Office as well as the Director of the state's election apparatus while her employer, Secretary of State Katie Hobbs was a candidate for the office of Governor.
- 7. Ms. Bo Dul left her position with the Secretary of State's Office in June of 2022, and joined SUDC. As counsel for SUDC, Ms. Bo Dul represented Governor elect Katie Hobbs in her election challenge beginning in December of 2022.

- 8. Ms. Bo Dul then went to work for Governor Hobbs as General Counsel for the Governor in January of 2023.
- 9. Defendant Richer's email of July 31, 2022, was an abuse of the Recorder's authority. No provision in the U.S. or Arizona constitutions designates the County Recorder as the Minister of Information or otherwise entitle the County Recorder to censor speech and serve as the gateway to the First Amendment during a statewide election or otherwise.
- 10. As this email was obviously in possession of an attorney who had recently run the State's election apparatus and was apparently working on behalf of Katie Hobbs' gubernatorial campaign, it is imperative that the people of the State of Arizona be able to see what communications were taking place by those with state power or the semblance thereof in the midst of the 2022 election cycle aimed at censoring conservative speech.
- 11. It has been reported that SUDC is responsible for the memo outlining how to bring criminal charges against Donald Trump's Arizona electors in the runup to the 2024 Presidential Election for which it has been reported SUDC was paid by the U.S. Department of State.
- 12. In order to obtain an unredacted copy of the email in question, Plaintiff submitted a public record request to Defendant.
- 13. Defendant's response claimed attorney-client work product privilege and refused to produce the unredacted email.
- 14. Defendant makes these claims even though the email was sent by a non-government organization ("NGO") that is not legal counsel for the Maricopa County Recorder's Office or Elections Department.
- 15. Plaintiff reiterated the request for information including requesting the retention agreement to confirm of the veracity of Defendant's claim that SUDC serves the Maricopa County Recorder and his Office as outside legal counsel.
- 16. If, in fact, the Maricopa County Recorder's Office is using outside counsel affiliated with a non-government organization, that legal retention is public information

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as is the agreement to permit the Recorder and/or Elections Department to retain outside counsel passed by the Board of Supervisors is not attorney-work product.

- 17. Additionally, the email sent by Defendant Reorder and Ms. Bo Dul's response were sent to several individuals outside of the Recorder's Office.
- 18. On December 5, 2024, Plaintiff again requested the aforementioned information and authority. This communication was ignored by Defendants.
- 19. Defendant abused his authority when he sent an email to a public university as the Recorder of Maricopa County seeking to have an employee terminated for sharing a Tweet and also stating that he intended to refer the matter to the State Bar of Arizona for possible sanctions.
- 20. It is imperative that the residents of Arizona be provided access to this email to help shed light on the interactions between non-governmental organizations, the federal government censorship apparatus in the form of the Department of State and CISA, and our state and local governmental and elections related institutions.
- 21. It should be undisputed that the documents and information sought by Plaintiffs are public records in which the public has a right to know the contents as the extent of censorship of political speech and the alignment between those running the state and county elections apparatuses in the runup to a general election for statewide officers is of significant public interest.
- 22. Defendant has failed to produce or make such information available for inspection promptly, thereby disregarding his statutory obligations under Arizona's Public Records Act.
- 23. Because the Maricopa County Recorders Office has not provided the requested documents, Plaintiffs lack an equally plain, speedy, and adequate remedy at law, and special action relief is necessary to ensure that the Defendants discharge the nondiscretionary duties imposed upon them by Arizona law.

JURISDICTION

- 24. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the Arizona Constitution, A.R.S. §§ 12-2021, 39-121.02, and Arizona Rule of Special Action Procedure 4.
- 25. Venue lies in Maricopa County pursuant to Arizona Rule of Special Action Procedure 4(b) and pursuant to A.R.S. § 12-401(16) because the Defendants hold office in that county.

PARTIES

- 26. Plaintiff, WE THE PEOPLE ARIZONA ALLIANCE, is an Arizona Non-Profit Corporation dedicated to free, open, and fair elections, promoting legislation that supports free, open and fair elections, and to transparency in the operation of elections.
 - 27. Plaintiff's principal place of business is in Chandler, Arizona.
- 28. By Arizona Statute and case law, Plaintiffs may request to examine or be furnished copies of any public record, and public officers and public bodies are required to furnish copies of such records in a prompt manner. A.R.S. §§ 39-121.01(D)(1) and (E).
- 29. Defendant Stephen Richer is the Recorder of Maricopa County and in his official capacity is the originator of the email to which Ms. Bo Dul responded.
- 30. As the Recorder engaging in business on behalf of Maricopa County, Defendant Richer is responsible for overseeing the retention of all public records. Defendant Stephen Richer is an "officer" within the meaning of A.R.S. § 39-121.01(A)(1).
- 31. Upon information and belief, Defendant Recorder has custody, and is responsible for the preservation, maintenance, and care, of some or all the public records requested by Plaintiffs.

FACTS

32. On November 18, 2024, Plaintiff submitted a public records request to Defendants according to A.R.S. § 39-121 *et seq.* A copy of said request is attached

herewith as Exhibit C.

- 33. On November 22, 2024, Plaintiff received notification that the "information you are seeking to obtain is privileged" according to Attorney-client privilege and attorney-work product. *See* attached **Exhibit D**. However, the email in question being requested is communication with a political organization named States United Democracy Center, not the attorney of record for the Maricopa County Recorder's Office.
- 34. On November 25, 2024, Plaintiff sent an email requesting the engagement letter for the retention of States United Democracy Center. *See* Exhibit E. If, in fact, the Maricopa County Recorder's Office is using outside counsel affiliated with a non-government organization ("NGO"), that legal retention is public information. The agreement to retain outside counsel is not attorney-work product. Additionally, Plaintiff points out the email was sent to several individuals outside of the Recorder's Office.
- 35. On December 5, 2024, Plaintiff again requested the aforementioned information and authority to no avail. *See* **Exhibit F.**
- 36. To this day, the Maricopa County Recorder's Office has failed to comply with all requests, including providing the documents sought by this Public Records Request.

COUNT I

Special Action Relief to Compel Immediate Production of Public Records (A.R.S. § 39-121, et seq.)

- 37. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.
- 38. Defendant is required by law to preserve and maintain all records "reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities that are supported by public monies from this state or any political subdivision of this state." A.R.S. § 39-12.01(B).

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- 39. Defendant is required by law to produce or make available such public records to "any person" upon request. See A.R.S. § 39-121.
- 40. A public records request need not be presented in any particular format or utilize any specific verbiage. See A.R.S. § 39-121.01(D)(1).
- 41. The Public Records Request requires "the prompt and actual production of the documents" sought by a public records request. Phoenix New Times, L.L.C. v. *Arpaio*, 217 Ariz. 533, 538, ¶ 12 (App. 2008).
- An officer or public body acts "promptly" when the officer or body is 42. "quick to act" or "produc[es] the requested records 'without delay." Am. Civil Liberties *Union v. Ariz. Dept. of Child Safety*, 240 Ariz. 142, 152, ¶ 32 (App. 2016).
- 43. The officer or public body from whom public records are requested has the burden of proving that the response was "prompt given the circumstances surrounding each request." *Phoenix New Times*, 217 Ariz. At 538-39, ¶ 15.
- 44. Undue delay in the fullfilment of a public records request constitutes a denial of access to the requested records. See Phoenix New Times, 217 Ariz. At 547, ¶ 51.
- 45. A person who has been denied access to requested public records "may appeal the denial through a special action in the superior court." A.R.S. § 39-121.02(A).
- 46. A court in a special action proceeding may compel a public officer "to perform a duty required by law as to which has no discretion." Ariz. R. Proc. Special Actions ("RPSA") 3(a); see also A.R.S. § 12-2021.
- 47. All of the documents and information sought by Plaintiff's Public Records Request are "public records" subject to mandatory and prompt disclosure under the Public Records Act because they have "substantial nexus" to the Defendant's official duties with the conduct and administration of Maricopa County Recorder's Office. See *Griffis v. Pinal County*, 215 Ariz. 1, 4, ¶ 10 (2007).
- 48. Upon information and belief, there are public records in the Defendant's custody that are responsive to Plaintiff's Public Records Request.

- 49. Defendant has a nondiscretionary statutory duty to promptly produce or make available to Plaintiff all public records sought in its Public Records Request.
- 50. To date, Defendant has produced no documents related to Plaintiff's Public Records Request.
- 51. Defendant has failed to promptly produce the requested documents and information constitutes an effective denial of access to public records and prevents Plaintiff from monitoring the actions of Maricopa County Recorders Office, the most populace county in Arizona.
- Plaintiff is accordingly entitled to a writ of mandamus or other relief 52. compelling the immediate and full production of the requested public records.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for the following relief from this Court:

- A. A writ of mandamus or other order requiring Defendant to immediately produce or make available to Plaintiff all public records requested by its Public Records Request;
- An award of reasonable attorneys' fees and costs pursuant to A.R.S. §§ 12-B. 431, 12-348, 12-2030, 39-121.02(B), the private attorney general doctrine, and other applicable law; and
 - C. For such other relief as the Court deems just and proper. DATED this 11th day of December, 2024.

By _/s/ Bryan James Blehm

Bryan James Blehm We the People Arizona Alliance 7030 W. Oakland St., Suite 101 Chandler, Arizona 85226 **Plaintiff**

VERIFICATION

I, Bryan James Blehm, depose and say I have read the foregoing VERIFIED COMPLAINT FOR STATUTORY SPECIAL ACTION TO SECURE ACCESS TO PUBLIC RECORDS FROM DEFENDANTS and know the contents thereof by personal knowledge. I know the allegations of the VERIFIED COMPLAINT FOR STATUTORY SPECIAL ACTION TO SECURE ACCESS TO PUBLIC RECORDS FROM DEFENDANTS to be true, except the matters therein on information and belief, which I believe to be true.

Signed under penalty of perjury on this 11th day of December, 2024.

/s/ Bryan James Blehm

Bryan James Blehm, Legal Director We The People Arizona Alliance

EXHIBIT A



Dear Directors Sophn and Telep,

The below person – Aaron Ludwig – appears to be a "faculty associate" with the School of Criminology and Criminal Justice (CCJ). <u>Source</u>.

I ask that you assess if he is fit to be part of the ASU faculty.

He is a regular purveyor or election disinformation and misinformation. His twitter profile is available here: https://twitter.com/ludwig_law.

But I am writing today because he is currently actively promoting messages that encourage harassment of and violence toward two non-public-facing employees of the Maricopa County Elections Department.

In the words he has promoted, those two employees should be made "famous" and "LockThemUp."

The allegations are, of course, errant nonsense that only imbecilic troglodytes could possibly believe after five minutes of research.

The incitement to harassment and violence (which has affected both employees already) is especially rich for somebody who is a member of the state bar and purports to be an expert in criminal justice.

Please let me know if you need any additional information for me.

Please let me know what you decide.

I will also be filing a complaint with the Arizona State Bar against Mr. Ludwig.

Thank you.

Stephen Maricopa County Recorder

P.S. On this page (https://cci.asu.edu/school-criminology-and-criminal-justice-leadership), Director Sophn's name is spelled "Cassia Sophn," but the listed email reverses the P and O.

I tried both emails. Forgive me if I addressed this email incorrectly.

EXHIBIT B

From: Bo Dul

Sent: Monday, August 1, 2022 7:21 AM

To: Stephen Richer - RISCX

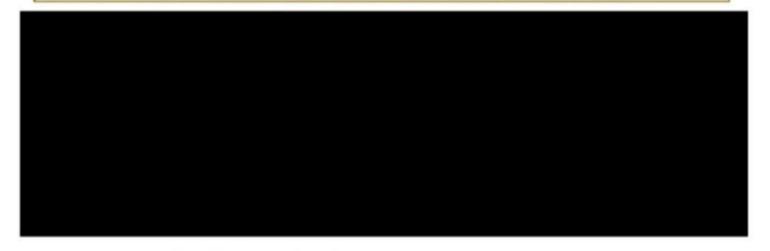
Cc: Aaron Scherzer; Christine Sun; Colin McDonell; Bettina Lee; Scott Jarrett -

RISCX; Rey Valenzuela - RISCX; Darron Moffatt - RISCX; Abby Raddatz - RISCX;

Nate Young (MCRO)

Subject: Re: Aaron Ludwig.

Caution: This email originated from outside of Maricopa County. Do not click links or open attachments unless you recognize the sender, expect this communication, and know the content is safe.



Bo Dul (she/her) | Senior Counsel

States United Democracy Center

@statesunited

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

EXHIBIT C

4225 W Glendale Ave, E-116 Glendale AZ 85051 WeThePeopleUSAAlliance.com

November 18, 2024

Public Records
Maricopa County
Sent Via Email – PRR@risc.maricopa.gov

Re: Public Records Request - #03-20241118-01

Dear Public Records:

Pursuant to the Arizona Public Records Law, A.R.S. § 39-121 et seq., We the People AZ Alliance requests:

Provide a full unredacted copy of email dated August 1, 2022 at 7:21 am from Bo Dul, Senior Counsel to the States United Democracy Center and sent to Stephen Richer, Aaron Scherzer, Christine Sun, Colin McDonell, Bettina Lee, Scott Jarrett, Ray Valenzuela, Darron Moffett, Abby Raddatz, and Nate Young. A copy of the redacted email is attached for your reference.

Where possible, please provide responsive materials in an electronic format by email. Given the importance of free, fair, and transparent elections and the public's skepticism regarding the conduct of recent elections, We the People AZ Alliance PAC is seeking production of these documents on an expedited basis.

We the People AZ Alliance PAC is a reportorial organization (as referenced in A.R.S. § 16-168(F)) with a current focus on election integrity. We are requesting this information for the purpose of providing information to the public, they are not sought for commercial purposes. As such, we request a waiver of all fees for this request or at most fees be limited to copying and postage charges. A.R.S. § 39-121.01(D)(1). If such charges are required, We the People AZ Alliance agrees to pay up to \$25. If the costs for such fees will exceed \$25, please notify us prior to incurring such costs. This request is for noncommercial purposes and additional fees are not applicable to this request. Disclosure of the requested information to us is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and its election process. Please be aware that these documents, whether produced by the Custodian of Records or not, are public documents and they may be relevant to future litigation. Any deletion of said public documents can give rise to a negative inference in a court of law.

Please respond to this request within 10 days. If you expect any delays beyond this time, we ask that you notify us of such delay with an expected date of compliance with this lawful FOIA request.

If any of the items requested are denied, we ask for a written response that cites each specific exemption and your basis for refusing to comply with the request. If you conclude that only a portion of the items requested are exempt, please send the remainder of such records for inspection and copying, redacting only the exempt portion(s).

One nation under God Please contact me at FOIA@wethepeopleazalliance.com or (602) 574-2376, if you require any additional information. I appreciate your cooperation and look forward to hearing from you soon.

Sincerely,

Shelby Busch Chairman

Sheely Busel

We The People AZ Alliance PAC

DOC# 03-20241118-01

From: Bo Dul <

Sent: Monday, August 1, 2022 7:21 AM

To: Stephen Richer - RISCX

Cc: Aaron Scherzer; Christine Sun; Colin McDonell; Bettina Lee; Scott Jarrett -

RISCX; Rey Valenzuela - RISCX; Darron Moffatt - RISCX; Abby Raddatz - RISCX;

Nate Young (MCRO)

Subject: Re: Aaron Ludwig.

Caution: This email originated from outside of Maricopa County. Do not click links or open attachments unless you recognize the sender, expect this communication, and know the content is safe.



Bo Dul (she/her) | Senior Counsel States United Democracy Center | @statesunited

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

EXHIBIT D

RE: Public Records Request #03-20241118-01

From PRR - RISCX <prr@risc.maricopa.gov>

To FOIA Requests < Foia@wethepeopleazalliance.com >

CC PRR - RISCX < prr@risc.maricopa.gov >

Date Friday, November 22nd, 2024 at 11:52 AM

Good morning/afternoon,

The information you are seeking to obtain is privileged. Attorney-client privilege and attorney work-product privilege are common law confidentiality exceptions that apply to public records. Accordingly, your request is closed.

Best regards,





Recorder's Office

E: <u>prr@risc.maricopa.gov</u>

Recorder.Maricopa.Gov

Facebook | Instagram | Twitter | YouTube | LinkedIn

Confidentiality Notice: This message, with any attachments, is intended only for the use of the individual or entity to whom it is addressed,

and may contain information that is confidential and exempt from disclosure.

If you are not the intended recipient, any dissemination, distribution, or copying of this message or any attachment is strictly prohibited.

If you have received this message in error, please notify the original sender immediately by return E-mail and delete this message and all attachments. Thank you.

From: FOIA Requests <Foia@wethepeopleazalliance.com>

Sent: Monday, November 18, 2024 1:19 PM **To:** PRR (MCRO) cprr@risc.maricopa.gov>

Subject: Public Records Request #03-20241118-01

Attached herewith please find our Public Records Request.

Thank you,

Stephanie Zink

on behalf of We The People AZ Alliance

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EXHIBIT E

RE: Public Records Request #03-20241118-01

From FOIA Requests <Foia@wethepeopleazalliance.com>

To PRR - RISCX < prr@risc.maricopa.gov >

CC PRR - RISCX < prr@risc.maricopa.gov > , Bryan James Blehm < bjblehm@gmail.com >

Date Monday, November 25th, 2024 at 5:43 PM

Good evening!

Thank you for your email. Since you are claiming attorney-client privilege, please provide the engagement letter for the retention of States United Democracy Center. Additionally, as this email was sent to various individuals, it cannot possibly qualify as privileged. If we do not receive the information requested, we shall bring a special action requesting court intervention in this public records request.

Thank you.

Good morning/afternoon,

The information you are seeking to obtain is privileged. Attorney-client privilege and attorney work-product privilege are common law confidentiality exceptions that apply to public records. Accordingly, your request is closed.

Best regards,





Recorder's Office

E: prr@risc.maricopa.gov

[Recorder.Maricopa.Gov]

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Sent: Monday, November 18, 2024 1:19 PM
To: PRR (MCRO) cprr@risc.maricopa.gov>

Subject: Public Records Request #03-20241118-01

Attached herewith please find our Public Records Request.

Thank you,

Stephanie Zink

on behalf of We The People AZ Alliance

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image001.png 2.74 KB

EXHIBIT F

RE: Public Records Request #03-20241118-01

From FOIA Requests <Foia@wethepeopleazalliance.com>

To PRR - RISCX < prr@risc.maricopa.gov >

CC PRR - RISCX < prr@risc.maricopa.gov > , Bryan James Blehm < bjblehm@gmail.com >

BCC Shelby Busch < Shelby.B@UnitedLibertyCoalition.com >, Chris Handsel < chrishandsel@protonmail.com >

Date Thursday, December 5th, 2024 at 12:32 PM

I am following up on my previous request. Your office has claimed attorney-client privilege without providing evidence of said protection. Again, We immediately request you provide the retainer agreement with States United Democracy Center and the attorney who generated the email in question. Additionally, we require any permission you received to retain said non-government organization for legal services. This information is not protected under any privilege claim and is subject to public disclosure.

Thank you, Stephanie Zink On behalf of We The People AZ Alliance

On Monday, November 25th, 2024 at 5:43 PM, FOIA Requests <Foia@wethepeopleazalliance.com> wrote:

Good evening!

Thank you for your email. Since you are claiming attorney-client privilege, please provide the engagement letter for the retention of States United Democracy Center. Additionally, as this email was sent to various individuals, it cannot possibly qualify as privileged. If we do not receive the information requested, we shall bring a special action requesting court intervention in this public records request.

Thank you.

Good morning/afternoon,

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Best regards,

Public Records



Recorder's Office

E: prr@risc.maricopa.gov

Recorder.Maricopa.Gov

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From: FOIA Requests <Foia@wethepeopleazalliance.com>

Sent: Monday, November 18, 2024 1:19 PM **To:** PRR (MCRO) cpr@risc.maricopa.gov>

Subject: Public Records Request #03-20241118-01

Attached herewith please find our Public Records Request.

Thank you,

Stephanie Zink

on behalf of We The People AZ Alliance

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image001.png 2.74 KB