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VIA EMAIL AND U.S. MAIL

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Re: Improper Removal of RCEA Directors

Dear Justin:

In the January 15, 2020 Special Town Council Meeting, the Payson Town Council considered possible action regarding Rim Country Educational Alliance ("RCEA" or "SLE") board member appointment and removal. In the course of this discussion, Councilman Ferris made a lengthy prepared statement regarding "what [he] see[s] as ... for cause and the concerns leading up to this here." Later, the Payson Town Council voted 4-3 in favor of a motion to remove Directors Sugarman, Richey, and Smith "for cause as stated in [Councilman Ferris'] previous statement."

The Council's decision to remove the Directors on the basis of Ferris' personal and wildly misleading diatribe is inappropriate. More importantly, the removal is invalid because of considerable procedural and substantive defects. RCEA will not recognize the removal of the Directors and demands that the Town Council rescind its actions regarding Directors Sugarman, Richey, and Smith. Town action to the contrary will force RCEA to seek judicial declaratory relief.

I. <u>Procedural Defects</u>

It is well-established that public officials that can only be removed "for cause" have a vested property right in their appointment.[1] Therefore, RCEA Directors are entitled to due process

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[1] *E.g. Roberts v. City of Tucson*, 122 Ariz. 91, 92 (1979); *Johnson v. Mofford*, 181 Ariz. 301, 303-304 (App. 1995).

before they are removed.[2] At the very least, the removed Directors are entitled to a hearing to validate (or invalidate) the "for cause" removal.[3]

Here, the removed Directors were given no opportunity to refute or respond to Ferris' allegations that served as a basis for their removal, much less given a hearing with procedural due process. As explained in the balance of this letter, Ferris' allegations are unfounded and materially misleading. Under these circumstances, the removal is procedurally defective and void as a matter of law.

II. Substantive Defects

To remove an RCEA Director "for cause," the Town Council must make a finding that there was an "inefficiency, incompetency, or other kindred disqualification."[4] While the Town Council may reasonably determine what conduct rises to the level of inefficiency, incompetency, or "kindred disqualification," its reasoning cannot be arbitrary or false.[5] Moreover, the determination is subject to judicial review to ensure that the determination was honest, fair, and reasonably exercised.[6]

Ferris' statement—or alleged "finding of cause"—was riddled with factual inaccuracies, legal fiction, and irrelevant comments. The Council's decision to remove the Directors of RCEA based on this deficient presentation is therefore arbitrary. When Ferris' statement is pruned to eliminate factual and legal inaccuracies, nothing substantial remains. Because Ferris' statement provides neither facts nor any reasonable basis to remove the Directors for cause, the Council's conduct is invalid and without legal effect.

A. Several allegations in Ferris' statement does not concern any Directors' actions and are thus irrelevant.

Much of Ferris' prejudicial statement is thinly veiled "background information" explaining his crusade against the existence of a separate legal entity. Not only are several of these statements factually or legally inaccurate, but none of them concern any action of a removed Director.

[2] *Roberts*, 122 Ariz. at 92.
[3] *See e.g.*, *Id.*
[4] *Farish v. Young*, 18 Ariz. 298, 302 (1916); *Johnson v. Mofford*, 193 Ariz. 540, 543 ¶ 12 (App. 1998) (noting that the definition implies "some inability, incapacity or unfitness").
[5] *Farish*, 18 Ariz. at 302; Ariz. Op. Att'y Gen. I88-073 (1988).
[6] Ariz. Op. Att'y Gen. I88-073 (citing *Farish*, 18 Ariz. at 303).

1. Factual Misstatements

Allegation: "If the SLE can incur debt, it can create potential contingent liabilities for the town. . . . We find that the Town of Payson may be contingently liability for debt obligations that the RCEA has or may have entered into."

Response: These are false conclusions. While the SLE can incur debt under A.R.S. § 11-952.02(A)(5) and Section 6.5 of RCEA's Governance Agreement ("GA"), RCEA's Intergovernmental Agreement ("IGA") precludes the Town of Payson from incurring any liability on behalf of RCEA. Specifically, Section 7.6 of the IGA states: "Nothing herein shall be construed as obligating any Party to expend, or as involving any Party in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated. Nor shall anything herein be construed as obligating the Parties to expend, or as involving the parties in any contract or other obligation for the future payment of money if such Party does not have sufficient revenues for this expenditure." Accordingly, the plain language of the IGA absolves the Town from any liability related to debt incurred by RCEA.

Moreover, protecting the Town from contingent liabilities related to its efforts to bring a university to town was one of the primary reasons why the Town of Payson decided to create the SLE. This is evidenced by Town of Payson Resolution 2617 adopting the IGA and GA, stating: "a separate legal entity is legally separate and distinct from its members, and its members *are not liable for the actions and/or debts of the separate legal entity* except as set forth in the documents creating such separate legal entity." (emphasis added).

Allegation: "If the SLE can do whatever it wishes on its property it can create an adverse effect on adjacent properties belonging to Payson citizens and the Town of Payson. If the SLE can solely determine the nature of what commercial enterprises can operate on the SLE property it can allow commercial activities that may be detrimental to other existing commercial enterprises in the town."

Response: As a separate legal entity, RCEA holds a certain amount of autonomy. *See* A.R.S. § 11-952.02(A) (outlining a SLE's powers it may exercise as "provided in the agreement"). However, the IGA and GA set out several terms by which the RCEA must comply with when exercising its powers. For example, and specific to the RCEA's management of its property, Section 14.3 of the GA states that RCEA must "adopt a Property Master Plan for all real property which is conveyed to, leased or acquired by the" RCEA. The RCEA unanimously approved and adopted its Property Master Plan on December 3, 2015. Although presentation of the Property Master Plan to the Town Council was not required by any statute or agreement, RCEA did present its Property Master Plan to the Town Council on December 10, 2015.[7] At that meeting, the Payson Town Attorney affirmed that the Council was not required to approve the Plan.[8]

RCEA's December 10, 2015 presentation to the Town Council and compliance with the Town's voter-approved General Plan and EF zoning ordinances demonstrate how RCEA has been ever mindful of Payson's laws, goals, and priorities.[9]

Allegation: "The SLE has authority to and may purchase property that the Town would have otherwise acquired for the benefit of the citizens of Payson. The citizens of Payson have the privilege of voting for representatives that pledge to carry out the policies that they agree with and if they fail, they can vote those representatives out of office at the next election."

Response: This statement is speculative. The Town of Payson cannot lay claim to every parcel of undeveloped land. RCEA was well within its rights to acquire and develop the property at issue. Moreover, in accordance with its purposes, all of RCEA's actions are made for the benefit of Payson and Star Valley. Any suggestion that RCEA's and the Town of Payson's plans to benefit their community are mutually exclusive is unfounded.

Allegation: "When the SLE hand selects its directors that commit to advancing the agenda of the MHA RCEF board of directors, neither the citizens nor the parties that created the SLE have any say in the action or the direction of the SLE and the RCEA SLE is an entity that is not accountable to anyone except those who control the purse strings."

Response: RCEA does not hand-select its directors—it has no role in nominating candidates for appointment. Instead, pursuant to Section 4.2 of the GA, if RCEA "utilizes private placement funding, the financial entity providing such funding shall create a pre-qualified candidate list with at least twice as many names as open positions to be filled. During the term of such private placement funding, Members shall select Directors who are on the prequalified candidate list." Because Rim Country Educational Foundation, LLC ("RCEF, LLC") is providing funding to RCEA, RCEF LLC's role is predetermined by the GA's delegation of power. The Towns of Payson and Star Valley each retain the right to remove the Directors it appoints *for cause*.

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[7] Minutes to Town of Payson December 10, 2015 Meeting, http://payson.granicus.com/MinutesViewer.php?view_id=17&clip_id=1949

[8] *Id.*

[9] *Id.*; *see also Town of Payson General Plan Update 2014-2024*, 7, 74, 88, 113, (September 2013) (incorporating education and a potential higher-education campus as voter approved goals).

2. Legal Misstatements

Allegation: "The MHA/RCEF and Kenny Evans have been allowed to benefit from the actions and authority of the entity. Mr. Evans has claimed to have invested his own money into the MHA. Evans was Town of Payson manager for 8 years in which the RCEA were created along with all the Intergovernmental Agreements between the Town of Payson and the RCEA, RCEF, and MHA. Mr. Evans negotiated the agreements, voted on the agreements, signed the agreements between the Town of Payson and the RCEA and the RCEF. And in my opinion, it appears to be a huge conflict of interest.

. . .

RCEA SLE partners with the RCEF, a member organization of the MHAF. Kenny Evans is president of the MHA and has personal financial involvement in the MHA. Richard Johnson is a board member of the MHA and president of the RCEF. John Naughton is treasurer of the MHA and on the RCEF board. Jennifer Smith is on the MHA board and is on the RCEA board. Sanja Long is on the RCEF board and is CEO of the MHA. The joint membership and multiple boards may not be a violation of A.R.S. codes however, the membership, partnerships and agreements between the organizations and the local governments is very concerning."

Response: Ferris makes a misstatement of both fact and law. Factually, Evans was never the Town Manager to Payson and neither MHA Foundation or RCEF, LLC were parties to the IGA. Nor could they have been. MHA Foundation was incorporated and RCEF, LLC was organized in 2015, nearly four years after the IGA and GA were executed.

Although Evans did sign the agreements on behalf of the Town of Payson while Mayor, there is no legal conflict of interest regarding Evans' conduct. Arizona law defines conflict of interest as "[a]ny public officer or employee of a public agency who has . . . a substantial interest in any contract, sale, purchase or service to such public agency . . . ."[10] A substantial interest is further defined as "any nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest."[11] A "non salaried officer of a nonprofit corporation" is a remote interest.[12]

Evans served as President of Mogollon Health Alliance, a nonprofit corporation, and he also serves as the President of MHA Foundation, a nonprofit corporation, both without compensation. Because he was and is a non-salaried officer of a nonprofit corporation, Evans' involvement with Mogollon Health Alliance or MHA Foundation does not constitute a substantial interest. Not surprisingly, Ferris recognizes this as demonstrated by his later, contradictory

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[10] A.R.S. § 38-503(A).
[11] A.R.S. § 38-502(11).
[12] *Id.* (10)(a).

statement that Evans' and other board members' joint membership "may not be a violation of A.R.S. codes."[13]

While there is an agreement between RCEF, LLC and RCEA for private funding, this specific relationship was not contemplated when RCEA was organized. Initially, Winners Development was the private equity-funding partner. It was not until Winners Development ceased financial support to RCEA that the relationship between RCEA and RCEF, LLC was developed out of necessity.

3. Legally Irrelevant Statements

Despite the considerable amount of factual and legal misstatements, none of the aforementioned allegations have any legal significance to the removal inquiry. This is because not one allegation concerns the conduct of a removed Director. Instead, the allegations take issue with the underlying creation of the SLE and other erroneous allegations of conflicts of interest. Propaganda consisting of misplaced "concerns" cannot serve as a legal basis to find cause for removal.

B. Some allegations in Ferris' statement occurred before the Directors were appointed, and thus cannot serve as a basis for their removal.

Some of Ferris' allegations concern Director conduct that occurred prior to the appointment of Directors Sugarman, Richey, and Smith. Director Sugarman was first appointed to RCEA on May 7, 2015, Director Richey was appointed on November 17, 2016, and Director Smith was appointed on July 11, 2019. The actions in the following allegation occurred prior to the removed Directors' terms. It is arbitrary and unreasonable to use actions taken by others as a basis for removal of Directors Smith, Richey, and Sugarman. In addition to this allegation, several other allegations in Section D of this letter occurred prior to the term of one or more Director.

Allegation: "The SLE board of directors have been negligent in their responsibilities to carry out the terms and provision of the following three agreements between the SLE and the town of Payson: the first one is Resolution 2617, the Intergovernmental Agreement dated July 6, 2011 and signed by Mayor Kenny Evans on August 30, 2011; the second one is the Governance Agreement attached as Exhibit A to the aforementioned Intergovernmental Agreement dated July 6, 2011 and signed by Kenny Evans on July 7, 2011; third one is Town of Payson Resolution 2898 dated January 21, 2016 signed by Kenny Evans and it is an Intergovernmental Agreement between

[13] Ferris' statements regarding Ms. Smith is factually incomplete. Importantly, although Ms. Smith serves on the Board of both MHA Foundation and RCEA, she removes herself from the room and will not participate in any RCEA discussion or vote regarding either MHA Foundation or RCEF, LLC.

the Town of Payson and the RCEA for the purpose of having the Town of Payson provide review and field inspections services on the SLE property."

Response: With this allegation, Ferris again demonstrates his lack of legal acumen by misusing terms of art. Indeed, in response to a question from Councilman Smith, you clarified that "negligence may or may not be the best word to use to describe the point but, perhaps failure to carry out duty would be an appropriate substitute ... I don't unders— I'm not sure how to substitute for it, if at all." Yet, despite misusing legal terms, his statement *as read* served as a basis for removal.

C. Some parts of Ferris' statement are recitations of law or provisions of an agreement without any further allegation.

Ferris recited several provisions of law or RCEA agreements without making any accusation that those provisions were violated, or explaining how they serve as a basis for removal:

- "Section 3.1 the entity shall operate within an annually adopted budget and shall comply with all state, all statues, laws and regulations including rules established by the government accounting standard board."
- "Section 7.3 Cancellation. This IGA is subject to the provisions of A.R.S. § 38-511 which provide for cancellation of contracts by the parties, Town of Payson, Town of Star Valley, for certain conflicts of interest."
- "Section 7.5 No Third Party Beneficiaries. No term or provision of this IGA is intended to or shall be for the benefit of any person, firm, organization or corporation not a party hereto and no such other person, firm, organization or corporation shall have any right or cause of action hereunder."
- "Article 15.3 Conflict of Interest-the entity and its directors are subject to Arizona Conflict of Interest A.R.S. § 38-501 sequel."

Because these statements are nothing but incomplete thoughts, they cannot serve as a basis for removal.

D. Ferris' remaining statements do not constitute cause.

Allegation: "Resolution 2898 in the recitals did not include the RCEF however, the agreement includes the RCEF. The agreement states that the RCEA has adopted zoning, building and development codes section 150 through 154 of the Town of Payson which require plan reviews and field inspections."

Response: Resolution 2898, reviewed at the January 21, 2016 Payson Town Council meeting was accompanied by the proposed RCEA Intergovernmental Agreement that explicitly named RCEF as a party to the agreement. The Payson Town Attorney approved the form of the contract.

Allegation: "A document headed Property Master Plan Rim Country Educational Campus dated November 30, 2015 states that the adoption of a plan incorporating generally accepted planning principles is a requirement of the Intergovernmental Agreement that initially forms the RCEA in 2011. Where are the generally accepted planning principles that were adopted as required. It also stated that the RCEA and the RCEF jointly owned 253 acres site which was another breach of the IGA.

...

We have never received the requested Property Master Plan. ... Article 14.3 the entity has not provided updated property master plans when required and has not provided evidence that they have incorporated generally accepted planning principles including steps to protect environmental areas and appropriately buffer adjoining uses. The planned athletic fields abut residential areas with no buffer."

Response: Article 14.3 of the GA requires that RCEA "adopt a Property Master Plan for all real property which is conveyed to, leased, or acquired by the Entity. . . . The Property Master Plan shall incorporate generally accepted planning principles, including steps to protect environmental areas and appropriately buffer adjoining uses." The GA *does not* require RCEA to provide the Town of Payson with a copy or obtain approval of the Plan. Nevertheless, the Property Master Plan was shared with the Town and the public at various stages of the drafting process.[14]

Allegation: "Article 8.2 within 90 days following the close of each year the governing body shall have cause to be conducted an independent annual audit of the proceeding year's financial activities. The entity has failed to provide and possibly to perform annual audits as required and as requested."

Response: Outside of any de minimis expenditures, RCEA's only expenditures for the past five years have been bank fees and insurance payments. An audit of these routine expenditures would be redundant and unnecessary. RCEA Directors acted within their discretion to not perform an audit that was not in the best interest of the organization. Nevertheless, upon Director Smith's appointment, she requested that RCEA perform an audit. That audit is ongoing.

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[14] *See, e.g.*, Town of Payson December 10, 2015 Meeting Minutes, http://payson.granicus.com/MinutesViewer.php?view_id=17&clip_id=1949. Moreover, before the Property Master Plan was adopted, Town staff reviewed it for compliance with the Town's General Plan, even though compliance is not required by any agreement.

Allegation: "Article 14.1 all property owned by the entity shall be held in the name of the entity. We know that an undivided one-half interest in the 253-acre forest service property was transferred. I believe it was within a month of its being purchased to the RCEF."

Response: When RCEA acquired the parcel of U.S. Forest Service land at issue in November 2015, it initially owned a one-half interest in the 253-acre parcel. In executing this sale, RCEA contributed no money. Instead, RCEF, LLC financed the entirety of the acquisition. Then, on February 24, 2016 RCEA and RCEF, LLC executed a Memorandum of Understanding transferring the title and 100% interest in the parcel to RCEA. Subsequently, the parties executed a Lease—Lease Back Agreement. Section 13.2 of RCEA's GA contemplated that private placement financing would be required for the acquisition of property through a Lease—Lease Back Agreement with its private funding source. Accordingly, the acquisition and transfer of this property in two steps was conducted in accordance with the GA.

Allegation: "Article 15.2 Open Meeting Laws—the entity is subject to Arizona Open Meeting Laws. We know from RCEA Meeting Minutes that they had failed to comply with that in the past."

Response: Although this statement does not reference any specific open meeting law violation, all but one of RCEA's past violations occurred before any of the removed Directors were appointed. The violation occurred because Town staff failed to properly post RCEA's agenda on the Town's bulletin board. Moreover, much like the Town of Payson subcommittee's recent open meeting violation, RCEA has taken remedial action to ensure violations do not occur in the future.

Allegation: "Resolution 2617 our Intergovernmental Agreement the recital F states the parties desire that the entity operate within the parameters of the Governance Agreement as a political subdivision separate and distinct from each of the parties.

On April 11, 2011, the RCEA SLE board approved a motion to develop athletic fields. On May 16, 2019, the RCEA board passed Resolution 16, which stated that the RCEA will no longer abide by the IGA and Resolution 2898 whereby the RCEA agreed to use the Town of Payson Public Works Department and the Town of Payson Building permits, inspections, codes for development activities on the RCEA property.

...

"The Intergovernmental Agreement, Resolution 2898, Section 1 has this statement 'This agreement shall be effective as of the date written above and shall remain in effect until December 31, 2020 or until cancelled upon 90 days written notice by either party.' In other words, the Town was to receive a 90-day written notice of cancellation. The RCEA Board passed their Resolution on May 16th which appears to cancel Resolution 2898. No notice was given. So about 36 days after their resolution, the trees were bulldozed.

RCEA Resolution Number 36 stated May 16, 2019 section 1 for sound reasons deemed by the board of the RCEA we hereby exempt the RCEA from all provisions of Payson Town Code and wave application of Resolution 29 adopted January 14, 2016 and Resolution 32 adopted December 7, 2016 as it relates to development authorized by an affirmative vote of the board and taken for and on behalf of the RCEA.

There was no notice given to the town they bulldozed the property as I mentioned before which was approximately 36 days from their vote to void that Resolution 2898 and that was a breach of the Intergovernmental agreement. RCEA meeting minutes of the same date May 16, 2019 recorded a motion by Rich Richey, seconded by Larry Sugarman. to affirm that RCEF LLC member organization of the MHA is authorized to build athletic fields on the campus property. The motion passed unanimously. There was also a motion to affirm authorization of the RCEF's enterprise authority and was directed to proceed as acting agent. So the RCEF is the acting agent for and on behalf of the RCEA including any and all the above listed items.

The Arizona Department of Environmental Quality closure of July 11, 2019 notice of opportunity to correct deficiencies was issued because the RCEA bulldozed the SLE property without first obtaining an ADEQ drainage permit."

Response: Ferris' allegation contains many misstatements. RCEA did not pass Resolution 16 on May 16, 2019. Resolution 16 was passed in 2011 and related to the use and maintenance of water storage tanks. Moreover, RCEA did not vote on May 16, 2019 to "no longer abide by the IGA and Resolution 2898." However, RCEA did pass Resolution 36 on May 16, 2019 which established a limited exemption to the RCEA Code (which adopted generally applicable provisions from Payson Town Code) for services related to Resolution 29.

Upon receipt of legal direction from the Payson Town Attorney, RCEA enacted this measure as a narrow exemption for actions "taken for and on behalf of the RCEA. SLE." To be clear, Resolution 2898 for building review and inspection was not cancelled and the RCEA Code is applicable to all other RCEA actions.

Ferris also alleges that the Town Council was not given any notice for removal of trees. To the contrary, RCEA and MHA Foundation had multiple discussions, including public meetings on April 11, 2019 and May 16, 2019 in the presence of the Payson Town Attorney and Assistant Town Manager, regarding RCEA's tree removal plan. Additional discussions with the Town Manager and the Town Fire Chief were held in May and June of 2019. Moreover, the Town Manager advised RCEA that it would need to get a commercial water permit prior to the tree removal. It is disingenuous to later claim that the Town had no notice.

In July 2019, ADEQ gave RCEF, LLC notice that it had inadvertently left the southwest corner of its parcel out of the plan permit. This error was immediately corrected by both parties. Because this was an RCEF, LLC action and not an action taken by any of the removed Directors, it cannot serve as a basis for removal.[15]

Allegation: "The SLE is in violation of A.R.S. § 41-151.14 and that states and local public records management violation classification definition and A.R.S. § 39-101 permanent public records quality storage violation and classification. The Town of Payson could seek remedy through A.R.S. § 39-121.02 action on denial of access, costs and attorney fees damages which means that the financial statements that we have requested and have not received or that anybody could request and not receive they could pursue under state statute those documents.

. . .

In the Governance Agreement Article 4.2 because the entity has failed to provide the requested financial records and has failed to provide requested evidence of any debt obligation the current board of directors have been illegitimately placed on a prequalified list for selection by the town council. The town has never received evidence of private placement funding such as loan agreements or debt instruments. Loans extended from a third party for the use of the SLE as a mechanism or tool for financial gain is not a legitimate arm's length transaction and may be construed as a fraudulent means to control the board of directors of the RCEA.

. . .

Bottom line is they failed to report to or provide any information to the Town of Payson as a member of the RCEA SLE and a party to the above-mentioned agreements. So I do not think the town is asking too much that if we are a member organization a party to this SLE then we should be getting some kind of financial statements."

Response: This allegation is false. In October 2019, the Town of Payson requested various public records from RCEA, including financial records. The Town of Payson received hundreds of pages of records, including financial records, in October 2019 as a part of the Town of Payson and Star Valley RCEA Work Study. On December 31, 2019, RCEA produced nearly 1,600 pages of additional documents that were responsive to the Town's request. Further, the Town of Payson, as the custodian of RCEA's digital repository has always had possession, control, and access to RCEA's digital records and archives.

Ferris' statement misleads his listeners to believe that RCEA has been avoiding communication with the Town of Payson. This is simply untrue. To begin, RCEA conducts open meetings in which the public and Payson Council members are welcome to attend. Moreover, Payson leaders have a history of direct involvement with RCEA. For instance, Councilmembers, like Councilwoman Sue Connell, have served as board members of RCEA. Although Councilwoman Connell served as a Director of RCEA until she passed and the Town appointed

[15] Moreover, Director Smith was not yet a Director of RCEA when this occurred.

Ms. Smith to fill the remainder of her term, RCEF, LLC offered the name of a sitting Town Councilman as an option for the vacancy. Additionally, several members of the Town's management staff have historically attended and participated in RCEA meetings and programs. The failure of the Town to take an active role in the RCEA over the past ten months has been an intentional act by the members of the Town Council.

Ferris' allegation that RCEF, LLC has illegitimately placed names on the pre-qualified list is unpersuasive. First, this is an allegation that RCEF, LLC has engaged in improper conduct, not that any Director has taken improper conduct. Second, RCEF, LLC, is within its rights under the GA to create pre-qualified lists. RCEF, LLC has and continues to provide millions of dollars in "private placement funding." Accordingly, RCEF, LLC "*shall* create a pre-qualified candidate list."[16]

Outside of its general obligations to maintain public records, RCEA has no obligation to proactively furnish the Town Council with financial records. The Town of Payson is not entitled to financial statements as a matter of course by virtue of being a party to the GA. Indeed, no term of the GA grants it that right. Because RCEA has provided the Town of Payson with information as requested, there is no basis for Ferris' allegations that the Directors breached any duty they owe to the Town.

Although it is not an action taken by any RCEA director, and therefore is not relevant to the removal analysis, Ferris provides no evidence to support his serious accusation that RCEF, LLC is conducting fraudulent transactions for financial gain.

III. Conclusion

Ferris' myriad misstatements are reason enough to reverse the Council's decision to remove Directors Sugarman, Richey, and Smith. In fact, much of the diatribe asserts claims that are patently false, do not invoke Director action, or concern activities that occurred prior to the appointment of the Directors in question.

Simply put, RCEA does not recognize the Town Council's illegitimate attempt to remove Directors Sugarman, Richey, and Smith. If the Town Council takes any action to further its improper removal, RCEA is prepared to seek judicial relief.

We trust that you will promptly reevaluate and rescind the Council's action

[16] GA, Section 4.2 (emphasis added).

Snell & Wilmer
L.L.P.

Very truly yours,

Snell & Wilmer

Barry D. Halpern

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