

ZAINO HALL & FARRIN LLC

A T T O R N E Y S A T L A W

41 South High Street
Suite 3600
Columbus, Ohio 43215
(614) 782-1555
fstrigari@zhflaw.com

June 24, 2024

Via email at cela@fec.gov

Wanda D. Brown
Assistant General Counsel
Federal Election Commission
Complaints Examination & Legal Administration
1050 First Street, NE
Washington, DC 20463

Re: MUR 8253 – Response of Thomas Datwyler

Dear Ms. Brown:

I am counsel for and represent Thomas Datwyler in the complaint filed with the Federal Election Commission (the “Commission”) on or about April 29, 2024 and designated as Matter Under Review 8253 (the “Complaint”). This letter, along with the affidavit of Thomas Datwyler (“Affidavit”) attached hereto as Exhibit 1, constitutes Mr. Datwyler’s response to the Complaint.

Upon information and belief, Benjamin Ray (the “Complainant”) seems to have named Mr. Datwyler as a respondent because of the Complainant’s belief that Mr. Datwyler is the treasurer of the other named respondent, an entity named “Turn AZ Blue PAC”, which is not registered with the Commission.¹ However, Mr. Datwyler is not the Treasurer of “Turn AZ Blue PAC”, nor has he ever been the treasurer of it.² In fact, Mr. Datwyler has no knowledge of who or what “Turn AZ Blue PAC” even is.³ The only reason he now has any of knowledge of why he is listed as the Treasurer of “Turn AZ Blue PAC” is because of information that a reporter from Arizona sent him via email.⁴

That reporter sent a document to Mr. Datwyler that she allegedly obtained from the Federal Communications Commission’s website that is entitled “ISSUE (Non-candidate) ADVERTISEMENT AGREEMENT FORM”.⁵ That document appears to be an ad buy made by “Renegade Public Affairs/Turn AZ Blue PAC”.⁶ Upon receiving this document from the

¹ <https://www.fec.gov/data/search/?search=turn+az+blue+pac> (last accessed June 20, 2024).

² Aff. ¶¶ 10, 11.

³ *Id.* ¶ 6.

⁴ *Id.* ¶¶ 8, 9.

⁵ *Id.* ¶ 9.

⁶ *Id.*

ZAINO HALL & FARRIN LLC

reporter, Mr. Datwyler called/emailed the individual representing Renegade Public Affairs, an individual by the name of Carlos Sierra, to ask why Mr. Datwyler is listed as Treasurer of "Turn AZ Blue PAC".⁷ To date, Mr. Datwyler has not heard back from Carlos Sierra.⁸

There is no information available to suggest Mr. Datwyler was in any way involved with or aware of any of the issues giving rise to this matter. That is because Mr. Datwyler is not, nor has he ever been, the treasurer of an entity named "Turn AZ Blue PAC". Accordingly, Mr. Datwyler respectfully requests that the Commission remove him from MUR 8253 and dismiss him from the matter entirely. Alternatively, the Commission should find no reason to believe that Mr. Datwyler violated the Act because Mr. Datwyler is not, nor has he ever, been the treasurer of an entity named "Turn AZ Blue PAC".

Respectfully,

A handwritten signature in blue ink, appearing to read "Frank M. Strigari", with a stylized flourish at the end.

Frank M. Strigari

Counsel to Thomas Datwyler

⁷ Aff. ¶ 13.

⁸ *Id.* ¶ 14.

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)	
)	
BENJAMIN RAY,)	
)	
Complainant)	
)	
v.)	MUR 8253
)	
TURN AZ BLUE PAC, ET AL)	
)	
Respondents.)	
)	

AFFIDAVIT OF THOMAS DATWYLER


I, Thomas Datwyler, being over the age of 18 and under no legal disability, testify from personal knowledge as follows:

1. I am named as a respondent in a complaint that was filed by Benjamin Ray with the Federal Election Commission ("FEC") and has been assigned as Matter Under Review 8253 ("Complaint").
2. I submit this Affidavit in support of my Response to the Complaint.
3. I am the President of AxCapital LLC, a limited liability company that provides campaign accounting and compliance services to candidate and political committees.
4. Over the last 16 years, I have served as treasurer or assistant treasurer for hundreds of candidate and political committees that were required to register with the FEC.
5. On May 3, 2024, I received notice from Ms. Christal Dennis of the FEC that the Complaint had been filed against an entity named "Turn AZ Blue PAC" and me, in my alleged capacity as Treasurer of the entity named "Turn AZ Blue PAC".

6. After I reviewed the Complaint that same day, I was confused about why I was named as a Respondent in the Complaint because I had never heard of the entity named “Turn AZ Blue PAC”, nor had I ever done any work for an entity named “Turn AZ Blue PAC”, particularly as Treasurer.
7. Consequently, I asked Ms. Dennis in an email for more information about this Complaint since I had no knowledge of the existence of an entity known as “Turn AZ Blue PAC”. Ms. Dennis informed me that I received the Complaint because the Complainant listed me as Treasurer of the entity known as “Turn AZ Blue PAC”. A true and accurate copy of my email communications with Ms. Dennis is attached to this Affidavit as Exhibit A.
8. Five days later, on May 8, 2024, I was contacted by a woman named Laura Gersony, a national politics reporter for The Arizona Republic, who wanted to know how much the entity known as “Turn AZ Blue PAC” had spent so far in a certain congressional race in Arizona. Not having any knowledge of an entity known as “Turn AZ Blue PAC”, just as I did with Ms. Dennis, I asked Ms. Gersony for more information why she contacted me about that issue. A true and accurate copy of my email communications with Ms. Gersony is attached to this Affidavit as Exhibit B.
9. Ms. Gersony forwarded me a document entitled “ISSUE (Non-candidate) ADVERTISEMENT AGREEMENT FORM”, which was filled out by a Carlos Sierra of Renegade Public Affairs and listed “Thomas Datwyler, Treasurer” on the form.
10. I have never had any discussion or communication – whether in person, over the phone, over email, or over any other medium – with any person or representative of an entity named “Turn AZ Blue PAC”, including with Carlos Sierra of Renegade Public Affairs.

11. I have never agreed to serve as Treasurer for an entity named "Turn AZ Blue PAC".
12. I have never provided any service whatsoever to an entity named "Turn AZ Blue PAC".
13. After finding contact information for Carlos Sierra, on May 4, 2024, I called/mailed him to ask why I was listed on the "ISSUE (Non-candidate) ADVERTISEMENT AGREEMENT FORM" as Treasurer.
14. To date, Mr. Sierra has not responded to my call/email.

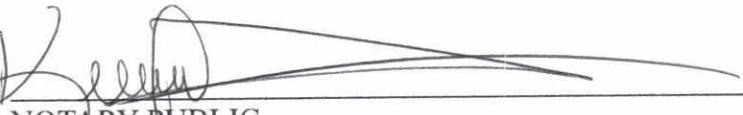
I HEREBY AFFIRM AND CERTIFY, UNDER PENALTY OF PERJURY, THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.



THOMAS DATWYLER



Signed and sworn to before me this 24 day of June, 2024.



NOTARY PUBLIC

My Commission expires April 10, 2026

EXHIBIT A

----- Forwarded message -----

From: Thomas Datwyler [REDACTED]
Date: Fri, May 3, 2024 at 4:41 PM
Subject: Re: MUR 8253 Notification Letter (Turn AZ Blue PAC)
To: Christal Dennis <CDennis@fec.gov>

Thank you for the clarification. Very strange.

Thank you.

On Fri, May 3, 2024 at 4:40 PM Christal Dennis <CDennis@fec.gov> wrote:

Hi Tom,

The PAC itself is not registered but they have you named as the treasurer in the complaint so if there is an error or you are not affiliated with this PAC you can respond that way but I did not send it in error. Once you read through the complaint you will be able to address it and again if you have no affiliation you can state that in your response.

I hope this helps.

Thanks,

Christal

From: Thomas Datwyler [REDACTED]
Sent: Friday, May 3, 2024 5:21 PM
To: Christal Dennis <CDennis@fec.gov>
Subject: Re: MUR 8253 Notification Letter (Turn AZ Blue PAC)

Hi Christal,

I think this was mistakenly sent to me. I don't have any involvement with this PAC and see nothing registered with this name?

Tom

On Fri, May 3, 2024 at 4:15 PM Christal Dennis <CDennis@fec.gov> wrote:

Hello Mr. Datwyler,

Attached is a notification letter based on a complaint we received. The complaint, our procedures, and a designation of counsel is also attached. Have a great evening and good weekend.

Kind regards,

Christal Dennis

Complaints Examination and

Legal Administration

(202) 694-1519

cela@fec.gov



This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). If this email has been received in error, please notify the sender immediately at (202) 694-1519, or by reply email, and delete the message without copying or disclosing its contents. Thank you

--

[REDACTED]

Cell: [REDACTED]

--

[REDACTED]
Cell: [REDACTED]

--

[REDACTED]
Cell: [REDACTED]

EXHIBIT B

----- Forwarded message -----

From: Gersony, Laura <Laura.Gersony@gannett.com>
Date: Wed, May 8, 2024 at 5:03 PM
Subject: RE: AZ Republic question on Turn AZ Blue PAC
To: Thomas Datwyler [REDACTED]

Oh yeah, sorry about that – here's the one listing you as the treasurer.

From: Thomas Datwyler [REDACTED] >
Sent: Wednesday, May 8, 2024 3:01 PM
To: Gersony, Laura <Laura.Gersony@gannett.com>
Subject: Re: AZ Republic question on Turn AZ Blue PAC

Thanks, I might be crazy, but I don't see my name on any of these PDF's?

On Wed, May 8, 2024 at 4:57 PM Gersony, Laura <Laura.Gersony@gannett.com> wrote:

Sure thing. Attaching the invoices I'm looking at. Accessed via the [FCC's portal](#). Looks like they're three different orders, of a couple hundred bucks each.

Crunching the numbers I'm seeing a total of \$605 for these TV ad buys. But seems like there has been some other spending too, on texts and I believe a billboard.

So I'm hoping you can confirm the total amount Turn AZ Blue PAC has spent in this race so far in 2024.

Feel free to reach me: [REDACTED]

From: Thomas Datwyler <[REDACTED]>
Sent: Wednesday, May 8, 2024 2:49 PM
To: Gersony, Laura <Laura.Gersony@gannett.com>
Subject: Re: AZ Republic question on Turn AZ Blue PAC

Interesting, could you please send this to me? I don't have any knowledge of it.

On Wed, May 8, 2024 at 4:48 PM Gersony, Laura <Laura.Gersony@gannett.com> wrote:

Hi Tom. I saw it in the FCC's political programming disclosures. Back-of-the-envelope it seems like the sum is upwards of \$800, can you provide an exact figure?

From: Thomas Datwyler [REDACTED]
Sent: Wednesday, May 8, 2024 2:24 PM
To: Gersony, Laura <Laura.Gersony@gannett.com>
Subject: Re: AZ Republic question on Turn AZ Blue PAC

Hi Laura,

Do you know where you saw that?

Thanks,

Tom

On Wed, May 8, 2024 at 4:22 PM Gersony, Laura <Laura.Gersony@gannett.com> wrote:

Hi Mr. Datwyler. Laura Gersony here for the AZ Republic.

Saw you're the point of contact for Turn AZ Blue PAC, which is spending in the CD-01 race here in Arizona.

How much has the PAC spent so far this cycle?

Thanks,

Laura Gersony

National politics reporter

Mobile: [REDACTED]

laura.gersony@gannett.com

azcentral.

azcentral | The Arizona Republic

PART OF THE USA TODAY NETWORK

Read more at [azcentral.com](https://www.azcentral.com)

ISSUE (Non-candidate) ADVERTISEMENT AGREEMENT FORM

I, Carlos Sierra, Renegade Public Affairs, hereby request station time as follows: See **Order** for proposed schedule and charges. See **Invoice** for actual schedule and charges.

Check one:

- ☒ Ad "communicates a message relating to any political matter of national importance" by referring to (1) a legally qualified candidate for federal office; (2) an election to federal office; (3) a national legislative issue of public importance (e.g., health care legislation, IRS tax code, etc.); or (4) a political issue that is the subject of controversy or discussion at the national level.
- ☐ Ad does NOT communicate a message relating to any political matter of national importance (e.g., relates only to a state or local issue).

ALL QUESTIONS/BLOCKS MUST BE COMPLETED

Station time requested by: Renegade Public Affairs/Turn AZ Blue PAC

Agency name: Renegade Public Affairs

Address: 910 E Redd Rd, Suite K, #517 El Paso, Texas 79912

Contact: Carlos Sierra

Phone number: 915.207.4602

Email: Carlos@renegadepublicaffairs.com

Name of advertiser/sponsor (list entity's full legal name as disclosed to the Federal Election Commission [for federal committees] with no acronyms; name must match the sponsorship ID in ad):

Name: Turn AZ Blue PAC

Address:

Contact: Thomas Datwyler

Phone number: [REDACTED]

Email: [REDACTED]

Station is authorized to announce the time as paid for by such person or entity.

List ALL chief executive officers, members of the executive committee and the board of directors or other governing group(s) of the advertiser/sponsor (Use separate page if necessary.):

Thomas Datwyler, Treasurer

By signing below, advertiser/sponsor represents that those listed above are the only executive officers, members of the executive committee and board of directors or other governing group(s).

If ad refers to a federal candidate(s) or federal election, list ALL of the following:

☐ N/A

Name(s) of every candidate referred to: Marlene Galan Woods

Office(s) sought by such candidate(s) (no acronyms or abbreviations): Arizona Congressional District 1

Date of election: July 30, 2024

Clearly identify EVERY political matter of national importance referred to in the ad (no acronyms); use separate page if necessary:

☐ N/A

- Abortion
- Gay Rights
- Political Ambitions
- Theft

THIS STATION DOES NOT DISCRIMINATE OR PERMIT DISCRIMINATION ON THE BASIS OF RACE OR ETHNICITY IN THE PLACEMENT OF ADVERTISING.

The advertiser/sponsor agrees to indemnify and hold harmless the station for any damages or liability, including reasonable attorney's fees, which may arise from the broadcast of the above-requested advertisement(s). For the above-requested ad(s), the advertiser/sponsor also agrees to prepare a script, transcript or tape, which will be delivered to the station by the log deadlines outlined in the station's disclosure statement.

Advertiser/Sponsor Renegade Public Affairs	Station Representative
Signature: Carlos Sierra <small>Digitally signed by Carlos Sierra Date: 2024.03.01 11:16:19 -0700</small>	Signature: <small>E-SIGNED by Andy Lashbrooke on 2024-03-01 20:36:28 GMT</small>
Name: Carlos Sierra	Name: Andy Lashbrooke
Date of Request to Purchase Ad Time: 3/1/24	Date of Station Agreement to Sell Time: March 01, 2024

TO BE COMPLETED BY STATION ONLY

Ad submitted to station? ☒ Yes ☐ No Date ad received: 3/1/2024

Note: Must have separate PB-19 forms for each version of the ad (i.e., for every ad with differing copy).

If only one officer, executive committee member or director is listed above, station should ask the advertiser/sponsor in writing if there are any other officers, executive committee members or directors, maintain records of inquiry and update this form if additional officers, members or directors are provided.

Disposition:

- ☒ Accepted
☐ Accepted IN PART (e.g., ad not received to determine content)*
☐ Rejected – provide reason:

*Upload partially accepted form, then promptly upload updated final form when complete.

Date and nature of follow-ups, if any:

TURN AZ Blue PAE - Woods

Contract #: <u>3449225</u>	Station Call Letters: <u>1CTVK</u>	Date Received/Requested: <u>3/1/2024</u>
Est. #:	Station Location: <u>Phoenix</u>	Run Start and End Dates: <u>3/3/2024</u>

For national issue ads only (not required for state/local issue ads):

Upload order, this disclosure form and invoice (or traffic system print-out) or other material reflecting this transaction to the OPIF or use this space to document schedule of time purchased, when spots actually aired, the rates charged and the classes of time purchased (including date, time, class of time and reasons for any make-goods or rebates) or attach separately. If station will not upload the actual times spots aired until an invoice is generated, the name of a contact person who can provide that information immediately should be placed in the "Terms and Disclosures" folder in the OPIF.