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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10
11 SIMONE GOLD, both in her individual
capacity and as a director on behalf of Free
12 Speech Foundation d/b/a America’s
Frontline Doctors, an Arizona nonprofit
13 corporation,

14 Plaintiff,

15 v.

16 JOSEPH “JOEY” GILBERT, JURGEN
MATTHESIUS, RICHARD MACK, and
17 FREE SPEECH FOUNDATION d/b/a
AMERICA’S FRONTLINE DOCTORS, an
18 Arizona nonprofit corporation, in a
derivative capacity,

19 Defendants.

Case No. CV2022-015525

**APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

(With Notice)

(Expedited Consideration Requested)

(Hon. Timothy Thomason)

20 Plaintiff Dr. Simone Gold (“Gold” or “Plaintiff”), pursuant to Arizona Rule of Civil
21 Procedure 65, hereby applies and moves this Court for a temporary restraining order and
22 preliminary injunction against Defendants Joseph “Joey” Gilbert (“Gilbert”), Jurgen
23 Matthesius (“Matthesius”), and Richard Mack (“Mack”) (collectively, “Defendants”),
24 preventing them, during this lawsuit, from altering the status quo in connection with the
25 operation of Arizona nonprofit Free Speech Foundation d/b/a America’s Frontline Doctors
26

1 (“AFLDS”), a nominal defendant here in a derivative capacity. Defendants are attempting
2 to tear the operations of AFLDS apart — e.g., purportedly firing most operational staff,
3 and causing AFLDS’s primary bank accounts to be frozen — as part of an improper
4 takeover attempt. To maintain the AFLDS operational status quo while the leadership
5 dispute is decided in an orderly fashion, Court intervention is needed — not ridiculous
6 “self-help” and damaging threats made against frontline AFLDS workers.

7 Gold further moves the Court for an order that Defendants show cause, if any exists,
8 why a temporary restraining order and preliminary injunction should not be issued. Gold
9 requests that the Court schedule a hearing on this Application for Temporary Restraining
10 Order and Preliminary Injunction at the soonest practicable date and time.

11 This Application is supported by the Verified Complaint, the following
12 Memorandum of Points and Authorities, and the accompanying declarations of Troy
13 Brewer [Exhibit 1 hereto], Lisa Andrzejewski [Exhibit 2 hereto], Dr. Simone Gold
14 [Exhibit 3 hereto], and George Wentz [Exhibit 4 hereto]. Pursuant to Arizona Rule of Civil
15 Procedure 65(a)(1), Plaintiff is giving all defendants notice of this Application by mail
16 and email on the date of filing.

17 **Memorandum of Points and Authorities**

18 **I. Introduction**

19 Gold and Defendants are the directors of AFLDS, an Arizona nonprofit
20 corporation. Gold, an experienced emergency physician, founded the nonprofit, is the face
21 of its operations, and generates millions of dollars in donations for it. This dispute arises
22 from Gilbert’s malfeasance as a director, and his ultra vires attempt to seize control of the
23 company — efforts Mack and Matthesius have participated in, supported, facilitated,
24 and/or permitted to occur.

25 This litigation will determine who controls the company. Gold has asked this Court
26 for a declaratory judgment that she is a member of the Board of Directors and President

1 of AFLDS, and for A.R.S. § 10-3810 judicial removal of Defendants as Board members,
2 based on their misdeeds. Gold is likely to prevail: she will demonstrate Defendants'
3 fraudulent actions justify their removal.

4 But meanwhile, the balance of hardships tips strongly in favor of maintaining the
5 status quo. Defendants are engaging in conduct designed to substantially and irreparably
6 alter the status quo — actions that threaten the very existence of AFLDS. For example, in
7 recent weeks, Gilbert, with the support of Mack and Matthesius, has purported to fire the
8 majority of AFLDS's management/director-level employees, including Gold. Not only is
9 Gold the founder and face of AFLDS, she also is the cause for the vast majority of its
10 donations and, as one of only two medical doctors at the management level of AFLDS, is
11 the primary idea-generator and decision-maker for this medically-oriented nonprofit.
12 Without Gold, and without the majority of the management/director-level employees who
13 are charged with running the company, it is doubtful that the company can survive.

14 Defendants' rapidly escalating misconduct reached new levels over the past week.
15 On November 30, 2002, Mack, a former sheriff, threatened to have AFLDS's CPA
16 arrested if the CPA — who had asked Gilbert the prior week to return \$1.1 million in
17 AFLDS funds Gilbert misappropriated — did not follow Gilbert's orders. Gilbert also
18 made similar improper threats to the CPA the same day. Then, on December 2, 2022,
19 Gilbert caused AFLDS's primary banking institution to freeze the company's accounts,
20 so that AFLDS can no longer pay its expenses (including payroll). Without the ability to
21 access its funds, AFLDS likely will not survive the month. Gilbert is turning the corporate
22 control dispute into a business-ending event.

23 Gold is bringing this Application as soon as possible after learning of those events.
24 Immediate injunctive relief is warranted. First, AFLDS cannot operate without the frozen
25 bank accounts. Second, AFLDS risks losing its CPA firm, which controls its bank
26 accounts and handles AFLDS financial matters, including payroll. But beyond that,

1 Defendants’ actions over the past week demonstrate that they are growing increasingly
2 brazen and extreme in their attempts to dismantle the nonprofit and appropriate its funds.

3 To protect this Arizona nonprofit, the interests it serves, the people who work for
4 it, and the judicial process of this lawsuit, the Court should enter a temporary restraining
5 order and preliminary injunction, preventing Defendants from altering the status quo as to
6 AFLDS operations during the pendency of the litigation.

7 **II. Relevant Background¹**

8 **A. Formation and Purpose of AFLDS**

9 Gold is both a medical doctor (an emergency physician) and a lawyer. She founded
10 AFLDS as an Arizona nonprofit corporation in June 2020. [Verif. Compl. ¶ 15].

11 AFLDS’s mission and work includes advocating for medical and healthcare issues,
12 combatting media censorship of medical-related information, and supporting medical
13 freedom and civil liberties around healthcare issues. AFLDS offers an array of online
14 content related to those issues. [Verif. Compl. ¶ 16].

15 Since its formation, AFLDS has been successful in raising funds for its mission
16 and work. Gold, in particular, has assisted in raising more than \$25 million in donations
17 for the organization since its formation. [Verif. Compl. ¶ 17]. Gold has been responsible
18 for approximately 95% of donations to AFLDS. [Gold Decl. ¶ 5].

19 Due to Gold’s efforts, the nonprofit has had measurable success and prominence
20 since its formation. More than 2,000 medical professionals have associated with AFLDS,
21 referring to themselves as “America’s Frontline Doctors.” AFLDS has amassed more than
22 1 million subscribers to its online content. [Verif. Compl. ¶¶ 18-19].

23 Gold has been instrumental in this success. AFLDS’s success is built on the
24 personality of Gold, who rose to public prominence in 2020 as a critic of aspects of the
25

26 ¹ In addition to the citations below, these facts are also supported by the Gold Declaration.

1 response to the COVID-19 pandemic. Gold is the “face” of AFLDS. She frequently
2 engages in public speaking on topics related to AFLDS’s mission and work. [Verif.
3 Compl. ¶¶ 20-22].

4 Indeed, multiple substantial donors to AFLDS, including one who donated \$5
5 million to AFLDS in August 2022 and one who has donated \$500,000 since 2020, have
6 expressed that they gave to AFLDS because Gold was at the helm of the organization.
7 [Verif. Compl. ¶ 23].

8 Furthermore, most of the medical professionals associated with AFLDS, including
9 AFLDS’s physician liaison and physician pilot liaison, have expressed that they associated
10 with AFLDS, and remain associated with AFLDS, because of Gold’s connection to the
11 organization. The vast majority of AFLDS’s workers, who see themselves as “freedom
12 fighters,” have likewise indicated that they remain working for AFLDS because of Gold’s
13 connection to the organization. [Verif. Compl. ¶¶ 24-25].

14 **B. The Board of Directors of AFLDS**

15 In 2020, shortly after she founded AFLDS, Gold was appointed as a director,
16 Chairman of the Board, and President of the organization. Gold remains in those roles to
17 this day, though the issue is disputed in this litigation. [Verif. Compl. ¶¶ 26-27].

18 In addition to Gold, AFLDS has had other Board members over time. For example,
19 third-party Amy Landau was appointed a director of AFLDS in or about September 2020.
20 Gilbert was appointed a director of AFLDS in or about March 2021. Mack and Matthesius
21 were added to the Board in or about December 2021. [Verif. Compl. ¶¶ 28-31].

22 **C. The Failed Agreement for Gold to Resign from the Board**

23 In early 2022, Gold considered the possibility of stepping down from her position
24 on the Board of Directors, in the interest of protecting the functionality of AFLDS
25 (including concerns that she had become a political target of third parties) and so that she
26 could continue her extraordinary contributions to AFLDS of visionary leadership and

1 increasing public support while simultaneously protecting other efforts, such as starting
2 healthcare clinics. [Verif. Compl. ¶ 33].

3 Gold’s attorney, George Wentz, negotiated on her behalf with the other members
4 of the Board of Directors to reach an agreement for Gold to leave the Board in exchange
5 for a set of promises, including valuable consideration. In or around February 2022, Gold
6 and the other members of the Board of Directors reached an agreement that Gold would
7 resign from the Board of Directors in exchange for an agreement regarding an ongoing
8 arrangement, which included the following major components: (i) Gold would have an
9 ongoing consulting agreement with AFLDS for monthly compensation, and (ii) AFLDS
10 would provide Gold with a payment for seed money to start certain healthcare clinics
11 (collectively, the “Resignation Agreement”). [Verif. Compl. ¶¶ 34-35].

12 Under the Resignation Agreement, which was made between Gold and the other
13 members of the Board of Directors, Gold’s resignation was conditioned on the occurrence
14 of the seed payment and the consulting agreement (and payments thereunder). [Verif.
15 Compl. ¶ 36].

16 At a meeting of the Board of Directors on or about February 2, 2022, Gold orally
17 offered her resignation, performing her obligations under the Resignation Agreement.
18 Gold (through counsel) and the other members of the Board of Directors negotiated and
19 agreed that the seed money payment to start healthcare clinics would be \$1.5 million and
20 that Gold’s compensation for the consulting agreement would be \$50,000 per month, plus
21 an allowance for residence in AFLDS-owned property. [Verif. Compl. ¶¶ 37-38].

22 Despite these agreements, the other members of the Board of Directors (the
23 Defendants here²) never performed. No portion of the seed payment was ever paid to Gold,
24 and the consulting agreement was never executed. [Verif. Compl. ¶¶ 39-40].

25
26 ² Amy Landau resigned from the Board in or around March 2022. [Verif. Compl. ¶ 49].

1 The seed payment and the consulting agreement were material terms of the
2 Resignation Agreement. The seed payment and the consulting agreement were both
3 conditions precedent to Gold’s resignation taking effect. [Verif. Compl. ¶¶ 41-42].

4 Because the seed payment (a condition) and the consulting agreement (a condition)
5 never occurred, the Resignation Agreement never took effect. Specifically, Gold’s offered
6 resignation from the Board never took effect. [Verif. Compl. ¶ 43].

7 Additionally or in the alternative, the cash payment, consulting agreement, and
8 consulting compensation were the other Board members’ performance under the
9 Resignation Agreement. Because a substantial part of that performance (the seed payment)
10 never occurred, Gold was entitled to, and did, rescind the Resignation Agreement,
11 returning the parties to the status quo before the agreement was formed — in other words,
12 with Gold on the Board and President. [Verif. Compl. ¶ 44].

13 As a result, Gold remained (and, as of the filing of this Application, remains) a
14 member (and Chairman) of the Board of Directors of AFLDS. [Verif. Compl. ¶ 46].

15 This fact was confirmed by the subsequent conduct of the parties. For example,
16 because the Resignation Agreement never took effect and/or was never fully performed,
17 Gold never gave her resignation in writing, as required by Section 7.1 of AFLDS’s bylaws.
18 [Verif. Compl. ¶ 47]. And indeed, other than a brief absence during the summer of 2022,
19 Gold has continued to principally direct the operations of AFLDS, including since
20 February 2022, with the knowing consent of Defendants. [Verif. Compl. ¶ 47].

21 **D. Gilbert’s Malfeasance**

22 In or around March 2021, Gilbert — an attorney practicing law in Nevada —
23 convinced Gold to deposit \$1.1 million in AFLDS funds into the trust account of his law
24 firm. [Verif. Compl. ¶ 50]. In doing so, Gilbert failed to disclose the existence of an
25 unwaivable conflict of interest arising from the fact that he was being added to the Board
26 of Directors for AFLDS that same month. [Verif. Compl. ¶ 51]. Since at least January

1 2022, Gold has demanded that Gilbert return those funds to an AFLDS bank account.
2 Gilbert verbally agreed multiple times to return the \$1.1 million to an AFLDS bank
3 account, but he never did so. [Verif. Compl. ¶¶ 52-53].

4 Instead, Gilbert saw an opportunity to remove Gold, and potentially keep the
5 money, and hide other financial improprieties. In summer 2022, Gold spent 48 days
6 incarcerated on a misdemeanor trespassing charge related to being at the U.S. Capitol on
7 January 6, 2021. As Founder and President of AFLDS, Gold was an invited guest speaker
8 that day, alongside newly elected members of Congress. [Verif. Compl. ¶ 56].

9 During Gold’s short absence from AFLDS, she left various AFLDS personnel with
10 instructions about their roles and authority. The Executive Director, Lisa Andrzejewski,
11 was in charge of the AFLDS organization. Gilbert’s only role during that period was to
12 facilitate an internal financial auditor hired by Gold for AFLDS. [Verif. Compl. ¶ 57].

13 However, apparently seeking to hide his financial impropriety, Gilbert began to
14 overstep his authority and to build a platform for a power grab during Gold’s absence.
15 [Verif. Compl. ¶ 58; Andrzejewski Decl. ¶¶ 13-25].

16 For example, in July and August 2022, beginning within two days of Gold’s
17 absence, Gilbert purported to fire two key AFLDS workers, National Director Alison
18 Rockett and Creative Director John Strand, as well as a consultant AFLDS had already
19 contracted with and prepaid for six months’ work. Gilbert had no authority to hire or fire
20 any AFLDS workers, and, as such, had no authority to fire Alison Rockett, John Strand,
21 or the consultant. [Verif. Compl. ¶¶ 62-64].

22 Additionally, following her release in September 2022, Gold discovered that
23 Gilbert was engaging in malfeasance, including financial improprieties, related to
24 AFLDS. [Andrzejewski Decl. ¶¶ 13-22; Gold Decl. ¶¶ 35-36]. For example, Troy Brewer,
25 a certified public accountant whose firm has provided services to AFLDS for most of its
26 existence, confirmed in October 2022 that Gilbert had, since May 2022, taken at least

1 \$5,000 per month (and up to \$10,000 per month) in AFLDS funds and appropriated it for
2 his personal use. [Verif. Compl. ¶ 66; Brewer Decl. ¶¶ 12-13]. Those withdrawals of
3 company funds were not recorded on the company's books and were not authorized by
4 the Board of Directors or any individual with the authority to authorize them. These
5 amounts were on top of a salary of \$15,000 per month being paid to Gilbert. [Verif. Compl.
6 ¶ 67; Brewer Decl. ¶15].

7 The full extent of Gilbert's financial malfeasance, including the full extent of funds
8 he improperly appropriated from AFLDS, is not yet known to Gold. [Verif. Compl. ¶ 68].

9 Gilbert also engaged in other unauthorized actions, to the detriment of AFLDS. For
10 example, a few days prior to Gold's incarceration, Gilbert recommended that Gold, on
11 behalf of AFLDS, hire Andrea Wexelblatt, his personal campaign manager for his failed
12 primary campaign for governor of Nevada, as a media manager. Gold approved the hire,
13 and Wexelblatt was hired in a part-time role for \$3,000 per month. [Verif. Compl. ¶ 59].
14 During Gold's absence, however, Gilbert improperly, and without authority, caused
15 AFLDS's accountant to pay Wexelblatt \$12,000 per month, even though she only worked
16 part time. [Verif. Compl. ¶ 70; Brewer Decl. ¶ 18]; Andrzejewski Decl. ¶¶ 14-21].

17 Additionally, Gilbert has, for months, substantially failed to perform services for
18 AFLDS, despite drawing a salary (and taking the additional unauthorized amounts on top
19 of that). [Verif. Compl. ¶ 71].

20 During 2021 and 2022, Gilbert has been primarily focused on his outside activities,
21 rather than AFLDS's operations. Gilbert has a law practice in Reno, Nevada; he conducted
22 an unsuccessful primary campaign for Nevada governor spanning 2021 and 2022; and he
23 challenged the results of the June 2022 Nevada primary election in a lawsuit that was
24 found to be frivolous and resulted in a sanctions ruling against Gilbert. *See* Order Granting
25 Def. Joseph Lombardo's Mot. for Sanctions, *Gilbert v. Sisolak et al.*, Carson City, Nev.
26 First Jud. Dist. Ct., Case No. 22 OC 000851B (Sept. 21, 2022), Exhibit 5 hereto.

1 While focused on those activities, Gilbert substantially failed to attend AFLDS
2 meetings, perform research or writing for AFLDS, oversee the business of AFLDS,
3 oversee the financial audit of AFLDS, or otherwise benefit AFLDS. [Verif. Compl. ¶¶ 72-
4 73].

5 In October 2022, Gold reported Gilbert’s malfeasance to the Board of Directors,
6 AFLDS general counsel Adam Fulton, and AFLDS outside counsel Sally Wagenmaker.
7 No actions were taken by those parties to address the situation. [Verif. Compl. ¶¶ 76-77].

8 **E. Gilbert’s Attempted Seizure of Control of AFLDS**

9 As retaliation for Gold’s inquiry into his malfeasance, and in an attempt to cover-
10 up, obfuscate, and avoid responsibility for his wrongdoing, Gilbert attempted to seize
11 control of AFLDS and launched a smear campaign against Gold. [Verif. Compl. ¶ 78].

12 Gilbert falsely announced to AFLDS employees that Gold purportedly was no
13 longer in charge at the company. [Verif. Compl. ¶ 80].

14 Gilbert then attempted to dismantle the company. He did not have operational
15 authority to fire anyone at AFLDS, either as a Board member or as “Strategy Director” —
16 that authority is reserved to the Executive Director and President of AFLDS. [Verif.
17 Compl. ¶ 64].

18 Notwithstanding his lack of authority, Gilbert purported to fire key AFLDS
19 employees and personnel, without cause. In October 2022, Gilbert, without cause or
20 authority, purported to fire Executive Director Lisa Andrzejewski, shortly after she
21 confronted him about his financial improprieties. [Verif. Compl. ¶ 82; Andrzejewski Decl.
22 ¶¶ 13, 20, 25; Brewer Decl. ¶ 14]. In late October, Gilbert, without cause or authority,
23 purported to fire Gold and turned off her access to AFLDS emails. [Verif. Compl. ¶ 85].

24 These purported firings were in addition to Gilbert’s unauthorized purported firings
25 of National Director Alison Rockett and Creative Director John Strand in August 2022,
26 during Gold’s absence (discussed above).

1 Also in October, Gilbert began threatening AFLDS employees that he would cut
2 their pay or fire them — actions he was not authorized to take. [Verif. Compl. ¶ 87].

3 Gilbert also fabricated allegations that Gold had acted improperly, which he then
4 spread to AFLDS employees, lawyers, and the community, including through social
5 media. For example, Gilbert has alleged that Gold had improperly used company
6 resources by purchasing a house in the company’s name. In reality, the house was properly
7 purchased for company purposes — with Gilbert’s knowledge, participation, and approval
8 — and the Board wanted Gold to live and conduct business meetings and increase
9 publicity in the house because of the inseparable relationship between her public image
10 and AFLDS’s success. [Verif. Compl. ¶¶ 88-89; Gold Decl. ¶¶ 49-56; Brewer Decl. ¶ 20;
11 Wentz Decl. ¶¶ 7, 9]. Gilbert has defamed Gold, through his misrepresentations.

12 As a result of Gilbert’s unauthorized actions and attempt to seize control of
13 AFLDS, Gold terminated Gilbert as an employee of AFLDS (“Strategy Director”) on or
14 about October 31, 2022. Gilbert has not recognized that termination and purports to still
15 hold both a position with and control of AFLDS. [Verif. Compl. ¶ 92].

16 Gilbert’s purported mass firings continued even after his employment was
17 terminated. On or about November 7, 2022, Gilbert, with no authority or cause, purported
18 to fire Operations Director Sarah Denis, Security-Logistics-Procurement Director AJ
19 Andrzejewski, and Communications Director Lisa Alexander. [Verif. Compl. ¶ 93].

20 AFLDS has a total of 11 director-level positions, in addition to the President:
21 Executive Director, National Director, Medical Director, Communications Director,
22 Creative Director, Security-Logistics-Procurement Director, IT Director, Operations
23 Director, Social Media Director, Legal Director, and News Director. Gilbert purports to
24 have fired six of those 11 directors and has threatened to fire four others — in other words,
25 almost all of the directors. [Verif. Compl. ¶ 94].

26

1 **F. Threats and Intimidation of AFLDS’s CPA; Freezing of Bank Accounts**

2 Again, Gilbert holds \$1.1 million of AFLDS funds that were deposited by Gold in
3 the trust account of his law firm, which he has refused to return to AFLDS. Gold recently
4 learned that Gilbert may have inappropriately transferred some or all of those funds to
5 another law firm, to fund separate litigation Gilbert has brought against Gold in Florida.
6 [Verif. Compl. ¶ 95].³

7 On November 21, 2022, AFLDS’s CPA, Troy Brewer, requested that Gilbert return
8 that money. [Brewer Decl. ¶ 7]. Gilbert did not do so. Instead, Gilbert, Mack, and former
9 AFLDS outside counsel Sally Wagenmaker began a campaign of threats against Mr.
10 Brewer. [*Id.*].

11 On November 22, 2022, Wagenmaker threatened Mr. Brewer with criminal
12 liability for any payments out of AFLDS accounts not authorized by Defendants. [Brewer
13 Decl. ¶ 9]. On November 29, 2022, Wagenmaker demanded that Mr. Brewer not authorize
14 payroll for five employees Gilbert had purported to fire — despite the fact that those
15 individuals have continued to perform their duties for AFLDS. [Brewer Decl. ¶ 8].

16 On November 30, 2022, Mack, a former sheriff with continued connections in law
17 enforcement, sent Mr. Brewer a text message in which he threatened to file a police report
18 and potentially have Mr. Brewer arrested if Mr. Brewer did not follow Gilbert’s
19 instructions. [Brewer Decl. ¶ 10]. Gilbert also sent Mr. Brewer a text message with similar
20 threats. [Brewer Decl. ¶ 11].

21 Mr. Brewer, a 26-year CPA who specializes in nonprofit accounting, has had

22 _____
23 ³ Gilbert, on behalf of himself and purportedly on behalf of AFLDS, filed a lawsuit against
24 Gold in the U.S. District Court for the Middle District of Florida, Case No. 22-CV-00714.
25 In that case, Gilbert has brought a claim personally for defamation and purports to have
26 brought claims on behalf of AFLDS for fraud, conversion, tortious interference, and
breaches of fiduciary duties. Gold’s motion to dismiss (lack of diversity jurisdiction) is
pending. Vitality, relief is needed from this Court because (i) only it has jurisdiction over
the *res* (AFLDS the entity) and all parties, and (ii) some of Gold’s claims are derivative
and cannot be brought as counterclaims in federal court in Florida.

1 charge of all AFLDS financial matters (including payroll) since early 2021. [Brewer Decl.
2 ¶¶ 2-4]. During the current dispute over control of the company, he continued to perform
3 his duties to the organization as they had always been performed. [Brewer Decl. ¶ 6].

4 These actions by Gilbert, Mack, and the attorney they are directing to threaten and
5 coerce Mr. Brewer for doing his job have paralyzed his ability to keep AFLDS's finances
6 operating. [Brewer Decl. ¶ 7].

7 Additionally, on December 2, 2022, Gold learned that Gilbert had caused Security
8 Bank and Trust Company, the financial institution where AFLDS has its primary
9 operational accounts, to freeze those accounts. The only signatories on the accounts are
10 (and have always been) Gold and Mr. Brewer. Gilbert attempted to have Mr. Brewer
11 removed as a signatory on December 2, 2022, causing the bank to freeze the accounts until
12 the corporate control issue can be resolved. [Gold Decl. ¶ 70]. The bank subsequently
13 notified Gold and Mr. Brewer of the freezing, on December 3, 2022, and advised them to
14 not write checks on the accounts while they are frozen. [Gold Decl. ¶ 71].

15 AFLDS uses those bank accounts as its primary operational accounts — for
16 payroll, media operations, and day-to-day business expenses. Without the ability to access
17 those funds, AFLDS will likely will not be able to survive the month. [Gold Decl. ¶ 72].

18 **G. Mack and Matthesius's Other Acts and Omissions**

19 Beyond the specific acts by Mack described above, Mack and Matthesius have
20 otherwise supported, facilitated, and/or permitted Gilbert's wrongful acts and attempt to
21 seize control. For example, Mack and Matthesius failed to act when notified about
22 Gilbert's wrongdoing, or when Gilbert purported to fire the majority of AFLDS's
23 directors. [Verif. Compl. ¶¶ 98-99].

24 Additionally, Gilbert has publicly represented that many of his actions described
25 above were the result of joint decisions by Gilbert, Mack, and Matthesius. [Gold Decl.
26 ¶ 74].

1 Mack has also engaged or participated in financial improprieties and/or misused
2 AFLDS. For example, in mid-2022, Mack asked Gold to cause AFLDS to donate \$2.5
3 million to an event Mack was organizing. Gold understood, and conveyed to Mack, that
4 this would be inappropriate, as AFLDS’s funds had been donated to AFLDS for use by
5 AFLDS. Mack then asked Gilbert to pressure Gold to release \$2 million to Mack. Gilbert
6 raised this issue, as an ethical conflict for Mack, at a Board meeting in or around June
7 2022. [Verif. Compl. ¶¶ 102-03].⁴

8 In or around October 2022, Gilbert purported to hire Mack as “CEO” of AFLDS
9 for \$20,000 per month. [Verif. Compl. ¶ 105; Brewer Decl. ¶ 19]. Again, Gilbert lacks
10 hiring authority — his purported hiring of Mack lacks effect. [Verif. Compl. ¶ 106].
11 Furthermore, AFLDS does not have the position of “CEO.” The bylaws do not provide
12 for such a position. With an Executive Director and a President, there is no need for this
13 nonprofit to also have a CEO. [Verif. Compl. ¶ 107]. The purported hiring of Mack is
14 another attempt by Gilbert and Mack to bilk AFLDS of large sums of money, with no
15 benefit to the nonprofit.

16 **III. Legal Analysis**

17 A preliminary injunction is proper when (1) the party seeking the injunction has a
18 strong likelihood of success on the merits at trial; (2) there is a possibility of irreparable
19 injury not remediable by damages if the injunction is not issued; (3) the balance of
20 hardships favors the party seeking the injunction; and (4) public policy favors the
21 injunction. *Shoen v. Shoen*, 167 Ariz. 58, 63 (App. 1990). “To meet this burden, the
22 moving party may establish either 1) probable success on the merits and the possibility of
23 irreparable injury; or 2) the presence of serious questions and the balance of hardships tip
24 sharply in [the party’s] favor.” *Id.* (internal quotation marks omitted). Here, either standard

25
26 ⁴ Of note, Mack’s request to Gold to cause AFLDS to donate money to his organization
was a recognition of Gold’s continued status as a Board member and head of AFLDS.

1 merits issuance of the requested injunction.

2 **A. Gold is likely to succeed on the merits.**

3 Gold has two primary claims in this action: (1) a declaratory claim, asking the Court
4 to determine that Gold remains on the Board, and (2) a claim for A.R.S. § 10-3810 judicial
5 removal of Defendants as directors of AFLDS.⁵ Gold is likely to succeed on both.

6 **1. Gold is likely to succeed on her declaratory claim.**

7 Gold seeks a declaration that she remains on the Board of Directors. This claim
8 depends on a determination that the Resignation Agreement (and, by extension, Gold's
9 offer of resignation) either never took effect or was rescinded. Under the circumstances,
10 one of those outcomes is likely.

11 **a. The Resignation Agreement never took effect.**

12 The Resignation Agreement never took effect due to failure of a condition
13 precedent. If a condition precedent to an agreement does not occur, the agreement — and
14 anything flowing from it — is void *ab initio* and never took effect. *See, e.g., Nicholas v.*
15 *Fowler*, 89 Ariz. 7, 10-11 (1960) (sale and resulting deed were both void for failure of
16 condition precedent to agreement); *Betancourt v. Logia Suprema De La Alianza Hispana-*
17 *Americana*, 53 Ariz. 151, 157-58, *opinion modified on reh'g*, 53 Ariz. 263 (1939).

18 Here, the Resignation Agreement conditioned Gold's resignation on the occurrence
19 of the seed payment, the consulting agreement, and the consulting compensation. The
20 occurrences of all three of those things were conditions precedent to Gold's resignation.⁶
21 Because they did not all occur, the Resignation Agreement was void *ab initio* and never

22
23 ⁵ Gold has also asserted a claim for injunctive relief, but the merits of that claim are related
to Gold's primary claims.

24 ⁶ In a sense, because Defendants were to cause AFLDS to take these actions, the three
25 occurrences were simultaneously conditions precedent and Defendants' performance
26 *v. Newzona Inv. Co.*, 101 Ariz. 470, 472 (1966) (party's full performance of agreement
constituted a condition precedent where agreement so provided).

1 took effect.

2 Indeed, Gold never offered her resignation in writing, as required by Section 7.1 of
3 AFLDS’s bylaws, because the Resignation Agreement never took effect.

4 Gold is likely to succeed in showing that the Resignation Agreement never took
5 effect, and, thus, that she remains a Board member and President of AFLDS.

6 **b. In the alternative, Gold properly rescinded the**
7 **Resignation Agreement.**

8 Rescission is a remedy that “contemplates the ‘undoing of the transaction,’
9 whereby each party gives back to the other what it parted with in the original transaction.”
10 *Grand v. Nacchio*, 214 Ariz. 9, 19, ¶ 27 (App. 2006) (quotation marks omitted). Gold had
11 at least two grounds for rescission here.

12 First, failure of consideration of an essential part of a contract justifies rescission.
13 *Mortensen v. Berzell Inv. Co.*, 102 Ariz. 348, 350 (1967). Here, Defendants failed to
14 provide to Gold the seed payment — an essential part of the consideration for the
15 Resignation Agreement. As a result, Gold was entitled to rescind the Resignation
16 Agreement and return to the pre-agreement status quo, including her position as a Board
17 member and President.

18 Second, rescission is a remedy available for fraudulent misrepresentation.
19 *Lehnhardt v. City of Phoenix*, 105 Ariz. 142, 144 (1969). Defendants induced Gold to
20 enter the Resignation Agreement by falsely representing that AFLDS would pay the seed
21 money — which, apparently, they did not intend to perform. That was a material
22 representation, it was false, Gold reasonably relied on that representation in choosing to
23 enter the Resignation Agreement, Defendants intended that she would so rely, and she was
24 injured as a result. This constitutes fraud. *See, e.g., Peery v. Hansen*, 120 Ariz. 266, 269
25 (App. 1978). This is an independent reason Gold was entitled to rescind.

26 Having the right to rescind (for either of those reasons), Gold caused rescission to

1 occur. “A rescission may be effected by applying to the courts for a decree of rescission,
2 by one party declaring a rescission based upon a legally sufficient ground without the
3 consent of the other party, or . . . by mutual agreement of the parties.” *Bazurto v. Burgess*,
4 136 Ariz. 397, 399 (App. 1983). Gold used the second method here.

5 “A notice of rescission must be clear and unambiguous, conveying the
6 unquestionable purpose to terminate the contract” *Mahurin v. Schmeck*, 95 Ariz. 333,
7 340 (1964). “[S]uch notice is not required to be formal and may be evidenced by
8 conduct” *Miller v. Crouse*, 19 Ariz. App. 268, 273 (1973).

9 Gold, both through formal notice and through conduct, clearly and unambiguously
10 communicated her intent to rescind the Resignation Agreement. On October 31, 2022, she
11 sent a rescission notice to Defendants, entitled “Nullification of Failed and Forfeited
12 Consultant Contract, Clarification of Proper BOD.” [Gold Decl. Exh. A]. That notice
13 stated “I am, and continue to be, the President and Chairman of the Board” of AFLDS
14 because the consulting agreement required by the Resignation Agreement “was never fully
15 executed nor fully performed,” “the signing bonus [seed money] agreed upon has never
16 been paid,” and “the consideration I was promised, and I detrimentally relied on, in
17 exchange for my departing from the Board, was not performed.” [*Id.* at 1]. On
18 November 1, 2022, Gold sent a letter to AFLDS workers that confirmed her ongoing status
19 as Board member and President because “the proposed contract [for her resignation] was
20 never fulfilled.” [Gold Decl. Exh. B]. Also on November 1, 2022, Gold sent a letter to
21 former AFLDS attorney Sally Wagenmaker that notified Ms. Wagenmaker of the
22 rescission notice sent to Defendants and confirmed that Gold remained a Board member
23 and President because the consulting agreement was never executed and the seed money
24 was never paid. [Gold Decl. Exh. C].

25 Gold is thus likely to succeed in showing that she rescinded the Resignation
26 Agreement. This returned the parties to the pre-contracting status quo — in other words,

1 with Gold in the Board and in the role of President.

2 **2. Gold is likely to succeed on her A.R.S. § 10-3810 claim.**

3 Under A.R.S. § 10-3810, a court may judicially remove the director of a nonprofit
4 if it finds that: (1) the director engaged in fraudulent or criminal conduct with respect to
5 the corporation and (2) removal is in the best interests of the corporation. Gold is likely to
6 succeed on her derivative claim here.

7 The full extent of Defendants' frauds and bad acts are not yet known to Gold. Yet,
8 the facts already known are sufficient to show a likelihood of success on this claim.

9 Gilbert engaged in fraudulent and/or criminal conduct with respect to AFLDS by,
10 inter alia: misappropriating AFLDS funds for his personal use, misappropriating AFLDS
11 funds for the use of Wexelblett (his personal assistant), misappropriating AFLDS funds
12 for the use of Mack (through the purported "CEO" hiring and resulting payments),
13 purporting to fire AFLDS workers without authority, fraudulently misrepresenting facts
14 about Gold to AFLDS workers, attempting a coup of the company, and misappropriating
15 the \$1.1 million in AFLDS funds that were deposited in his trust account.

16 Mack engaged in fraudulent and/or criminal conduct with respect to AFLDS by,
17 inter alia: threatening AFLDS's CPA with arrest, improperly seeking AFLDS funds for
18 his separate organization, asking Gilbert to pressure Gold to approve that improper
19 funding, attempting to misappropriate AFLDS funds (through the purported "CEO"
20 position), and participating in, supporting, facilitating, and/or permitting Gilbert's actions
21 and frauds — including by not taking action as a Board member when they were disclosed.

22 Matthesius engaged in fraudulent and/or criminal conduct with respect to AFLDS
23 by, inter alia, participating in, supporting, facilitating, and/or permitting Gilbert's actions
24 and frauds — including by not taking action as a Board member when they were disclosed.

25 Removal of these Defendants as directors is in the best interests of AFLDS because,
26 inter alia, their misuse of AFLDS's funds is harming AFLDS, the attempted seizure of

1 AFLDS is harming and will continue to harm the company, the mass purported firings are
2 leaving AFLDS with insufficient workers to accomplish its mission and to function, the
3 purported firing of Gold (in particular) would (if effective) cause AFLDS to be unable to
4 function, and Defendants have breached their fiduciary duties to AFLDS by causing and
5 permitting all of the foregoing to occur.

6 For these reasons, Gold is likely to succeed on the merits of her claims. Or, at the
7 very least, she has raised serious questions that, coupled with the fact that the balance of
8 hardships tips sharply in her favor (discussed below), support granting injunctive relief.

9 **B. Irreparable injury will occur if an injunction is not issued.**

10 The future of AFLDS hangs in the balance. If Defendants are permitted to alter the
11 status quo (as they have been attempting to do), it is highly likely that AFLDS will not
12 survive as an organization, for multiple reasons.

13 First, Gilbert (supported by Mack and Matthesius) has been rapidly attempting to
14 dismantle AFLDS. The events over the past week will, without Court intervention, cause
15 AFLDS to fail. Again, the AFLDS bank accounts that Gilbert caused to be frozen are vital
16 for AFLDS's operations. Without the ability to access its funds, AFLDS is not likely to
17 survive the month. This is the epitome of irreparable harm.

18 Likewise, Gilbert's and Mack's improper threats last week to AFLDS's CPA —
19 who completely manages the organization's finances, and has continued to perform his
20 tasks consistent with past organizational practice, but dared to ask Gilbert to return
21 AFLDS's \$1.1 million to AFLDS — threaten AFLDS's ability to operate. Furthermore,
22 these actions show that Defendants will stop at nothing in their goal of keeping that
23 misappropriated money and squashing the nonprofit.

24 Gilbert' purported firing in recent weeks of Gold and six of the 11 director-level
25 employees of AFLDS, and his threats to fire four of the five others, will also cause
26 irreparable harm. While it is Gold's position that the purported terminations are without

1 effect (due to Gilbert’s lack of authority), it is evident that Gilbert, supported by Mack and
2 Matthesius, will continue to try to dismantle AFLDS, if they remain unchecked and free
3 to alter the status quo. By the time the Court determines that the purported firings are
4 without effect, AFLDS would have been without the majority of its key personnel for an
5 extended period of time — which would also likely cause the nonprofit to go under.

6 Second, if Defendants are permitted to continue to alter the status quo, AFLDS will
7 not be able to function in the meantime. Again, Gilbert has caused AFLDS to lose the
8 ability to use its primary bank accounts, Defendants have intimidated AFLDS’s CPA (who
9 runs all of its finances) from doing his job, and Gilbert purports to have fired Gold (the
10 face of and key person behind AFLDS) and the majority of the other people running
11 AFLDS. AFLDS cannot function for any period of significance without its bank accounts.
12 AFLDS cannot fully function without Gold — Gilbert, who is not a medical doctor, has
13 not been involved in running AFLDS, does not have a track record of developing ideas
14 for AFLDS, and lacks the qualifications, experience, and know-how to replace Gold.
15 AFLDS also cannot function without six of its 11 director-level employees — and, if
16 Gilbert follows through on his threats to purportedly fire four of others, the situation would
17 be even more dire, with 10 out of 11 director-level workers gone.⁷

18 Third, if Defendants are permitted to continue to alter the status quo, it is doubtful
19 whether AFLDS will continue to raise the funds necessary to support its operations.
20 Historically, Gold has personally generated approximately 95% of donations to AFLDS
21 (which is completely funded by donations). Indeed, AFLDS’s most substantial donors
22 have indicated that they gave to the organization because Gold was at its helm. If Gilbert’s
23

24 ⁷ Defendants may argue that their purported firings of AFLDS workers had effect, and
25 thus the status quo does not include their continued employment. To the contrary — where
26 the pre-purported-termination status quo. *See, e.g., Dawson v. Superior Court In & For
Maricopa Cnty.*, 163 Ariz. 223, 226 (App. 1990).

1 purported termination of Gold is allowed to stand during the pendency of this litigation,
2 AFLDS will not continue to raise enough funds to meet its expenses.

3 Fourth, Defendants may cause further financial harm to AFLDS if not enjoined
4 from altering the status quo. The recent purported addition of Mack to the payroll, at a
5 cost of \$20,000 per month for no benefit to AFLDS, is just one example; the threats and
6 intimidation of the nonprofit's CPA is another. These acts are indicative of Defendants'
7 lack of concern for responsible financial stewardship of AFLDS. If Defendants are
8 permitted to continue to alter the status quo, that financial irresponsibility will
9 significantly harm AFLDS and its reputation.⁸

10 Fifth, the \$1.1 million in AFLDS funds that Gilbert has refused to return to the
11 company should be protected. While the loss of money can, in a legal sense, be remediated
12 with an award of monetary damages, the substantial amount and charitable nature of those
13 funds (and, accordingly, their value to AFLDS) merits injunctive relief here as part of
14 maintaining the status quo and protecting AFLDS's reputation, particularly when viewed
15 in conjunction with the threats of irreparable harm set forth above.

16 These circumstances weigh strongly in favor of entering an injunction to maintain
17 the status quo. In contrast, Defendants will suffer no meaningful harm if they are
18 temporarily enjoined from altering the status quo. They have no legitimate interest in
19 immediately dismantling AFLDS (or, indeed, in dismantling AFLDS at all).

20 This Court is familiar with *Shoen*, but the facts are rather illustrative. That case also
21 involved a dispute over corporate control — but, as to the application for injunctive relief,
22 the roles were reversed from what they are here. The defendants were the directors of a
23 company (the owner of U-Haul); the plaintiffs were a group of dissident shareholders who

24
25 ⁸ This is not merely a dispute about money that can be remedied with a judgment —
26 Defendants' financial abuse of AFLDS will significantly harm its reputation and ability
to attract donors.

1 wanted to sell that company. After the directors issued stock to prevent the dissident
2 shareholders from launching a hostile takeover, the dissident shareholders sought a
3 preliminary injunction to cancel the stock issuance and prevent that stock from voting.
4 *Shoen*, 167 Ariz. at 60-61.

5 In a decision that was upheld by the Court of Appeals, the superior court denied
6 the injunction — based, among other findings, on the fact that the company could suffer
7 “serious, irreparable harm” if an injunction were issued and the dissident stockholders
8 were thus allowed to take over and sell the company. *Id.* at 63. The judge also found “that
9 an abrupt shift in management could result in financial detriment to the corporation, its
10 employees, and stockholders.” *Id.*

11 Here, Defendants are attempting that abrupt shift in management and an injunction
12 is needed to stop it. The threat of similar harms if an injunction is not issued favors
13 granting the injunction sought by Gold. If the Court does not issue an injunction
14 maintaining the status quo, Defendants will continue their takeover and demolition of
15 AFLDS, and the organization will collapse. If the Court does not issue an injunction
16 maintaining the status quo, Defendants will continue their attempt to abruptly shift
17 management, to the financial detriment of AFLDS and its employees. Just as these factors
18 constituted irreparable harm that weighed in favor of the directors’ position in *Shoen*, so
19 too do they weigh in favor of Gold on this factor.

20 **C. The balance of hardships favors an injunction.**

21 This factor tips sharply in favor of granting injunctive relief. As discussed above,
22 if an injunction is not issued, AFLDS — the company created by Gold — will be unable
23 to function and, ultimately, will likely be destroyed. Gold will be unable to work for the
24 benefit of her company (if her purported termination stands), and Gold will suffer the
25 destruction of the company she built. The six purportedly terminated director-level
26 employees, and potentially others if the purported firings continue, will suffer the loss of

1 their jobs, inappropriately and without cause or authority.

2 In contrast, Defendants will not suffer any hardships if an injunction is entered.
3 They have no legitimate need to dismantle the company, and certainly no need to
4 dismantle it now. This factor strongly favors entry of an injunction.

5 **D. Public policy favors an injunction.**

6 Again, the continued viability of AFLDS, an Arizona nonprofit, is at stake. Public
7 policy favors an injunction that would allow the nonprofit to continue to survive. This
8 factor, too, favors entry of an injunction.

9 **IV. Conclusion**

10 The relevant factors all weigh in favor of issuing an injunction. For these reasons,
11 Gold respectfully requests that the Court enter a temporary restraining order and
12 preliminary injunction against Defendants, enjoining them, during the pendency of this
13 lawsuit, from altering the status quo (including spending the \$1.1 million). Because any
14 hardship suffered by Defendants from the injunction would be insignificant, and because
15 Gold merely seeks injunctive relief to preserve the status quo during the litigation, any
16 bond required pursuant to Arizona Rule of Civil Procedure 65(c) should be nominal.

17 A proposed form of Order to Show Cause, as well as a proposed form of Temporary
18 Restraining Order, are submitted herewith. The proposed form of Temporary Restraining
19 Order is also attached as Exhibit 6 hereto.

20 **DATED** this 6th day of December, 2022.

21 **DICKINSON WRIGHT PLLC**

22 By: s/ Bradley A. Burns
23 Bradley A. Burns
24 Amanda E. Newman
25 Adin J. Tarr
26 1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Attorneys for Plaintiff

1 **THIS DOCUMENT** was electronically filed
2 this 6th day of December, 2022, with the
3 Clerk of the Court and a copy electronically transmitted to:

4 Honorable Timothy J. Thomason
5 Superior Court of Maricopa County

6 **COPY** of the foregoing to be personally served on:

7 Joseph Gilbert
8 *Defendant*

9 Jurgen Matthesius
10 *Defendant*

11 Richard Mack
12 *Defendant*

13 By: s/ Veronica Newbanks

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4896-2551-0718 v7 [104205-1]

Exhibit 1

DECLARATION OF TROY BREWER

Troy Brewer hereby declares as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in this Declaration is based on my personal knowledge.
2. I have been a Certified Public Accountant since 1996, mostly serving nonprofit organizations. I reside in Nashville, Tennessee.
3. My CPA firm has worked for AFLDS since approximately March, 2021. In that time, there has been unprecedented growth. I have seen significant financial growth for AFLDS attributable to Dr. Simone Gold—donations would increase after her public speaking events.
4. Since approximately March 2021, I have been in charge of all AFLDS financial matters, including making payroll payments to AFLDS's employees and workers. Generally, I review payroll in collaboration with the AFLDS Executive Director. Initially this was Dr. Gold, then it was Amy Landau, and since March 2022 it was Lisa Andrzejewski. I have never reviewed payroll with anyone else.
5. To the best of my knowledge, only Dr. Gold and I are signatories on AFLDS's financial accounts.
6. I understand that there is a dispute between Dr. Gold and Joseph Gilbert about control of AFLDS. I understand the matter is being heard by courts. Ever since dispute developed, I have continued to do my job just as in the past. I dispense payroll and oversee AFLDS financial matters to the best of my abilities and in coordination with AFLDS workers that I have worked with during my tenure. No processes have changed. I review the budget with the President and the Executive Director and monies are being spent exactly as they have been spent in the past.
7. On November 21, 2022, I requested that Mr. Gilbert return \$1.1 million of AFLDS money that had been deposited with his law firm by Dr. Gold. He did not return the money. Instead, shortly thereafter, Mr. Gilbert, Mr. Mack, and Mr. Gilbert's attorneys began threatening me and coercing me. These actions (discussed more below) are paralyzing my ability to keep AFLDS's finances operating. I feel targeted by the aggression of Mr. Gilbert, Mr.

Mack, and Mr. Gilbert, and stuck in the middle, and I believe other AFLDS workers feel the same way.

8. People affiliated with Mr. Gilbert have begun threatening me and making demands that I pick sides in the organizational leadership dispute. As recent as November 29, 2022, I received a letter from Mr. Gilbert's Attorney Sally Wagenmaker demanding that I not authorize payroll for five (5) disputed employees (Gold, Lisa Andrzejewski, AJ Andrzejewski, L. Alexander and J. Strand), even though they are all currently performing their AFLDS duties.
9. On November 22, 2022, I received a letter from Sally Wagenmaker stating I will be criminally liable for any payments made out of AFLDS accounts, if authorized by anyone other than the Board.
10. On November 30, 2022, I received a text message from Sheriff Richard Mack, Board member, threatening me. He wrote he was going to contact local law enforcement authorities to file a police report and potentially have me arrested if I do not follow Mr. Gilbert's instructions.
11. On November 30, 2022, I received a text message from Mr. Gilbert, purporting to act on behalf of the Board of Directors, in which he threatened law enforcement scrutiny if I did not follow his instructions.
12. Recently, I have learned that some payments AFLDS Board of Directors Member Joseph Gilbert requested for himself may be improper. Starting in approximately May 2022, Mr. Gilbert contacted me to tell me that I should pay him \$5,000/month over and above his \$15,000/month paycheck. I did not know the purpose of the payments, and Mr. Gilbert did not tell me. Upon review of the facts, I now believe these payments were improper self-dealing.
13. After May 2022, Mr. Gilbert then proceeded to contact me for extra money every month, either \$5,000 or sometimes it was \$10,000. Concerned about Mr. Gilbert's conduct, I contacted Executive Director, Lisa Andrzejewski, who expressed concern about possible financial impropriety.
14. Mr. Gilbert attempted to fire Lisa Andrzejewski after she confronted him about the payments.
15. Mr. Gilbert was already the highest paid person at AFLDS at \$15,000/month, other than Dr. Gold.

16. Dr. Gold has never asked me to do anything unethical, and she has asked that I merely maintain the status quo of operating AFLDS while the dispute is pending.
17. AFLDS never paid \$1.5 million to Dr. Gold in connection with a potential consulting agreement.
18. Andrea Wexelblatt, who I understand to be an affiliate of Mr. Gilbert, was started on payroll at Mr. Gilbert's insistence in July 2022 at \$3,000/month. Later in July, Mr. Gilbert demanded that I pay her \$12,000/month from AFLDS funds. This was a direct contradiction of the prior payroll review I did with AFLDS Executive Director Lisa Andrzejewski. I felt the \$12,000 amount was excessive and reported it to Ms. Andrzejewski, who ordered the lesser amount to be paid. In August 2022, Mr. Gilbert again ordered me to pay Wexelblatt \$12,000, over the objection of AFLDS Executive Director Lisa Andrzejewski. In September, Dr. Gold learned of this issue and objected to Wexelblatt's excessive pay.
19. On October 20, 2022, I received an email from Mr. Gilbert informing me that Richard Mack had been named Chief Executive Officer and instructing me to start paying him \$20,000/month. I was highly surprised to receive this email for two reasons. The first was that the organization was really in turmoil and it seemed ill-advised to pay a Board member such an excessive salary for minimal work. The second was that AFLDS does not have a CEO position and nobody informed me AFLDS was seeking a CEO.
20. I helped with payment of the Headquarters House in Naples, Florida and wired the deposits and the final payment amount. This transaction was highly transparent—many people at AFLDS, including its Board of Directors, were involved and approved. Nobody at the time considered the Headquarters House purchase transaction to be a personal purchase for Dr. Gold. Everyone involved knew it would be owned by AFLDS.

I certify under penalty of perjury that the foregoing statements are true and correct.

Dated this 1st day of December, 2022.



TROY BREWER

Exhibit 2

DECLARATION OF LISA ANDRZEJEWSKI

Lisa Andrzejewski hereby declares as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in this Declaration is based on my personal knowledge.
2. I began my career in 1987 as an E-911 dispatcher, and I quickly moved through the ranks of Communications Officer I, II, and III. In 1990, I transferred to the Crime Scene Unit, where I achieved the rank of Crime Scene Investigator III. In early 2000, I received the Crime Scene Investigator of the Year designation for solving a murder at the end of 1999.
3. In 2005, I transferred to the local Fire Department Financial Management Section, handling contracts, purchasing/procurement, invoicing, medical billing, grant management/writing, warehouse management, and stock for firefighting/paramedic/police uniforms and gear. Ultimately I was promoted to Supervisor over the section. I served as Chairman of the Board for the Department Benevolent Fund.
4. I received many distinguished service awards throughout my service to the community, from 1987 until retiring in 2017.
5. I have worked for Free Speech Foundation d/b/a America's Frontline Doctors ("AFLDS"), in various capacities, since 2021.
6. Currently, I am the Executive Director of AFLDS.
7. I started as an unpaid volunteer and gradually the high quality of my work was recognized, and I was hired and promoted to Executive Director. This was typical throughout AFLDS, for people to start as an unpaid volunteer and graduate to low pay then to market rates.
8. As Executive Director, I lead over 60 people who are either on payroll or paid by invoice monthly. The organization has eight sections: Operations; IT; Marketing; Security, Logistics & Procurement; Medical; Policy; News; and Citizen Corp. Each section has a director and staff underneath and I keep in contact with the directors daily. I hold a Leadership meeting every other week with the directors, and the directors relay items discussed to their staff.

9. In the non-profit arena, the Executive Director is equivalent to being a CEO. I hold the highest position at AFLDS except for Dr. Gold, who is the President and Founder.
10. I understand that there is a dispute between Dr. Gold and Joseph Gilbert about control of AFLDS. I understand the matter is being heard by the courts. Ever since the dispute developed, I have continued to do my job just as in the past. I direct the day-to-day operations of AFLDS and discuss payroll with Troy Brewer, our accountant, and oversee AFLDS operations to the best of my abilities and in coordination with AFLDS workers that I have worked with during my tenure. No processes have changed. I review the budget with the President, Dr. Gold, and up until recently with Joseph Gilbert to ensure monies are being spent exactly as they have been spent in the past. I reviewed payroll with Mr. Gilbert on July 28, 2022, August 29, 2022 and September 28, 2022 by phone. Each time I asked him if he would like me to copy him on the final going to the CPA. He stated he had too many emails, so it was not necessary for him to be copied. It wasn't until September 28, 2022, that he wanted to be copied.
11. Dr. Gold is the top of the hierarchy and is involved in all decisions. She has extremely high standards for everyone, all the time. Because of that, as well as the nature of AFLDS's work, working at AFLDS can be very demanding. That being said, I have never seen Dr. Gold be unfair. She bends over backwards to mentor people, to give them second and third chances. Dr. Gold works nonstop. I frequently travel with her, and she will work 9 hours and 59 minutes during a 10-hour drive.
12. Dr. Gold tries very hard to be respectful of what she calls "OPM" — Other People's Money. This is a big theme for her. Both on the nitty gritty — to not overspend — but also the bigger conceptual issue that the root of corruption is spending other people's money more liberally than we would spend our own. She lives this way also — she is not extravagant; she is not wasteful. When I accepted the Executive Director position, she wanted me to assure her that I understand her views and to continue being "good stewards" of the people's money. She role models this daily and I in turn model this to others.
13. I had a very good relationship with Mr. Gilbert right up until the moment I confronted him on September 28, 2022 about him being paid extra money every month directly by the AFLDS CPA, Troy Brewer.

14. Prior to that, the only conflict I had had with him was when he insisted on overpaying Andrea Wexelblatt. That was shady to me. Andrea was a low-medium-level person, and she was just starting in a different role. Dr. Gold always started “low & slow,” and Andrea was offered a part-time media manager position at \$3,000/month. This was perhaps a week or two prior to Dr. Gold going to prison.
15. What happened here was that Gilbert wanted to pay Andrea, who is his assistant, an excessive amount, \$12,000 per month.
16. I was the sole person with authority over payroll. I don’t care what Mr. Gilbert says. I don’t know if Board members are supposed to have some technical authority over payroll, but the reality is that Board members such as Mr. Gilbert had never once interfered in what I paid AFLDS’s workers. If Board members such as Mr. Gilbert had that type of control, then it would have happened with other people too. It never did.
17. He and I discussed her pay on July 28, 2022, and he forced his way, telling me to pay her whatever she thinks is fair because “I’m telling you, Lisa, she is worth every penny.” He said she should be placed at the same pay as my pay.
18. I was upset that Andrea was receiving pay of \$12,000 per month and “**her team**” (Studio 17) were also to receive a payment of \$5,000 per month. I brought my concerns to Joey in that July 28, 2022 conversation, saying this is unethical, as Andrea supervises this team and they were “her people.” This was only a couple of days after Dr. Gold went to prison and honestly, I didn’t know what to do and felt intimidated by Mr. Gilbert’s tone. He led me to believe that **He** was the one in charge and I had to follow him while Dr. Gold was incarcerated.
19. On August 29, 2022, I went over payroll again with Mr. Gilbert. Andrea’s team was to be raised to a monthly payment of \$10,000 each. Again, I stated my concerns regarding this team’s pay only to be overruled by Mr. Gilbert.
20. On September 28, 2022, Gilbert and I discussed payroll, specifically Andrea’s pay and the pay for Studio 17 (her team). We came to the agreement of \$8,500/month for Andrea until Dr. Gold returned. This is also when I confronted Gilbert about the fact that I had also found out that Gilbert had been bullying the accountant to pay him thousands of dollars extra per month, for months. His response was, “well Lisa, I have been

wearing many hats.” I turned the payroll in to the CPA, Troy Brewer. Shortly afterwards, I was cc’d by Mr. Gilbert in an email to the CPA stating to return Andrea to \$12,000 that month and then go to \$10,000 the month after. Again, just like he did for the extra \$5,000 for himself, he went straight to the accountant and got Andrea overpaid.

21. To the best of my knowledge, \$12,000/month is almost the highest salary at AFLDS. For example, that is my salary. That is the salary of several of the Directors. That is the salary of the Security, Logistics & Procurement Director. The Medical Director is only \$10,000. The Operations Director is \$8,000, and the Communications Director is \$8,000. All these people worked their way up the ladder in the organization. It was wildly inappropriate to bring in someone to a new role and start her at the top salary in the organization. Inappropriate and demoralizing. It was the type of corruption that we at AFLDS fight.
22. Shortly after Dr. Gold was released, I told her about these events. She was furious and she confronted Gilbert around that time, and I do not know all the details around that. I do know that Wexelblatt continued to be paid the high amount for the third month but that, right around that payroll, Dr. Gold confronted Gilbert insisting he resign and, when he did not, she formally complained to Gilbert, Richard Mack, Jurgen Matthesius, and attorneys Fulton and Wagenmaker. Dr. Gold told me Wagenmaker told her they would investigate.
23. A few days after that, it was apparent no investigation had started, because no one had been called or queried. There was a Board meeting on October 14, 2022.
24. At the October 14, 2022, meeting, Mr. Gilbert and Mr. Mack were both highly disrespectful and dismissive. Mr. Gilbert literally implied I was an assistant to him and Mr. Mack thought I was a secretary. The secretary, Sarah Denis, was on the Zoom also. Mr. Mack argued with me that I was not the Executive Director. I stated that I am in fact the Executive Director. Mr. Mack says, “no you’re not, you haven’t been in every board meeting that we’ve had.” Neither one seemed to have any idea that I had been the Executive Director for more than seven months at that point. Mr. Mack was rude, dismissive, and sexist. All I asked/recommended was that Mr. Gilbert should be removed from the Board pending the outcome of the “investigation” (of which there was no evidence one was occurring), as this

is the most ethical way to proceed. Mr. Mack, a 70-year-old male Sheriff, said that he felt “threatened” by me, a middle-aged woman on Zoom.

25. Mr. Gilbert was singing my praises in a conversation between himself and Mr. Andrzejewski on September 26, 2022. Then, once I confronted him on September 28, 2022 with his hand in the cookie jar so to speak, he had in-house counsel, Adam Fulton, tell me via email on October 20, 2022 that I was terminated. No reason was listed, and later Sally Wagenmaker said it was because I demanded Gilbert resign. That is not what I said (although morally he should have). I said *Dr. Gold* said he should resign.

26. I hired an employment attorney and served Mr. Gilbert with notice of my intent to file a Whistleblower (retaliatory) lawsuit. The facts are very straightforward. Should Mr. Gilbert not be removed from AFLDS, I will continue this lawsuit. Should he be removed, I will drop this lawsuit.

27. Should the outcome of this lawsuit reflect Mr. Gilbert in charge of AFLDS, the organization will regrettably fold. Too many of the staff have witnessed the lies/corruption presented to us in meetings and in emails from the “silver tongue” of Mr. Gilbert. I would say there would be approximately 10 (out of the more than 60) AFLDS workers that would stay under his command. Even some of the 10 are seeing the evil doings and are leaving.

I certify under penalty of perjury that the foregoing statements are true and correct.

Dated: 12/2/2022.

DocuSigned by:

Lisa Andrzejewski

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LISA ANDRZEJEWSKI

Exhibit 3

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DECLARATION OF DR. SIMONE GOLD

Dr. Simone Gold, under penalty of perjury, declares:

1. I have personal knowledge of the facts set forth in this Declaration.

2. I am both a medical doctor (an emergency physician) and a lawyer. I founded Free Speech Foundation d/b/a America’s Frontline Doctors (“AFLDS”) as an Arizona nonprofit corporation in June 2020.

3. AFLDS’s mission and work includes advocating for medical and healthcare issues, combatting media censorship of medical-related information, and supporting medical freedom and civil liberties around healthcare issues. AFLDS offers an array of online content related to those issues.

4. Since its formation, AFLDS has been successful in raising funds for its mission and work. I, in particular, have assisted in raising more than \$25 million in donations for the organization since its formation.

5. I have personally been responsible for approximately 95% of donations to AFLDS.

6. Of note, my personal earnings from AFLDS have been less than 3% of what I have brought into the organization.

7. Due to my efforts, the nonprofit has had measurable success and prominence since its formation. More than 2,000 medical professionals have associated with AFLDS, referring to themselves as “America’s Frontline Doctors.” AFLDS has amassed more than 1 million subscribers to its online content.

8. I have been instrumental in this success. AFLDS’s success is built on my personality.

9. I rose to public prominence in 2020 as a critic of aspects of the public health response to the COVID-19 pandemic. I am the “face” of AFLDS. I frequently engage in public speaking on topics related to AFLDS’s mission and work.

1 10. Multiple substantial donors to AFLDS, including one who donated \$5
2 million to AFLDS in August 2022 and one who has donated \$500,000 since 2020, have
3 expressed that they gave to AFLDS because I was (and am) at the helm of the organization.

4 11. Furthermore, most of the medical professionals associated with AFLDS,
5 including AFLDS’s physician liaison and physician pilot liaison, have expressed that they
6 associated with AFLDS, and remain associated with AFLDS, because of my connection
7 to the organization.

8 12. The vast majority of AFLDS’s workers, who see themselves as “freedom
9 fighters,” have likewise indicated that they remain working for AFLDS because of my
10 connection to the organization.

11 13. In 2020, shortly after I founded AFLDS, I was appointed as a director,
12 Chairman of the Board, and President of the organization. I remain in those roles to this
13 day.

14 14. In addition to me, AFLDS has had other Board members over time. For
15 example, Amy Landau was appointed a director of AFLDS in or about September 2020.
16 Joseph “Joey” Gilbert (“Gilbert”) was appointed a director of AFLDS in or about March
17 2021. Richard Mack (“Mack”) and Jurgen Matthesius (“Matthesius”) were added to the
18 Board in or about December 2021.

19 15. As of early 2022, the members of the Board were Amy Landau, Gilbert,
20 Mack, Matthesius, and me.

21 16. In early 2022, I considered the possibility of stepping down from my
22 position on the Board of Directors, in the interest of protecting the functionality of AFLDS
23 (including concerns that I had become a political target of third parties) and so that I could
24 continue my extraordinary contributions to AFLDS of visionary leadership and increasing
25 public support while simultaneously protecting other efforts, such as starting healthcare
26 clinics.

1 17. My attorney, George Wentz, negotiated on my behalf with the other
2 members of the Board of Directors to reach an agreement for me to leave the Board in
3 exchange for a set of promises, including valuable consideration.

4 18. In or around February 2022, the other members of the Board of Directors
5 and I reached an agreement that I would resign from the Board of Directors in exchange
6 for an agreement regarding an ongoing arrangement, which included the following major
7 components: (i) I would have an ongoing consulting agreement with AFLDS for monthly
8 compensation, and (ii) AFLDS would provide me with a payment for seed money to start
9 certain healthcare clinics (collectively, the “Resignation Agreement”).

10 19. Under the Resignation Agreement, which was made between me and the
11 other members of the Board of Directors, my resignation was conditioned on the
12 occurrence of the seed payment and the consulting agreement (and payments thereunder).

13 20. At a meeting of the Board of Directors on or about February 2, 2022, I orally
14 offered my resignation, performing my obligations under the Resignation Agreement. The
15 other members of the Board of Directors and I (through counsel) negotiated and agreed
16 that the seed money payment would be \$1.5 million and that my compensation for the
17 consulting agreement would be \$50,000 per month, plus an allowance for residence in
18 AFLDS-owned property.

19 21. Despite these agreements, the other members of the Board of Directors
20 (Gilbert, Mack, and Matthesius — Amy Landau resigned from the Board in or around
21 March 2022) never performed. No portion of the seed payment was ever paid to me, and
22 the consulting agreement was never executed.

23 22. The seed payment and the consulting agreement were material terms of the
24 Resignation Agreement. The seed payment and the consulting agreement were both
25 conditions precedent to my resignation taking effect.

26 23. Because the seed payment (a condition) and the consulting agreement (a

1 condition) never occurred, the Resignation Agreement never took effect. Specifically, my
2 offered resignation from the Board never took effect.

3 24. Additionally or in the alternative, the cash payment, consulting agreement,
4 and consulting compensation were the other Board members' performance under the
5 Resignation Agreement. Because a substantial part of that performance (the seed payment)
6 never occurred, I was entitled to, and did, rescind the Resignation Agreement, returning
7 the parties to the status quo before the agreement was formed — in other words, with me
8 on the Board and President.

9 25. As a result, I remained (and, as of the date of this Declaration, remain) a
10 member (and Chairman) of the Board of Directors of AFLDS, as well as President of the
11 organization.

12 26. Because the Resignation Agreement never took effect and/or was never
13 fully performed, I never gave my resignation in writing, as required by Section 7.1 of
14 AFLDS's bylaws.

15 27. Other than a brief absence during the summer of 2022, I have continued to
16 principally direct the operations of AFLDS, including since February 2022, with the
17 knowing consent of Gilbert, Mack, and Matthesius.

18 28. In or around March 2021, Gilbert — an attorney practicing law in Nevada
19 — convinced me to deposit \$1.1 million in AFLDS funds into the trust account of his law
20 firm.

21 29. In doing so, Gilbert failed to disclose the existence of an unwaivable conflict
22 of interest arising from the fact that he was being added to the Board of Directors for
23 AFLDS that same month.

24 30. Since at least January 2022, I have demanded that Gilbert return those funds
25 to an AFLDS bank account. Gilbert verbally agreed multiple times to return the \$1.1
26 million to an AFLDS bank account, but he never did so.

1 31. In summer 2022, I spent 48 days incarcerated on a misdemeanor trespassing
2 charge related to being at the U.S. Capitol on January 6, 2021. As Founder and President
3 of AFLDS, I was an invited guest speaker that day, alongside newly elected members of
4 Congress.

5 32. During my short absence from AFLDS, I left various AFLDS personnel
6 with instructions about their roles and authority. The Executive Director, Lisa
7 Andrzejewski, was in charge of the AFLDS organization. Gilbert's role during that period
8 was to facilitate an internal financial auditor hired by me for AFLDS.

9 33. Gilbert began to overstep his authority and to build a platform for a power
10 grab during my absence.

11 34. In July and August 2022, beginning within two days of my absence, Gilbert
12 purported to fire two key AFLDS workers, National Director Alison Rockett and Creative
13 Director John Strand, as well as a consultant AFLDS had contracted with and prepaid for
14 six months of work. Gilbert had no authority to hire or fire any AFLDS workers, and, as
15 such, had no authority to fire Alison Rockett, John Strand, or the consultant.

16 35. Following my release in September 2022, I discovered that Gilbert was
17 engaging in malfeasance, including financial improprieties, related to AFLDS.

18 36. Troy Brewer, a certified public accountant whose firm has provided services
19 to AFLDS for most of its existence, confirmed to me in October 2022 that Gilbert had,
20 since May 2022, taken at least \$5,000 per month (and up to \$10,000 per month) in AFLDS
21 funds and appropriated it for his personal use. Those withdrawals of company funds were
22 not recorded on the company's books and were not authorized by the Board of Directors
23 or any individual with the authority to authorize them. These amounts were on top of a
24 salary of \$15,000 per month being paid to Gilbert.

25 37. The full extent of Gilbert's financial malfeasance, including the full extent
26 of funds he improperly appropriated from AFLDS, is not yet known to me.

1 38. A few days prior to my incarceration, Gilbert recommended that I, on behalf
2 of AFLDS, hire Andrea Wexelblatt, his personal campaign manager for his failed primary
3 campaign for governor of Nevada, as a media manager. I approved the hire, and
4 Wexelblatt was hired in a part-time role for \$3,000 per month. During my absence,
5 however, Gilbert improperly, and without authority, caused AFLDS's accountant to pay
6 Wexelblatt \$12,000 per month, even though she only worked part time.

7 39. Also a few days prior to my incarceration, Gilbert recommended that I, on
8 behalf of AFLDS, hire a specific videography company. I approved the hire.

9 40. In that recommendation and hiring process, Gilbert failed to disclose that
10 the videography company was owned by Wexelblatt, presenting a conflict of interest for
11 both Wexelblatt and Gilbert.

12 41. Gilbert has, for months, substantially failed to perform services for AFLDS,
13 despite drawing a salary (and taking the additional unauthorized amounts on top of that).
14 During 2021 and 2022, Gilbert has been primarily focused on his outside activities, rather
15 than AFLDS's operations. Gilbert has a law practice in Reno, Nevada; he conducted an
16 unsuccessful primary campaign for Nevada governor spanning 2021 and 2022; and he
17 challenged the results of the June 2022 Nevada primary election in a lawsuit that was
18 found to be frivolous and resulted in a sanctions ruling against Gilbert. While focused on
19 those activities, Gilbert substantially failed to attend AFLDS meetings, perform research
20 or writing for AFLDS, oversee the business of AFLDS, oversee the financial audit of
21 AFLDS, or otherwise benefit AFLDS.

22 42. In October 2022, I reported Gilbert's malfeasance to the Board of Directors,
23 AFLDS general counsel Adam Fulton, and AFLDS outside counsel Sally Wagenmaker.
24 No actions were taken by those parties to address the situation.

25 43. Gilbert then attempted to seize control of AFLDS and launched a smear
26 campaign against me.

1 44. Gilbert falsely announced to AFLDS employees that I purportedly was no
2 longer in charge at the company.

3 45. Gilbert then attempted to dismantle the company. He did not have
4 operational authority to fire anyone at AFLDS, either as a Board member or as “Strategy
5 Director” — that authority is reserved to the Executive Director and President of AFLDS.

6 46. In October 2022, Gilbert, without cause or authority, purported to fire
7 Executive Director Lisa Andrzejewski, shortly after she confronted him about his financial
8 improprieties. In late October, Gilbert, without cause or authority, purported to fire me
9 and turned off my access to AFLDS emails.

10 47. Also in October, Gilbert began threatening AFLDS employees that he would
11 cut their pay or fire them — actions he was not authorized to take.

12 48. Gilbert also fabricated allegations that I had acted improperly, which he then
13 spread to AFLDS employees, lawyers, and the community, including through social
14 media. Gilbert told these allegations to the other two Board members, Mack and
15 Matthesius, who did not do their own due diligence to confirm or deny the accuracy of
16 Gilbert’s allegations.

17 49. For example, Gilbert has alleged that I improperly used company resources
18 by purchasing a house in the company’s name. Gilbert has publicly stated that neither he
19 personally nor the Board knew about “my” purchase of the house. In reality, the house
20 was properly purchased by the company for company purposes — with Gilbert’s
21 knowledge, participation, and approval — and I was permitted to live and conduct
22 business meetings and publicity in the house because of the inseparable relationship
23 between my public image and AFLDS’s success.

24 50. AFLDS purchased a house on Myrtle Road in Naples, Florida to use as its
25 headquarters (the “Headquarters House”). AFLDS and its Board of Directors participated
26 in, and consented to, the purchase of the Headquarters house. On or about January 3, 2022,

1 the purchase of the Headquarters House by AFLDS (through its wholly-owned subsidiary
2 Naples Freedom Headquarters, LLC) closed.

3 51. Around the same time, the Board of Directors approved the lease of a
4 property in Naples, Florida located at 799 104th Ave N, Naples, FL 34108, to be a
5 dedicated workplace. This house is referred to, within AFLDS, as the “Team House.” It is
6 where officers and directors frequently make decisions, and where many workers conduct
7 their day-today work.

8 52. Gilbert knew of, and approved, the purchase of the Headquarters House and
9 the lease of the Team House. Gilbert was personally involved in the months-long purchase
10 process. The house was jointly identified for purchase by then-Board member Amy
11 Landau and myself, with the knowledge and approval of Gilbert (the only other Board
12 member at that time). I did not see the house prior to its purchase, as the purchase itself
13 was arranged by AFLDS workers.

14 53. AFLDS owns the Headquarters House through a wholly-owned subsidiary,
15 Naples Freedom Headquarters, LLC, a Florida company. I do not personally own the
16 Headquarters House, nor have I ever owned it. AFLDS and Gilbert knew of and approved
17 of AFLDS purchasing the Headquarters House through Naples Freedom Headquarters,
18 LLC.

19 54. Naples Freedom Headquarters LLC was formed by AFLDS’s General
20 Counsel Thomas Gennaro. The purchase of the Headquarters House was arranged and
21 supervised by Thomas Gennaro, the then-General Counsel of AFLDS (and a college
22 fraternity brother of Joseph Gilbert, who uses an email address from Mr. Gilbert’s law
23 offices, Thomas@joeygilbertlaw.com), and participants in the process included at least
24 three other attorneys working for AFLDS (Gilbert, Royce Hood, and Michael Gentzle),
25 as well as other AFLDS staff including the Financial Director and Director of Security.
26 The purchaser’s address on the Deed for the Headquarters House was Gilbert’s law firm

1 address in Reno Nevada. All payments for the Headquarters House were arranged by
2 AFLDS CPA and treasurer Troy Brewer.

3 55. Gilbert himself has used and stayed at the Headquarters House when visiting
4 Naples, Florida on AFLDS business.

5 56. As part of my compensation for my work for AFLDS, I was provided with
6 living space in the Headquarters House. This was, in part, due to the fact that vital
7 fundraising, business meeting, and media events occurred at the Headquarters House, and
8 I am (and have always been) integral to those efforts.

9 57. Gilbert has also alleged that I improperly used AFLDS funds to purchase
10 vehicles, including a Mercedes Benz Sprinter van, a Hyundai Genesis, and a GMC Denali.
11 This is also false. Naples Freedom Headquarters LLC owns each of those vehicles; they
12 are used for AFLDS business purposes, including traveling for my frequent speaking
13 engagements and supporting the AFLDS campus in Naples, Florida. The Sprinter van, in
14 particular, is used for my nationwide travel for AFLDS-related speaking engagements; it
15 has logged more than 50,000 miles in the time it has been owned (with travel to 38 states,
16 and 57 cities/towns). Gilbert: knew about and supported the purchase of the vehicles by
17 Naples Freedom Headquarters LLC; knew at all relevant times about the business
18 purposes the vehicles are used for; and has himself used the vehicles when in Naples,
19 Florida on AFLDS business.

20 58. Gilbert has also alleged that I have used AFLDS funds to pay for a personal
21 security guard. Not true. AJ Andrzejewski is the Security-Logistics-Procurement Director
22 for AFLDS and provides services to AFLDS.

23 59. Gilbert has also alleged that I have improperly used AFLDS funds to pay
24 for a “personal” housekeeper. Not true. AFLDS funds have been used to maintain AFLDS
25 real estate.

26 60. Gilbert has also alleged that I have charged \$50,000 per month in personal

1 expenses to AFLDS credit cards. This is false. I have rarely used AFLDS credit cards,
2 and, when I did do so, they were for legitimate business expenses. Gilbert has not
3 identified the alleged personal expenses despite the fact that months have passed since
4 when he claims to have initiated an audit.

5 61. Gilbert has also alleged that I have improperly used AFLDS funds for travel.
6 Not true — AFLDS has paid for my travel when I have been traveling for AFLDS business
7 purposes. Such travel is arranged and encouraged by AFLDS, as speaking to the public in
8 person is one of the preconditions to keeping AFLDS financially solvent As a result of
9 Gilbert’s unauthorized actions and attempt to seize control of AFLDS, I terminated Gilbert
10 as an employee of AFLDS (“Strategy Director”) on or about October 31, 2022. Gilbert
11 has not recognized that termination and purports to still hold both a position with and
12 control of AFLDS.

13 62. I rescinded the Resignation Agreement. On October 31, 2022, I sent a
14 rescission notice to Gilbert, Mack, and Matthesius, a true and correct copy of which is
15 attached as Exhibit A hereto, entitled “Nullification of Failed and Forfeited Consultant
16 Contract, Clarification of Proper BOD.” That notice stated “I am, and continue to be, the
17 President and Chairman of the Board” of AFLDS because the consulting agreement
18 required by the Resignation Agreement “was never fully executed nor fully performed,”
19 “the signing bonus [seed money] agreed upon has never been paid,” and “the consideration
20 I was promised, and I detrimentally relied on, in exchange for my departing from the
21 Board, was not performed.” On November 1, 2022, I sent a letter to AFLDS workers, a
22 true and correct copy of which is attached as Exhibit B hereto, that confirmed my ongoing
23 status as Board member and President because “the proposed contract [for her resignation]
24 was never fulfilled.” Also on November 1, 2022, I sent a letter to former AFLDS attorney
25 Sally Wagenmaker, a true and correct copy of which is attached as Exhibit C hereto, that
26 notified Ms. Wagenmaker of the rescission notice sent to Gilbert, Mack, and Matthesius

1 and confirmed that I remained a Board member and President because the consulting
2 agreement was never executed and the seed money was never paid.

3 63. On or about November 7, 2022, Gilbert, with no authority or cause,
4 purported to fire Operations Director Sarah Denis, Security-Logistics-Procurement
5 Director AJ Andrzejewski, and Communications Director Lisa Alexander.

6 64. AFLDS has a total of 11 director-level positions, in addition to the President:
7 Executive Director, National Director, Medical Director, Communications Director,
8 Creative Director, Security-Logistics-Procurement Director, IT Director, Operations
9 Director, Social Media Director, Legal Director, and News Director. Gilbert purports to
10 have fired six of those 11 directors and has threatened to fire four others — in other words,
11 almost all of the directors.

12 65. Recently, I learned that, of \$1.1 million of AFLDS funds Gilbert refused to
13 return to AFLDS, Gilbert may have inappropriately transferred some or all to Sally
14 Wagenmaker's and Kellye Fabian Story's firm, to fund litigation Gilbert has brought
15 against me in Florida.

16 66. On November 21, 2022, AFLDS's CPA, Troy Brewer, requested that
17 Gilbert return the \$1.1 million of AFLDS funds. Gilbert did not do so.

18 67. I have learned that, on November 22, 2022 and November 29, 2022, Sally
19 Wagenmaker, a former lawyer for AFLDS, sent threatening communications to Mr.
20 Brewer that, among other things, demanded that Mr. Brewer not authorize payroll for five
21 employees Gilbert had purported to fire — despite the fact that those individuals have
22 continued to perform their duties for AFLDS.

23 68. I have also learned that, on November 30, 2022, Mack, a former sheriff with
24 continued connections in law enforcement, sent Mr. Brewer a text message in which he
25 threatened to file a police report and potentially have Mr. Brewer arrested if Mr. Brewer
26 did not follow Gilbert's instructions, and Gilbert also sent Mr. Brewer a text message with

1 similar threats.

2 69. Mr. Brewer, a 26-year CPA who specializes in nonprofit accounting, has
3 had charge of all AFLDS financial matters (including payroll) since early 2021. During
4 the current dispute over control of the company, he has continued to perform his duties to
5 the organization as they had always been performed.

6 70. On December 2, 2022, I learned that Gilbert had caused Security Bank and
7 Trust Company, the financial institution where AFLDS has its primary operational
8 accounts, to freeze those accounts. The only signatories on the accounts are (and have
9 always been) Mr. Brewer and me. Gilbert attempted to have Mr. Brewer removed as a
10 signatory on December 2, 2022, causing the bank to freeze the accounts until the corporate
11 control issue can be resolved.

12 71. The bank subsequently notified Mr. Brewer and me of the freezing, on
13 December 3, 2022, and advised us to not write checks on the accounts while they are
14 frozen.

15 72. AFLDS uses those bank accounts as its primary operational accounts — for
16 payroll, media operations, and day-to-day business expenses. Without the ability to access
17 those funds, AFLDS likely will not be able to survive the month.

18 73. Beyond the specific acts by Mack described above, Mack and Matthesius
19 have also otherwise supported, facilitated, and/or permitted Gilbert's wrongful acts and
20 attempt to seize control. For example, Mack and Matthesius failed to act when I notified
21 them about Gilbert's wrongdoing, or when Gilbert purported to fire the majority of
22 AFLDS's directors.

23 74. Additionally, Gilbert has publicly represented that many of his actions
24 described in this declaration were the result of joint decisions by Gilbert, Mack, and
25 Matthesius.

26 75. Mack has also engaged or participated in financial improprieties and/or

1 misused AFLDS. For example, in mid-2022, Mack asked me to cause AFLDS to donate
2 \$2.5 million to an event Mack was organizing. I understood, and conveyed to Mack, that
3 this would be ethically inappropriate, as AFLDS's funds had been donated to AFLDS for
4 use by AFLDS. Mack then asked Gilbert to pressure me to release \$2 million to Mack.
5 Gilbert raised this issue, as an ethical conflict for Mack, at a Board meeting in or around
6 June 2022.

7 76. In or around October 2022, Gilbert and Matthesius purported to hire Mack
8 as "CEO" of AFLDS for \$20,000 per month. Again, Gilbert lacks hiring authority — his
9 purported hiring of Mack lacks effect. Furthermore, AFLDS does not have the position of
10 "CEO." The bylaws do not provide for such a position. With an Executive Director and a
11 President, there is no need for this nonprofit to also have a CEO. Moreover, the purported
12 salary is excessive when compared to those of existing AFLDS employees.

13 I declare under penalty of perjury that the foregoing is true and correct.

14 DATED this 5th day of December, 2022.

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17 By: 
18 Dr. Simone Gold
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Exhibit A



October 31, 2022

Joseph Gilbert – Board member
Pastor Jurgen – non-Board member
Richard Mack – non-Board member

Free Speech Foundation
1645 W. Valencia Rd #109-193
Tucson, AZ 85746

Re: Nullification of Failed and Forfeited Consultant Contract, Clarification of Proper BOD

Dear Mr. Gilbert, Pastor Jurgen, Sheriff Mack,

On the advice of counsel familiar with the circumstances of my relationship with the Free Speech Foundation (“FSF”) in the past eight (8) months, and familiar with the lack of a fully executed consulting agreement that was promised in March 2022, I hereby provide notice to all of you that I am, and continue to be, the President and Chairman of the Board of the Free Speech Foundation (“FSF”), based in Arizona (please refer to the attached documents, provided for your reference). Please be advised that the actions taken by Mr. Gilbert, without legitimate oversight, in the last eight (8) months have no legal effect as to the Board governance of FSF.

For your reference, I have also included a copy of the proposed consulting agreement that was never fully executed nor fully performed by FSF as of April 1, 2022 and remains so to this day. In particular, the signing bonus agreed upon has never been paid and no cancellation notice under paragraph 8 was ever provided to me to indicate that the “agreement” was terminated. Hence, the consideration I was promised, and I detrimentally relied on, in exchange for my departing from the Board, was not performed by FSF. Additionally, the act of the illegitimate corporate filing on August 1, 2022 of the FSF formation in the State of Florida, by Board member Mr. Gilbert while I was unavailable due to political incarceration, constituted a deliberate act to remove me from the Florida FSF corporate formation without any legal basis to justify this action against me as the Chairman of the Board and President of FSF. No attempt was made by Mr. Gilbert nor FSF, prior to this act, to rectify or cure any part of the consulting agreement nor provide me with notice that the consulting agreement was in force and the parties still intended to abide by it.



Please be advised that these last eight (8) months at FSF have been challenging for myself and everyone else involved, but it is necessary for me as the Board Chairman and President to ensure total compliance with all state and federal laws, as well as the highest standards of ethical behavior. As the Founder and leader of FSF and America's Frontline Doctors, I always insist on transparency, and this includes the allegations I brought to everyone's attention 29 days ago. We must always be excellent stewards of our resources, including the people who have entrusted themselves to our leadership. I continue to support the internal financial audit consistent with best practices that I initiated and authorized and look forward to the results and a continued commitment to proper ethical behavior.

As Amy Landau did properly resign from the Board previously, and that resignation has no bearing upon these events, the legitimate Board continues to consist solely of myself as Chairman and Mr. Gilbert. However, while Mr. Gilbert remains under investigation, he will be recused from all Board activities that pose a conflict.

The business of the organization will continue uninterrupted. All staff will continue their work. All illegitimate hirings and firings, promotions or demotions that occurred over the past few months are, of course, irrelevant and considered null and void.

I am confident in the commitment of all parties to the proper resolution of these concerning issues, and I appreciate your understanding as we take the prompt and necessary actions to secure the survival and future success of this very important charitable organization.

Sincerely,

Simone Gold, MD, JD

Dr. Simone Gold
President and Board Chairman
Free Speech Foundation

Exhibit B



November 1, 2022

All AFLDS Team Members

Free Speech Foundation
1645 W. Valencia Rd #109-193
Tucson, AZ 85746

Re: Recusal and Ethical Investigation of Mr. Joseph Gilbert

Dear AFLDS Team,

Two scriptures meant a great deal to me in prison.

Joshua 1:9 “Have I not commanded you? Be strong and courageous. Do not be afraid, do not be discouraged, for the Lord your God is with you wherever you go.”

Exodus 50:20 “You intended to harm me, but God intended it all for good. He brought me to this position so I could save the lives of many people.”

I handpicked almost every single person at AFLDS. What I know is that you are courageous and you will not align with corruption. There has been a breach of ethics within AFLDS and it must stop now. “Whisper campaigns” are only possible when the truth is withheld, so I need to provide everyone with the same information as everyone else. You will likely hear continued whispers and rumors after my announcement, but I encourage you to remember what brought you to AFLDS, and to remember that the truth has nothing to fear, while darkness cannot survive the sunlight of examination.

It is with great sadness that I must announce to you that Joey Gilbert has repeatedly acted unethically, exhibiting a clear and longstanding pattern of inappropriate and damaging behavior. The violations are severe, including numerous improper financial dealings, all while he is publicly threatening all of you—the people who do the work—with pay cuts and termination. This ends immediately. AFLDS will not tolerate corruption, nor allow a culture of fear and bullying. Any of these recent hirings/firings/promotions/demotions that you may have heard about or wondered about are illegitimate and legal non-events.

I’m reminded of the character Gordon Gekko who said “greed is good”, from the 1980’s movie Wall Street. Gekko was the silver tongued character who masterminded “hostile takeovers”, destroying companies by reducing them to their components and then selling the pieces. The lesson to learn is that not everyone has the righteous motives they portray, and not everything you hear



is the full truth about a circumstance. Proverbs 18:17 says “The first to plead his case seems right, until another comes and examines him.”

Since founding this organization in June of 2020, I have always been and I continue to be the Chairman of the Board and President of America’s Frontline Doctors. Mr. Gilbert and his counsel have received copies of all relevant documentation and he has been thus informed to immediately stop acting or presenting himself as having any authority over or within AFLDS. The welfare of every team member is a responsibility I take very seriously, and I will not allow good people to be mocked or harmed. Sadly, Mr. Gilbert has already engaged in defamation, spreading malicious rumors of embezzlement, fancy homes, and other deceptive gossip. This slander must cease, and appropriate legal action will be taken. All AFLDS operations are carefully documented to maintain legal and ethical compliance with all relevant state and federal laws. This will continue, as always.

In March of this year, I was willing to consider the suggestion of stepping down from the AFLDS Board of Directors on the advice of certain legal counsel, because there was a lot of hostile attention placed on AFLDS and my highest priority is always to secure the best interest of the organization. However, this change never actually occurred legally, as the proposed contract was not fulfilled. **All original and current legal filings that are legitimate and establish the Free Speech Foundation as a 501(c)(3) in good standing, confirm that I am the President and Chairman of the Board.** I was very patient over the last many months and thoughtful in making every possible effort to rectify inappropriate behaviors in a more discreet manner with direct communication to Mr. Gilbert and his counsel, but those efforts made in good faith have all been aggressively rejected, and the misbehavior has worsened; so I will not tolerate any further damages. With wise guidance and legal counsel, I will be leading AFLDS through this difficult period of necessary internal investigation, and we will swiftly restore honor, propriety, and ensure the continuation of complete legal compliance.

Under my leadership, you do not need to be afraid. We will continue to work collaboratively against the tyranny and corruption all around us. I have exciting plans for AFLDS in 2023 and beyond! The best is yet to come. I want to thank each one of you for your courage, perseverance, and most of all your commitment to righteousness; doing what you know to be honorable and just, no matter how difficult or costly. Such character cannot be overcome by evil.

Let us overcome evil with good.

Always yours in humility,

Simone Gold, MD, JD

Dr. Simone Gold
President and Board Chairman
Free Speech Foundation

Exhibit C



November 1, 2022

Sally Wagenmaker, Esq.
Wagenmaker & Oberly
53 W. Jackson Blvd – Suite 1734
Chicago, IL 60604

Re: Termination of Legal Services for Free Speech Foundation

Dear Ms. Wagenmaker,

Thank you for the legal services your firm has provided the Free Speech Foundation (“FSF”) this past year. However, since FSF is moving in a different direction we are no longer in need of those services, effective immediately. I will personally work with you over the next two weeks to ensure we have a smooth transition in concluding this matter.

For your reference, please find the attached copy of the notice letter that I recently sent to the sole additional FSF Board of Directors (“BOD”) member aside from myself, Joseph Gilbert, with courtesy copies sent to non-Board members Pastor Jurgen and Sheriff Richard Mack. Notice will also be provided to all FSF staff within 24 hours of today, so that everyone has a clear and consistent understanding. I have been the President and Board chairman of FSF since its original incorporation, and I am continuing in that role as the proposal for my resignation from FSF back in March was not legitimately accepted by FSF nor became legally effective for the reasons stated in my above referenced letter.

On the advice and opinion of counsel, the series of discussions since February pertaining to BOD changes was **legally a non-event** as FSF never fully executed the proposed Consulting Agreement (copy enclosed) and after eight (8) months never fully provided the consideration agreed nor in good faith cured the proposed Consulting Agreement, which was the basis of our earlier negotiations.

Furthermore, I never received formal “termination” under paragraph 8 of the “proposed” agreement, but Mr. Gilbert disregarded this in moving forward to remove me from the Florida corporate FSF filing on August 1, 2022 (copy attached) using the Arizona certificate of good standing for FSF as the basis of the filing. In short, this action is void on its face as I am still the Board Chairman and President of FSF under the Arizona charter of FSF. Therefore, effective immediately please direct all verbal and written communication directly to me as Chairman of the Board. Any communications from you or your designee made to any FSF board member or staff



member without my written consent will be considered a conflict of interest and such conflict is not waived.

Due to the disruption caused by Mr. Gilbert and the detailed report of serious ethical breaches which I provided to the BOD and to counsel, the Board will review and promptly conclude an investigation. That is, however, no longer your concern. I do look forward to conferencing with you later this week to discuss any pending matters you might have for FSF and to resolve any financial considerations. Please ensure there are no communications to any of the persons you incorrectly may have previously considered to have authority over the organization, as this would be a conflict of interest and such conflict is not waived.

Currently, there appears to be legal ethical breaches following the formal allegations of Board member misconduct, which were provided to you and the BOD 29 days ago. Specifically, the ABA Model Rules of Professional Conduct Rule 1.13 clearly indicates that an attorney should have advised the removal of Mr. Gilbert from authority or appearance of authority upon learning of such serious complaints. Because he was not removed pending the investigation, he was emboldened in a power grab, which then caused predictable injury to the organization. I do not understand why this concern about a conflict of interest was ignored.

The review of this professional legal misconduct has reintroduced concerns raised by a previous error when a critical large donation (more than a million dollars) was forfeited based solely on your advice. This donation was subsequently given successfully to an unrelated charity with no negative impact to them, and substantial loss to your client.

We appreciate your understanding of the concern we have with such detrimental developments and the necessary actions we will be taking to secure the survival and future success of FSF.

Sincerely,

Simone Gold, MD, JD

Dr. Simone Gold
President and Board Chairman
Free Speech Foundation

Exhibit 4

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA FORT
MYERS DIVISION

FREE SPEECH FOUNDATION,
INC. d/b/a AMERICA'S
FRONTLINE DOCTORS, an
Arizona nonprofit corporation.
and JOSEPH GILBERT,

Plaintiffs,

v.

Case No.: 2:22-cv-714-SPC-NPM

SIMONE GOLD,

Defendant.

_____ /

DECLARATION OF GEORGE WENTZ

George Wentz, pursuant to 28 U.S.C. § 1746 hereby declares as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in the foregoing Declaration is based on my personal knowledge.
2. I am a partner with the Davillier Law Group, and I have been practicing law for approximately 39 years, mostly in complex commercial litigation. I currently reside in Sandpoint, Idaho, and I previously was the managing partner of a national firm's office in Miami, Florida.

3. I represented GoldCare Health & Wellness, LLC and various related entities (“GoldCare”) in certain matters related to interactions with Free Speech Foundation, Inc. d/b/a America’s Frontline Doctors, Inc. (“AFLDS”). While GoldCare is owned by Dr. Simone Gold, I did not represent Dr. Gold personally. This Declaration does not reveal any privileged communications or materials.
4. As a result of my interactions with AFLDS, I interacted with Dr. Gold, Joseph “Joey” Gilbert, and directors and employees of AFLDS during the fall of 2021 and the winter of 2021-22.
5. I understand that the “principal place of business” of AFLDS is at issue in litigation. As discussed below, the vast bulk of AFLDS’s business operations are located in Naples, Florida.
6. In approximately November 2021, Dr. Gold, then the undisputed Chairman of the Board of Directors and CEO of AFLDS, wished to locate AFLDS’s operations to Naples, Florida.
7. Dr. Gold expressed a desire to create a “mini campus” in Naples, Florida, with a large house for fundraising and executive functions, and a separate rental house as a workspace called the “Team House.” The idea expressed by Dr. Gold was for AFLDS to have a headquarters-like campus, allowing employees to work together and to meet with doctors and legal team members, some of whom would be visiting, to pursue AFLDS’s nonprofit and advocacy mission. On

various occasions, I discussed the Naples, Florida campus approach with Joseph Gilbert as well as then General Counsel of AFLDS, Thomas Gennaro.

8. I visited the AFLDS “mini-campus” in Naples, Florida on approximately February 9, 2022, during which time I saw and interacted with numerous employees working on-site at the two houses. A virtual Board of Directors meeting was conducted from the Naples Freedom Headquarters, LLC house, and Dr. Gold and I attended from that location. That Dr. Gold and the staff of AFLDS were living and working at the Naples, Florida “mini-campus” was noted during that board meeting.
9. Dr. Gold has, to the best of my knowledge, never personally owned the property located at 799 104th Ave N, Naples, FL 24108.

I certify under penalty of perjury that the foregoing statements are true and correct.

Dated this ____ day of November, 2022.


George Wentz (Nov 17, 2022 21:18 EST)
GEORGE WENTZ

Exhibit 5

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9 Las Vegas, Nevada 89101
10 Telephone: (702) 382-5222
11 Facsimile: (702) 382-0540

12 *Attorneys for Defendant*
13 *Joseph Lombardo*

FIRST JUDICIAL DISTRICT COURT
CARSON CITY, NEVADA

14 JOEY GILBERT, an individual,
15
16 Plaintiff,

17 vs.

18 STEVE SISOLAK, in his official capacity as
19 Governor of Nevada; BARBARA CEGAVSKE,
20 in her official capacity as Secretary of State; and
21 JOSEPH GLORIA in his official capacity as
22 Clark County Registrar of Voters, JAMES B.
23 GIBSON, in his official capacity as Chairman of
24 the CLARK COUNTY BOARD OF
25 COMMISSIONERS, and DEANNA SPIKULA
26 in her official capacity as Washoe County
27 Registrar of Voters and VAUGHN HARTUNG
28 in his official capacity as Chair of the WASHOE
BOARD OF COUNTY COMMISSIONERS,
and JOSEPH LOMBARDO, putative
Republican candidate for Governor of Nevada;
and DOES 1 through 10 and ROES 1-10,

Defendants.

REC'D & FILED
2022 SEP 21 PM 2:20
AUDREY ROBERTS
CLERK
BY _____
DEPUTY

Case No.: 22 OC 000851B
Dept. No.: I

**ORDER GRANTING DEFENDANT
JOSEPH LOMBARDO'S MOTION FOR
SANCTIONS**

1 The matter before the Court is the Motion for Sanctions filed by Defendant Joseph Lombardo
2 (“Mr. Lombardo”) on August 19, 2022. The Court, having reviewed the papers, pleadings and
3 supporting exhibits and considered the arguments of counsel at the time of hearing, with good cause
4 appearing and no just reason for delay, hereby rules as follows:

5
6 **I. FINDINGS OF FACT**

7 1. At some point prior to filing his Statement on Contest (“Contest”), Mr. Gilbert and/or
8 his counsel contacted Edward Solomon (“Mr. Solomon”) and retained him to prepare a “Precinct
9 Analysis” of the Clark County results in the 2022 Republican Gubernatorial Primary (“2022
10 Primary”), *i.e.*, the Solomon Report. Mr. Gilbert’s counsel then retained Dr. Oliver Hemmers, Dr.
11 Walter Daugherity and Dr. G. Donald Allen as testifying expert witnesses and provided them with
12 the Solomon Report. All three expert witnesses were effectively retained to vouch for Mr. Solomon’s
13 theories and introduce his findings in the Solomon Report into evidence as all parties agreed Mr.
14 Solomon is unqualified to be an expert in this action. To that end, Mr. Gilbert’s expert witnesses
15 interacted extensively with Mr. Solomon when preparing their reports and responding to issues raised
16 by Mr. Lombardo’s counsel and expert witnesses in this election contest.

17
18 2. Mr. Gilbert filed his Contest on July 15, 2022. Therein, Mr. Gilbert relied on a two-
19 step process set forth in the Solomon Report to demonstrate he received more votes than Mr.
20 Lombardo in the 2022 Primary. *See* Contest ¶ 24. The first step was to demonstrate that the result
21 of the 2022 Primary is mathematically or geometrically “impossible” based on the assumption that
22 “[i]n a fair election, we expect a strong linear correlation between Gilbert’s Election Day, Mail-in
23 and Early Vote percentages.” *Id.* ¶¶ 28, 32. After purporting to establish that the reported results of
24 the 2022 Primary are mathematically or geometrically “impossible,” the second step in Mr.
25 Solomon’s theory was to “restore” the votes and determine the actual election results without the
26 interference of a predetermined outcome or algorithm. *See* Contest ¶ 36
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3. Courts have applied similar statutes to punish parties and their counsel for filing and maintaining frivolous election contests and other election-related litigation without any reasonable grounds to do so. *See, e.g., King v. Whitmer*, 556 F.Supp.3d 680 (E.D. Mich. 2021) (imposing sanctions under Rule 11, § 1927 and the court’s inherent authority “to deter the filing of future frivolous lawsuits designed primarily to spread the narrative that our election processes are rigged and our democratic institutions cannot be trusted”); *Gaddis v. McCullough*, 827 N.E.2d 66 (Ind. Ct. App. 2005) (imposing sanctions under Indiana’s frivolous litigation statute where there was no reasonable or well-grounded basis for unsuccessful candidates’ election contest); *Reid v. Dalton*, 100 P.3d 349 (Wash. Ct. App. 2004) (imposing sanctions under Washington’s frivolous litigation statute where unsuccessful candidate maintained his meritless election contest after being threatened with sanctions by the prevailing candidate unless the contest was withdrawn); *In re: Contest of November 5, 2019 Gen. Election for Chancery Clerk of Quitman*, 329 So.3d 434 (Miss. 2021) (reversing circuit court’s denial of attorney’s fees to prevailing party under Mississippi’s frivolous litigation statute where losing candidate brought election contest without substantial justification); *Davis v. Dunn*, 690 S.E.2d 389 (Ga. 2010) (imposing sanctions under Georgia’s frivolous litigation statute where losing candidate failed to present any factual basis or admissible evidence to cast doubt on the election results).

4. The Court finds that Mr. Gilbert’s Contest is a frivolous action that warrants sanctions under NRS 18.010(2)(b) and NRS 7.085(1). Mr. Gilbert did not—and could not—present any admissible evidence to support the case-dependent thesis that the restored election results show he received the most votes in the 2022 Primary. The fundamental lack of evidence on this pivotal issue proved fatal to the Contest as the Court granted summary judgment in Mr. Lombardo’s favor at the conclusion of discovery. *See* Order dated August 11, 2022 (on file). Because “[a]n action is not well-grounded when there is no evidence to support it,” *Watson Rounds, P.C. v. Eighth Judicial*

1 *Dist. Court*, 133 Nev. 1090, 391 P.3d 759, 2017 WL 1080061, at *1 (2017), Mr. Gilbert’s failure to
2 adduce any competent evidence regarding the key element of “restoration” is grounds for the
3 imposition of sanctions under NRS 18.010(2)(b) and NRS 7.085(1) as he could never demonstrate
4 that he prevailed in the 2022 Primary.

5
6 5. The Court further finds that Mr. Gilbert’s contention that the results of 2022 Primary
7 were mathematically or geometrically “impossible” does not rise to the level of a well-grounded
8 claim under Nevada law. Indeed, based on the opinions of Mr. Lombardo’s qualified expert
9 witnesses, the Court finds Mr. Gilbert’s claim regarding the “math” is highly dubious. But, even if
10 his claim regarding mathematic or geometric “impossibility” was true, Mr. Gilbert still did not have
11 any competent evidence to demonstrate that he won the 2022 Primary as would be required to prevail
12 under NRS 293.410(2).

13
14 **III. ORDER**

15 IT IS HEREBY ORDERED AND ADJUDGED that Mr. Lombardo’s Motion for
16 SANCTIONS is GRANTED.

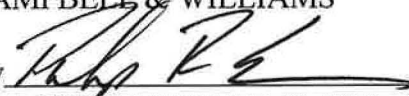
17 IT IS FURTHER ORDERED that Mr. Lombardo shall submit his memorandum of attorney’s
18 fees on or before October 11, 2022

19 IT IS SO ORDERED on this 21 day of September, 2022.

20
21 
DISTRICT COURT JUDGE

22 Respectfully submitted by:

23 CAMPBELL & WILLIAMS

24 By 
25 J. COLBY WILLIAMS, ESQ. (5549)
26 PHILIP R. ERWIN, ESQ. (11563)
27 SAMUEL R. MIRKOVICH, ESQ. (11662)

28 *Attorneys for Defendant
Joseph Lombardo*

Exhibit 6

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7 *Attorneys for Plaintiff*

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10
11 SIMONE GOLD, both in her individual
capacity and as a director on behalf of Free
12 Speech Foundation d/b/a America's
Frontline Doctors, an Arizona nonprofit
13 corporation,

14 Plaintiff,

15 v.

16 JOSEPH "JOEY" GILBERT, JURGEN
MATTHESIUS, RICHARD MACK, and
17 FREE SPEECH FOUNDATION d/b/a
AMERICA'S FRONTLINE DOCTORS, an
18 Arizona nonprofit corporation, in a
derivative capacity,

19 Defendants.

Case No. CV2022-015525

ORDER

(Hon. Timothy Thomason)

20
21 The Court, having considered Plaintiff's Verified Complaint and Application for
22 Temporary Restraining Order and Preliminary Injunction, finds that Plaintiff Dr. Simone
23 Gold ("Gold") has demonstrated a need and good cause for temporary and preliminary
24 injunctive relief. Accordingly,

25 **IT IS HEREBY ORDERED** that Plaintiff's Application for Temporary
26 Restraining Order and Preliminary Injunction is GRANTED.

1 **IT IS FURTHER ORDERED** that, during the pendency of this dispute or until
2 further Court order, Defendants Joseph “Joey” Gilbert, Jurgen Matthesius, and Richard
3 Mack (collectively, “Defendants”) are suspended and enjoined from acting as members
4 of the Board of Directors of Free Speech Foundation d/b/a America’s Frontline Doctors
5 (“AFLDS”).

6 **IT IS FURTHER ORDERED** that, during the pendency of this dispute or until
7 further Court order, Simone Gold may continue to manage the ongoing nonprofit business
8 operation and finances of AFLDS.

9 **IT IS FURTHER ORDERED** that, during the pendency of this dispute or until
10 further Court order, Defendants are enjoined from interfering in the business and
11 operations of AFLDS, including, without limitation, enjoined from: taking any actions
12 that purport to hire or fire any workers for AFLDS; taking any actions that threaten or
13 hinder the work of any workers for AFLDS; taking any actions to attempt to alter the
14 wages that are paid or that historically have been paid to any workers for AFLDS;
15 withdrawing or using any AFLDS funds without authorization from the Court or outside
16 of the normal course; or taking any actions inconsistent with the continued status of Gold,
17 Alison Rockett, John Strand, Lisa Andrzejewski, Sarah Denis, AJ Andrzejewski, and Lisa
18 Alexander as AFLDS workers.

19 **IT IS FURTHER ORDERED** that, during the pendency of this dispute or until
20 further Court order, Defendant Joseph Gilbert is enjoined from exercising any dominion
21 or control over the AFLDS funds (approximating a total of \$1.1 million) that were at one
22 time deposited with him, his law firm, or his law firm’s trust account. He is ordered to,
23 within five business days of this Order, return (or cause the return of) those funds to an
24 AFLDS-owned bank account, to be specified by Gold.

25 **IT IS FURTHER ORDERED** that, during the pendency of this dispute or until
26 further Court order, neither Simone Gold nor Troy Brewer shall be removed as signatories

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of any banking or financial accounts in the name of AFLDS, including without limitation those at Security Bank and Trust Company. All persons in receipt of this Order are notified that Simone Gold and Troy Brewer are authorized to continue to use and administer all such accounts and funds on behalf of AFLDS in the normal course of business.

IT IS FURTHER ORDERED setting a preliminary injunction hearing for

_____.

DONE IN OPEN COURT THIS DATE: _____, 2022.

Honorable Timothy Thomason
Judge of the Superior Court

4877-7469-9073 v1 [104205-1]