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11
12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13
14 COUNTY OF SACRAMENTO

15 THERESTOFUS.ORG; DEREK CRESSMAN
16 Plaintiffs,

17 vs.

18 ARNOLD SCHWARZENEGGER, Governor of
19 the State of California; CALIFORNIANS FOR
20 SCHWARZENEGGER – 2006; GOVERNOR
21 SCHWARZENEGGER’S CALIFORNIA
22 RECOVERY TEAM; CITIZENS TO SAVE
23 CALIFORNIA, a Coalition of Business and
24 Taxpayer Organizations, a California Public
25 Benefit Corporation; DOES 1-10, inclusive,
26 Defendants.

CASE NO.:

COMPLAINT FOR PERMANENT
INJUNCTION AND DECLARATORY
RELIEF

DEPT:
JUDGE:

27
28
I. INTRODUCTION

1. This action is brought to prevent the blatant and systematic circumvention of state campaign finance laws by defendants GOVERNOR ARNOLD SCHWARZENEGGER and his controlled committees, CALIFORNIANS FOR SCHWARZENEGGER – 2006 and GOVERNOR SCHWARZENEGGER’S CALIFORNIA RECOVERY TEAM, and CITIZENS TO SAVE CALIFORNIA, a Schwarzenegger-controlled committee specifically created to further both Schwarzenegger’s candidacy and his policy agenda. Governor Schwarzenegger is willfully and intentionally circumventing the campaign contribution limits adopted by California voters by creating

1 multiple committees in addition to his own campaign committee and raising unlimited amounts of
2 money -- as much as \$50 million, by his own estimate – into those committees. Unless enjoined,
3 Governor Schwarzenegger’s actions in creating these various “alter egos” for fundraising purposes will
4 render completely meaningless the contribution limits and related candidate restrictions adopted by the
5 voters of California only a few short years ago.

6 **II. PARTIES**

7 2. Plaintiff THERESTOFUS.ORG is a nonpartisan watchdog organization committed to
8 exposing the role of big money in politics.

9 3. Plaintiff DEREK CRESSMAN is a registered voter in the State of California and
10 Director of THERESTOFUS.ORG.

11 4. Defendant GOVERNOR ARNOLD SCHWARZENEGGER (“SCHWARZENEGGER”),
12 sued in his individual capacity, is Governor of the State of California. SCHWARZENEGGER has also
13 opened a committee to seek re-election to the office of Governor in November, 2006
14 (“CALIFORNIANS FOR SCHWARZENEGGER- 2006”) and is therefore a “candidate” within the
15 meaning of Government Code section 82007.

16 5. Defendant CALIFORNIANS FOR SCHWARZENEGGER- 2006 is a “candidate-
17 controlled” committee registered with the Secretary of State to promote SCHWARZENEGGER’S re-
18 election.

19 6. Defendant GOVERNOR SCHWARZENEGGER’S CALIFORNIA RECOVERY TEAM
20 (“RECOVERY TEAM”) is a general purpose ballot measure committee that registered with the
21 Secretary of State in December 2003. RECOVERY TEAM is controlled by SCHWARZENEGGER.

22 7. Defendant CITIZENS TO SAVE CALIFORNIA, A COALITION OF BUSINESS AND
23 TAXPAYER ORGANIZATIONS (“CITIZENS”) is a political committee that registered with the
24 Secretary of State in January, 2005. It is sponsored by the California Chamber of Commerce, the Small
25 Business Action Committee, the Howard Jarvis Taxpayers Association, and the California Taxpayers
26 Association.

27 8. CITIZENS was originally registered with the Secretary of State as a general purpose
28 committee. On or about March 1, 2005, it amended its registration to designate it as a committee

1 primarily formed to support the Fair and Responsible Retirement Act and the Put the Kids First Act.
2 Although CITIZENS is not registered with the Secretary of State as a candidate-controlled committee, it
3 is in fact a committee controlled by defendant SCHWARZENEGGER.

4 9. Plaintiffs are unaware of the true names and capacities of defendants Does 1-10, and sues
5 such defendants by fictitious names. Plaintiffs are informed and believe, and based upon such
6 information and belief allege, that each of the fictitiously named defendants is in some manner
7 responsible for the actions described in this complaint. When the true identities and capacities of these
8 defendants have been determined, plaintiffs will seek leave to amend this complaint to insert such
9 identities and capacities.

10 **III. GENERAL ALLEGATIONS**

11 10. In California, comprehensive regulation of campaign finance, disclosure and reporting is
12 provided by the Political Reform Act (“PRA”) (Gov. Code §§ 81000 *et seq.*)

13 11. The PRA regulates both political “contributions” and “expenditures.” A “contribution” is
14 defined as any payment made “except to the extent that full and adequate consideration is received,
15 unless it is clear from the surrounding circumstances that it is not made for political purposes.” (Gov.
16 Code, § 82015.)

17 12. Section 82015 also provides that a payment made “at the behest of a candidate” is a
18 contribution to the candidate unless either “full and adequate consideration is received” or “it is clear
19 from the surrounding circumstances that the payment was made for purposes unrelated to his or her
20 candidacy for elective office.”

21 13. The PRA also limits every candidate to one bank account per election cycle and requires
22 that “all contributions or loans made to the candidate, to a person on behalf of the candidate, or to the
23 candidate’s controlled committee” must be deposited in that account. (Gov. Code, § 85201.) In
24 addition, all “campaign expenditures” must be made from this account. (*Ibid.*)

25 14. In 2000, California voters passed Proposition 34, which substantially amended the PRA.
26 One of the most significant changes wrought by Proposition 34 was the imposition of limits on
27 contributions to candidates for the Legislature and statewide office. Adjusted for inflation, Proposition
28

1 34 currently limits contributions to candidates for Governor to \$22,300, candidates for other statewide
2 offices to \$5,600, and candidates for legislative office to \$3,300. (Gov. Code, §§ 85301 and 83124.)

3 15. The contribution limits of Proposition 34 were phased in over time, with the limits for
4 candidates for statewide office going into effect for the first time the day after the November 2002
5 elections. The first statewide election subject to the new limits was therefore the gubernatorial recall
6 election in 2003.

7 16. Proposition 34 also included a new ban on fundraising throughout the election cycle
8 unless the candidate had outstanding debt from the last election. (Gov. Code, § 85316.) If the candidate
9 has outstanding debt, fundraising is limited to that necessary to retire the outstanding debt. (*Ibid.*)

10 17. Proposition 34 also contained a prohibition on lobbyist contributions. (Gov. Code, §
11 85702.) This provision makes it illegal for a lobbyist to make a contribution to any office-holder or
12 candidate if that lobbyist is also registered to lobby the agency for which the candidate is seeking
13 election. (*Ibid.*)

14 18. In anticipation of the Fall 2003 recall campaign, which included two ballot propositions,
15 the Fair Political Practices Commission (“FPPC”) advised that committees supporting or opposing the
16 recall and other ballot measure committees would not be subject to the contribution limits applicable to
17 candidates, even though those committees might be “controlled” by a candidate.

18 19. A “controlled committee” is defined by Government Code section 82016 as one that is
19 “*controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a*
20 *candidate, controlled committee, or state measure proponent in making expenditures. A candidate . . .*
21 *controls a committee if he or she, his or her agent, or any other committee he or she controls has a*
22 *significant influence on the actions or decisions of the committee.*” (Emphasis added.)

23 20. A controlled committee is required to identify the controlling candidate when it registers
24 with the Secretary of State. (Gov. Code, § 84102.)

25 21. Government Code section 85309 requires a controlled committee of a candidate for
26 statewide office that meets the \$50,000 threshold for electronic filing of campaign reports to file
27 electronically with the Secretary with the State a contribution report for every contribution received of
28 \$5,000 or more within 10 business days of receipt of that contribution.

1 22. In connection with the recall election in 2003, SCHWARZENEGGER formed a
2 candidate-controlled committee to support the recall of Governor Davis, the Total Recall Committee,
3 which raised several million dollars in contributions. Of that amount, almost 40 contributions,
4 amounting to several million dollars, were received that exceeded the contribution limits for that race.

5 23. Beginning in late 2003 and continuing into 2004, SCHWARZENEGGER formed three
6 additional controlled committees – CALIFORNIA RECOVERY TEAM, formed as a general purpose
7 committee in December 2003, Californians for a Balanced Budget – Yes on 57/58, formed to support
8 Propositions 57 and 58 (which appeared on the March, 2004 ballot); and Schwarzenegger’s Committee
9 For Fair Share Gaming, formed to oppose Propositions 68 and 70 (which appeared on the November,
10 2004 ballot). These committees began to raise massive amounts of money for use in the 2004 elections
11 through contributions that were in excess of the contribution limits.

12 24. The fundraising into the RECOVERY TEAM was the most significant. This committee
13 received over 200 contributions that were over the contribution limits otherwise applicable to
14 gubernatorial candidates. SCHWARZENEGGER raised approximately \$15 million into this committee
15 from contributions over the limits that applied to SCHWARZENEGGER as a candidate. Potential
16 contributors were solicited to become “RECOVERY TEAM” chairs and have a private dinner with
17 SCHWARZENEGGER for \$500,000. Another event featured a private dinner before a Sacramento
18 Kings game with SCHWARZENEGGER in return for contributions of \$100,000.

19 25. The millions of dollars raised into the RECOVERY TEAM allowed
20 SCHWARZENEGGER to run a series of advertisements in connection with both the March 2004
21 primary and November 2004 general election in which he was prominently featured. This money also
22 allowed him to transfer millions of dollars to other committees to reflect his support or opposition to
23 other measures.

24 26. During 2004, the financial industry, which was intensely interested in
25 SCHWARZENEGGER’S bond proposals, contributed more than \$5 million to SCHWARZENEGGER,
26 primarily through his controlled committees. The automobile industry contributed more than \$1 million,
27 energy companies over \$600,000, and real estate developers and pharmaceutical companies in the
28

1 hundreds of thousands of dollars. Each industry had pending legislation or pending administrative
2 action in which it was interested.

3 27. Because of the experience in the recall election, the fundraising being undertaken by
4 SCHWARZENEGGER in connection with the 2004 elections, and SCHWARZENEGGER'S clear
5 intention to raise funds to promote both his "agenda" and his candidacy for Governor in 2006, the FPPC,
6 the state agency tasked with administering the PRA, commenced a series of Commission discussions
7 and public hearings between January 2004 and May 2004 concerning the circumvention of the
8 contribution limits by use of candidate-controlled ballot measure committees.

9 28. During the course of the FPPC's hearings, attorneys for SCHWARZENEGGER testified
10 in opposition to any regulatory measure that would prevent unlimited fundraising by any candidate-
11 controlled ballot measure committee.

12 29. The FPPC's rulemaking procedures culminated with the adoption of Regulation 18530.9
13 on June 25, 2004. (Cal. Code Regs, tit. 2, § 18530.9.)

14 30. Regulation 18530.9 prevents candidates from circumventing Proposition 34 by making it
15 clear that candidate-controlled ballot measure committees are subject to the same contribution limits as
16 the candidates who control them. Specifically, Regulation 18530.9 provides, in pertinent part:

17 "(b). . .the contribution limits of Government Code sections 85301 and
18 85302 apply to any committee controlled by a candidate for elective state
19 office that is established for the purpose of supporting or opposing state or
20 local ballot measures. . ."

21 31. In order to avoid disruption of the November election cycle, the FPPC deferred the
22 effective date of Regulation 18530.9 until November 3, 2004, the day after the November 2, 2004
23 general election.

24 32. SCHWARZENEGGER'S attorneys immediately suggested to reporters that the new
25 regulation could be circumvented. Attorney Charles Bell stated to the Sacramento Bee on June 26,
26 2004, "When you look at a piece of swiss cheese, it does have holes in it."

27 33. On January 5, 2005, in his State of the State speech, SCHWARZENEGGER called for
28 so-called reform legislation in the areas of redistricting, the budget process, education, and public

1 pensions. He made it clear that if his reforms were not approved by the Legislature, he would submit
2 them directly to the voters by way of initiative.

3 34. Although the RECOVERY TEAM was prevented from raising unlimited contributions
4 because of the new FPPC regulation, two days after the State of the State speech, CITIZENS registered
5 with the Secretary of State as a new “independent” general-purpose ballot measure committee. A
6 spokesperson for CITIZENS stated that “The Governor laid out his agenda in the State of the State
7 speech...Our desire is to help him achieve that agenda.” Despite describing itself as a “tool in the
8 process” of enacting SCHWARZENEGGER’S agenda, CITIZENS did not register as a candidate-
9 controlled committee.

10 35. The connections between CITIZENS and SCHWARZENEGGER, his agents, and his
11 other controlled committees are so numerous and extensive that it is clear that SCHWARZENEGGER is
12 acting jointly with CITIZENS, has both direct and indirect control over CITIZENS, and exercises
13 significant influence over the actions and decisions of CITIZENS.

14 36. CITIZENS’ board of directors includes Allan Zaremborg, Joel Fox, William Hauck and
15 Jon Coupal. These individuals have been extensively involved in SCHWARZENEGGER’S campaign
16 committee and/or his other controlled committees or are otherwise closely associated with
17 SCHWARZENEGGER. Zaremborg was an honorary co-chair of the Balanced Budget Committee.
18 Zaremborg and Fox were officers of the “Committee for Workers Compensation Reform,” a committee
19 formed to pursue SCHWARZENEGGER’S worker’s compensation “reforms” that were preempted by a
20 legislative solution. Fox was also active in SCHWARZENEGGER’S recall campaign. Hauck was the
21 chair of SCHWARZENEGGER’S “California Performance Review,” his proposal for massively
22 reorganizing state government. Each of these individuals is an “agent” of SCHWARZENEGGER
23 within the meaning of Government Code section 82016.

24 37. CITIZENS’ campaign to further SCHWARZENEGGER’S agenda is being managed by
25 Rick Claussen of Goddard Claussen. Mr. Claussen also serves as a paid political consultant to the
26 Balanced Budget Committee and CALIFORNIA RECOVERY TEAM – both committees controlled by
27 SCHWARZENEGGER. Claussen is an “agent” of SCHWARZENEGGER within the meaning of
28 Government Code section 82016.

1 38. Wendy Cantor Hales is a fundraiser/political consultant to CITIZENS who provided the
2 same services to SCHWARZENEGGER'S previous campaign committee and the TOTAL RECALL
3 committee. Hales is an "agent" of SCHWARZENEGGER within the meaning of Government Code
4 section 82016.

5 39. Upon information and belief, many other individuals involved with CITIZENS as board
6 members, officers or employees are "agents" of SCHWARZENEGGER within the meaning of
7 Government Code section 82016.

8 40. Since CITIZENS' formation in January 2005, CITIZENS and SCHWARZENEGGER
9 have undertaken a conscious and well-publicized campaign of joint fundraising and joint appearances to
10 promote SCHWARZENEGGER'S ballot measure agenda, as well as his candidacy for elective office.

11 41. On February 4, 2005, SCHWARZENEGGER and a top aide appeared at a "private"
12 luncheon at the Regency Club in Los Angeles to discuss SCHWARZENEGGER'S "vision for
13 California" and an overview of his ballot measure agenda and to raise funds for both his re-election and
14 for CITIZENS. Invitations were printed on SCHWARZENEGGER campaign stationery. Zaremborg,
15 representing CITIZENS, also appeared at the invitation of SCHWARZENEGGER'S campaign finance
16 team and spoke at this "private" luncheon. Similar events took place in San Francisco on February 2,
17 2005 and Newport Beach on February 3, 2005.

18 42. On February 8, 2005, an event was held in Sacramento at which the Governor met
19 privately with several dozen lobbyists and solicited money for CITIZENS. Zaremborg was also invited
20 to this private event and addressed the persons in attendance on behalf of CITIZENS.

21 43. Although it is illegal for any lobbyist to contribute directly to SCHWARZENEGGER'S
22 campaign committee, lobbyists were nonetheless solicited for contributions to CITIZENS.

23 44. Invitations to SCHWARZENEGGER'S fundraising events have solicited contributions at
24 the following levels: \$10,000, \$25,000, \$50,000 and \$100,000. Of these, only the \$10,000
25 contributions are within the contribution limits. The amount contributed determines whether the
26 contributor gets to sit with SCHWARZENEGGER, as well as the number of photographs with
27 SCHWARZENEGGER that can be taken.

1 45. Other “Evenings with Arnold Schwarzenegger” have been organized by
2 SCHWARZENEGGER and CITIZENS, with the cost of tickets ranging between \$25,000 and \$100,000.

3 46. In March, 2005, fundraising events are being held in Los Angeles, New York, Ohio,
4 Washington, D.C. and Palm Springs. SCHWARZENEGGER’S chief fundraiser has described these
5 events as a “dual-track financing strategy” to raise money for both SCHWARZENEGGER’S re-election
6 and CITIZENS.

7 47. SCHWARZENEGGER also continues to raise money for his general purpose controlled
8 committee, RECOVERY TEAM. Fundraising solicitations state that the RECOVERY TEAM has been
9 formed “to raise funds for the Governor’s agenda, whether promoted through the initiative process, the
10 legislative process, or grassroots activities. The committee may also be used to oppose initiatives that
11 harm the Governor’s plan for economic recovery and government reform.”

12 48. Although each controlled committee is allowed to accept \$22,300 pursuant to the new
13 regulation, SCHWARZENEGGER’S formation and use of multiple controlled committees effectively
14 allows him to solicit and receive several times over the ordinary limit applicable to gubernatorial
15 candidates. He has also taken the position that each committee is entitled to a separate contribution for
16 each election, meaning that \$44,600 can be given to each committee.

17 49. SCHWARZENEGGER has also stated publicly that he plans to raise at least \$50 million
18 to promote his agenda this year. Upon information and belief, this statement is a reference to his
19 fundraising for CITIZENS.

20 50. CITIZENS and RECOVERY TEAM have made and continue to make coordinated
21 expenditures for the purpose of supporting SCHWARZENEGGER’S candidacy that constitute
22 “contributions” within the meaning of Government Code section 82015 and are in excess of the limits
23 set forth in section 85301. Since March 1, 2005, CITIZENS has sponsored five SCHWARZENEGGER
24 campaign appearances and filmed footage of SCHWARZNEGGER for use in its own future television
25 commercials.

26 51. Commencing on or about March 7, 2005, CITIZENS began running television
27 advertisements in the major California media markets which featured SCHWARZENEGGER and
28 included appeals such as “Help the Governor clean up the mess in California” and “Help Arnold Reform

1 California Politics.” These advertisements are being made in concert with SCHWARZENEGGER and
2 his campaign committee for the purpose of influencing voters with respect to SCHWARZENEGGER’S
3 re-election and are being paid for with contributions in excess of the Proposition 34 limits.

4 52. The payments being made to CITIZENS and RECOVERY TEAM are payments “made
5 at the behest of” SCHWARZENEGGER within the meaning of Government Code section 82015. Far
6 from being clear that they are “made for purposes unrelated to [SCHWARZENEGGER’S] candidacy for
7 elective office,” they are being made precisely for that purpose.

8 53. At or about the same time that the CITIZENS/SCHWARZENEGGER advertisements
9 appeared, a SCHWARZENEGGER advisor was quoted as saying, “It’s going to be like having the 2006
10 election a year early, because if we’re able to push through all this stuff ...he’s going to be golden.”

11 54. The joint solicitation of contributions and joint appearances involving
12 SCHWARZENEGGER and Zaremberg and other representatives of CITIZENS would not be possible
13 without extensive coordination between CITIZENS and SCHWARZENEGGER or his agents, many of
14 whom serve as officers or employees of CITIZENS.

15 55. The extensive coordination and joint control over CITIZENS’ fundraising and other
16 organizational activities and the considerable overlap between individuals associated with
17 SCHWARZENEGGER’S campaign committees and other controlled committees make it clear that
18 CITIZENS is directly or indirectly controlled by SCHWARZENEGGER and/or his agents and/or his
19 controlled committees and that SCHWARZENEGGER and his related entities are acting jointly with
20 and exert “significant influence” over the actions and decisions of CITIZENS. As such, CITIZENS is a
21 “controlled committee” and must disclose on its registration with the Secretary of State that it is
22 controlled by SCHWARZENEGGER; furthermore CITIZENS is prohibited from accepting
23 contributions of more than \$22,300 per person.

24 56. SCHWARZENEGGER is using his various controlled committees, including the
25 RECOVERY TEAM and CITIZENS, to solicit contributions and make campaign expenditures in
26 support of his candidacy for Governor in 2006. In doing so, SCHWARZENEGGER is using his various
27 controlled committees as multiple “accounts” in violation of the “one bank account” rule of Government
28 Code section 85201.

1 57. Prior to amending its registration to convert to a primarily formed ballot measure
2 committee, CITIZENS failed to file late contribution reports as required by law, thus depriving the
3 voters of California with necessary information about the source of its contributions.

4 58. CITIZENS has solicited and accepted contributions in excess of the \$22,300 limit. Based
5 upon reports already filed with the Secretary of State's office, CITIZENS has received over \$2 million
6 dollars in contributions that are over the Proposition 34 limits. Upon information and belief, this amount
7 does not include additional over-the-limit contributions received between the date of CITIZENS' initial
8 registration (January 7, 2005) and its amended registration on March 1, 2005.

9 59. As citizens and voters, plaintiffs and other members of the public have an interest in
10 enforcement of the reporting requirements and contribution limits contained in the PRA.

11 60. Plaintiffs bring this action solely in the public interest and/or on behalf of the general
12 public and have no pecuniary interest in the litigation. They seek no greater or different relief than the
13 relief sought on behalf of the general public.

14 61. If successful, this action will enforce an important public right and confer a significant
15 benefit on the general public in that it will prevent the ongoing circumvention of the campaign finance
16 laws and the contribution limits in particular.

17 62. Private enforcement is necessary. Although a complaint has been filed with the FPPC by
18 DEREK CRESSMAN as the Director of THERESTOFUS.ORG to commence an action against
19 defendants to enforce the contribution limits, the FPPC has not yet acted. The increased fundraising and
20 the expenditure of hundreds of thousands of dollars in advertising featuring SCHWARZENEGGER
21 makes this private action necessary. Plaintiffs take this action for this reason and have no financial stake
22 in the outcome.

23 63. Absent an injunction, defendant SCHWARZENEGGER will continue to solicit
24 contributions that are used in part to support his candidacy and which exceed the lawful limits,
25 CITIZENS and SCHWARZENEGGER and his agents and controlled committees will continue to raise
26 and expend monies in excess of the limits set forth in the PRA, CITIZENS will continue to unlawfully
27 solicit and receive contributions in excess of the legal limit and continue to make expenditures for the
28 benefit of SCHWARZENEGGER'S candidacy.

FIRST CAUSE OF ACTION

(Declaratory Relief – Gov. Code, §§ 85301 and 85302; Code Civ. Proc. § 1060)

64. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 63, above.

65. A dispute has arisen between plaintiffs and defendants as to whether defendants' concerted actions are in violation of the campaign contribution limits of the PRA, and the regulations promulgated by the FPPC. Plaintiffs contend that the numerous and extensive contacts between CITIZENS and the other defendants, including SCHWARZENEGGER, his agents and his controlled committees, demonstrate that CITIZENS is, and has been since its inception, a committee controlled by SCHWARZENEGGER within the meaning of the PRA and the regulations promulgated by the FPPC and was therefore required to register as a candidate controlled committee, electronically disclose all contributions over \$5,000, and abide by the contribution limits of the PRA. Plaintiffs are informed and believe, and on that basis allege, that defendants disagree and contend that their actions do not violate the PRA.

66. Additionally, plaintiffs contend that SCHWARZENEGGER has violated the contribution limits of Government Code section 85301 by soliciting payments to CITIZENS and his other controlled committees that are made at his behest and are not unrelated to his candidacy for elective office and which therefore constitute contributions within the meaning of Government Code section 82015, and which have exceeded the contribution limits allowed by Government Code section 85301. In addition, SCHWARZENEGGER is using CITIZENS and his other controlled committees making coordinated expenditures in support of SCHWARZENEGGER'S re-election campaign which in-kind contributions to SCHWARZENEGGER that exceed the contribution limits. Plaintiffs are informed and believe, and on that basis allege, that defendants disagree and contend that their actions do not violate the PRA.

SECOND CAUSE OF ACTION

(Declaratory Relief – Gov. Code § 85201; Code Civ. Proc. § 1060)

1 SCHWARZENEGGER’S candidacy for elective office that exceed the limits, and by CITIZENS’
2 refusal to refund amounts solicited in excess of the legal limits. Plaintiffs, and other citizens of
3 California, will suffer immediate and irreparable injury unless defendants’ actions are enjoined by this
4 court.

5 **FIFTH CAUSE OF ACTION**

6 **(For Injunctive Relief – Gov. Code Section 91003)**

7 73. Plaintiffs reallege and incorporate herein by reference each and every allegation
8 contained in paragraphs 1 through 72, above.

9 74. Plaintiffs have no plain, speedy and adequate remedy at law in the absence of this Court’s
10 injunction. Plaintiffs and other citizens of California have been harmed by CITIZENS’ failure or refusal
11 to report all contributions of \$5,000 or more from its inception and will suffer immediate and irreparable
12 injury unless defendants’ are ordered by this court to disclose the identity of all contributors not
13 previously disclosed.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs respectfully pray for judgment as follows:

16 1. On the first Cause of Action, that this Court issue its judgment declaring that CITIZENS
17 has been a candidate-controlled committee since its inception and is required to register as such with the
18 Secretary of State, that it is and has been at all times a controlled committee subject to the contribution
19 limits of the PRA, and is required by law to refund any contributions in excess of the limits and to report
20 all contributions of \$5,000 or more not previously disclosed. Additionally, plaintiffs request that this
21 Court issue its judgment declaring that SCHWARZENEGGER’S solicitations to CITIZENS and other
22 controlled committees are “contributions” to SCHWARZENEGGER and therefore subject to the
23 contribution limits and/or that the coordinated expenditures of CITIZENS and SCHWARZENEGGER’S
24 other controlled committees in support of his candidacy constitute “contributions” to
25 SCHWARZENEGGER in excess of the legal limit.

26 2. On the Second Cause of Action, that this Court issue its judgment that
27 SCHWARZENEGGER is violating Government Code section 85201 by soliciting contributions into
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1 controlled committees other than his primary campaign committee and making expenditures in support
2 of his candidacy from those committees.

3 3. On the Third Cause of Action, that this Court issue its judgment that the prohibitions on
4 lobbyist contributions set forth at Government Code section 85702 apply to contributions made to
5 candidate controlled ballot measure committees as well.

6 4. On the Fourth Cause of Action, that this Court issue a preliminary injunction and
7 permanent injunction restraining defendant SCHWARZENEGGER and all persons acting pursuant to
8 his control and direction from:

- 9 (a) soliciting funds in excess of the limits set forth in Gov. Code section 85301;
- 10 (b) soliciting funds on behalf of CITIZENS or other controlled committee that will
11 be used to make expenditures in support of his candidacy.

12 Further, on the Fifth Cause of Action, that this Court issue a preliminary injunction and
13 permanent injunction restraining defendant CITIZENS, defendant RECOVERY TEAM, or any other
14 SCHWARZENEGGER-controlled committee and all persons acting pursuant to the control and
15 direction of these entities from:

- 16 (a) soliciting or accepting funds in excess of the limits set forth in Gov. Code section
17 85301;
- 18 (b) soliciting contributions or making coordinated expenditures for the purpose of
19 supporting SCHWARZENEGGER'S candidacy for elective office in amounts
20 that exceed the legal contribution limits;
- 21 (c) failing or refusing to refund all contributions in excess of the limits set forth at
22 Gov. Code section 85301.

23 5. On the Fifth Cause of Action, that this Court issue a preliminary injunction and
24 permanent injunction restraining defendant CITIZENS and all persons acting pursuant to CITIZENS'
25 control and direction from failing to report all contributions over \$5,000 received on or after January 6,
26 2005;

27 6. For attorneys fees in accordance with law and the costs of this action.
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7. On each and every cause of action, that this Court grant such other, different or further relief as the Court may deem just and proper.

Dated: March ____, 2005

Respectfully submitted,
OLSON HAGEL & FISHBURN, LLP

By: _____
DEBORAH B. CAPLAN
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RICHARD C. MIADICH
Attorneys for Plaintiffs

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