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February 4, 2019

**VIA EMAIL & U.S. MAIL**

Hon. Gilbert Cedillo  
Hon. Paul Krekorian  
Hon. Bob Blumenfield  
Hon. David E. Ryu  
Hon. Paul Koretz  
Hon. Nury Martinez  
Hon. Monica Rodriguez  
Hon. Marqueece Harris-Dawson  
Hon. Curren D. Price, Jr.  
Hon. Herb J. Wesson, Jr.  
Hon. Mike Bonin  
Hon. Mitchell Englander  
Hon. Mitch O'Farrell  
Hon. Jose Huizar  
Hon. Joe Buscaino  
CITY COUNCIL, CITY OF LOS ANGELS  
200 N. Spring St., Room 360  
Los Angeles, CA 90012

EMAIL: [CityClerk@lacity.org](mailto:CityClerk@lacity.org)

**Re: Pre-Litigation Demand  
Proposed Ordinance to Compel Disclosure of NRA Affiliation for  
Contractors Doing Business with the City of Los Angeles-  
OPPOSED**

Honorable City Council Members:

We write to you on behalf of our client the National Rifle Association of America ("NRA") and the hundreds of thousands of NRA members and supporters in California, many of whom live in the Los Angeles area.

At its the October 10, 2018 meeting the Los Angeles City Council (“City”) directed the City Attorney to draft an ordinance that would mandate that anyone wishing to do business with the City be required to submit an affidavit disclosing their affiliation with the NRA. We write to express our client’s opposition to the proposed ordinance and to notify the City that a lawsuit will be filed to enjoin the enforcement of this ordinance if /when the ordinance passes.

Council members have noted that “given the opposing stances of the NRA and the City, the City should move to rid itself of its relationships with any organization that supports the NRA.” The Motion for the proposed ordinance requested that the City Council take action to provide a list of “all businesses and organizations that support the NRA.” The original Motion for the proposed ordinance dated September 21, 2018 lays out the legislative animus for the NRA, falsely claiming that the NRA is a “road block” to “sensible gun safety reform at every level of government.”

The NRA primarily promotes marksmanship, firearm safety, training, and education. It also works to protect the constitutional rights of its members, and of all Americans. Members join NRA or affiliate with the NRA for its educational benefits, safety and proficiency training, and for the political advocacy NRA conducts on their behalf.

The First Amendment protects the right to free speech and association. The proposed ordinance specifically blacklists those who affiliate with the NRA and is an unconstitutional effort to restrict and chill an individual’s right to associate and express their political beliefs. It forces NRA members who are contractors or who wish to become contractors with the City to make a choice in whether they support the advancement of their beliefs and the causes they hold dear or put food on their table.

The right to freely associate with groups for political reasons and to advance issues of importance by like-minded individuals is paramount to achieve “social, political, or economic ends” and is “conduct that is protected by the First Amendment.” (*NAACP v. Alabama*, 357 U.S. 449 (1959) (recognizing that the freedom of speech embraces the “freedom to engage in association for the advancement of beliefs and ideas”). The freedom of association includes the right to join groups for the sake of taking collective action to pursue the interests of the membership at large. (*Roberts v. U.S. Jaycees*, 468 U.S. 609, 617-19 (1984) (See *Smith v. Arkansas State Highway Employees*, 441 U.S. 463, 464 (1979). When the government attempts to deter someone from associating with like-minded groups for the purpose of pursuing common interests, it is in violation of those rights. (*NAACP v. Alabama*, 357 U.S. 449, 78 (1958).)

More recently, *Jordahl v. Brnovich*, a case currently working its way through the federal courts and under consideration at the Ninth Circuit Court of Appeal, found favor with the lower court where the plaintiffs secured a preliminary injunction against the State of Arizona for potential discrimination of contractors with a “blacklist” type regulation. The Court found that the First Amendment protects political association as well as political speech<sup>1</sup>. Indeed, “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by work or act their faith therein<sup>2</sup>.”

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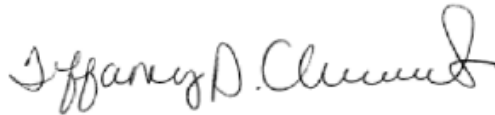
<sup>1</sup> *Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>2</sup> *West Virginia Bd. Of Ed. v. Barnette*, 319 U.S. 624, 642 (1943).

The proposed ordinance would establish a system of “informal censorship” designed to suppress speech. (*Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 71 (1963).) The First Amendment protects against government actions that would seek to “target at specific subject matter.” (*Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2230 (2015); see *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829-30 (1995) (Government action aimed at the suppression of “particular views...on a subject,” and which discriminated based upon viewpoint, is “presumptively unconstitutional.”) First Amendment rights may be violated by the chilling effect of governmental action that falls short of a direct prohibition against speech.” (*Zieper v. Metzinger*, 474 F.3d 60, 65 (2d Cir. 2007).) “Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association, as this Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly (*NAACP v. Alabama*, 357 U.S. 449 460 (1958).) A restriction, even a chilling, of one’s ability to participate in collective calls to action for fear of repercussions that could affect the very livelihood of the person or company is clearly unconstitutional on its face and burdens protected speech.

We have contacted the City Attorney previously to discuss these issues and to arrange for service of process and to scheduling an expedited motion to have the district court enjoin the ordinance in the event it passes.

Sincerely,  
**Michel & Associates, P.C.**



Tiffany D. Chevront

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