

1 STEVE BARIC, ESQ (State Bar No. 200066)
4220 Von Karmann Avenue
2 Newport Beach, CA 92660
Telephone: (949) 677-3688
3 Facsimile: sbaric@bariclaw.com

4 Attorneys for Petitioner and Plaintiff,
LARRY ELDER
5
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SACRAMENTO
10

11 LARRY ELDER,

12 Petitioner and Plaintiff,

13 v.

14 SHIRLEY N. WEBER, in her official capacity
as, SECRETARY OF STATE FOR
15 CALIFORNIA; and DOES 1 through 100
Respondent and Defendant.
16
17
18
19
20
21

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE AND INJUNCTIVE RELIEF
[CCP §§ 1085, 526a AND 1021.5, ELEC.
CODE §13314]**

ELECTION MATTER –

**IMMEDIATE RELIEF REQUESTED
[Cal. Elec. Code sec. 13314(a)(3)]**

CRITICAL DATE July 21, 2021

Date Action Filed: July 19, 2021
Trial Date:

PETITIONER LARRY ELDER petition this Court pursuant to Elections Code section 13314 and the Code of Civil Procedure sections 1085 and 1086 for a Writ of Mandate commanding respondent SHIRLEY WEBER , in her official capacity as Secretary of State for the State of California, to accept PETITIONER ELDER'S nomination papers and supporting documents, qualify him as a candidate for the SEPTEMBER 14, 2021 GUBERNATORIAL RECALL ELECTION and File Petitioner's nomination documents, pursuant to the Elections Code qualify Petitioner as a candidate, and place Petitioner's name and ballot designation on the ballot, sample ballot, and voter pamphlet for the candidate for GOVERNOR FOR THE STATE OF CALIFORNIA in the September 14, 2021, RECALL ELECTION.

INTRODUCTION

LARRY ELDER, in his capacity as an Elector and taxpayer and candidate for GOVERNOR FOR THE STATE OF CALIFORNIA in the September 14, 2021, RECALL ELECTION, alleges as follows:

1. By this verified petition, Petitioner LARRY ELDER ("Petitioner) seeks a writ of mandate under Elections Code Section 13314 to compel Respondent SHIRLEY N. WEBER, Secretary of State (Respondent Secretary of State) to accept and file the nomination documents submitted by Petitioner and to qualify Petitioner as a candidate for GOVERNOR FOR THE STATE OF CALIFORNIA in the September 14, 2021 RECALL ELECTION, and to take all necessary and appropriate steps to place Petitioner's name on the ballot materials.

2. This petition is brought on the grounds that Respondent Secretary of State has wrongfully refused to accept and file the nomination documents submitted by Petitioner and to qualify Petitioner as a candidate on the grounds that "Incomplete redacted and/or unredacted tax returns were filed."

3. This action is brought in part under Elections Code section 13314, in that it seeks to prevent an error that is about to occur in the placing of names of candidates on a ballot, sample ballot, and voter pamphlet by Respondent Secretary of State and that Respondent has neglected her duty in that regard, in that the Secretary of State has wrongfully refused to accept and file the nomination documents that Petitioner properly submitted to qualify as a candidate.

1 **PARTIES**

2 4. Petitioner and Plaintiff LARRY ELDER ("Petitioner") is, and at all relevant times
3 hereto was, a candidate for Governor, a resident voter and taxpayer of the STATE OF
4 CALIFORNIA. Petitioner is currently registered to vote in the STATE OF CALIFORNIA. In
5 this capacity, Petitioner has standing to bring this action pursuant to Elections Code section 13314
6 and Code of Civil Procedure section 526(a). He seeks to be listed on the ballot for the candidate
7 for GOVERNOR FOR THE STATE OF CALIFORNIA in the September 14, 2021, RECALL
8 ELECTION,

9 5. Respondent and Defendant SHIRLEY N. WEBER ("Respondent") is the Elections
10 Official of the State of California and the Secretary of State for California. As the Elections
11 Official for the State of California, Respondent has a ministerial non-discretionary duty not to
12 violate the laws of the State of California.

13 6. DOES 1 through 100 have a ministerial, nondiscretionary duty not to violate the
14 laws of the State of California.

15 **JURISDICTION AND VENUE**

16 7. Petitioner LARRY ELDER is a candidate for GOVERNOR FOR THE STATE OF
17 CALIFORNIA in the September 14, 2021, RECALL ELECTION, and is therefore entitled under
18 Elections Code section 13314 to bring this action.

19 8. Pursuant to Election Code Section 13314, this court is the proper venue for this
20 action because the acts complained of involve the action the Secretary of State of California and
21 the relief sought is within the jurisdiction of this court.

22 9. This cause of action is timely filed after the close of filing period for this office and
23 as soon after the events complained of as reasonably possible and in time to be decided so that a
24 writ may be issued without substantially interfering with the conduct of the September 14, 2021,
25 election as required by Elections Code section 13314, under which this action is brought.

26 10. Petitioner does not have a plain, speedy, and adequate remedy for his exclusion
27 from the ballot in the ordinary course of the law, because the ballot, sample ballot, and voter
28 pamphlet will be printed and sent to voters in the coming weeks and the writ of mandate sought in

1 this petition is the appropriate means of providing timely relief.

2 11. **Priority over all other matters.** Pursuant to Election Code section 13314 (a)(3) as
3 an election law writ petition, this matter “shall have priority of all other civil matters.”

4 12. **Immediate action is necessary.** Pursuant to the Election Code election materials
5 for the ballot will be sent to the printers on July 22, 2021. Therefore, this action must be
6 adjudicated by 5 p.m. July 21, 2021.

7 **GENERAL FACTUAL ALLEGATIONS TO ALL CAUSES OF ACTION**

8 13. The Gubernatorial Recall Election is scheduled for September 14, 2021.

9 14. The statutory deadline for submitting nomination documents for this office to
10 qualify as a candidate on the September 14, 2021, ballot was 5:00 pm on Friday, July 16, 2021.

11 15. On July 16, 2021, at approximately 4:10 pm, ELDER Campaign Manager Lou
12 Barnett entered the Registrar of Voters office for the County of Los Angeles. Mr. Barnett
13 contacted as staff member at the Los Angeles County Registrar of Voters. He provided the staff
14 with the following documents: declaration of candidacy notarized, ballot designation worksheet,
15 character-based form, nomination papers, transliteration form, form 700 financial disclosures and
16 check for filing fee all the required documents for PETITIONER to complete his candidacy.
17 BARNETT provided these documents the employee of the Los Angeles County Registrar of
18 Voters. The staff member indicated that he provided all the necessary documents, and the process
19 was completed. This process was completed by 5 p.m.

20 16. On Friday, July 16, 2021, at about 3 pm, ELDER CAMPAIGN TREASURER
21 BILL BABER (hereinafter BABER) filed ELDER’S relevant tax documents at the California
22 Secretary of State’s Office in Sacramento. BABER PROVIDED tax returns for 5 years to the
23 Secretary of State. BABER handed those copies to a Secretary of State employee named Haley
24 Avata. She told BABER she would deliver these copies to the person who was responsible to
25 review them.

26 17. BABER also handed Ms. Avata, the original (and one copy) of Larry Elder’s
27 signed “Income Tax Return Disclosure Consent and Acknowledgement Form.” She also accepted
28 the documents required to file Larry Elder’s candidate statement.

1 18. California Senate Bill 27 (SB 27), alternatively known as the Presidential Tax
2 Transparency and Accountability Act, was the first law of its kind in the country that requires
3 candidates running for President of the United States or for Governor of California to publicly
4 release their tax return of the previous five years to be listed on the primary ballot. The bill was
5 signed into law by Governor Newsom on July 30, 2019. The law does not place the requirement to
6 publicly release tax returns on candidates running as write in candidates.

7 19. A similar bill was vetoed in 2017 by Governor Jerry Brown. In vetoing the bill,
8 Brown cited the slippery slope argument as well as his concern that the law would be struck down
9 by the courts as unconstitutional.

10 20. Within a week of the bill being signed into law, it was challenged in court. On
11 November 21, 2019, the CALIFORNIA SUPREME COURT unanimously determined the law as
12 applied to Presidential Candidates violated the CALIFORNIA CONSTITUTION and that
13 President TRUMP must be allowed to appear on the March 2020 primary ballot. Chief Justice
14 TANI CANTIL-SAKAUYE delivered the 7-0 decision. (See *Patterson v. Padilla* (2019) 254
15 Cal. Rptr. 3d. 816)

16 21. The language of the law says that gubernatorial candidates must publicize their tax
17 returns for their names to appear on a "**primary ballot**", however the RESPONDENT has
18 unilaterally decided to apply the law to this recall election. Additionally, as applied by the
19 Secretary of State in this case the law would not apply to Governor Gavin Newsom but all other
20 candidates in the Recall Election. Because of the nature of the Recall election, Governor Newsom
21 is not required to disclose his tax returns. Additionally, it appears that two other candidates did
22 not provide their full 5-year tax returns because they filed extensions with the Internal Revenue
23 Service.

24 22. Senate Bill 27 is codified as it applies in Gubernatorial Races in Election Code
25 section 8300 et seq. Specifically, Election Code section 8300 states "The Legislature finds and
26 declares that the State of California has a strong interest in ensuring that its voters make informed,
27 educated choices in the voting booth. To this end, the state has mandated that extensive amount of
28 information be provided to voters, including county and state voter information guides. The

1 Legislature also finds and declares that the income tax returns of candidates for Governor provide
2 voters with essential information regarding the candidate's potential conflicts of interest, business
3 dealings, financial status, and charitable donations. The information in tax returns therefore helps
4 voters to make a more informed decision. The Legislature further finds and declares that as one of
5 the largest centers of economic activity in the world, the State of California has a special interest
6 in state elected officials refraining from corrupt or self-enriching behaviors while in office. The
7 people of California can better estimate the risks of any given candidate for Governor engaging in
8 corruption or the appearance of corruption if they have access to candidates' tax returns. Finally,
9 the State of California has an interest in ensuring that any violations of statutory prohibitions on
10 behavior such as insider trading are detected and punished. Mandated disclosure of the tax returns
11 of candidates for Governor will enable enforcement of the laws against whichever candidates are
12 elected to those offices. The Legislature finds and declares that compliance costs with this
13 requirement will be trivial.

14 23. Section 8902 (a) goes on to say, "Notwithstanding any other law, the name of a
15 candidate for Governor shall not be printed on a direct primary election ballot, unless the
16 candidate, at least 98 days before the **direct primary election**, files with the Secretary of State
17 copies of every income tax return the candidate filed with the Internal Revenue Service in the five
18 most recent taxable years, in accordance with the procedure set forth in Section 8903."

19 24. Section 8903 (a) requires that the candidate shall submit the following to the
20 Secretary of State: Two copies of each tax return required by Section 8902. One copy of each tax
21 return shall be identical to the version submitted to the Internal Revenue Service, without
22 redactions. The second copy of each tax return shall be redacted pursuant to this paragraph. The
23 tax returns shall be provided to the Secretary of State in hard-copy form.

24 25. Section 8903 requires that the candidate **shall** redact the following information
25 from the redacted version of each tax return: Social security numbers, home address, Telephone
26 number, Email address, medical information. Also, the candidate **may** also redact the following
27 information from the redacted version of each tax return: Names of dependent minors, Employer
28 identification number, Business addresses, Preparer tax identification number, address, telephone

1 number, and email address of paid tax return preparers.

2 26. Finally, Section 8903 requires a written consent form, signed by the candidate,
3 granting the Secretary of State permission to publicly release a version of the candidate's tax
4 returns redacted pursuant to this section. The Secretary of State shall prepare a standard consent
5 form consistent with this paragraph.

6 27. *After the candidate provides their tax returns the Secretary of State shall review*
7 *the redacted copy of each tax return submitted by the candidate to ensure that the redactions*
8 *comply with subdivision (a). If the Secretary of State determines that the candidate has redacted*
9 *information other than that permitted by subdivision (a), the Secretary of State shall prepare a*
10 *new version of the tax return with only the redactions permitted by that subdivision. Therefore,*
11 *after the candidate provides his tax returns the remedy for any noncompliance is remedied by*
12 *the Secretary of State.*

13 28. Additionally, within five days of receipt of the candidate's tax returns, the
14 Secretary of State shall make redacted versions of the tax returns available to the public on the
15 Secretary of State's internet website. Except as provided in paragraph (2), the Secretary of State
16 shall make public the redacted versions of the tax returns submitted by the candidate pursuant to
17 subdivision (a). If the Secretary of State is required to prepare a redacted version of a tax return
18 pursuant to subdivision (b), the Secretary of State shall make public that version.

19 29. The public versions of the tax returns shall be continuously posted until the official
20 canvass for the direct primary election is completed. Upon completion of the official canvass, the
21 Secretary of State shall remove the public versions of the tax returns.

22 30. David Olivo is a licensed CPA who has prepared accounting and tax returns for
23 over 40 years. He prepared Larry Elder's returns for the years 2016, 2017, 2018, 2019 and 2020.

24 31. He prepared S-Corp and Individual returns for Mr. Elder for these five years, and
25 they were filed with the IRS and the California Franchise Tax Board. The list of those returns is as
26 follows: 2016 unredacted Form 1040 individual tax return for Larry Elder, 2016 redacted Form
27 1040 individual tax return for Larry Elder, 2016 unredacted Form 1120-S tax return for Laurence
28 A. Elder & Associates, Inc, 2016 redacted Form 1120-S tax return for Laurence A. Elder &

1 Associates, Inc, 2017 unredacted Form 1040 individual tax return for Larry Elder, 2017 redacted
2 Form 1040 individual tax return for Larry Elder, 2017 unredacted Form 1120-S tax return for
3 Laurence A. Elder & Associates, Inc, 2017 redacted Form 1120-S tax return for Laurence A. Elder
4 & Associates, Inc, 2018 unredacted Form 1040 individual tax return for Larry Elder, 2018
5 redacted Form 1040 individual tax return for Larry Elder, 2018 unredacted Form 1120-S tax return
6 for Laurence A. Elder & Associates, Inc, 2018 redacted Form 1120-S tax return for Laurence A.
7 Elder & Associates, Inc, 2019 unredacted Form 1040 individual tax return for Larry Elder, 2019
8 redacted Form 1040 individual tax return for Larry Elder, 2019 unredacted Form 1120-S tax return
9 for Laurence A. Elder & Associates, Inc, 2019 redacted Form 1120-S tax return for Laurence A.
10 Elder & Associates, Inc, 2020 unredacted Form 1040 individual tax return for Larry Elder, 2020
11 redacted Form 1040 individual tax return for Larry Elder, 2020 unredacted Form 1120-S tax return
12 for Laurence A. Elder & Associates, Inc, 2020 redacted Form 1120-S tax return for Laurence A.
13 Elder & Associates, Inc.

14 32. In July 2021, he prepared copies of the referenced unredacted and redacted tax
15 returns for Mr. Elder. For the redacted version he followed Election code 8903 and redacted any:
16 Social security numbers, home addresses, telephone numbers, e-mails, and any medical
17 information. He also redacted employer ID #'s, business addresses and the tax preparer's
18 information. These were all prepared in accordance with Election code 8903.

19 33. After creation of the unredacted and redacted tax returns, he sent them to Dana
20 Riley, Mr. Elder's administrative assistant.

21 34. On July 7, 2021, Dana Riley received, via email, the copies of last five years of
22 personal federal tax returns (2016 through 2020) for Laurence A. Elder from his accountant, David
23 Olivo. Each year had two sets of 1040 filings, one redacted and one un-redacted.

24 35. She also received from Mr. Olivo the last five years of tax returns for Mr. Elder's
25 S-Corporation, Laurence A. Elder & Associates, Inc. Again, each year had two sets of 1120-S
26 filings, one redacted and one un-redacted.

27 36. All these filings were subsequently forwarded, via email, to Mr. Elder's campaign
28 manager, Louis Barnett, on July 9, 2021.

1 37. Lou Barnett was with Larry Elder when he pulled his papers to run for governor at
2 the Los Angeles Registrar Recorders Office and he took possession of the papers that need to be
3 filed.

4 38. Anticipating that Larry Elder might run for governor, he had previously approached
5 his assistant, Dana Riley, in advance of his formal decision to run and asked her to gather his tax
6 returns. Dana asked Larry Elder's tax preparer to provide her with copies of his tax returns for the
7 years 2016, 2017, 2018, 2019 and 2020 both unredacted and redacted.

8 39. Dana Riley provided those to Barnett.

9 40. He then then reached out to a well-respected attorney he knew in San Diego,
10 Steven Kane, and asked him if he would agree to look them over which Kane agreed to do.

11 41. The purpose of this was to put a second set of competent eyes on the tax returns to
12 make sure that they were completely compliant with state law. Compliance with state law led him
13 to seek an attorney to review the returns rather than a non-attorney. There could be different
14 interpretations of what the state required redacted and non-redacted.

15 42. Steve Kane reviewed the returns and sent Barnett a short list of required changes.
16 More redactions were needed and at least one redaction should not have been made. Barnett then
17 went through the returns themselves and found the errors that Steve Kane had identified.

18 43. Barnett then sent these corrected pages to Bill Baber, the Elder for Governor 2021
19 Treasurer/Compliance Officer, to substitute or include with the tax returns both redacted and
20 unredacted that he was filing with the Secretary of State.

21 44. After having sent the corrections to Bill Baber, Barnett then called him to confirm
22 receipt and determine that everything was understandable and complete before he went to the
23 Secretary of State to submit the tax returns both redacted and unredacted and file additional
24 required forms with the Secretary of State. Mr. BABER took all the above-mentioned tax returns
25 and filed them with the Secretary of State on Friday July 16, 2021, at 3:00 pm.

26 45. Subsequently, Barnett spoke with Bill Baber to confirm delivery to the Secretary of
27 State and that there had been no issues with the Secretary of State. He mentally noted that there
28 was still time to address any Secretary of State issues if there had been any.

1 46. On July 16, 2021, Barnett had conferred with Bill Baber, the Treasurer of Elder for
2 Governor 2021, and reviewed the pdf files to conclude that Mr. Baber had a complete set of tax
3 returns.

4 47. On Saturday July 17, 2021, the list of qualified candidates for the SEPTEMBER 14
5 2021, RECALL ELECTION. This list became available approximately 12:00 pm on July 17,
6 2021. The ELDER CAMPAIGN had been given no reason from the Secretary of State's Office
7 regarding their failure to qualify for the Ballot.

8 48. Then on Sunday, July 18, 2021 at 4:50 p.m. THE ELDER CAMPAIGN received
9 notice from the Secretary of State stating that "you did not qualify as a candidate for the upcoming
10 September 14, 2021, California Gubernatorial Recall Election." The Secretary of State attached a
11 form letter which stated that the reason for lack of qualification was "incomplete redacted and/or
12 unredacted income tax returns were filed." (Exhibit 1).

13 49. This action is expressly authorized by Elections Code Section 13314. Petitioner has
14 exhausted all administrative remedies available to him that are required to be exhausted as a
15 prerequisite to the filing of this action. Moreover, Petitioner has no plain, speedy, or adequate
16 remedy in the ordinary course of law, other than the relief sought in this Complaint/Petition.
17 Pursuant to Elections Code Sections 13313 and 13314, as an elector of the County, Petitioner is
18 beneficially interested in the issuance of a writ of mandate herein.

19 50. Publication of the ballot pamphlet without the presence of a valid qualified
20 candidate will result in irreparable injury to the voting public. Unless Defendant and Respondent
21 is enjoined and restrained from allowing or causing to be published as part of the ballot materials a
22 ballot without a valid qualified candidate, the voting public will suffer irreparable injury for which
23 monetary compensation is inadequate.

24 51. The Petitioner has and will incur financial burden while enforcing an important
25 right affecting the public interest. The enforcement of this important right will confer a significant
26 benefit to the public.

27 **FIRST CAUSE OF ACTION**

28 **(Writ of Mandate – CCP § 1085 and 1021.5)**

1 52. Petitioner hereby incorporates paragraphs 1 through 51 as if set forth fully herein.

2 53. Respondent has the ministerial, nondiscretionary duty not to violate the laws of
3 the State of California.

4 54. Election Code section 13314 provides that a writ shall issue upon proof (1) that any
5 neglect of duty has occurred or is about to occur in violation of the Elections Code or the
6 Constitution, and (2) issuance of the writ will not substantially interfere with the conduct of the
7 election.

8 55. Code of Civil Procedure section 1085 authorizes issuance of a Writ of Mandate to
9 compel the performance of a duty by a government official. Based on foregoing, Petitioner
10 properly submitted five years of tax returns both redacted and unredacted to the Secretary of State.
11 Therefore, Respondent had a ministerial duty to qualify as a candidate and to include on the ballot
12 for GOVERNOR FOR THE STATE OF CALIFORNIA in the September 14, 2021, RECALL
13 ELECTION, LARRY ELDER.

14 56. Here, the proper remedy is not precluding ELDER from being on the ballot but
15 rather pursuant to Election Code section 8903 the Secretary of State has a duty to remedy any
16 redacting errors and provide a clean copy to the voters. As such, the Secretary of State is illegally
17 precluding a qualified candidate from the ballot in violation of the law.

18 57. ELDER provided over 300 pages of tax returns to the Secretary of State. Clearly,
19 he substantially complied with Election Code section 8900 et. seq. at that to preclude him from the
20 ballot violates both the letter of the law and the spirit of Election Code section 8900. Additionally,
21 it is debatable as to whether or not this code section applies to recall elections at all. The code
22 states that it only applies to "direct primary elections." As such, because this law is being applied
23 in this fashion it does not require Governor Newsom to file his tax returns. Therefore, the
24 Secretary of State's application of this code section violates the PETITIONERS equal protection
25 rights as protected under the California Constitution.

26 58. For those reasons, the elections officials' rejection of Petitioner's nomination
27 papers was wrongful, and the elections official did not perform the duty of his office, and
28 Petitioner has been denied the right of candidacy to which he is entitled, and the Secretary of State

1 may be compelled by a writ of mandate to perform his duty to file Petitioner's nomination
2 documents and qualify as a candidate.

3 59. This action is timely and will not interfere with the September 14, 2021,
4 CALIFORNIA GUBNATORIAL RECALL ELECTION or with the printing of the official ballot
5 materials for the same.

6 60. Based on the foregoing, Respondent had a ministerial duty to file Petitioner's
7 nomination documents, pursuant to the Elections Code qualify Petitioner as a candidate, and place
8 Petitioner's name and ballot designation on the ballot, sample ballot, and voter pamphlet for the
9 candidate for GOVERNOR FOR THE STATE OF CALIFORNIA in the September 14, 2021,
10 RECALL ELECTION.

11 61. This action is timely and will not interfere with the conduct of the September 14,
12 2021, RECALL ELECTION or with the printing of the official ballot materials for the same.

13 62. Petitioner has no plan, speedy or other remedy in the ordinary course of law and
14 seeks a writ of mandate compelling the Respondent to include him as a candidate in the September
15 14, 2021, CALIFORNIA GUBNATORIAL RECALL ELECTION.

16 **SECOND CAUSE OF ACTION**

17 **(Injunctive Relief – Elections Code Section 13314 and CCP Sections 526a and 1021.5)**

18 63. Petitioner hereby incorporates paragraphs 1 through 62 as if set forth fully herein.

19 64. ELDER provided all the appropriate nomination documents long before the
20 statutory deadline. He was informed by the Registrar of Voters that the documentation was valid.
21 Additionally, he provided over 300 pages of tax returns both redacted and unredacted to the
22 Secretary of State. He was informed by the Secretary of State that it appeared that everything was
23 in order. Finally, it was incumbent on the Secretary of State to correct any redacting errors
24 pursuant to the Elections Code.

25 65. ELDER relied to his detriment on the representations of the government officials
26 that all his documents were valid AND that if there were any issues as it related to redacting that
27 the Secretary of State would perform their duty.

28 66. Accordingly, pursuant to Elections Code Section 13314 and Code of Civil

1 Procedure section 526a, Petitioner hereby seeks an injunction ordering the Respondent to include
2 all of PETITIONERS the ballot materials on the upcoming ballot.

3 **WHEREFORE, Petitioner and Plaintiff pray as follows:**

4 1. That this Court issue a peremptory and writ of mandate directing Respondent
5 Secretary of State SHIRLEY WEBER, ordering, and directing Respondent and all persons under
6 her control and direction to:

7 a. File Petitioner's nomination documents, pursuant to the Elections Code qualify
8 Petitioner as a candidate, and place Petitioner's name and ballot designation on the ballot,
9 sample ballot, and voter pamphlet for the candidate for GOVERNOR FOR THE STATE
10 OF CALIFORNIA in the September 14, 2021, RECALL ELECTION.

11 b. Include Petitioner's Statement of Qualifications in the voter pamphlet for the
12 candidate for GOVERNOR FOR THE STATE OF CALIFORNIA in the September 14,
13 2021, RECALL ELECTION; and

14 c. Review Petitioners tax returns and redact any information as outlined in
15 Elections Code section 8903(2)(b).

16 2. For attorney's fees and Court costs in this proceeding pursuant to CCP 1021.5 and
17 any other relevant case law or statute; and,

18 3. For such and other further relief as the Court may deem just and proper.

19 Dated: JULY 19 , 2021

20 **BARIC AND ASSOCIATES**

21 By. 

22 Steven Baric
23 Attorney for Petitioner and Plaintiff,
24 LARRY ELDER
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

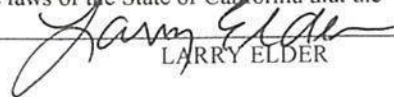
STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

I, LARRY ELDER, have read the attached Petition for Writ of Mandate and know its contents.

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I am informed and believe that they are true.

Executed on 7/19, 2021, at LOS ANGELES, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


LARRY ELDER

PETITION FOR WRIT OF MANDATE

EXHIBIT 1



SHIRLEY N. WEBER, Ph.D. | SECRETARY OF STATE | STATE OF CALIFORNIA
ELECTIONS DIVISION
1500 11th Street, 5th Floor, Sacramento, CA 95814 | Tel 916.657.2166 | Fax 916.653.3214 | www.sos.ca.gov

July 17, 2021

Laurence A. Elder
7918 El Cajon Blvd #N-162
La Mesa, CA 91942

Dear Candidate:

We are writing to inform you that you did not qualify as a candidate for the upcoming September 14, 2021, California Gubernatorial Recall Election.

According to our records, you did not qualify due to one or more of the following reasons:

- ☐ No Declaration of Candidacy was filed
- ☐ Nomination signature requirement was not met
- ☐ No Income Tax Return Disclosure Consent and Acknowledgement Form was filed
- ☐ No income tax returns were filed
- ☒ Incomplete redacted and/or unredacted income tax returns were filed

Sincerely,

Candidate Filing and Election Night Reporting Team

EXHIBIT 2

Declaration of Louis Barnett

I Louis Barnett, declare as follows:

My names is Louis W. Barnett and I am the Campaign Manager for Elder for Governor 2021.

I was with Larry Elder when he pulled his papers to run for governor at the Los Angeles Registrar Recorders Office and I took possession of the papers that need to be filed.

Anticipating that Larry Elder might run for governor, I had previously approached his assistant, Dana Riley, in advance of his formal decision to run and asked her to gather his tax returns. Dana asked Larry Elder's tax preparer to provide her with copies of his tax returns for the years 2016, 2017, 2018, 2019 and 2020 both unredacted and redacted.

Dana Riley provided those to me.

I then reached out to a well respected attorney I knew in San Diego, Steven Kane, and asked him if he would agree to look them over which Kane agreed to do.

The purpose of this in my mind was to put a second set of competent eyes on the tax returns to make sure that they were completely compliant with state law. Compliance with state law led me to seek an attorney to review the returns rather than a non-attorney. There could be different interpretations of what the state required redacted and non-redacted.

Steve reviewed the returns and sent me a short list of required changes. More redactions were needed and at least one redaction should not have been made.

I then went through the returns themselves and found the errors that Steve Kane had identified.

I then either printed out a page from the unredacted returns to use in the redacted return if something had been incorrectly redacted or I printed out a paged and redacted information like Larry Elder's home address which should have been redacted.

I sent these corrected pages to Bill Baber, the Elder for Governor 2021 Treasurer/Compliance Officer, to substitute or include with the tax returns both redacted and unredacted that he was filing with the Secretary of State.

After having sent the corrections to Bill Baber, I then called him to confirm receipt and determine that everything was understandable and complete before he went to the Secretary of State to submit the tax returns both redacted and unredacted and file additional required forms with the Secretary of State.

Subsequently, I spoke with Bill Baber to confirm delivery to the Secretary of State and that there had been no issues with the Secretary of State. I mentally noted that there was still time to address any Secretary of State issues if there had been any.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

This declaration was executed in Los Angeles, CA on July 19, 2021



EXHIBIT 3

DECLARATION OF STEVEN S. KANE

I, Steven S. Kane, declare as follows:

I am an attorney licensed to practice law in the State of California. My State Bar Number is 061670.

On July, 15, 2021 I reviewed certain federal income tax returns filed by Larry Elder and Larry Elder Associates, Inc. In this regard, I reviewed the following tax returns:

Form 1040 Individual Federal Income Tax Returns of Laurence A. Elder for 2016, 2017, 2018, 2019 and 2020.

Form 1120S U.S. Income Tax Returns For an S Corporation of Laurence A. Elder & Associates, Inc. a Subchapter S corporation for 2016, 2017, 2018, 2019 and 2020.

The purpose of my review was to determine whether or not the returns I reviewed met the criteria of California Elections Code §8900 which provides in §8902(a) that "Notwithstanding any other law, the name of a candidate for Governor shall not be printed on a direct primary election ballot, unless the candidate, at least 98 days before the direct primary election, files with the Secretary of State copies of every income tax return the candidate has filed with the Internal Revenue Service in the five most recent taxable years..." I was not requested by Mr. Elder to provide any services concerning rendering an opinion as to whether or not an election to recall a governor, since it is not a "direct primary election" qualifies for application or enforcement of Section 8902(a) and this legal question is undetermined.

As a practical matter, my review was to determine if the returns provided to me met the criteria for redaction of information which was required and permitted to be redacted from those returns under Elections Code §8903(B&C) which state that:

(B) The candidate shall redact the following information from the redacted version of each tax return:

1 (i) Social security numbers.

2 (ii) Home address.

3 (iii) Telephone number.

4 (iv) Email address

5 (v) Medical information

6 (C) The candidate may also redact the following information from the redacted version
7 of each tax return:

8 (i) Names of dependent minors.

9 (ii) Employer identification number.

10 (iii) Business addresses.

11 (iv) Email address

12 (v) Preparer tax identification number, address, telephone number, and email address
13 of paid tax return preparers.”

14 Simply stated, my job was to identify any redacted information which was not in a
15 category stated in Elections Code §8903(B).

16 On the same day, July 15, 2021, that I conducted my review of each page of the tax
17 returns applying the statutes cited above, I reported the results of that review to Mr. Elder’s staff.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

1 This Declaration was executed at San Diego, California on July 18, 2021.

2
3
4 

5 Steven S. Kane
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 4

1 **DECLARATION OF BILL BABER**

2 WILLIAM R. BABER, hereby declare:

3 1. I am an attorney at law duly admitted to practice before all the courts of the State of
4 California. I am also the Treasurer for the candidate committee known as Elder for Governor
5 2021.

6 2. I make this declaration based on my own personal knowledge, except as to those
7 matters which are stated upon information and belief.

8 3. On July 16, 2021, I conferred with Dana Riley and Lou Barnett to compile the set
9 of tax forms that Larry Elder was required to file at the Secretary of State. The following is a list
10 of those forms:

11
12 2016 unredacted Form 1040 individual tax return for Larry Elder.
13 2016 redacted Form 1040 individual tax return for Larry Elder.
14 2016 unredacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
15 2016 redacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
16 2017 unredacted Form 1040 individual tax return for Larry Elder.
17 2017 redacted Form 1040 individual tax return for Larry Elder.
18 2017 unredacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
19 2017 redacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
20 2018 unredacted Form 1040 individual tax return for Larry Elder.
21 2018 redacted Form 1040 individual tax return for Larry Elder.
22 2018 unredacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
23 2018 redacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
24 2019 unredacted Form 1040 individual tax return for Larry Elder.
25 2019 redacted Form 1040 individual tax return for Larry Elder.
26 2019 unredacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
27 2019 redacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
28 2020 unredacted Form 1040 individual tax return for Larry Elder.
2020 redacted Form 1040 individual tax return for Larry Elder.
2020 unredacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.
2020 redacted Form 1120-S tax return for Laurence A. Elder & Associates, Inc.

4. I was provided PDFs of these documents, along with 9 pages provided to me by
Lou Barnett., and printed the pdfs into hard copies.

5. On Friday, July 16, 2021, at about 3 pm, I filed those documents at the California
Secretary of State's Office in Sacramento. I handed those copies to a Secretary of State employee

1 named Haley Avata. She told me she would deliver these copies to the person who was
2 responsible to review them.

3 6. I also handed Ms. Avata, the original (and one copy) of Larry Elder's signed
4 "Income Tax Return Disclosure Consent and Acknowledgement Form." She also accepted the
5 documents required to file Larry Elder's candidate statement.

6
7 I declare under penalty of perjury under the laws of the United States that the foregoing is
8 true and correct except as to those matters, I state on information and belief and as to those
9 matters, I believe them to be true.

10 This Declaration has been executed on July 19, 2021, in La Mesa, California.

11
12 DATED: July 19, 2021

13 
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4
5

6

7

8

10
11
12
13

10 Robbie Anderson
Rachelle Delucchi

*Attorney for Respondent Secretary of State
Shirley N. Weber*

14
15
16

18

19

21

22

23

26