



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



IN THE MATTER OF:

Tom Horne 2014
(SOS Filer ID 201200082)

REASONABLE CAUSE NOTICE

The Arizona Secretary of State, having reviewed this matter pursuant to A.R.S. § 16-924, finds that reasonable cause exists to believe that the above-named committees have violated provisions of Title 16, Chapter 6, Article 1 of the Arizona Revised Statutes, specifically A.R.S. §§ 16-904, 16-913, and 16-915, and other applicable statutes related to the failure to perform a duty as required by law, and hereby notifies the Solicitor General of this finding.

DATED this 8 day of July, 2014.



Jim Drake
Assistant Secretary of State



KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA



TO: Robert L. Ellman
Solicitor General
Arizona Attorney General's Office

FROM: Christina Estes-Werther *cew*
State Election Director

DATE: July 9, 2014

SUBJECT: Reasonable Cause Notice
Tom Horne 2014 (SOS Filer ID 201200082)

Attached is the notice finding reasonable cause to believe that Tom Horne, as treasurer of the above named committee, has violated A.R.S. §§ 16-904, 16-913, and 16-915 and any other statutory provisions relating to the failure to perform a duty as required by law for failing to report campaign contributions. Specifically, the violations relate to the 2014 January 31st campaign finance report and 2014 June 30th campaign finance report. Attached to this memo are the following documents: Sarah Beattie Affidavit and Exhibits, Tom Horne Response, Tom Horne Response #2, 2014 January 31st campaign finance report, and 2014 June 30th campaign finance report.

On May 12, 2014, Tom Ryan, on behalf of Sarah Beattie, filed an Affidavit and Exhibits alleging misuse of state resources. Specifically, Ms. Beattie alleges that Mr. Horne and his Executive Office staff¹ have engaged in campaign activities while being compensated by the State of Arizona in violation of state campaign finance laws.

Pursuant to our jurisdiction under Arizona Revised Statutes, Title 16, Chapter 6, Article 1, our office investigated the matters involving the accurate reporting of political committee campaign contributions and expenses. We do not have jurisdiction over some of the matters that were raised by Ms. Beattie and this memo and the notice only includes the basis for campaign finance violations, not all of the allegations she submitted to our office. We support efforts for the proper authorities to fully investigate all of the allegations and request that you submit this information to Dennis Carpenter, Employment Law Section Chief

¹ The Executive Office staff members named in the Beattie Affidavit are Garrett Archer, Sarah Beattie, Margaret Dugan, Stephanie Grisham, Art Harding, Brett Mecum, Debra Scordato, and Kathleen Winn.

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

Counsel, for his consideration when reviewing the report of the internal investigation conducted by Ridenour, Hienton & Lewis.

Mr. Horne was given an opportunity to respond to these allegations and he submitted a response dated June 2, 2014. He hand-delivered a revised response on June 12, 2014 and stated that his original response included some typographical errors. A comparison of the documents shows that they are identical in content but the second response contains different font and numerous computer transcription errors.

Volunteering for a political campaign is not considered a campaign contribution. See A.R.S. § 16-901(5)(b)(1). However, Ms. Beattie alleges and the response substantiates, that Executive Office employees at the Attorney General's Office were not volunteering but instead were being compensated by the State of Arizona while conducting campaign activities for Mr. Horne. There has been no evidence submitted by Mr. Horne that supports his claim that the Executive Office implemented or followed state law or the Attorney General Memo to prevent campaign activities from occurring during work hours, which could have provided a viable and meaningful defense to these allegations.

Since the campaign activities are not volunteer hours, they are no longer exempt from the contribution definition. These non-monetary services are in-kind contributions and Mr. Horne has not reported these in-kind contributions in the 2014 January 31st or 2014 June 30th campaign finance reports. Further, acceptance of these types of contributions is unlawful under Title 41 of the Arizona Revised Statutes.

The following allegations are the basis for finding violations for failure to report in-kind contributions.

Allegation: Ms. Beattie spent two hours of her work day working on state business and the remaining time was spent on campaign work for Mr. Horne. See *Beattie Affidavit*, pages 4, 9.

Response: Mr. Horne disputes this allegation by stating that Ms. Beattie misrepresented her hours on her time sheets and "contrary to the specific and repeated admonishments" of Ms. Dugan. See *Horne Response, Cover Letter*, page 2.

Mr. Horne states that Ms. Beattie "represented to me numerous times that her volunteer work helping on my campaign, mostly helping with fundraising, was done on her own time and not on state time." See *Horne Response, Horne Statement*, page 10, paragraph 4. He stated that she texted him on January 27, 2014, five months after her hire date, to let him know she could work 7 a.m. to 3 p.m. in order for her to be available to volunteer by early afternoon. The text

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

message was not submitted with the response and there is no evidence provided by Mr. Horne that her hours were not 8 a.m. to 5 p.m. Further, he did not offer an explanation for campaign work that occurred during the morning or early afternoon.

Ms. Dugan states that she "frequently reminded" Ms. Beattie to work her eight hours before engaging in campaign activity. *See Horne Response, Dugan Statement, page 8.* Mr. Horne's response and many of the statements mention a particular incident when Ms. Beattie was upset about managing her hours between the campaign and work. Despite these statements, no texts, emails, memos or written reprimands were included in the response to support that this had been an ongoing issue with Ms. Beattie. Instead she was given two pay increases within three months of her hire date.

Ms. Beattie has made a serious allegation that is against her own self-interest. She has attested in a sworn statement that she was working on Mr. Horne's campaign during work hours as a state employee. As an hourly employee with limited flexibility in her hours, Mr. Horne's response did not provide evidence to dispute that Ms. Beattie was not working on the campaign during her official work hours. Instead the response included general statements from Mr. Horne and other executive staff that they were unaware of her campaign work on state time, which contradicts statements from Mr. Horne and Ms. Dugan that her work on the campaign was a matter discussed with Ms. Beattie. The matter of whether the time sheets were fraudulent is not within our jurisdiction to review although based on the contradictions in Mr. Horne's response, the lack of sworn statements from Executive Office staff, and the lack of adherence to the Attorney General Memo regarding political activities, we encourage and support a review of all Executive Staff's campaign-related activities by the proper authorities.

Allegation: Ms. Beattie participated in a discussion to host a fundraiser with duties assigned to certain staff members including calling possible donors, securing a host (Donald Tapia), and preparing a fundraiser flier for the event, which was then distributed to most of the Executive Office for review and edit. The discussion was in Mr. Horne's office with Mr. Horne, Mr. Mecum, Mr. Archer and Ms. Beattie during work hours. *See Beattie Affidavit, pages 5-6.*

Response: Mr. Horne admits to this discussion and states that the discussion took less than five minutes. Additionally, he only addressed the discussion as "political water cooler talk" and did not respond to the allegation that campaign assignments were tasked to the employees during this discussion and the expected deadline for staff to complete this task. *See Horne Response, Horne Statement, page 10, paragraph 6.*

Allegation: On March 6, 2014, Ms. Beattie alleges that Mr. Horne "consistently" provided her office number to coordinate fundraising events and she had to send

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

Page 4

out a reminder to the Executive Office to stop using her office phone number for campaign events. *See Beattie Affidavit, page 6 and Exhibit 8.*

Response: Mr. Horne states that this allegation is "false" and he only gave Ms. Beattie's cell number. Then he responds that if he gave her work number he does not recall it and "it would have been an error and an isolated instance." *See Horne Response, Horne Statement, page 10, paragraph 7.*

Allegation: In February 2014, Ms. Beattie was asked by Mr. Horne to delete a campaign-related email he replied to from an Executive Staff member who mistakenly sent the email from her official office email account. *See Beattie Affidavit, page 6.*

Response: Mr. Horne admits making this request and states that it is office policy to delete a "non official email." *See Horne Response, Horne Statement, page 10, paragraph 8.*

Allegation: On October 15, 2013, Ms. Beattie was asked to meet Mr. Horne at Molina's Fine Jewelry to discuss a possible fundraiser. Ms. Beattie attests that the travel and discussion at the store were during her work hours. *See Beattie Affidavit, page 7 and Exhibit 9.*

Response: Mr. Horne asserts that Ms. Beattie was present during her lunch hour so the allegation "appears irrelevant" but he did not provide evidence to dispute her assertion that she was not on her lunch hour for that campaign-related activity. *See Horne Response, Horne Statement, page 10, paragraph 9.*

Allegation: Ms. Beattie alleges Mr. Horne "routinely" discussed the campaigns of his opponents, Mark Brnovich and Felecia Rotellini with his Executive Office staff during regular office hours that were not during breaks or lunch hours. *See Beattie Affidavit, page 7.*

Response: Mr. Horne admits to these discussions. He refers to them as "water cooler political gossip" and states that "significant meetings or other campaign work were done off-site." *See Horne Response, Horne Statement, page 10, paragraph 10.*

Allegation: Weekly meetings that were held for official business included campaign discussions, specifically a review of campaign events. *See Beattie Affidavit, pages 7-8 and Exhibits 10 and 11.*

Response: Mr. Horne admits to discussions about campaign events in order to avoid scheduling conflicts but he did not address the specific allegation that campaign discussions beyond scheduling were being held on state property with his Executive Office staff. His response also contradicts his earlier statement

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

that "significant meetings" were held at an off-site location. Further, he insists that Ms. Scordato's emails about the calendar meetings was not counted in her 40 hours yet states in the next sentence that when his staff opened or responded to the emails was "up to them." See *Horne Response, Horne Statement, page 10, paragraph 10*.

Allegations:

- On December 26, 2013, Mr. Horne and his Executive Office staff discussed a proposed robocall during work hours via email. See *Beattie Affidavit, page 8 and Exhibit 12*.
- On January 17, 2014, Mr. Horne and Executive Office staff discussed a memo titled "Negatives of Rotellini" during work hours via email. See *Beattie Affidavit, page 8 and Exhibit 13*.
- On March 28, 2014, Mr. Horne emailed a memo titled "Tom Horne's Achievements" during work hours via email to Darline Garrett and Ms. Beattie. See *Beattie Affidavit, page 8 and Exhibit 14*.

Response: Mr. Horne does not directly address any of these allegations but generally responded that there was "water cooler political gossip" at the office and he could not control when his staff opened his emails that were related to the campaign. See *Horne Response, Horne Statement, page 10, paragraph 10*.

Allegation: At Ms. Beattie's desk, Ms. Dugan would often discuss with Ms. Beattie the status of fundraisers, political events she had attended, campaign events she was planning to attend with Debra Jackson, the status of campaign flyers and social media for the campaign. Additionally, Ms. Dugan and Mr. Horne would express campaign-related concerns and ask Ms. Beattie to address their concerns about the lack of campaign work from Mr. Archer and Mr. Mecum. See *Beattie Affidavit, page 9*.

Response: Ms. Dugan admits having "short conversations with Sarah relative to her fundraising events but never taking any significant time to do so." See *Horne Response, Dugan Statement, page 8*.

Allegation: Ms. Winn was aware that Ms. Beattie was working on campaign activities during the work day. See *Beattie Affidavit, pages 9, 10 and Exhibit 16*.

Response: Ms. Winn does not directly respond to the allegation regarding the email Ms. Beattie sent during work hours and did not submit any evidence to dispute that Ms. Beattie's email at 7:46 a.m. was sent during work hours. Mr. Horne stated that Ms. Beattie worked earlier in the day so she was available to assist the campaign in the late afternoon. See *Horne Response, Horne Statement, page 10, paragraph 4*. Ms. Winn's response is that she "played no

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

role" in Ms. Beattie's volunteering for Mr. Horne's campaign and did not directly address this allegation. *See Horne Response, Winn Statement, page 20.*

Allegation: On April 8, 2014, Ms. Winn drove a government vehicle to a campaign site. *See Beattie Affidavit, page 11.*

Response: Mr. Horne admits that Ms. Winn used a State vehicle for an off-site campaign meeting and states that she was reprimanded and had to pay \$10 to the State. Ms. Winn did not address the allegation in her statement. *See Horne Response, Horne Cover Letter, page 2.*

Allegation: Ms. Beattie was asked by Ms. Winn to work on a document for Mr. Horne titled "17 Major Achievements." Ms. Beattie believed this was a campaign-related assignment to be completed during work hours. *See Beattie Affidavit, pages 3, 10, 12 and Exhibits 4, 15.*

Response: Ms. Winn admits that the document was not sent to Ms. Beattie for official work purposes but "for her to work on in her own time at home, not at work." The document was sent during work hours with a message of "Top priority stat" at 2:14 p.m. Despite Ms. Winn's statement that the document had a "dual nature," for official and campaign purposes, her statement corroborates Ms. Beattie's statement that she was being assigned tasks for the campaign during regular work hours. *See Horne Response, Winn Statement, page 16.*

Allegation: On January 22, 2014 at 4:22 p.m., Ms. Scordato emailed Mr. Mecum, Ms. Dugan and Ms. Beattie regarding fundraising duties and campaign events. *See Beattie Affidavit, page 12 and Exhibit 21.*

Response: Ms. Scordato does not deny the allegation. She merely states the email was written using Mr. Horne's personal computer and that she believes her work hours were irregular for that day. Ms. Scordato does not specify that this was sent on her own time, which is contrary to her responses to other allegations. *See Horne Response, Scordato Statement, page 11.*

Allegation: On February 13, 2014 at 4:28 p.m., Ms. Scordato emailed Ms. Dugan, Ms. Grisham, Ms. Archer, Mr. Mecum, Ms. Winn, Mr. Horne and Ms. Beattie regarding campaign "To Do's." *See Beattie Affidavit, page 13 and Exhibit 22.*

Response: Ms. Scordato does not deny the allegation. She merely states the email was written using Mr. Horne's personal computer and that she believes her work hours were irregular that day. Ms. Scordato does not specify that the email was written on her own time, which is contrary to her responses to other allegations. *See Horne Response, Scordato Statement, page 11.*

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

Allegation: Mr. Mecum worked on campaign activities fundraiser flyers with Ms. Beattie during work hours.

- On August 28, 2013, Mr. Mecum emailed Carmen Chenal and Ms. Beattie about a fundraiser. *See Beattie Affidavit, page 14 and Exhibit 25.*
- On September 5, 2013, Mr. Mecum, Ms. Chenal and Ms. Beattie were part of an email exchange about items relating to fundraising. *See Beattie Affidavit, page 14 and Exhibit 26.*
- On October 1, 2013, Mr. Mecum emailed Mr. Horne and Ms. Beattie regarding a fundraiser by the Lindners. *See Beattie Affidavit, page 14 and Exhibit 27.*
- On October 8, 2013, Mr. Mecum emailed Mr. Horne, Ms. Grisham, Mr. Harding, Adria Martinez, Mr. Archer, Ms. Dugan, Ms. Winn, Mr. Weitzner, Ms. Scordato and Ms. Beattie regarding a Brnovich talk. *See Beattie Affidavit, page 14 and Exhibit 28.*
- On December 3, 2013, Mr. Mecum drafted a flyer and Mr. Archer sent it to Ms. Dugan, Mr. Mecum and Ms. Beattie regarding the Cuccinelli fundraiser. *See Beattie Affidavit, page 14 and Exhibit 29.*

Response: Mr. Horne made general statements that his Executive Staff did not work on the campaign during office hours and noted the differences between salaried and hourly employees. However, there is no direct denial of these allegations from Mr. Horne or Mr. Mecum about Mr. Mecum's hours spent on these campaign activities during office hours. Mr. Horne's response did not include a statement from Mr. Mecum. *See Horne Response, page 5.*

Allegation: Mr. Archer conducted database work for the campaign during work hours and meetings were held between Mr. Archer, Mr. Mecum and Ms. Beattie to work on donor lists, voter ID lists, voter information and other campaign-related matters. *See Beattie Affidavit, page 15.*

Response: Mr. Horne admits that campaign duties were assigned to Mr. Archer and states that he was unable to complete the database task so it was given to another (non-government) employee. Mr. Archer's statement says he spoke to Ms. Dugan during work hours that he could no longer assist on the website and Mr. Horne came to his office to let him know he understood that Mr. Archer could no longer work on the website. These conversations occurred at work and neither Mr. Horne nor Mr. Archer directly denies the allegation that Mr. Archer was working on the database during office hours. *See Horne Response, page 9 and Archer Statement, page 13.*

Allegation: On November 21, 2013 at 11:40 a.m., Mr. Archer sent an email to Mr. Horne and Ms. Beattie regarding internal donor solicitation list for the Cuccinelli fundraiser. *See Beattie Affidavit, page 15 and Exhibit 30.*

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

Response: There was no denial or response to this allegation.

Pursuant to A.R.S. § 16-924, we have determined there is reasonable cause to believe that Mr. Horne, as the treasurer of the above named candidate committee, has violated Arizona's campaign finance statutes by failing to report in-kind contributions for his candidate committee. Further, accepting a state employee's time to work on campaign activities is an illegal contribution that must be investigated further by the appropriate entity. We therefore refer this matter to your office for appropriate enforcement.

Thank you for your attention to this matter. If you have any questions, I can be reached at (602) 542-6167 or cwerther@azsos.gov.

Attachments (Case File)