

Janice K. Brewer
Governor

Thomas M. Collins
Executive Director



Timothy J. Reckart
Chair

Louis J. Hoffman
Thomas J. Koester
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Steve M. Titla
Commissioners

State of Arizona
Citizens Clean Elections Commission

1616 W. Adams - Suite 110 - Phoenix, Arizona 85007 - Tel (602) 364-3477 - Fax (602) 364-3487 - www.azcleanelections.gov

VIA FEDERAL EXPRESS

October 30, 2014

Tom Horne and Campaign Committee(s)
c/o Dennis Wilenchik
Wilenchik & Bartness, P.C.
2810 North 3rd Street
Phoenix, Arizona 85004

RE: CCEC MUR No. 14-006 – Tom Horne and Campaign Committee(s)

Dear Mr. Wilenchik:

Pursuant to A.R.S. §16-957 and A.A.C. R2-20-208(A), enclosed is the Commission's Order Requiring Compliance in MUR14-006 – Tom Horne and Campaign Committee(s).

Mr. Horne must comply with A.R.S. §§ 16-941(B), 16-942(B), and A.A.C. R2-20-109(G) within **14 days** of the receipt of this order. During that period, you may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission. A.R.S. § 16-957(A) and A.A.C. R2-20-208(A).

If you have any questions, please contact me at (602) 364-3477 or by e-mail at sara.larsen@azcleanelections.gov.

Sincerely,



Sara A. Larsen
Financial Affairs & Compliance Officer
Citizens Clean Elections Commission

Encl.

cc: Joseph Kanefield

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ORDER REQUIRING COMPLIANCE
A.R.S. § 16-957 & A.A.C. R2-20-208(A)

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Tom Horne and Campaign Committee(s)
c/o Dennis Wilenchik
Wilenchik and Bartness, P.C.
2810 North 3rd Street
Phoenix, Arizona 85004

RE: CCEC MUR No. 14-006 – Tom Horne and Campaign Committee(s)

Dear Mr. Wilenchik:

On September 11, 2014, the Citizens Clean Elections Commission (“Commission”) found reason to believe that Tom Horne and the Tom Horne Campaign Committee(s) violated the Citizens Clean Elections Act and Rules.

Violation & Factual Basis Supporting The Finding

A. Violations of A.R.S. 16-941(B) and A.A.C. R2-20-109(G)(3).

The Clean Elections Act provides that “[n]otwithstanding any law to the contrary, a nonparticipating candidate shall not accept contributions in excess of an amount that is twenty per cent less than the limits specified in section 16-905, subsections A through E, as adjusted by the secretary of state pursuant to section 16-905, subsection H.” A.R.S. § 16-941(B); *see also* A.A.C. R2-20-109(G)(3).

The definition of contributions is “any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election” and includes “the provision of goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services,” but excludes the “value of services provided without compensation by any individual who volunteers on behalf of a candidate, a candidate’s campaign committee or any other political committee.” A.R.S. § 16-901(5); *see also* A.R.S. § 16-961(A) (incorporating definition of “contribution”).

Section 16-941(B) expressly prohibits candidates from taking any contributions other than those twenty percent less than the limits set forth in § 16-905. The Act provides that the civil penalties and procedures set forth in § 16-905(J)-(M) and § 16-924 shall apply to any violation. A.R.S. § 16-941(B). The Act expressly references a violation of § 16-941(B) in § 16-942(C), and it gives the Commission rulemaking authority to carry out the purposes of the Act. A.R.S. § 16-956(C). The Commission has enacted Arizona Administrative Code (“A.A.C.”) R2-20-109(G) to carry out its responsibilities to enforce the Act against nonparticipating candidates.

The Commission found reason to believe that Respondent Horne accepted contributions from the employees of the Attorney General’s Office (“AGO”) Executive Office in terms of their compensated time and accepted in-kind contributions of state resources including the use of the Executive Offices of the AGO for the purpose of securing his election to a second term as Arizona Attorney General.

Specifically, the Complaint and other evidence support the conclusion that there is reason to believe that the following employees’ salaries prorated for the time period covered by the Complaint, August 2013 through April 2014, were contributions to Respondent Horne, accepted by him.

Employee	Salary*	Prorated
Margaret Dugan	\$125,547	\$83,698.00
Brett Mecum	\$70,000	\$46,666.67
Debra Scordato	\$68,250	\$24,818.18
Kathleen Winn	\$103,040	\$68,693.33
Garrett Archer	\$60,000	\$40,000.00
Sarah Beattie	\$32,000	\$5,333.33
	\$35,000	\$2,916.67
	\$45,000	\$15,000.00
		Total \$23,250.00

*May require adjustment for other compensation such as health care employer contributions.

In addition, the apportioned, prorated rent on the AGO Executive Suite is: \$25,113.60. To achieve compliance with the Act, Mr. Horne must amend his campaign finance reports to accurately account for these contributions to his campaign and also pay back any such contributions that were accepted in violation of A.R.S. § 16-941(B).

B. Violations of A.R.S. 16-942(B) and A.A.C. R2-20-109(G)(1).

The Citizens Clean Elections Act provides that any candidate that fails to report campaign contributions and expenditures as required by Chapter 6 of Title 16 is subject to a daily civil

penalty for a candidate for statewide office. A.R.S. § 16-942(B). This penalty is expressly “[i]n addition to any other penalties imposed by law.” *Id.*; *see also* A.A.C. R2-20-109(G)(1).

The amount of the penalty is doubled if the amount of the unreported contributions and expenditures exceeds ten percent of the adjusted primary or general election spending limit for the particular office (\$19,528 for Attorney General). *See* Clean Elections Commission Participating Candidate Guide at p. i. The penalty is capped at twice the amount of expenditures or contributions not reported, and the candidate and the candidate’s campaign account are jointly and severally liable. A.R.S. § 16-942(B).

None of the contributions listed above have been reported.

14 Day Period to Comply, Investigation, and Probable Cause Determination

You are hereby ordered to comply with A.R.S. §§ 16-941(B), 16-942(B), and A.A.C. R2-20-109(G) within **14 days** of the receipt of this order. During that period, you may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission. A.R.S. § 16-957(A) and A.A.C. R2-20-208(A).

This order is neither an appealable agency action pursuant to A.R.S. §§ 41-1092.03, 41-1092.04, and A.A.C. R2-20-223 nor is it a final administrative decision pursuant to A.R.S. § 12-901 *et seq.* and A.A.C. R2-20-228.

The Commission is conducting its investigation of this case pursuant to A.A.C. R2-20-209. Upon the completion of the investigation, the Executive Director will prepare a brief on the factual and legal issues of this case and provide it to you. A.A.C. R2-20-214(A)-(B). You will have an opportunity to respond to the Executive Director’s brief. A.A.C. R2-20-214(C). The Commission may then vote whether there is probable cause to believe that you have violated a statute or rule over which the Commission has jurisdiction and impose penalties. A.A.C. R2-20-215, R2-20-217.

If the Commission makes a probable cause finding pursuant to A.A.C. R2-20-215 or decides to initiate an enforcement proceeding pursuant to A.A.C. R2-20-217, it will serve on you a notice of appealable agency action. A.A.C. R2-20-223.

If you have any questions, please call (602) 364-3477 or toll free (877) 631-8891.

Issued this 30th day of October, 2014
Citizens Clean Elections Commission