

STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

In the Matter of:

Tom Horne and Committee(s), Respondent

MUR Nos. 14-006, 14-015

**CONCILIATION AGREEMENT**

14 NOV 20 AM 10:16 CCEC

Pursuant to ARS § 16-957(A), the Citizens Clean Elections Commission (the "Commission") and Tom Horne, candidate for Attorney General ("Respondent") enter this Conciliation Agreement (the "Conciliation Agreement") in the manner described below:

1. On September 11, 2014, the Commission adopted the Statement of Reasons (the "Statement of Reasons"), a copy of which is attached hereto and incorporated herein by reference, setting forth the recommendation of the Executive Director that there is reason to believe Respondent may have committed a violation of the Citizens Clean Elections Act and Commission rules (collectively, the "Act").
2. The Commission found reason to believe Respondent violated A.R.S. §§ 16-941(B), -942(B) & (C) by accepting in-kind contributions from staff members of the Attorney General's Office and failing to file reports in violation of those statutes.
3. The Commission has authority to enforce the Act and Rules pursuant to A.R.S. § 16-956(A)(7), including A.R.S. §§ 16-941(B), -942(B),(C) and Ariz. Admin. Code R2-20-109.
4. The Secretary of State issued a reasonable cause notice to the Solicitor General on July 8, 2014, finding cause to believe Respondent violated A.R.S. §§ 16-904, -913, and

1 -915, and other applicable statutes related to the failure to perform a duty as required  
2 by law. That matter was referred to outside counsel by the Solicitor General for  
3 enforcement.

- 4 5. This Conciliation Agreement concludes the Commission's enforcement proceeding  
5 respecting the facts outlined in the attached Statement of Reasons.

6 WHEREFORE, the Commission enters the following orders in lieu of any other action regarding this  
7 matter:

- 8 A. Respondent acknowledges that pursuant to A.R.S. § 16-942(B), the statutory penalty  
9 for any reporting violation is up to \$860 per day up to twice the value of the unreported  
10 amount. In addition, the fine for a violation of 16-941(B) is three times the amount of  
11 the violation, in addition to disqualification or removal.
- 12 B. Respondent acknowledges that public employees may not campaign on state time.
- 13 C. Respondent agrees to settle this matter for \$10,000.00, payable on December 1, 2014.  
14 Respondent shall not seek reimbursement from any political committee, legal defense  
15 fund or any other source for payment of the fine.
- 16 D. Respondent agrees to amend his January 31, 2014 and June 30, 2014 campaign  
17 finance reports upon conclusion of the Secretary of State's enforcement proceedings  
18 based on the findings of counsel appointed to investigate the Secretary of State's  
19 reasonable cause finding, if there are any findings for which amendments would be  
20 appropriate. Notwithstanding the foregoing, the agreement in this paragraph by Horne  
21 is not a waiver of any defenses he has or may have to the proceedings initiated by the  
22 Secretary of State, which are expressly reserved by Respondent.
- 23 E. Respondent agrees to file a notice of dismissal with the Arizona Supreme Court in  
24 *Horne v. Superior Court*, No. CV-14-0258-SA, no later than November 28, 2014.
- 25 F. Respondent agrees not to file a notice of appeal of the Maricopa County Superior  
26 Court's final judgment in *Horne v. Arizona Citizens Clean Elections Commission*, No.  
CV 2014-009404.

- 1 G. The Commission agrees to take no further action on MUR 14-015.
- 2 H. Payments shall be made by cashiers' check or money order payable to the Citizens  
3 Clean Elections Fund and delivered to the Citizens Clean Elections Commission, 1616  
4 West Adams, Suite 110, Phoenix, Arizona, 85007.
- 5 I. The Commission shall not commence any legal action against Respondent to collect  
6 the claims so long as they are not in default.
- 7 J. Respondent shall be in default of this Agreement and any outstanding matters will be  
8 forwarded to the Office of the Attorney General or another appropriate law firm upon  
9 the occurrence of any of the following:
- 10 a. Respondent fails to make any payment required hereunder within five (5) working  
11 days following the date due;
- 12 b. Respondent files a petition under the bankruptcy laws or any creditor of the  
13 Respondent file any petition under said laws against the Respondent;
- 14 c. Any creditor of Respondent commences a foreclosure action to foreclose (by suit  
15 or trustee sale) on real property of the Respondent or commences garnishment,  
16 attachment, levy or execution against the Respondent's property; or
- 17 d. Respondent provides false information to the Commission.
- 18 K. In the event that the Respondent is in default while he is still serving as attorney  
19 general and the matter is referred to the Attorney General's Office, he shall recuse  
20 himself, and shall direct all of the staff members identified in the Statement of Reasons  
21 to recuse themselves from any referral related decision.
- 22 L. In the event of default hereunder, at the option of the Commission, all unpaid amounts  
23 hereunder shall be immediately due and payable. In addition, interest shall accrue on  
24 the unpaid balance from the date that the payments became due and payable. Interest  
25 shall accrue at the statutory rate of ten percent (10%) pursuant to A.R.S. § 44-1201(A).  
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- M. Nothing contained in this Agreement shall be construed to prevent any state agency which issues licenses for any profession from requiring that the debt in issue be paid in full before said agency will issue Respondent a new license.
- N. The Commission may waive any condition of default without waiving any other condition of default and without waiving its rights to full, timely future performance of the conditions waived.
- O. In the event legal action is necessary to enforce collection hereunder, Respondent shall additionally pay all costs and expenses of collection, including without limitation, reasonable attorneys' fees in an amount equal to thirty-five percent (35%) of monies recovered.
- P. Respondent acknowledges that all obligations payable pursuant to this Agreement constitute a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and not compensation for actual pecuniary loss; and that pursuant to 11 USC § 523 such obligations are not subject to discharge in bankruptcy.
- Q. This Agreement shall be construed under the laws of the State of Arizona.
- R. In the event that any paragraph or provision hereof shall be ruled unenforceable, all other provisions hereof shall be unaffected thereby.
- S. This Agreement shall constitute the entire agreement between the parties regarding the subject matter. This Agreement shall not be modified or amended except in a writing signed by all parties hereto.
- T. This Agreement shall not be subject to assignment.
- U. No delay, omission or failure by the Commission to exercise any right or power hereunder shall be construed to be a waiver or consent of any breach of any of the terms of this Agreement by the Respondent.
- V. Respondent has obtained independent legal advice in connection with the execution of this Agreement or has freely chosen not to do so. Any rule construing this Agreement against the drafter is inapplicable and is waived.

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- W. This Agreement shall be void unless executed by the Respondent and delivered to the Commission not later than November 28, 2014.
  
- X. All proceedings commenced by the Commission in this matter will be terminated and the matter closed, upon receipt of the \$10,000 as set forth in this Agreement and compliance with the other terms of this Agreement.

By:   
Thomas M. Collins, Executive Director  
Citizens Clean Elections Commission

By:   
Tom Horne, Respondent