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5  
6 CAMPAIGN FINANCE PROCEEDING

7 IN THE MATTER OF

8 Tom Horne 2014  
9 (SOS Filer ID 201200082)

**Order Requiring Compliance**

10  
11  
12 On July 8, 2014, the Arizona Secretary of State's Office issued a Reasonable  
13 Cause Notice signed by Assistant Secretary of State Jim Drake to the then Solicitor  
14 General Robert Ellman stating that "...reasonable cause exists to believe that the  
15 [Tom Horne 2014] committee violated provisions of Title 16, Chapter 6, Article 1 of the  
16 Arizona Revised Statutes, specifically A.R.S. §§ 16-904, 16-913, and 16-915 (each since  
17 repealed), and other applicable statutes related to the failure to perform a duty as  
18 required by law."

19 On July 9, 2014, L. Michael Hamblin and The Honorable Daniel A. Barker  
20 (retired) were appointed as Special Attorneys General to represent the State of Arizona  
21 in the investigation of Attorney General Tom Horne and members of Attorney General  
22 Horne's staff, as referenced in the Secretary of State's July 8 letter. Judge Barker's role  
23 has been advisory only. Decisions regarding the investigation and the determinations  
24 have been made by Mr. Hamblin.

Thereafter, the services of Investigative Research, Inc. were retained. Thereafter witnesses were interviewed and thousands of pages of documents and emails were reviewed.

The report of the investigation is attached hereto as Exhibit A and incorporated herein.

This investigation had its origin in a complaint filed on May 12, 2014 with the Office of the Secretary of State by attorney Thomas Ryan, on behalf of his client Sarah Beattie, a former employee of the Attorney General's Office of the State of Arizona. This complaint became the subject of inquiry by the Secretary of State's Office, which resulted in a Reasonable Cause Notice, which was supported by a Memorandum from Christina Estes-Werther, State Elections Director. The Reasonable Cause Notice indicated that there existed reasonable cause that Tom Horne as Treasurer of the Tom Horne 2014 Campaign Committee had violated A.R.S. §§16-904, 16-913, and 16-915.

### FINDINGS AND CONCLUSIONS:

The findings and conclusions set forth in Exhibit A are adopted in their entirety.

### A. Findings and Conclusions as to the Allegations of Sarah Beattie:

In her complaint Ms. Beattie made of series of accusations of alleged misconduct regarding campaign activities in the Arizona Attorney General's Office during the period of August 2013 to May 2014 in anticipation of the August 2014 primary and November 2014 general election. Unsurprisingly, the accusations and findings are of varying degrees of seriousness or gravity. One can anticipate that a single or occasional five minute conversation on campaign related matters during working hours or otherwise "on the clock" at the Attorney General's Office, while technically a violation of relevant statutes, and consequently should be avoided and discouraged by supervisors (and had

1 been by office policy issued by the Solicitor General), is not of sufficient seriousness or  
2 magnitude to be reported, investigated or prosecuted. Mr. Horne in his responses and in  
3 his interview contended that any such actions or conversations were in fact *de minimis*.  
4 With regards to some of the accusations, outlined in Exhibit A, Mr. Horne is essentially  
5 correct. Some can be reasonably seen, standing alone, to be insufficiently consequential  
6 to arguably not merit the resources necessary to investigate or pursue.

7 Other accusations, however, are more serious, and even relatively minor ones  
8 were sometimes so frequent as to prevent their disregard.

9 In addition to the findings and conclusions in Exhibit A which are spelled out in  
10 more detail there (summarized in Exhibit A, pages 3-20, reviewed in detail on pages 40-  
11 117), it is also found as to each accusation:

- 12  
13 **1. Issue: Ms. Beattie alleged that she spent only two hours a day performing her**  
14 **assigned Attorney General's Office duties, with the remainder, or much of**  
**the remainder was spent on campaign related matters.**

15 Though unclear is a conclusion that states with specificity the average hours each  
16 day that Ms. Beattie spent on campaign related matters as no time records were kept, her  
17 campaign related work while on duty at the Attorney General's Office was substantial  
18 and not inconsequential. Additionally, while assigned to working at Constituent  
19 Services, her work production of approximately 1.8 constituent responses a day, suggests  
20 significant time available for campaign related activities. (pp. 3, 40-44).

- 21  
22 **2. Issue: Ms. Beattie alleged that she and others participated in a discussion to**  
23 **host a fundraiser, call potential donors and prepare a flier during work**  
24 **hours.**

1 This accusation is sustained as a preponderance of the evidence leads one to  
2 conclude that it was substantive campaign activity. (pp. 3, 44-45).

- 3  
4 **3. Issue: On March 6, 2014 and other occasions, Mr. Horne provided Ms. Beattie's Attorney General's Office phone number to coordinate fundraising events.**

5  
6 Though this accusation is sustained, it appears likely inadvertent and is believed  
7 to have stopped after Ms. Beattie's March 6, 2014 email. (pp. 3-4, 45-46).

- 8  
9 **4. Issue: 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.**

10 This allegation is also sustained but found to be inconsequential. (pp. 4, 47).

- 11  
12 **5. Issue: On October 13, 2013, Ms. Beattie was asked to meet Mr. Horne at Molina's fine Jewelry to discuss a possible fundraiser during regular office hours.**

13  
14 This allegation is determined to be unfounded since a preponderance of the  
15 evidence suggests it occurred during the lunch hour. (pp. 4, 47-48).

- 16  
17 **6. Issue: Allegedly Mr. Horne "routinely discussed the campaigns of his opponents with his Executive Office Staff during regular office hours that were not during breaks or lunch hours.**

18  
19 This allegation is sustained. Such discussions were not one time events, lasted at  
20 least 10 to 15 minutes, if not longer, and constitute significant campaign activity. (pp. 4,  
21 48).

- 22  
23 **7. Issue: Allegedly, during midafternoon weekly calendaring meetings for the coordination of official Attorney General Office business and campaign events, there was substantive discussion regarding campaign events.**

1        This allegation is sustained in that substantive discussion regarding campaign  
2 events occurred during regular office hours. However, given that there needed to be  
3 some coordination between the Attorney General's Office and the Horne 2014  
4 campaign, this issue is better seen as a failure to use a best practice of perhaps having a  
5 campaign scheduler speak with an office representative or some other more efficient  
6 method, rather than a larger meeting involving multiple members of the Attorney  
7 General's Office executive staff. Consequently, though it is found to be sustained, the  
8 nature of the violation is not significant. (pp. 4-5, 48-49).

9  
10        **8. Issue: Allegedly, during the Attorney General's Office workday, Mr. Horne**  
11 **and others among the executive staff exchanged emails and had discussion**  
12 **related to campaign related issues, including a proposed robocall, a memo**  
13 **entitled "Negatives of Rotellini," and a memo entitled "Tom Horne's**  
14 **Achievements."**

15        This allegation is sustained. The email were sent during regular business hours by  
16 Mr. Horne or Debra Scordato, Administrative Services Officer II and campaign Finance  
17 Coordinator, inviting immediate response. The emails were substantive and not easily  
18 reviewed and responded to in a few minutes. For the reasons set forth in Exhibit A, this  
19 represents improper campaign activity on state time. (pp. 5-6, 50-54).

20        **9. Issue: Allegedly, Ms. Margaret Dugan, who served as both Attorney**  
21 **General's Office Chief of Staff and Campaign Manager of Horne 2014,**  
22 **regularly spoke with Ms. Beattie and others regarding campaign related**  
23 **matters, including the campaign related job performance of others working**  
24 **on the campaign and in the Attorney General's Office.**

25        Though this allegation is sustained, the preponderance of the evidence suggests  
26 that significant effort was made to keep these conversations limited and insubstantial.  
27 (pp. 6, 54-56).

1 **10. Issue: Allegedly, Ms. Kathleen Winn, Director of Outreach and Education**  
2 **(and campaign Field Director), was aware that Ms. Beattie was working on**  
3 **campaign activities during the work day.**

4 This allegation is sustained as Ms. Winn was in receipt of campaign related  
5 emails during regular work hours. (pp. 6-7, 56-57).

6 **11. Issue: Allegedly, on April 8, 2014, Ms. Winn drove a government vehicle to a**  
7 **campaign site.**

8 This allegation is sustained, is uncontested, was addressed by Mr. Horne and is  
9 resolved. (pp. 7, 57-58).

10 **12. Issue: Allegedly, Ms. Beattie was directed to work on a primarily campaign**  
11 **related document entitled "17 Major Achievements" to be completed as soon**  
12 **as possible regardless of whether it was done on state time and that**  
13 **numerous emails were exchanged regarding the document while on state**  
14 **time.**

15 This allegation is sustained, in that there exists a preponderance of the evidence  
16 that the document was campaign related, the subject of multiple emails during normal  
17 working hours and a supervisor during regular work hours directed immediate action and  
18 was at the very least indifferent to its review and redrafting on during normal work  
19 hours. (pp. 7-8, 58-65).

20 **13. Issue: Allegedly, on January 22, 2014 at 4:22p.m., Ms. Debra Scordato**  
21 **emailed Mr. Mecum, Ms. Dugan and Ms. Beattie regarding fundraising**  
22 **duties and campaign events.**

23 **14. Issue: Allegedly, on February 13, 2014 at 4:28p.m., Ms. Scordato emailed**  
24 **various Attorney General's Office staff and campaign leadership regarding**  
25 **campaign "To Do's".**

Both of these allegations are sustained in that the emails were sent and that  
available records show that Ms. Scordato sent the emails specified here as well as  
specifically to Ms. Beattie 125 campaign related emails to her private gmail account and

1 that 83 of them were sent during the hours of 8:00a.m. to 5:00p.m., excluding the typical  
2 lunch hour between 12:00 to 1:00p.m. This said, the records also show that Ms. Scordato  
3 regularly worked more than 40 hours a week, averaging 16.9 additional hours each  
4 month from August 2013 through April 2014. (pp. 8, 65-69).

5  
6 **15. Issue: Allegedly, Brett Mecum an Executive Consultant to the Attorney**  
7 **General and a Campaign Strategist to the Horne 2014 campaign worked on**  
8 **campaign activities, including fundraising flyers, with Ms. Beattie during**  
9 **work hours.**

10 This allegation is sustained. Of 40 campaign related emails sent to Ms. Beattie's  
11 private gmail account, 28 were sent during regular business hours. In an interview with  
12 Maricopa County Attorney investigator Don Vogel, Mr. Mecum stated that it was not  
13 uncommon for Mr. Horne to initiate campaign related discussions during the work day  
14 of a duration of no more than 20 minutes. Mr. Mecum also stated that it was not  
15 uncommon for Mr. Horne to approach him requesting that he do campaign work during  
16 Attorney General's Office regular business hours as long as he (Mecum) "made up the  
17 rest of the time later." Mr. Mecum would express discomfort at these suggestions, to  
18 which Mr. Horne would not object. There was at least one instance where the campaign  
19 work was done immediately during regular business hours. Ms. Beattie stated that she  
20 and Mecum worked on one fundraising flyer for approximately three hours during  
21 Attorney General's Office hours. (pp. 8-9, 69-73).

22 **16. Issue: Allegedly, Garrett Archer Attorney General Policy Analyst, conducted**  
23 **data base work during regular work hours and that meetings were held**  
24 **regarding donor lists, voter ID lists, etc.**

Though the extent of campaign related work on state time is difficult to determine  
the allegation is sustained in that Mr. Archer did perform some work on campaign

1 related matters on state time and that it was more than simply “water cooler talk.” (pp. 9,  
2 73-74).

3  
4 **17. Issue: Allegedly, Mr. Archer on November 21, 2013 at 11:40a.m., sent an**  
5 **email to Mr. Horne and Ms. Beattie regarding an internal donor solicitation**  
6 **list for the Cuccinelli fundraiser.**

7 This allegation is sustained. Additionally, a review of Ms. Beattie’s gmail  
8 account revealed that during Mr. Archer’s employment with the Attorney General’s  
9 Office he sent 20 campaign related emails to Ms. Beattie, of which 16 were sent during  
10 normal business hours. Such activity is significant, not *de minimis*. (pp. 9, 74-75).

11 **18. Issue: Allegedly, Debra Scordato, Mr. Horne’s executive Assistant, sent**  
12 **numerous campaign related emails, and engaged in other campaign related**  
13 **tasks, while working on state time.**

14 A review of Ms. Beattie’s gmail account from 8/1/13 to 4/30/14, demonstrates  
15 that Ms. Scordato sent 125 campaign related emails to Ms. Beattie, of which 83 were  
16 sent during normal business hours, when according to her schedule, she was working.  
17 This activity was significant, not *de minimis*. The record also reflects that Ms. Scordato  
18 frequently worked more than 8 hours a day. (pp. 10, 75-76).

19 **19. Issue: Allegedly, Mr. Horne on frequent occasions made calls to potential**  
20 **campaign contributors in from his state office in the presence of Ms. Beattie;**  
21 **and kept a binder labeled “Border Patrol containing information about and**  
22 **lists of campaign contributors or potential contributors.**

23 Ms. Beattie states that such calls happened three to four times a day from five to  
24 thirty minutes at a time during her final three months with the office. Mr. Horne denies  
that any such calls from the Attorney General’s Office were ever made. Garrett Archer  
states that on one occasion Mr. Horne used Mr. Archer’s office to make fund raising



1 calls. A preponderance of the evidence would suggest that such calls were made. (pp. 10,  
2 76-77).

3  
4 **20. Issue: Allegedly on March 25 and 26, 2014, Mr. Horne and various Attorney**  
5 **General's Office Executive employees, who also held positions in Mr.**  
6 **Horne's campaign participated in a detailed series of emails during work**  
7 **hours related to problems in the Horne 2014 campaign.**

8 Over the days in question there were numerous emails sent regarding challenges  
9 or issues in the Horne 2014 campaign. Though the lengthier ones were sent after hours,  
10 the number sent during work hours were not insignificant. (pp. 11, 77-86).

11 **21. Issue: Circumstances surrounding a Core Campaign meeting held on April**  
12 **1, 2014, in which various statements were attributed to Mr. Horne and Ms.**  
13 **Dugan relating to the work of campaign team members.**

14 The substantive campaign meeting took place as alleged. While it appears to  
15 illustrate the challenge and potential legal quandaries when the core campaign team is  
16 made up nearly entirely of the staff of a state agency executive office, there is no  
17 allegation the meeting took place during Attorney General's Office work hours, and it  
18 was not in itself, contrary to law. (pp. 11-12, 86-88).

19 **22. Issue: Role Attorney General's Office Executive Office Staff and Tom Horne**  
20 **2014 Campaign Staff.**

21 The Horne 2014 campaign leadership consisted almost exclusively in Attorney  
22 General's Office senior employees:

	AGO Position	Campaign Team Role
Tom Horne	Attorney General	Candidate for Re-Election; Horne 2014 Campaign Committee Treasurer
Margaret Dugan	Chief of Staff	Campaign Manager

	AGO Position	Campaign Team Role
Kathleen Winn	Director of Outreach and Education	Field Director
Garrett Archer	State & Federal Relations / Policy Analyst	Campaign Analyst
Stephanie Grisham	Press Secretary	Communications Director
Adria Martinez	Constituent Services Manager	New Media Coordinator
Art Harding	Director of Legislative Affairs	Political Director
Brett Mecum	Executive Consultant	Campaign Strategist
Deborah Scordato	Administrative Services Officer II	Finance Coordinator
Sarah Beattie	Administrative Assistant III	Fundraising and Events Coordinator

Having one's campaign staff comprised almost exclusively of the Attorney General Office Executive Officers such that the Attorney General's and Tom Horne 2014 hierarchy are nearly identical present a number of issues:

- a. One's employment supervisor is one's campaign supervisor. Pleasing both may be necessary to ensure job security.
- b. Campaign related emails sent during Attorney General's Office work hours from work supervisors, will raise questions regarding the propriety of responding to the same during Attorney General's Office work hours.
- c. The comingling of the state's business and campaign business is almost certain to raise difficulties in adhering to legal requirements. These difficulties were present in the Attorney General's Office. (pp. 12-13, 88-89).

**23. Issue: Circumstances surrounding the background, hiring, employment in the Attorney General's Office and campaign work of Brett Mecum.**

Mr. Mecum was hired as Legislative Assistant (after expressing no interest in a position as communications director), in the Executive Staff of the Attorney General's

1 Office. He filled out no job application and had no formal job interview for a position  
2 that was not posted. He had not worked in government before. His employment history  
3 consisted of political campaign and political consulting related work. An informal job  
4 interview of sorts took place with Kathleen Winn wherein they discussed Horne's  
5 political path to victory as well as office reporting relationships. After three months Mr.  
6 Mecum received a \$14,000 a year raise after a promotion to the position of Executive  
7 Consultant II. In his interview Mr. Horne stated that Mr. Mecum's duties remained the  
8 same, but he was given the promotion for the purpose of giving Mr. Mecum a raise, so  
9 that his salary might more closely approximate what he had made at his previous job,  
10 Executive Director of the Arizona Republican Party. (pp. 13-14, 89-93)

11  
12 **24. Issue: Circumstances surrounding the background, hiring, employment in  
the Attorney General's Office and campaign work of Sarah Beattie.**

13 Ms. Beattie was hired as an Administrative Assistant III beginning August 5,  
14 2013 at approximately \$32,000 annually. Well prior to the formal interviews for the  
15 position, Ms. Beattie had a lunch where Mr. Mecum (who was recommending her and  
16 was her residential roommate at the time) introduced her to Kathleen Winn, Director of  
17 Outreach and Education as well as campaign Field Director, during which Ms. Beattie  
18 reports that much of the discussion centered on what she could bring to the Horne 2014  
19 campaign. Her resume highlighted her past politically related employment positions.

20 Ms. Winn reports that Ms. Beattie was a very poor performing employee. Rather  
21 than discipline or terminate her employment, a new position in Constituent Services was  
22 created to which Ms. Beattie was transferred effective September 23, 2013. Mr. Horne  
23 reported that Ms. Winn could be a challenging supervisor and other employees had  
24 prospered after a transfer. This position was entry level and consisted of responding to

1 constituent telephone calls, email and letter inquiries. It had previously been performed  
2 by unpaid interns. During her tenure in this position Ms. Beattie responded to constituent  
3 inquiries at a rate of 1.8 day. With this transfer Ms. Beattie was given a raise to  
4 approximately \$35,000 annually. Less than one month later Ms. Beattie received a  
5 second raise to approximately \$45,000 annually. Upon Ms. Beattie's resignation, the  
6 position was not refilled. Mr. Horne stated that state employees are not as well paid as  
7 the private sector, he wanted to help her, and that he had a history of giving employees  
8 raises. A preponderance of the evidence suggests, that least in part, Ms. Beattie was  
9 hired and/or retained because of what she could bring to the Horne 2014 campaign. (pp.  
10 14-16, 93-101).

11  
12 **25. Issue: Circumstances surrounding the background hiring, Attorney General  
Office work and campaign work of Garrett Archer.**

13 Garrett Archer was hired beginning September 23, 2013 as a Special Projects  
14 Coordinator. His prior employment listed on his application included work for the  
15 Arizona Republican Party, Congressman David Schweikert and political consulting  
16 firms. In July or August 2013 Mr. Archer met with Mr. Horne at Rock Products at the  
17 urging of Brett Mecum. Prior to his employment at the Attorney General's Office,  
18 Mr. Archer was identified effective August 21, 2013 as a member of the Horne Core  
19 Campaign Team as a Campaign Operative, and prior to Mr. Archer's employment start  
20 date he was paid \$700 for campaign related work. He was paid nothing thereafter even  
21 though he continued to perform campaign work. Mr. Archer acknowledges participating  
22 in a meeting that took place in Mr. Archer's state office related to a fundraiser where  
23 Ken Cuccinelli was to appear. Other campaign related discussions took place at work,  
24 but these were very short, consisting of no more than 30 seconds. A preponderance of

1 the evidence suggests that Mr. Archer was hired by the Attorney General's Office, at  
2 least in part, for what he could bring to the Horne 2014 campaign. (pp. 16, 101-106).

3  
4 **26. Issue Overall Review of Email Record (Beattie's personal email account) and**  
5 **the participation of Attorney General Office employees in campaign-related**  
6 **emails.**

7 A review of Sarah Beattie's personal email account showing emails either sent to  
8 her or by her from the period of August 2013 through April 2014 show that of 719  
9 campaign related emails, 426 were sent during the normal business hours of the Attorney  
10 General's Office, 8:00a.m. to 5:00p.m., excluding lunch from 12:00p.m. to 1:00p.m.  
11 Even though this is only the email record of a single Attorney General's Office  
12 employee, though one heavily involved in the campaign, it represents when considered  
13 in total, campaign activity that is not insubstantial.

14 Mr. Horne contends that when a campaign related email was sent during normal  
15 business hours, it would have been sent during an employee's break, or essentially, since  
16 most emails were to or from employees exempt from the Federal Fair Labor Standards  
17 Act (29 U.S.C. §8), whose work hours were not tracked hourly, any campaign related  
18 email activity, was automatically during a break, even though no records of breaks, or  
19 time spent on campaign activity were kept. Finally Mr. Horne states that most emails  
20 sent during work hours were short, thus quickly read. This last point is in large measure  
21 true. The longer emails tended to be sent after hours, though it is unknown when they  
22 were read by recipients. (pp. 16-19, 106-110).

1     **27. Issue: Rock Products campaign finance reporting.**

2             The Horne 2014 campaign reported a one-time payment of \$100 on April 12,  
3 2013 to Rock Products Association for "Use of space and phone". There was no record  
4 of any in kind contributions from Rock Products Association. All are agreed that the  
5 office of Rock Products was used on many occasions, a minimum of twice per month. It  
6 was used for meetings of the core campaign staff as well as late afternoon donation  
7 solicitation calls by Mr. Horne accompanied by Ms. Beattie. Though a single \$100  
8 payment for the frequent use of space and phones for a period of over one year would  
9 seem insufficient given typical use or rental rates in Phoenix for similar properties, it is  
10 also clear that the campaign did not have any particular dedicated space, but simply used  
11 available space as needed. Nonetheless, twelve months, at least twenty-four meetings,  
12 perhaps two hours a month, equals a charge of \$4 an hour, insufficient under most any  
13 imagined circumstance. (pp. 19, 110-111).

14  
15     **28. Issue: Alleged Sarah Beattie crying fit on April 8, 2014.**

16             This issue is included as it figured prominently in the Horne responses which  
17 reported that the emotion centered on Ms. Beattie's not being allowed to do campaign  
18 work on state time. Ms. Beattie reports that her concern was others not getting campaign  
19 work completed, and the large number of fundraisers she was to plan. She agrees that  
20 because of public records requests she was attempting to complete campaign work on  
21 other than state time. She agrees that at times she was instructed by supervisors to do  
22 campaign work on other than state time, but she also did what Mr. Horne asked her to  
23 do, which was to sit in on his calls to donors during regular office hours. (pp. 19,  
24 111-114).

1     **29. Issue: Secondary employment forms of Sarah Beattie and other Executive**  
2     **Office Employees.**

3             Mr. Mecum, Mr. Archer and Ms. Beattie submitted secondary employment forms  
4     as discussed in Exhibit A, pages 19-20, 114-115.

5     **30. Issue: Credibility of Sarah Beattie.**

6             A central question is what Ms. Beattie had to gain by making a complaint to the  
7     Secretary of State. Mr. Horne suggests that Ms. Beattie was looking for a financial  
8     windfall from perhaps an employment claim, though it has never materialized. A  
9     preponderance of the evidence suggests that Ms. Beattie had nothing to gain materially  
10    by her allegations, including with regards to her career in political campaigns. (pp. 20,  
11    115-117).

12  
13            **B. Findings and Conclusions with Respect to Relevant Statutes.**

14            In addition to the Findings and Conclusion with Respect to Relevant Statutes set  
15    forth in greater detail in Exhibit A (pp. 119-153), it is also found:

16  
17            **1. A.R.S. § 41-752 Prohibited Political Activities.**

18            A.R.S. § 41-752 restricts the political activities of governmental employees,  
19    particularly while on duty. The investigation finds by a preponderance of the evidence  
20    that Ms. Beattie, Mr. Mecum, Mr. Archer, Ms. Scordato, Ms. Winn, and Mr. Horne,  
21    were engaging in campaign activities at the Attorney General's Office during normal  
22    business hours. These activities consisted of sending campaign related emails,  
23    conferencing and communicating concerning campaign related issues, and in the case of  
24    Mr. Horne, making calls to campaign donors while Ms. Beattie was nearby. Though a  
   violation of A.R.S. § 41-752.G is a class 6 felony, there is no evidence or suggestion that

1 any of the elements of that aggravated offense are present here. While there is evidence  
2 of what pursuant to the statute would be a class 1 misdemeanor, it is not sufficient to  
3 demonstrate a violation under the higher criminal evidentiary standard necessary.  
4 (pp. 21-23, 119-126).

5  
6 **2. A.R.S. §16-192 Use of Public Resources to influence elections.**

7 A.R.S. §16-192 prohibits the use of public resources to influence elections.  
8 Though a preponderance of evidence shows some use of public resources, other than the  
9 loss of state time and that the use of time occurred within a state facility, and Mr.  
10 Horne's likely inadvertent disclosure of Ms. Beattie's office telephone number, the use  
11 of any state supplies, and computers appears to have been minimal. (Though it also must  
12 be noted that several office computer hard drives appear to have been wiped clean.) (pp.  
13 23, 126-138).

14 **3. A.R.S. §§16-904, 16-913, 16-915 Campaign Finance Reporting Requirements.**

15 At the time of these events, A.R.S. §§16-904, 16-913, 16-915 were the applicable  
16 law. Each has since been repealed. (Laws 2016, Ch. 79 §10). This investigation and  
17 report have proceeded applying the substantive law in existence at the time of the events,  
18 but procedurally is governed by the 2015 amendments. As set forth in Exhibit A, the  
19 evidence supports that the Horne 2014 campaign benefited and failed to report the in  
20 kind contributions of labor while on duty of several Attorney General's Office  
21 employees who were core campaign team members. (pp. 139-148).

22 Additionally, as reviewed in Issue 27 (pp. 19, 110-111), the Horne 2014  
23 campaign, after making a one-time payment of \$100 on April 12, 2013 to Rock Products  
24 Association for use of space and phone, proceeded over the next year at minimum of



1 twice a month to utilize the facility. As discussed above, the campaign paid  
2 approximately \$4 an hour the use of the facility. Because the campaign had no dedicated  
3 space, a true market rate might be excessive, but \$4 appears to be insufficient. The value  
4 above the approximately \$4 an hour paid, would be an in kind donation, and should be  
5 reported as such. (pp. 23- 25, 152-153).

6  
7 **4. A.R.S. § 38-504.C: Prohibited Acts.**

8 The investigation outlines the evidence suggesting that Mr. Horne, by hiring  
9 experienced campaign consultants (Mr. Mecum, Mr. Archer and Ms. Beattie) into vacant  
10 or newly created positions in the Attorney General's Office, and who then labored to  
11 varying degrees on the campaign while on state time, received a benefit (campaign  
12 expertise and labor) at state expense contrary to A.R.S. § 38-504.C. The statute requires  
13 that the benefit be of such character as to manifest a substantial and improper influence  
14 on the officer with respect to the officer's duties. It is not believed that a substantial and  
15 improper influence can be demonstrated to the necessary higher criminal evidentiary  
16 standard. (pp. 24, 149-151).

17 **ORDER**

18 Pursuant to A.R.S. §16-938, the Tom Horne 2014 campaign has twenty (20) days  
19 from the date of this issuance to come into compliance.

20 The Tom Horne 2014 Campaign are ordered to amend their final 2014 election  
21 report to:

22 (1) Include a statement noting the contributions of an indeterminate amount by  
23 the following individuals:

24 Sarah Beattie  
Brett Mecham

Garrett Archer

(2) Include the use of the Rock Product Association office space valued over and above the \$100.00 contribution noted.

The number and types of incidents where state employees, while on state time and/or using state resources acted to further the interests of the Tom Horne 2014 campaign are sufficiently numerous and varied so as to lead one to conclude that the practice was not simply sporadic, periodic, random or *de minimis* "water cooler talk" or "passing in the hallway" exchanges, but was instead when viewed in total, over the course of nine months, substantial and significant. However, it cannot be determined, with any degree of specificity, how much time was spent engaging in campaign related activities on state time or the value of state resources used to further the Tom Horne 2014 campaign. While it is clear the time, effort of state employees and the state resources used did have some value, specifically reporting that value for the purpose of filing accurate campaign finance reports, given that no time sheets were kept, is not possible.

Normally, the Tom Horne 2014 campaign would be ordered to amend its final 2014 report to reflect a value and ordered to refund the amount of in-kind contributions in excess of the appropriate limits to the contributing person or organization. In this matter, because the value is indeterminable, only the nature of the contribution is ordered to be reported.

To conciliate his case arising from these facts before the State of Arizona Clean Elections Commission (MUR Nos. 14-006, 14-015), Mr. Horne agreed to pay ten thousand dollars (\$10,000.00). Given that determining the value of the undisclosed contribution is not possible, the amount paid to settle that matter is deemed sufficient.

NOTICE

An informal settlement conference may be requested pursuant to  
A.R.S. § 41-1092.06.

A hearing to contest this Order pursuant to A.R.S. § 41-1092.03 may be made by  
submitting a written request for a hearing no later than twenty days from the date of this  
Order to: Michael Hamblin, 2924 E. Houston Ave. Gilbert, AZ 85234.

DATED: October 16, 2017

By L. Michael Hamblin  
L. Michael Hamblin  
Special Attorney General  
2924 E. Houston Ave.  
Gilbert, Arizona 85234

1 ORIGINALS of the foregoing with Exhibit A delivered  
2 this 16th day October 2017, to:

3 Dennis I. Wilenchik  
4 Wilenchik & Bartness, PC  
5 2810 N. Third Street  
6 Phoenix, AZ 85004  
7 Attorney for Tom Horne

8 And:

9 Dominic Draye  
10 Solicitor General  
11 Arizona Attorney General's Office  
12 1275 West Washington Street  
13 Phoenix, AZ 85007-2926

14 By Michael Horne