

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**  
MUR 14-006 Tom Horne & Tom Horne Candidate Campaign Committee(s)  
RECOMMENDATION TO INITIATE INQUIRY BY EXECUTIVE DIRECTOR

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On behalf of the Citizens Clean Elections Commission (“Commission”), the Executive Director hereby provides the Statement of Reasons and Recommendation for initiating an inquiry regarding this complaint.

**I. Summary of Recommendation**

This recommendation addresses whether to authorize an inquiry under Arizona Administrative Code R2-20-206(C). The underlying Complaint alleges that, among other things, Tom Horne, the current attorney general and a candidate for re-election, and other employees of the Attorney General’s Office, worked on the re-election effort while compensated by the Attorney General’s Office, used State resources for the campaign and made employment decisions based on campaign needs. The Response does not resolve these issues and, in many ways, lends support to the Complaint’s claims or supports the inference that campaign finance violations may have occurred. Because of the factual and legal issues and the Commission’s unique role as an independent body with investigative authority, I recommend that the Commission authorize an inquiry pursuant to Arizona Administrative Code R2-20-206(C) and A.R.S. §§ 16-956(A)(7) -956(B).

**II. Procedural Background**

On May 12, 2014, Thomas Ryan on behalf of his client, Sarah Beattie (“Complainant”), filed a complaint (“Complaint”) against Tom Horne (“Respondent”), a candidate for the Arizona Attorney General, alleging the Respondent violated Arizona’s campaign finance laws. Complainant alleges Respondent used public resources to influence an election, thus accepting an in-kind contribution from the State of Arizona to his re-election campaign. **(Exhibit A)** On

May 14, 2014, following the appointment and employment of outside counsel and pursuant to the Commission's rules, a response was requested from Tom Horne, candidate for Attorney General. The request for the Response notified the Respondent that a complaint alleging violations subject to the Commission's jurisdiction had been properly filed, included specific citations to the Clean Elections Act, informed Respondent of the Commission's rules, provided that Respondent could provide any information he wished to provide and asked for information related to the Complaint.

Respondent initially engaged counsel, who requested an extension for the Response. The request was granted. On June 2, 2014, Respondent submitted his Response to the Complaint.

Respondent now represents himself. **(Exhibit B)**

### **III. Factual Background**

The following allegations are made in the Complaint:

On August 1, 2013, Sarah Beattie was hired as an administrative assistant with the Office of the Arizona Attorney General and given an annual salary of \$32,000. Ms. Beattie reported directly to Kathleen Winn, the director of the Executive Office Division/Community Outreach section. Ms. Winn asked Ms. Beattie on numerous occasions to perform work for Respondent's campaign re-election committee during official business hours. Approximately one and a half months later, Ms. Beattie decided to leave the Attorney General's office to do other campaign work. According to Ms. Beattie, Mr. Horne asked her to stay until November 2014. Mr. Horne allegedly secured Ms. Beattie reassignment to another Executive Office section, Constituent Services, and that she was ultimately given a pay raise to \$45,000 annually. During this time Ms. Beattie believes she spent approximately 2 hours a day working on constituent services and performed work for the re-election campaign the remainder of the work day. **(Exhibit A)**

Ms. Beattie alleges that other Executive Office employees, including Respondent, were also performing work for the re-election campaign during official business hours. Ms. Beattie personally witnessed Respondent soliciting contributions from his office at 1275 West Washington Street. Ms. Beattie also attended several meetings during official business hours with executive office employees where Respondent's re-election campaign events and fundraisers were discussed. Specifically, Ms. Beattie alleges the following employees were engaged in campaign work during business hours: Margaret Garcia Dugan, Kathleen Winn, Debra Scordato, Brett Mecum, and Garrett Archer. **(Exhibit A)**

Respondent argues that all significant campaign work was not performed at the Attorney General's office but rather an off-site location. Respondent also argues that no one at the Attorney General's office was compensated for time spent on campaign work including Ms. Beattie. Respondent also disputes Ms. Beattie's statement about working only 2 hours a day on official State business. He states Ms. Beattie was informed on numerous occasions that campaign work was to be done on her own time after she had completed an 8 hour work day, and that she was upset when she was required to work full days. **(Exhibit B)** Respondent provides Ms. Beattie's time records indicating that she received leave without pay during several pay periods because she worked less than 40 hours per week. Respondent states all salaried employees worked at least 40 hours per week on State business or used accrued annual leave if they worked less than 40 hours per week. Respondent states that salaried employees have greater flexibility with their hours to ensure they meet 40 hours a week, while an hourly employee, like Ms. Beattie, needs to work 8 hours each day with no flexibility. In addition to Ms. Beattie's time records, Respondent also provides copies of applicable office policies and statements from executive office employees. **(Exhibit B)**

#### **IV. Evaluation and Analysis**

##### **A. The Complaint alleges violations of the Clean Elections Act and Rules and the Response is inadequate to close the matter.**

Complainant has made sworn statements that allege violations of law that are subject to the Clean Elections Act and provided documentation to support those claims in addition to her own testimony.<sup>1</sup> Generally, the Complaint alleges that Complainant and others engaged in campaign work for Respondent while being compensated, that decisions regarding Complainant's employment status were made in order to keep her fundraising skills available to Respondent through the November election, and that State resources, including office space, were used to for the Respondent's campaign. In addition to Complainant's sworn testimony, the Complaint includes exhibits such as campaign emails allegedly sent by Attorney General's Office employees during regular business hours from their personal email accounts, exhibits related to the scouting of fundraising locations and development of campaign literature to support the inference these activities were performed for compensation and/or with state resources.

The Response and the unsworn statements attached to it dispute some of the sworn Complaint's allegations, but do not settle questions of fact and law raised by the Complaint. For example, the Complaint highlights numerous emails sent by Respondent's official secretary (Debra Scordato) during the work day. The Response includes a statement from Scordato stating that she was on break whenever these emails were sent. (It is not clear in each instance where she was.) Similarly, Respondent includes a statement from one of Complainant's supervisors relating to certain alleged campaign literature. According to the Response, this literature had a "dual nature" (campaign/official) because it highlighted Respondent's accomplishments as

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<sup>1</sup> The cover letter attached to the Complaint, authored by Complainant's attorney, mentions three specific statutes. The letter is not the Complaint. The Complaint is the sworn statement attached to the letter. It alleges violations subject to the Clean Elections Act. Ariz. Admin. Code R2-20-203.

attorney general. These statements set up fairly specific factual questions for resolution, although that resolution cannot be made at this stage.

In some cases, however, the Response admits but minimizes the Complaint’s allegations or provides support for the inference that campaign finance laws have been violated by Tom Horne and his campaign. While Respondent admits that Complainant worked for the campaign, he asserts that Complainant “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.” (Horne Statement at Paragraph 4). But notwithstanding that assertion, the Response often leaves only the question of the degree of campaign finance issue to be established. The following table illustrates some of these factual issues:

Complaint	Horne Response	Preliminary Analysis
<p>“Tom Horne routinely walked around and pulled members of the Executive staff into meetings regarding the Brnovich and Rotellini campaigns. These meetings were done during regular office hours and not on our lunch hours or breaks. Complaint Page 7, Paragraph 15.</p>	<p>“You requested a definition of ‘significant campaign work.’ This office has a certain amount of water cooler talk like any Governmental office, but when significant discussion or work needed to be done, that was held off-site.” Response at 1, Paragraph 1.</p>	<p>Respondent does not define significant campaign work, but instead minimizes campaign discussions as water cooler talk. This statement confirms the upshot of Complainant’s sworn statement—that discussion of the campaign was routine—and leaves open the fact question of the amount of campaign work that was performed in these ad hoc conversations.</p>
<p>“I have seen Mr. Horne use [a] binder marked ‘BORDER PATROL’ <i>daily</i> to make campaign solicitation calls in his office. In those instances, Mr. Horne was careful to use his private cell phone, but the calls were still made from his official office.” Complaint at 5, Paragraph 11.</p>	<p>“I kept a three ring binder with a list of donors in it, and frequently brought it with me to an offsite location, where I systematically made hundreds of calls from that binder asking people for contributions. Occasionally, late in the afternoon, Beattie went with me, on the representation she was on her own time. Systematically making calls from this binder</p>	<p>While admitting to making the phone calls to the people whom Complainant witnessed, Respondent minimizes his actions as not “systematic [.]” Thus Respondent’s statement confirms the basic facts of Complainant’s statement and leaves only the further fact question of the degree of campaign work and does not answer the question whether Respondent was soliciting</p>

	was something that I only did at the off-site location, and never from my own office. I did make occasional calls on my personal cell phone from my office to people with whom I had a personal relationship, who could have also been donors. Beattie mentions, Ira Gaines, Donald Tapia, and Lila.” Statement of Tom Horne, Paragraph 5.	contributions from those he was talking with or why the distinction is relevant.
Respondent, Brett Mecum, Garrett Archer and Complainant met during work hours to determine who would host a fundraiser and made calls to several donors. A host was confirmed and a flyer was prepared during work hours. Complaint at Page 5-6, Paragraph 12.	Respondent admits the allegations, but states that “the conversation referred to took less than 5 minutes and was de minimis. All of the people she mentions, aside from herself, are salaried, and know full well that they could not count political water cooler talk as part of their 8 hours a day. Sarah was hourly, and knew that she could only do personal matters during her scheduled breaks.”	Respondent admits the upshot of the Complaint. He implies that this conversation, which he does not dispute had directly to do with campaign fundraising, is the kind of water cooler talk that he denies is campaign work at all. Nevertheless, Respondent’s statement confirms Complainant’s sworn statement and leaves the specific fact question of the degree of campaign work performed.
Complainant alleges that she scouted a fundraising location along with Respondent and another person. Complaint at Page 7, Paragraph 14.	No denial. Respondent claims that the scouting visit occurred during lunch time and is therefore irrelevant.	Because Respondent does not dispute the occurrence, this leaves open the legal question of whether or not Complainant’s work for Respondent’s campaign on the scouting trip is subject to campaign finance obligations.

Similarly, Complainant asserts that her state salary and work assignment were adjusted for the purpose of ensuring she could continue to work on the campaign. (Complaint at 3-4, Paragraphs 8-10). Specifically, Complainant alleges that in a conversation between herself, Art Harding (another Attorney General’s office employee), and Respondent, she explained she wanted a transfer from Winn’s supervision or would leave the office because of offers to work on other campaigns. According to the Complaint, Respondent stated that Complainant’s work

was necessary “through next November” and that he would see to it she was transferred and would “take care of” her financial issues. The Response includes a statement from Art Harding stating he had “no memory of the meeting [Complainant] alleges took place in AG Horne’s office.” (Harding Statement at Paragraph 1). Respondent, however, while characterizing his statement as agreeing with Harding, actually disputes it and lends support to Complainant’s version. Specifically, unlike Harding, Respondent *remembers the conversation* about Complainant being unhappy with her assignment and that he “agreed to” move Complainant to another part of the office. Thus, Respondent only disputes that the move was made in return for Complainant’s continued assistance with the campaign. Only further factual inquiry can resolve the discrepancy, but the inference that the conversation occurred is supported.

A similar pattern emerges when comparing the sworn Complaint’s allegations regarding Respondent’s Chief of Staff Margaret Dugan. The Complaint alleges that Dugan is Horne’s campaign manager in addition to her official duties. The Complaint alleges that Dugan would talk to Complainant about the campaign, complain about other campaign workers, and that Respondent and Dugan went to her desk and directed her to make sure other employees did their campaign work. (Complaint at 9, Paragraph 18). Dugan, on the other hand, claims that she maintained a distinction between official and campaign business, but admits that she had “short conversations with [Complainant] relative to her fundraising events, but never taking any significant time to do so.” (Dugan Statement at Paragraph 2). Like the previous statements, Dugan’s statement in effect minimizes Complainant’s allegations, but at the same time supports the reasonable inference that campaign work was performed for compensation and/or with the use of state resources. It highlights a dispute about the scope of compensation and use of resources, but not the compensation and use itself.

Similarly, statements by other witnesses included in the response identify issues of degree, but support the inference of campaign finance violations that form the basis of the Complaint. For example, the response highlights a statement by Rick Bistrow, the Chief Deputy Attorney General, who states:

I have never noticed systemic campaign activities conducted in the environs of the [Executive Office] or at any other location at the offices of the Attorney General. Though someone might, in passing refer to how well the campaign was doing, or mention they were going to a meeting after work, and similar comments, these were insignificant comments of extremely short duration and could not be deemed purposeful campaign activity.

Response at 10, Paragraph XI (quoting Statement of Rick Bistrow). On its face, this statement highlights the same type of inquiry identified above. First, Mr. Bistrow indicates he did not witness “systemic” campaign activity, then defines what he did witness as not “purposeful campaign activity.” Thus, the statement on its face supports the inference that there was in fact “campaign activity” occurring in the Executive Office by paid employees -- Bistrow simply denies it was systemic.<sup>2</sup>

Witness statements regarding Complainant’s own activities likewise raise rather than resolve factual issues. Bistrow, for example, states that he “routinely would walk by [Complainant’s] desk several times each day, and [he] never observed her *engage in systemic campaign activities* on behalf of the re-election efforts of Tom Horne” and that “[he has] no knowledge that [Complainant] improperly engaged in campaign activities while working for and being paid by the State of Arizona.” (Bistrow Statement at Paragraph 10) (emphasis added).

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<sup>2</sup> The Complaint alleges that Complainant would “often meet” with two Attorney General employees, Brett Mecum and Garrett Archer, “in Garrett Archer’s office during regular hours to discuss donor lists, voter ID lists, voter information and other campaign related matters.” (Complaint at 15, Paragraph 31). The Response includes no statement from Brett Mecum and the statement by Archer does not address the meetings. Mecum, who according to the Complaint (along with Winn) was instrumental in Complainant’s hiring for campaign purposes, is alleged to have worked on campaign matters with Complainant during work hours. *See* Complaint at Page 1-2, Paragraphs 3-4, Pages 13-14, Paragraph 28-30.



Here, again, Bistrow implicitly defines only “systemic campaign activities” as those subject to campaign finance laws, and then concludes that he witnessed no illegal activity. The issue, however, is that his statement on its face supports the reasonable inference that campaign work was performed by Complainant in the office.

Similarly, the statement of Kathleen Winn, who was Complainant’s supervisor when she was initially hired, raises more factual questions than it resolved. For example, taking the statement at face value, Winn asserts that Complainant initiated any political activity she performed. This is in contrast to Complainant’s sworn statement which states “I was hired by Ms. Winn for the direct purpose that I would work on the campaign to reelect Tom Horne, while working for Community Outreach in the Executive Office.” (Complaint at 9-10, Paragraph 20). Even assuming that this factual dispute was resolved in favor of Winn’s credibility, Winn’s own statement confirms that Complainant “volunteered directly to Tom Horne, not through me.” (Winn Statement at 2). Consequently, the statement Winn provided for the Response supports the inference that Respondent was directly involved in Complainant’s relationship with the campaign itself.

The facts outlined above are not intended to resolve the factual and legal issues that are part of the Complaint. The purpose of R2-20-206(C) is to provide the Commission with the opportunity to take a “hard look” at allegations of violation of A.R.S. 16-941(B).<sup>3</sup>

However, the allegations and the Response do illustrate that Complainant’s sworn statements are not resolved by (and at times are supported by) Respondent and his selected witnesses. The Complaint suggests, at a minimum, the possibility of unreported campaign

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<sup>3</sup> Thus, for example, this recommendation does not address Respondent’s claims that Complainant is a “plant” of his political enemies, his allegations about her employment history, or his allegations she violated other laws. Whatever relevance these counter allegations have, they do not warrant separate evaluation at this time.

contributions, in-kind contributions, and expenditures and of campaign contributions, in-kind contributions, and expenditures of an as yet unascertained value. Accordingly, there are sufficiently supported allegations to justify authorizing an inquiry.<sup>4</sup>

**B. No prudential concerns warrant delaying or deferring initiating an inquiry.**

**1. The Clean Elections Commission administrates and enforces the Clean Elections Act.**

It is beyond dispute that the voters created the Commission to administrate and enforce the Clean Elections Act, Article 2 of Chapter 6, of Title 16. It is also beyond dispute that the Act by its terms applies to all state and legislative candidates. For example, the Commission enforces limitations on and penalties for excessive campaign contributions accepted by candidates, A.R.S. 16-941(B) (limits and penalties), -942(C) (penalties), and enforces penalties for reporting requirements applicable to all candidates, A.R.S. 16-942(B). And, to the extent that the plain language of the Act is not enough, the Arizona Supreme Court has squarely held that it applies to privately financed candidates. *Clean Elections Institute v. Brewer*, 209 Ariz. 241, 245 ¶ 13, 99 P.3d 570, 574 (2004) (“require[ing]” the Commission to enforce campaign finance limits in A.R.S. 16-941(B)), and reporting requirements under Chapter 6 of Title 16, *see* A.R.S. § 16-942(B) (imposing penalties of daily fines for violations by “*any* candidate of *any* reporting requirement imposed by *this chapter*.”) (emphasis added)

**2. The Clean Elections Commission is the best equipped agency to address this matter in an independent, efficient and open manner consistent with the public interest.**

I have provided notice to all institutions that (to my knowledge) may have an enforcement role of the Commission’s role and process. Although the Secretary of State’s office has taken the position that it is the “proper jurisdiction” to review certain campaign finance law complaints, nevertheless, as a matter of law its jurisdiction over campaign finance as a topic is

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<sup>4</sup> The Complaint covers two reporting periods. Campaign finance reports for the period ending May 31, 2014 are due by June 30, 2014.

not exclusive. Indeed, the Secretary does not enforce Article 2 at all. *See* A.R.S. § 16-924 (excluding Article 2 from the Secretary's enforcement regime). Additionally, even if the Secretary of State were to begin enforcement proceedings based on the same set of facts, its powers are circumscribed and its review is limited. The Secretary lacks the power of subpoena, for example, or the power to place people under oath. *See* A.R.S. § 16-956(B) (outlining Commission powers). Additionally, the Secretary may only find "reasonable cause" as to whether a violation of a statute within his purview has been violated and then must forward that determination to the Attorney General. A.R.S. § 16-924. This limited authority means that the Secretary is not in any practical way equipped to undertake a substantial review.

Furthermore, if the Secretary of State finds reasonable cause for violation, he must refer the matter to the Attorney General's Office itself. There, although Mr. Horne is theoretically "walled off," in all other matters the Solicitor General, Rob Ellman, is directly responsible to his Chief Deputy (Rick Bistrow). It is Ellman who, according to the Attorney General's office, will determine what, if any, other attorney will undertake further proceedings if the need arises. Even if everyone operates in good faith, the inference of Attorney General influence is obvious and the public has no reason to believe otherwise. Indeed, the legislature itself sought to amend § 16-924 to address this precise situation, only to later repeal the amendment under threat of referendum on other issues included in the same bill.

These considerations demonstrate that the Commission's role and authority is distinct from all other agencies. These considerations also show that, under these circumstances, the need for an independent evaluation of the facts and circumstances of the Complaint is crucial. It is this independence from self-interested politics that voters uniquely empowered the Commission to undertake.

**V. Conclusion**

For the foregoing reasons I recommend that the Commission authorize an inquiry regarding MUR 14-006, Tom Horne and Tom Horne Candidate Campaign Committee(s). Ariz. Admin. Code R2-20-206(C); A.R.S. §§ 16-956(A); -956(B).

Dated this 17th day of June, 2014.

By:   
Thomas M. Collins, Executive Director

# EXHIBIT A

**LAW OFFICE OF THOMAS M. RYAN**

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May 12, 2014

**VIA HAND-DELIVERY ONLY**

Tom Collins, Esq.

Executive Director

**ARIZONA CITIZENS CLEAN**

**ELECTIONS COMMISSION**

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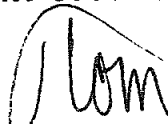
RE: Candidate:	Thomas C. Horne
Committee:	Tom Horne 2014
Office Sought:	Office of the Arizona Attorney General
Violations:	A.R.S. §§16-192, 16-923, & 41-752

Dear Mr. Collins:

Enclosed with this letter you will find the sworn affidavit of my client Sarah Beattie setting forth a series of violations committed by candidate Thomas C. Horne, who is currently running for reelection for the Office of the Arizona Attorney General for the election year 2014. Ms. Beattie's affidavit is supported by documents and metadata to show that Tom Horne is running a substantial portion of his reelection campaign out of the Executive Office of the Office of the Arizona Attorney General. These statements and documents taken as true show that Mr. Horne and his Executive Office staff have consistently and substantially violated A.R.S. §16-192 and 16-923, as well as Arizona's 'mini-Hatch Act,' A.R.S. §41-752. If you have any questions please do not hesitate to contact me.

Very truly yours,

**LAW OFFICE OF THOMAS M. RYAN**



Thomas M. Ryan

TMR/ejr  
Enclosures

14 MAY 12 PM 12:02 CCEC

**AFFIDAVIT OF SARAH BEATTIE**

I, Sarah Beattie, being first duly sworn upon my oath, depose and state as follows:

1. My name is Sarah Beattie and I am an adult over the age of 18. I am a resident of the State of Arizona, County of Maricopa. Everything I will testify to in this affidavit is based upon my personal knowledge, unless I set forth that the matter is based upon my information and belief.

2. Throughout my adult life I have been involved in political elections. It is work that I have been very successful with. However, I fully expect that by coming forward and telling what I know about the misconduct in the Office of the Attorney General that I will be the subject of a smear campaign by members of the Attorney General's staff. I know that the efforts of these people to smear my good name may well damage my reputation in the political community, and that finding future work in this field may be difficult, but I believe it is important to step forward and let the citizens of Arizona know what I know.

3. In the summer of 2013 I was a roommate with Brett Mecum. I considered Mr. Mecum a close friend, but we were not involved in any romantic relationship. I was aware that Mr. Mecum was employed as the Legislative Liaison for the Office of the Attorney General. Mr. Mecum was aware of my successful track record as a political fundraiser. I had been involved in the following campaigns fundraising: McCain 2010, Flake 2012, Quayle 2012, Montgomery 2012, and the Republican House Victory Committee 2012.

4. Mr. Mecum and I often discussed politics. Mr. Mecum was aware that in the summer of 2013 I was in need of a job. Sometime prior to August 1, 2013, Mr. Mecum recruited me to come to work with him in the Arizona Attorney General's Office. Mr. Mecum told me that Kathleen Wimm's assistant was moving to a different department and that I could "slot into" that

position. I did not know much about the official job. I met Kathleen Winn and Brett Mecum for lunch one day to discuss the job. The focus of this luncheon was all about Tom Horne's reelection campaign, and how Tom Horne, Kathleen Winn and Brett Mecum were "victimized" by the local press. They both explained to me how much help they needed on Tom Horne's reelection campaign for 2014. I do not recall learning much about the actual position and what was expected of me. I was very upfront with Ms. Winn and Mr. Mecum, even to the point of making sure they were aware of my DUI. In fact, when I sent my resume to Ms. Winn I asked that she be sure to make the HR department aware of my DUI. See email dated July 24, 2013, attached hereto as **Exhibit 1**.

5. Shortly after that meeting, the position that I had spoken to Kathleen Winn and Brett Mecum about, was posted on the Arizona Attorney General's website. Kathleen Winn told me that I had to go through the normal interview process, but that it would be pretty much a formality. I met with Kathleen Winn, who was the Director of Community Outreach in the Office of the Arizona Attorney General for my formal interview. During that conversation Ms. Winn again told me that the Tom Horne 2014 campaign would need my help.

6. On August 1, 2013, I was hired by the Office of the Arizona Attorney General as an Administrative Assistant III, within the Executive Office Division/Community Outreach Section. My base salary was \$32,000. See **Exhibit 2**, attached. Kathleen Winn was the Director of that Section, and therefore, my boss.

7. I found it very difficult to work for Ms. Winn. Early on I realized she wanted me to do campaign work *while working during official State hours*. This was not what I expected when Ms. Winn and Brett Mecum told me they needed help on Tom Horne's reelection campaign. For example, I was asked to work on a statement of Tom Horne's "17 Major Achievements"



while in office. See email dated August 13, 2013, attached hereto as **Exhibit 3**. I was told in the email by Ms. Winn that it was a “top priority” and it was needed “stat.” I received this email around 2:15 p.m. while I was at work. Anyone reviewing these records will see that for the most part, they are from private email accounts, even though they are sent during regular working hours. Ms. Winn made it very clear from the onset that any campaign related communications were to be sent only on private email accounts and private laptops, and not on the Attorney General’s email account. What Ms. Winn did not ever state or stress, is that we should not be sending such emails while at work on official State time. During the approximate month and one half that I worked with Ms. Winn I received other similar campaign communications during regular working hours. See for example, the attached email to me dated August 16, 2013, regarding Tom Horne’s “achievements” list where she let me know she thought I was moving slow by telling me “no kidding on this.” This was sent to me at 1:05 p.m. while I was on normal working hours. See email dated August 16, 2013, attached as **Exhibit 4**. It made me feel very uncomfortable that Ms. Winn was pressuring me to work on Tom Horne’s campaign during normal working hours. Because of my prior work on other election campaigns for other politicians who were campaigning for reelection, I was keenly aware of the importance of not doing campaign work while on the taxpayer dime. I later learned that this was also in violation of a memo prepared by the Office of the Solicitor General. See Solicitor General’s Office Memorandum dated September 5, 2013, and attached hereto as **Exhibit 5**.

8. Approximately, one and a half months into my hire I decided to quit working under Ms. Winn to fundraise for one of the Republican campaigns that was just getting started. There was a narrow window of opportunity at that time to join up with a campaign and if I did not take it, the opportunity would be lost.

9. I went to Tom Horne's office to let him know I would be leaving. In addition to me and Tom Horne, Art Harding was also present at that meeting in Mr. Horne's office. I told Tom Horne that I didn't like working with Kathleen Winn. I told him that it made more sense for me to be in Constituency Services and if he would agree to move me it would get me out from having to work with Ms. Winn. I specifically told Tom Horne "I think she is a hazard to your campaign." I told Tom Horne and Art Harding that on more than one occasion in the Executive Office and to more than just me, Ms. Winn would say "Tom Horne will never get rid of me; I know where all the bodies are buried." I explained to Mr. Horne that if he could not move me to Constituency Services, it would be okay. I explained that it was election campaign season and that I was getting a lot of job offers to go do fundraising and that if I was going to do it, I would have to do it right then. Tom Horne responded "We need you through next November. Okay, I will talk to Human Resources." I told Mr. Horne that I could go and make a base pay plus commissions doing fundraising well above what I was being paid to work in the Attorney General's Office. Mr. Horne responded "Okay, I'll take care of it."

10. On September 23, 2013, I was moved to Constituent Services in the Executive Office and given a raise to \$35,000 per year. See **Exhibit 6** attached. When I realized the pay raise was not consistent with what Mr. Horne led me to believe I would receive I went back and talked to him again. On October 25, 2013, I was notified that my new annual salary would be \$45,000. See **Exhibit 7** attached. I would state that on the average I spent 2 hours a day on Constituency Services, and the rest of the time was spent doing campaign work for Tom Horne's reelection. A review of my official computer browser history for my Executive Office computer and my "azag.gov" official email account will provide support for this statement.

## TOM HORNE

11. I was not alone in the Executive Office doing campaign work on government time. Between August 1, 2013, and the date of my resignation of April 22, 2014, the majority of people employed in the Executive Office of the Arizona Attorney General's Office were campaigning for Tom Horne during regular business hours. This included Tom Horne himself. By way of example, Tom Horne kept a white three ring binder on his shelf behind his desk. The spine of this white binder was deliberately mislabeled "BORDER PATROL." The contents of the binder had nothing to do with the Border Patrol. Instead, the binder contained a substantial list of donors from the 2010 campaign and the 2014 campaign with Tom Horne's handwritten notes from calls that he made to donors. The contents of this binder were solely dedicated to campaign fundraising and solicitation. I have seen Mr. Horne use the binder marked "BORDER PATROL" *daily* to make campaign solicitation calls in his office. In those instances, Mr. Horne was careful to use his private cell phone, but the calls were still made from his official office. I can specifically recall that Mr. Horne solicited donations from Ira Gaines and Donald Tapia while in his official office. I also recall being present when Mr. Horne solicited campaign money in his official office from a woman named "Layla" who was actually a Democrat from Paradise Valley. Tom Horne told me she was "Persian" and that her "husband had been indicted." When planning the invite for the fundraiser, Mr. Horne told me not to use her full name because of her husband's indictment. I will state that there were times I did see Mr. Horne make fundraising calls while not in his official office, but that does not change the fact that a substantial amount of solicitation calls were made by Tom Horne inside the Executive Office.

12. I recall a time that Tom Horne, Brett Mecum, Garrett Archer and I were in Garrett Archer's office discussing where would be the best place to host a fundraiser for Tom Horne's

reelection campaign with Ken Cuccinelli as the headliner. Tom Horne reviewed a list of possible donors that I had. Tom, Brett and I made several phone calls to possible donors as hosts. Finally Tom Horne decided that Donald Tapia's residence would be the best place to host the event, and Tom Horne placed the call from Garrett's office to Mr. Tapia, who then agreed to host the event. After Mr. Tapia agreed to host the event, Brett, Garrett and I prepared the fundraiser flyer and it was sent to most of the members of the Executive Office for review and edit. This was all done during working hours.

13. Tom Horne consistently gave my official office number to people for fundraising events. Multiple times I asked Tom Horne not to give out my office number for fundraising or campaign related purposes. I got so frustrated with him that I sent out an email to members of the Executive Staff to ask them not to give out my official office phone number during campaign events and included Tom Horne on it. See email dated March 6, 2014, and attached hereto as **Exhibit 8**. Although I sent the email to everyone, it was really meant specifically for Tom Horne who kept giving out my number to people for fundraising purposes.

14. About three months ago, someone from the Executive Office sent out a campaign email and used my official [sarah.beattie@azag.gov](mailto:sarah.beattie@azag.gov) email address. I replied all and told everyone, including Tom Horne, to delete my office email address from the email chain. Tom Horne hit "reply all" without deleting my official email address. I don't recall if I hit "reply all" or just emailed at least Tom Horne, but again I asked for my official email address to be deleted from the chain. Tom Horne came to my desk and apologized "I really messed up, didn't I?" Tom Horne then instructed me to delete the email and then stood over my shoulder to ensure that I had deleted it. I did delete the email however it should still be available on the server. I knew that

was not right and I voiced my frustrations to other members of the Executive Office staff about being pressured to delete the email.

14. On or about October 15, 2013, I was asked by Tom Horne to meet him at Molina's Fine Jewelry store at 32<sup>nd</sup> Street and Camelback in Phoenix. The purpose of this meeting was to evaluate Molina's as a possible place for a fundraiser from Tom Horne's reelection campaign. I left work in my own car and traveled to Molina's. Tom Horne and Carmen Chenal also went to Molina's. While Tom, Carmen and I were at Molina's the owner had me try on a ring that I was told was valued at \$8,000,000. Tom Horne suggested that Carmen Chenal try on the same ring. When Ms. Chenal did, Tom Horne asked me to take pictures of Ms. Chenal's hand with the ring on it. A copy of those pictures and the relevant metadata are attached to this affidavit as **Exhibit 9**. The metadata is important not just because it shows the GPS positioning and the date, but also the time which shows that I took the pictures was just shortly after noon. This is important because it reflects that we had to leave the Executive Office of the Attorney General before lunchtime to make the visit at Molina's for a campaign purpose.

15. Tom Horne routinely walked around and pulled members of the Executive staff into meetings regarding the Brnovich and Rotellini campaigns. These meetings were done during regular office hours and not on our lunch hours or breaks. Additionally, there were Calendar meetings which were intended to review and work on the Attorney General's official business. But these meetings were merged with discussion and review of Tom Horne's reelection campaign events. These meetings took place on Wednesday's at 2:00 PM in the Attorney General Executive office conference room. I was included in these meetings to verify campaign events as well as fundraisers. See for example the Calendar Committee Meeting forms distributed for use in the August 28, 2013, and October 9, 2013, meetings which clearly identify

events as “Deep blue is political.” These forms were created and distributed by Debra Scordato who is the Executive Assistant to Tom Horne. See Calendar Committee Meeting forms for August 28, 2013, and October 9, 2013, attached hereto as **Exhibit 10**. These Calendar Committee Meeting forms were distributed to members of the Executive Office staff and we discussed campaign issues along with Official issues at the meetings. Other times Ms. Scordato would send campaign calendar reminders in emails from her private email account to members of the Executive Staff on their private email accounts, but these were sent and received during regular business hours. See Email Reminders dated “Wed, Jan 22, 2014” and sent at 4:22 p.m., and “Thu, Feb 13, 2014” and sent at 4:28 p.m., attached hereto as **Exhibit 11**.

16. There were many other instances of Tom Horne campaigning during regular office hours. By way of example, attached to my affidavit are the following emails in support:

- Email exchange between Tom Horne and other members of the Executive Office staff about a proposed Robocall for the campaign dated 12/26/2013 and timed as sent by Horne at 4:26 pm, attached hereto as **Exhibit 12**.
- Email exchange between Tom Horne and other members of the Executive Office staff with an attached memo drafted by Tom Horne, and two Word documents on the “Negatives of Rotellini,” dated January 17, 2014, and timed as sent by Tom Horne at 2:33 p.m., attached hereto as **Exhibit 13**.
- Email from Tom Horne to me and Darline Garrett, with an attached memo entitled “Tom Horne’s Achievements,” dated March 28, 2014, and timed as sent at 11:34 a.m., attached hereto as **Exhibit 14**.

**MARGARET GARCIA DUGAN**

17. Margaret Dugan is the Chief of Staff for the Office of the Arizona Attorney General. Ms. Dugan is also the Campaign Manager for Tom Horne 2014, Tom Horne's reelection campaign. Ms. Dugan regularly blurred the line between those two roles while in the Executive Office. By way of example, Ms. Dugan spent regular office time meeting with Garrett Archer to ensure and review his updated campaign data that he was working on for the Tom Horne 2014 campaign. There was a time when the link to Tom Horne's Twitter account was broken, and she asked me to have Garrett Archer get it fixed.

18. Ms. Dugan would often stop by my desk to talk to me about the status of the campaign fundraisers I was working on, the status of invite flyers, Tom Horne's Twitter account, the Tom Horne 2014 Facebook page, and so forth. In addition, she would often stop by to complain that she did not feel Garrett Archer was working hard enough on the campaign data. Ms. Dugan also would also stop at my desk to tell me that she felt Brett Mecum was slacking on his campaign duties. On several occasions Tom Horne and Ms. Dugan came to my desk and specifically asked me to address their concerns over Garrett's or Brett's lack of campaign work with Garrett and Brett directly, which I did.

19. Lastly, Ms. Dugan also spent time at my desk talking about political events and fundraisers she attended with Tom Horne, or future political events she and Debra Jackson planned to attend on behalf of Tom Horne 2014.

#### **KATHLEEN WINN**

20. Kathleen Winn is the Director of Community Outreach and Education for the Office of the Arizona Attorney General. I was hired by Ms. Winn for the direct purpose that I would work on the campaign to reelect Tom Horne, while working for Community Outreach in the Executive

Office. Kathleen Winn, Brett Mecum and I talked about this arrangement at the very first luncheon before I was hired.

21. At Ms. Winn's direction I began immediately doing campaign related work. By way of example, attached to my affidavit is an email exchange between Ms. Winn and me dated "Tue, Aug 13, 2013," and exchanged between 1:20 p.m. and 2:14 p.m. See **Exhibit 15**. The email asked me to improve the list of Tom Horne's Achievements to use as "a good reference when you are out and about talking to constituents." Ms. Winn's command to me was to "help [her] make this better," and that this job was "Top priority stat." This list of talking points was circulated to nearly all members of the Executive Office multiple times for review and amendment for campaign purposes.

22. Ms. Winn was well aware of me doing campaign work while in the Executive Office and during regular working hours. By way of example, attached to my affidavit is an email I sent to Brett Mecum, Kathleen Winn, Margaret Dugan and Debra Scordato, asking everyone on the email to use their personal connections to secure campaign endorsements for Tom Horne. See email dated "Wed, Sep 11, 2013," and sent at 7:46 a.m., attached hereto as **Exhibit 16**.

23. I shortly learned that Kathleen was surrounded with controversy as well as difficult to work with in the office. While I knowingly came on to work on the campaign to reelect Tom Horne, I did not realize the severity of the accusations against Tom Horne and Kathleen Winn. Ms. Winn said to me and others in the Executive Office, that Tom Horne could never get rid of her because she knew "where all the bodies were buried." Ms. Winn was a frequent participant in the campaign discussions and activities of the Executive Office. And was frequently sending and receiving campaign related emails.



24. On April 8, 2014, I recall going to a campaign meeting at an offsite location. I saw that Kathleen Winn had driven a government vehicle to the campaign site. It was at this point I decided I would no longer be working on Tom Horne's reelection campaign. When I got back to my desk I sent Tom Horne an email and told him I would no longer be working on his campaign. See email dated April 8, 2014, attached hereto as **Exhibit 17**. Tom Horne came out to my desk and asked me to talk to him about the email in his office. I told Tom Horne that I was very uncomfortable with Kathleen Winn using a government car where the public could easily see it being used for his campaign. I told Mr. Horne that I was concerned that because of his ongoing legal problems his office may well be under surveillance. I told Mr. Horne that I was not comfortable with putting my legal wellbeing at risk anymore.

25. One last example of how much Kathleen Winn put this whole campaign at risk can be found in an email exchange dated April 4, 2014, around 3:00 p.m., between Ms. Winn and Dan McCauley, attached hereto as **Exhibit 18**. Mr. McCauley, an attorney, emailed Ms. Winn to advise her that he had reason to believe Tom Horne's office may be sued over a claim of improper distribution of [federal] foreclosure money like the Attorney General of California was. Additionally, Mr. McCauley advised Ms. Winn that he had clients who were victimized by an Arizona lawyer and a well-known local real estate developer. Mr. McCauley suggested that the conduct of these two might be a violation of the Foreign Corrupt Practices Act, and that there was still time to investigate and indict. Mr. McCauley suggested that the real estate developer had been involved "in some of the biggest land swindles in AZ," and told Ms. Winn "If you guys can get him he would be a really big fish." Whether Ms. Winn forwarded this email to the proper divisions within the Office of the Attorney General is not known to me. But what is known is that within minutes of receipt of this email, Ms. Winn forwarded it directly to "Tom

Horne for Attorney General [campaign@electtomhorne.com](mailto:campaign@electtomhorne.com).” This demonstrated to me the complete lack of a firewall between Executive Office official work and campaign work. My interpretation of Ms. Winn’s conduct in forwarding this email to the campaign was to see if “political hay” could be made with it.

### **DEBRA SCORDATO**

26. Debra Scordato is the Executive Assistant to Tom Horne in the Office of the Arizona Attorney General. Ms. Scordato is also heavily involved in the day-to-day campaigning activities to reelect Tom Horne. By way of example, please see **Exhibit 15**, attached hereto where Ms. Scordato sent an attachment of Tom Horne’s Achievements, advising us “This is a good reference when you are out talking to constituents.”

27. There were many other instances of Debra Scordato campaigning during regular office hours. By way of example, attached to my affidavit are the following emails in support:

- Email from Debra Scordato to myself, Tom Horne, Margaret Dugan, Brett Mecum and Garrett Archer, regarding a fundraiser for Tom Horne to be hosted by Bill McGibbon and Cindy Coping in Green Valley, with two attached documents dated “Tue Dec 3, 2013,” and sent by Debra at 10:04 a.m., attached hereto as **Exhibit 19**.
- Email from Debra Scordato to at least me regarding the fundraiser headlined by Ken Cuccinelli at the home of Don Tapia for the next day with attachment, dated “Wed Dec 4, 2013” sent by Debra at 12:12 p.m., and attached hereto as **Exhibit 20**.
- Email from Debra Scordato to Brett Mecum, myself and Margaret Dugan, regarding upcoming fundraising duties and upcoming campaign events reminders, dated “Wed Jan 22, 2014,” sent by Debra at 4:22 p.m., and attached hereto as **Exhibit 21**.

- Email from Debra Scordato to Margaret Dugan, Stephanie Grisham, myself, Garrett Archer, Brett Mecum, Kathleen Winn and Tom Horne, regarding campaign “To Do’s” and reminders, dated “Thu Feb, 13, 2014,” sent at 4:28 p.m., and attached hereto as **Exhibit 22**.
- Email from Debra Scordato to Brett Mecum, Debra Scordato, Garrett Archer, Larry Weitzner, Margaret Dugan, Mila Makal, myself, Stephanie Grisham, and Tom Horne, regarding Core Campaign Meeting with attached minutes of meeting, dated “Fri Mar 28, 2014,” sent at 11:50 a.m., and attached hereto as **Exhibit 23**.
- Email from Debra Scordato to at least me, regarding Core Campaign Meeting with attached minutes of meeting, dated “Tue, Apr 1, 2014,” sent at 2:54 p.m., and attached hereto as **Exhibit 24**.

#### **BRETT MECUM**

28. Brett Mecum is the Legislative Liaison for the Office of the Arizona Attorney General. Brett Mecum, as I stated above, first approached me about working in the Attorney General’s office. Mr. Mecum wanted me and Garrett Archer to work on Tom Horne’s campaign and he referred to Mr. Archer and me as “the Dream Team” for our campaigning skills. I personally saw, and worked with, Mr. Mecum doing political campaign work to reelect Tom Horne while on official State time.

29. Brett and I worked together designing and developing the fundraiser flyers that are attached to my affidavit. These flyers were sent back and forth using our private email accounts but while on official State time.

30. There were many other instances of Brett Mecum campaigning during regular office hours. By way of example, attached to my affidavit are the following emails in support:

- Email from Brett Mecum to Carmen Chenal and me, about a fundraiser for the Tom Horne reelection campaign to be held at the Scottsdale Airpark, dated “Wed, Aug 28, 2013,” and sent at 12:56 pm, attached hereto as **Exhibit 25**. The issue here is not necessarily the time of day that it was sent, but the metadata shown in Exhibit 25 reflects that Mr. Mecum spent **1222 Minutes** over a two day period editing just the fundraiser flyer.
- Email exchange between Brett Mecum, Carmen Chenal and me, about biscotti bags, bumper stickers and fundraising, dated “Thu, Sep 5, 2013,” and sent between 9:53 a.m., and 4:53 p.m., attached hereto as **Exhibit 26**.
- Email from Brett Mecum to Tom Horne, himself, and me, regarding a fundraiser hosted by the Lindners, dated “Tue, Oct 1, 2013” and sent at 10:01 a.m., attached hereto as **Exhibit 27**.
- Email from Brett Mecum to Tom Horne, Stephanie Grisham, Art Harding, Adria Martinez, Garrett Archer, Margaret Dugan, me, Kathleen Winn, Larry Weitzner , and, Debra Scordato, regarding a recording of Mark Brnovich’s talk at the Arizona Project the day before, dated “Tue, Oct 8, 2013” and sent at 10:41 a.m., attached hereto as **Exhibit 28**.
- Flyer drafted by Brett Mecum, and sent by Garrett Archer to Margaret Dugan, Brett and me, regarding the Cuccinelli fundraiser with an attached flyer for the fundraiser, dated “Tue, Dec 3, 2013,” and sent at 10:07 a.m., and attached hereto as **Exhibit 29**.

#### **GARRETT ARCHER**

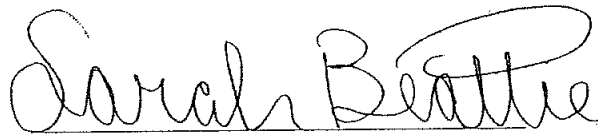
31. Garrett Archer is the State & Federal Relations/Policy Analyst for the Office of the Arizona Attorney General. Mr. Archer is a self-described political data guru who owns his own

political consulting group. Mr. Archer was the other part of Mr. Mecum's "dream team." Mr. Archer did much of the database work for the campaign to reelect Tom Horne. I believe a review of his computer will demonstrate that a substantial portion of his time was devoted to Tom Horne's campaign, done on official State time. Brett Mecum and I would often meet in Garrett Archer's office during regular office hours to discuss donor lists, voter ID lists, voter information and other campaign related matters.

32. By way of example, attached to my affidavit is an email from Mr. Archer to me and Tom Horne, regarding an internal donor solicitation list to be used for the upcoming Cuccinelli fundraiser, dated "Thu, Nov 21, 2013," and sent at 11:40 AM, attached hereto as **Exhibit 30**. Mr. Archer relates in this email: "I will add another 420 prospects in a little bit. There are three tabs, 1 for max contributors, 1 for high dollar contributors and 1 for prospective low dollar contributors."

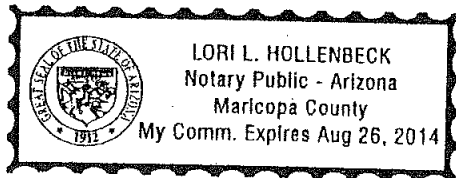
I swear that the above and foregoing is true and correct to the best of my knowledge.

Dated this 9<sup>th</sup> day of May, 2014.



Sarah Beattie

Notary Public



# EXHIBIT B

June 2, 2014

Ms. Sara A. Larsen  
Campaign Finance Manager  
Citizens Clean Elections Commission  
1616 West Adams, #110  
Phoenix, AZ 85007

14 JUN 2 PM 2:04 CCEC

Dear Ms. Larsen:

Enclosed is a response to the Sarah Beattie complaint with witness statements and other exhibits. It is our position that the Clean Elections Commission lacks jurisdiction because there is no clean elections candidate in the race, and request that the complaint be dismissed on that basis. Without waiving that position, in the alternative, we respond on the merits as follows and in the attached Response.

This letter will provide answers to your specific questions:

1. You requested a definition of "significant campaign work". This office has a certain amount of water cooler talk like any Governmental office, but when significant discussion or work needed to be done, that was held off-site. A statement by the executive director of an organization where offsite meetings were held, confirms that there were numerous such meetings there.

2. Salaries:

Sarah Beattie, \$45,000  
Margaret Dugan, \$125,547  
Brett Mecum, \$70,000  
Debra Scordato, \$68,250  
Kathleen Winn, \$103,040  
Garrett Archer, \$60,000

You ask how many hours each individual performed campaign work compensated by the A.G. office. We divide the answer into two parts:

(1) Individuals other than Beattie:

No one spent time on campaign work for which he or she was compensated by the Attorney General's Office. Everyone submitted time sheets showing 40 hours of work per week, or if they took time off for campaign work, taking annual leave for this purpose. Every time sheet submittal includes a specific acknowledgement that misrepresentation of time can be subject to discipline or prosecution.

(2) Beattie:

Beattie now states that she worked only two hours a day. Her supervisor says this is not possible given the quantity of work she did responding to constituent inquiries, legislative work, working on the Peace officers Memorial event, and other tasks to which she was assigned. If she did work less than the hours she represented on her timesheets, this was contrary to the specific and repeated admonishments of Chief of staff, Margaret Dugan, who repeatedly told her she could not leave for campaign work or events, other than lunch time, until she had completed her 8 hours of State work. At an offsite meeting, she had a crying fit over Margaret watching her time in that way, witnessed by five people being myself, so all remember it. She also sent a co-worker a text message that said: "It's BS Margaret checks in on my hours all the time." There is more detail on this in the Response.

3. No state resources were used. The only exception was that Kathleen Winn drove a State vehicle to an off-site meeting, about 3 blocks, and was reprimanded and paid \$10 to the State. Individuals are entitled to attend to personal business on their own time, outside of their 40 hours, using personal laptops or cell phones. The relevant policies are quoted in the Response. To my knowledge, no state computers, phones, or other resources were used. (If there are exceptions, they are isolated errors.)
4. Same as answer to 3.

This answers your questions. A full response to the allegations by Ms. Beattie is enclosed.

Sincerely,

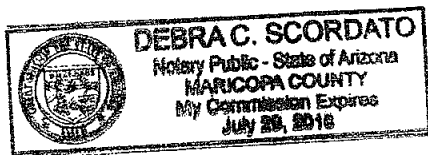
*Tom Horne*

Tom Horne

Enclosure

*June 2, 2014*

*Debra C. Scordato*





June 11, 2014

The Honorable Ken Bennett  
Arizona Secretary of State  
1700 West Washington Street  
Phoenix, AZ 85007


Ms. Sara A. Larsen  
Campaign Finance Manager  
Citizens Clean Elections Commission  
1616 West Adams, #110  
Phoenix, AZ 85007

Dear Ms. Larsen and The Honorable Ken Bennett:

Re: Corrected Response to Beattie Complaint

Please substitute the attached corrected Response for the one previously filed. The words are the same but typographical errors have been corrected.

Thank you.



Tom Horne

Attachment

14 JUN 12 PM 4:40 CCEC

• RESPONSE TO ALLEGATIONS BY BEATTIE

I. This is a False Claim by Someone With a History of Making False Claims

This Response is supported by 11 witness statements, attached as exhibits 5-15.

The Attorney General's Office takes seriously the obligation to make sure that all employees work 40 hours per week on state work, or that if they don't, their pay is reduced accordingly. This was enforced with appropriate strictness by AG Supervisors, about which Beattie complained frequently and emotionally. It was also documented by certified time sheets submitted by employees every two weeks, showing that they either worked 40 hours per week on state business, or their pay was docked if they did not.

Employees also have a First Amendment right to volunteer for political campaigns if they choose. All significant campaign work, including meetings, has been done at an off-site location, at lunch time or after work. The attached statement of Steve Trussell, exhibit 5, confirms that campaign meetings were conducted at his off-site office location, many times, at lunch time or after work. The word "significant" is used because the Attorney General's Executive Office has a certain amount of water cooler talk like any governmental office, but, when significant discussion or work needed to be done, that was held off-site. If the Attorney General's Office were treated as a campaign headquarters, as Beattie absurdly claims (New Times, 5/14), there would have been no reason for these numerous off-site meetings.

This case reflects a "turning of the tables" by an hourly employee, who had repeatedly and emotionally complained that her hours were "watched like a hawk" to be sure she put in 8 hours a day of legitimate state work before she could do any volunteer political work. In one instance, at an off-site campaign meeting, she had a crying fit, complaining that her time was being "watched", so that she did not do campaign work on state time. This is confirmed in the attached statements of Tom Home, Margaret Dugan, Vanessa Martin, Mila Makal, and Art Harding (exhibits 6-10), all of whom witnessed it.

For example, in exhibit 6, Mila Makal states:

"During a brief off site lunch campaign meeting, I witnessed a campaign volunteer Sarah Beattie complaining that she is expected to work the full 8 hour day in addition to her campaign work. She was upset and emotional that she never had an opportunity to leave early when she worked on the campaign related assignments after hours. Margaret Dugan told her that we ALL

have to work at least 8 hours a day and then volunteer our time for the campaign afterwards and that the campaign work is optional." Similar statements are found by four other witnesses, in exhibits 7-10. Beattie herself confirms this in a text message she sent a co-worker: "It's BS Margaret checks in on my hours all the time."

Now, Beattie seeks to turn the tables by alleging that the AG's Office permitted what it in fact prohibited.

In her short work history (Beattie is 26) she has a habit of turning on employers when she leaves. The following are statements on the record from prior employers who have no connection whatsoever with the current Horne campaign:

Mike Hellon: "Sarah Beattie left the McCain campaign on bad terms. She made a claim for overtime. Although no one in the campaign thought there was any merit to the claim, a political decision was made to pay it to avoid any political embarrassment."

Kevin Demenna (lobbyist who had employed Beattie): "When Sarah Beattie left my employment, I was told by a number of people that she claimed I had pushed my religion on her. That was never the case."

Hellon repeated what happened when Beattie left the McCain campaign in a statement to the Capital times (5/8/14): "Mike Hellon, who worked with Beattie on U.S. Sen. John McCain's 2010 reelection campaign, said Beattie threatened to sue the campaign over what she claimed was unpaid overtime pay. 'The campaign looked at it and basically said this is nonsense. There's no merit to it at all. But there was a political decision made to go ahead and settle with her financially,' said Hellon, who served as McCain's deputy campaign manager."

The same article quotes Beattie as effectively calling Hellon a liar: "She also denied ever threatening to sue the McCain campaign and said she never had any salary-related disputes with the campaign."

So, to believe that Beattie is a truth teller, one has to not only believe that five co-workers are liars, but also that the former Deputy Director of the McCain campaign is a liar, in a situation where he has no motive one way or another. It is more probable that Beattie is the fabricator, than that all of those other people are liars.

Further evidence of Beattie's dishonesty is her failure to disclose on her employment application her prior employment as a stripper at a strip club known as Sugar 44, previously known as Bombshells.

In an interview in the New Times dated May 8, 2014, Beattie is quoted as follows: "She admits to having a DUI on her record, to having done cocaine when she was younger, and to having once worked as a stripper." Had she disclosed that, she would not have been employed.

The DUI was disclosed and by itself was not a bar to employment. The history of cocaine abuse and employment as a stripper would have been. Certainly, leaving the strip club out of the list of prior employers was an act of dishonesty.

Beattie was moonlighting as a paid consultant for other public officials. She was obligated to disclose this from the beginning, but did not do so, except retroactively, or not at all.

## II. Beattie's claims about her time expenditures.

The policies referred to here were all inherited from the Goddard Administration and prior administrations.

Other than the Attorney General, every AG employee submits bi-weekly timesheets, which are entered on the state computer. These timesheets contain a certification which must be acknowledged by the employee, each time he or she submits a timesheet, by clicking the word "accept". A copy of this certification is attached as Exhibit 1. It provides, in part: "I hereby certify that the attendance reported for the pay period is correct and that I have performed the services reported on the days indicated and for the, number of hours shown....I understand any falsification on my time sheet may subject me to disciplinary action and/or legal prosecution. Accept Decline." (Emphasis added.) The employee must click "Accept" to submit time for each 2 week period.

Beattie's affidavit (par. 10) alleges she worked only two hours a day. Beattie's supervisor indicates that the claim she worked only two hours a day is not credible, based on the quantity of work she did in responding to constituent inquiries, doing legislative work, working on the Police Officers Memorial Board, etc.. (Ex. 10, par. 4.) But if Beattie was in fact working only two hours a day and being paid for 8, as her claim alleges, then she acknowledged every

time she submitted her timesheet that she was submitting false information that could subject her to legal prosecution.

Beattie always represented that any time she put in volunteering was in addition to her eight hours working for the state. For example, in a text dated Jan. 27, 2014, she stated "I can come "in 7-3 every day." This was a representation that she would first put in her 8 hours for the state and then be available to volunteer at 3:00.

Beattie's work as a volunteer in the Home campaign involved accompanying him in the late afternoon (after she put in her 8 hours of work) to the off-site location to take notes while he made fundraising phone calls; talking with the hosts for some fundraising events; and arriving early at those events to set up, etc. The idea that she would spend six hours a day, every day, doing these few things, during work hours, is patently absurd. Furthermore, the idea that Beattie falsified her hours to such a huge extent is contradicted by the fact that there were a number of weeks where she put in her timesheets that she worked less than 40 hours, and her pay was docked accordingly. Exhibit 2 contains copies of the some of the records, with references to illness being redacted due to Federal Law. These show numerous instances of her pay being docked for her not working 40 hours on state business.

Codes 640 and 641 indicate leave without pay. Each week shows a total adding up to 40 hours, because the total includes leave without pay. By looking at the codes, one can determine for how many hours Beattie was docked pay because she did not work a full 40 hours that week, and how many hours she was paid for. The following table gives examples of weeks for which she was docked pay because she wrote down less than 40 hours of work for the week:

WeekEnding	Number of hours for which pay was docked because Beattie claimed less than 40 hours	Number of hours paid for
8/9/2013	6 - leave without pay	34
8/15/2013	6 - leave without pay	34
9/13/2013	10 - leave without pay	29.5
9/20/2013	18 - leave without pay	22
1/24/2014	3 - leave without pay	37
1/31/2014	2 - leave without pay	38
2/7/2014	1 - leave without pay	39
2/21/2014	4 - leave without pay	36
2/28/2014	4 - leave without pay	36
3/21/2014	8 - leave without pay	32
3/28/2014	4 - leave without pay	36

4/4/2014	1 - leave without pay	39
4/11/2014	8 - leave without pay	32
4/25/2014	18.8 -leave without pay	21.2

II. All other Executive Office employees documented that they worked at least 8 hours a day on legitimate state time, or took annual leave when time was required for volunteering for the campaign.

The office has two classifications of employees: hourly employees, (also known as "non-exempt") employees, and salaried ("exempt") employees. Hourly employees are entitled to time and a half overtime for the hours they work in excess of 40 hours. Salaried exempt employees are not entitled to overtime. They are correspondingly entitled to more flexibility on their time.

The law provides as follows:

Being paid on a "salary basis" means an employee regularly received a predetermined amount which cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked. [http://www.dol.gov/whdlovertime/fsl7g\\_salary.pdf](http://www.dol.gov/whdlovertime/fsl7g_salary.pdf)

Notwithstanding this language, salaried employees in the Executive Office worked at least 40 hours a week on state work, or took annual leave if they worked less. They documented this on the timesheets referred to earlier, that they worked 40 hours, or where necessary, took annual leave for the time where they chose to take time off to go to a campaign event. (See attached Dugan statement, ex. 8, paragraph 1, where she indicates taking annual leave for campaign trips to Sedona and Verde Valley, and to make telephone calls at home for the Cuccinelli fundraiser.)

All of the employees in the Executive Office, other than Beattie, were salaried exempt employees. Beattie, who was classified on a much lower level than the others, was a salaried non-exempt employee (and would have been the only one entitled to time and half overtime for any hours worked over 40 hours). Although the salaried employees worked 40 hours a week and documented that they did so, (or took annual leave), they had somewhat more flexibility in their time. A salaried employee can work 10 hours one day, and 6 hours the next day (leaving early), whereas an hourly employee had to work 8 hours each day, with the only break time being 15 minutes in the morning and afternoon, and one hour for lunch. This undoubtedly

produced resentment on Beattie's part, who appears to not have understood the differences in the two classifications of employees.

Contrary to the general impression created by Beattie's claim, a close reading of it reveals that nowhere does she ever allege that any employee, other than herself, submitted a false timesheet, or worked less than 40 hours in any week for which that employee was paid for 40 hours. Certainly, management was entitled to rely on these certified time sheets. This brings us to the question of what employees are permitted to do on their own time.

A.R.S. § 41-752(C)(6), and the AG Policies, provide that State employees may, off duty and not at public expense, "engage in activities to advocate the election or defeat of any candidate."

Exhibit 3 is an excerpt from AGG Policy and Procedure Number ISS-1.

Paragraph IV provides that limited personal use of the State internet and email equipment for personal reasons is permissible.

IV A provides: "Users may use the Internet and email for personal reasons during personal time (i.e., before or after a user's scheduled work hours or during a break) and shall limit such incidental use to a reasonable duration".

Paragraph IV G provides that the state email cannot be used for political activities. State email was not used for that purpose, and there is no allegation that they did. (If there are exceptions, they are isolated errors.) The point is that before and after scheduled work hours or during breaks, it is understood that employees will be tending to personal business. The only distinction between personal business and political activity is the prohibition to using the state email for political purposes; there is no prohibition to doing something political on one's own time, as long as the state email is not used. As with all personal activity, it must be "reasonable duration" and, obviously, outside the 40 hours of regular work.

If individual staffers took personal time outside of their 8 hours to review or write emails on their personal laptops or cell phones, or make personal phone calls on their cell phones, there is nothing illegal or unseemly about that. Of the 21 exhibits to Beattie's affidavit, 9 are emails written during personal breaks, as opposed to lunch time or after work, depending on an individual's schedule. Those 9 are exhibits 4, 14, 15, 18, 24, 27, 28, 29 and 30. (As to the fact that they were done during breaks, See, e.g., statement of Scordato, ex. 11.) Not one of these emails is lengthy, and none of them could have taken more than five minutes to prepare. For an

accusation made against five employees, this is an average of 1.8 emails per employee per half year, written during a break. That is not an excessive number.

V. Theft by Beattie and Ryan

Horne had a personal notebook of past contributors (there were 1,900 in the 2010 election): The notebook contained contact information for each contributor, the date and amount of prior contributions, and Horne's personal notes about conversations with them, which were his personal, intellectual property. The notebook was kept in his AG Office, but only used for systematic calls for further contributions at the offsite location. The attached statement of Steve Trussell (ex. 5) confirms that Horne frequently went to the offsite location to make those calls.

There was a time period when a Court decision reduced the maximum contribution from \$4000 per person for both the Primary and General Elections, to \$912 per person. It was overruled, reinstating the \$4,000 limit. Beattie wanted to call the \$912 contributors from the offsite location, and suggest they increase their contributions. She was allowed to take the notebook for that purpose, with the expectation that she would return it. According to Beattie, no one returned her calls.

In an interview dated May 8, 2014, with The New Times, Beattie relates the following incident relating to the notebook:

"I had forgotten that I had it, and the office had fallen into a state of panic, afraid that it had fallen into the wrong hands. I think I blamed someone else for losing it. I found it in my car a few weeks later, and I just continued to blame someone else."

In the same New Times article, Ryan poses for a picture with the notebook, displaying it as a kind of trophy to politically embarrass Horne.

This constitutes theft of tangible and intellectual property by both Beattie and Ryan.

In addition, both Beattie and Ryan have disclosed to the news media confidential intellectual property of the campaign, such as minutes of meetings that discuss strength and weaknesses of the campaign and its intended actions in the future. This was for the purpose of politically embarrassing Horne, and of giving significant advantages to Horne's political opponents.

This constitutes theft and expropriation of intellectual property by both Beattie and Ryan.



The theft of the notebook occurred in January, or possibly February. This was four months before Beattie quit the campaign and her job. This means that for at least four months, or possibly longer, Beattie was acting on behalf of Home's political adversaries, while planted in the Executive Office of the Attorney General's Office. The degree of deception is highlighted by text messages Beattie sent to Home such as the following:

Beattie to TH: "I'll be by your side until you don't want me to."

Beattie to TH: "Thank you for everything. "You make me feel valued and my energy is 100% focused on your wellbeing."

#### VI. Beattie Blatantly Violated the terms of Her Own Attorney's Commitment to Preserve Records

Beattie blatantly violated the terms of her own attorney's "litigation hold" demand for preservation of records. Such a letter has to have a reciprocal commitment, and Ryan's dated May 5, 2014, stated, as it was required to do: "Please be advised that I have instructed my client to similarly preserve all relevant data that resides upon any electronic media within my clients possession or control." They have blatantly violated this commitment. Beattie was extremely active on facebook and twitter, and that has all been scraped from the internet, for which the only possible motive would be that if her twitter and facebook entries were available, they would further undermine her credibility.

Attached as Exhibit 4 is a report from a researcher. On page 2 of the report there is a reference to two videos that she maintained on "Vimeo", an alternate to YouTube. Those videos were available on May 8, when they were archived by the researcher, AND THEN WERE DELETED, SEVERAL DAYS AFTER RYAN'S RECIPROCAL COMMITMENT of May 5. THIS WAS A BLATANT VIOLATION OF RYAN'S COMMITMENT. The reader is urged to view the first Vimeo, which, because it was captured by the researcher on May 8, is available at <https://w.dropbox.com/s/sec4j0h0mxdu8t7/Sarah%2BBeattie%2B623%2B217%2B9337-SD.mp4>. This will further undermine her credibility.

#### VII. 1222 Minutes

On page 14 of her affidavit, Beattie alleges that Brett Mecum spent 1222 minutes editing a fundraiser flyer. Mecum could normally edit a fundraiser flyer in a few minutes. 1222 minutes is over 20 hours. Metadata showing 1222 minutes would indicate that he left his computer on overnight. 20 hours editing a flyer is absurd on its face, and the fact that this accusation was made reflects on the credibility of Beattie and Ryan.

VIII. Garrett Archer

With respect to Garrett Archer, like everyone else, he knew that any volunteer campaign work he did had to be done at lunch time or after hours, and did not count in his 8 hours a day as a salaried employee. The main task that Garrett agreed to do as a campaign volunteer was to re-do the campaign web site. After many months went by, and this was not done, Garrett said he could not find the time after work to do this task. Home told him that he would therefore have someone else do it, and arranged for someone who is not an employee of the Government to take over this task. (Ex. 10, par. 11.) Archer confirms this conversation. (Ex. 13.)

IX. Campaign Not Run Out of AG Office

It has been noted that Beattie's claim that the campaign was run out of the AG office is false, because if that were true, there would be no reason for the numerous off-site meetings confirmed by an independent witness in exhibit 5.

In addition, most of the elements of the campaign had not yet started, and the significant activities up to that point were:

*\*Petition signatures:* This is done at events in evenings and weekends. There is no way to obtain signatures during work hours.

*\*Emails:* The Horne campaign paid outside firms \$2500 per month to do these.

*\*Fundraising:* This was done by Tom Home who had no help from anyone except Beattie who volunteered to do that. Brett Mecum also did a few isolated tasks and was careful to do them only at lunch or after work.

In addition, Beattie exhibit 23, confidential minutes of a campaign meeting, reflects frustration with tasks not being performed (particularly point 2, and references to time lines). If

people were working on the campaign during working hours, this would not have been the case: the work would have been done. It is precisely because the volunteers could not work on the campaign during their 8 working hours that so little was done.

The previously described incident with Garrett Archer is an example. He knew he could not work on the website during working hours, and could not find the time after hours, so it did not get done, and was reassigned to another volunteer.

#### X. Dan McCauley

Beattie alleges that an official communication to the AG office from Dan McCauley was forwarded to the campaign for campaign purposes. This is false. When the communication arrived it was forwarded to Horne so he would be aware of the AG issues raised, but accidentally sent to an archaic address which Horne never used. He recently tried to access it and was unable to. McCauley was never contacted for political purposes

#### XL Bistrow Statement

Exhibit 12 is the statement of Chief Deputy Rick Bistrow. His office is in the middle of the executive offices and he interacts all of the time with the people accused in the Beattie claim.

He states:

During my nearly 3 1/2 years at the job, I have never noticed systemic campaign activities conducted in the environs of the EXO or at any other location at the offices of the Attorney General. Though someone might, in passing, refer to how well the campaign was doing, or mention they were going to a meeting after work, and similar comments, these were insignificant comments of extremely short duration and could not be deemed to be purposeful campaign activity.

He also states that he walks in unannounced to the offices of four of the six people accused (the exceptions being Archer, with whom he had less contact, and Winn, who is on a different floor):

I walk in unannounced to these offices many times in any given week and I have never observed any of these individuals conducting campaign activities on behalf of the re-election efforts of Tom Home.

### XIII. Linda Migliore

Exhibit14 is an email from Linda Migliore, President of the Pebble Creek Republican Club, to Margaret Dugan. She states that she read about the AG staff being accused of using governmental time to do campaigning and wanted to relate her experience to the contrary. E mails from Dugan come early in the morning, and one at lunch, and phone calls in the evening: "On several occasions, you apologized for not getting back to me sooner, reminding me that you could not respond during business hours.... You were very professional and never as they say 'used company time' or resources ...."

### IX. Other Allegations

Those allegations in the Beattie affidavit that have not been covered in this response are covered in the attached statements, in order that this response not be unnecessarily long.

### X. Conclusion

All employees of the Executive Office of The Attorney General's Office worked on official business for 40 hours a week, or took annual leave when they chose to take time off for campaign activities. The statement of Trussell (ex. 5) establishes that numerous meetings were held at lunch and after work at his offsite location, which would have been entirely unnecessary if Beattie's absurd claim that The Attorney General's Office was a campaign headquarters were true.

It is therefore respectfully requested that the complaint be dismissed.

Respectfully submitted this 2<sup>nd</sup> day of June, 2014.