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10 **OFFICE OF MARICOPA COUNTY ATTORNEY**
11 **CAMPAIGN FINANCE PROCEEDING**

12 13 In The Matter Of, 14 TOM HORNE, Tom Horne for Attorney General Committee (SOS Filer ID 2010 00003); KATHLEEN WINN, Business 15 Leaders for Arizona (SOS Filer ID 2010 00375)	CF2012-0001 ORDER REQUIRING COMPLIANCE
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17 The political committee, Business Leaders for Arizona, filed a statement of
18 organization with the Secretary of State as an independent expenditure committee in the
19 2010 election cycle. As set forth below, Tom Horne as a candidate for Arizona Attorney
20 General in the 2010 election coordinated with Kathleen Winn, a Tom Horne campaign
21 volunteer, to raise and spend money through the Business Leaders for Arizona political
22

1 committee to advocate the defeat of Horne’s opponent in violation of A.R.S. §§ 16-901, -
2 903, -905, -913, -915, -917, and -924.

3 **FACTUAL BACKGROUND**

4 **I. Formation of Business Leaders for Arizona – A Purported Independent**
5 **Expenditure Political Committee.**

6 On December 23, 2009, Kathleen Winn filed a Statement of Organization with
7 the Arizona Secretary of State’s Office to form Business Leaders for Arizona (hereafter
8 referred to as the “BLA”), an independent expenditure political committee. Exhibit 1.
9 Kathleen Winn signed the Statement of Organization as BLA’s Chairman and George
10 Wilkinson signed as the Treasurer.¹ *Id.* On July 1, 2010, the Secretary of State’s Office
11 sent Kathleen Winn and George Wilkinson two separate e-mails confirming receipt of
12 the “January 31st Report” and “June 30th Report” campaign finance reports. Exhibit 2.
13 On August 16, 2010, Kathleen Winn sent an e-mail to the Secretary of State’s Office
14 explaining that BLA’s “Pre-Primary Election Report” was late because she had been
15 out of town. Exhibit 3.

16 Meanwhile, Winn was actively involved in the Horne candidate campaign prior
17 to and through the 2010 Primary Election, as confirmed in Winn’s March 30, 2012
18 Affidavit. Exhibit 4. Winn stated, “I became involved with the Attorney General Tom
19 Horne’s campaign against former Maricopa County Attorney Andrew Thomas early in
20 2010. . . . During a few weeks following the primary, I remained active in Mr. Horne’s

21 _____
22 ¹ The e-mail for the BLA committee was kathleen.winn@onqfinancial.com. However,
in her capacity as Chairman of BLA Winn also used the kwinn@amerifirst.us and
winn58@gmail.com to send and receive e-mails.

1 campaign and was frequently at campaign headquarters.” *Id.* at ¶ 2. Winn explained in
2 her Affidavit that her role in the Primary Election campaign was as the “out of county
3 coordinator for all 14 counties with the exception of Maricopa County.” *Id.* at ¶ 5.

4 Arizona’s Primary Election was held August 24, 2010. The race between Tom
5 Horne and Andrew Thomas for the Republican nomination for Attorney General was
6 very close. But on September 1, 2010, Thomas conceded the race to Horne, and the
7 official canvass of results was certified on September 7, 2010.²

8 **II. Winn’s Involvement in the Horne Campaign Continued After the Primary
9 Election.**

10 Winn continued her involvement in the Horne campaign after the Primary
11 Election. E-mail correspondence gathered pursuant to this investigation, attached as
12 Exhibit 5, shows that Winn was a key player in Horne’s campaign.

- 13 • September 5, 2010: Horne, Winn and other campaign workers receive an e-mail
14 regarding a brainstorming meeting held the prior Wednesday and discuss the
15 recommended wording for a campaign message.
- 16 • September 13, 2010: Horne’s campaign consultant from Jamestown Associates
17 sends an e-mail with the subject line “Rotellini inexperience” to Horne, Horne’s
18 campaign e-mail address, and Chuck Johnson, an agent of Horne’s campaign in
19 charge of research and phone banking. Johnson forwards the e-mail to Winn who
20 responds “Larry is right we have to paint her with the Obama brush”.
- 21 • September 20, 2010: Carmen Chenal and Chuck Johnson exchange e-mail with
22 only a few people, including Horne and Winn, in preparation for a meeting the
next day and to “share research ideas.”
- September 22, 2010: Winn replies to an e-mail sent by Johnson to Horne and
many other key campaign workers stating “We need to refocus back to our
platform and why we are the best candidate.”

² <http://www.azcentral.com/news/articles/2010/08/31/20100831arizona-AG-race-thomas-concedes-to-horne.html>.

- 1 • September 26, 2010: Johnson sends out a reminder to campaign volunteers
2 regarding a research team meeting the next day, Monday night, at the campaign
3 headquarters. Winn responds to Johnson “see you there”.
- 4 • September 26, 2010: Winn contacts Deborrah Miller, who kept Horne’s
5 campaign calendar, regarding “next Saturday” and asks Miller, “What is Tom’s
6 complete schedule for next Saturday[?]”. Miller responds, and Winn then asks
7 “Where is the Goldman fundraiser[?]”
- 8 • September 26-27, 2010: Michael Vargas, Horne’s campaign manager, sends out
9 Horne’s campaign calendar and asks for volunteers to attend the event with
10 Horne “to hand out literature for Tom and handle logisitics.” Winn responds, “I
11 can do Saturday October 9, 2010 all day”.
- 12 • September 28, 2010: Miller, Vargas, Winn and Russ Jones exchange e-mail
13 regarding Russ Jones campaigning for Horne at one event in Yuma and two
14 future events. Winn asks whether Vargas and Miller want her to attend the
15 Saturday event. Winn then sends an e-mail to Vargas stating, “I sent information
16 out on Monday regarding Tom to Mr. Clark. I was going to bring several signs to
17 Yuma also on Saturday. I am thrilled Mr. Jones can speak about Tom.”
- 18 • September 30, 2010: Winn sends an e-mail to Horne, Vargas, Johnson and two
19 other campaign insiders, Carmen Chenal and Tim LaSota, asking “What are we
20 doing with this and are we straying from our message[?]”. The discussion
21 appears to be related to a case that Rotellini had worked on, Mortgages Ltd.
22 Johnson responds to Winn’s e-mail, with a copy sent to Horne, stating, “Tom
 should only mention that Felicia is a liar w/ a weak resume when she attacks
 him.”
- October 1, 2010: Chenal sends out a news story to Kim Owens, another
 campaign insider, and copies Winn, Horne and other volunteers in the Horne
 campaign on the e-mail. Owens replies to all recipients with a link to an article
 in the *Tuscon Citizen*. LaSota also replies to all e-mail recipients, including
 Horne and Winn, with a link to an *Arizona Republic* article and comments on
 Rotellini’s resume.
- October 4, 2010: Winn sends an e-mail to Vargas, Miller and Russ Jones after an
 October 2, 2010 campaign event in Yuma stating, “I think this went well and
 Tom’s message was well received.”
- October 7, 2010: Johnson forwards an *Arizona Republic* article to Horne, Winn,
 and other campaign insiders regarding Rotellini’s resume and a comment he
 posted on azcentral.com in response to the article.

- 1 • October 9, 2010: Michael Vargas sends an e-mail to Gail Jackson, a Horne
2 campaign volunteer, stating “Five people have RSVP’d for tonight’s event:
3 Kathleen, Mike C., Wendy, Chuck, and Chuck’s wife.” Vargas then forwards
4 Jackson’s response to Winn and others explaining “All you need to do is show
5 up at the event. Tell them you are with Tom’s table.”
- 6 • October 9, 2010: Vargas sends an e-mail to Horne and the inner group of
7 campaign workers regarding Horne attending the oral argument on SB1070 in
8 San Francisco, which states: “TIM’S IDEA FOR TOM TO GO TO SAN
9 FRANCISCO IS GREAT. MARK ANDERSON, KIM OWEN, TOM CHENAL,
10 NOT TO MENTION CHUCK AND KATHLEEN, JIM WEARING AND
11 OTHERS THINK IT’S A MUST.”
- 12 • October 11, 2010: Another e-mail exchange between the Horne campaign staff
13 and Winn discussing campaign messages.
- 14 • October 17, 2010: In response to an e-mail Johnson sends regarding an *Arizona*
15 *Republic* article, Winn sends an e-mail to Chenal stating “tell Chuck no more e-
16 mails as much as I love them until November 3rd.”

11 **III. Winn Starts to Raise and Spend Money Through the BLA Committee, 12 While Maintaining Constant Contact With Horne and his Campaign.**

13 In addition to maintaining a key role in the Horne campaign after the Primary
14 Election, Winn continued to operate, and file campaign finance reports for, the
15 purported independent expenditure committee, BLA. On October 1, 2010, the
16 Secretary of State’s Office confirmed with Winn and George Wilkinson that the “Post-
17 Primary Election Report” was received. Exhibit 6. On December 6, 2010, Winn on
18 behalf of BLA filed an Amended Post-General Election Report (the “Report”)
19 reflecting the committee’s activity from October 14, 2010 through November 22, 2010.
20 Exhibit 7.

21 The Report lists seven individual and three business contributors whose
22 contributions made between October 20, 2010 and October 29, 2010 totaled
\$512,500.00. *Id.* The largest contribution₅ to BLA came from the Republican State

1 Leadership Committee (hereafter referred to as “RSLC”) on October 22, 2010 for
2 \$350,000. *Id.* The Report shows that the BLA contributions were used to pay the
3 Lincoln Strategy Group in Tempe, Arizona (hereafter referred to as “LSG”) for
4 television advertisements opposing Felicia Rotellini for Attorney General. Brian
5 Murray, formerly of Lincoln Strategy Group, confirmed that he was hired by Kathleen
6 Winn to create television advertisements opposing Felicia Rotellini for Attorney
7 General in 2010.

8 On or about October 20, 2010, Brian Murray and Winn start corresponding
9 regularly. On October 20, 2010, at 10:21 a.m., Murray sent the Rotellini commercial
10 and script to Winn. Exhibit 8. Murray sent another e-mail to Winn at 2:24 p.m. on
11 October 20, 2010. Exhibit 9.

12 **From:** Brian Murray [mailto:bmurray@lincoln-strategy.com]
13 **Sent:** Wednesday, October 20, 2010 2:24 PM
14 **To:** kathleen.winn58@gmail.com; Winn, Kathleen
15 **Cc:** Todd Sommers
16 **Subject:** Horne VO

17 Here is the unedited file, and don't worry we haven't done any magic to it yet.

18 Based on a portion of Horne's telephone record, which is set forth below, Winn
19 received Murray's e-mail while she was on an 8 minute telephone call with Horne
20 (Horne called Winn) that started at 2:19 p.m.

10/20	2:19P	602-315-3141	Peak	M2MAIlow	Phoenix AZ	Phoenix AZ	8
10/20	2:32P	602-722-0638	Peak	M2MAIlow	Phoenix AZ	Phoenix AZ	3
10/20	2:37P	480-455-3403	Peak	PlanAIlow	Phoenix AZ	Incoming CL	11

21 Immediately after Winn hung up the phone with Horne, at 2:29 p.m., Winn e-mailed
22 Murray as follows:

1 We do not like that her name [Rotellini] is mentioned 4 times and no
2 mention for Horne. We are doing a re-write currently and will get back to
3 you. Too negative and takes away from the message we wanted which
4 [is] we want to hire the next AG to protect and defend [sic] Arizona
5 against the federal government. I will get back to you shortly Brian sorry
6 for the confusion except I have several masters.

7 (Emphasis added.) Murray replied at 2:30 p.m. "Ok, I need to halt production then."

8 Winn responded to Murray at 2:37 p.m. writing,

9 Yes I will have it worked out by 5:30. They feel this leaves people with her
10 name 4 X and with no mention of Tom. It is like saying don't think about a
11 pink elephant....so you think about a pink elephant.

12 At the same time, 2:37 p.m. on October 20, 2010, Winn phoned Horne with the call
13 lasting 11 minutes as reflected in the third line of Horne's telephone record above as an
14 incoming call. Winn then sent Murray an e-mail at 2:59 p.m. explaining that "we" do
15 not want to help Rotellini with name recognition.

16 On October 21, 2010, Winn sent Murray an e-mail regarding an independent
17 expenditure committee from Washington, D.C. running television commercials
18 advocating against the election of Tom Horne. Exhibit 10. Murray asked how Winn
19 knows about the committee and the amount the committee has spent. Winn explained
20 that an attorney for Horne contacted her on October 20, 2010 informing her that the
21 Horne campaign would be filing a court action to stop the commercials. *Id.*

22 On October 27, 2010, Ryan Ducharme, a political consultant, sent Horne an e-
mail regarding polling information and the fact that Horne was losing ground to
Rotellini. The e-mail stated:

 Subject: Important Info:

1 Recent polls show you losing ground amongst independents to Rotellini and
2 her starting to pick up more Reps than you are picking up Dems. Bleeding
3 needs to be stopped. Allegations and smears against you by DC group
starting to peel away votes. They need to be addressed as desperate last
minute attacks with no basis in truth.

4 Sent from my Verizon Wireless BlackBerry.

5 A second e-mail from Ducharme on October 27, 2010, at 1:47 p.m., was sent to
6 Kim Owens, a fundraiser for Horne's campaign, and Tom Horne³ stating,

7 Subject: Important Info,

8 I would link attacks directly to Rotellini as someone behind in the polls
9 trying to hide from her record (SB1070, ties to unions call for AZ
10 boycott, etc.) The truth, once known, will undermine Rotellini's
credibility and call in to question her character – a very important quality
for Inds. You are much stronger in rural AZ. –Ryan

11 Sent from my Verizon Wireless BlackBerry.”

12 Exhibit 11, LSG 005571-1573. At 1:47 p.m., immediately after receiving the second e-
13 mail, Horne forwarded the e-mail to Casey Phillips with the RSLC in an effort to justify
14 additional campaign contributions from RSLC. Horne separately attempted to forward
15 the e-mail to Winn, but the e-mail address he used was incorrect. Horne successfully re-
16 sent the e-mail to Winn at the e-mail address kwinn@amerifirst.us. In that e-mail Horne
17 wrote, “I forwarded this to casey. Maybe with this we can. Try again for the hundred k”.

18 At 2:31 p.m. Winn forwarded the e-mail she received from Horne, along with his
19 message to her, to Brian Murray of LSG saying “[t]his just came into me read below.”
20 At the time he sent this e-mail, Horne was well aware of the RSLC funding and used the
21 Ducharme polling information to try to obtain additional funding for himself and BLA.

22 ³ The Campaign Finance Report for Tom Horne for Attorney General for 2010 listed
Horne's e-mail address as tomhorne2824@gmail.com.

1 Horne's e-mail to Winn specifically acknowledged that he forwarded the polling
2 information to Casey Phillips with the RSLC and expressed his hope that the information
3 he passed along will allow him and the BLA, the purported independent expenditure
4 committee, to get an additional \$100,000 for anti-Rotellini ads. This was important
5 because the RSLC originally told Winn and Murray that it would spend \$450,000, but
6 then reduced that amount to \$350,000, which was corroborated by interviews with Ben
7 Cannatti, Brian Murray, and Casey Phillips and the e-mail exchanges below.

8

9 **From:** Ben Cannatti [ben@calebconsulting.net]
10 **Sent:** Friday, October 22, 2010 9:33 AM
 To: Brian Murray
 Subject: Re: AZ

11 not yet - let's build the plan around \$350k for now - see how that looks. had some
12 developments overnight - that necessitated the shift south again. what's your comfort level
 with the Business Leaders for AZ folks? i really don't want them getting the \$\$ in the bank,
 and then deciding on a different course. if you're 100% good with them we'll proceed. if you
 have any pause - i think we can send it directly to SCRP. thoughts?

13

From: Winn, Kathleen [mailto:kwinn@amerifirst.us]
 Sent: Friday, October 22, 2010 10:05 AM
 To: Brian Murray
 Subject: RE: Wire is en route to your bank

14

15

 How much 350,000 or 450,000

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From: Brian Murray [mailto:bmurray@lincoln-strategy.com]
 Sent: Friday, October 22, 2010 10:08 AM
 To: Winn, Kathleen
 Subject: RE: Wire is en route to your bank

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 On October 27, 2010 at 2:55 p.m. Brian Murray forwarded the October 27, 2010
22 e-mail string to Steve Sparks, legal counsel for LSG, stating:

1 I wanted to make you aware of an incident that occurred with one of our
2 clients. Kathleen is running an IE committee called Business Leaders for
3 Arizona which is in support of Tom Horne for AG. I was hire [sic] to do the
4 TV component. I warned her on numerous occasions that she needed to
5 cease contact with the candidate and any agents of the campaign. I then
6 received the following email. I then called her and informed her again that
7 she should not have any contact. She assured me that this was unsolicited
8 and had not in several days. As our firm's attorney I wanted to make you
9 aware of this situation should something arise at a later date.

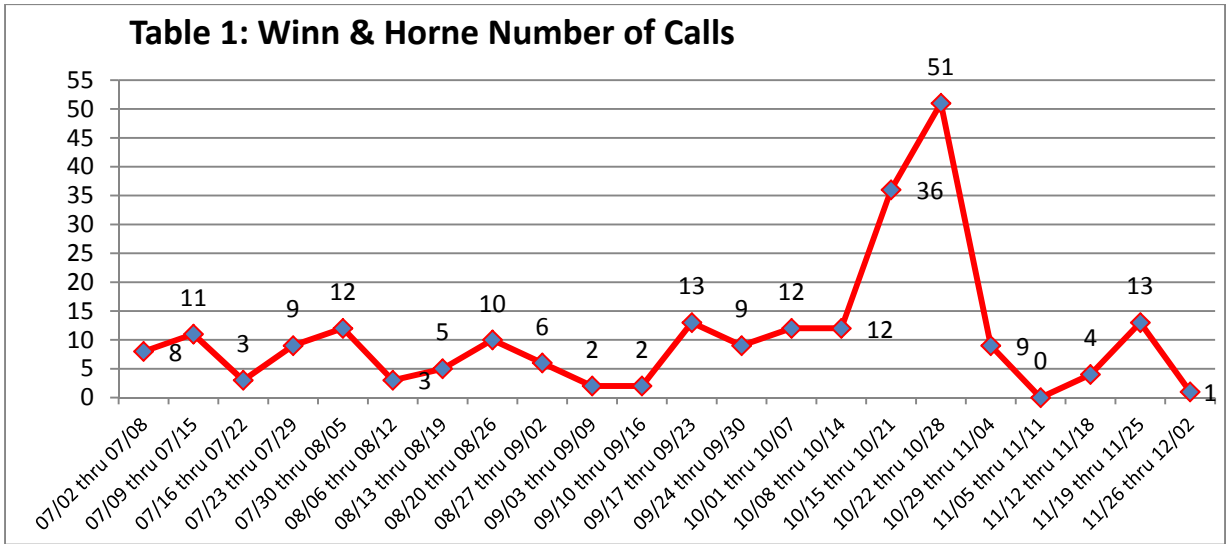
6 Exhibit 11, LSG001571.

7 As expressed by Murray, he repeatedly warned Winn to stop working with the
8 Horne campaign, with the last warning coming just days before the election. On October
9 29, 2010, Murray sent the following e-mail to Winn: "And do not forward to the
10 campaign." Exhibit 12. Winn responded, "What campaign..... who are you talking
11 about? Not me I have learned my lesson. I like you too much to get another lecture." *Id.*

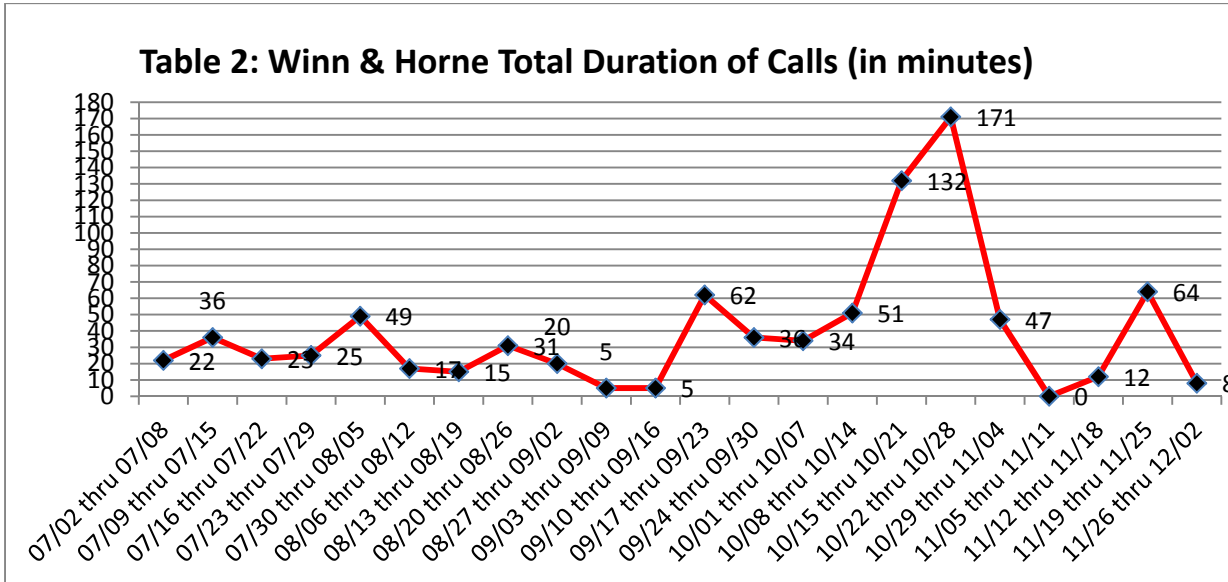
12 Tom Horne and Kathleen Winn's phone records show there were over 150 calls
13 between Winn and Horne from August 25, 2010 and November 2, 2010. Those calls
14 showed a spike in the number of calls (87), as demonstrated in Table 1, between October
15 15, 2010 and October 28, 2010, which is the time period Brian Murray from Lincoln
16 Strategy Group was working to create television advertisements opposing Felicia
17 Rotellini for Attorney General.

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The duration of the calls also spiked during this same time frame. As shown in Table 2, between October 15, 2010 and October 28, 2010, Winn and Horne’s telephone conversations totaled 303 minutes, which equates to more than 5 hours.



IV. Maricopa County Attorney’s Office was Requested to Initiate a Civil Enforcement Action.

On September 18, 2012, the Maricopa County Attorney requested Secretary of State Ken Bennett to review materials associated with BLA, an independent expenditure

1 committee, and Tom Horne, while he was a candidate for Arizona Attorney General in
2 2010, to determine whether there were any violations of Arizona’s campaign finance
3 laws. On September 20, 2012, the Secretary State referred to the Maricopa County
4 Attorney’s Office the finding of reasonable cause to believe that Tom Horne, Business
5 Leaders for Arizona, and Kathleen Winn had violated A.R.S. §§ 16-901 *et seq.*, and
6 A.R.S. § 16-917. The Secretary of State’s reasonable cause letter requested the Maricopa
7 County Attorney to initiate a civil enforcement action pursuant to A.R.S. § 16-924.
8 Exhibit 13.

9 Pursuant to A.R.S. § 16-905(K), the Maricopa County Attorney also initiated a
10 review of the BLA’s contributions and expenditures to determine whether Horne had
11 violated the contribution limits set forth in A.R.S. § 16-905 for candidates for a statewide
12 office.

13 **FINDINGS**

14 Tom Horne and Kathleen Winn, through the political committee BLA, received
15 contributions and made expenditures to advocate the defeat of Felicia Rotellini, Tom
16 Horne’s Democratic Party opponent in the 2010 election for Attorney General. The
17 television commercials broadcast in October 2010 were targeted to the electorate of
18 Felicia Rotellini and were communications that in context can have no reasonable
19 meaning other than to advocate the defeat of the candidate. *See* A.R.S. § 16-901.01
20 (definition of express advocacy).

21 The BLA committee did not comply with the requirements to be an independent
22 expenditure committee. An independent expenditure committee must be a “committee,

1 other than a candidate's campaign committee, that expressly advocates the election or
2 defeat of a clearly identified candidate, that is made without cooperation or consultation
3 with any candidate or committee or agent of the candidate and that is not made in
4 concert with or at the request or suggestion of a candidate, or any committee or agent of
5 the candidate.” A.R.S. § 16-901(14) (emphasis added).

6 First, Horne directed contributors to Winn, then discussed the fundraising for
7 the BLA committee, and finally directed how the money was to be spent. An
8 expenditure is not an independent expenditure if “[t]here is any arrangement,
9 coordination or direction with respect to the expenditure between the candidate or the
10 candidate's agent and the person making the expenditure, including any officer,
11 director, employee or agent of that person.” A.R.S. § 16-901(14)(b). Additionally, the
12 definition of expenditure includes the “value of any in-kind contribution received.”
13 A.R.S. § 16-901(8).

14 Second, Winn worked for Horne’s campaign committee through the Primary
15 Election while she had an active independent expenditure committee. An expenditure is
16 not an independent expenditure if “[i]n the same election the person making the
17 expenditure, including any officer, director, employee or agent of that person, is or has
18 been: (i) Authorized to raise or expend monies on behalf of the candidate.” A.R.S. § 16-
19 901(14)(c)(i). Although Winn claims she stopped working for the Horne campaign after
20 the Primary Election, campaigning during an election cycle includes both the Primary
21 and General Elections. Furthermore, the evidence shows that Winn in fact kept
22 campaigning on behalf of Horne and working with the key members of the campaign

1 staff during the period prior to the General Election.

2 Third, Tom Horne and Kathleen Winn discussed poll numbers and both created
3 the script for television commercial advocating against Rotellini through telephone and e-
4 mail communications. An expenditure is not an independent expenditure if

5 [t]he expenditure is based on information about the candidate's plans,
6 projects or needs, or those of his campaign committee, provided to the
7 expending person by the candidate or by the candidate's agents or any
officer, member or employee of the candidate's campaign committee with a
view toward having the expenditure made.

8 A.R.S. § 16-901(14)(d). Tom Horne, through an arrangement with Kathleen Winn,
9 coordinated and directed expenditures for the purpose of producing and airing television
10 commercials that expressly advocated the defeat of Felicia Rotellini in the election for
11 Attorney General.

12 **A. Coordinated Expenditures are In-Kind Contributions.**

13 The BLA expenditures, by not meeting the definition of independent expenditure,
14 were in-kind contributions to the candidate. A.R.S. §§ 16-901(8), -917(C).

15 An expenditure by a political committee, corporation, limited liability
16 company, labor organization or a person that does not meet the definition of
17 an independent expenditure is an in-kind contribution to the candidate and a
corresponding expenditure by the candidate unless otherwise exempted.

18 A.R.S. § 16-917(C). Therefore, all contributions to BLA are considered to be
19 contributions to Tom Horne.

20 As a candidate for statewide office, Tom Horne was required to limit the total
21 amount of contributions, including in-kind contributions, received from an individual. In
22 the 2010 election cycle, a candidate could accept a maximum of \$840 from an individual.

A.R.S. § 16-905(B)(1)(as adjusted, A.R.S. § 16-905(H)). Table 3 below shows the

1 contributions made to the BLA political committee, which was being operated by the
2 candidate, Horne, and Winn, which exceeded the individual contribution limits of \$840.

3 **Table 3: Contributions to BLA/In-kind contributions to Horne**

4 Date	Contributor	Amount Contributed	Amount over limit
5 10/20/2010	Charles Diaz	\$5,000.00	\$4,968.00
6 10/28/2010	Steven Ellman	\$5,000.00	\$4,160.00
7 10/28/2010	Mark Goldman	\$5,000.00	\$5,000.00
8 10/28/2010	E.D. Marshall, Inc.	\$2,000.00	\$2,000.00
9 10/20/2010	NCP Finance Limited	\$15,000.00	\$15,000.00
10 10/22/2010	Texas Loan Corporation	\$15,000.00	\$15,000.00

11 The contributions BLA received from three individual contributors, Diaz, Ellman and
12 Goldman, in excess of \$840 violated the contribution limits for candidates for statewide
13 office. A.R.S. § 16-905(B)(1). In fact, Horne asked Sharon Collins to contact Chuck
14 Diaz and introduce him to Winn to make the pitch for the \$5,000.00 contribution to
15 BLA. Exhibit 14, Sharon Collins Interview, at 6.

16 In addition, a nominee of a political party in 2010 could not accept contributions
17 from all political parties and political organizations combined in excess of \$86,952.
18 A.R.S. § 16-905(D). On October 22, 2010, the RSLC, a political party organization,
19 contributed \$350,000 to Tom Horne, through BLA, which exceeded the contribution
20 limit for political parties by \$263,048.00.

21 **B. Campaign Finance Reports**

22 Each campaign finance report required to be filed pursuant to A.R.S. § 16-913
shall be signed by the designated individual certifying the report to be true and correct.

1 A.R.S. § 16-913(I). The BLA committee and the Tom Horne for Attorney General
2 Committee filed inaccurate Post-General Election Reports by claiming that the
3 contributions to and expenditures by the BLA committee were independent expenditures.
4 A political committee and the candidate who violate A.R.S. § 16-913 are subject to the
5 penalty prescribed by A.R.S. § 16-918(F).⁴ Failure to file a campaign finance report
6 includes failure of a committee to make good faith effort to substantially complete the
7 report. A.R.S. § 16-918(D).

8 Moreover, campaign finance reports shall be cumulative for the election to which
9 they relate. A.R.S. §16-915(C). The Tom Horne for Attorney General Committee was
10 required to report the aggregate contributions from a single source. A.R.S. § 16-915(D).
11 By maintaining two separate committees, but both acting as a candidate committee, the
12 Horne candidate committee failed to show the aggregate contributions from the certain
13 contributors as shown in Table 4 below.

14 **Table 4: Same Contributors to BLA and Horne**

Contributor	Amount To Horne Campaign	Amount to BLA
Ronald Lebowitz	\$250 on 12/23/2009 \$500 on 2/19/2010	\$840 on 10/22/2010
Charles Diaz	\$808 on 4/1/2009	\$5,000 on 10/20/2010
Fife Symington Ann Symington	\$840 on 7/27/2010 \$840 on 7/27/2010	\$500 on 10/27/2010
Mark Goldman	\$840 on 8/31/2010	\$5,000 on 10/28/2010

21 ⁴ “A person who was a candidate for nomination or election to any local or state office
22 and who after written notice pursuant to this section failed to make and file a campaign
finance report as required by this chapter is not eligible to be a candidate for nomination
or election to any local or state office for five years after the last failure to make and file a
campaign finance report occurred.” A.R.S. § 16-918(F)

1 Meanwhile, the BLA committee organized in December 2009 remained an active
2 independent expenditure committee during the 2010 campaign cycle although Winn
3 openly worked for the Horne campaign through September 2010. Kathleen Winn, as the
4 chairman of the BLA committee and the person who filed the campaign finance reports,
5 was required to file a certification “stating whether or not the claimed independent
6 expenditure is made in cooperation, consultation, or concert with or at the request or
7 suggestion of any candidate.” A.R.S. § 16-915(F)(6).

8 Winn’s work on the Horne campaign during the Primary Election and continuing
9 through the General Election destroyed the independence from the campaign. Winn had
10 an active independent expenditure committee while working for the candidate the
11 committee in violation of A.R.S. § 16-917. A person that fails to comply with the
12 requirements of A.R.S. § 16-917 shall be liable for a civil penalty up to three times the
13 amount of the advertisements. A.R.S. § 16-917(D).

14 **C. Corporate and Limited Liability Company Contributions**

15 It is unlawful for a candidate committee to accept contributions from a corporation
16 or a limited liability corporation. A.R.S. § 16-919(A). Because BLA was not an
17 independent committee, the contributions made by corporations were in-kind
18 contributions to the candidate rather than contributions to an independent expenditure
19 committee. As such, candidate Horne violated the restrictions on candidates from
20 accepting contributions from corporations when the BLA Committee accepted a \$2,000
21 contribution from E.D. Marshall, Inc., a \$15,000 contribution from NCP Financial, and a
22 \$15,000 contribution from the Texas Loan Corporation. See Exhibit 7.

1 **ORDER**

2 A person alleged to have violated the campaign finance laws shall be given twenty
3 days from the issuance of the Order to comply with the law, and an opportunity to appeal
4 this Order Requiring Compliance. A.R.S. § 16-924(A). Candidate Tom Horne and the
5 Horne for Attorney General Committee failed to report the in-kind contributions listed in
6 the BLA committee’s Post-General Election Report. A.R.S. §§16-913(B), -915(A)(2), -
7 917(C). Failure to file a report includes the failure to make a good faith effort to
8 substantially complete the report. A.R.S. §16-918(D). Accordingly, Tom Horne is
9 ordered to amend his 2010 Post-General Election Report for the candidate to accurately
10 reflect the contributions received and expenditures made. A.R.S. §§13-913 and -915.

11 Horne is further ordered to refund all individual and political party contributions
12 that exceeded the contribution limits set forth in A.R.S. § 16-905(B). Such refunds to the
13 contributors of the amount received in excess of the contribution limits shall be reported
14 as refunds pursuant to A.R.S. §16-913(A) (4).

15 Likewise, Kathleen Winn is ordered to amend BLA’s Amended 2010 Post-General
16 Election Report to refund all corporate contributions and reflect the transfer of the
17 contributions received and expenditures made by BLA to the Horne for Attorney General
18 Committee.

19 Therefore, Tom Horne, Tom Horne for Attorney General Committee, Kathleen
20 Winn, and Business Leaders for Arizona are ordered to comply with this Order and with
21 the requirements of Arizona’s campaign finance laws within twenty days of the issuance
22 of this Order. A.R.S. §16-924(A). “Failure to comply with a compliance order issued by

1 the attorney general, county attorney or city or town attorney, as appropriate, as
2 prescribed in subsection A is deemed an intentional act.” A.R.S. §16-924(D).

3 If Tom Horne, Tom Horne for Attorney General Committee, Kathleen Winn and
4 Business Leaders for Arizona fail to take corrective action pursuant to this compliance
5 order, which is issued pursuant to A.R.S. § 16-924(A), the County Attorney shall issue an
6 order assessing a civil penalty. A.R.S. §16-924(B).

7 **NOTICE**

8 You may request a hearing to contest this order pursuant to A.R.S. § 16-924 **by**
9 **submitting a written request for a hearing by 5:00 p.m. no later than 20 days from**
10 **the date of this Order, to:**

11 Colleen Connor
12 Deputy County Attorney
13 MARICOPA COUNTY ATTORNEY’S OFFICE
14 CIVIL SERVICES DIVISION
15 Security Center Building
16 222 North Central Avenue, Suite 1100
17 Phoenix, Arizona 85004-2206

18 You may request an informal settlement conference pursuant to A.R.S. § 41-
19 1092.06. Individuals with disabilities may request accommodation during an informal
20 settlement conference by contacting Tyna Garcia, 222 North Central Avenue, Suite 1100,
21 Phoenix, Arizona 85004-2206 (602-506-8541). Requests should be made as early as
22 possible to allow time to arrange the accommodation.

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SUBMITTED this 11th day of October, 2012.

WILLIAM G. MONTGOMERY
MARICOPA COUNTY ATTORNEY

BY: s/ Colleen Connor
COLLEEN CONNOR
Deputy County Attorney
Attorney for the Maricopa County
Attorney's Office

ORIGINAL of the foregoing FILED
and copy MAILED this
11th day of October 2012 to:

MARICOPA COUNTY ATTORNEY'S OFFICE
CIVIL DIVISION
Security Center Building
222 North Central Avenue, Suite 1100
Phoenix, Arizona 85004-2206
and COPY mailed to:

Ken Bennett
Arizona Secretary of State
1700 W. Washington St., 7th Floor
Phoenix, AZ 85007

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s/ Veronica Sisneros