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7 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

9 In the Matter Of,
10 TOM HORNE, Tom Horne for Attorney
11 General Committee (SOS Filer ID 2010
12 00003); KATHLEEN WINN, Business
13 leaders for Arizona (SOS Filer ID 2010
14 00375)

No. 13F-CF20120001-MCAO

**RESPONDENT WINN'S NOTICE
OF ADDITIONAL WITNESSES,
EXHIBITS AND POINTS OF LAW**

Tammy L. Eigenheer
Administrative Law Judge

14 RESPONDENT KATHLEEN WINN files this Notice of Additional Witnesses, Exhibits and
15 Points of Law as follows:

16 **ADDITIONAL WITNESSES**

- 17 1. Rick Bistrow. Mr. Bistrow is expected to testify as to matters testified to by witnesses
18 called by the Maricopa County Attorney's Office.
- 19 2. Greg Tatham. Mr. Tatham is expected to testify as to his conversation of May 30, 2012
20 with FBI agents Brian Grehoski and Merv Mason.

21 **ADDITIONAL EXHIBITS**

- 22 1. Email from Brian Murray to Brian Grehoski of April 3, 2012.
- 23
24

1 2. Recording/transcript of conversation between Greg Tatham and FBI agents Brian
2 Grehoski and Merv Mason.

3 **ADDITIONAL DEFENSE/POINT OF LAW**

4 Arizona’s campaign finance statutes, specifically Arizona Revised Statutes § 16-905
5 (campaign contribution limits) and § 16-919 (prohibition on corporate and union contributions to
6 political candidates), violate the Equal Protection and Equal Privilege Clauses of the Arizona and
7 United States Constitution, as well as the First Amendment of the U.S. Constitution and Article II,
8 Section 6 of the Arizona Constitution (protecting free speech).

9 In summary, the holding of *Citizens United* permits non-candidates to raise unlimited amounts
10 of money from individuals, and unlimited amounts of money from unions and corporations, all in an
11 effort to attack the candidate for office. 130 S. Ct. 876 (2010). At the same time, Arizona law
12 purports to bar corporations and unions from giving to a candidate attacked in such a fashion, and
13 permits him or her to raise only \$912 from an individual (it was \$840 during the 2010 election cycle).
14 In the case of the Tom Horne for Attorney General campaign, approximately \$1 million dollars was
15 spent by the Democrat Attorneys General Association and their front group Committee for Fairness
16 and Justice, and yet Mr. Horne was limited to raising money from individuals up to a maximum of
17 \$840 per individual.

18 This type of a campaign finance restriction scheme is simply incompatible with the Equal
19 Protection and Equal Privilege Clauses of the Arizona and United States Constitutions. *See, e.g.,*
20 *Jackson v. Tangreen*, 199 Ariz. 306, 312, 18 P.3d 100, 106 (Ct. App. 2000)(“[T]he legislature must
21 act even-handedly when it grants benefits to one group and denies them to another...”); see also
22 *Hunter Contracting Co., Inc. v. Superior Court In & For County of Maricopa*, 190 Ariz. 318, 320,
23 947 P.2d 892, 894 (Ct. App. 1997) (holding that if a state statute “infringes upon a fundamental state
24

1 constitutional right, we must review it with strict scrutiny, inquiring whether the statute furthers a
2 compelling governmental interest by the least restrictive practical means...”)

3 DATED this 27th day of February, 2013.

4
5 /s/ Timothy A. La Sota
6 Timothy A La Sota, (Bar #020539)
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8 2525 East Camelback Road
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10 Phoenix, Arizona 85016-4237
11 Attorney for Business Leaders for Arizona and Kathleen Winn

12 ORIGINAL OF THE FOREGOING e-filed
13 this 27th day of February, 2013, to:

14 Honorable Tammy Eigenheer
15 Administrative Law Judge
16 ARIZONA OFFICE OF ADMINISTRATIVE
17 HEARINGS
18 1400 West Washington Street, Suite 101
19 Phoenix, Arizona 85007
20 casemanagement@azoah.com

21 COPIES of the foregoing emailed (through OAH electronic filing)
22 this 27th day of February, 2013, to:

23 Colleen Connor
24 Maricopa County Attorney's Office
Maricopa County Attorney
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4 By: /s/ Jenne Warrington
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