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18 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

19 In the Matter Of,

Case No. 14F-001-AAG

20 TOM HORNE, Tom Horne for Attorney  
21 General Committee (SOS Filer ID 2010  
22 00003); KATHLEEN WINN, Business  
23 Leaders for Arizona, (SOS Filer ID 2010  
24 00375)

**DEFENDANTS' BUSINESS  
LEADERS FOR ARIZONA AND  
KATHLEEN WINN REBUTTAL  
CLOSING ARGUMENT**

25 **I. INTRODUCTION**

26 The Yavapai County Attorney's Office YCAO simply does not address a number  
27 of major, in some instances fatal, flaws in their case. For example, at one point they urge  
28 the Court to draw an inference that Horne did **not** have a material effect on the actual ad  
that Business Leaders for Arizona ran. That is, YCAO claims that Horne's attempts to  
influence the ad were rebuffed. This is fatal in itself because the law requires Horne to  
have a **material** effect on the actual ad that is run in order to constitute a violation of law.

1 They also do not address the assertion by their own witness, Brian Murray, that  
2 YCAO's theory that Kathleen Winn coordinated with Tom Horne does not make logical  
3 sense based on what was communicated to Kathleen Winn. Murray said the input given  
4 to Winn must have come from an unexperienced campaigner, not Tom Horne.  
5

6 Of course the other major flaw in YCAO's case is they simply do not have real  
7 evidence that the law was broken. While YCAO has speculation and conjecture, the  
8 evidence that was produced at the hearing, including testimony and physical evidence,  
9 painted just the opposite picture. There was no violation of the law.  
10

## 11 **II. THE INFERENCES YCAO ASKS THE COURT TO DRAW ARE NOT** 12 **SUPPORTED BY THE EVIDENCE**

13 The evidence simply does not support the inferences that YCAO asks this Court to  
14 draw. And as the Court stated in *Acuna v. Kroack*, a verdict "supported by nothing  
15 beyond speculation, suspicion and bottomless inference" must be reversed. 212 Ariz.  
16 104, 128 P.3d 221, (App. 2006). YCAO's case is all about speculation and bottomless  
17 inference.  
18

19 Defendants discussed the lack of YCAO's evidence generally, and the fact that the  
20 evidence actually supports Defendants account in detail in our Closing Argument.  
21 However, we do wish to point out the following in response to YCAO's brief.  
22

### 23 **A. First Inference: the "We" and the "Several Masters"**

24 Contrary to what YCAO claims, it makes no difference when Winn's last  
25 conversation with Gregory Harris was. He was still one of the "several masters," that is,  
26 one of the people that Winn was concerned with making happy. His clients made a  
27  
28

1 significant investment in the campaign, and Winn wanted to keep them happy with an  
2 impactful campaign.

3 Brian Murray was also concerned with doing a good job and pleasing the people  
4 who spent money on the campaign. That is a very natural human sentiment which  
5 Kathleen Winn shared. But it does not mean that Horne was one of the “several  
6 masters”.

8 In addition, YCAO tries to attach some special meaning to the “voice over” as  
9 opposed to the actual script. However, when working on the text of an ad, most people  
10 find it easier to work with actual text as opposed to a voice over. Their attempt to create  
11 an unnatural bifurcation between the script and the voice over is utterly illogical and not  
12 supported by any evidence. YCAO has absolutely zero basis for its claim that Winn’s  
13 “e-mail to Murray was in response to Murray’s e-mail with the voice-over file, which  
14 Winn received only minutes earlier.” [Closing brief, p. 4].

17 **B. Second Inference: “They Feel” and “Similar Message”**

18 YCAO invites this Court to make the logical leap that Winn could not  
19 communicate to another person a sentiment that was passed on to Winn earlier in the day.  
20 This is not logical, it is wishful thinking on YCAO’s part.

22 **C. Third Inference: “Two Strong Personalities Debating”**

23 What Winn actually stated was : “I have two very strong personalities debating  
24 this moment...” (Emphasis added). At the time she sent this email Horne was in  
25 Phoenix and Winn was in Mesa. And Horne and Winn were not talking on the phone.  
26  
27  
28

1 YCAO claims that Winn’s story “strains credibility.” However, YCAO’s theory is  
2 completely non-credible because the phone records show that their theory can NOT be  
3 true—Winn was not talking to Horne at this time.

4 YCAO also makes another completely unfounded claim, that is that “Winn had no  
5 reason to discuss her commercial with her office colleagues.” [YCAO Closing  
6 Argument, p. 6]. How do they know this? They don’t. What basis do they have for this  
7 claim? None.

8  
9 **D. Fourth Inference: “I Think I Prevailed”**

10 YCAO claims that this Court should draw an inference that when she wrote in her  
11 email to Brian Murray that “I think I prevailed” that in reality she prevailed over Tom  
12 Horne. If the Court draws this inference, this is fatal to YCAO’s case because if she  
13 prevailed over Horne, that means he did not have a “material” effect on the ad. (11 CFR  
14 Part 109.21; *see also* FEC Guidelines on Coordinated Contributions and Independent  
15 Expenditures, <http://www.fec.gov/pages/brochures/indexp.shtml>).

16  
17  
18 It should also be noted that YCAO has made absolutely no effort to argue against  
19 this materiality requirement. We raised it in our trial brief and at length at the hearing.  
20 They have not attempted to argue against its application, so the reasonable conclusion  
21 must be that they agree with its applicability.

22  
23 The legal problems with the Court drawing this inference notwithstanding, the  
24 evidence does not support this inference at all. Brian Murray always maintained that  
25 whoever Winn was talking to was not Tom Horne. Instead, the feedback she conveyed  
26 indicated that she was talking to less experienced campaigners, and Horne was very much  
27  
28

1 a seasoned, experienced campaigner. He told the FBI this in 2012 <sup>1</sup>, and he also testified  
2 to this at hearing:

3  
4 Q. [by Buddy Rake] So if she was coordinating, in your experience, it wasn't  
5 with those two folks [Tom Horne and Horne Campaign Manager Michael Vargas],  
6 because you knew they were an experienced candidate and an experienced  
7 campaign manager, and they wouldn't be suggesting the dumb things that you  
8 thought she was suggesting?

9 A. [by Brian Murray] Having known Michael, I wouldn't expect him to do  
10 anything that would pass for-- be-- I kind of have a rule of, now this is the law, but  
11 the headline test is even more stringent. And knowing Michael, I don't think he  
12 would ever cross that line.

13 Q. Absolutely. And not only that, having worked with him, you thought the  
14 suggestion she was making would have been dumb, and you wouldn't have  
15 expected those to come from Vargas anyway, correct?

16 A. That's correct.

17 Q. And same thing for Mr. Home, he was -- right?

18 A. Yes.

19 Q. I'm correct, right?

20 A. Yes.

21 [Transcript, pp. 395-96].

22 Clearly, this supports Winn's testimony that she was speaking to people relatively  
23 inexperienced in campaigns, not Tom Horne, who was a seasoned campaigner.

24 **E. Fifth Inference: "Further Changes"**

25 Once again, this is nothing but rank speculation based on the faulty premise that  
26 one conversation a person has must be related to the next conversation a person has. This  
27

28 <sup>1</sup> Horne-Winn Exhibit 9.

1 is not so. Contrary to what YCAO's claims, the actual evidence does not show Horne  
2 had input. YCAO's speculation is not evidence.

3 **III. OCTOBER 27 EMAIL**

4 We covered how the "strategic advice" in this email was nothing of the sort and  
5 this email had absolutely no effect on anything in our Closing Brief. YCAO claims that  
6 had the "strategic advice" really been meaningless Horne would not have forwarded it.  
7 This is incorrect—Horne forwarded an entire email, as people often do. That does not  
8 mean that each part of the email had importance.  
9

10 Further, if YCAO's case boils down to a claim that Business Leaders spent  
11 \$110,000 after this October 27 email, as they seem to contend in their closing, then they  
12 lose as a matter of law. That is because, by YCAO's own admission, even if there was  
13 coordination between BLA and Horne (there wasn't), there is no violation of law for  
14 \$115,000 spent because it was a family contribution which is not subject to the campaign  
15 contribution limits.  
16  
17

18 **IV. THE REAL ESTATE TRANSACTION**

19 YCAO tries to explain away the two Mike Hogarty references in Winn's phone  
20 journal by claiming that "Winn had no interactions with Mr. Hogarty after that time  
21 period [March 2010]." This claim misses the point entirely.  
22

23 Hogarty was unable to close—that is why Horne found a new buyer. But the point  
24 is that Winn made this contact in March of 2010 shortly after meeting with Horne. And  
25 this was a deal that was already foundering at that point and in fact never went through.  
26 YCAO apparently wants this Court to believe that Winn was involved in March, having  
27 recently met Horne on a transaction that did not close, and yet was not involved months  
28

1 later after developing a strong friendship with Horne, with two transactions that actually  
2 did close. That makes no sense.

3 In addition, there were no emails involving Kelly Miles either. But that does not  
4 change the fact, a fact that YCAO has stipulated to, that Winn helped her obtain  
5 refinancing that allowed Miles to stay in her home.  
6

7 **V. WINN'S CREDIBILITY**

8 YCAO attempts to seize on immaterial errors and twisted semantics to make  
9 Winn's credibility an issue. But Winn's testimony is backed up by two other witnesses,  
10 not to mention the documentary evidence discussed in our Closing Brief. But what also  
11 makes Winn believable is that it is clear from Brian Murray's testimony that Winn's  
12 testimony makes logical sense but YCAO's claims as to who Winn was speaking to do  
13 not! [See Section II(4) above.]  
14  
15

16 At the hearing and in the Closing Brief, YCAO attempts to make a big deal out of  
17 one of the affidavits stating October 17 instead of October 12. This is not a material  
18 point, and Winn testified that it was supposed to be corrected by counsel<sup>2</sup>. Winn's other  
19 counsel, the first undersigned, also noticed this prior to hearing. To the extent that not  
20 correcting this was the grievous omission YCAO claims, the fault is not Winn's.  
21

22 But speaking of uncorrected, inaccurate, sworn testimony, it is now completely  
23 clear that Grehoski's claim that the FBI actually contacted Greg Tatham at 1 p.m. on May  
24 31, 2012 and that there was an 8-10 minute call at that time is not accurate. The call was  
25  
26  
27

28 <sup>2</sup> Transcript, p. 628.

1 15 minutes according to the phone records (the precise length of the audio recording  
2 [Horne-Winn Exhibit 14], and Tatham called the FBI, not the other way around.

3 It is also clear that Greshoski's testimony, and the representation in the FBI's notes  
4 [Horne-Winn 26] and summary [YCAO Exhibit 34] characterizing the essence of what  
5 Tatham said are not true. The audio recording proves this. Yet this false testimony has  
6 gone uncorrected by YCAO—they have submitted nothing to the Court acknowledging  
7 the inaccuracy of this. And these are only the things that are absolutely indisputable,  
8 Defendants obviously made the case that Greshoski lied under oath in our Motion to  
9 Strike.  
10

11  
12 YCAO also states the following:

13 Winn stated: "I chose from whom to raise money without any input."  
14 (YCA-4 at 000008, ¶ 3.b.1). However, Sharon Collins put Winn and  
15 contributor Chuck Diaz in touch. (YCA-28 at 000383; Horne/Winn-16 at  
16 006-008).

17 However, if one looks at YCA-28 at 000383 and Horne-Winn 16 at 008, it is  
18 YCAO that got it wrong, not Winn in her affidavit. YCA-28-000383 indicates that  
19 Collins contacted Chuck Diaz but there is not one word that Winn knew of this or that  
20 Winn and Diaz were put "in touch". The Collins interview transcript is similarly  
21 unavailing. To the extent one can even tell exactly what she meant in the interview, she  
22 says nothing about Winn coming to Collins for help finding people.

23 Even this unreliable hearsay evidence does not contradict Winn's affidavit on this  
24 point at all<sup>3</sup>. YCAO's assertion as to what the evidence shows is simply wrong.  
25

26  
27 <sup>3</sup> YCAO chose not to call Collins or Diaz as actual witnesses to try to develop their  
28 theory.



1 YCAO also engages in semantics games to try to twist Winn's affidavits. Winn's  
2 affidavits were intended to rebut allegations of illegality by the Maricopa County  
3 Attorney's Office. Illegality would be coordinating with Tom Horne or his campaign,  
4 obviously illegality would not include discussion with people outside of the campaign.  
5

6 This meaning is clear from the actual affidavits: she did not have anything to do  
7 with Horne or anyone in his campaign, and she stated this over and over. The meaning  
8 YCAO urges is unnatural and results from YCAO taking snippets of these affidavits in an  
9 attempt to misrepresent their meaning. And YCAO's claims that affidavits are supposed  
10 to be the "whole truth" is another attempt at misdirection and distortion. Affidavits are  
11 not drafted in a vacuum, instead they focus on certain things—they are usually not  
12 written to provide a lengthy narrative of some event.  
13

14 YCAO's theory is a little like accusing someone of having too much to drink and  
15 then driving while impaired and hitting a pedestrian, and quibbling when the person  
16 denies driving while impaired and hitting a pedestrian without also denying having too  
17 much to drink. One thing is illegal, and the other (having too much to drink) is not per  
18 se, and a response to an allegation of illegality can naturally be expected to focus on the  
19 illegality.  
20

21  
22 As it was in this case, the investigators went from one discredited theory to  
23 another. When Winn completed her 5/30/12 affidavit that YCAO references in their  
24 closing, two things were happening. First, the Maricopa County Attorney's Office  
25 believed the now discredited theory that the \$100,000 from Richard and Christine  
26 Newman came in response to Horne's October 27 email. And second, MCAO was  
27  
28

1 maintaining that *Kathleen Winn* could not have done the independent expenditure without  
2 someone else holding her hand. Maybe someone else could have, but not her.

3 This was offensive to Winn and she pushed back on *her* ability to do the  
4 independent expenditure campaign in her affidavit.

## 5 **VI. CORROBORATION OF WINN'S TESTIMONY**

6 YCAO says nothing about the credibility of Horne's, Wilkinson's, Tatham's or  
7 Murray's testimony. And yet to credit YCAO's theory, this Court must assume that at  
8 least Winn, Horne and Wilkinson are all lying under oath.  
9

10 In addition, the physical evidence at hearing supports Winn. The phone records  
11 corroborate Winn on key points, such as her meeting on October 20 with Wilkinson and  
12 that Horne could not have been on of "two very strong personalities debating this  
13 moment."  
14

15 The real estate records also show how complicated all of this was, and Winn's  
16 phone journal indicates she was involved in assisting Horne in the sale of his property.  
17

18 Perhaps the strongest corroboration of Winn's testimony is that of Brian Murray,  
19 the campaign expert who YCAO called as a witness. He has always maintained that  
20 Winn's claims as to who she was speaking to are a lot more realistic than YCAO's claims  
21 as to who she was speaking to! [See Section II(4) above].  
22

23 And lastly, YCAO simply cannot account for the dog that didn't bark problem  
24 with their case that we identified in our Closing Argument. That is, in addition to all the  
25 other flaws, YCAO requires this Court to believe that Horne and Winn coordinated  
26 illegally on October 20, and yet Winn was unwilling to even tell Horne on October 27  
27 that his sister had given him \$100,000, even though that would have been legal.  
28

1 **VII. MATERIALITY**

2 YCAO simply has no response to the materiality requirement. Actually YCAO  
3 goes a step further and claims that Winn prevailed over Tom Horne as to how the ad  
4 should look. They have admitted that Horne had no material effect on the ad. In fact,  
5 their argument requires this Court to find that Horne’s attempts to change the ad were  
6 ultimately rebuffed. Their case fails on this basis alone. And YCAO has not claimed that  
7 the federal materiality requirement is inapplicable, so they must be deemed to agree with  
8 its application.  
9

10 **VIII. CONCLUSION**

11 YCAO’s case is nothing but “speculation” and “bottomless inference.” They were  
12 not a party to the conversations between Horne and Winn, they don’t have a witness who  
13 was, and the witness they do have (Brian Murray) tells us that YCAO’s theory actually  
14 doesn’t make sense.  
15

16 They speculate as to what the parties talked about and call this an “inference.”  
17 YCAO long passes the point where logical inference turns into speculation. In fact they  
18 go beyond that still to illogical speculation based on Brian Murray’s testimony.  
19

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1  
2 This Court should not accept YCAO's invitation to join them in playing mind  
3 reader. We respectfully request that this Court find for the Defendants.

4 RESPECTFULLY SUBMITTED this 21st day of March, 2014.

6 **TB** TIFFANY & BOSCO  
P.A.

7  
8  
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25 ORIGINAL OF THE FOREGOING e-filed  
26 this 21st day of March, 2014, to:

27 Honorable Tammy Eigenheer  
28 Administrative Law Judge  
ARIZONA OFFICE OF ADMINISTRATIVE  
HEARINGS  
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/s/ J. Warrington

41A9109

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter Of, )  
 ) Case No 14F-001-AAG  
TOM HORNE, Individually, Tom Horne for )  
Attorney General Committee )  
(SOS Filer ID 2010 00003); KATHLEEN )  
WINN, Business Leaders for Arizona, )  
(SOS Filer ID 2010 00375) )  
 )

ARIZONA OFFICE OF ADMINISTRATIVE HEARINGS  
1400 West Washington Street  
Suite 101  
Phoenix, Arizona  
February 11, 2014  
8:35 a.m.

BEFORE: HONORABLE TAMMY EIGENHEER, ADMINISTRATIVE LAW JUDGE

PREPARED BY:

CHAPMAN AND ASSOCIATES

1614 East Cactus Wren Drive

Wendell Chapman, R.P.R.

Phoenix, AZ 85020

Certified Reporter No. 50091

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1 Q. You've got some of these nice folks back here  
2 that probably wrote some articles. You could go review  
3 their articles, correct?

4 A. Yes.

5 Q. In addition, you had access to the Democrats  
6 in terms of what their positions were on various  
7 issues?

8 A. Yes.

9 Q. And you understood the distinction between  
10 positive campaigns: "Hi, I'm running for governor.  
11 I've done all these great things in life," versus  
12 negative campaigns: "My opponent is running for  
13 governor, and he's lower than," whatever, right?

14 A. Yes.

15 Q. And you knew all that before this script was  
16 written by you?

17 A. Yes.

18 Q. So when it got to the time to write this  
19 script, it wasn't -- the information was all there; it  
20 wasn't a big deal, right? It wasn't hard for you, with  
21 your experience, to write this script?

22 A. No.

23 Q. And with the exception of very minor details,  
24 you wrote it?

25 A. Yes.

1 Q. Now, a commercial or an ad is more than just  
2 words, is it not?

3 A. It is.

4 Q. In fact, the words might be the least  
5 important part in some ads, correct?

6 A. Some ads.

7 Q. So we know if you're going to run an ad for a  
8 Republican in the state of Arizona, you're going to  
9 stick President Obama's picture up there, probably,  
10 right, a negative ad?

11 A. Depending on the election, yes.

12 Q. All right. We're going to stick Obama up  
13 there. We're probably going to stick a picture of some  
14 folks climbing over a wall to indicate people are  
15 climbing over a wall to get into the United States,  
16 right? Because the Republicans are anti-immigration,  
17 right? You want to stick that in there, right?

18 A. Certainly in 2010 --

19 Q. Absolutely.

20 A. -- it was a powerful issue.

21 Q. The person against whom you're going to run  
22 this ad against, you're going to stick her up there,  
23 right?

24 A. Yes.

25 Q. And in addition to doing all of that, you want

1 to indicate that her source of funds is from some  
2 liberal organization or from a union?

3 A. It can be helpful, yes.

4 Q. Right? Powerful part of your ad, show where  
5 the money came from by video, photograph, show folks  
6 climbing over a wall, show President Obama, show a  
7 picture of the candidate, all part of the ad, right?

8 A. Yes.

9 Q. And you knew all that before you wrote that  
10 script?

11 A. Yes.

12 Q. You didn't need Kathleen Winn to tell you?

13 A. I didn't.

14 Q. You didn't need the attorney general to tell  
15 you?

16 A. No.

17 Q. And you were friends with the attorney  
18 general's campaign manager. What was his --

19 A. Michael Vargas.

20 Q. Michael Vargas.

21 Now, Michael Vargas was a pretty experienced  
22 campaign manager, wasn't he?

23 A. Yeah. He had actually worked for our firm.

24 Q. So you knew him well?

25 A. I knew him well.

1 Q. Now, a commercial or an ad is more than just  
2 words, is it not?

3 A. It is.

4 Q. In fact, the words might be the least  
5 important part in some ads, correct?

6 A. Some ads.

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19 Q. Absolutely.

20 A. -- it was a powerful issue.

21 Q. The person against whom you're going to run  
22 this ad against, you're going to stick her up there,  
23 right?

24 A. Yes.

25 Q. And in addition to doing all of that, you want

1 Q. And so when you said to the FBI, "I don't -- I  
2 really don't think Kathleen Winn could be coordinating  
3 in this case, in this situation, because some of the  
4 suggestions she was making just didn't indicate that  
5 she knew what the heck she was doing, or words to that  
6 effect, right?"

7 A. I think I made a statement similar to that.

8 Q. All right. So if -- you had an experienced  
9 candidate in Mr. Horne?

10 A. Yes.

11 Q. Who had an experienced campaign manager,  
12 correct?

13 A. Yes.

14 Q. So if she was coordinating, in your  
15 experience, it wasn't with those two folks, because you  
16 knew they were an experienced candidate and an  
17 experienced campaign manager, and they wouldn't be  
18 suggesting the dumb things that you thought she was  
19 suggesting?

20 A. Having known Michael, I wouldn't expect him to  
21 do anything that would pass for -- be -- I kind of have  
22 a rule of, now this is the law, but the headline test  
23 is even more stringent. And knowing Michael, I don't  
24 think he would ever cross that line.

25 Q. Absolutely. And not only that, having worked

1 with him, you thought the suggestion she was making  
2 would have been dumb, and you wouldn't have expected  
3 those to come from Vargas anyway, correct?

4 A. That's correct.

5 Q. And same thing for Mr. Horne, he was -- right?

6 A. Yes.

7 Q. I'm correct, right?

8 A. Yes.

9 Q. So whoever these folks are that she's  
10 supposedly talking to, we can eliminate Mr. Horne and  
11 Mr. Vargas, in your mind?

12 A. I mean, I have no knowledge of them doing  
13 anything, so no.

14 Q. All right. But, I mean, you can eliminate  
15 them because you knew they knew better?

16 A. I believe they knew better, yes.

17 MR. RAKE: All right. Can I take a break? Do  
18 you care?

19 JUDGE EIGENHEER: We will take a short recess.  
20 We will go off the record at this time.

21 (A recess ensued.)

22 JUDGE EIGENHEER: We are back on the record.  
23 Please proceed.

24 MR. RAKE: Your Honor, just for a reference  
25 for our court counsel and the court reporter, these

1 slides I'm going to go through have the exhibit number  
2 on the left-hand side. I'll probably remember to refer  
3 to them, but if I don't and people need to locate them,  
4 that's where they're at.

5 Q. BY MR. RAKE: Mr. Murray, do you remember  
6 being interviewed by the FBI that we discussed  
7 previously, correct?

8 A. Yes.

9 Q. And you actually had two interviews with them,  
10 did you not?

11 A. I did.

12 Q. And I'm going to get to it in just a minute,  
13 but one of the things you were -- and you realize that  
14 it was critical to you personally that when you spoke  
15 with the FBI that you be absolutely truthful about  
16 things?

17 A. Yes.

18 Q. And you realized that there could be dire  
19 consequences if you weren't?

20 A. Yes.

21 Q. And I'm going to get to it in just a second  
22 here, but one of the things you told the FBI  
23 specifically is that you wrote the script for the  
24 commercial with just some minor edits, correct?

25 A. I believe so, yes.

1 Q. And you told the FBI that you had gotten most  
2 of the information to write that script from looking at  
3 prior ads that were being run by Tom Horne at the time?

4 A. Yes.

5 Q. For somebody with your expertise, your  
6 experience, this was not something hard to do?

7 A. No.

8 Q. All right. Let me just kind of go through  
9 some -- part of this interview with you, and some of it  
10 you've already told us about, and I'll skip over it  
11 real quick.

12 But this is Lincoln Strategies. As you've  
13 explained to us, you do serve as a general consultant,  
14 and you can kind of do from A to Z in a political  
15 campaign?

16 A. Yes.

17 Q. And you've done that --

18 A. Yes.

19 Q. -- many times?

20 A. Yes.

21 Q. When you were talking to the FBI, you didn't  
22 just tell them that you wrote the ad, but you told them  
23 how you got the information, correct?

24 A. Yes.

25 Q. When the FBI left your office, did you in your

1 own mind think that they had any misunderstanding that  
2 you had written the ad and that you had gotten the  
3 information from prior ads that were being run by Tom  
4 Horne?

5 A. One of the things I learned from working for  
6 Congressman Renzi and dealing with the FBI was that  
7 there was an extreme disconnect, and those agents'  
8 ability to understand like why we did things the way we  
9 did.

10 And so sometimes things that are just normal  
11 occurrences to them are these huge red flags. And so  
12 the second time around dealing with the FBI I just  
13 wanted to be clear, and so I did send a follow-up  
14 e-mail just reiterating kind of just so -- kind of some  
15 clarity behind it.

16 Q. In other words, when the FBI -- after the FBI  
17 left your office, from your prior experience, you  
18 wanted to be certain that they understood that in your  
19 opinion you had written the ad, the roadmap that you  
20 had used to get it, and that there was no coordination?

21 A. Well, you know, I'm not here to say it  
22 occurred or not, because I have no idea if it occurred  
23 or it didn't. What I wanted to do is say, "Here's what  
24 I did," and that's what I tried to do.

25 Q. Well, you actually told them that you didn't



1 and the attention of your counsel who prepared the  
2 affidavit, wouldn't you think?

3 A. I caught this error that you're now currently  
4 pointing out, and I don't want to -- I will tell you  
5 that I did catch this after I had signed it, but not  
6 before it went out.

7 Q. Was there any kind of correction in a  
8 subsequent affidavit?

9 A. I believe I had requested one to be filed. I  
10 don't know if it was.

11 Q. I've got three total affidavits. This was the  
12 second one. I'm not seeing any kind of correction of  
13 this error.

14 Now, the affidavit that I'm referring to is  
15 May 25th, 2012. The other affidavit, the third one,  
16 which is called the Second Amendment to Affidavit of  
17 Kathleen Winn, and that is Exhibit 11, is dated  
18 May 30th of 2012, and it's not included in there.

19 So when you say you found this error, when did  
20 you find it?

21 A. I don't know the exact date. It may have been  
22 in preparation for the first hearing.

23 Q. So today is really the first day you've been  
24 able to say under oath that's in error?

25 A. Correct.

1 Q. How long have you known about the error?

2 A. A while. I don't know exactly --

3 Q. A while?

4 A. -- how long.

5 Q. Months? Years?

6 A. Not years. Well, I don't know. I'd be  
7 guessing right now. I don't want to do that.

8 Q. This statement is almost two years old. When  
9 did you first discover the error?

10 A. Probably a year after this was written.

11 Q. So this error has been known to you for about  
12 a year?

13 A. I'm not exactly sure. I don't want to say.  
14 I'm just not exactly sure. I know that I pointed this  
15 out, and I don't know exactly the timeframe.

16 Q. And it's remained uncorrected until today?

17 A. Yes. That's true. Unless there's a  
18 supplement that's out there that I'm not aware of or  
19 you're not aware of.

20 Q. We're collecting money at this point. Let's  
21 kind of focus a minute on our contact with Brian  
22 Murray.

23 When did you first have contact with Brian  
24 Murray?

25 A. That -- I think that week.

1 Q. The week of the 13th?

2 A. Yeah. After -- let me look.

3 Yes, it had to be that week, the week of --  
4 that started on the -- the week of -- the week of the  
5 10th, but --

6 Q. The week of the 10th --

7 A. Yeah. The 13th occurs on the week of the  
8 10th, so I didn't want to say the week of the 13th.

9 Q. Okay. And I believe your testimony was you  
10 were given a -- and I can't remember who gave you the  
11 list of different consultants you could maybe contact?

12 A. Brett Mecum from the Arizona Republican --

13 Q. Brett Mecum.

14 And you contacted Lincoln Strategies, which I  
15 appreciate. I think that probably was a good choice.

16 And you contacted Mr. Murray and --

17 A. I didn't -- I contacted Lincoln Strategies,  
18 and they referred me to Mr. Murray.

19 Q. Okay. And they referred --

20 A. Yes.

21 Q. -- you to Mr. Murray.

22 And he says, "Look, you need at least 50  
23 grand."

24 And if I understand correctly, it's kind of  
25 like "We want -- we want -- in order to approach the

1 RSLC, we need something to show that you can seriously  
2 raise some money here and that we're not just throwing  
3 our money to somebody that raises, you know, 15 or \$20  
4 and calls it an independent expenditure committee."

5 Is that kind of what your impression was?

6 A. No. I appreciate -- it's not too far off, but  
7 it's not accurate.

8 Q. Okay.

9 A. I'd already contacted Brett Mecum. I already  
10 knew that these funds were there. I --

11 Q. You're talking about the --

12 A. The RS -- the funds from the RSLC. I was  
13 aware of them, and I knew that they were there. So  
14 when I contacted Mr. Murray --

15 Q. Let me stop you for a minute.

16 A. Okay.

17 Q. When you say that you knew that the funds were  
18 there, are you talking about 450 or 550 specifically or  
19 just some funds, significant funds?

20 A. I didn't know the exact dollar amount. I just  
21 knew that there was a significant amount that they were  
22 willing to put into this race to advocate for a  
23 Republican attorney general in the state of Arizona.

24 Q. There was a pot of funds -- a pot of money  
25 available. Let's see if we can get into it?