



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

June 2, 2016

Michael Morrissey
Mitchell Stein Carey P.C.
One Renaissance Square
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Phoenix, Arizona 85004
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Via Email and First Class Mail

RE: Appointment of Outside Counsel for Independent Investigation

Dear Mr. Morrissey,

Pursuant to A.R.S. 41-2501(N) and the terms of the attached contract, I am appointing you to conduct an independent investigation into the events surrounding the Secretary of State's failure to mail publicity pamphlets to all registered voter households in sufficient time "to be delivered . . . before the earliest date for the receipt by registered voters of any requested early ballots" for the May 2016 special election. 2015 Ariz. Sess. Laws ch. 2, § 3(D) (1st Spec. Sess.) (*available at <http://www.azleg.gov/legtext/52leg/1s/laws/0002.pdf>*); accord A.R.S. § 19-123(B).¹ The effective date of the appointment is June 1, 2016. If there is any reason you cannot serve pursuant to the provisions of this letter or the Agreement for Outside Counsel, please notify Chief Deputy Michael Bailey (602-542-4266) immediately so that other counsel may be appointed.

The need for this inquiry arises in part out of the complaint Thomas M. Ryan filed on May 10, 2016 ("the Complaint"). I provided an initial response to the Complaint on May 12, 2016, and the Secretary of State responded on May 24, 2016. Copies of the Complaint, my initial response, and the Secretary of State's response are each attached. The scope of this engagement shall be limited to investigating the failure to timely mail publicity pamphlets to registered voter households in connection with the May 2016 special election and determining the existence, nature, and/or cause of any undue delay in remediating and publicly disclosing that failure to voters and county election officials. You should provide a report of the results of your investigation, including factual findings and an assessment of whether any laws were broken.

¹ The May 17, 2016 election involved two proposed amendments to the Arizona constitution referred to the voters by the Legislature, Propositions 123 and 124. H.C. Res. 2001, 52nd Leg., 1st Spec. Sess. (Ariz. 2015); S.C. Res. 1019, 52nd Leg., 2nd Reg. Sess. (Ariz. 2016). Both measures required the Secretary to submit the proposed amendments to the voters "at a special election called to be held for that purpose on May 17, 2016 as provided by article XXI, Constitution of Arizona." H.C. Res. 2001 at § 4; S.C. Res. 1019 at § 2.

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No one in the Office of the Attorney General ("the Office") shall direct or control your inquiry—you shall be completely independent. It is understood that you may speak to anyone you deem appropriate to gather facts in relation to the inquiry.

It is understood that you and the firm to which you associate by of-counsel relationship (Mitchell Stein Carey P.C.), and the Office have separately conducted evaluations and each believes that this appointment does not give rise to any ethical conflicts for itself pursuant to Ethical Rule 1.7 of the Arizona Rules of Professional Conduct. While you and other attorneys in your firm have current clients in matters adverse to the State of Arizona (and anticipate future such clients), none of those matters is, or is anticipated to be, directly adverse to your duties in this appointment. Further, there is no identifiable risk of material limitations as to the representation of clients by either the Office or your firm.

Thank you for serving in this important role. If you have any questions regarding this appointment, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in blue ink that reads "Mark Brnovich". The signature is stylized with a large "M" and "B" and a long, sweeping underline.

Mark Brnovich

Enclosures