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9
10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 STATE OF ARIZONA, *ex rel.* THOMAS C.
HORNE, Attorney General,

13 Petitioner,

14 vs.

15 COMMISSIONER COLLEEN MATHIS,
16 COMMISSIONER LINDA McNULTY,
17 COMMISSIONER JOSE HERRERA,

18 Respondents.

Case No.: _____

**EXHIBITS TO PETITION FOR
ENFORCEMENT OF WRITTEN
INVESTIGATIVE DEMANDS AND
APPLICATION FOR ORDER TO
SHOW CAUSE**

19 RESPECTFULLY SUBMITTED this 7th day of September, 2011.

20 THOMAS C. HORNE
21 Attorney General

22
23 Thomas C. Horne

24 THOMAS C. HORNE
Attorney General
25 Mark D. Wilson
Assistant Attorney General
26 Attorneys for Petitioner

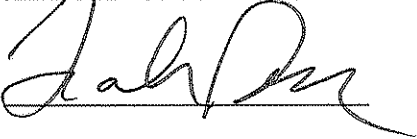
1 ORIGINAL of the foregoing filed this
7th day of September, 2011 with:

2 Maricopa County Superior Court
3 201 W. Jefferson
Phoenix, AZ. 85003-2243

4 COPY of the foregoing mailed and e-mailed
5 This 7th day of September, 2011 to:

6 Mary O'Grady, Esq.
Osborn Maledon
7 2929 N. Central Ave.
Phoenix, AZ 85012-2793

8 Joe Kanefield, Esq.
9 Ballard Spahr, LLP
1 E. Washington St., Ste. 2300
10 Phoenix, AZ 85004-2555

11 By: 

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15
16 #2293113

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Exhibit 1

AUG 31 2011

RECEIVED

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Mary R. O'Grady

602-640-9352

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August 29, 2011

VIA E-MAIL AND U.S. MAIL

Mr. Mark Wilson
Senior Litigation Counsel
Arizona Attorney General's Office
1275 West Washington
Phoenix, AZ 85007

Re: Independent Redistricting Commission – Objections to Investigative Demands

Dear Mark:

We write on behalf of the Arizona Independent Redistricting Commission (the "Commission") to respond to the written investigative demands that your office served. Since the Attorney General announced via press release July 21 that he was opening an inquiry into the Commission's compliance with open meeting and procurement laws, the Commission's concern has been that any legitimate questions be addressed fairly and efficiently and in a manner that respects the Commission's constitutional responsibilities. Although the investigation purportedly covers both procurement and open meeting law issues, the investigative demands are based solely on the Attorney General's investigative authority under the Open Meeting Law.

The Attorney General issued his investigative demands pursuant to A.R.S. § 38-431.06(B)(1) on August 11, 2011. The demands required that objections be filed by August 17 and 18, 2011. You agreed that we may file the objections to these investigative demands today. The objections to the investigative demands are set forth below along with comments directed toward a prompt resolution to this matter.

1. *The Attorney General's Statutory Authority Under the Open Meeting Law Does Not Extend to the Commission.*

As a threshold matter, there are serious questions whether the Attorney General can use the statutory procedures under A.R.S. § 38-431.06 to investigate the Commission, a legislative body governed by Article IV, part 2, § 1 of the Arizona Constitution, and, therefore, the Commission objects to the investigative demands. The Commission was created to remove the Legislature from the redistricting process and reassign that important responsibility to an

independent Commission made up of citizen volunteers. The constitutional provision governing the Commission emphasizes that the Commission is to be both independent and open to public scrutiny.

To further these purposes, Proposition 106, the citizen initiative that created the Commission, included its own open meeting requirement that, like the other provisions of the initiative, is self-executing. The Constitution requires that “[w]here a quorum is present, the independent redistricting commission shall conduct business in meetings open to the public, with 48 or more hours public notice required.” Ariz. Const. Art. IV, pt. 2, § 1(12). To fulfill this constitutional mandate, the Commission follows the procedures set forth in the Open Meeting Law but provides the additional public notice that is constitutionally required. The Commission goes to great length to ensure that its business is open to the public, and to public scrutiny. For example, its meetings are transcribed by a certified court reporter. Whenever technologically possible, its meetings are streamed live via the internet on the Commission’s website. Meeting transcripts and recordings are archived and available to the public continually on the Commission’s website. While the Open Meeting Law provides a convenient reference for procedures of the Commission, it is, by its terms, different from the constitutionally prescribed requirement of openness for the Commission.

Notably absent from Article IV, part 2, § 1 of the Constitution is any reference to the authority of the Attorney General to enforce this constitutional requirement of openness. Applying the statutory provisions for the investigation and enforcement of Open Meeting Law complaints to the Commission is contrary to the language of Proposition 106 and creates a serious risk to the Commission’s independence. See, e.g., *Ariz. Independent Redistricting Comm’n v. Fields*, 206 Ariz. 130, 75 P.3d 1088 (App. 2003) (establishing that the Commission is a legislative body and that its “commissioners, who are constitutional officers, are cloaked with legislative privilege”); *Hughes v. Speaker of the New Hampshire House of Reps.*, 876 A.2d 736, 744 (N.H. 2005) (“[W]hether a legislature has violated the procedures of a state right-to-know law is not justiciable.”) (collecting cases); *Ozanne v. Fitzgerald*, 798 N.W.2d 436, 440 (Wis. 2011) (also refusing to enforce state open meeting law against legislature citing separation of powers concerns).

We recognize that this issue has not been addressed by Arizona courts, but we believe that it is important to the Commission as an independent legislative body to object to the investigative demands on this basis. This objection does not mean that the Commission cannot be held accountable for its constitutional obligation to conduct its business in open meetings. On the contrary, it simply requires that the constitutional open meeting requirements be addressed by the courts, rather than through an enforcement proceeding initiated by the Attorney General under the Open Meeting Law.

2. *The Attorney General Has Not Established Reasonable Cause for the Investigation.*

The facts surrounding this investigation illustrate the problems with permitting the Attorney General to conduct statutory Open Meeting Law investigations against the Commission. This inquiry was not initiated based on a signed, written complaint under A.R.S. §

38-431.06(A), but was opened on the independent initiative of the Attorney General, as is permitted by statute. The Attorney General's press release announcing the investigation indicated that it was based on reports of wrongdoing, and when the Commission asked for copies of those reports all that your office provided were numerous emails from citizens, blog posts, and Yellow Sheet articles raising frustrations with the Commission, partisan complaints about Strategic Telemetry, and complaints (often of an intensely personal, partisan nature) about Chairperson Mathis.

None of the complaints made in these materials provides reasonable cause to believe that a violation of the Open Meeting Law has occurred. Indeed, the subject of the Open Meeting Law is raised only three times in these materials and none of these provide any specific allegation that an Open Meeting Law violation has occurred.

Even if the Attorney General had statutory authority to conduct an investigation of the Commission, any investigation must be supported by reasonable cause and all information must be relevant to the alleged violation. A.R.S. § 38-431.06(D). You have failed to establish either and, therefore, the Commission objects to the investigative demand.

3. *The Attorney General's Office is Operating Under a Disqualifying Conflict of Interest.*

As you probably know, before the Commission hired its own legal counsel, the Attorney General's Office provided the Commission with legal advice. Until approximately May 13, 2011, when the Commission selected retained counsel to represent it, the Attorney General and his Office represented and advised the Commission with respect to various legal issues. For instance, during the period of its representation the Attorney General's Office ("AGO") provided advice and training to the Commission through Assistant Attorney General Jim Barton, Assistant Attorney General Christopher Munns, and other members of the AGO regarding the Open Meeting and the procurement laws. Also during the period of the AGO's representation of the Commission, the AGO provided specific advice to the Commission during executive sessions regarding the procurement of a mapping consultant. Under these circumstances, the AGO cannot continue the Investigation.

Arizona Rule of Professional Conduct ("ER") 1.9(a) states: "A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client..." ER 1.10(a) states: "While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by ERs 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm."

Quite simply the AGO is currently investigating its former client, the Commission, regarding the very same issues on which the AGO previously provided legal advice to the Commission, specifically the open meetings laws, the procurement laws, and the request for proposals regarding a mapping consultant. There is substantial risk that, during the period of the

AGO's representation of the Commission, lawyers in the AGO learned confidential factual information that would be relevant to the AGO's current investigation. See E.R. 1.9 cmt. 3. Consequently, the AGO is disqualified from continuing its investigation.

4. *The Investigative Demands are Otherwise Objectionable on Their Face.*

Beyond the constitutional and ethical prohibition to the AGO continuing the investigation, the Commission asserts the following additional objections to the investigative demands.

The Commission objects to each of the written demands, and the demand for testimony under oath from the Commissioners, to the extent that they call for the disclosure of information or documents protected by the attorney-client privilege, the legislative privilege, and/or any other applicable privilege. The demands for the production of documents related to Commission meetings and communications between the Commission and/or individual Commissioners (Requests for Production Nos. 1, 3, 4, 5) all potentially implicate protected attorney-client communications.

These same requests, also call for the production of information and documents covered by the legislative privilege afforded to the Commission. The Arizona Court of Appeals has explicitly stated that "the Commission commissioners, who are constitutional officers, are cloaked with legislative privilege for actions that are 'an integral part of the deliberative and communicative processes' utilized in developing and finalizing a redistricting plan, and 'when necessary to prevent indirect impairment of such deliberations.'" *Arizona Independent Redistricting Commission v. Fields*, 206 Ariz. 130, 137, 74 P.3d 1088, 1095 (App. 2003) (quoting *Gravel v. United States*, 408 U.S. 606, 616 (1972)). In addition, the Court has held that the privilege extends to protect against "disclosure of documents in appropriate circumstances" because "their mere disclosure could 'chill' legislators from freely engaging in the deliberative process necessary to the business of legislating." *Id.* at 140, 74 P.3d at 1098. Thus, the Commission, and the individual Commissioners, are not required to testify or produce any documents related to their development of a redistricting plan, including the selection of the mapping consultant for the purposes of creating that plan.

In addition, your demands for communications between the Commission and/or individual Commissioners and "any other person" (Requests for Production Nos. 3 and 4) are overbroad, irrelevant to an inquiry regarding a potential Open Meeting Law violation, and therefore the Commission objects to these demands. The only communications that might be relevant to such an investigation would be communications between Commissioners; communications between an individual Commissioner (or the Commission itself) and a third-party would have no bearing on whether an Open Meeting Law violation occurred. Your demand for "[c]opies of all telephone and/or cell phone billing records" (Request for Production No. 6) is similarly overbroad. Your office has not disclosed either reasonable cause or relevance of the Commissioner's personal cell phone records. In addition, two of the commissioners are practicing attorneys, and their attorney-client confidentiality obligations pursuant to ER 1.6 prohibit the wholesale disclosure of their phone records.

5. *The Commission Wants to Continue Working Toward a Resolution Notwithstanding the Concerns Detailed Above.*

Despite the serious concerns referenced above, the Commission remains willing to resolve any legitimate concerns about the openness of the Commission's processes. As you know, we promptly provided you with the sole executive session transcript that you requested—from the meeting of June 29—and have asked you to advise us if the transcript raises any concerns. To date, you have not notified us of any concerns about the transcript. That Executive Session was conducted so that the Commission could receive legal advice and discuss procurement documents that were confidential at the time. Following the executive session, the Commission selected a mapping consultant in a public session, and the Commissioners explained their votes. They also reaffirmed that decision at a public meeting earlier this week.

In previous meetings, the Commission, working with the State Procurement Office, provided as much information as possible to the public about the procurement process. The names of all the companies submitting proposals were announced at a public meeting June 15 and the names of the companies to be interviewed were announced at that meeting following a discussion of the confidential proposals in executive session with representatives of the State Procurement Office. Interviews of four of the seven applicants were conducted in a public meeting June 24, and the Commission selected its mapping consultant at another public meeting June 29. The fact that the Commission's meeting in Tucson June 30 included three hours of public testimony criticizing the Commission's decision that it had made in Phoenix less than 24 hours earlier illustrates the very public nature of this particular procurement.

The Commission's chair has long supported releasing the executive session transcripts about the mapping consultant procurement so that the public can be informed about those discussions. Although the Commission believes it has the independent constitutional authority to release those transcripts in its discretion, it prefers to get your office's approval of such a release because of the Attorney General's position that the Open Meeting Law provisions apply to the Commission. Please let us know if you would approve of the release of any executive session transcripts regarding the selection of a mapping consultant.

In addition to the executive session discussion, you have told us that you were concerned about communications among Commissioners about the mapping consultant contract out of properly noticed meetings. As mentioned previously, nothing in the materials that your Office has provided to us to support your investigation provides any basis for this concern. Nevertheless, despite these concerns, as we have previously mentioned, we believe that with the release of the executive session transcripts and perhaps some additional training on communications out of public meetings, this matter should be closed.

6. *Conclusion.*

The Commission, its staff, and its five, unpaid, citizen-volunteer commissioners are presently engaged in time-sensitive, technical work of tremendous importance to Arizona. With

Mr. Mark Wilson
August 29, 2011
Page 6

that in mind, Commissioners Stertz and Freeman have agreed to speak with you and the other Commissioners have also expressed a willingness to speak with you if you agree to provide the reasonable cause upon which you have opened this investigation and disclose the remedies you intend to seek should you determine that an infraction occurred. Prudence, and the integrity of the Commission, however, demand that the objections discussed above be raised and preserved.

We hope that your Office will accept the Commission's proposal to resolve this matter with the release of executive session transcripts and additional training on communications outside of public meetings. We look forward to hearing from you soon.

Sincerely,



Mary R. O'Grady
Osborn Maledon, P.A.



Joseph A. Kanefield
Ballard Spahr, LLP

cc:Jean-Jacques Cabou

3818047

Exhibit 2



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
PUBLIC ADVOCACY DIVISION
CONSUMER PROTECTION & ADVOCACY SECTION

MARK WILSON
Sr. Litigation Counsel
Direct Phone No. (602) 542-8327

September 7, 2011

Mary O'Grady, Esq.
Osborn Maledon
2929 N. Central Ave.
Phoenix, AZ 85012-2793

Joe Kanefield, Esq.
Ballard Spahr LLP
1 E. Washington St., Ste. 2300
Phoenix, AZ 85004-2555

Re: Independent Redistricting Commission

Dear Mary and Joe:

I am writing in response to your letter dated August 29, 2011 objecting to the Written Investigative Demands. I have enclosed a Petition for Enforcement of Written Investigative Demands and Application for Order to Show Cause addressing many of the issues raised in your August 29th objections letter and a separate letter from Assistant Attorney General Mary Jo Foster addressing issues related to the alleged disqualifying conflict of interest.

As for the Commissioners' request for a further understanding of the Attorney General's reasonable cause I would ask that you direct the Commissioners to the enclosed petition based on information you had from being present at the two examinations under oath in this case.

Generally speaking we do not agree that this office's demand for documents is overbroad. We would, however, be willing to work with the Commission's lawyers to allow for an appropriate redaction of things such as telephone numbers that have no relation to the Commission, the Commissioners or Commission business or activities.

We agree to making the transcript of the executive session public, as you suggest, but believe a court order will be necessary to do that. The enclosed petition seeks that order.

Sincerely,



Mark Wilson
Sr. Litigation Counsel

cc:
Enclosure(s)
#2292889

Exhibit 3



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
OFFICE OF THE SOLICITOR GENERAL

MARYJO FOSTER
SPECIAL COUNSEL FOR ETHICS AND
TRAINING
DIRECT PHONE NO. (602) 542-8255
MARYJO.FOSTER@AZAG.GOV

September 7, 2011

VIA U.S. MAIL AND EMAIL

Mary O'Grady, Esq.
Osborn Maledon
2929 N. Central Avenue
Phoenix, AZ 85012-2793

Joe Kanefield, Esq.
Ballard Spahr LLP
1 E. Washington St., Ste. 2300
Phoenix, AZ 85004-2555

Re: Independent Redistricting Commission

Dear Mary and Joe:

I am writing in response to your letter of August 29, 2011 to Mark Wilson. My response is limited to addressing your assertion that the Attorney General's Office (AGO) has a disqualifying conflict of interest that precludes our investigation of the Independent Redistricting Commission (IRC). Mr. Wilson will respond separately to the other issues raised in your letter.

I must respectfully disagree with your suggestion that the AGO has a conflict of interest. Prior to undertaking this investigation, we carefully analyzed whether the AGO's brief representation of the IRC prior to the time you were retained as counsel posed any ethical impediment to investigating the allegations against the IRC. After careful consideration, we concluded that no conflict existed. Furthermore, even though we concluded that no conflict existed, to avoid even the appearance that a conflict might exist, we formally screened all the AGO attorneys who provided representation or advice to the IRC from the investigation, thus ensuring that no confidential information gained during the course of representation would be disclosed or used to the IRC's disadvantage.

The Arizona Rules of Professional Conduct, specifically ER 1.9(a), to which you refer in your letter, do not preclude all representations adverse to a former client, but only those that involve the "same or substantially related matter." Clearly, the current investigation does not involve the same matter, as the investigation was not initiated until after the AGO's representation of IRC terminated, and does not involve events that occurred during the AGO's representation. Nor is the current investigation "substantially related" to the AGO's former representation of the IRC.

For purposes of ER 1.9, a "substantially related matter" is not the same as "substantially related subject matter." See Ariz. Ethics Op. 94-06, at 4. The fact that an attorney may have provided advice or representation of a particular type does not preclude the attorney from subsequently undertaking representation adverse to the former client, "even if the matter is precisely the type" previously handled for the former client. *Id.* (emphasis added). As provided in the comments to ER 1.9, "a lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a wholly distinct problem of that type, even though the subsequent representation involves a position adverse to the prior client." ER 1.9, cmt. 2 (emphasis added). In order to be "substantially related," matters must be substantially factually interrelated. See Ariz. Ethics Op. 94-06, at 3.

Matters also can be "substantially related" for purposes of ER 1.9 if there is a substantial risk that confidential factual information obtained in the course of the prior representation would materially advance the current client's position in a subsequent representation. See ER 1.9, cmt. 3. No confidential information relating to AGO's representation of IRC could be used to the IRC's disadvantage in the current investigation, as the events in question had not occurred until after the AGO's representation of IRC ceased. Nevertheless, in an abundance of caution, we screened the AGO attorneys who advised the IRC from the investigation to ensure that no confidential information would be disclosed. The Arizona Supreme Court has ruled that an attorney who formerly represented a client could subsequently undertake adverse representation in a substantially related matter because where there is no disclosure of the former client's confidential information, the substantial relationship test is not applicable. *Alexander v. Superior Court*, 141 Ariz. 157, 165 (Ariz. 1984) (en banc).

With respect to the Open Meeting Law, Assistant Attorney General Chris Munns provided general training on Open Meeting Law to the IRC, as the AGO does for all state officers and entities. Assistant Attorney General Jim Barton also provided general Open Meeting Law advice during the period of time that the AGO provided legal representation to the IRC. This general advice and training is not factually related to the current investigation and cannot disqualify this office. In addition, both attorneys have been screened.

Were we to adopt your position that the mere fact that one or more AGO attorneys provided general advice and training to the IRC on Arizona's Open Meeting Law precludes the AGO from investigating specific allegations of Open Meeting Law violations involving conduct that occurred after the AGO representation had ceased and the IRC had retained its own counsel, this office could never investigate alleged violations of the Open Meeting Law by state entities or officials. As Mary is well aware, that has never been the position or practice of this office, and was not her practice during her tenure as Solicitor General and Chair of the Open Meeting Law Enforcement Team (OMLET). The longstanding practice has been to assign the investigation of Open Meeting Law complaints against state entities to an OMLET member who works in a different section of the AGO from the attorney(s) who advise the particular state entity. In this case, we went one step further and formally screened the AGO attorneys who provided advice to the IRC, and assigned the investigation to Mark Wilson, who is in a different division of the office, thus doubly ensuring that no disclosure of confidential information could occur.

With respect to alleged violations of the procurement laws, although Attorney General Horne's July 21, 2011 press release announced he was opening an investigation into the IRC's

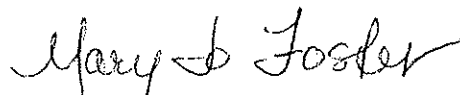
compliance with Open Meeting and procurement laws, at this time the AGO is not pursuing an investigation of procurement violations. Therefore, no conflict could arise as a result. In addition, we do not agree that a substantial relationship exists between the AGO's prior representation of the IRC and an investigation into whether the selection of the mapping consultant violated the procurement rules.

As with the Open Meeting Law, AGO attorneys, primarily Jim Barton, provided general legal advice to the IRC relating to the procurement process and rules. The AGO was representing IRC during the period of time that it was working with the State Procurement Office to develop a request for proposal (RFP) for legal counsel and an RFP for a mapping consultant. Once counsel was retained pursuant to the RFP, the AGO's representation of the IRC ceased. The AGO was not IRC's counsel at the time the proposals were evaluated and the mapping consultant selected. The alleged violation of the procurement rules relates to the selection process, during which the AGO was not representing the IRC, and not the content or development of the RFP. Therefore, a substantial factual nexus does not exist, and the AGO would not be ethically precluded from investigating whether the IRC's selection of a mapping consultant violated state procurement rules. Without conceding that a conflict would exist if the AGO were to investigate alleged procurement violations by IRC relating to the selection of a mapping consultant, before pursuing such an investigation, we will re-evaluate whether the matters are substantially related and make a determination at that time whether the investigation should be referred to outside counsel. This is not relevant to current disputes, as the current investigation is concerning alleged open meeting law violations.

Finally, I note that the conflict rules apply somewhat differently to government lawyers. The Arizona Rules of Professional Conduct recognize that government lawyers may have authority to act in circumstances that a private lawyer would not, and the rules do not abrogate that authority. See Scope, ¶18; ER 1.13, cmt. 9. Arizona's Open Meeting Law gives the Attorney General authority to investigate and enforce violations of the law. Given that the Open Meeting Law applies to public bodies, including state officers and entities, that necessarily gives the AGO authority to investigate and take enforcement action against State entities.

In conclusion, for the reasons stated above, no conflict of interest exists that precludes this office from proceeding with its investigation of the IRC.

Sincerely,



Mary Jo Foster
Special Counsel, Ethics & Training

Exhibit 4

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

<i>In the Matter of Your Appearance and Attendance Before the Attorney General or His Authorized Delegate.</i>)))))	WRITTEN INVESTIGATIVE DEMAND FOR PRODUCTION OF DOCUMENTS AND EXAMINATION UNDER OATH PURSUANT TO A.R.S. § 38-431.06(b)
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THE STATE OF ARIZONA, OFFICE OF THE ATTORNEY GENERAL, to:

Commissioner Linda McNulty
c/o Mary O'Grady, Esq.
Osborn Maledon
2929 North Central Ave.
Phoenix, Arizona 85012

YOU ARE HEREBY COMMANDED, PURSUANT TO A.R.S. § 38-431.06, to appear before the Attorney General or his authorized delegate, Mark D. Wilson, Assistant Attorney General, at 1275 West Washington, Phoenix, Arizona 85007, on the 18th day of August, 2011, at 9:00 a.m. of the day, to testify under oath in connection with an investigation under the Arizona Open Meeting Law (A.R.S. § 38-431, *et seq.*) regarding the Arizona Independent Redistricting Commission (the "Commission") and its Commissioners.

YOU ARE FURTHER COMMANDED to produce true and correct copies of the documents set forth below by hand delivery or the U.S. Mail to Mark D. Wilson, Assistant Attorney General, Office of the Attorney General, 1275 West Washington, Phoenix, Arizona 85007, no later than 4:00 p.m. on the 15th day of August, 2011.

Definitions

As used in this Investigative Demand:

"Commissioner meeting 'back-up' materials" means the complete agenda packet given to some or all Commissioners for each Commission meeting, including without limitation, agendas, materials identified with agenda item numbers that contain such information as date, names of persons submitting and recommending the item, discussion, and rationale, and all supporting data, attachments, and exhibits.

"Document" or "communication" means any writing or any other tangible thing, whether printed, recorded, reproduced by any process, or written or produced by hand, including, but not limited to, letters, memoranda, notes, opinions, books, reports, studies, agreements, statements, communications, e-mail, correspondence, telegrams, logs, bookkeeping entries, summaries or records of personal conversations, diaries, calendars, phone messages and phone logs, photographs, tape recordings, computers, computer tapes or disks or other media upon which information may be recorded, computer bulletin board file or document, statistical statements,

graphs, notebooks, charts, plans, drawings, records of conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports or summaries of interviews, opinions or reports of negotiations, brochures, pamphlets, advertisements, circulars, press releases, drafts of any document and revisions of drafts of any document, and any other similar paper or record. The term "document" also includes a copy of a document where the copy is not exactly the same as the original.

"Person" means every natural person, association, firm, partnership, corporation, board, committee, agency, commission, legal entity of any type or form, and every other organization or entity, whether public or private.

"Possession, custody, or control" means documents or information actually within your possession, custody, or control (including, without limitation, documents within the possession, custody, or control of your attorneys, accountants, agents, representatives, or employees); documents or information that you have a legal right to obtain; documents or information that you have a right to copy or have access to; and documents that you have placed in the temporary possession, custody, or control of any third party. If any document or category of information requested was, but is no longer in your possession or subject to your control, state what disposition was made of it and the date or dates or approximate date or dates on which such disposition was made.

"Relating to" a given subject matter means any document or communication that, directly or indirectly, constitutes, contains, embodies, comprises, reflects, identifies, states, refers to, comments on, responds to, describes, analyzes or in any way refers to or is pertinent to that subject.

Documents to Be Produced:

1. All Commission meeting "back-up" materials for all Commission meetings occurring between June 7, 2011 and July 1, 2011;
2. A list of the names of all persons present during each executive session occurring between June 7, 2011 and July 1, 2011, if not identified in the minutes;
3. All documents in your possession, custody, or control reflecting correspondence or communications between the Commission and any other person between June 7, 2011, 2011 and July 1, 2011 relating to any meeting of the Commission, or matters discussed or to be discussed at any meeting of the Commission;
4. All documents in your possession, custody, or control reflecting correspondence or communications between any Commissioner and any other person between June 7, 2011 and July 1, 2011 and the present, relating to any meeting of the Commission, or matters discussed or to be discussed at any meeting of the Commission;

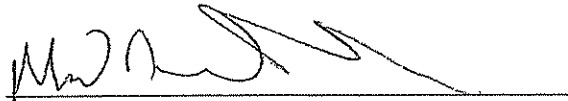
5. All documents in your possession, custody, or control reflecting correspondence or communication between two or more Commissioners between June 7, 2011 and present; and
6. Copies of all telephone and/or cell phone billing records including but not limited to the detailed statements of calls made and received between June 7, 2011 and the present..

You are not required to produce duplicate copies of any documents requested herein which have already been provided to the Attorney General's Office in response to a previous request of the Attorney General's Office, but for each such document, you shall provide a list describing with particularity each such document and the date it was produced to the Attorney General.

Your failure to comply in full with this investigative demand will subject you to the proceedings and penalties provided for by law, including, but not limited to, being held in contempt of court. Objections to or reasons for not complying with this Investigative Demand may be filed with Assistant Attorney General Mark D. Wilson on or before August 18, 2011.

Executed this 11 day of August, 2011.

THOMAS C. HORNE
Attorney General



Mark D. Wilson
Assistant Attorney General

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

<i>In the Matter of Your Appearance and</i>)	WRITTEN INVESTIGATIVE DEMAND
<i>Attendance Before the Attorney General</i>)	FOR PRODUCTION OF DOCUMENTS
<i>or His Authorized Delegate.</i>)	AND EXAMINATION UNDER OATH
)	PURSUANT TO A.R.S. § 38-431.06(b)

THE STATE OF ARIZONA, OFFICE OF THE ATTORNEY GENERAL, to:

Commissioner Jose Herrera
c/o Mary O'Grady, Esq.
Osborn Maledon
2929 North Central Ave.
Phoenix, Arizona 85012

YOU ARE HEREBY COMMANDED, PURSUANT TO A.R.S. § 38-431.06, to appear before the Attorney General or his authorized delegate, Mark D. Wilson, Assistant Attorney General, at 1275 West Washington, Phoenix, Arizona 85007, on the 18th day of August, 2011, at 11:00 a.m. of the day, to testify under oath in connection with an investigation under the Arizona Open Meeting Law (A.R.S. § 38-431, *et seq.*) regarding the Arizona Independent Redistricting Commission (the "Commission") and its Commissioners.

YOU ARE FURTHER COMMANDED to produce true and correct copies of the documents set forth below by hand delivery or the U.S. Mail to Mark D. Wilson, Assistant Attorney General, Office of the Attorney General, 1275 West Washington, Phoenix, Arizona 85007, no later than 4:00 p.m. on the 15th day of August, 2011.

Definitions

As used in this Investigative Demand:

"Commissioner meeting 'back-up' materials" means the complete agenda packet given to some or all Commissioners for each Commission meeting, including without limitation, agendas, materials identified with agenda item numbers that contain such information as date, names of persons submitting and recommending the item, discussion, and rationale, and all supporting data, attachments, and exhibits.

"Document" or "communication" means any writing or any other tangible thing, whether printed, recorded, reproduced by any process, or written or produced by hand, including, but not limited to, letters, memoranda, notes, opinions, books, reports, studies, agreements, statements, communications, e-mail, correspondence, telegrams, logs, bookkeeping entries, summaries or records of personal conversations, diaries, calendars, phone messages and phone logs, photographs, tape recordings, computers, computer tapes or disks or other media upon which information may be recorded, computer bulletin board file or document, statistical statements,

graphs, notebooks, charts, plans, drawings, records of conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports or summaries of interviews, opinions or reports of negotiations, brochures, pamphlets, advertisements, circulars, press releases, drafts of any document and revisions of drafts of any document, and any other similar paper or record. The term "document" also includes a copy of a document where the copy is not exactly the same as the original.

"Person" means every natural person, association, firm, partnership, corporation, board, committee, agency, commission, legal entity of any type or form, and every other organization or entity, whether public or private.

"Possession, custody, or control" means documents or information actually within your possession, custody, or control (including, without limitation, documents within the possession, custody, or control of your attorneys, accountants, agents, representatives, or employees); documents or information that you have a legal right to obtain; documents or information that you have a right to copy or have access to; and documents that you have placed in the temporary possession, custody, or control of any third party. If any document or category of information requested was, but is no longer in your possession or subject to your control, state what disposition was made of it and the date or dates or approximate date or dates on which such disposition was made.

"Relating to" a given subject matter means any document or communication that, directly or indirectly, constitutes, contains, embodies, comprises, reflects, identifies, states, refers to, comments on, responds to, describes, analyzes or in any way refers to or is pertinent to that subject.

Documents to Be Produced:

1. All Commission meeting "back-up" materials for all Commission meetings occurring between June 7, 2011 and July 1, 2011;
2. A list of the names of all persons present during each executive session occurring between June 7, 2011 and July 1, 2011, if not identified in the minutes;
3. All documents in your possession, custody, or control reflecting correspondence or communications between the Commission and any other person between June 7, 2011, 2011 and July 1, 2011 relating to any meeting of the Commission, or matters discussed or to be discussed at any meeting of the Commission;
4. All documents in your possession, custody, or control reflecting correspondence or communications between any Commissioner and any other person between June 7, 2011 and July 1, 2011 and the present, relating to any meeting of the Commission, or matters discussed or to be discussed at any meeting of the Commission;

5. All documents in your possession, custody, or control reflecting correspondence or communication between two or more Commissioners between June 7, 2011 and present; and
6. Copies of all telephone and/or cell phone billing records including but not limited to the detailed statements of calls made and received between June 7, 2011 and the present.

You are not required to produce duplicate copies of any documents requested herein which have already been provided to the Attorney General's Office in response to a previous request of the Attorney General's Office, but for each such document, you shall provide a list describing with particularity each such document and the date it was produced to the Attorney General.

Your failure to comply in full with this investigative demand will subject you to the proceedings and penalties provided for by law, including, but not limited to, being held in contempt of court. Objections to or reasons for not complying with this Investigative Demand may be filed with Assistant Attorney General Mark D. Wilson on or before August 18, 2011.

Executed this 11 day of August, 2011.

THOMAS C. HORNE
Attorney General



Mark D. Wilson
Assistant Attorney General

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

<i>In the Matter of Your Appearance and</i>)	WRITTEN INVESTIGATIVE DEMAND
<i>Attendance Before the Attorney General</i>)	FOR PRODUCTION OF DOCUMENTS
<i>or His Authorized Delegate.</i>)	AND EXAMINATION UNDER OATH
)	PURSUANT TO A.R.S. § 38-431.06(b)

THE STATE OF ARIZONA, OFFICE OF THE ATTORNEY GENERAL, to:

Commissioner Colleen Mathis
c/o Mary O'Grady, Esq.
Osborn Maledon
2929 North Central Ave.
Phoenix, Arizona 85012

YOU ARE HEREBY COMMANDED, PURSUANT TO A.R.S. § 38-431.06, to appear before the Attorney General or his authorized delegate, Mark D. Wilson, Assistant Attorney General, at 1275 West Washington, Phoenix, Arizona 85007, on the 18th day of August, 2011, at 1:00 p.m. of the day, to testify under oath in connection with an investigation under the Arizona Open Meeting Law (A.R.S. § 38-431, *et seq.*) regarding the Arizona Independent Redistricting Commission (the "Commission") and its Commissioners.

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4. All documents in your possession, custody, or control reflecting correspondence or communications between any Commissioner and any other person between June 7, 2011 and July 1, 2011 and the present, relating to any meeting of the Commission, or matters discussed or to be discussed at any meeting of the Commission;

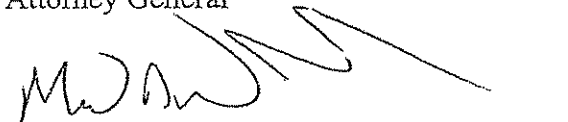
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Executed this 17 day of August, 2011.

THOMAS C. HORNE
Attorney General



Mark D. Wilson
Assistant Attorney General