



KATIE HOBBS
SECRETARY OF STATE

October 20, 2022

Via U.S. Mail and email

Robin R. Mitchell
Legal Division Chief Counsel/Division Director
Arizona Corporation Commission
1200 W. Washington St
Phoenix, AZ 85007

Re: Ethics Complaint against Commissioner Jim O'Connor

Dear Ms. Mitchell:

The Secretary of State's Office is writing to file an ethics complaint against Commissioner Jim O'Connor. As outlined below, our Office believes that Commissioner O'Connor improperly used his official role on the Arizona Corporation Commission ("Commission") in an attempt to advance his personal beliefs about Arizona's elections. Commissioner O'Connor's actions seek to undermine the integrity of Arizona's elections, and we respectfully request that the Commission investigate whether Commissioner O'Connor violated its Code of Ethics and Code of Conduct.

This complaint arises from Commissioner O'Connor's use of the name and institution of the Commission in a letter that he sent on August 30, 2022 to county election administrators in which he outlined his personal beliefs about election equipment and election administration (attached as Exhibit A).¹ The letter was sent on official letterhead using the Commission's seal and mailed in an envelope with the Commission's seal and return address. The letter urged "all of our Counties to immediately cease use of all electronic voting machines for this November's General Election and beyond."² As a result of Commissioner O'Connor's letter, county officials

¹ Several counties received a second mailing on September 29, 2022, that included a flyer about an upcoming event on "[t]he Demise of Machines," focused on alleged "problems with the voting machines." The flyer listed Commissioner O'Connor as an "expert speaker" at the event. Like the letter sent by Commissioner O'Connor to county officials on August 30, 2022, this flyer was also sent in an envelope with the official Corporation Commission's seal and return address. See attached as Exhibit B.

² See Exhibit A. The Secretary of State's Office became aware of this letter after several County Recorders, Election Directors, and a member of the Yavapai Board of Supervisors contacted our office.

have received correspondence from the public demanding that election officials heed Commissioner O'Connor (examples of those letters are attached as Exhibit C).

Commissioner O'Connor's August 30th letter repeated erroneous and debunked conspiracies about voting machines and election security;³ Commissioner O'Connor apparently gathered this information at a summit organized by election conspiracy theorist Mike Lindell.⁴ But in the days prior to his sending of the letter, a federal court rejected a lawsuit where the plaintiffs had made similar claims about Arizona's election equipment, a development that Commissioner O'Connor was or should have been aware of. *See Lake v. Hobbs*, No. CV-22-00677-PHX-JJT, 2022 WL 3700756 (D. Ariz. Aug. 26, 2022). The court held that the "plaintiffs fail to plausibly show that Arizona's voting equipment even has such security failures." *Id.* at *9. And the court went on to explain that "Defendants have taken numerous steps to ensure such security failures do not exist or occur in Arizona or Maricopa County." *Id.* at *9, n.13. Among other protections, the court noted that "[i]n addition to the equipment certification process, Arizona's vote tabulation results are subject to four independent audits," and that "every vote cast can be tied to a paper ballot, voting devices are not connected to the Internet[,] any ports are blocked with tamper evident seals, and access to voting equipment is limited." *Id.* at *5 & *9, n.13 (internal citations omitted).

The Commission's Code of Ethics and Code of Conduct require commissioners to distinguish between their official acts and acts taken in a private capacity. Rule 2.4 of the Commission's Code of Ethics provides that "[c]ommissioners should not perform an act in a private capacity that may be construed as an official act." *See also* A.A.C. R2-5A-501. Furthermore, the Commission's Code of Conduct (incorporated into the Code of Ethics pursuant to Rule 1.2) requires commissioners to "[b]e clear about representing the Commission or personal interests," including in correspondence, like the correspondence at issue here. *See* Arizona Corporation Commission, *Code of Conduct for Elected and Appointed Officials* at 5 (2021), <https://docket.images.azcc.gov/0000203873.pdf?i=1625700945939>. Additionally, the Code of Conduct creates limits on the use of official Commission letterhead, stating that

³ For example, Commissioner O'Connor claims that there were significant issues with tabulation machines in El Paso County, Colorado during its 2022 primary election. This claim is wholly incorrect and misrepresents the results of the county's logic and accuracy testing. The Associated Press labeled such claims as "false," because the tests "showed that the machines are working as intended, not failing." And the county clerk's office confirmed that "[t]he Logic and Accuracy test passed with [an] 100% accuracy rate." Josh Kelety, *Misinformation Spreads About Election Recount in Colorado County*, Associated Press, Aug. 2, 2022, <https://apnews.com/article/fact-check-el-paso-county-recount-269785070101>.

⁴ *See* Exhibit A. According to news reports, the Department of Justice is now "investigating Lindell for identity theft, intentional damage to a protected computer and conspiracy to commit identity theft or intentionally damage a protected computer." Julia Shapero, *DOJ Investigating Mike Lindell Over Potential Identity Theft, Damage to Protected Computer*, The Hill, Sept. 21, 2022, <https://thehill.com/blogs/blog-briefing-room/3654707-doj-investigating-mike-lindell-over-potential-identity-theft-damage-to-protected-computer/>.

“[c]ommission letterhead may be used when the Commissioner is representing the Commission and the Commission’s official position.” *Id.*⁵

Commission Chairwoman Márquez Peterson recently confirmed that election administration is not within the purview of the Commission.⁶ Moreover, it does not appear that the Commission approved or consented to Mr. O’Connor’s letter, nor does the letter represent the Commission’s official position. But Commissioner O’Connor’s letter was on the Commission’s letterhead, which includes the Commission’s seal and address, and was sent in a Commission envelope, thereby suggesting that the letter was written and sent in Commissioner O’Connor’s capacity as a commissioner. In addition, the first two paragraphs of the letter discuss the auditing, investigatory, and judicial functions of the Commission, thus improperly suggesting that Commissioner O’Connor is writing in his official capacity. Finally, the letter is signed “Commissioner Jim O’Connor,” again indicating that it was sent in an official capacity, even though this was outside the bounds of Commissioner O’Connor’s official role as a commissioner. In short, Commissioner O’Connor used his official position and official Commission letterhead to share debunked conspiracy theories and personal beliefs in an apparent effort to persuade or coerce county election officials to change their election practices.⁷

The Commission should investigate whether Commissioner O’Connor’s letter comports with the ethical rules that require him to clearly distinguish when his actions were taken in a personal capacity and when they were taken in an official capacity and the rule that permitted him to use Commission letterhead only when representing the Commission’s official position. These rules are important because they prevent commissioners from abusing their positions as elected officials to advance private goals.

The negative impact of an elected officeholder impermissibly using their office to sow distrust and undermine Arizona’s elections cannot be overstated. Accordingly, the Secretary of State’s Office asks that you investigate Commissioner O’Connor’s conduct to ensure it does not happen again. Please contact me if you have any questions.

Sincerely,

⁵ The Code of Conduct also prohibits “[d]eliberately lying or misleading,” “[s]peaking recklessly,” “[s]preading rumors,” and “[s]tirring up . . . divisiveness.” Arizona Corporation Commission, *Code of Conduct for Elected and Appointed Officials* at 6 (2021), <https://docket.images.azcc.gov/0000203873.pdf?i=1625700945939>.

⁶ Ryan Randazzo, *Voting Machine Discussion Won’t Happen at Arizona Corporation Commission*, Arizona Republic, Sept. 13, 2022, <https://www.azcentral.com/story/money/business/energy/2022/09/13/arizona-corporation-commission-wont-address-voting-machines/10369936002/>.

⁷ At the Commission meeting held on September 7, 2022, Commissioner O’Connor suggested again that he was expressing his individual views but using his official capacity to do so stating that he wrote the letter in his “individual capacity as a statewide elected official.” Arizona Corporation Commission, “Open Meeting”, Sept. 7, 2022, video, 1:59:20, https://azcc.granicus.com/player/clip/5069?view_id=3&redirect=true&h=6c35a1608549298a416595d43241f30a.

Kori Lorick

Kori Lorick
State Elections Director
Arizona Secretary of State Katie Hobbs
klorick@azsos.gov
602.540.5562

Affidavit of Verification

I, Kori Lorick, do state and swear under penalty of perjury that the allegations in the foregoing complaint are true and correct to the best of my knowledge and belief.

Executed on October 20, 2022, in Maricopa County, Arizona.


Kori Lorick

STATE OF ARIZONA
COUNTY OF MARICOPA

Subscribed and sworn before me this 20th day of October 2022, by Kori Lorick.




Notary Public Signature

EXHIBIT A



ARIZONA CORPORATION COMMISSION

Wednesday, August 30, 2022

To my fellow elected officials:

As you all may recall your Corporation Commission is responsible for the regulation of all Securities Broker Dealers and Registered Investment Advisory firms doing business in our State, in addition to our other duties. We routinely audit these businesses assuring the public of these companies' compliance with our regulations designed to protect the public.

On a regular basis we find bad actors operating in our state causing harm to our state's investors. We perform examinations and investigations, hold hearings, determine guilt, impose sanctions, levy fines, and then refer criminal activity to our Attorney General's office for prosecution. Your commissioners act in a judicial capacity in this function of government.

I cite that judicial role as the basis for my strongest admonition and encouragement for all of our Counties to immediately cease use of all electronic voting machines for this November's General Election and beyond. These machines have been shown to be unreliable and cannot be secured, as evidenced by one example of the recent primary election in El Paso County, CO. The County conducted a hand recount of 100% of the paper ballots revealing a 62% error rate using their black box tabulation machines.

Recently, I spent two entire days listening to testimony given publicly at "The Moment of Truth Summit", with reports from all 50 states including Arizona, which had teams of presenters giving updates to the election maladministration conducted nationwide.

The majority of presenters were well credentialed cyber security experts with decades of experience in election forensics. I am convinced beyond a reasonable doubt, no one can make a legitimate claim that our election machines and equipment are exempt from a cyber-attack creating an election outcome that cannot be trusted.

In your capacities as County Supervisors under ARS 16-442 you have permissive authority from the Secretary of State in that you MAY choose to use electronic voting machines. There is NO REQUIRED authority mandating you to do so. Each County may choose for themselves.

For the sake of every legal voter without regard to political party, I herein urge each of you in your respective positions to act immediately to secure our November election by use of paper ballots processed by hand count. You each have the solemn duty to uphold your oath of office to defend our Constitution from all enemies foreign and domestic. That duty call is now.

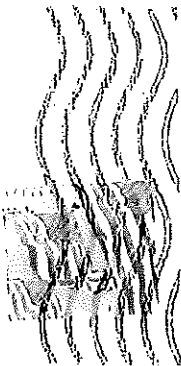
May God empower each of you to do the right thing and renew your love of our State and our Nation.

Commissioner Jim O'Connor

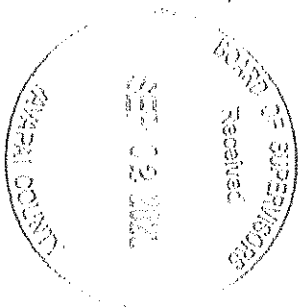


ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

OFFICE OF THE CLERK
31 AUG 2002 10:10 A



Supervisor Craig Brown
Yavapai County
1015 Fair Street
Prescott, AZ 86305



86305-188299

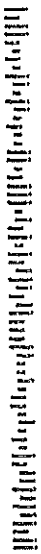


EXHIBIT B



ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

PHOENIX AZ 852
27 SEP 2022 PM 10 L



Elections Director Lisa Marra
Cochise County
1415 Melody Lane, Building E
Bisbee, AZ 85603

THE RISE OF TRUTH

The Demise of Machines

*An in-depth presentation from multiple experts
in various fields and areas of expertise on the
problems with the voting machines.
And how to get the word out.*

EXPERT SPEAKERS

Jim O'Connor
Clay Parikh
Patrick Colbeck
Tina Peters
Jeff O'Donnell
Walter Daugherty

Michael Shafer
Erin Clements
Shawn Smith
Ben Colton
Clint Curtis

Sonny Borrelli
Lawrence Hudson
Roger Fuller
Jovan Hutton Pulitzer
Dr. Alex Halderman



Saturday
October 1, 2022
Doors open: 11:30am
Event: 12pm - 4pm
Tempe

RSVP at
[https://tinyurl.com/
Getridofmachinessummit](https://tinyurl.com/Getridofmachinessummit)

EXHIBIT C

Kori Lorick

From: Mariscal, Eric <emariscal@gilacountyaz.gov>
Sent: Wednesday, September 7, 2022 10:40 AM
To: Kori Lorick
Subject: FW: No Voting Machines 2022 Midterms!

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Hi Kori,

I just received this; I am sure it is being sent to everyone.

Eric

From: Christine <info3@actforamericaalerts.org>
Sent: Wednesday, September 7, 2022 10:05 AM
To: Mariscal, Eric <emariscal@gilacountyaz.gov>
Subject: No Voting Machines 2022 Midterms!

CAUTION: Please VERIFY the actual email address matches sender name to avoid phishing attempts. Since this email originated from outside of Gila County, please be careful when deciding to click links or open attachments.

Dear Representative, Secure One Man, One Vote for this Midterm Election! • No Voting Machines 2022 Midterms! • Arizona Machine Ban in Every County. • In-Person Paper Ballot Hand Counts ONLY! We must prevent a repeat of the Arizona General 2020 Election and guarantee the results of the 2022 Midterm election reflects the true will of the people of Arizona. We are calling on all Arizona County Officials across the state to ban the use of all electronic voting machines, including ballot tabulators, in this upcoming election. All machines are a national cyber security risk that is unsecure, hackable, and inaccurate! County election results must be hand delivered without the use of electronic transmission or transportable memory devices that can be digitally altered. Jim O'Conner, Arizona State Commissioner, has distributed an official letter, dated August 30th, 2022, to every county official calling on them to conduct the Midterm elections by paper ballots processed by hand count. I agree and endorse the state Commissioner's letter and call upon you to perform your duty to administer a faithful and secure election this Fall in the state of Arizona. As stated in the letter, "as County Supervisors, under ARS 16-442, you have permissive authority from the Secretary of State in that you MAY CHOOSE to use electronic voting machines. There is NO REQUIRED authority mandating you to do so. Each County may choose for themselves." Secure and Restore Faith in Local Arizona Elections Now! Thank you.

Kori Lorick

From: Hansen, Patty <phansen@coconino.az.gov>
Sent: Friday, September 9, 2022 4:41 PM
To: Kori Lorick
Subject: FW: No Voting Machines 2022 Midterms!

Kori,

This is the second email I've received today that mentions Corporation Commissioner Jim O'Connor.

FYI.

Have a good weekend.

Patty Hansen

Coconino County Recorder
110 E Cherry Ave
Flagstaff, AZ 86001
(928) 679-7889



From: Christine <info3@actforamericalerts.org>
Sent: Friday, September 9, 2022 4:18 PM
To: Hansen, Patty <phansen@coconino.az.gov>
Subject: No Voting Machines 2022 Midterms!

[EXTERNAL EMAIL]

Use caution before clicking on links, opening attachments, or responding. DO NOT CLICK unless you recognize the sender and know the content is safe.

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Midterm elections by paper ballots processed by hand count. I agree and endorse the state Commissioner's letter and call upon you to perform your duty to administer a faithful and secure election this Fall in the state of Arizona. As stated in the letter, "as County Supervisors, under ARS 16-442, you have permissive authority from the Secretary of State in that you MAY CHOOSE to use electronic voting machines. There is NO REQUIRED authority mandating you to do so. Each County may choose for themselves." Secure and Restore Faith in Local Arizona Elections Now! Thank you.