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DISTRICT 28

Arizona House of Representatives  
Phoenix, Arizona 85007

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CAPITAL REVIEW

June 10, 2024

Via Email and U.S. Mail

Hon. Kris Mayes  
Arizona Attorney General  
2005 North Central Avenue  
Phoenix, Arizona 85004

**Re: *Your Conflict of Interest in Pay-to-Play Investigation Involving Governor Hobbs & Sunshine Residential Homes Donations to Inaugural Fund & Arizona Democratic Party; Misrepresentations of Arizona Law***

Dear Attorney General Mayes:

In light of your recent actions and public statements misrepresenting Arizona law, I feel compelled to write this letter. I demand that you immediately recuse yourself from investigating the pay-to-play scandal, which involves substantial donations to both the Arizona Democratic Party ("ADP") and Governor Hobbs' inaugural fund and potentially implicates the ADP, Governor Hobbs, Sunshine Residential Homes, and/or the Arizona Department of Child Safety.

As you may recall, I wrote to you five months ago, expressing disappointment with your disposition of my public resources complaint, which alleged that then-Governor-Elect Hobbs misused public resources in violation of A.R.S. § 16-192 by impermissibly funneling 53 contributions to the ADP through a state website. The most shocking aspect of your "investigation" was that you allowed the ADP to simply deposit the improperly-procured funds into Governor Hobbs' state promotional fund—*after* I submitted my complaint—instead of holding Governor Hobbs or her agents accountable. You could have sought civil penalties for each violation, to the tune of \$265,000, but instead, you chose to sweep those statutory violations under the rug and protect your own party and Governor Hobbs.

As I stated in my January 10th letter, you also failed to disclose your clear conflict of interest in investigating my public resources complaint. You and your campaign clearly benefitted from ADP's fundraising for your Attorney General fund, and you should have recused yourself from the investigation (as you did in another matter concerning a political mailer), but refused to do so. Consequently, I sponsored House Bill 2768 this session to ensure that future conflicts of interests must be promptly disclosed and analyzed to protect the integrity of public monies investigations.

Your conflict of interest and mishandling of my complaint warrants your recusal from investigating the pay-to-play scandal because it likewise stems from Governor Hobbs' unprecedented inaugural fundraising and political donations to the ADP. You have already proven that you will shield both the Democrat Governor and your own party from any liability.



If there were any doubt about this conclusion, your June 7th letter to Maricopa County Attorney Rachel Mitchell solidifies that any investigation by your office is already biased and will meet the same fate as my public monies complaint. You either grossly misunderstand Arizona law or are making a desperate attempt to claim jurisdiction over the pay-to-play investigation to protect Governor Hobbs and/or the ADP. Either way, it is difficult to conclude that there is any "integrity" left in the investigation you opened last week.

Your June 7th letter demands that County Attorney Mitchell step aside because "it would not be appropriate or in the best interest of the state to conduct parallel investigations into the same matter." You fail to cite any legal authority for your demand. Perhaps you do not realize or have forgotten that a county attorney "is the public prosecutor of the county and shall ...conduct all prosecutions for public offenses" committed in the county. A.R.S. § 11-532(A)(1). Your jurisdiction over criminal offenses is limited, as explained in Chapter 1 of the Attorney General Handbook posted on your website. In fact, it is the *county attorney* that may refer criminal matters to *you* for investigation by the State Grand Jury if the offenses fall within its jurisdiction. See A.R.S. § 21-422(B)(7).

Your letter also indicates that the Auditor General should stand down, citing A.R.S. § 41-1279.04(F). Again, you misunderstand Arizona law. The Auditor General routinely works with county attorneys to conduct investigations and is statutorily authorized to do so. A.R.S. § 41-1279.05(A).

If you dislike Arizona's laws or the limits of your authority imposed by those laws, you are welcome to advocate for statutory changes through the legislative process. What you may not do, however, is make false statements about Arizona law to micromanage the conduct of other elected officials and public servants or prevent them from exercising their own powers and duties. The people of Arizona deserve better from their chief legal officer.

For all of these reasons, it is obviously in the best interest of the state that an unbiased, conflict-free prosecutor with jurisdiction proceed with a full, fair, and independent investigation of these serious allegations, in coordination with our Auditor General.

Please confirm that you will relinquish your investigation and recuse yourself so that County Attorney Mitchell and the Auditor General can do their jobs without interference or delay.

Respectfully,

A handwritten signature in cursive script that reads "David Livingston".

Representative David Livingston

cc:  
Senator T.J. Shope  
Maricopa County Attorney Rachel Mitchell  
Auditor General