



OFFICE OF ATTORNEY GENERAL TOM HORNE

Criminal Division
Fraud and Special Prosecutions Section

MEMORANDUM

TO: File

FROM: Todd C. Lawson, AAG *TCL*

DATE: 30 August 2012

RE: Turndown of P002-2012-000345 PCSO Complaint/Babeu/Orozco
#2852168v1

During the week of August 20, 2012, I met with investigators to review the nearly-final drafts of their reports on this investigation.

Based on those reports, I am declining to pursue any charges against Paul Babeu. There is no indication that he misused any authority or misused public money to harass or intimidate Jose Orozco. As indicated in the agent's report, Orozco's allegations are not supported by the facts.

Also based on those reports, I noted that there were potential charges that could be brought against Orozco. I prepared a draft indictment for discussion with Solicitor General Dave Cole, Criminal Division Chief Andrew Pacheco, and the investigators. We met on August 27 to consider the potential charges, and discussed the merits and drawbacks of pursuing convictions for those charges.

Charges under A.R.S. §13-2008 do not seem likely to result in a conviction, as the Twitter account used was owned by Orozco. The name on that account does belong to Babeu, but Babeu stated in his interview that even after the transition of the control of the account from Orozco to Babeu's campaign, Orozco had retained the authority to post on that account as Babeu. No clear termination of this authority took place until after the conduct at issue in this case. This makes it unlikely that the State can prove that the account was used "without permission."

Similarly, charges under A.R.S. §13-2316(A)(5) appear unlikely to result in a conviction. Orozco had been permitted access to the accounts used for the conduct (Twitter and paulbabeu.co). Orozco had been permitted to maintain a duplicate campaign website under a domain name under his control; Orozco retains control of paulbabeu.co to this day. As such, it seems unlikely that a court would find that Orozco undertook his actions "without" or "exceeding" his authority.

We also considered filing a harassment charge against Orozco under A.R.S. §13-2921, but concluded that it would be a misdemeanor and that it was inappropriate to expend any of our limited resources in such an endeavor.

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On August 29, Solicitor General Cole informed me that he would not approve charges under any of the potential theories. Based on this I recommend this file be closed.