

CONFIDENTIAL

Via Email Only

October 17, 2023

The Honorable Drew Wrigley
Attorney General
Office of the Attorney General
dwrigley@nd.gov

RE: Complaint Nos. 22-003 through 22-010 Interview of Attorney General Office Employees

Dear Attorney General Wrigley:

I am in receipt of your letter to Chair Paul Richard dated October 12, 2023. As referenced in your earlier letter, I have requested two employees of the Office of the Attorney General, namely Director Lonnie Grabowska and Ms. Becky Keller, make themselves available for interviews with the Ethics Commission ("Commission") pursuant to N.D.C.C. § 54-66-08(3). These interviews relate to the investigation of complaints filed with the Commission which allege Representative Jason Dockter violated Article XIV of the North Dakota Constitution, Ch. 54-66 of the North Dakota Century Code, or other laws related to transparency, corruption, elections, and lobbying.

The scope of the Commission's investigative mandate applies to alleged violations of rules related to transparency, corruption, elections, lobbying, Article XIV of the Constitution, and related state laws. The Commission's investigation of complaints filed with it is limited to that scope. This scope is distinct and separate from the scope of the Legislative Audit and Fiscal Review Committee's ("LAFRC") investigative authority or any potential criminal prosecution by a state's attorney.

Based upon LAFRC's directive, the Office of the Attorney General entered into a memorandum of understanding with the Montana Department of Justice in late 2022 to "investigate the circumstances surrounding and giving rise to a construction cost overrun associated with the leasing and remodeling of 1720 Burlington Drive, Bismarck, North Dakota, including whether any related emails from the deleted email accounts of Wayne Stenehjem and Troy Seibel may be retrieved." The resulting Investigative Report compiled by Agent Don Guiberson of the Montana Department of Criminal Investigation identified two individuals as "suspects": Troy Seibel, former Chief Deputy Attorney General, and Elizabeth Bocker, former executive assistant to the Attorney General. In addition, the focus of the Investigative Report was the cost overruns related to the construction that occurred at the building located at 1720 Burlington Drive, Bismarck, ND, as well

as the deletion of email accounts belonging to Troy Seibel and Wayne Stenehjem. The Investigatory Report did not address potential ethics violations.

The investigative focus of the Commission is the conduct of Representative Jason Dockter—not the conduct of either Troy Seibel or Elizabeth Brocker. And, while the cost overruns and deletion of email accounts are certainly part of circumstantial facts being reviewed by the Commission; they are tangential to the primary factual focus of the Commission's investigation. The Commission views the investigation initiated by LAFRC and the investigation by the Commission as associated, but not synonymous or overlapping. Therefore, the Commission is committed to continuing its investigation and doing so in a timely manner. Delaying interviews of Director Grabowska and Ms. Keller for an indefinite time is inappropriate given the Commission's constitutional investigative directive. This is particularly true in light of the fact the investigative report of Agent Guiberson has not been reviewed by LAFRC or referred to a state's attorney for prosecutorial review.

The Commission certainly does not wish to hinder or interfere with LAFRC's investigation or any potential criminal investigation. Nonetheless, the Commission has a constitutional duty and a responsibility to the residents of North Dakota who filed complaints to timely investigate those complaints. Moreover, the matter before the Commission and the matter before LAFRC are separate and distinct. Therefore, the Ethics Commission is of the opinion that these separate investigations must continue. In a communication dated October 16, 2023, Representative Emily O'Brien, the Chair of LAFRC, indicated to me she does not object to the Commission continuing its investigation. As LAFRC's directive to the Office of the Attorney General is the catalyst for the Montana Department of Justice's investigation, Representative O'Brien's acquiescence to the Commission's continuation of its investigation is instructive and compelling.

In light of the above, I ask the Office of the Attorney General to not hinder or delay the Commission's investigation and permit its employees to make themselves available for interviews as soon as possible. Specifically, I request your office direct Director Grabowska and Ms. Keller to schedule interviews with the Commission's office as soon as practicable. If you would like to discuss this matter in person, I am more than happy to do that and can make myself available.

Pursuant to N.D.C.C. § 54-66-12(1), this communication and any information related to an investigation are confidential records as defined in N.D.C.C. § 44-04-17.1 as it is made to conduct an investigation arising from a complaint.

Sincerely,



Rebecca Binstock
Executive Director, North Dakota Ethics Commission

Cc: Logan Carpenter, General Counsel, Ethics Commission
Pat Monson, Special Assistant Attorney General, Ethics Commission
Representative Emily O'Brien, Chair, Legislative Audit and Fiscal Review Committee