
IN THE MATTER OF:
Representative Jason Dockter

Complaint Nos. 22-003 – 22-010



Investigation Report and Recommendation

Before the North Dakota Ethics Commission

In the Matter of:
Representative Jason Dockter

REPORT AND RECOMMENDATION

Complaint Nos. 22-003 – 22-010

Section 115-02-01-07, N.D. Admin. Code, states:

Upon completion of [an Ethics Commission] investigation, the executive director or outside investigator shall prepare written findings. The findings shall include relevant documents, interview transcripts or summaries, respondent written response, and other relevant information necessary for the commission to be fully informed on the matter. The executive director shall prepare the investigation report for presentation to the commission. The report shall include the written findings of any outside counsel or investigator who conducted the investigation. The executive director shall include the executive director's recommendation to the commission with respect to commission action on the complaint.

See also N.D.C.C. § 54-66-09(1).

Commission staff, with the assistance of Special Assistant Attorney General Patricia Monson, has completed the investigation in this matter. This Investigation Report and Recommendation was finalized on April 11, 2025, and serves as the findings, report, and recommendation required under N.D. Admin. Code § 115-02-01-07.

Pursuant to N.D.C.C. § 54-66-12(1), this Investigation Report and Recommendation and the Investigation File are confidential records as defined in N.D.C.C. § 44-04-17.1. As authorized by North Dakota law, if the Commission finds an ethical violation, the finding and the record for the complaints will become an open record after the thirty-day appeal timeline has concluded, or, if appealed, upon a determination by the district court affirming the finding of an ethical violation. N.D.C.C. § 54-66-12(1); N.D. Admin. Code § 115-02-01-09.

Dated this 11th day of April, 2025.



Rebecca Binstock, Executive Director
North Dakota Ethics Commission

CONFIDENTIAL

INVESTIGATION SUMMARY

COMPLAINT NOS: 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, and 22-010

RESPONDENT: Representative Jason Dockter, District 7

ALLEGATIONS: Representative Dockter received an improper financial benefit as a public official when entities he has an ownership interest in renovated and leased 1720 Burlington Drive in Bismarck, North Dakota, to the Office of the Attorney General.

WITNESSES¹: Laura Balliet, Assistant Attorney General, Office of the Attorney General

John Boyle, former Director of Facility Management, Office of Management and Budget

Liz Brocker, former Executive Assistant to the Attorney General

Daniel Cox, Director of Audit Services, Office of the State Auditor

Josh Gallion, State Auditor

Lonnie Grabowska, Bureau of Criminal Investigation Division Director, Office of the Attorney General, personal friend of Representative Dockter

Parrell Grossman, former Consumer Protection and Antitrust Division Director, Office of the Attorney General

Don Guiberson, Agent, Montana Department of Justice

Becky Keller, Finance and Accounting Director, Office of the Attorney General

Representative Bob Martinson, District 35

Claire Ness, Chief Deputy Attorney General, Office of the Attorney General

Representative Emily O'Brien, District 42, Chair of the Legislative Audit and Fiscal Review Committee

C.J. Schorsch, business partner of Representative Dockter

¹ Commission staff did not interview each of the listed witnesses. However, they are listed here because actions they took or information they provided formed the underlying facts for this investigation. Information regarding these witnesses was gathered from various sources, as cited later in the report.

Troy Seibel, Former Chief Deputy Attorney General, deceased

Lindsey Slappy, Director of Quality Assurance, Office of the State Auditor

Wayne Stenehjem, former Attorney General, deceased

Drew Wrigley, Attorney General

- CONCLUSION:**
- (1) Representative Dockter had undisclosed potential conflicts of interest when voting on legislation in 2023. The legislation financially benefited Representative Dockter as it appropriated state funds to pay entities in which he has an ownership interest. By not disclosing these potential conflicts of interest, Representative Dockter violated state ethics law.
 - (2) Representative Dockter committed a criminal violation related to transparency and corruption, as determined by a jury of his peers on May 6, 2024.
 - (3) The Legislative Assembly is the appropriate entity to determine if Representative Dockter violated the Legislative Assembly's own rules in 2021. Prior to the Ethics Commission adopting conflict of interest rules in 2022, the conflict of interest provisions were not state law.

- COMPLICATIONS:**
- (1) The Ethics Commission's lack of statutory process to secure witness testimony and evidence extended the investigation timeline. It impacted the Commission's ability to receive and review relevant documentation.
 - (2) Substantial time and state resources were required and expended seeking compliance with Ethics Commission requests for interviews, documents, and information.
 - (3) Conflicts of interest by law enforcement agencies required the testimony of Ethics Commission staff in a criminal prosecution.
 - (4) Witnesses with relevant information are deceased.
 - (5) The inability to reconcile the lease agreement between the Office of the Attorney General and Stealth Properties, LLC makes any attempt for the Commission to determine the extent of Representative Dockter's potential conflict of interest futile.

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I. INTRODUCTION

In October 2022, the North Dakota Ethics Commission (“Commission”) received a series of complaints against Representative Jason Dockter.² The complaints relate to his involvement in the lease and renovation of real property located at 1720 Burlington Drive (“Burlington property”) in Bismarck, North Dakota to the Office of the Attorney General. The complaints generally allege Dockter’s involvement in the lease and renovation of the Burlington property violated ethical obligations he has as a public official.



Representative Jason Dockter, District 7
(House Floor, N.D. Legis. Assemb.)

Upon receiving these complaints, the Commission was required to hire an independent and unconflicted attorney to assist the Commission in its review of the complaints due to the attorney general’s inherent conflict of interest in the matter. Then-general counsel for the Commission, Assistant Attorney General Allyson Hicks, formally recused from the complaints on November 14, 2022.³ Also on November 14, 2022, the Commission appointed Patricia Monson to serve as the Commission’s counsel for the complaints filed against Dockter. The appointment of Monson to serve as a special assistant attorney general was approved in December 2022.

Following the receipt of the complaints, the Commission began its required process of initially reviewing the complaints to ensure they contained information that alleged: (1) a violation against a public official under the Commission’s personal jurisdiction; and (2) a violation of ethics rules and/or related laws invoking the Commission’s subject-matter jurisdiction. During its initial review, the Commission established it had personal jurisdiction over Dockter and the complaints contained sufficient information to support the belief that ethical violations had occurred.

Following the initial review, the Commission offered each complainant and Dockter an opportunity to informally resolve the complaints. This opportunity is required by N.D.C.C. § 54-66-07 and N.D. Admin. Code § 115-02-01-05. For an informal resolution to occur, both parties to a particular complaint must agree to the informal resolution process. The informal resolution process did not go forward because the parties to the complaints did not agree to participate in informal resolution. This informal resolution process is required to occur before the Commission can begin its formal investigation of any complaint.

The Commission began its formal investigation of the complaints on July 6, 2023, after providing all complainants and Dockter notice of the formal investigation. The Commission later learned information implicating a potential criminal violation under N.D.C.C. § 12.1-13-02. Section 54-66-08(2), N.D.C.C., mandated the Commission make a criminal referral. On October 26, 2023, the

² Throughout this report, an individual’s official title will be used upon first reference. For the sake of brevity, subsequent references will use only the individual’s last name. Please note that no disrespect is intended by this approach.

³ N.D. Ethics Comm’n, *Special Meeting Minutes* 1 (Nov. 14, 2022).

Commission voted and made the required criminal referral to the Burleigh County State's Attorney, which was then reviewed by Special Assistant Burleigh County State's Attorney Ladd Erickson.

On May 3, 2024, a twelve-person jury found Dockter guilty of "speculating or wagering on official action-personal benefit" a class A misdemeanor under N.D.C.C. § 12.1-13-02(2).

After the time had expired for Dockter to appeal the criminal case, the Commission resumed its investigation on July 9, 2024. The scope of the Commission's investigation focused on determining:

- (1) What potential conflict(s) of interest, if any, existed for Dockter;
- (2) The size and scope of Dockter's potential conflict(s);
- (3) The facts creating Dockter's potential conflict(s) of interest;
- (4) Whether any potential conflict(s) of interest are ongoing;
- (5) Whether a criminal referral was indeed required by N.D.C.C. § 54-66-08(2);
and
- (6) Whether a pattern of similar conflict scenarios existed.

The following is the investigation report and recommendation required by N.D.C.C. § 54-66-09(1) and N.D. Admin. Code § 115-02-01-07. It provides a synopsis of the factual background, the Commission's investigation, the Commission's criminal referral, complications of the investigation, and a recommendation to the Commission to resolve the pending complaints and provide further transparency regarding this matter.

II. FACTUAL BACKGROUND

A. Precipitating Facts and Inquiries by Other Entities

The facts giving rise to the complaints before the Commission have been intertwined with facts related to several other controversies, scandals, and investigations which have been uncovered since 2022. Nevertheless, the scope of the Commission's investigation focused on and is limited to Dockter's conflicts of interest and ethical obligations.

On January 28, 2022, former Attorney General Wayne Stenehjem died unexpectedly. Governor Doug Burgum appointed Drew Wrigley as attorney general on February 8, 2022. Attorney General Wrigley learned of substantial cost overruns⁴ associated with the Burlington property in March of 2022 and contacted the Office of the State Auditor on March 18, 2022.

⁴ As detailed later in this report, the property owner believes use of the term "overrun" is an inaccurate description. The report takes no stance on what term should be used. The word overrun is used for simplicity, as other entities and individuals have used it to describe the situation.

1. **June 28, 2022 – Legislative Budget Section Committee**

At a June 28, 2022, meeting of the Legislative Assembly’s interim Budget Section Committee, Wrigley provided testimony regarding the cost overruns for the Burlington property.⁵ Wrigley informed the committee, “The cost overrun is completely reflected in requests, demands, whatever, they were coming from the attorney general’s office.”⁶ He spoke of the office’s interactions with the property owners and commended the property owners for documenting meetings they had with the Office of the Attorney General and “wisely documented all the requests for additional expenditures, etc.”⁷ Wrigley noted:

Deputy Attorney General Ness is leading this process internally to make sure that we are bringing, retroactively that contract into complete compliance with all state requirements for contracting. So that it reflects the monthly amounts being paid both on what was agreed to, some additional amounts that it turns out were not contemplated, including utilities, landscaping, and some other matters. They are squaring this up and putting it into full view and in the document itself. The leasing document going forward, and that’s an ongoing process. We’re going to be doing every single thing and have been doing every single thing we can do to mitigate this matter.⁸

Wrigley assured the Budget Section Committee, “We have been, and are going to be, completely transparent about this matter. We are doing everything we can to resolve it internally.”⁹ Representative Chet Pollert thanked Wrigley for bringing the information forward because Pollert believed “the appropriations on the house and senate would have found this [be]cause I think it would have stuck out like a sore thumb.”¹⁰ Pollert added, “I think we are going to find out that maybe the procurement process wasn’t as good as it should have been.”¹¹ The Budget Section Committee voted to request the Legislative Audit and Fiscal Review Committee (“LAFRC”) review the Burlington property lease agreement.¹²

⁵ *Legis. Budget Section Comm. June 28, 2022 Meeting Minutes*, 67th N.D. Legis. Assemb. Interim Sess. (2022). Edits to quotations throughout this report have been made solely to remove vocal disfluencies.

⁶ 67th N.D. Legis. Assemb. Interim Sess., *Legis. Budget Section Comm.* (June 28, 2022, 1:29:26 PM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20220628/-1/25814>. As noted later in this report, the majority of the changes made during the Burlington project are not clearly delineated and not written down.

⁷ *Id.* at 1:32:42 PM.

⁸ *Id.* at 1:34:41 PM.

⁹ *Id.* at 1:36:44 PM.

¹⁰ *Id.* at 1:43:12 PM.

¹¹ *Id.*

¹² *Id.*

2. June 29, 2022 – Legislative Audit and Fiscal Review Committee

On June 29, 2022, LAFRC met and reviewed further information related to the Burlington property presented by State Auditor Joshua Gallion, Mr. C.J. Schorsch, and Director John Boyle from the Facilities Management Division of the Office of Management and Budget.¹³

During the LAFRC meeting, Gallion expressed some uncertainty as to whether his office could review the matter.¹⁴ According to Gallion, N.D.C.C. § 54-10-22.1 prevents the Office of the Auditor from reviewing materials that are active investigatory work product of the Office of the Attorney General.¹⁵ LAFRC also heard from Schorsch, who owns the Burlington property as a member of Stealth Properties, LLC¹⁶ and manages it through Parkway Property Management. During his testimony, Schorsch spoke how the added shop, the scope of work changing, overages on electrical, security equipment, and bullet proofing were among the reasons for the project being \$1.7 million over estimate from the original build.¹⁷ Schorsch explained the changes happened “on the fly.”¹⁸ Schorsch described meeting with former Chief Deputy Attorney General Troy Seibel and Stenehjem, on occasion, to discuss the changes, but Seibel was the main point of contact.¹⁹

Representative Gary Kreidt later questioned Schorsch whether money for the building was specifically appropriated for the Burlington property.²⁰ When informed the money came from the overall budget, Kreidt explained, “If there would have been overruns, I think at that point you should have gone to the [Emergency] Commission to have that approved and then it would have come to the Budget Section to go ahead and approve those extra dollars.”²¹ Other legislators on LAFRC expressed concerns the proper procedures were not followed. Representative Jeff Magrum asked Schorsch whether a construction manager was used for the Burlington property and later inquired who gave the approval to make changes.²² Schorsch responded, “Troy and Wayne.”²³

Representative Mike Nathe inquired whether the parties redid the lease after the cost overruns.²⁴ Schorsch responded, “Yep, so they, so we took out an additional loan . . . the ownership group and they financed it interest free for five years. So, there is another \$2.60 a square foot additional for five years and it will revert back to the \$10”²⁵

¹³ *Legis. Audit and Fiscal Rev. Comm. June 29, 2022 Meeting Minutes*, 67th N.D. Legis. Assemb. Interim Sess. (2022).

¹⁴ 67th N.D. Legis. Assemb. Interim Sess., *Legis. Audit and Fiscal Rev. Comm.* (June 29, 2022, 9:07:24 AM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20220629/-1/25802>.

¹⁵ *Id.*

¹⁶ Stealth Properties, LLC is occasionally referred to simply as “Stealth” throughout this report.

¹⁷ *Id.* at 9:17:15 AM.

¹⁸ *Id.* at 9:18:15 AM.

¹⁹ *Id.* at 9:18:27 AM.

²⁰ *Id.* at 9:20:00 AM.

²¹ *Id.*

²² *Id.* at 9:33:37 AM.

²³ *Id.*

²⁴ *Id.* at 9:23:03 AM.

²⁵ *Id.*

Senator David Clemens asked whether a written agreement existed regarding the additional work requested by the Office of the Attorney General.²⁶ In response, Schorsch spoke about the architect redrawing plans.²⁷ Clemens followed up asking, “So it was basically just a conversation?”²⁸ Schorsch confirmed, “Well, they redrew the plans, you know, and finalized them. But yeah, that was it.”²⁹ Schorsch later said the state did not hire the architect, the property owners did.³⁰ Schorsch also noted, during his testimony, he does “manage some other state buildings.”³¹

Later that day, LAFRC indicated its preference for the state auditor to review the matter in some form. Gallion said the situation calls for a performance audit.³² In response to LAFRC’s directive to review the matter, Gallion asked, “[W]ould it be appropriate for the committee to make sure that the attorney general will turn over the information to us? I guess I can do an open records request, but . . . just make sure.”³³ Legislative council staff said:

It may be helpful to have a motion on this just so it’s clear to the attorney general that the committee is behind this effort for Josh, and it can be something to the effect that the state auditor work with the attorney general to gather and review information associated with the facility lease and report back to the committee at its next meeting.³⁴

The committee then voted to direct that Gallion work with Wrigley “to gather and review documentation and other information related to the lease agreement and the remodeling and construction of facilities leased by the Attorney General located at 1720 Burlington Drive, Bismarck, and to report the findings to the Legislative Audit and Fiscal Review Committee at its next meeting.”³⁵ The review requested was not for a full performance audit.

3. August 24, 2022 – Legislative Government Administration Committee

On August 24, 2022, Chief Deputy Attorney General Claire Ness appeared before the interim Government Administration Committee to testify on the Office of the Attorney General’s space needs. During that meeting, Ness said, “Attorney General Wrigley and I and our entire office are absolutely committed to transparency and accountability” regarding the Burlington property lease.³⁶ Ness spoke about the lease, saying:

²⁶ *Id.* at 9:36:13 AM.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 9:40:13 AM.

³¹ *Id.* at 9:14:04 AM.

³² *Id.* at 11:26:14 AM.

³³ *Id.* at 11:50:07 AM.

³⁴ *Id.*

³⁵ *Legis. Audit and Fiscal Rev. Comm. June 29, 2022 Meeting Minutes*, 67th N.D. Legis. Assemb. Interim Sess. (2022).

³⁶ 67th N.D. Legis. Assemb. Interim Sess., *Gov’t Admin. Comm.* (Aug. 24, 2022, 10:19:13 AM), https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20220823/-1/26913#info_.

Unfortunately, [the lease] was not reviewed by the attorneys who generally negotiate state contracts and those attorneys are part of our office of general counsel. And so, the lease did not have all of the provisions that we would typically have in that we have in our template lease for state agencies. So um, it also lacked a little bit of information that we needed to have regarding some of the lease payments. So, Attorney General Wrigley directed that the lease be amended to reflect those provisions, and we've been negotiating with Mr. C.J. Schorsch, who is here today, to finalize an amendment to that lease. And I'm happy to say we're almost finished with that process, and we should have a finalized amendment shortly.³⁷

Representative Shannon Roers Jones asked Ness two questions about the project. Her first question related to the process for negotiating leases and construction projects.³⁸ Her second question raised the issue of conflicts of interest with the project, asking, "I would also be curious to know who the contractor for the project was and if there is any ties to people in the community, people in the legislature that would have been potential conflicts of interest?"³⁹ This second question was not answered.

Senator Tracy Potter asked whether the money paid for the Burlington property was pulled from appropriate sources in response to an early concern that salary money was used.⁴⁰ In response, Ness said, in part, "[W]e have spoken with legislative council's fiscal staff and our finance department has reviewed this and we understand that the money that was used did not come from that salary line. It was appropriately pulled from other sources that could be used for a lease overrun."⁴¹

Ness spoke about the office space at the Burlington property for the Bureau of Criminal Investigation ("BCI") saying, "There are some offices, but the vast majority of those BCI employees are housed in small cubicles."⁴² Later, Boyle spoke about the Burlington property and Representative Pat Heinert responded saying:

Mr. Boyle you described the property down there as after remodel being a B or B+ rating, according to your standards. I was recently down there for a meeting. I think you've overemphasized that to this committee. We were in a conference room that had a pillar in it. It was about 10 feet wide by about 30 feet long and had two angled walls. You couldn't hardly hear from one end of the room to the other. I don't call that a B+ office complex. I would say that's less than a C in my opinion. And the construction I've been involved with, with the county, it's not near as nice as what

³⁷ *Id.* at 10:19:28 AM.

³⁸ *Id.* at 10:27:20 AM.

³⁹ *Id.* at 10:27:44 AM.

⁴⁰ *Id.* at 10:56:08 AM.

⁴¹ *Id.*

⁴² *Id.* at 10:43:14 AM.

we've developed in Burleigh County for other office facilities. So, I would take exception to your description to the committee of a B+ rating.⁴³

4. September 27, 2022 – Legislative Audit and Fiscal Review Committee

LAFRC held its next meeting on September 27, 2022.⁴⁴ At that meeting, the committee toured the building located at 1720 Burlington Drive, led by Director Lonnie Grabowska from the Office of the Attorney General's BCI, Director Parrell Grossman from the Office of the Attorney General's Consumer Protection and Antitrust Division, and Director Lance Gaebe from the Office of the Attorney General's Lottery Division.⁴⁵ Following the tour, Gallion presented LAFRC with the report completed by his office regarding the cost overruns of the Burlington property.⁴⁶

In summary, Gallion's report provides background on the search for new space for the Office of the Attorney General and the timeline for the relocation to the Burlington property.⁴⁷ It further provides information on the remodel, costs for the remodel project, and the business entities involved in the remodel project.⁴⁸ Notably, it questions the amount paid for the project and the lease for the Burlington property by the Office of the Attorney General.⁴⁹

During his testimony, Gallion told LAFRC, "I will tell you that I offered any assistance to the attorney general to assist in reviewing financials or lease documents. Our team was not asked for assistance until the Legislative Audit and Fiscal Review Committee requested it on June 29th."⁵⁰ Gallion was later asked by Nathe if he believed double billing occurred on the Burlington property project.⁵¹ Gallion responded, "It appears as that could happen."⁵² Nathe followed up asking, "Did you talk to the owners, did you talk to Representative Dockter or C.J. or any of those guys about this discrepancy about these?"⁵³ Gallion responded:

We identified it and that's as far as we go. Primarily because from an audit standpoint – now this is not an audit, I guess I should have clarified that from the beginning. This is, this is really an investigation that the auditor's office conducted of this issue. It was our feeling that to go beyond what we did – Representative Nathe you're really talking about some legal issues, and that is not what the

⁴³ *Id.* at 11:36:20 AM.

⁴⁴ *Legis. Audit and Fiscal Rev. Comm. Sept. 27, 2022 Meeting Minutes*, 67th Legis. Assemb. Interim Sess. (2022).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ N.D. Off. of the State Auditor, Investigative Report of the Off. of Att'y Gen. 9-11 (Sept. 27, 2022) [hereinafter Auditor Report].

⁴⁸ *Id.* at 12-16.

⁴⁹ *Id.* at 13-29.

⁵⁰ 67th N.D. Legis. Assemb. Interim Sess., *Legis. Audit and Fiscal Rev. Comm.* (Sept. 27, 2022, 4:15:40 PM), https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20220927/-1/27958#info_ [hereinafter LAFRC Hearing Sept. 27, 2022].

⁵¹ *Id.* at 4:36:07 PM.

⁵² *Id.*

⁵³ *Id.*

auditor's office's objective is to perform, and so really we feel that those types of questions should be left to somebody else.⁵⁴

Boyle provided information regarding the role of the Office of Management and Budget in agency leases and the specific lease for the Burlington property.⁵⁵ In response to a question from Nathe, Boyle said, "[T]his was the first time that a lease was signed prior to an owner actually obtaining financing. I had thought that that may have already occurred by the time the lease got to me to sign, but it obviously had not."⁵⁶ Boyle spoke about hearing from the division directors regarding the new building, specifically Grabowska. Boyle said, "I did hear from some of the division directors within the attorney general's office—especially Lonnie with BCI—that you know he was disappointed that they were going down south because most of his employees lived on the north side of town. So, he was the only one I really spoke with besides Troy."⁵⁷

Based on the information provided by Gallion's report, the then-chairman of LAFRC, Senator Jerry Klein, noted LAFRC has authority to ask the attorney general to conduct an additional investigation of the cost overrun.⁵⁸ Wrigley indicated if directed to investigate the issue further, he would have an independent organization conduct the investigation.⁵⁹ LAFRC voted 13-1 to direct Wrigley to investigate the matter further and encouraged him to arrange for an independent organization to conduct the investigation.⁶⁰ Wrigley pledged to LAFRC, "It has to be vetted and done openly with this uh with this committee, and with the full legislature. That's our pledge. Now and going forward, and whatever is found up ahead, same thing."⁶¹

Stealth Properties, LLC, the owner of the Burlington property, provided a nine-page memo and voluminous attachments to LAFRC following Gallion's release of his report.⁶² The memo was drafted as a response to Gallion's report and was provided by Stealth's attorney, Mr. Monte Rogneby.⁶³

Following LAFRC's directive at its September 2022 meeting, Wrigley requested the Montana Department of Justice's Division of Criminal Investigation "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."⁶⁴

⁵⁴ *Id.*

⁵⁵ *Legis. Audit and Fiscal Rev. Comm. Sept. 27, 2022 Meeting Minutes*, 67th Legis. Assemb. Interim Sess. (2022).

⁵⁶ LAFRC Hearing Sep. 27, 2022, *supra* note 50, at 4:21:59 PM.

⁵⁷ *Id.* at 4:27:30 PM.

⁵⁸ *Legis. Audit and Fiscal Rev. Comm. Sept. 27, 2022 Meeting Minutes*, 67th Legis. Assemb. Interim Sess. (2022).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ LAFRC Hearing Sep. 27, 2022, *supra* note 50, at 4:48:46 PM.

⁶² *See generally* Memo Response of Stealth Properties, LLC to the Investigative Rep. of the Off. of the Att'y Gen. Dated Sep. 27, 2022 (Oct. 28, 2022) [hereinafter Vogel Memo].

⁶³ *Id.*

⁶⁴ Agreement for the Joint Exercise of Peace Officer Duties Between the Mont. Dep't of Just., Div. of Crim. Investigation, and the N.D. Att'y Gen., Bureau of Crim. Investigation 1 (Dec. 2, 2022).

The agreement for the joint exercise of peace officer duties was approved on December 2, 2022.⁶⁵ The agent from the Montana Division of Criminal Investigation completed his report (“Montana Report”) on the matters on May 25, 2023.⁶⁶ The Commission received a copy of the Montana Report in September 2023, when it became public.

B. Chronology from the Commission’s Review

Commission staff commenced its initial review of the complaints in October 2022. On October 21, 2022, during the initial review of the complaints, Commission staff requested all working documents from the Office of the State Auditor related to its report. Commission staff received and reviewed these documents. Commission staff also reviewed documents provided by Dockter on January 10, 2023, related to cost overruns on the Burlington building project.

1. Representative Dockter’s Purchase and Lease of the 1720 Burlington Drive Property

In 2016, the Office of the Attorney General began discussions to relocate and consolidate several divisions of the office under one roof.⁶⁷ Stenehjem appointed Seibel as Chief Deputy Attorney General on December 1, 2016.⁶⁸ Seibel led the efforts to relocate the various divisions. In 2018, staff from the Office of the Attorney General toured the former Saxvik Elementary School.⁶⁹ Plans for a renovation of the school were completed as Stenehjem was interested in moving the divisions to it.⁷⁰ However, before the state could acquire the building, a private entity purchased it. Boyle reported the Office of the Attorney General could not buy the school without legislative approval.⁷¹ The Office of the Attorney General also became interested in the former Sears building located in the Gateway Mall in Bismarck; however, following a tour, the office determined the Sears building did not meet its needs.⁷²

On January 3, 2019, the 66th Legislative Assembly convened at the state capitol in Bismarck. At some point during this legislative session, Dockter had a discussion with Grabowska. It is unclear on what exact date or where this conversation took place. Grabowska told the Montana agent he was getting into his car and was approached by Dockter in a parking lot outside the capitol.⁷³ Grabowska further informed the Montana agent he had known Dockter for most of his life and described the meeting as “unremarkable.”⁷⁴ At the time, Grabowska spoke to the Montana Agent,

⁶⁵ *Id.*

⁶⁶ *See generally* Mont. Dep’t of Just. Cost Overrun Investigative Report 10 (May 25, 2023) [hereinafter Montana Report].

⁶⁷ *Id.* at 3.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Interview by Special Assistant Attorney General Patricia Monson, Executive Director Rebecca Binstock, and General Counsel Logan Carpenter with Director John Boyle (Oct. 25, 2023) [hereinafter Boyle Interview].

⁷² Montana Report, *supra* note 66, at 3.

⁷³ *Id.* at 10.

⁷⁴ *Id.*

Grabowska did not recall discussing specifics regarding the office relocation.⁷⁵ Grabowska further indicated Dockter would have known the attorney general was looking to relocate offices before their conversation.⁷⁶ However, it does not appear Grabowska indicated how Dockter would have known this information.⁷⁷

Dockter called Grabowska as a witness during Dockter’s criminal trial.⁷⁸ Grabowska testified that he has known Dockter for “around 35 to 36 years,” they went to school together starting in middle school, and they continued to socialize.⁷⁹ Grabowska testified about the 2019 conversation. Grabowska stated the BCI was running out of room at its former location and started looking into different spaces “as early as [the] 2015 or 2017 [legislative] sessions.”⁸⁰

Grabowska testified he remembered having the conversation with Dockter about the BCI’s space needs.⁸¹ Grabowska stated:

I remember the conversation. Exactly where it was in the Capitol or our [sic] outside, I do not recall exactly, but it was in passing talking to Jason just to catch up on how things were going. And at that point we talked about that I’ll be needing space for BCI and that we were looking for space.⁸²

When asked where the conversation occurred, Grabowska responded, “I don’t recall exactly where, but I do not remember anything like it being in a committee room. Normally it would have been in passing in the hallways. That’s where you normally run into a lot of the legislators at.”⁸³ He later said, “[Dockter] was never on judiciary committees with me, so we didn’t testify in front of him on things. He was in other committees. So if I did see him, it was usually either in the Capitol Cafe, in the hallways or in the parking lot.”⁸⁴

When asked who brought up the BCI’s need for space Grabowska stated, “It was probably me bringing it up first.”⁸⁵ When asked, “Why would you bring that up?” Grabowska responded, “I think just talking about how things are doing at work and how things are and at that time that was one of the major projects we were working on, so I believe I just shared that and said we’re looking

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *See id.*

⁷⁸ Transcript of Jury Trial at 154:14-15, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

⁷⁹ *Id.* at 159:4-22.

⁸⁰ *Id.* at 157:20-25 to 158:3-7.

⁸¹ *Id.* at 160:7-9.

⁸² *Id.* at 160:11-16.

⁸³ *Id.* at 160:19-22.

⁸⁴ *Id.* at 160:24-25 to 161:1-2.

⁸⁵ *Id.* at 161:5.

for space.”⁸⁶ Grabowska described Dockter’s response as, “If I remember correctly, it was, maybe I can help with that. Maybe I can help you find somewhere or make some connections.”⁸⁷

In a memo provided to LAFRC, Rogneby stated Grabowska informed Dockter the Bureau of Criminal Investigation was looking for a new building to lease.⁸⁸ According to these documents, Dockter apparently asked whether Grabowska wanted assistance looking for a building, and Grabowska responded that was “acceptable.”⁸⁹

On April 22, 2019, the North Dakota House took a roll call vote on the final passage of House Bill 1004, which included the appropriation for the Department of Health.⁹⁰ This appropriation allowed the Department to pay its rent at the Burlington property. Dockter voted “yea” on House Bill 1004.⁹¹

On April 25, 2019, the House took a roll call vote on the final passage of Senate Bill 2003, which included the appropriation for the Office of the Attorney General.⁹² Dockter voted “yea” on Senate Bill 2003.⁹³

On April 26, 2019, the House took a roll call vote on the final passage of House Bill 1021, which included the appropriation for North Dakota Information Technology (“NDIT”).⁹⁴ Dockter voted “yea.”⁹⁵ The 66th Legislative Assembly adjourned *sine die* on April 26, 2019.

On May 26, 2019, Grabowska emailed Dockter a copy of the preliminary plans the Office of the Attorney General created for the Saxvik school.⁹⁶ He informed Dockter of how much space some divisions currently had and said the office was looking at around 40,000 square feet to meet its needs. Seibel was copied on the email.⁹⁷ Grabowska emailed Dockter again on June 6, 2019.⁹⁸ In that email Grabowska said, “[W]e would like to meet with you and see about the possibility of your business working with the [North Dakota Office of the Attorney General] on a public/private partnership for possible headquarters building for NDBCI, AGIT/CJIS and the Fire Marshal.”⁹⁹ Grabowska copied Seibel, Information Technology/CJIS Division Director Heidi Smith, State Fire

⁸⁶ *Id.* at 161:7-10.

⁸⁷ *Id.* at 161:12-14.

⁸⁸ Vogel Memo, *supra* note 62, at 2.

⁸⁹ *Id.* at 3.

⁹⁰ H.J. 1990, 66th Legis. Assemb., Reg. Sess. (Apr. 22, 2019); H.B. 1004 § 1, 66th Legis. Assemb., Reg. Sess. (N.D. 2019).

⁹¹ H.J. 1990, 66th Legis. Assemb., Reg. Sess. (Apr. 22, 2019).

⁹² H.J. 2111, 66th Legis. Assemb., Reg. Sess. (Apr. 25, 2019); S.B. 2003 § 1, 66th Legis. Assemb., Reg. Sess. (N.D. 2019).

⁹³ H.J. 2111, 66th Legis. Assemb., Reg. Sess. (Apr. 25, 2019).

⁹⁴ H.J. 2252-53, 66th Legis. Assemb., Reg. Sess. (Apr. 26, 2019); H.B. 1021 § 1, 66th Legis. Assemb., Reg. Sess. (N.D. 2019).

⁹⁵ H.J. 2252-53, 66th Legis. Assemb., Reg. Sess. (Apr. 26, 2019).

⁹⁶ Vogel Memo, *supra* note 62, at Ex. 2.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

Marshal Douglas Nelson, and former Executive Assistant to the Attorney General Elizabeth Brocker.¹⁰⁰ Grabowska asked Dockter to bring his business partner to the meeting. It appears he was referring to Schorsch, as Dockter forwarded the email message to Schorsch and had further email conversations with him about the meeting.¹⁰¹

According to his statement of interests filed for his 2022 campaign for legislative office, Dockter disclosed financial interests in several business entities. These entities include Stealth Properties, LLC; D & S, LLC; Frontier Contracting, LLC; New Vision Properties, LLC; PMDB Properties, LLC; Divitae Investments, LLP; Design Investments, LLC; Videre Ventures, LLC; Marvin Darius, LLC; Southpaw, LLC; Studs and Suds, LLC; JAYDOC, Inc; and Frontier Payroll Services, Inc.¹⁰² D & S, LLC “conducts business in North Dakota under the tradenames Parkway Property Management and Frontier Contracting.”¹⁰³ The other members of Stealth Properties, LLC, are Schorsch, Mike Gietzen, Jed Fluhrer, Craig Dockter, Mark Aurit, Alex Schmidt, and Mike Luther.¹⁰⁴ Dockter and Schorsch are the sole members of D & S, LLC and Frontier Contracting, LLC.¹⁰⁵

Fourteen days after the Office of the Attorney General requested a meeting with Dockter, Dockter sent an email to Boyle inquiring about the square foot price for the state leasing space at 1720 Burlington Drive in Bismarck, ND.¹⁰⁶ At the time of this email, NDIT had a lease in the building at the Burlington property set to expire on May 31, 2020.¹⁰⁷ The other half of the Burlington building was occupied by the Department of Health.¹⁰⁸ The Department of Health and Human Services continues to occupy half of the Burlington building, which houses the Department’s health facilities unit.¹⁰⁹ In a follow-up email, Boyle provided Dockter legal information he received from the Office of the Attorney General regarding a public-private partnership for the Burlington property.¹¹⁰ Boyle further explained he was informed “the legislature still needs to provide an agency the authority to pursue a [public-private partnership.]”¹¹¹ Dockter responded inquiring “what kind of lease terms could we negotiate without the [public-private partnership].”¹¹² Boyle responded that they would need a ten-year lease with at least one ten-year option to renew without a public-private partnership.¹¹³

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Representative Jason Dockter Statement of Interests 2 (Mar. 11, 2022); Auditor Report, *supra* note 47, at 5; *see also* Vogel Memo, *supra* note 62, at 2.

¹⁰³ Vogel Memo, *supra* note 62, at 2.

¹⁰⁴ Auditor Report, *supra* note 47, at 5.

¹⁰⁵ *Id.*; *see also* Vogel Memo, *supra* note 62, at 2.

¹⁰⁶ Email from Director Boyle to Representative Dockter (June 20, 2019, 9:53 AM).

¹⁰⁷ Auditor Report, *supra* note 47, at 9.

¹⁰⁸ Montana Report, *supra* note 66, at 26.

¹⁰⁹ *Contact Health Facilities Unit*, N.D. Dep’t of Health and Hum. Servs., <https://www.hhs.nd.gov/health/regulation-licensure-and-certification/health-facilities-unit/contact-health-facilities-unit> (last visited Apr. 10, 2025).

¹¹⁰ Email from Director Boyle to Representative Dockter (July 2, 2019, 5:27 PM).

¹¹¹ *Id.*

¹¹² Email from Director Boyle to Representative Dockter (July 3, 2019, 10:21 AM).

¹¹³ *Id.*

Throughout the months of June, July, and August 2019, Dockter was in communication with Seibel regarding the Burlington property and on more than one occasion they set up in-person meetings.¹¹⁴ A meeting on August 29, 2019, also included Schorsch and Mr. Kyle Holwagner, a real estate broker.¹¹⁵ According to Rogneby's memo, these meetings included discussing options for "new construction and remodeling an existing building."¹¹⁶ Because of the Office of the Attorney General's budget, the parties ultimately decided to pursue remodeling the existing Burlington building.¹¹⁷ The architect firm of Bartlett and West prepared preliminary drawings for the Burlington property "based on information supplied by the Attorney General."¹¹⁸ Parkway Property Management, presumably through two of its members—Dockter and Schorsch—started discussions with a group of investors to explore purchasing the Burlington property.¹¹⁹

Just before the August 29, 2019 meeting, D & S, LLC, registered a contracting license with the North Dakota Secretary of State on August 23, 2019.¹²⁰ On September 5, 2019, Dockter began an email conversation with Seibel asking to meet and receive a signed letter of intent from the Office of the Attorney General to lease the Burlington building.¹²¹ On September 23, 2019, Dockter informed Seibel he had "an interim tax meeting" the next day at the capitol and could pick up a signed letter of intent.¹²² It appears Dockter was referring to the Legislative Assembly's interim Taxation Committee's meeting on September 24, 2019.¹²³ Dockter served as chairman of that committee.¹²⁴

Assistant Attorney General Laura Balliett reported seeing a letter of intent presented to her by Seibel at some point.¹²⁵ The letter was written by "Stealth" and requested Stenehjem's signature "to confirm the Attorneys Generals [sic] intention of leasing the Burlington building."¹²⁶ Balliet returned the letter to Mr. Seibel after making edits to the document. It is unclear when this letter of intent was circulated within the Office of the Attorney General. Balliet had "ITD check for [her] emails on the Letter of Intent to Lease that Troy discussed with [her] in 2019."¹²⁷ It is unclear whether the information technology department was able to locate the letter of intent.

¹¹⁴ Vogel Memo, *supra* note 62, at Ex. 2.

¹¹⁵ *Id.* at Exs. 2, 5.

¹¹⁶ *Id.* at 3.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at Ex. 1.

¹²¹ *Id.* at Ex. 2.

¹²² *Id.*

¹²³ *Taxation Committee*, N.D. Legis. Assemb., <https://www.ndlegis.gov/assembly/66-2019/committees/interim/taxation-committee> (last visited Apr. 10, 2025).

¹²⁴ *Id.*

¹²⁵ Montana Report, *supra* note 66, at 30.

¹²⁶ *Id.*

¹²⁷ Email from Assistant Attorney General Laura Balliet to Director Matthew Sagsveen and Director Becky Keller (Mar. 21, 2022, 1:26 PM).

Parkway Property Management made an offer to purchase the Burlington property in November 2019 through its real estate broker, Holwagner.¹²⁸ On November 27, 2019, Dockter emailed Seibel saying the seller accepted Parkway Property Management's offer to purchase the Burlington property.¹²⁹ Dockter informed Seibel they "are now in the due diligence phase of the project" and requested a meeting with Seibel and an architect be scheduled.¹³⁰

On December 5, 2019, Parkway Property Management entered into a purchase agreement for the Burlington property for \$3,350,000 and placed \$30,000 in earnest money.¹³¹ At the time the purchase agreement is entered, the Department of Health had a lease requiring rental payments of \$12.50 per square foot annually through June 2021 at which time the price increased to \$13.00 per square foot annually.¹³² NDIT also had a lease that required rental payments of \$14.75 per square foot.¹³³ According to Burleigh County property records, the 2024 market value of the Burlington property was \$7,278,800.¹³⁴



1720 Burlington Drive Bismarck, ND

Stealth Properties, LLC was formed on December 10, 2019.¹³⁵ According to the memo provided by Rogneby, Parkway Property Management assigned the purchase agreement to Stealth Properties, LLC.¹³⁶ Stealth needed to secure financing to pay for new additions to the Burlington property as the Office of the Attorney General envisioned.¹³⁷ According to Rogneby, First International Bank and Trust requested Stealth obtain an executed lease with the Office of the Attorney General before it would finance the new construction phase of the Burlington property.¹³⁸

¹²⁸ Vogel Memo, *supra* note 62, at 3, Ex. 5.

¹²⁹ *Id.* at Ex. 2.

¹³⁰ *Id.*

¹³¹ *Id.* at Ex. 5.

¹³² *Id.* at Ex. 3.

¹³³ *Id.* at Ex. 4.

¹³⁴ Burleigh Cnty., 1720 Burlington Dr, Bismarck, ND Property Tax Record (2024).

¹³⁵ Vogel Memo, *supra* note 62, at 4.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.* at 4, Ex. 2.

On February 24, 2020, Seibel informed the impacted division directors the Office of the Attorney General had been in talks to lease the Burlington property.¹³⁹ Seibel informed the division directors the “developer” needed to know by the end of the week whether the Office of the Attorney General would move forward with the building.¹⁴⁰

A little over an hour later, Grabowska responded on behalf of BCI, saying:

Troy,

I have a few minutes as class is starting at 8:00 am for us.

Regarding NDBCI, we have looked at the layout of the diagram and we feel the basic concept is a good one. The idea of having all Divisions together is an effective and efficient approach.

We have looked at square footage and the Divisions that are being included. With that said, a very brief reply would be that we believe the diagram could work, with either a larger expansion or a second floor to the expanded area. It is impossible to add Fire Marshal and MFCU to the current diagram. We would lack conference rooms, bathrooms, and offices for all divisions. A second floor to the expansion would have to be planned for or a much wider expanded area.

If a second floor or much wider expanded area was planned for (as adding to the current building is costly) we could get all Divisions to fit. Without this, we could not fit all the Divisions in any way.

The basic concept and layout is a good one. It just needs more space, which we know then increases the cost.

My opinion only, I do not believe there is any way we can fit all the Divisions in this current layout as it is. If this is the only layout we have, with not second floor to the addition or expanded addition (one floor), we are better served to stay where we are, as we cannot get the Divisions to fit. The cost of the move, to a much smaller area that would not fit our needs would be to great.

Thank you,

Lonnie¹⁴¹

¹³⁹ Email from former Chief Deputy Attorney General Troy Seibel to Division Directors (Feb. 24, 2020, 8:08 AM).

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

Later that same day, Nelson responded outlining his division's concerns with the Burlington property.¹⁴² Nelson outlined the following concerns:

- [state fire marshal ("SFM")] Offices and cubicles are not marked or designated, this makes me worried about where my staff and I will end up. I imagine other divisions will not be volunteering to give up space to squeeze my division in. If they do squeeze us in, I don't know where that is and how it will work for us in the long run.
- No dedicated evidence storage space for SFM.
- No dedicated file/equipment storage space for SFM.
- No space dedicated for SFM vehicle/equipment maintenance in the garage.
- No space designated for gear/uniform cleaning in the garage.¹⁴³

A day later, then-Director of the Consumer Protection and Antitrust Division, Parrell Grossman, responded with multiple concerns regarding the Burlington property in a lengthy email.¹⁴⁴ In summary, Grossman outlined multiple concerns including: (1) a combined location not benefitting the Consumer Protection and Antitrust Division ("CPAT"); (2) lack of kitchen and break room space; (3) inability to share a conference room; (4) file storage and confidentiality concerns with shared space; (5) BCI personnel having access to CPAT areas; (6) restroom availability; and (7) CPAT being happy with its former space and the location on the north end of Bismarck close to the capitol.¹⁴⁵

Dockter provided a draft lease to Seibel and Boyle on March 1, 2020.¹⁴⁶ Boyle responded, saying he would review the lease and try to meet with Seibel.¹⁴⁷ Dockter later asked Boyle for his thoughts on the lease and Boyle responded, "I think the rent is still too high. I will email you my rate of return calculation for the property so you know how I am drawing my conclusions."¹⁴⁸ According to the Montana Report, Dockter conducted a walkthrough of the Burlington property with others, including Stenehjem and Seibel on April 22, 2020.¹⁴⁹

Dockter continued to negotiate terms of the lease with Boyle and the Office of the Attorney General. On April 24, 2020, the lease was executed for the Burlington property by Schorsch who

¹⁴² Email from Fire Marshal Doug Nelson to former Chief Deputy Attorney General Troy Seibel (Feb. 24, 2020, 2:31 PM)

¹⁴³ *Id.*

¹⁴⁴ Email from former Director Parrell Grossman to former Chief Deputy Attorney General Troy Seibel (Feb. 25, 2020, 2:28 PM).

¹⁴⁵ *Id.*

¹⁴⁶ Vogel Memo, *supra* note 62, at Ex. 2.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Montana Report, *supra* note 66, at 13.

signed for Stealth Properties, LLC, Boyle, and Seibel.¹⁵⁰ The lease was signed before Stealth owned the building “in order to use the long-term lease revenue to secure financing for the purchase.”¹⁵¹ Boyle said after he signed the lease that was the last time he was involved with the Burlington property, and he was surprised when he heard how the project turned into a substantial cost overrun.¹⁵²

The lease required payment of \$9.50 per square foot plus common-area-maintenance (“CAM”) charges, and the rate would increase fifty cents per square foot every five years.¹⁵³ Additionally, the Office of the Attorney General was responsible for additional costs above \$50 per square foot on the remodeled portions of the Burlington property and costs above \$220 per square foot on the new construction.¹⁵⁴

On May 29, 2020, the purchase of the Burlington building was finalized.¹⁵⁵ NDIT vacated the Burlington building around June 30, 2020, before the next fiscal year began.¹⁵⁶

2. \$1.7 Million Over Estimate

The remodel of the Burlington property began in July 2020.¹⁵⁷ Construction on the new addition to the Burlington property began in December 2020.¹⁵⁸ The Office of the Attorney General’s divisions communicated differing needs and wants for the space to Stealth and Parkway Property Management. The parties initially expected costs to equal \$2,767,600 for the additions and \$1,021,000 for the remodel.¹⁵⁹ However, according to Stealth Properties, LLC, the actual costs were \$3,681,749.63 for the additions and \$1,849,060.04 for the remodel.¹⁶⁰ The actual costs exceeded the original estimate by \$1,742,209.67.¹⁶¹ Stealth argued because construction began around July 1, 2020, COVID-19 restrictions and material shortages caused delays and increased material costs.¹⁶² Gallion found the increase in costs was directly related to the change requests that continued during the project.¹⁶³ Both Gallion’s report and the Montana Report revealed substantial record keeping issues, including a lack of or insufficient records for the costs.¹⁶⁴

¹⁵⁰ Vogel Memo, *supra* note 62, at Ex. 6.

¹⁵¹ Auditor Report, *supra* note 47, at 10.

¹⁵² Boyle Interview, *supra* note 71.

¹⁵³ Vogel Memo, *supra* note 62, at Ex. 6.

¹⁵⁴ *Id.* at Ex. 2.

¹⁵⁵ *Id.* at 4.

¹⁵⁶ *Id.* at 3.

¹⁵⁷ Auditor Report, *supra* note 47, at 10.

¹⁵⁸ *Id.*

¹⁵⁹ Vogel Memo, *supra* note 62, at Ex. 11.

¹⁶⁰ *Id.*

¹⁶¹ The number here is designated as an estimate due to the lack of a reconciliation of costs, as detailed later in this report.

¹⁶² *Id.* at 5.

¹⁶³ Auditor Report, *supra* note 47, at 11-12.

¹⁶⁴ See generally Auditor Report, *supra* note 47; Montana Report, *supra* note 66.

It is important to note, Stealth Properties, LLC, believes the use of the term “overrun” is inaccurate and mischaracterizes the nature of the agreement between Stealth and the Office of the Attorney General.¹⁶⁵ Stealth asserts the amount was not fixed when the project began, and the agreement was the Office of the Attorney General could communicate different needs as the project progressed.¹⁶⁶ This report makes no conclusion regarding this distinction.

In January 2021, Schorsch informed Seibel the project cost was approaching \$5 million, which would result in an additional \$1 million in costs.¹⁶⁷ By June 2021, Seibel was aware there was a \$1,742,209.67 cost overrun, and accounting staff worked on finding money within the Office of the Attorney General’s budget to pay for the cost overrun.¹⁶⁸ Ultimately, the Office of the Attorney General paid \$1,342,210 out of existing budget funds from the Operating, Law Enforcement, Criminal Justice Information Systems, and North Dakota Lottery portions of its budget.¹⁶⁹

The Office of the Attorney General could not find the remaining \$400,000 within its current budget to pay for the Burlington project.¹⁷⁰ The Montana Report notes Seibel “apparently negotiated” to roll the remainder into the lease, which resulted in a nearly \$7,000 increase in the monthly rent.¹⁷¹ On September 1, 2021, Schorsch and the Office of the Attorney General’s Director of Finance, Becky Keller, exchanged emails regarding the increase in monthly rent. The emails memorialize the lease needed an amendment for the new rate “apparently negotiated” by Seibel. Schorsch explains the new rate will add \$2.44 per square foot.¹⁷² Keller responds saying, in part, “I guess our office will draft the amendment – not sure when!”¹⁷³ However, it appears the amendment was never drafted, and the lease was never amended to reflect this increase in the monthly rent. Nonetheless, according to the response provided by Stealth Properties, LLC, the Office of the Attorney General began making these payments without an amendment to the lease.¹⁷⁴ These payments added \$6,710 per month in addition to the lease rate.¹⁷⁵ The response states, “[A]s of October 2022 the Attorney General paid to Stealth an additional \$87,230.00 in increased rent.”¹⁷⁶ It is unclear if the Office of the Attorney General continued to make these additional payments after October 2022 or, if so, for how long.

¹⁶⁵ Interview by Special Assistant Attorney General Patricia Monson and General Counsel Logan Carpenter with Stealth Properties, LLC through Mr. C.J. Schorsch and Attorney Monte Rogneby at 00:17:13 [hereinafter Stealth Properties, LLC Interview] (Jan. 16, 2025).

¹⁶⁶ *Id.*

¹⁶⁷ Auditor Report, *supra* note 47, at 13.

¹⁶⁸ *Id.*

¹⁶⁹ Montana Report, *supra* note 66, at 20-21; Auditor Report, *supra* note 47, at 13.

¹⁷⁰ Montana Report, *supra* note 66, at 21.

¹⁷¹ *Id.*

¹⁷² Email from Mr. C.J. Schorsch to Director Becky Keller (Sept. 1, 2021, 12:47 PM).

¹⁷³ Email from Director Becky Keller to Mr. C.J. Schorsch (Sept. 1, 2021, 12:50 PM).

¹⁷⁴ Vogel Memo, *supra* note 62, at Ex. 12 (stating “Total Paid on Pending Addendum \$87,230.00 \$2.44 sqft 13 months” (emphasis added)).

¹⁷⁵ \$87,230.00 divided by 13 months equals \$6,710 per month.

¹⁷⁶ Vogel Memo, *supra* note 62, at 7.

Gallion noted the money paid out of the Office of the Attorney General's budget, if not paid to cover the overrun, would have turned back into the state's general fund.¹⁷⁷ However, paying the cost overrun depleted the Office of the Attorney General's funds for the 2019-2021 fiscal biennium, originally appropriated with Senate Bill 2003 in 2019.¹⁷⁸

It appears the Office of the Attorney General made payments for the Burlington property's renovations and additions based on estimates rather than actual invoices. Gallion's report notes:

We determined that the amount provided to the Attorney General's Office from Parkway Property Management on June 25, 2021, via email, appears to be based on total project cost estimates rather than invoices received by Parkway Property Management. This resulted in all or a portion of the payment made in July to be a pre-payment.¹⁷⁹

3. 67th Legislative Assembly

At the same time Seibel was made aware of the \$1.7 million cost overrun, the North Dakota Legislative Assembly convened at the state capitol on January 5, 2021. During this session, the Legislative Assembly approved a new budget for the Office of the Attorney General with House Bill 1003. The bill included operating expenses for the office, which would allow it to pay for rent at its facilities—including the property at 1720 Burlington Drive.¹⁸⁰ Dockter voted "yea" on the final passage of the bill on April 23, 2021.¹⁸¹

¹⁷⁷ Auditor Report, *supra* note 47, at 13.

¹⁷⁸ See Montana Report, *supra* note 66, at 21.

¹⁷⁹ Auditor Report, *supra* note 47, at 14.

¹⁸⁰ H.B. 1003 § 1, 67th Legis. Assemb., Reg. Sess. (N.D. 2021).

¹⁸¹ H.J. 1937-38, 67th Legis. Assemb., Reg. Sess. (Apr. 23, 2021).

SECOND READING OF HOUSE BILL

HB 1003: A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to provide an appropriation to the department of human services; to amend and reenact the new section to chapter 53-06.1, as created by section 1 of House Bill No. 1212, as approved by the sixty-seventh legislative assembly and section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general and charitable gaming tax revenue distributions; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; to provide for a report; to provide for a legislative management study; and to declare an emergency.

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JOURNAL OF THE HOUSE

72nd DAY

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 86 YEAS, 5 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Adams; Anderson, B.; Anderson, D.; Anderson, P.; Bellew; Beltz; Boe; Bosch; Boschee; Brandenburg; Buffalo; Christensen; Cory; Damschen; Delzer; Devlin; Dobervich; **Dockter**; Fegley; Fisher; Guggisberg; Hager; Hagert; Hanson; Hatlestad; Hauck; Headland; Heinert; Howe; Ista; Johnson, D.; Jones; Kading; Karls; Kasper; Keiser; Kempenich; Kiefert; Klemin; Koppelman, B.; Kreidt; Lefor; Longmuir; Louser; Marschall; Martinson; Meier; Mitskog; Mock; Monson; Nathe; Nehring; Nelson, J.; Nelson, M.; O'Brien; Owens; Paulson; Paur; Pollert; Porter; Pyle; Richter; Roers Jones; Rohr; Ruby, D.; Sanford; Satrom; Schatz; Schauer; Schmidt; Schneider; Schobinger; Schreiber-Beck; Skroch; Steiner; Stemen; Strinden; Thomas; Trottier; Tveit; Vetter; Vigesaa; Weisz; Westlind; Zubke; Speaker Koppelman, K.

NAYS: Becker; Ertelt; Hoverson; Magrum; Toman

ABSENT AND NOT VOTING: Johnson, M.; Ostlie; Ruby, M.

Reengrossed HB 1003 passed and the emergency clause was declared carried.

On April 29, 2021, the House voted on the final passage of Senate Bill 2004, the new budget for the Department of Health. This bill included operating expenses for the Department, which would include money to pay rent at its facilities—including the property at 1720 Burlington Drive.¹⁸² Dockter voted “yea” on the final passage of the bill.¹⁸³

¹⁸² S.B. 2004 § 1, 67th Legis. Assemb., Reg. Sess. (N.D. 2021).

¹⁸³ H.J. 2077, 67th Legis. Assemb., Reg. Sess. (Apr. 29, 2021).

SECOND READING OF SENATE BILL

SB 2004: A BILL for an Act to provide an appropriation for defraying the expenses of the state department of health; to amend and reenact sections 23-01-02, 54-27-25, 61-02.1-02.1, 61-02.1-04 of the North Dakota Century Code and section 510 of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, relating to compensation of members of the health council, the tobacco settlement trust fund, statewide water development project funding, bonds payable, and the transfer of appropriation authority to the department of health and human services; to repeal sections 54-27-25.1 and 61-02.1-05 of the North Dakota Century Code, relating to water development trust fund expenditures and the water development trust fund; to provide for a transfer; to provide a statement of legislative intent; to provide for a report; to provide for a legislative management study; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 76 YEAS, 12 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Adams; Anderson, D.; Anderson, P.; Beltz; Boe; Bosch; Boschee; Brandenburg; Buffalo; Cory; Damschen; Delzer; Devlin; Dobervich; **Dockter**; Fegley; Fisher; Hager; Hanson; Hatlestad; Hauck; Headland; Heinert; Howe; Ista; Johnson, D.; Johnson, M.; Jones; Kading; Karls; Kasper; Kiefert; Klemin; Kreidt; Lefor; Longmuir; Louser; Martinson; Meier; Mitskog; Mock; Monson; Nathe; Nehring; Nelson, J.; Nelson, M.; O'Brien; Ostlie; Owens; Paulson; Paur; Pollert; Porter; Pyle; Richter; Roers Jones; Rohr; Ruby, M.; Sanford; Satrom; Schauer; Schmidt; Schneider; Schobinger; Schreiber-Beck; Skroch; Steiner; Stemen; Strinden; Thomas; Trottier; Vigasaa; Weisz; Westlind; Zubke; Speaker Koppelman, K.

NAYS: Becker; Christensen; Ertelt; Hoverson; Keiser; Koppelman, B.; Magrum; Marschall; Ruby, D.; Schatz; Toman; Vetter

ABSENT AND NOT VOTING: Anderson, B.; Bellew; Guggisberg; Hagert; Kempenich; Tveit

Engrossed SB 2004, as amended, passed and the emergency clause was declared carried.

4. Cost Overrun Becomes Public

On November 1, 2021, the construction on the Burlington property was completed.¹⁸⁴ Stenehjem passed away on January 28, 2022. A day later, Brocker sent a request to the Office of the Attorney General's IT department requesting the deletion of Stenehjem's emails on Monday.¹⁸⁵ Brocker explained why she wanted the emails deleted, stating, "We want to make sure no one has an opportunity to make an Open Record request for his emails, especially as he kept EVERYTHING."¹⁸⁶ The email account was confirmed deleted on January 31, 2022.¹⁸⁷

¹⁸⁴ Mont. Dep't of Just. Timeline 15 (Sept. 6, 2023) [hereinafter Montana Timeline].

¹⁸⁵ Email from Elizabeth Brocker to Heidi Smith (Jan. 29, 2022, 8:51 PM).

¹⁸⁶ *Id.*

¹⁸⁷ Email from Joe Schell to Elizabeth Brocker (January 31, 2022, 12:19 PM).

On February 8, 2022, Burgum appointed Wrigley as Attorney General. Seibel resigned and left the Office of the Attorney General on March 16, 2022.¹⁸⁸ Promptly after Seibel left the office, Keller informed Wrigley of the cost overrun.¹⁸⁹ Wrigley then contacted Gallion to inform him of the issue.¹⁹⁰

On March 21, 2022, Office of the Attorney General staff advised Wrigley to “request that the auditor review the Landlord[']s records under paragraph 21 of the [Burlington property] Lease” and “designate one or more staff to confer with the Auditor regarding how the Auditor should move forward, costs, and how the Auditor should report out his review.”¹⁹¹ Later, Office of the Attorney General staff said they talked to Gallion and “he suggested we request and review all information from [the Burlington property owners] before we get the audit team involved.”¹⁹²

On May 23, 2022, Brocker directed the deletion of Seibel’s email account and NDIT deleted his emails.¹⁹³

On June 28 and 29, 2022, Wrigley informed meetings of the Legislative Assembly’s Budget Section and LAFRC of the cost overrun on the Burlington building. LAFRC then directed Gallion to prepare a report. On June 30, 2022, open record requests for Stenehjem’s emails were made by members of the press, which resulted in the discovery of the email deletions.¹⁹⁴

Following the email situation, Brocker resigned and left the Office of the Attorney General on July 15, 2022.¹⁹⁵ On August 2, 2022, the Office of the State Auditor requested Stenehjem and Seibel’s emails from NDIT.¹⁹⁶ NDIT informed the Office of the State Auditor it could not provide the information because the emails belonged to the Office of the Attorney General and it had “exhausted all retrieval efforts of Wayne Stenehjem’s e-mails from Microsoft.”¹⁹⁷ The Office of the State Auditor received additional correspondence between NDIT and Microsoft requesting confirmation that the emails could not be retrieved.¹⁹⁸

On September 27, 2022, Gallion presented his report to LAFRC. Notably, the report explains how the Office of the Auditor requested change orders for the Burlington property, but “Parkway Property Management stated they did not exist.”¹⁹⁹ Following this presentation, LAFRC directed

¹⁸⁸ Auditor Report, *supra* note 47, at 30.

¹⁸⁹ Mont. Dep’t of Just. Email Deletion Investigative Report 2 (April 3, 2023) [hereinafter Montana Email Report].

¹⁹⁰ *Id.*

¹⁹¹ Email from Director Matthew Sagsveen to Attorney General Drew Wrigley (Mar. 21, 2022, 1:33 PM).

¹⁹² Email from Director Becky Keller to Attorney General Drew Wrigley and Director Matthew Sagsveen (Mar. 22, 2022, 11:22 AM).

¹⁹³ Auditor Report, *supra* note 47, at 30.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 30, 33.

¹⁹⁷ *Id.* at 30.

¹⁹⁸ *Id.* at 40-43.

¹⁹⁹ *Id.* at 4.

Wrigley to investigate the issue further, which led Wrigley to request the Montana Department of Justice's Division of Criminal Investigation investigate the overrun and email deletions.

In October 2022, the Ethics Commission received eight complaints against Dockter. On October 28, 2022, Stealth Properties, LLC, submitted a response to Gallion's report.²⁰⁰

On November 2, 2022, Dockter appeared on Forum Columnist Rob Port's podcast, Plain Talk.²⁰¹ On this podcast, Port asked Dockter if he became involved in the Office of the Attorney General's building project when Grabowska approached him for an informal conversation.²⁰² Dockter responded, "That's correct."²⁰³ Later in the podcast, Dockter mentioned this conversation took place in a hallway in the capitol.²⁰⁴ Dockter testified at his trial, however, he did not know where the conversation with Grabowska occurred.²⁰⁵

Further discussion on Port's podcast concerned the purchase of the Burlington building, Dockter stated the following:

So half of it, when we executed the purchase agreement was already leased out by the health department. The other half was leased out by ITD cause they have the debacle with their building where they have those issues . . . and they had to move out. So, when we did the purchase agreement, our, and we've already talked to the AG, our intent was okay, we're gonna buy this building, we know that half of it's gonna be leased no matter what to the health department. We know that ITD is, is gonna move out cause they, I, I can't remember the end date but those would be month to month, but they already knew that they were moving out cause they were gonna go back to their building. That was their whole intent. And so, when we went to the bank, you can go, so they go on the numbers, and they say okay what, what are you gonna, you know, so we have, we have, half of it leased out and everything okay, yep, numbers work. Well, then when we got farther along with the AG and AG says yep we're gonna go along with this but we want these remodeling costs and then we want to do an addition. Well, once that triggered the bank says okay you're gonna have to have a lease because we're not gonna give you an operating loan or extra funding to do a build-out and do a new, um, building without having a lease.

. . . .

²⁰⁰ See generally Vogel Memo, *supra* note 62.

²⁰¹ Plain Talk: Lawmaker Involved in AG's Office Space Scandal Rips Auditor for "Gotcha Audit," FORUM COMMC'NS Co. (Nov. 2, 2022).

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ Transcript of Jury Trial at 195:2-7, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

And that was our whole thing is that we were gonna buy the building, and *we could have made a cash flow just with the health department*, but once the AG established that they want, they need the remodeling, we had to get a signed agreement, or the bank wouldn't give you the extra funds to do the remodeling.²⁰⁶

Dockter stated in the podcast the Office of the Attorney General would get \$224,000 back from overpaying his business entities for the Burlington building project.²⁰⁷ This new information surprised the Office of the State Auditor as it was the first mention of a refund.²⁰⁸

An agreement with the Montana Department of Justice to conduct a criminal investigation was signed on December 2, 2022, and Agent Guiberson from the Montana Division of Criminal Investigation began interviewing witnesses.

On December 29, 2022, Keller attended a meeting with the involved parties.²⁰⁹ As described to Keller, the purpose of the meeting was to reconcile CAM fees.²¹⁰ After the meeting, Keller was approached by Schorsch who told her the State no longer had to pay the \$400,000 the parties had “rolled” into the lease agreement. However, it appears this \$400,000 amount was never amended into the lease agreement even though payments were made to that effect. Schorsch also handed Keller a binder with the response from Stealth Properties, LLC, and a check for \$224,854.93.²¹¹ At the time Guiberson wrote the Montana Report, the Office of the Attorney General had not cashed the check.

5. 68th Legislative Assembly

The 68th Legislative Assembly convened at the state capitol on January 3, 2023. On March 30, 2023, Executive Director Rebecca Binstock spoke with counsel for Dockter, Mr. Lloyd Suhr. During that conversation, Binstock mentioned to Suhr the Ethics Commission has conflict-of-interest rules.²¹²

On April 11, 2023, the House of Representatives took a final vote on House Bill 1004. This bill included operating expenses for the public health division of the newly combined Department of Health and Human Services.²¹³ The operating expenses appropriation provided funding for the Department's lease for half the property at 1720 Burlington Drive, as the Department of Health

²⁰⁶ *Plain Talk: Lawmaker Involved in AG's Office Space Scandal Rips Auditor for "Gotcha Audit,"* FORUM COMMC'NS Co. (Nov. 2, 2022) (emphasis added).

²⁰⁷ *Id.*

²⁰⁸ Montana Report, *supra* note 66, at 9-10.

²⁰⁹ *Id.* at 32.

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² Transcript of Jury Trial at 100:5-25 to 101:1-8, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

²¹³ H.B. 1004 § 1, 68th Legis. Assemb., Reg. Sess. (N.D. 2023).

and Human Services exercised its option to extend the lease at the Burlington property.²¹⁴ Dockter voted “yea” to pass the bill.²¹⁵

SECOND READING OF HOUSE BILL

HB 1004: A BILL for an Act to provide an appropriation for defraying the expenses of the public health division of the department of health and human services; to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to the deposit of judgment funds; to provide for a legislative management report; to provide for a transfer; and to provide for an exemption.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 79 YEAS, 12 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson, B.; Anderson, D.; Anderson, K.; Bahl; Beltz; Bosch; Boschee; Brandenburg; Conmy; Cory; Dakane; Davis; Dobervich; **Dockter**; Fegley; Finley-DeVillie; Fisher; Frelich; Grueneich; Hager; Hagert; Hanson; Hatlestad; Hauck; Headland; Heinert; Ista; Johnson, J.; Jonas; Karls; Kasper; Kempenich; Kiefert; Klemin; Koppelman; Kreidt; Lefor; Longmuir; Louser; Marschall; Martinson; McLeod; Meier; Mitskog; Mock; Monson; Motschenbacher; Murphy; Nathe; Novak; O'Brien; Olson, J.; Olson, S.; Ostlie; Porter; Pyle; Richter; Rios; Roers Jones; Rohr; Ruby, D.; Ruby, M.; Sanford; Satrom; Schauer; Schneider; Schobinger; Schreiber-Beck; Steiner; Stemen; Strinden; Swiontek; Thomas; Tveit; Vigasaa; Wagner; Warrey; Weisz; Speaker Johnson, D.

NAYS: Bellew; Christensen; Dyk; Heilman; Henderson; Holle; Prichard; Schatz; Timmons; Toman; VanWinkle; Vetter

ABSENT AND NOT VOTING: Christy; Hoverson; Nelson

Reengrossed HB 1004 passed.

On April 27, 2023, the House of Representatives took a final vote on Senate Bill 2003, the appropriation bill for the Office of the Attorney General. The bill included operating expenses, including lease payments for the property at 1720 Burlington Drive.²¹⁶ Dockter was absent from the vote when the key was closed at 12:41 PM.²¹⁷

²¹⁴ It is unclear when the option was exercised. The original lease was set to expire at the end of the 2021-2023 biennium; however, the Health Facilities Unit continues to occupy the Burlington property into the current biennium. *Contact Health Facilities Unit*, N.D. Dep’t of Health and Hum. Servs., <https://www.hhs.nd.gov/health/regulation-licensure-and-certification/health-facilities-unit/contact-health-facilities-unit> (last visited Apr. 10, 2025).

²¹⁵ H.J. 1827, 68th Legis. Assemb., Reg. Sess. (Apr. 11, 2023).

²¹⁶ S.B. 2003 § 1, 68th Legis. Assemb., Reg. Sess. (N.D. 2023).

²¹⁷ H.J. 2438-39, 68th Legis. Assemb., Reg. Sess. (Apr. 27, 2023); N.D. Legis. Assemb., *House Floor Video*, (Apr. 27, 2023, 12:41 PM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230427/-1/30674>.

SECOND READING OF SENATE BILL

SB 2003: A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to amend and reenact sections 53-12.1-09 and 54-12-11 of the North Dakota Century Code, relating to transfers from the lottery operating fund to the multijurisdictional drug task force grant fund and the salary of the attorney general; to provide a transfer; to provide an exemption; to provide for a legislative management study; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 87 YEAS, 4 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson, B.; Anderson, D.; Anderson, K.; Bahl; Beltz; Bosch; Boschee; Brandenburg; Christensen; Christy; Conmy; Cory; Dakane; Davis; Dobervich; Dyk; Fegley; Finley-DeVill; Fisher; Frelich; Grueneich; Hager; Hagert; Hanson; Hatlestad; Hauck; Headland; Heilman; Heinert; Henderson; Holle; Hoverson; Ista; Johnson, J.; Jonas; Karls; Kasper; Kempenich; Kiefert; Klemin; Koppelman; Kreidt; Lefor; Longmuir; Marschall; Martinson; McLeod; Meier; Mitskog; Mock; Monson; Motschenbacher; Murphy; Nathe; Nelson; Novak; O'Brien; Olson, J.; Olson, S.; Porter; Pyle; Richter; Rios; Roers Jones; Rohr; Ruby, D.; Ruby, M.; Sanford; Satrom; Schauer; Schneider; Schobinger; Schreiber-Beck; Steiner; Stemen; Strinden; Swiontek; Thomas; Timmons; Toman; Tveit; Vetter; Vigesaa; Wagner; Warrey; Weisz; Speaker Johnson, D.

NAYS: Bellew; Prichard; Schatz; VanWinkle

ABSENT AND NOT VOTING: Dockter; Louser; Ostlie

Engrossed SB 2003, as amended, passed and the emergency clause was declared carried.

Dockter discussed his absence from this vote while testifying during his criminal trial. The exchange with his attorney went as follows:

Q. Do you know where you were when the 2023 Attorney General's budget was voted on because you didn't participate in that vote. Do you know where you were?

A. I believe I was at home. I think I got Covid again, but -- I think because I -
- and I had a procedure, I think, 5 days, I had to quarantine.²¹⁸

Dockter was not at home quarantining that day. He was present in the capitol and was on the House floor for a morning session that began around 8:00 AM.²¹⁹ At 12:48 PM—seven minutes after the

²¹⁸ Transcript of Jury Trial at 204:11-16, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

²¹⁹ See generally N.D. Legis. Assemb., *House Floor* Video, (Apr. 27, 2023, 8:00 AM), https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230427/-1/30673#info_.

House voted on Senate Bill 2003—Dockter was on the House floor and voted on Senate Bill 2004.²²⁰ At 5:02 PM, Dockter can be seen on video in the upper right-hand corner of the afternoon House floor session.²²¹

6. Ethics Commission Begins Its Investigation and Makes a Criminal Referral

Following the Ethics Commission initially reviewing each complaint and allowing Dockter and each complainant an opportunity for informal resolution during the spring of 2023,²²² the Commission began its formal investigation on July 6, 2023.²²³ Beginning the investigation, the Commission focused on determining:

- (1) What potential conflict(s) of interest, if any, existed for Dockter;
- (2) The size and scope of Dockter’s potential conflict(s);
- (3) The facts creating Dockter’s potential conflict(s) of interest;
- (4) Whether any potential conflict(s) of interest are ongoing;
- (5) Whether a criminal referral was required by N.D.C.C. § 54-66-08(2); and
- (6) Whether a pattern of similar conflict scenarios existed.

At the start of the investigation, Commission staff requested all documents in Dockter’s possession related to the Burlington property that had not already been provided to the Office of the State Auditor.²²⁴ Commission staff also requested any and all documents complainants may have had in their possession to support their allegations. Suhr responded on July 26, 2023, that after discussing the request with his client, Dockter, they determined all available information was included in Stealth Properties, LLC’s response to the State Auditor’s report.²²⁵

Monson then completed an extensive review of documents from Stealth Properties, LLC’s response, as well as the working papers received from the Office of the State Auditor. Monson created an independent timeline of events, determined what documents the Commission still needed to obtain, and created a list of individuals to interview. Based on this work, she, along with General Counsel Logan Carpenter and Binstock, determined three individuals had foundational information for the Commission’s investigation and should be interviewed first. The Commission then sent letters requesting in-person interviews to Boyle, Grabowska, and Keller on September

²²⁰ N.D Legis. Assemb., *House Floor* Video, (Apr. 27, 2023, 12:48 PM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230427/-1/30674>.

²²¹ N.D Legis. Assemb., *House Floor* Video, (Apr. 27, 2023, 5:02 PM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230427/-1/30683>.

²²² The 68th Legislative Assembly commenced on January 3, 2023. The Ethics Commission staff, consisting of an executive director and temporary executive assistant, was required to shift its primary focus to the session during the winter and spring of 2023.

²²³ Letter from Executive Director Rebecca Binstock to Representative Jason Dockter In Care of Attorney Lloyd Suhr (July 6, 2023).

²²⁴ *Id.*

²²⁵ Letter from Attorney Lloyd Suhr to Executive Director Rebecca Binstock (July 26, 2023).

22, 2023.²²⁶ Later that day, the Montana Report became public. Commission staff learned about the Montana Report when the Commission received a copy in the afternoon.

Boyle responded to the Commission's request for an interview the same day and the interview was scheduled for October 25, 2023.²²⁷ Keller and Grabowska were unresponsive to the requests for interviews. Commission staff then followed up and communicated with the Office of the Attorney General on numerous occasions throughout September and October 2023 to schedule interviews with Grabowska and Keller.²²⁸ Commission staff wished to talk to these witnesses as they had first-hand knowledge of Dockter's potential conflict of interest in the Burlington property. In response, the Office of the Attorney General informed Commission staff that Wrigley was referring the Montana Report for prosecutorial review and wanted the Commission to wait with its interview requests until Wrigley referred the matter and the prosecutorial review was completed.²²⁹

The Commission understood the Office of the Attorney General's request that the Commission wait to interview Grabowska and Keller. However, the Commission's investigation and the Montana Report were distinct and separate matters. The Commission's investigation focused on Dockter's actions as a legislator providing him a personal benefit. The focus of the Montana Report—the contracting and build out of the Burlington property and the deletion of Stenehjem's emails—were background facts for the Commission's review. The Commission had a constitutional directive to continue its investigation of Dockter and could not delay its review,²³⁰ particularly without confirmation other matters were officially being reviewed by a state's attorney.²³¹

²²⁶ Letters from Executive Director Rebecca Binstock to Director John Boyle, Director Lonnie Grabowska, and Ms. Becky Keller (Sept. 22, 2023). These requests and all requests made throughout the investigation were made pursuant to the Commission's inherent investigative authority in N.D. CONST. art. XIV, § 3(2). *See also* N.D.C.C. § 54-66-08(3).

²²⁷ Email from Director John Boyle to Office Manager Holly Gaugler (Sept. 22, 2023, 8:13 AM); Email from Operations Administrator Alisha Maier to Director John Boyle (Oct. 10, 2023, 12:06 PM).

²²⁸ *See, e.g.*, Email from Director Lonnie Grabowska to Executive Director Rebecca Binstock (Oct. 9, 2023, 1:34 PM).

²²⁹ *See* Letter from Attorney General Drew Wrigley to Chair Paul Richard (Oct. 12, 2023).

²³⁰ The Commission is directed to pause any action on complaints when *the Commission* makes a criminal referral. N.D.C.C. § 54-66-08(2). When interview requests were made to the Office of the Attorney General no criminal review was taking place. The Commission did not make a criminal referral regarding Dockter until October 26, 2023, after it learned more information from the interview with Boyle.

²³¹ Letter from Executive Director Rebecca Binstock to Attorney General Drew Wrigley (Oct. 17, 2023); *see also* Email from Executive Director Rebecca Binstock to Grand Forks County State's Attorney Haley Wamstad (Nov. 9, 2023, 11:08 AM); Email from Grand Forks County State's Attorney Haley Wamstad to Executive Director Rebecca Binstock (Nov. 9, 2023, 4:18 PM). As noted later in this report, the Commission did not receive official confirmation that Wrigley had referred the Montana Report until November 13, 2023. Later, it appears that referral was redirected through Burleigh County State's Attorney Julie Lawyer to Mountrail County State's Attorney Wade Enget. *See* Mary Steurer, *State's attorney to review Montana investigation on AG building, emails*, NORTH DAKOTA MONITOR (Jan. 10, 2024, 5:32 PM), <https://northdakotamonitor.com/2024/01/10/states-attorney-to-review-montana-investigation-on-ag-building-emails/>.

On October 17, 2023, Binstock sent a letter to North Dakota Information Technology Chief Information Officer Kuldip Mohanty.²³² In that letter, Binstock requested emails from the accounts of Stenehjem and Seibel related to the Burlington property and the Office of the Attorney General's appropriation bills in 2019 and 2021.²³³

After a meeting with Wrigley on October 18, 2023, Binstock sent a letter to Wrigley regarding the requests for interviews of Grabowska and Keller.²³⁴ The letter included requests for the records created during the Montana Report investigation, Bocker's emails, and all records the Office of the Attorney General had previously sent to the Office of the State Auditor.²³⁵

On October 23, 2023, Binstock sent a letter to North Dakota Legislative Council Director John Bjornson requesting copies of any and all email communications from January 2016 to March 2022 within Dockter's legislative account relating to Schorsch, Stealth Properties, LLC, Parkway Property Management, the lease and renovation of the Burlington property, and Senate Bill 2003 from the 66th Legislative Assembly and House Bill 1003 from the 67th Legislative Assembly.²³⁶ Bjornson later responded saying in part, "without additional details regarding the nature of the request and not having consulted with Representative Dockter relating to either a waiver of the provisions of Section 44-04-18.6 or of legislative privilege, we are obligated to respect the privacy of the records absent a waiver from Representative Dockter or a subpoena and an explanation of why legislative privilege would not apply."²³⁷

Also, on October 23, 2023, Carpenter emailed Ness inquiring if Wrigley had referred the Montana Report following Commission staff's meeting with her and Wrigley on October 18, 2023.²³⁸ Carpenter did not receive a response.

North Dakota Information Technology responded to Binstock's request for Stenehjem and Seibel's emails on October 24, 2023.²³⁹ State Records Administrator Aimee Bader from NDIT said:

The email accounts for these individuals were deleted by IT Staff at the Attorney General's Office in early 2022. This received much news coverage when the missing information was discovered in July 2022. At that time, NDIT and the AGO made an active effort to recover these accounts, including bringing in an outside

²³² Letter from Executive Director Rebecca Binstock to Chief Information Officer Kuldip Mohanty (Oct. 17, 2023).

²³³ *Id.* This request was done as a matter of investigative completeness as Commission staff was aware emails of Stenehjem and Seibel had been deleted.

²³⁴ Letter from Executive Director Rebecca Binstock to Attorney General Drew Wrigley (Oct. 17, 2023).

²³⁵ *Id.*

²³⁶ Letter from Executive Director Rebecca Binstock to Director John Bjornson (Oct. 23, 2023).

²³⁷ Letter from Director John Bjornson to Executive Director Rebecca Binstock (Oct. 31, 2023).

²³⁸ Email from General Counsel Logan Carpenter to Chief Deputy Attorney General Claire Ness (Oct. 23, 2023, 12:15 PM).

²³⁹ Email from Aimee Bader to Executive Director Rebecca Binstock (Oct. 24, 2023, 12:41 PM).

consultant, but the data was deemed unrecoverable, therefore we cannot provide the information requested.²⁴⁰

On October 24, 2023, Commission staff met to discuss the Dockter complaints before the Commission's October 25th meeting. During this meeting, Commission staff discussed the potential applicability of N.D.C.C. § 12.1-13-02. Section 12.1-13-02 states:

1. A person is guilty of a class A misdemeanor if during employment as a public servant, or within one year thereafter, in contemplation of official action by himself as a public servant or by a government agency with which he is or has been associated as a public servant, or in reliance on information to which he has or had access only in his capacity as a public servant, he:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by such information or official action;
 - b. Speculates or wagers on the basis of such information or official action;
 - or
 - c. Aids another to do any of the foregoing.
2. A person is guilty of a class A misdemeanor if as a public servant he takes official action which is likely to benefit him as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which he made, or caused or aided another to make, in contemplation of such official action.

Commission staff concluded the statute may apply but needed to discuss the matter with the Commission to receive direction on how to proceed. The Commission met the next day, October 25, 2023, for its October 2023 meeting. During the executive session, Commission staff informed the Commission of its analysis related to N.D.C.C. § 12.1-13-02. The Commission considered the information but directed staff to proceed with an interview already scheduled with Boyle that same day. The Commission wished to acquire more information to aid in the analysis of whether the statute requiring a criminal referral may apply.

On October 25, 2023, Commission staff interviewed Boyle.²⁴¹ During this interview, information provided by Boyle demonstrated Dockter knew state agencies occupied the property at 1720 Burlington Drive.²⁴² Staff also obtained information that although NDIT was moving out of the Burlington property, Dockter knew the selling price for the Burlington property would be low enough to provide a decent rate of return just with the Department of Health as a tenant.²⁴³ This information was corroborated by Dockter's interview on Port's podcast, where he said, "And that was our whole thing is that we were gonna buy the building and we could have made a cash flow

²⁴⁰ *Id.*

²⁴¹ Boyle Interview, *supra* note 71.

²⁴² *Id.*

²⁴³ *Id.*

just with the health department”²⁴⁴ Boyle also informed Commission staff it was not public knowledge the Office of the Attorney General was looking for new office space.²⁴⁵

Following the Boyle interview, Commission staff believed the allegations contained in the complaints, together with information obtained through the Commission’s investigation, implicated a potential violation of N.D.C.C. § 12.1-13-02. As a result, the Commission scheduled a special meeting for that afternoon. At the special meeting, the Commission discussed the matter in executive session and voted to refer the matter to the law enforcement agency with jurisdiction, as mandated by N.D.C.C. § 54-66-08(2).

On October 26, 2023, Binstock sent a letter to Burleigh County State’s Attorney Julie Lawyer regarding the Commission’s criminal referral.²⁴⁶ In that letter, Binstock noted the Commission was aware one of Lawyer’s employees, Bocker, created a direct conflict for Lawyer’s office to review the referral.²⁴⁷ Because of this conflict, Binstock requested Lawyer “refer this matter to an independent and unconflicted state’s attorney.”²⁴⁸

Lawyer worked to find a state’s attorney to review the referred matter. One state’s attorney initially accepted the request but had to withdraw due to staffing issues. On November 6, 2023, Lawyer informed Commission staff McLean and Sheridan County State’s Attorney Ladd Erickson had agreed to review the matter.²⁴⁹

On November 8, 2023, Binstock emailed Ness and inquired if Wrigley had referred the Montana Report to a state’s attorney for review.²⁵⁰ If Wrigley had referred the Montana Report, Commission staff wished to relay the information to Erickson so he could communicate with the other state’s attorney reviewing the separate matter.

On November 9 and 10, 2023, Binstock sent letters to Dockter and the complainants informing them of the Commission’s criminal referral of the complaints, as required by N.D.C.C. § 54-66-08(2).²⁵¹

²⁴⁴ *Plain Talk: Lawmaker Involved in AG’s Office Space Scandal Rips Auditor for “Gotcha Audit,”* FORUM COMM’NS Co. (Nov. 2, 2022).

²⁴⁵ Boyle Interview, *supra* note 71.

²⁴⁶ Letter from Executive Director Rebecca Binstock to Burleigh County State’s Attorney Julie Lawyer (Oct. 26, 2023).

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ Email from Burleigh County State’s Attorney Julie Lawyer to Executive Director Rebecca Binstock (Nov. 6, 2023, 1:34 PM).

²⁵⁰ Email from Executive Director Rebecca Binstock to Chief Deputy Attorney General Claire Ness (Nov. 8, 2023, 9:33 AM).

²⁵¹ Letters from Executive Director Rebecca Binstock to Representative Jason Dockter and Complainants (Nov. 9, 2023).

On November 13, 2023, Ness sent an email to Binstock and informed her the Office of the Attorney General would be sending the documents she had requested on October 18, 2023.²⁵² Ness also informed Binstock that Wrigley “referred the building matter to State’s Attorney Al Koppy in Morton County and the email matter to State’s Attorney Haley Wamstad in Grand Forks County after our discussion with you.”²⁵³ Later that morning, Executive Assistant to the Attorney General Suzie Weigel sent compiled documents the Office of the Attorney General had previously provided to the Office of the State Auditor.²⁵⁴ Weigel also informed Binstock, “Ms. Brocker’s emails were retained for a year after her departure and were substantially reviewed and managed before deletion in accordance with our policy.”²⁵⁵

On January 5, 2024, Lawyer referred the Montana Report to Mountrail County State’s Attorney Wade Enget for review.²⁵⁶ On March 6, 2024, Enget referred the matter back to Burleigh County, with the recommendation that further investigation by law enforcement into matters in the Montana Report needed to occur.²⁵⁷

7. December 19, 2023 – Legislative Audit and Fiscal Review Committee

LAFRC’s December 19, 2023 meeting focused on the Montana Report, the criminal referral as well as attempted criminal referrals, and the deleted emails. At the meeting, the committee heard from Wrigley, Keller, Ness, Guiberson, and Rogneby.²⁵⁸

While testifying, Wrigley publicly disclosed throughout his testimony information regarding the Ethics Commission’s investigation.²⁵⁹ He mentioned having cordial discussions with Commission staff, while revealing information concerning the Commission’s investigative process.²⁶⁰ On one occasion, Wrigley stated:

²⁵² Email from Chief Deputy Attorney General Claire Ness to Executive Director Rebecca Binstock (Nov. 13, 2023, 9:52 AM).

²⁵³ *Id.*

²⁵⁴ Email from Executive Assistant to the Attorney General Suzie Weigel to Executive Director Rebecca Binstock (Nov. 13, 2023, 10:05 AM).

²⁵⁵ *Id.*

²⁵⁶ Mary Steurer, *State’s attorney to review Montana investigation on AG building, emails*, NORTH DAKOTA MONITOR (Jan. 10, 2024, 5:32 PM), <https://northdakotamonitor.com/2024/01/10/states-attorney-to-review-montana-investigation-on-ag-building-emails/>.

²⁵⁷ Mary Steurer, *Prosecutor asks for further law enforcement review of AG building case*, NORTH DAKOTA MONITOR (Mar. 6, 2024, 7:09 PM), <https://northdakotamonitor.com/2024/03/06/prosecutor-asks-for-further-law-enforcement-review-of-ag-building-case/>.

²⁵⁸ See generally 68th N.D. Legis. Assemb. Interim Sess., *Legis. Audit and Fiscal Rev. Comm.* (Dec. 19, 2023), https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20231219/-1/31897#info_ [hereinafter LAFRC Hearing Dec. 19, 2023].

²⁵⁹ Commission staff had concerns regarding Wrigley’s public disclosure of information regarding the Commission’s investigation. Following the hearing, Commission staff emailed Wrigley. Email from Executive Director Rebecca Binstock to Attorney General Drew Wrigley (Dec. 22, 2023, 10:00 AM). Commission staff reminded Wrigley of the confidential nature of Commission investigations and the relevant statutes that prohibit disclosure of the information. *Id.*

²⁶⁰ LAFRC Hearing Dec. 19, 2023, *supra* note 258, at 1:19:29 PM.

In the meantime, the Ethics Commission – and this is what prompted me to go ahead and talk to state attorneys prior to coming back to this committee as I told the chair I was going to do. Cause the Ethics Commission came and said they wanted to interview some more of our witnesses. And I said, you can't interview our witnesses there's a criminal investigation, potential criminal investigation going on, and I'm not going to free up our witnesses. I mean you'll be able to talk to them eventually but it'd be completely inappropriate. In the middle of that – to have this Ethics Commission meeting, and I think we reached a good understanding about that. They understood and I promised that you know we'll move it along expeditiously. Again, a gracious, professional discussion. Understand that their work has to be confidential, and it is confidential, and ours does too. But I mean I couldn't understand – I couldn't be told why and I still haven't been told why, and the law wouldn't permit me to be told why, but the Ethics Commission made a separate referral. There's a separate referral. I'm just going to leave it at that, and we don't know anything about that. But that's all done in the course of their work and investigation.²⁶¹

On another occasion, Wrigley responded to a question by Representative Emily O'Brien and said:

To the issue of you being contacted by the chief deputy about the circumstances change and I was going to make that referral. That was the other matter is totally different. Matter came in from the Ethics Commission and they don't work for me and vice versa. And they they have their own independent determinations they have to make, and I don't criticize it at all. They made they made that referral through - And it seemed like, OK, the referrals have got to probably they should go to the same place. Well now as it turns out now they're not in the same place because that referral that she got that triggered us saying we better just give it to them for referral. Now that's with Ladd Erickson, I'm told. That's with Ladd Erickson. Who's the state's attorney up north here.²⁶²

In response, O'Brien noted:

Correct, cause they're two completely separate reports or requests or investigations. In the way that I understand, is the Ethics Commission investigation is completely confidential and we haven't had anything to do with what the Ethics Commission is doing in LAFRC. So, we've only focused on the independent report that we had requested.²⁶³

During this same LAFRC meeting, Wrigley described his attempts to refer the Montana Report to state's attorneys across the state, including to Morton County State's Attorney Allen Koppy. Wrigley testified:

²⁶¹ *Id.*

²⁶² *Id.* at 2:19:20 PM.

²⁶³ *Id.*

So, we've got a situation where we've got two states attorneys now looking at the matter. And a couple of days ago, no it was yesterday. I was informed that the Morton County States Attorney's Office no longer feels like they've got time to evaluate this. So Madam Chair, I'm going to be making the referral after this meeting like I had agreed to do before. And I'm going to have to just - the proper way to do that is to bring it back to Julie Lawyer and with my apologies she's going to have to find a prosecutor who will look at this if it can't be her office or someone in her office, someone else is going to need to do it. And maybe they can reconcile it with the separate matter that is going on. Uh, a separate prosecution that's being looked into. The nature of which, I can't be told, but it's the same subject matter, the building.²⁶⁴

According to a letter obtained by the Commission, Koppy indicated the referral made to him by Wrigley was improper and should have been made through Burleigh County. The letter states:

I want to apologize for a misunderstanding that I was under regarding the referral of the matter above to the Morton County State's Attorney to review for potential criminal charges regarding matters that occurred in Burleigh County, North Dakota, during the referenced time. I failed to recognize that all referrals to review for charges that occur in Burleigh County should first go to the Burleigh County State's Attorney, since Burleigh County has geographical jurisdiction over matters occurring in Burleigh County.

Burleigh County State's Attorney, Julie Lawyer, has already referred the matter of the ethics complaint involving District 7, Representative Jason Dockter to the McLean County State's Attorney, Ladd Erickson for review. As this is a matter for the Burleigh County State's Attorney to assign out as they see fit, I believe the matter should go to the Burleigh County State's Attorney for review. The materials provided from the North Dakota Attorney General's Office may be retrieved at the Morton County State's Attorneys Office by Monday, November 20, 2023, by 5:00 p.m.²⁶⁵

Wrigley pledged his office's willingness to be fully transparent about the cost overrun. He said the Commission would "be able to talk to [witnesses from his office] eventually."²⁶⁶ Wrigley also said:

We're an open book on these matters and why our people get our people get interviewed [sic] by investigators and we get interviewed by investigators and we do it individually with them, just like anyone else. I don't seek any special privilege. I go can we be interviewed together so we all know what each other said. Nope, I

²⁶⁴ *Id.* at 1:20:39 PM.

²⁶⁵ Letter from Morton County State's Attorney Allen Koppy to Attorney General Drew Wrigley (Nov. 15, 2023).

²⁶⁶ LAFRC Hearing Dec. 19, 2023, *supra* note 258, at 1:19:29 PM.

haven't reviewed anyone else's sworn testimony or anything else. I hope that makes crystal clear just how completely transparent, thorough and complete this is.²⁶⁷

O'Brien referenced requests she made to the Office of the Attorney General for records referenced in the Montana Report and how those requests were denied due to the Montana Report being a criminal intelligence matter. Wrigley was not familiar with her requests but informed her, in part, "We're not looking for technicalities ever to not be forthcoming with something."²⁶⁸ Later he said, "You can have it now or you can have it eventually, but it'll be yours."²⁶⁹

O'Brien also informed the committee she became aware the Office of the Attorney General had cashed the check for \$224,854.93 from Stealth Properties, LLC through her service on the Lottery Advisory Commission.²⁷⁰ O'Brien asked Guiberson if he was aware the check had been cashed.²⁷¹ Guiberson responded, "No, I had I – the last I knew that that check had not been cashed."²⁷²

Keller spoke to the committee about the check and why the Office of the Attorney General decided to cash it. She explained:

We wanted to hold it because we didn't want it to seem that we agreed with the reconciliation that they came up with, so we held it and then later on and I I don't have that date, we did deposit it and we applied it back to the prior biennium, the prior two bienniums, where we actually had expenses related to the overruns. So that would be lease payments and such, so. [Agent Guiberson] wouldn't have known then at that time that we had deposited because it our our involvement with him was over. So we didn't think it was necessary to let him know that we deposited the check.²⁷³

Keller and Ness informed the committee the Office of the Attorney General had no intention of hiding that the check had been deposited but instead viewed it as a normal accounting procedure.²⁷⁴ While answering a question posed by Representative Austen Schauer, Ness spoke about how they "knew there had to be a reconciliation" saying:

I think the fact that the company has now refunded us \$625,000 also speaks to the fact that there were um different charges that maybe should have been reconciled . . . [B]ut as I understand it from the record, the company had an agreement to work out some of these dollar amounts with the previous administration. I don't know

²⁶⁷ *Id.* at 1:37:27 PM, 1:52:20 PM, 2:07:00 PM.

²⁶⁸ *Id.* at 2:28:00 PM.

²⁶⁹ *Id.*

²⁷⁰ *Id.* at 2:48:00 PM.

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.* at 2:48:53 PM.

²⁷⁴ *Id.*

how that was going to function, but what I can tell you is that they have. They have refunded \$625,000 as part of our reconciliation process with those companies.²⁷⁵

Senator Jeff Magrum asked about the Montana Report referencing \$14,598.71 still being due back to the Office of the Attorney General from Stealth Properties, LLC.²⁷⁶ At first, Ness and Keller seemed unfamiliar with that number. Keller then said:

I do recall that now we one of our staff, did compile that reconciliation, and that's one of the reasons why we don't want to agree that that check that they sent us or that we deposited is the full amount that we should have received. Because we couldn't reconcile the [Vogel] report even to the invoices that they provided [Vogel] they have two different numbers in there and they couldn't. We couldn't reconcile it to the invoices that we had received. So, we did a lot of different reconciliations and we can't come to an exact number of what the cost of that building actually was because we're not 100% sure on what invoices should be included or shouldn't be included. And we're still working with C.J. and now they they have another part owner involved in in like the CAM reconciliation. So, we're still working through a lot of that. We do know. We do think that the \$224,000 check that we deposited is owed to us, but we think it could be slightly more. So, we have to, we still have some work to do on that. But we want to wait until we get the investigation over with, see if anybody else can bring any light on to what some of those invoices actually are. Or if we can work with the the company to figure out which invoices we should be using.²⁷⁷

Rogneby responded to information provided by Wrigley, Ness, and Keller. Rogneby said, "The memo, I think clearly sets out that prior to Attorney General Stenehjem's death the project – this project had not been reconciled. And contrary to what the Attorney General's Office is telling you, they will not talk to Stealth, they will not talk to me. They will not reconcile the project."²⁷⁸ He added, "I wrote to Attorney General Wrigley at the time that the audit report was released. We produced this memorandum, and in the memorandum, I indicate that Stealth had been overpaid, and we should sit down and have a reconciliation, and that was in October of 2022, and to date that has not occurred."²⁷⁹

Rogneby informed LAFRC the Office of the Attorney General requested to pay Stealth based on an estimate and not actual invoices. He said, "The attorney general's office said give us an estimate of what the project's going to cost so that we can pay out of the 2021 biennium."²⁸⁰ However, at that time the project was not done.²⁸¹ Rogneby told the committee:

²⁷⁵ *Id.* at 2:53:46 PM.

²⁷⁶ *Id.* The \$14,598.71 amount is referenced on page 35 of the Montana Report.

²⁷⁷ LAFRC Hearing Dec. 19, 2023, *supra* note 258, at 3:01:24 PM.

²⁷⁸ *Id.* at 3:08:03 PM.

²⁷⁹ *Id.*

²⁸⁰ *Id.* at 3:15:10 PM.

²⁸¹ *Id.*

So, the attorney general's office decided to make a payment based on an estimate. Whether that's right or wrong, not my business, not the business of my client, but this is what the attorney general requested. Mr. Schorsch has conversations with Ms. Keller about their needing an invoice. And the attorney general's office indicated it would tell Mr. Schorsch how much that invoice should be, because that's how much money they would pay out of the biennium. On July 12, 2021, Ms. Keller emailed Mr. Schorsch and confirmed that the attorney general was requesting an invoice to allow it to spend available funds.²⁸²

According to Rogneby, "everybody understood that there was going to be a new lease that was going to reflect the adjustment in the cost of the building."²⁸³ However, Rogneby stated "the attorney general's office has not communicated clearly with [Stealth] about the reconciliation. They've never come to us and said we've done our own reconciliation even though they've had this for 14 months, never come to us and said we've computed our own spreadsheet."²⁸⁴ In closing, Rogneby said, "[T]he single most important thing that this committee needs to understand is in June and July of 2021 the AG's office made a payment based on an estimate. And then, when the project was done, we were in the midst of this mess, and nobody from the AG's office would talk to us about how to reconcile the project. So, the money that came back came back because my clients didn't know what else to do."²⁸⁵ Ness later responded to these comments and said, "[O]n behalf of the employees of our office, I do want to say that they have worked very diligently with Mr. Rogneby's clients despite what you have just heard, to reconcile the accounts."²⁸⁶

8. Criminal Prosecution of Representative Dockter

On December 21, 2023, the District Court of Burleigh County, South Central Judicial District, held a probable cause hearing.²⁸⁷ At the hearing, Binstock was called to testify.²⁸⁸ Because details of Ethics Commission investigations are confidential under N.D.C.C. § 54-66-12, the court ordered Binstock to testify for purposes of the hearing.²⁸⁹ Based on the testimony presented at the hearing, the court found probable cause existed to support an offense of "speculating or wagering on official action" and issued a summons and criminal complaint.²⁹⁰ The complaint charged Dockter with violating N.D.C.C. § 12.1-13-02, speculating or wagering on official action or information.²⁹¹ The charge stemmed from Dockter voting "yea" during the 2023 legislative session on the budget for the Department of Health and Human Services, HB 1004. While the Commission's criminal referral was pending, the Commission took no further action on the complaints. Commission staff provided information to Erickson as requested during the pendency of the criminal prosecution.

²⁸² *Id.*

²⁸³ *Id.* at 3:25:00 PM.

²⁸⁴ *Id.*

²⁸⁵ *Id.*

²⁸⁶ *Id.* at 3:46:56 PM.

²⁸⁷ See generally Transcript of Probable Cause Hearing, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. Dec. 21, 2023).

²⁸⁸ *Id.* at 2:20-21.

²⁸⁹ *Id.* at 5:17-25 to 6:1-12.

²⁹⁰ *Id.* at 31:11-17.

²⁹¹ Criminal Complaint, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. Dec. 21, 2023).

Commission staff later learned Stenehjem used personal devices to check his state email. Because the Commission’s criminal referral was pending, on December 19, 2023, Commission staff requested the estate of Stenehjem preserve the former attorney general’s electronic devices.²⁹² Commission staff believed the devices would contain the missing emails, some of which may have been relevant to the Commission’s investigation.

In March of 2024, Commission staff was made aware the Bureau of Criminal Investigation recovered emails from Stenehjem’s personal devices. Upon learning this information and after speaking with Erickson, Commission staff requested Wrigley promptly provide the emails to the Commission for the Commission to review when it resumed its investigation.²⁹³ Commission staff also planned to provide the emails to Erickson in case the emails contained evidence relevant to the prosecution or to Dockter’s defense at his upcoming trial. Wrigley responded later that day and refused to provide the emails to the Commission because the documents were “the subject of a federal search warrant and constitute evidence in a joint federal and state criminal investigation.”²⁹⁴ The Commission disagreed with this assessment by Wrigley that because the emails may be relevant in a separate criminal case that his office did not need to provide the emails for the Commission’s investigation. However, because the Commission’s investigation was paused due to the criminal referral, the Commission did not pursue other options at that time to obtain the emails. Erickson later subpoenaed the emails from Wrigley for the criminal case against Dockter.²⁹⁵

On May 6, 2024, a twelve-person jury trial was held in Burleigh County on the criminal charge against Dockter. The prosecution played Port’s podcast where he interviewed Dockter.²⁹⁶ The prosecution called, as witnesses, Boyle, Binstock, Bjornson, and Gallion.²⁹⁷ The defense called Grabowska, O’Brien, and Dockter.²⁹⁸ During the trial, a substantial portion of the testimony focused on analyzing the Legislative Assembly’s conflict of interest rules, which required disclosure of a conflict of interest when it is “direct, individual, unique, and substantial.”²⁹⁹

Later that day, after closing arguments by both parties, the jury rendered a guilty verdict against Dockter.³⁰⁰

²⁹² Letter from Executive Director Rebecca Binstock to the Estate of Wayne K. Stenehjem (Dec. 19, 2023).

²⁹³ Letter from Executive Director Rebecca Binstock to Attorney General Drew Wrigley (Mar. 4, 2024).

²⁹⁴ Letter from Attorney General Drew Wrigley to Executive Director Rebecca Binstock (Mar. 4, 2024).

²⁹⁵ Subpoena to Attorney General Drew Wrigley, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. Mar. 12, 2024).

²⁹⁶ Transcript of Jury Trial at 78:13-25 to 79:1, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

²⁹⁷ See generally Transcript of Jury Trial, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

²⁹⁸ *Id.*

²⁹⁹ *Id.*; see also House Rule 321, 68th Legis. Assemb. Manual (N.D. 2023). The House Rules have since been amended for the 69th Legislative Assembly.

³⁰⁰ Verdict, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

VERDICT FORM

We the Jury, being duly impaneled and sworn to try the above-entitled action, make the following finding regarding the Defendant, Jason Dean Dockter:

Count 1: on the charge of Speculating or Wagering on Official Action, we find the Defendant: (Mark One)

☐ Not Guilty

☒ Guilty

On May 9, 2024, the court held Dockter’s sentencing hearing. During the hearing, the court analyzed Dockter’s interest in the Burlington property and the leases to the state for the property.³⁰¹ The court also analyzed the position Dockter took at trial regarding whether the lease was a “direct, individual, unique, and substantial” interest.³⁰² The court said:

I was surprised to learn that this land deal was \$5 million, and I understand that your portion of it was only 12.5 percent. But if I look at that, that is \$1 million a year, 12.5 percent of that is you’re making \$125,000 off of this one land deal that is paid for by the citizens of North Dakota.

And the entire trial you wanted to make it about the rule. And the rule says that you need to reveal these conflicts if there’s direct, unique, and substantial, and I don’t know how more direct and unique it gets when we’re talking about you and your partner getting \$5 million. It’s pretty unique.

I don’t know how many other legislators are making that amount of money on a lease. So I don’t know how more unique or direct that gets. So my biggest concern is you don’t think it’s substantial. And you and your attorney and Mr. Erickson kept bringing up teachers. What would a teacher think? If that’s the example you want to use, an average teacher in North Dakota makes about \$50,000 a year.

So would an average teacher think that Mr. Dockter making \$125,000 a year on one land lease is substantial? I think a majority of them would say yes. So what standard are we using when we’re trying to determine what is substantial? I am not sure your perspective is the one that you should be going off of.³⁰³

³⁰¹ Transcript of Sentencing Hearing at 4:10-25 to 5:1-10, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 9, 2024).

³⁰² *Id.*

³⁰³ *Id.*

The court deferred imposition of a sentence but required Dockter to complete 250 hours of community service within six months, pay a \$2,500 fine, and serve 360 days of unsupervised probation.³⁰⁴ On August 23, 2024, the court was notified Dockter had completed his required community service.³⁰⁵

C. The Commission's Resumed Investigation

Following Dockter's sentencing hearing, Commission staff waited the thirty days Dockter had to appeal his criminal case. Once the appeal deadline passed, the Commission's investigation resumed pursuant to N.D.C.C. § 54-66-09(2). Dockter was notified of the Commission's resumed investigation.³⁰⁶ Once the Commission resumed its investigation, Commission staff focused on figuring out what potential conflict(s) of interest, if any, existed under the Commission's rules, the size of the potential conflict(s), the facts creating the potential conflict(s), if any potential conflict(s) were ongoing, whether a pattern of similar conflict scenarios existed, and how the outcome of the criminal case fit into the Commission's review.

Commission staff then requested information from Enget to clarify his review of the Montana Report matter and whether any further investigation had occurred by law enforcement.³⁰⁷ On June 14, 2024, Enget responded to the Commission's request for information.³⁰⁸ Enget responded:

In regard to your letter dated June 11, 2024, I want to inform you that I accomplished a review of materials sent to me by the North Dakota Attorney General's Office. After that review, I was requested by both the North Dakota Attorney General and by Attorney Monte Rogneby to review additional materials that they were going to send me. However, since I was appointed as a Special Assistant Burleigh County State's Attorney by Julie Lawyer "for the review of Montana Department of Justice Case MC 221207" I was restricted from reviewing any further materials that either the North Dakota Attorney General or Attorney Rogneby wanted to share with me.

As a result on March 6, 2024, I authored and sent a memorandum to Julie Lawyer, Burleigh County State's Attorney, Drew Wrigley, North Dakota Attorney General, and Attorney Monte Rogneby informing each of them that since additional information was available, that additional information should be considered as a part of any investigation and possible prosecution of this matter. With that, I

³⁰⁴ *Id.* at 5:11-25, 6:1-7, 7:1-2.

³⁰⁵ Letter from Central Dakota Community Service Program to Burleigh County District Court, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. Aug. 23, 2024).

³⁰⁶ Letter from Executive Director Rebecca Binstock to Attorney Lloyd Suhr (July 8, 2024); Email from Attorney Lloyd Suhr to Operations Administrator Alisha Maier (July 8, 2024); Letter from Executive Director Rebecca Binstock to Representative Jason Dockter (July 9, 2024).

³⁰⁷ Letter from Executive Director Rebecca Binstock to Mountrail County State's Attorney Wade Enget (June 11, 2024).

³⁰⁸ Letter from Mountrail County State's Attorney Wade Enget to Executive Director Rebecca Binstock (June 14, 2024).

concluded my review of the Cost Over Runs and Lease Procurement matter investigated by Montana Department of Justice as it pertains to Case MC 221207, as I did not institute any prosecution based upon that investigation.³⁰⁹

1. Information Provided by Stealth Properties, LLC's Attorney

On July 11, 2024, Commission staff requested information from Rogneby, as Stealth Properties, LLC's attorney, related to the lease of the Burlington property.³¹⁰ At LAFRC's December 19, 2023 meeting, Rogneby informed the committee the Office of the Attorney General would not communicate with him or his clients to reconcile costs associated with the Burlington property. On the other hand, Ness told the committee they had met with representatives of Stealth Properties, LLC. Commission staff sought clarification on these statements and to learn whether any developments occurred while the Commission's investigation was paused for the criminal proceedings.

On July 30, 2024, Rogneby responded with information about the nature of the project and attempts to reconcile the costs:

It is undisputed that in June 2021, before the project was completed, representatives of the Attorney General concluded the Attorney General should pay as much of the project costs as possible before the end of the 2021 biennium and they requested a modification of the Lease to increase rent to address any anticipated unpaid construction costs. They decided they wanted to pre-pay expenses and pay increased rent before the project was completed, before all invoices had been received, and before the project had been reconciled. It is undisputed representatives of the Attorney General requested Stealth provide an estimate of final costs based on Stealth's then understanding of the scope of the project. Representatives of the Attorney General also requested Stealth provide options for paying portions of the project through an increase in rent. Stealth complied with the Attorney General's request. It calculated the estimated final cost. The Office of Attorney General determined how much it wanted to pay immediately and how much it wanted to pay in rent. Stealth invoiced the Attorney General based on the Attorney General's instructions and the Attorney General issued payment. The Attorney General also began paying increased rent. The parties, however, agreed that a final reconciliation would be completed when the project was completed.

At the time of Attorney General Wayne Stenehjem's tragic death, the project had not been reconciled. Since then, Stealth has made multiple requests to complete a reconciliation of the construction costs and the Attorney General has refused to discuss reconciliation. On October 11, 2022, I wrote to Attorney General Drew Wrigley on behalf of Stealth and requested a meeting to discuss the project. I did not receive a response. Attorney General Wrigley was provided with a copy of my

³⁰⁹ *Id.*

³¹⁰ Letter from General Counsel Logan Carpenter to Attorney Monte Rogneby (July 11, 2024).

October 28, 2022, Memorandum which discusses the need for the parties to reconcile the construction costs. I received no response from the Attorney General. I personally discussed reconciliation with Attorney General Wrigley following the Committee meeting on December 19, 2023, and explained that representatives of his office had met with representatives of Stealth to reconcile the CAM expenses, but not to reconcile the construction costs. After that conversation, it was my understanding that the Attorney General's representatives would contact Stealth to complete a reconciliation, but that did not happen.

I again spoke to Attorney General Wrigley by telephone on March 8, 2024, and he told me he would communicate with his staff about completing a reconciliation and that he believed that the parties should be able to get the costs reconciled. The Attorney General has not communicated with me since March 8, 2024, concerning reconciliation of the construction costs and representatives of the Attorney General have not communicated with representatives of Stealth concerning reconciliation of the construction costs.³¹¹

Rogneby expressed his client's position on the issue, given the Office of the Attorney General's lack of communication. He explained:

The October 28, 2022, Memorandum to the [LAFRC] Committee includes Stealth's reconciliation of the project costs and supporting invoices. The Memo notes that based on Stealth's reconciliation, the Attorney General pre-paid too much and that no increase in rent was necessary. The Attorney General did not provide to Stealth any response to the Memorandum.

Representatives of Stealth met with representatives of the Attorney General in December 2022 to discuss CAM expenses. During the meeting representatives of the Attorney General did not raise any specific concerns with the reconciliation completed by Stealth. During this meeting, Stealth provided to the Attorney General a check for \$224,854.93 reflecting the amount overpaid by the North Dakota Attorney General, consistent with Stealth's reconciliation.

As noted above, in addition to rent and construction costs, the Attorney General also pays to Stealth CAM expenses which are related to maintenance of the building and grounds. The parties have successfully reconciled all CAM expenses as required by the Lease.

The only possible open financial issue between Stealth and the Attorney General is whether the Attorney General disagrees with Stealth's project-cost-reconciliation included in the October 28, 2022, Memorandum. If so, the Attorney General should

³¹¹ Letter from Attorney Monte Rogneby to General Counsel Logan Carpenter (July 30, 2024) (emphasis in original).

provide to Stealth his position, or if the Attorney General agrees with the reconciliation, he should so indicate.³¹²

As noted later in the report, it appears no agreed upon reconciliation has occurred and no response has been made by the Office of the Attorney General to Stealth Properties, LLC's attempts to reconcile the project costs.

2. Interview with Mr. Parrell Grossman

On August 19, 2024, Commission staff interviewed Grossman, the former director of the Consumer Protection and Antitrust Division of the Office of the Attorney General. Grossman informed Commission staff he was made aware of the Office of the Attorney General's desire to consolidate divisions by Seibel and Grabowska.³¹³ Grossman said it came as a surprise to him and his division that they would be consolidated with other divisions into one building.³¹⁴ He said there was no real benefit to his division being consolidated with the other divisions that were relocated to the Burlington property, specifically the Lottery Division. Instead, he thought it would have made more sense to consolidate with the Civil Litigation Division.³¹⁵

Commission staff inquired about the emails Grossman sent to leadership within the Office of the Attorney General about the Burlington property. Grossman reiterated the concerns he communicated to Seibel regarding the Burlington property in his February 25, 2020 email.³¹⁶ He said based on the short time frame to respond, he did "not take that [request] and I don't know that anybody took that as really an open invitation to not do it. I think it was like present some compelling reason and there wasn't going to be any reason. It became fairly obvious that this deal was already in the works."³¹⁷ Grossman said he did not hear back from Stenehjem or Seibel regarding his email.³¹⁸ Grossman said:

Lonnie Grabowska and I had, you know, conversations. I don't know that we exchanged emails. We certainly had some conversations that in which I think we concluded that this seemed to be a decision that had already been made and that Troy and/or Wayne possibly were not open to changing that decision.³¹⁹

Grossman added, "It became clear very quickly that this was not open for any sort of discussion."³²⁰ Grossman was referring to discussing the relocation with Seibel. He said it was

³¹² *Id.*

³¹³ Interview by Special Assistant Attorney General Patricia Monson, Executive Director Rebecca Binstock, and General Counsel Logan Carpenter with Mr. Parrell Grossman at 00:02:46 (Aug. 19, 2024) [hereinafter Grossman Interview].

³¹⁴ *Id.* at 00:06:36.

³¹⁵ *Id.* at 00:07:47.

³¹⁶ *Id.* at 00:13:15.

³¹⁷ *Id.* at 00:52:17.

³¹⁸ *Id.* at 00:16:21.

³¹⁹ *Id.*

³²⁰ *Id.* at 00:22:56.

safe to say, “at the time those plans were drawn up, nobody communicated with us, which I thought was unusual.”³²¹ He added, “It just became so clear that this decision was made and was going ahead, and I could not imagine that it was happening without Wayne Stenehjem’s approval. So, we just let it go and moved on. So, and, begrudgingly accepted the results.”³²² Grossman told Commission staff:

I regretted that I never spoke personally with Wayne about it, but based on conversations with Lonnie and I had you know he believed, and I came to believe that Wayne was on board with the decision. I don’t think he was involved in a lot of the detail. I don’t believe that he knew how little input any of the divisions had, but I think the decision was made to move and I have no doubt that Troy said that everybody’s fine with it.³²³

Grossman spoke about how he reached out to Seibel and Stenehjem about other possible buildings but was unaware at the time a contract had been reached for the Burlington property.³²⁴ He said he did not think he received a response, and “it surprised me a little that Wayne Stenehjem did not at least respond.”³²⁵ Grossman recalled that he later suspected “probably based on some conversations with, or a conversation with Lonnie Grabowska, that the agreement had already been signed and processed through John Boyle at that point.”³²⁶ Grossman indicated his belief that Grabowska came to the same conclusion the decision to move to the Burlington property was made before input was requested from the division directors.³²⁷

When asked about the adequacy of the Burlington property, Grossman said:

I don’t think it was an improvement on where we were, but I think the accommodations were fine. It wasn’t right sized. The file room was huge. I had said probably that one could park two school buses in there if they needed to. And, the – and instead our conference room where we would do depositions and subpoena hearings was much smaller.³²⁸

According to Grossman, the odd shape of the rooms could have been due to where the wall lined up with the support, but he was not sure.³²⁹ He added:

I don’t want to suggest it was miserable there, you know, it certainly wasn’t. It was new space. It was just less space than what we had had, and I think maybe the acoustics were a little worse too. All my people were all kind of down the hall. If

³²¹ *Id.* at 00:26:29.

³²² *Id.* at 00:27:02.

³²³ *Id.* at 00:53:00.

³²⁴ *Id.* at 00:27:45.

³²⁵ *Id.* at 00:28:37.

³²⁶ *Id.* at 00:28:54.

³²⁷ *Id.* at 00:56:17.

³²⁸ *Id.* at 00:35:27.

³²⁹ *Id.* at 00:36:02.

somebody was outside an office there, I could probably hear them. They could hear me. Lottery going down the other side of the building could probably hear what was going on in consumer protection. So, we just didn't know that it was laid out particularly well, but you know professionals might disagree with that.³³⁰

Grossman informed Commission staff this interview was the second interview he had done regarding the Burlington property.³³¹ Gallion also interviewed him.

3. Interview with the Office of the State Auditor

On September 18, 2024, Commission staff interviewed Gallion, Director of Audit Services Daniel Cox, and Director of Quality Assurance Lindsey Slappy regarding the report their office prepared for LAFRC. During that conversation, Cox spoke about how he reached out to Keller to offer any assistance the Office of the Attorney General needed from the Office of the State Auditor.³³² The Office of the Attorney General did not accept.³³³

Gallion said LAFRC originally asked for a full performance audit, but the timeframe LAFRC asked for the Office of the State Auditor to complete the audit would have been too short.³³⁴ Instead, Gallion offered what they call “a special investigation or special review.”³³⁵ While not done in accordance with the Yellow Book for Government Auditing Standards, a special investigation still allowed the Office of the State Auditor to “focus on the areas that [it] needed to look at,” specifically the cost overruns and whether they “were proper.”³³⁶

Gallion informed Commission staff, “We were never really able to identify that there was any kind of a cost plan. There was no project plans, all that they were able to show us was some planned book . . . with basically the diagrams.”³³⁷ Slappy added, “It was a large book that showed like the different blueprints of the different areas, and I think there were different pages for like every time a change was made so you could see that the blueprint had changed.”³³⁸ Slappy spoke about the lack of change orders saying, “We asked for change orders to see whether there were specific change orders that showed that this was the addition, this is who signed off on it. Those didn't exist. They didn't have any of those records for us.”³³⁹ Gallion added, “We tried to get some of

³³⁰ *Id.* at 00:39:10.

³³¹ *Id.* at 00:45:41.

³³² Interview by Special Assistant Attorney General Patricia Monson, Executive Director Rebecca Binstock, and General Counsel Logan Carpenter with State Auditor Gallion, Director of Audit Services Daniel Cox, and Director of Quality Assurance at 00:02:22 (Sept. 18, 2024) [hereinafter Auditor's Office Interview].

³³³ *Id.*

³³⁴ *Id.* at 00:03:31

³³⁵ *Id.* at 00:03:43.

³³⁶ *Id.* at 00:04:52.

³³⁷ *Id.* at 00:05:18.

³³⁸ *Id.* at 00:05:49.

³³⁹ *Id.* at 00:06:13.

those, like, how did that flow of information happen and we were not able to really get any, their email communications or any written documentation.”³⁴⁰

Gallion informed Commission staff the Burlington property project should have had “a master plan” and his office requested one.³⁴¹ However, Gallion did not believe such a plan existed and if it did, it was never provided to his office.³⁴² Gallion spoke about the lack of a master plan creating issues for a reconciliation of the financial information. He said, “In the end, we were not able to fully reconcile the financial information. We had an incomplete picture and then I think in our report we identified that some of the invoices appear to be duplicative.”³⁴³ As a result, Gallion said “we tried to reconcile everything, but we were not able to actually tie everything out. Of course, it’s hard to tie everything out when you don’t have a complete master plan.”³⁴⁴

Slappy said the Office of the State Auditor interviewed individuals, including Keller, Grabowska, Boyle, Grossman, and Balliett, “to ask how the process worked and how it was intended to work, how they broke out the payment, like what sources that they got the funding from. We asked for that information.”³⁴⁵ Slappy said their office learned, “essentially [the Office of the Attorney General] just pulled [the funding] from whatever they had available, so they didn’t allocate it based on square footage usage or anything like that. They just looked at which lines had remaining funds that they could pay for.”³⁴⁶ In response to a question about how that aligns with auditing regulations, Gallion said:

I don’t know if we have any direct regulations, but I would say typically you’d want a methodology to allocate some of those costs and we just didn’t see it. Some of the other questions I know we had was the lottery money, any of those additional funds are to be turned back into the general fund, so we questioned some of that.³⁴⁷

Gallion provided additional information about the lottery funds. He said:

I think what we were looking at, we were questioning whether or not that was appropriate use of those dollars to be applied towards this construction process when it’s supposed to be going to a different method. So that’s why we just brought that to light, and yeah that’s about as far as we kind of took it. We just pointed that out and then it’s really up to the agency, the legislature, to try to resolve.³⁴⁸

Slappy added:

³⁴⁰ *Id.* at 00:07:11.

³⁴¹ *Id.* at 00:10:00.

³⁴² *Id.*

³⁴³ *Id.* at 00:11:49.

³⁴⁴ *Id.* at 00:12:20.

³⁴⁵ *Id.* at 00:15:58.

³⁴⁶ *Id.* at 00:17:36.

³⁴⁷ *Id.* at 00:17:58.

³⁴⁸ *Id.* at 00:18:50.

I think in the instance of how they applied the payment is – we didn’t go back in and try to recalculate by square footage or try to apply it back and say hey – because I mean technically for construction, I believe they could have used part of the lottery’s fund because the lottery’s in the building, but we didn’t go and look then to see if that was like the correct proportionate share or not.³⁴⁹

Slappy spoke about the focus of the Office of the State Auditor’s review saying:

What we were trying better to understand is what made up this cost and we were trying to identify whether those were supported because they made a payment of that one point, whatever, \$1,000,000. So, we wanted to make sure that what the state was actually paying for that they actually incurred all those costs, right, that there were receipts for all of that in the construction. Then we were trying to look to make sure that any of the changes that happened, that they were really at the request of the attorney general’s office, not that the building owner was making changes to increase the value of the building, and then it was going back to the state. So, we really focused on the construction project and whether it was like a supported payment and whether they really were in control of the changes that happened there and not so much anything outside of that because we were down to the – to get that amount done, we were down to the wire to even be able to present it within the ninety days.³⁵⁰

The Office of the State Auditor was not able to determine the true cost of the Burlington property construction project. According to Gallion, “We did the best we could with the information that we had, but again we were – I don’t believe we were fully able to understand all of the different costs, and I still don’t think we were able to obtain all of the invoices that reached that total.”³⁵¹ He added, “[W]e did have to use some of those payments that look duplicative to even get close to the total payment.”³⁵² Cox said, “[W]e asked for those total invoices and they couldn’t provide invoices to support the cost. So, even when we add up what appeared, as Josh was saying, appeared to be duplicative invoices, it still didn’t add up to the cost. So, they could not provide evidence for the cost. It didn’t matter if we’d had another six months to look at it, they couldn’t – they could not come up with enough invoices to cover the cost. Period.”³⁵³

Cox and Slappy told Commission staff they asked the Office of the Attorney General for all the invoices first, and Keller provided everything the property owners gave her.³⁵⁴ According to Cox and Slappy, most of the information came from an Excel spreadsheet and during their review they tried to match it up with the invoices they were able to obtain.³⁵⁵ The Office of the State Auditor

³⁴⁹ *Id.* at 00:19:46.

³⁵⁰ *Id.* at 00:20:17.

³⁵¹ *Id.* at 00:22:56.

³⁵² *Id.* at 00:23:29.

³⁵³ *Id.* at 00:23:59.

³⁵⁴ *Id.* at 00:24:31.

³⁵⁵ *Id.* at 00:25:08.

requested to interview Seibel and Brocker “to understand the communication piece back and forth because the emails were deleted” and those two individuals did not respond.³⁵⁶

As part of their review, the Office of the State Auditor toured the Burlington property. When asked, “What was your assessment of how well they fit?” Cox responded, “They didn’t, and every division director told us that.”³⁵⁷ He said they talked to Grabowska and Grossman. Gallion described Grabowska’s reaction to the new space saying:

I got the sense he wasn’t entirely thrilled. Some of the things that you pointed out to us, that there was now supervisors in cubicles where before, where before – because if they needed to have conversations with staff they could no longer do that in their office. I believe their case files, they’re just, they’re just right in the middle of the room because there was no space for them, so they’re just on big shelves. Right, that you know, right in the middle of a big open space.³⁵⁸

Gallion said they “evaluated the cost per square footage, and I believe the new cost was higher than the old.”³⁵⁹ Cox said the fire marshal “almost got squeezed out” because “the original plan didn’t have room for them either,” so they had to add space to get the fire marshal to fit.³⁶⁰ At least one other division was also supposed to move to the Burlington property, but there was not enough space.³⁶¹ Gallion said:

I think it was Parrell that mentioned to us that when they kind of were moved in, I think Wayne Stenehjem went down to the building to to kind of do a walk through and Wayne was very excited, but I don’t think the staff was very excited. And I think Wayne was, I don’t know if he was shocked, or he didn’t expect that type of response from the staff down there.³⁶²

The report completed by the Office of the State Auditor notes their observation of the Burlington property. According to the report:

Each director noted that the new location did not seem to have adequate space. When our team toured the building, we noted there are only five available workspaces in the facility. Given how much privacy is required for much of their work, lack of space for staff was a concern.

³⁵⁶ *Id.* at 00:28:50.

³⁵⁷ *Id.* at 00:33:26.

³⁵⁸ *Id.* at 00:33:50.

³⁵⁹ *Id.* at 00:36:38.

³⁶⁰ *Id.* at 00:35:15.

³⁶¹ *Id.* at 00:34:56.

³⁶² *Id.* at 00:40:39.

The Division Directors were concerned that there were not enough breakrooms and bathrooms for employees. When our team toured the building, we found much of this space is shared with the Health Department.

The Division Directors were also opposed to the location for a variety of reasons including location and space concerns. Additionally, there are several supervisors who had offices in the previous space who were moved back to cubicles.³⁶³

4. Interview with Representative Dockter

On November 22, 2024, Commission staff interviewed Dockter. Dockter informed Commission staff his primary source of income and employment is through Frontier Professional Services where he is president and CEO and has been an owner since 2004.³⁶⁴ According to Dockter, the main business of Frontier Professional Services is bookkeeping, payroll, and human resource employee benefits.³⁶⁵

Dockter explained his recollection of speaking with Grabowska in 2019 regarding the Office of the Attorney General's building requests.³⁶⁶ Dockter believed it happened in the hallway of the capitol but knew Grabowska said it occurred in a parking lot at the capitol.³⁶⁷ Dockter could not recall the details because it was "six years ago."³⁶⁸ However, Dockter explained he has known Grabowska for thirty-eight years as they went to middle school together and believed he stopped to congratulate Grabowska on becoming the director of the BCI.³⁶⁹ According to Dockter, the conversation turned to the BCI's building when Dockter informed Grabowska their office buildings were near each other.³⁷⁰ At that time, Dockter recalled Grabowska informed him the BCI was looking to move.³⁷¹ Dockter then offered his assistance because he is in the property management business.³⁷² Dockter thereafter contacted his realtor who informed him of the availability of the Burlington property.³⁷³

Dockter explained to Commission staff his interest in D&S, LLC, and the work done on the Burlington property.³⁷⁴ Under D&S, LLC's contracting license, his business partner, Schorsch, directed all the subcontracting work.³⁷⁵ According to Dockter, Stealth Properties, LLC used D&S,

³⁶³ Auditor Report, *supra* note 47, at 16.

³⁶⁴ Interview by Special Assistant Attorney General Patricia Monson, Executive Director Rebecca Binstock, and General Counsel Logan Carpenter with Representative Jason Dockter at 00:03:54, 00:07:43 (Nov. 22, 2024) [hereinafter Dockter Interview].

³⁶⁵ *Id.* at 00:06:50.

³⁶⁶ *Id.* at 1:16:09.

³⁶⁷ *Id.*

³⁶⁸ *Id.* at 01:17:01.

³⁶⁹ *Id.* at 01:17:06.

³⁷⁰ *Id.* at 01:17:49.

³⁷¹ *Id.* at 01:18:01.

³⁷² *Id.*

³⁷³ *Id.*

³⁷⁴ *Id.* at 00:14:04.

³⁷⁵ *Id.* at 00:14:27.

LLC's contracting license to save on a general contract management fee, as Northwest Contracting, an independent contractor, would have charged between two and five percent for the fee.³⁷⁶

Dockter admitted that D&S, LLC did not have a general contractor's agreement with the Office of the Attorney General.³⁷⁷ When issues would come up on the project, subcontractors would contact Schorsch, and Schorsch would contact the Office of the Attorney General.³⁷⁸ Dockter said the Office of the Attorney General "had so many changes" and these changes led to an increase in costs because the project was a "custom build."³⁷⁹ He said the custom nature of the building would not add much to the value because it fits the Office of the Attorney General's unique needs, specifically referencing the ballistic panels for the BCI.³⁸⁰ Schorsch's main contact at the Office of the Attorney General was Seibel.³⁸¹ According to Dockter, once changes were approved by email between Schorsch and Seibel, Schorsch would go to the subcontractors.³⁸²

When asked about Stenehjem's involvement in the project, Dockter confirmed Stenehjem delegated his authority to Seibel.³⁸³ Dockter did recall on one occasion, he toured the building with Stenehjem.³⁸⁴ Schorsch met with Seibel and Stenehjem on one additional occasion.³⁸⁵ Dockter said it had been Stenehjem's goal to consolidate divisions in one building.³⁸⁶

Dockter became aware that some division directors were not satisfied with the Burlington property through Schorsch, mainly because it was on the south side of Bismarck.³⁸⁷ However, Dockter said the space allocated was not up for the property owners to decide but the Office of the Attorney General was supposed to ensure it had enough space.³⁸⁸ Dockter said he "was never told about like the space issue" but "they're the ones that came up with the design."³⁸⁹ However, Dockter was unaware Seibel gave the division directors only a week to provide input on the Burlington property.³⁹⁰ Later, Dockter added the location gives the BCI easy access to the main highways around Bismarck.³⁹¹

According to Dockter, financing became an issue for the property owners because a standard clause in state leases allows the state to terminate the lease if the next legislative session does not

³⁷⁶ *Id.* at 00:14:41.

³⁷⁷ *Id.* at 00:16:58.

³⁷⁸ *Id.* at 00:17:18.

³⁷⁹ *Id.* at 00:17:46.

³⁸⁰ *Id.* at 00:19:18.

³⁸¹ *Id.* at 00:20:42.

³⁸² *Id.* at 00:20:47.

³⁸³ *Id.* at 02:22:33.

³⁸⁴ *Id.* at 02:22:51.

³⁸⁵ *Id.*

³⁸⁶ *Id.* at 02:25:05.

³⁸⁷ *Id.* at 01:24:19.

³⁸⁸ *Id.* at 01:24:56.

³⁸⁹ *Id.* at 01:25:22, 01:45:00.

³⁹⁰ *Id.* at 01:46:13.

³⁹¹ *Id.* at 02:26:29.

appropriate funding.³⁹² It specifically became an issue for the Burlington property because of the “input costs into remodeling.”³⁹³ With this in mind, however, the lease included a ten-year term to secure financing for the building and the remodeling.³⁹⁴

Dockter informed Commission staff he has not been involved in reconciling the cost overrun on an everyday basis as that responsibility was turned over to Schorsch.³⁹⁵ Even though he is an owner, he does not “work with it on an everyday basis” and the responsibility was turned over to Schorsch to run the project.³⁹⁶ However, Dockter knew Schorsch had several meetings with Seibel “to go over everything” and the meetings may have included Keller.³⁹⁷ According to Dockter, Seibel said “I’ve talked to the financial person” then he would get back to Schorsch.³⁹⁸ Dockter believed the “financial person” could be Keller, but he was not certain.³⁹⁹

Currently, Stealth Properties, LLC is sending CAM money back to the Office of the Attorney General for a project to redo the parking lot as requested by Seibel, which has not been done to date.⁴⁰⁰ Dockter informed Commission staff the Office of the Attorney General is currently paying about \$12.25 per square foot to lease the Burlington property with everything considered.⁴⁰¹

Dockter informed Commission staff the cost overrun “still hasn’t to this date” been reconciled.⁴⁰² Dockter said Rogneby has tried to contact the Office of the Attorney General on Stealth’s behalf, but they have not heard anything from the Office of the Attorney General to reconcile the matter.⁴⁰³ While the CAM costs have been reconciled, the underlying lease for the property has not been reconciled.⁴⁰⁴

According to Dockter, the Office of the Attorney General paid for the lease and renovations based on an estimate.⁴⁰⁵ Dockter said Seibel requested estimates, and knew they were estimates, so the Office of the Attorney General could pay out of current funds before the end of the biennium.⁴⁰⁶ According to Dockter, Seibel was concerned there may not be money in the next biennium’s budget to pay for the project, and Seibel instructed Stealth “don’t be short” when making the estimate.⁴⁰⁷ Dockter suggested the Office of the Attorney General could have requested additional

³⁹² *Id.* at 01:26:22.

³⁹³ *Id.* at 01:26:29.

³⁹⁴ *Id.*

³⁹⁵ *Id.* at 01:33:16.

³⁹⁶ *Id.*

³⁹⁷ *Id.* at 1:35:15.

³⁹⁸ *Id.* at 01:36:11.

³⁹⁹ *Id.*

⁴⁰⁰ *Id.*

⁴⁰¹ *Id.* at 01:42:58.

⁴⁰² *Id.* at 01:46:26.

⁴⁰³ *Id.*

⁴⁰⁴ *Id.* at 01:47:48.

⁴⁰⁵ *Id.* at 01:56:03.

⁴⁰⁶ *Id.* at 01:56:26.

⁴⁰⁷ *Id.* at 01:56:42.

funding from the Emergency Commission, but that he was not involved in those decisions and it was “between them and their financial people within their agency.”⁴⁰⁸

Dockter spoke about the state fire marshal and how custom work was done to the Burlington property to accommodate the fire marshal’s office.⁴⁰⁹ The fire marshal was later moved from the Office of the Attorney General to the Insurance Department. Because of this move Dockter said “they kicked them out” and the fire marshal is no longer at the Burlington property.⁴¹⁰ Dockter did not know where the fire marshal’s office is currently located. Commission staff later learned the fire marshal moved to the fifth floor of the capitol building.⁴¹¹

Commission staff asked Dockter why he did not declare a potential conflict of interest and voted on legislation funding the leases for the Burlington property. Dockter responded that he did not believe the legislation met House Rule 321’s requirement for recusal for a personal or private interest.⁴¹² He also referenced a training given by Binstock on the Commission’s conflict of interest rules.⁴¹³ According to Dockter, with these things in mind his analysis led him to conclude he did not have to declare a potential conflict and could vote.⁴¹⁴ Dockter’s analysis included factors that the bills did not specifically reference him by name, the bills are “one general item for these budgets [that are] never earmarked it [is] just for leases,” the legislature only meets for eighty days as a citizen legislature, and the legislation passes by a large majority so his vote would not be determinative.⁴¹⁵ Dockter later informed staff other legislators have property interests with the state who do not declare potential conflicts of interest.⁴¹⁶

Dockter’s reference was to House Rule 321’s definition of a “personal or private interest” as “an interest that affects the member directly, individually, uniquely, and substantially.”⁴¹⁷ During the 2023 legislative session, Legislative Council requested an advisory opinion from the Commission on how it would interpret the Legislative Assembly’s conflict of interest rules in conjunction with the Commission’s conflict of interest rules.⁴¹⁸ In that opinion, the Commission informed the Legislative Assembly how it will interpret the Legislative Assembly’s conflict of interest rules to determine whether an ethical violation occurred.⁴¹⁹ Dockter believed the advisory opinion was sent out to all legislators at the time, but it was not memorable to him.⁴²⁰

Commission staff also asked Dockter to clarify his trial testimony that he did not vote on SB 2003 in 2023 because he was absent with COVID-19. Dockter responded, “I thought I had COVID . . .

⁴⁰⁸ *Id.* at 01:58:36.

⁴⁰⁹ *Id.* at 01:51:04.

⁴¹⁰ *Id.* at 01:51:09.

⁴¹¹ Email from Director Rachel Kriege to Operations Administrator Alisha Maier (Jan. 14, 2025, 3:27 PM).

⁴¹² Dockter Interview, *supra* note 364, at 02:02:01.

⁴¹³ *Id.*

⁴¹⁴ *Id.* at 02:02:27, 02:03:40.

⁴¹⁵ *Id.* at 02:03:40, 02:06:16.

⁴¹⁶ *See id.* at 02:13:38.

⁴¹⁷ House Rule 321, 68th Legis. Assemb. Manual (N.D. 2023).

⁴¹⁸ N.D. Ethics Comm’n, Advisory Op. 23-01 (2023).

⁴¹⁹ *Id.*

⁴²⁰ Dockter Interview, *supra* note 364, at 02:21:07.

yes, I did have COVID . . . now that I recall and everything, basically, I was there. Well, I must have been there, but I didn't vote."⁴²¹

Dockter spoke about how he has since declared potential conflicts of interest at North Dakota Public Employees Retirement System ("NDPERS") Board of Trustees meetings.⁴²² Commission staff attended one of those meetings to give an educational presentation and observed Dockter successfully walk through the process for disclosing and managing potential conflicts of interest.

Dockter spoke about the work he did for his court-imposed community service with Ministry on the Margins.⁴²³ Dockter specifically mentioned working at its coffee house and food pantry.⁴²⁴ Overall Dockter spoke about his community service at length as a positive experience, and he continues to volunteer with Ministry on the Margins every Tuesday.⁴²⁵ Dockter was forthcoming in response to the questions posed to him throughout the interview.

5. Interview with Stealth Properties, LLC

On January 16, 2025, Commission staff conducted an interview with Schorsch, as a representative of Stealth Properties, LLC, and Stealth's attorney, Rogneby.⁴²⁶ Schorsch could not recall when he and Dockter first discussed the Office of the Attorney General's need for additional space.⁴²⁷ Schorsch could not recall those conversations because of how much time had passed, but he did recall talking to a realtor about a few sites that might accommodate Stenehjem's wishes.⁴²⁸

Schorsch informed Commission staff that Stealth knew retrofitting of the Burlington property had to be completed to accommodate the Office of the Attorney General.⁴²⁹ Schorsch said the Office of the Attorney General did not know even which divisions would move into the building at the time the office signed the lease.⁴³⁰

During the interview, Rogneby took issue with the use of the term "overrun."⁴³¹ According to Rogneby and Stealth, they believe the State of North Dakota has been inaccurately using the term.⁴³² Rogneby stated, "there was no agreement by anybody that there was any number on the front end as to what the attorney general was going to pay, it was always understood that the attorney general would make decisions and then based on those decisions, the attorney general

⁴²¹ *Id.* at 02:10:19.

⁴²² *Id.* at 02:11:52.

⁴²³ *Id.* at 02:14:02.

⁴²⁴ *Id.* at 02:14:30.

⁴²⁵ *Id.*

⁴²⁶ Stealth Properties, LLC Interview, *supra* note 165.

⁴²⁷ *Id.* at 00:09:25.

⁴²⁸ *Id.*

⁴²⁹ *Id.* at 00:15:02.

⁴³⁰ *Id.* at 00:15:44.

⁴³¹ *Id.* at 00:17:13.

⁴³² *Id.*

would have to pay more based on whatever it was that the attorney general wanted.”⁴³³ Rogneby said:

So, the language is really important and it’s really important for purposes of cost overruns is that there was not a fixed amount of what Stealth promised to provide the state. It was always, you can have whatever you want, but you have to pay for what it is that you want, and you can make all the decisions about those things from the time the project started until the time the project ended, and so that language, it is really important for people to understand that it wasn’t a situation where there was an agreement for X amount and Stealth delivered a building for more than what was agreed upon.⁴³⁴

Schorsch informed Commission staff the requests for changes to the Burlington property by the Office of the Attorney General were made at the construction site. He said, “We usually met down at the site and then they told me what they wanted.”⁴³⁵ Schorsch said he met with both Stenehjem and Seibel “two or three times total” but with Seibel “a little more.”⁴³⁶ Schorsch could not remember the substance of those conversations given the amount of time that had passed, but he said those conversations did happen both at the Burlington property and at the Office of the Attorney General.⁴³⁷ Schorsch recalled having a conversation with the Office of the Attorney General about the project being over budget in late December 2020 or early January 2021.⁴³⁸ On July 22, 2021, an invoice for the project in the amount of \$1,342,209.70 was sent to the Office of the Attorney General.

⁴³³ *Id.* at 00:19:52.

⁴³⁴ *Id.* at 00:20:34.

⁴³⁵ *Id.* at 00:21:39.

⁴³⁶ *Id.* at 00:27:35.

⁴³⁷ *Id.*

⁴³⁸ *Id.* at 00:29:11.

<p>D & S LLC DBA Parkway Property Management PO Box 7459 Bismarck, ND 58507 701-223-6676</p>	<p>Invoice</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Date</th> <th style="width: 50%;">Invoice #</th> </tr> <tr> <td style="text-align: center;">7/22/2021</td> <td style="text-align: center;">252</td> </tr> </table>	Date	Invoice #	7/22/2021	252											
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			Total	\$1,342,209.70												

Commission staff asked Schorsch about the invoice sent by Parkway Property Management for \$1,342,209.70.⁴³⁹ Schorsch informed Commission staff “Becky and Tasha called me and told me

⁴³⁹ *Id.* at 00:29:51.

that number.”⁴⁴⁰ Schorsch appeared to be referring to the finance and accounting staff in the Office of the Attorney General. Schorsch said, “[T]hey wanted an estimate, and I gave them an estimate as what it was.”⁴⁴¹ Schorsch said the estimate “is what they wanted me to invoice” and representatives from the Office of the Attorney General called knowing they were going to be over budget and told Schorsch “don’t be short” with the estimate.⁴⁴²

According to Schorsch, the Office of the Attorney General is making the lease payments under the original lease.⁴⁴³ Schorsch said, while referring to the Office of the Attorney General, “They were going to write an addendum to cover their costs, and they never wrote it.”⁴⁴⁴ According to Rogneby, Stealth did its own reconciliation of the project but has not, despite multiple efforts to meet, received an indication from the Office of the Attorney General whether it agrees or not with Stealth’s reconciliation.⁴⁴⁵

At the end of the interview, Rogneby gave his description of what the project was from Stealth’s perspective:

What it appears to me happened here is that the attorney general, and this is not anybody’s fault, but probably has to do with the state’s unwillingness to buy property. But the attorney general had to move BCI out of its space because the lease was ending. And the attorney general had had – was unsuccessful in finding a building that was move in ready. So, it certainly looks like to me and overviewing all of this is that a decision was made in the attorney general’s office to lock in a building and then bring the division heads in after the building was chosen, and then have them kind of fight it out as to what they would get or they wouldn’t get. So, the mistake here is this idea that the attorney general had a fully formed like like most people when they buy a building, they have a fully formed plan on the front end with all of this internal work done and all of the needs taken care of or whatever on the front end, then they go out and buy a building and then you upfit it.

Here, it looks a little bit like what Wayne and Troy Seibel did, is they kept all of those division heads out of the loop to some extent. Although they looked at the building and everything else, there were no plans about what, how much office space they were going to be getting, or what the server’s room would look like or what generators would be there, or whether even the lottery was going to be part of the building, right. They, they hadn’t made any of those decisions. They basically said, here’s a building, the division heads - understood that the AG’s office was going to assign a lease on a building, they were in the loop that much. And then, once it was locked into place then they started bringing those people in and they all

⁴⁴⁰ *Id.*

⁴⁴¹ *Id.* at 00:30:53.

⁴⁴² *Id.* at 00:31:09.

⁴⁴³ *Id.* at 00:36:38.

⁴⁴⁴ *Id.* at 00:36:52.

⁴⁴⁵ *Id.* at 00:40:23.

had a wish list of what they wanted. And how Wayne and Troy Seibel managed that internally, that's not really Stealth's call. But you know, they kept asking Stealth to make changes and to add to the space and accommodate the things that they wanted. And that process was ongoing throughout the whole construction. Things were always changing. And so, to use a model of a, you know, build to order contracted on the front-end project, that's not what this was. And so, that's important for the Commission to understand that this was a very unique project, and it was set up that way, purposefully by Wayne and Troy Seibel and the Attorney General's Office.⁴⁴⁶

Rogneby added the Office of the Attorney General "has never said a single time that it didn't get what it paid for or didn't get what it asked for."⁴⁴⁷

Following the interview, Commission staff followed up with Rogneby to clarify who hired the architect for the Burlington property project.⁴⁴⁸ According to Stealth, the architect was originally hired by the Office of the Attorney General to complete plans for a new space before Stealth became involved.⁴⁴⁹ When the lease was signed between Stealth and the Office of the Attorney General, "The Attorney General requested that Stealth pay for [the architect's] services and include the costs in the construction/remodel costs reimbursed by the AG's office."⁴⁵⁰

In Stealth's letter regarding the architect, Rogneby again explained Stealth's position on the cost overrun issue. He said:

As Stealth attempted to explain during the interview reference to change orders is not appropriate as part of this project. Stealth believes it is important for members of the commission to understand that Stealth did not contract with the Attorney General to complete the remodel and new construction for a fixed amount. There was no agreement on the plans of the remodel or new construction, the materials, or the cost. There was only agreement that Stealth would complete the remodel and new construction to the Attorney General's specifications with a cost split as set out in the lease.

A "change order" is a "written order to the contractor signed by the owner authorizing an addition, deletion, or revision in the work, or an adjustment in the contract price or the contract time issued after execution of the agreement." 2A Nichols Cyc. Legal Forms § 35:249. Here there were no "change orders" as there was no contractual agreement on the scope of the remodel, scope or size of new construction, or costs. There was never any "addition, deletion, or revision in the work, or an adjustment in the contract price" after execution of the lease. It was

⁴⁴⁶ *Id.* at 00:43:42.

⁴⁴⁷ *Id.* at 00:46:54.

⁴⁴⁸ Letter from General Counsel Logan Carpenter to Attorney Monte Rogneby (Jan. 27, 2025).

⁴⁴⁹ Letter from Attorney Monte Rogneby to General Counsel Logan Carpenter (Feb. 6, 2025).

⁴⁵⁰ *Id.*

always the parties' agreement that the Attorney General would decide all changes as the project moved forward with the cost paid as indicated in the lease.

The parties discussed an estimated budget, based on the estimated cost of materials, cost of labor, and the Attorney General's initial thoughts concerning what it wanted done as part of the remodel and what new construction it wanted added. The project cost more than these projections because of increased input costs and because of the decisions made by the Attorney General. The project did not cost more because of "change orders." No one has ever contended that the Attorney General did not direct the construction or that the Attorney General did not make all of the final decisions concerning the construction.⁴⁵¹

6. Additional State Leases Associated with Representative Dockter

As part of the Commission's investigation, Commission staff reviewed whether Dockter had connections to other state leases to determine whether a pattern of undisclosed potential conflicts of interest exists. Commission staff requested Dockter's statement of interests filed with the Secretary of State's office in 2022.⁴⁵² Dockter listed thirteen businesses in which he has a financial interest on the statement of interests.⁴⁵³

During Dockter's interview, Commission staff walked through his statement of interests with him, and Dockter provided information regarding these additional businesses and property interests. Dockter informed Commission staff his interests in Stealth Properties, LLC and Marvin Darius, LLC are routed through his ownership in Southpaw, LLC.⁴⁵⁴ Dockter owns 50% of Southpaw, LLC, and Southpaw, LLC is a member of both Stealth Properties, LLC and Marvin Darius, LLC.⁴⁵⁵ Southpaw, LLC has a 25% ownership interest in Stealth Properties, LLC, making Dockter's ownership interest in Stealth Properties, LLC 12.5%.⁴⁵⁶

⁴⁵¹ *Id.*

⁴⁵² Letter from Executive Director Rebecca Binstock to Secretary of State Michael Howe (Aug. 12, 2024).

⁴⁵³ Representative Dockter Statement of Interests (Mar. 11, 2022).

⁴⁵⁴ Dockter Interview, *supra* note 364, at 00:42:58.

⁴⁵⁵ *Id.*

⁴⁵⁶ *Id.* at 00:43:06.

ITEM B

List the name of each business or trust that is NOT the principal source of income in which you and/or your spouse have a financial interest.

[BUSINESS NAME OR TRUST NAME (list city and state where located)]	SELF	SPOUSE
EXAMPLE: Make Me A Lot of Money Investment Co. (Mutual Funds) Bismarck, ND	X	X
JAYDOCK INC - BISMARCK, ND	X	
D&S LLC - BISMARCK, ND	X	
FRONTIER PAYROLL SERVICES INC, BISMARCK, ND	X	
FRONTIER CONTRACTING LLC, BISMARCK, ND	X	
NEW VISION PROPERTIES LLC, BISMARCK, ND	X	
PMDB PROPERTIES LLC, BISMARCK, ND	X	
DIVITAE INVESTMENTS LLP, BISMARCK, ND	X	
DESIGN INVESTMENTS LLC, BISMARCK, ND	X	
VIGORE VENTURES LLC, BISMARCK, ND	X	
MARVON OARINS LLC, BISMARCK, ND	X	
SOUTHWAN LLC, BISMARCK, ND	X	
STUSS & STUSS LLC, BISMARCK, ND	X	
SPRINT PROPERTIES, LLC, BISMARCK, ND	X	

Representative Dockter's 2022 Statement of Interests

From a survey prepared by Legislative Council and Dockter's statement of interests, Commission staff identified three additional properties leased to the state connected to Dockter's businesses.⁴⁵⁷

a. 601 Channel Drive Bismarck, ND – New Vision Properties, LLC

According to Dockter, the North Dakota Highway Patrol ("Highway Patrol") previously leased space at 4007 State St in Bismarck, ND going back to the 1990s.⁴⁵⁸ Dockter has owned a 5% interest in the 4007 State St property since 2004.⁴⁵⁹ On April 17, 2013, the Highway Patrol wanted to move into a different space and signed a lease with New Vision Properties, LLC for space at 601 Channel Drive in Bismarck, ND.⁴⁶⁰ While originally for 4,000 square feet of space, the lease later expanded to 13,600 square feet of space beginning on July 1, 2014.⁴⁶¹ The property was used

⁴⁵⁷ Representative Dockter Statement of Interests (Mar. 11, 2022); N.D. LEGIS. COUNCIL, SURV. OF AGENCY SPACE NEEDS AND LEASES (2022).

⁴⁵⁸ Dockter Interview, *supra* note 364, at 00:27:59.

⁴⁵⁹ *Id.* at 00:29:23.

⁴⁶⁰ N.D. Highway Patrol, *Lease for the Property at 601 Channel Drive Bismarck, ND* (Apr. 17, 2013).

⁴⁶¹ N.D. Highway Patrol, *Commitment to Lease Office and Shop Space at 601 Channel Drive, Bismarck* (May 13, 2013).

for the Highway Patrol’s “Southwest Regional Office, Motor Carrier Office, IT Office, Property and Support Services Offices, Warehouse, and external vehicle storage.”⁴⁶²



601 Channel Drive Bismarck, ND

The Highway Patrol terminated its lease at 601 Channel Drive on July 1, 2021, when it moved into a North Dakota Department of Transportation building.⁴⁶³ The move occurred after the Highway Patrol “was asked to reduce 15% as part of the Governor’s Executive Budget.”⁴⁶⁴ The Department of Corrections and Rehabilitation began leasing the space following the Highway Patrol’s move.⁴⁶⁵

Dockter listed an ownership interest in New Vision Properties, LLC on his 2022 statement of interests.⁴⁶⁶ Commission staff asked Dockter about his ownership interest in New Vision Properties, LLC and 601 Channel Drive at his interview. Dockter had a 25% interest in New Vision Properties, LLC that he sold in June of 2022.⁴⁶⁷ Dockter informed Commission staff he previously voted in the legislature on the Highway Patrol’s budget while owning an interest in the 601 Channel Drive property.⁴⁶⁸

It appears Dockter did not have an interest in the outcome of the Highway Patrol budget bill or the Department of Corrections and Rehabilitation budget bill when he voted on them in 2021. The Highway Patrol informed New Vision Properties it would not renew the lease into the next biennium in August of 2020.⁴⁶⁹ Additionally, the Department of Corrections and Rehabilitation signed the lease for the 601 Channel Drive property on June 3, 2021, almost two months after the Legislative Assembly voted on the department’s budget bill.⁴⁷⁰

⁴⁶² Email from Major Aaron Hummel to Executive Director Rebecca Binstock (Oct. 8, 2024, 5:30 PM).

⁴⁶³ *Id.*

⁴⁶⁴ *Id.*

⁴⁶⁵ N.D. Dep’t of Corrs. and Rehab., *Lease for the Property at 601 Channel Drive Bismarck, ND* (June 3, 2021).

⁴⁶⁶ Representative Dockter Statement of Interests (Mar. 11, 2022).

⁴⁶⁷ Email from Representative Jason Dockter to General Counsel Logan Carpenter (Jan. 31, 2025, 4:36 PM).

⁴⁶⁸ Dockter Interview, *supra* note 364, at 00:34:32.

⁴⁶⁹ Letter from Colonel Brandon Solberg to New Vision Properties (Aug. 5, 2020).

⁴⁷⁰ N.D. Dep’t of Corrs. and Rehab., *Lease for the Property at 601 Channel Drive Bismarck, ND* (June 3, 2021).

b. 1700 Schafer St Bismarck, ND – Marvin Darius, LLC

In 2019, Marvin Darius, LLC bought the property at 1700 Schafer St in Bismarck, ND.⁴⁷¹ On May 22, 2019, Bismarck State College (“BSC”) signed a new lease for the 1700 Schafer St property with Marvin Darius, LLC.⁴⁷² The lease became effective on July 1, 2019.⁴⁷³ The 1700 Schafer St property is commonly referred to as the Meadowlark Building at BSC.⁴⁷⁴



1700 Schafer St Bismarck, ND

Dockter listed an ownership interest in Marvin Darius, LLC on his 2022 statement of interests.⁴⁷⁵ Commission staff identified Representative Bob Martinson as another individual involved in Marvin Darius, LLC.⁴⁷⁶ Commission staff spoke with Martinson and he informed Commission staff the 1700 Schafer St property was already leased to BSC when Marvin Darius, LLC bought it.⁴⁷⁷ Dockter has a 15% interest in Marvin Darius, LLC.⁴⁷⁸

Dockter informed Commission staff he voted on the North Dakota University System’s (“NDUS”) budget that would include funding for the lease at 1700 Schafer St.⁴⁷⁹ On April 14, 2021, Dockter

⁴⁷¹ U.S. Dept’t of Hous. And Urb. Dev., *Settlement Statement for 1700 Schafer St Bismarck, ND* (June 6, 2019).

⁴⁷² Bismarck State Coll., *Lease for the Property at 1700 Schafer St Bismarck, ND* (May 22, 2019). BSC subleases a portion of the building to the North Dakota University System. N.D. Univ. Sys., *Sublease for the Property at 1700 Schafer St Bismarck, ND* (June 2, 2021). The sublease identifies BDJ Partnership as the owner of the building; however, Representatives Dockter and Martinson did not know why. Dockter Interview, *supra* note 364, at 00:51:14; Interview by Special Assistant Attorney General Patricia Monson and General Counsel Logan Carpenter with Representative Bob Martinson at 00:37:14 (Nov. 12, 2024) [hereinafter Martinson Interview]. According to Representative Dockter, the sublease likely mistakenly lists the previous ownership group for the building. See Email from Representative Jason Dockter to General Counsel Logan Carpenter (Nov. 25, 2024, 10:43 AM).

⁴⁷³ *Id.*

⁴⁷⁴ *Building Hours & Addresses*, BISMARCK STATE COLL., <https://bismarckstate.edu/about/contact/BuildingHoursAddresses/> (last visited Apr. 10, 2025).

⁴⁷⁵ Representative Dockter Statement of Interests (Mar. 11, 2022).

⁴⁷⁶ N.D. Sec’y of State, *Business Search – Marvin Darius Investment Group* (Oct. 2, 2013).

⁴⁷⁷ Martinson Interview, *supra* note 472, at 00:21:43.

⁴⁷⁸ Email from Representative Jason Dockter to General Counsel Logan Carpenter (Jan. 31, 2025, 4:36 PM).

⁴⁷⁹ Dockter Interview, *supra* note 364, at 00:50:10.

voted “yea” on the final passage of the NDUS’s 2021 appropriation bill, Senate Bill 2003.⁴⁸⁰ On April 26, 2023, Dockter voted “yea” on the final passage of the NDUS’s 2023 appropriation bill, House Bill 1003.⁴⁸¹ Both bills included funding for BSC and the 1700 Schafer St lease for the respective bienniums.⁴⁸²

c. 1838 Interstate Ave Bismarck, ND – 1838 Properties, LLC

Dockter also owns an interest in 1838 Properties, LLC.⁴⁸³ 1838 Properties, LLC was created in December 2021; however, it is not listed on Dockter’s 2022 statement of interests.⁴⁸⁴ 1838 Properties, LLC owns the building at 1838 E Interstate Ave Bismarck, ND.⁴⁸⁵ 1838 Properties, LLC remodeled the building and then leased it to a state board—the North Dakota Board of Pharmacy.⁴⁸⁶ The Board of Pharmacy does not receive its funding through the Legislative Assembly, but the 1838 E Interstate Ave building is an additional property leased to the state and owned by one of Dockter’s business entities.⁴⁸⁷

During the Commission’s investigation, it learned the Board of Pharmacy’s executive director owned an interest in 1838 Properties, LLC.⁴⁸⁸ The executive director also signed the lease on behalf of the Board of Pharmacy for the 1838 E Interstate Ave property.⁴⁸⁹ Because the information was tangential to the Commission’s investigation and related to potential violations of criminal statutes, the Commission felt it was important to provide the information to law enforcement and voted to do so at its September 25, 2024 meeting.⁴⁹⁰ The Commission provided the information to the Burleigh County State’s Attorney on October 2, 2024.⁴⁹¹

⁴⁸⁰ H.J. 1686-87, 67th Legis. Assemb., Reg. Sess. (Apr. 14, 2021).

⁴⁸¹ H.J. 2371-72, 68th Legis. Assemb., Reg. Sess. (Apr. 26, 2023).

⁴⁸² S.B. 2003 § 1, 67th Legis. Assemb., Reg. Sess. (N.D. 2021); H.B. 1003 § 1, 68th Legis. Assemb., Reg. Sess. (N.D. 2023).

⁴⁸³ Dockter Interview, *supra* note 364, at 01:06:05.

⁴⁸⁴ N.D. Sec’y of State, *Business Search – 1838 Properties, LLC* (Dec. 6, 2021).

⁴⁸⁵ *See id.*

⁴⁸⁶ *Id.*; N.D. Bd. of Pharmacy, *Lease for the Property at 1838 E Interstate Ave Bismarck, ND* (Nov. 2, 2022).

⁴⁸⁷ N.D.C.C. §§ 43-15-05, 54-44-12.

⁴⁸⁸ N.D. Bd. of Pharmacy, *Meeting Minutes 4* (Mar. 17, 2022); N.D. Bd. of Pharmacy, *Meeting Minutes 5* (May 16-18, 2022).

⁴⁸⁹ N.D. Bd. of Pharmacy, *Lease for the Property at 1838 E Interstate Ave Bismarck, ND* (Nov. 2, 2022).

⁴⁹⁰ Letter from Executive Director Rebecca Binstock to Burleigh County State’s Attorney Julie Lawyer (Oct. 2, 2024).

⁴⁹¹ *Id.*



1838 E Interstate Ave Bismarck, ND

III. ETHICS LAW

A. North Dakota Constitution Article XIV and Commission Investigations

Article XIV, § 3 of the North Dakota Constitution establishes the North Dakota Ethics Commission. It states, “In order to strengthen the confidence of the people of North Dakota in their government, and to support open, ethical, and accountable government, the North Dakota ethics commission is hereby established.”⁴⁹² The Commission’s mission is “to strengthen the confidence of the citizens of North Dakota in their government by ensuring and promoting transparency and accountability.”⁴⁹³

The Commission has the constitutional directive to “adopt ethics rules related to transparency, corruption, elections, and lobbying to which any lobbyist, public official, or candidate for public office shall be subject.”⁴⁹⁴ The Commission commonly refers to the topics of “transparency, corruption, elections, and lobbying” as its four “buckets” of authority. When exercising its constitutional authority, the Commission must apply the “plain, ordinary, and commonly understood meaning” to the words transparency, corruption, elections, and lobbying.⁴⁹⁵ The topic of transparency commonly means and includes “openness; clarity; unobstructed access, esp. to business and governmental records; lack of guile and of any attempt to hide damaging information.”⁴⁹⁶ The topic of corruption commonly means and includes, “A fiduciary’s or official’s use of a station or office to procure some benefit either personally or for someone else, contrary to the rights of others; an act carried out with the intent of giving some advantage inconsistent with official duty or the rights of others.”⁴⁹⁷

⁴⁹² N.D. CONST. art. XIV, § 3(1).

⁴⁹³ *About Us*, N.D. ETHICS COMM’N, <https://www.ethicscommission.nd.gov/about-us> (last visited Apr. 10, 2025).

⁴⁹⁴ N.D. CONST. art. XIV, § 3(2).

⁴⁹⁵ *Kelsh v. Jaeger*, 2002 ND 53, ¶ 7, 641 N.W.2d 100 (“[The North Dakota Supreme Court gives] words in a constitutional provision their plain, ordinary, and commonly understood meaning.” (citing *Tormaschy v. Hjelle*, 210 N.W.2d 100, 102 (N.D. 1973))).

⁴⁹⁶ *Transparency*, BLACK’S LAW DICTIONARY (12th ed. 2024)

⁴⁹⁷ *Corruption*, BLACK’S LAW DICTIONARY (12th ed. 2024)

The North Dakota Constitution further directs the Commission to “investigate alleged violations” of its rules, Article XIV, and “related state laws.”⁴⁹⁸ These investigations include allegations made against public officials.⁴⁹⁹ A “public official” means an “elected or appointed . . . official of the state’s executive or legislative branch, including members of the ethics commission, or members of the governor’s cabinet, or employees of the legislative branch.”⁵⁰⁰ The Commission requires complaints be made “within three years of the date of the alleged violation” for the Commission to investigate.⁵⁰¹

B. Ethics Commission Conflict of Interest Rules

In October 2022, following its constitutional directive and mission statement, the Commission adopted rules for disclosing and managing conflicts of interest in state government.⁵⁰² The rules apply to all public officials, as defined by N.D. Const. art. XIV, § 4(2). The conflict-of-interest rules require public officials to disclose known potential conflicts of interest when the “public official as part of the public official’s duties must make a decision or take action in a matter.”⁵⁰³ A potential conflict of interest can exist when a public official has “received a gift from one of the parties,” “a significant financial interest in one of the parties or in the outcome of the proceeding,” or “a relationship in a private capacity with one of the parties.”⁵⁰⁴

A “significant financial interest” is defined as “a direct and substantial in-kind or monetary interest, or its equivalent, not shared by the general public; however, [it] does not include investments in a widely held investment fund, such as mutual funds, exchange-traded funds, participation in a public employee benefits plan, or lawful campaign contributions.”⁵⁰⁵

A “relationship in a private capacity” is defined as:

a past or present commitment, interest or relationship of the public official in a matter involving the public official’s immediate family, individual’s residing in the public official’s household, the public official’s employer, or employer of the public official’s immediate family, or individuals with whom the public official has a substantial and continuous business relationship.⁵⁰⁶

Once a public official identifies and discloses a potential conflict of interest, the public official can either recuse or use the Commission’s neutral reviewer process to evaluate the potential conflict.⁵⁰⁷ The default individual(s) serving as the neutral reviewer is (are) identified in the Commission’s

⁴⁹⁸ N.D. CONST. art. XIV, § 3(2).

⁴⁹⁹ N.D. CONST. art. XIV, § 3; N.D. Admin. Code ch. 115-02-01; N.D.C.C. § 54-66-01(3).

⁵⁰⁰ N.D. CONST. art. XIV, § 4(2).

⁵⁰¹ N.D. Admin. Code § 115-02-01-02(4).

⁵⁰² See generally N.D. Admin. Code ch. 115-04-01.

⁵⁰³ N.D. Admin. Code §§ 115-04-01-01(2), 115-04-01-02(2).

⁵⁰⁴ N.D. Admin. Code §§ 115-04-01-01(2), 115-04-01-02(2).

⁵⁰⁵ N.D. Admin. Code § 115-04-01-01(8).

⁵⁰⁶ N.D. Admin. Code § 115-04-01-01(7).

⁵⁰⁷ N.D. Admin. Code §§ 115-04-01-02(5), 115-04-01-03.

rules.⁵⁰⁸ If the neutral reviewer process is used, the neutral reviewer evaluates whether a potential conflict of interest creates a disqualifying conflict of interest.⁵⁰⁹

To make the determination if a potential conflict of interest creates a disqualifying conflict of interest, the neutral reviewer must analyze five standards.⁵¹⁰ The standards are:

- (1) Appropriate weight and proper deference must be given to the requirement that a public official perform the duties of elected or appointed office, including the duty to vote or otherwise act upon a matter, provided the public official has properly disclosed the potential conflict of interest as required by this rule.
- (2) A decision that requires a public official to recuse or abstain from further action or decision in a matter should only occur in cases where the independence of judgment of a reasonable person in the public official's situation would be materially affected by the disclosed potential conflict of interest.
- (3) The review of a potential conflict of interest and any decision that would require a public official to recuse themselves or abstain from further involvement in a matter shall consider any applicable North Dakota law which precludes the public official from recusal or abstention in the matter.
- (4) It is presumed that a public official does not have a disqualifying conflict of interest if the public official would not derive any personal benefit which is greater than that accruing to any other member of the general public or any general business, profession, occupation, or group affected by the matter.
- (5) Any guidance issued by the ethics commission, including informal guidance, advisory opinions, rules, standards, and precedent.⁵¹¹

The neutral reviewer can conclude with one of two options:

- (1) The potential conflict of interest does not constitute a disqualifying conflict of interest, and the public official may participate in the matter; or

⁵⁰⁸ N.D. Admin. Code § 115-04-01-01(5).

⁵⁰⁹ N.D. Admin. Code § 115-04-01-03(2).

⁵¹⁰ N.D. Admin. Code § 115-04-01-03(7).

⁵¹¹ *Id.*

- (2) The potential conflict of interest does constitute a disqualifying conflict of interest, and the public official shall recuse himself and abstain from participating in the matter.⁵¹²

Following the neutral reviewer’s decision, a public official is required to fill out and file the Commission’s online form to create a record of the disclosure and management of the potential conflict of interest.⁵¹³ Under the Commission’s rules, “Any agency, office, commission, board, or entity subject to these rules may adopt conflict of interest rules that are more restrictive than these rules but may not adopt conflict of interest rules that are less restrictive.”⁵¹⁴

C. North Dakota Legislative Assembly Rules

The North Dakota Legislative Assembly has both joint rules and chamber specific rules regarding ethical conduct of its members. Joint Rule 1001, entitled “legislative ethics policy,” recognizes in part:

- (5) The increasing complexity of public policy at all levels, with intervention into private affairs, makes conflicts of interest almost inevitable for every part-time public official, and particularly for a member who must vote on measures affecting the life of every citizen or resident of the state. Consequently, the adoption of standards of ethics does not impugn a member’s integrity or dedication; rather, it recognizes the increasing complexity of government and private life and provides members with helpful advice and guidance when confronted with difficult problems in that gray area involving action that is neither clearly right nor clearly wrong.

....

- (7) If public confidence in the Legislative Assembly is to be maintained and enhanced, it is not enough that members avoid acts of misconduct. They also must avoid acts that may create an appearance of misconduct.⁵¹⁵

Joint Rule 1002, “recognition of ethical standards,” states:

The resolution of ethical problems must rest largely in the individual conscience. The Legislative Assembly may and should, however, define ethical standards, as most professions have done, to chart the areas of real or apparent impropriety. Unless otherwise provided by law, no criminal penalty applies to a member who

⁵¹² N.D. Admin. Code § 115-04-01-03(3).

⁵¹³ N.D. Admin. Code § 115-04-01-04.

⁵¹⁴ N.D. Admin. Code § 115-04-01-05.

⁵¹⁵ Joint Rule 1001, 68th Legis. Assemb. Manual (N.D. 2023).

engages in conduct that is inconsistent with this section. However, in striving to maintain ethical standards, each member should recognize the importance of:

- (1) Complying with all other rules relating to ethics, including Joint Rule 901 regarding workplace harassment and Senate and House Rules 321 regarding disclosure of personal or private interest when voting.
- (2) Acknowledging that the public trust requires each member to make a consistent effort to be well-informed about legislative issues and legislative proposals and to resist influences that may bias the member's independent judgment.
-
- (4) Acknowledging that institutional responsibility requires members to remain committed to the integrity and maintenance of the legislative branch.
- (5) Not using or attempting to use the member's influence in any matter involving a substantial conflict between the member's personal interest and duties in the public interest.
- (6) Not using the member's official position to obtain financial gain for the member, the member's family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.⁵¹⁶

Additionally, Joint Rules 1003, "recognition of constitutional and statutory provisions" advises:

Members should apprise themselves of constitutional provisions and statutes that prohibit conduct for which criminal penalties may apply, including . . . North Dakota Century Code Section 12.1-13-02, which prohibits acquisition of a pecuniary interest in property or an enterprise in contemplation of official action or in reliance on information accessed as a public servant . . .⁵¹⁷

During the 2023 and prior legislative sessions, House Rule 321, "vote by members," stated:

Every member who is present, before the vote is announced from the chair, shall vote for or against the question before the House, unless the House excuses the member. A member cannot cast a vote on behalf of another member unless the vote is cast according to verbal instructions announced to the House by that other member while in the chamber. *However, any member who has a personal or private interest in any measure or bill shall disclose the fact to the House and may not vote*

⁵¹⁶ Joint Rule 1002, 68th Legis. Assemb. Manual (N.D. 2023).

⁵¹⁷ Joint Rule 1003, 68th Legis. Assemb. Manual (N.D. 2023).

*thereon without the consent of the House. A “personal or private interest” is an interest that affects the member directly, individual, uniquely, and substantially.*⁵¹⁸

House Rule 322, “procedure in excusing member from voting,” provided:

When a member asks to be excused, or declines to vote, the member shall be required to state the member’s reasons. Upon motion, the question must be put to the House, “Shall the member, for the reasons stated, be permitted to vote?” which must be decided without debate. These proceedings must occur before the taking of the vote.⁵¹⁹

D. Ethics Commission Advisory Opinion 23-01

After the Commission adopted conflict-of-interest rules, the North Dakota Legislative Council requested an advisory opinion from the Commission on behalf of all legislators. The question presented to the Commission was, “[W]hether the [C]ommission recognizes House and Senate Rules 321 govern conflict of interest disclosure for members of the Legislative Assembly and therefore the neutral reviewer and disclosure requirements of the [C]ommission rule do not apply to the Legislative Assembly?”⁵²⁰ The Commission summarized the question in two parts:

- (1) whether the conflict of interest rules adopted by the Legislative Assembly . . . are “at least as restrictive as or more restrictive” than those contained in [the Commission’s conflict of interest rules] and control when a member of the Legislative Assembly evaluates a potential conflict of interest; and
- (2) whether the neutral reviewer and disclosure requirements of [the Commission’s conflict of interest rules] apply to members of the Legislative Assembly?⁵²¹

To the first part, the Commission concluded “the language of Rule 321 is at least as restrictive in defining the scope of potential conflicts of interest to be disclosed.”⁵²² The Commission provided a framework for how a legislator should interpret Rule 321 when deciding whether to declare a potential conflict of interest and avoid an ethical violation for not declaring a potential conflict of interest. According to the advisory opinion, legislators must declare a potential conflict of interest in three scenarios:

⁵¹⁸ House Rule 321, 68th Legis. Assemb. Manual (N.D. 2023) (emphasis added). House Rule 321 has since been amended for the 69th Legislative Assembly. *See* House Rule 321, 69th Legis. Assemb. Manual (N.D. 2025).

⁵¹⁹ House Rule 322, 68th Legis. Assemb. Manual (N.D. 2023). House Rule 322 has since been amended for the 69th Legislative Assembly. *See* House Rule 322, 69th Legis. Assemb. Manual (N.D. 2025).

⁵²⁰ N.D. Ethics Comm’n, Advisory Op. 23-01 (2023).

⁵²¹ *Id.*

⁵²² *Id.*

- (1) when a member has a significant financial interest in the outcome of a measure or bill that is unique to that member;
- (2) when a member has received a gift . . . from a party [to legislation]; or
- (3) when a member has a relationship in [a] private capacity with a party [to legislation].”⁵²³

For the second part, the Commission concluded the neutral reviewer and disclosure requirements apply to members of the Legislative Assembly.⁵²⁴ The Commission noted the Legislative Assembly’s rules required when a legislator declared a conflict, the legislative body must decide the issue “without debate” as the neutral reviewer.⁵²⁵ The Commission suggested, “The best practice is to allow an opportunity for meaningful evaluation of the member’s potential conflict of interest, giving deference to the language of Rule 1007 prior to taking action.”⁵²⁶ Additionally, the Commission concluded legislators did not need to fill out and file the Commission’s conflict of interest disclosure form when in the legislative process.⁵²⁷ The Legislative Assembly has floor and committee videos and journals from each chamber that document conflict of interest disclosures. The Legislative Assembly has also added a tab on its website to document and easily locate conflict of interest disclosures.

E. N.D.C.C. § 12.1-13-02 – Speculating or Wagering on Official Action or Information

Section 12.1-13-02(2), N.D.C.C., provides:

A person is guilty of a class A misdemeanor if as a public servant he takes official action which is likely to benefit him as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which he made, or caused or aided another to make, in contemplation of such official action.

F. Sanctions for Ethical Violations

The Commission’s conflict-of-interest rules do not directly prescribe a penalty for a violation. However, the Commission may refer an ethical violation “to the agency with enforcement authority over the violation.”⁵²⁸

⁵²³ *Id.*

⁵²⁴ *Id.*

⁵²⁵ *Id.*

⁵²⁶ *Id.*

⁵²⁷ *Id.*

⁵²⁸ N.D.C.C. § 54-66-09(2); N.D. Admin. Code § 115-02-01-08(3).

The North Dakota Constitution authorizes the Legislative Assembly to “punish its members or other persons for contempt or disorderly behavior in its presence.”⁵²⁹ The constitution specifically authorizes one form of punishment—expulsion.⁵³⁰ Article IV, § 12 states, “With the concurrence of two-thirds of its elected members, either house may expel a member.” If a member is expelled for corruption, the punishment includes being ineligible to serve in the Legislative Assembly in the future. The constitution states, “No member of the legislative assembly, expelled for corruption . . . shall be eligible to the legislative assembly, or to any office in either branch thereof.”⁵³¹

IV. ANALYSIS AND RECOMMENDATION TO THE COMMISSION

A. Analysis of Representative Dockter’s Conduct

Dockter is a public official, an elected official of the state’s legislative branch, as he serves as a legislator in District 7.⁵³² Because the complaints in this matter were filed in October 2022, the Commission can only look back three years to October 2019 pursuant to N.D. Admin. Code § 115-02-01-02(4). Therefore, Dockter’s conduct during the 2019 session is outside the limitation period. In any event, Stealth did not own the Burlington property until after the 2019 session.

The Commission’s investigation for ethical violations includes all relevant state law—including the Commission rules—related to transparency, corruption, elections, and lobbying. The facts of the Commission’s investigation support a finding of three ethical violations by Dockter. These ethical violations include two undisclosed potential conflict of interests. The additional ethical violation is through recognition of the criminal violation, as determined by the jury, related to transparency and corruption.

It appears Dockter may have also violated the Legislative Assembly’s rules by not disclosing his interests in various properties. These potential violations do not implicate a violation of state law because the provisions are in legislative rule. Therefore, it is for the Legislative Assembly to determine if its rules were violated, not the Commission. The Commission should refer those specific matters to the Legislative Assembly for review.

Additionally, Dockter clearly had potential conflict of interest in SB 2003 in 2023.⁵³³ However, Dockter left the House floor when SB 2003 came up for a vote and was not present to declare it as a personal or private interest. Based on his inconsistent statements regarding this incident, Dockter surely left the House floor to evade having to declare a personal or private interest.

⁵²⁹ N.D. CONST. art. IV, § 12

⁵³⁰ *Id.*

⁵³¹ N.D. CONST. art. IV, § 10.

⁵³² N.D. CONST. art. XIV, § 4(2).

⁵³³ N.D. Admin. Code § 115-04-01-01; House Rule 321, 68th Legis. Assemb. Manual (N.D. 2023).

1. Ethical Violation One

During the 2023 legislative session, Dockter's failure to disclose a potential conflict of interest in and then vote on HB 1004, the budget bill for the Department of Health and Human Services, violated the Commission's conflict of interest rules and House Rule 321.

Dockter has a 12.5% interest in the Burlington property. HB 1004 funded the Department of Health and Human Services' lease in the Burlington property. Dockter knew at the time he had the 12.5% interest in the Burlington property and that the Department of Health rented space in it. Money appropriated in HB 1004 funded Dockter's 12.5% interest in the lease with the Department of Health.

Dockter failed to meet his ethical obligation to declare a potential conflict of interest (a/k/a "personal or private interest") when he had a significant financial interest in the outcome of HB 1004 that was unique to him.⁵³⁴ Instead, Dockter voted and directly appropriated money back to his own interest in the Burlington property on April 11, 2023.

Additionally, by not disclosing his 12.5% interest in the Burlington property, Dockter likely violated the Legislative Assembly's Joint Rule 1002. He failed "to recognize the importance of:"

- (5) Not using or attempting to use the member's influence in any matter involving a substantial conflict between the member's personal interest and duties in the public interest.
- (6) Not using the member's official position to obtain financial gain for the member, the member's family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.⁵³⁵

2. Ethical Violation Two

During the 2023 legislative session, Dockter's failure to disclose a potential conflict of interest in and then vote on HB 1003, the budget bill for the NDUS, violated the Commission's conflict of interest rules and House Rule 321.

Dockter has a 15% interest in the property at 1700 Schafer St in Bismarck, ND. HB 1003 funded the NDUS's lease in the property. Dockter knew at the time he had the 15% interest in the property and that the NDUS rented space in it. Money appropriated in HB 1003 funded Dockter's 15% interest in the lease with the NDUS.

Dockter failed to meet his ethical obligation to declare a potential conflict of interest (a/k/a "personal or private interest") when he had a significant financial interest in the outcome of HB

⁵³⁴ N.D. Ethics Comm'n, Advisory Op. 23-01 (2023); *see also* House Rule 321, 68th Legis. Assemb. Manual (N.D. 2023).

⁵³⁵ Joint Rule 1002, 68th Legis. Assemb. Manual (N.D. 2023).

1003 that was unique to him.⁵³⁶ Instead, Dockter voted and directly appropriated money back to his own interest in the property on April 26, 2023.

Additionally, by not disclosing his 15% interest in the property, Dockter likely violated the Legislative Assembly’s Joint Rule 1002. He failed “to recognize the importance of:”

- (5) Not using or attempting to use the member’s influence in any matter involving a substantial conflict between the member’s personal interest and duties in the public interest.
- (6) Not using the member’s official position to obtain financial gain for the member, the member’s family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.⁵³⁷

3. Ethical Violation Three

Dockter’s conduct violated N.D.C.C. § 12.1-13-02(2), as determined by a jury of his peers. On May 6, 2023, a twelve-person jury found Dockter guilty of violating N.D.C.C. § 12.1-13-02(2), speculating or wagering on official action or information. The guilty verdict relates to Dockter’s vote during the 2023 legislative session on HB 1004. HB 1004 funded Dockter’s 12.5% interest in the Burlington property lease by the Department of Health and Human Services.

Section 12.1-13-02(2) criminalizes taking “official action [as a public servant] which is likely to benefit [oneself] as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager which he made, or cause or aided another to make, in contemplation of such official action.”⁵³⁸ The statute relates to transparency and corruption as it serves to eliminate: (1) “attempts to hide damaging information;” (2) an “official’s use of a station or office to procure some benefit either personally or for someone else, contrary to the rights of others;” and (3) “act[s] carried out with the intent of giving some advantage inconsistent with official duty or the rights or others.”⁵³⁹

Additionally, by violating N.D.C.C. § 12.1-13-02(2), Dockter likely violated the Legislative Assembly’s Joint Rule 1003 by failing to: “apprise [himself] of constitutional provisions and statutes that prohibit conduct for which criminal penalties may apply, including . . . North Dakota Century Code Section 12.1-13-02, which prohibits acquisition of a pecuniary interest in property or an enterprise in contemplation of official action or in reliance on information accessed as a public servant”⁵⁴⁰

⁵³⁶ N.D. Ethics Comm’n, Advisory Op. 23-01 (2023); *see also* House Rule 321, 68th Legis. Assemb. Manual (N.D. 2023).

⁵³⁷ Joint Rule 1002, 68th Legis. Assemb. Manual (N.D. 2023).

⁵³⁸ N.D.C.C. § 12.1-13-02(2).

⁵³⁹ *Transparency*, BLACK’S LAW DICTIONARY (12th ed. 2024); *Corruption*, BLACK’S LAW DICTIONARY (12th ed. 2024).

⁵⁴⁰ Joint Rule 1003, 68th Legis. Assemb. Manual (N.D. 2023) (emphasis added).

4. Referrals to the Legislative Assembly

In addition to the likely violations of Joint Rules 1002 and 1003 noted above, Dockter likely violated legislative rules on four other occasions. The Commission should refer these matters to the Legislative Assembly for review.

a. First Potential Violation of Legislative Rules

During the 2021 legislative session, Dockter's failure to disclose a potential conflict of interest in and then vote on HB 1003, the budget bill for the Office of the Attorney General, likely violated the Legislative Assembly's rules in House Rule 321 and Joint Rule 1002.

Dockter has a 12.5% interest in the Burlington property. HB 1003 funded the Office of the Attorney General's lease in the Burlington property. Dockter knew at the time he had the 12.5% interest in the Burlington property and that the Office of the Attorney General rented space in it. Money appropriated in HB 1003 funded Dockter's 12.5% interest in the lease with the Office of the Attorney General.

Dockter likely failed to meet his ethical obligation to declare a personal or private interest in the outcome of HB 1003.⁵⁴¹ Instead, Dockter voted and directly appropriated money back to his own interest in the Burlington property.

Additionally, by not disclosing his 12.5% interest in the Burlington property, Dockter likely failed "to recognize the importance of:

- (5) Not using or attempting to use the member's influence in any matter involving a substantial conflict between the member's personal interest and duties in the public interest.
- (6) Not using the member's official position to obtain financial gain for the member, the member's family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.⁵⁴²

b. Second Potential Violation of Legislative Rules

During the 2021 legislative session, Dockter's failure to disclose a potential conflict of interest in and then vote on SB 2004, the budget bill for the Department of Health, likely violated the Legislative Assembly's rules in House Rule 321 and Joint Rule 1002.

Dockter has a 12.5% interest in the Burlington property. SB 2004 funded the Department of Health's lease in the Burlington property. Dockter knew at the time he had the 12.5% interest in

⁵⁴¹ House Rule 321, 67th Legis. Assemb. Manual (N.D. 2021).

⁵⁴² Joint Rule 1002, 67th Legis. Assemb. Manual (N.D. 2021).

the Burlington property and that the Department of Health rented space in it. Money appropriated in SB 2004 funded Dockter's 12.5% interest in the lease with the Department of Health.

Dockter likely failed to meet his ethical obligation to declare a personal or private interest in the outcome of SB 2004.⁵⁴³ Instead, Dockter voted and directly appropriated money back to his own interest in the Burlington property.

Additionally, by not disclosing his 12.5% interest in the Burlington property, Dockter likely failed "to recognize the importance of:

- (5) Not using or attempting to use the member's influence in any matter involving a substantial conflict between the member's personal interest and duties in the public interest.
- (6) Not using the member's official position to obtain financial gain for the member, the member's family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.⁵⁴⁴

c. Third Potential Violation of Legislative Rules

During the 2021 legislative session, Dockter's failure to disclose a potential conflict of interest in and then vote on SB 2003, the budget bill for the NDUS, likely violated the Legislative Assembly's rules in House Rule 321 and Joint Rule 1002.

Dockter has a 15% interest in the property at 1700 Schafer St in Bismarck, ND. SB 2003 funded the NDUS's lease of the property. Dockter knew at the time he had the 15% interest in the property and that the NDUS rented space in it. Money appropriated in SB 2003 funded Dockter's 15% interest in the lease with the NDUS.

Dockter likely failed to meet his ethical obligation to declare a personal or private interest in the outcome of SB 2003.⁵⁴⁵ Instead, Dockter voted and directly appropriated money back to his own interest in the property.

Additionally, by not disclosing his 15% interest in the property, Dockter likely failed "to recognize the importance of:

- (5) Not using or attempting to use the member's influence in any matter involving a substantial conflict between the member's personal interest and duties in the public interest.

⁵⁴³ House Rule 321, 67th Legis. Assemb. Manual (N.D. 2021).

⁵⁴⁴ Joint Rule 1002, 67th Legis. Assemb. Manual (N.D. 2021).

⁵⁴⁵ House Rule 321, 67th Legis. Assemb. Manual (N.D. 2021).

- (6) Not using the member’s official position to obtain financial gain for the member, the member’s family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.⁵⁴⁶

5. Aggravating and Mitigating Factors

Several factors from the Commission’s investigation impact the severity of Dockter’s ethical violations. As noted later in the report, the exact size of Dockter’s potential conflict of interest in the Burlington property is unclear due to the lack of a project reconciliation. However, it is clear his interest in the property is significant at 12.5%. Stealth Properties, LLC purchased the Burlington property for \$3,350,000 in 2019.⁵⁴⁷ Burleigh County property records list the 2024 market value of the Burlington property at \$7,278,800.⁵⁴⁸ The profit Stealth Properties, LLC made and continues to make from the purchase and lease of the Burlington property undoubtedly benefits Dockter. Additionally, it appears Dockter used information from his service as a legislator and his relationships with personnel in the Office of the Attorney General to make the deal in the first place.

Dockter also presented inconsistent statements to explain his absence from the House floor during the vote for SB 2003, the appropriation bill for the Office of the Attorney General, in 2023. During his criminal trial, Dockter said, “I believe I was at home. I think I got Covid again, but -- I think because I -- and I had a procedure, I think, 5 days, I had to quarantine.”⁵⁴⁹ However, Dockter later told Commission staff “I thought I had COVID . . . yes, I did have COVID . . . now that I recall and everything, basically, I was there. Well, I must have been there, but I didn’t vote.”⁵⁵⁰ The video from the House floor sessions confirms Dockter was indeed present at the capitol that day.⁵⁵¹ Based on these inconsistent statements, it can be inferred Dockter left the House floor that day to avoid having to declare a personal or private interest in SB 2003.

Dockter’s ethical violations likely could have been avoided with education on how to disclose and manage conflicts of interest. It is clear from the Commission’s investigation there is a general lack of clarity on what a potential conflict of interest is and how to disclose and manage them when they come up. During interviews and testimony, legislators, including Dockter, expressed very narrow interpretations of the legislative conflict rules, and by extension, the Commission’s conflict

⁵⁴⁶ Joint Rule 1002, 67th Legis. Assemb. Manual (N.D. 2021).

⁵⁴⁷ Vogel Memo, *supra* note 62, at Ex. 5.

⁵⁴⁸ Burleigh Cnty., 1720 Burlington Dr, Bismarck, ND Property Tax Record (2024).

⁵⁴⁹ Transcript of Jury Trial at 204:11-16, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024).

⁵⁵⁰ Dockter Interview, *supra* note 364, at 02:10:19.

⁵⁵¹ See N.D Legis. Assemb., *House Floor Video*, (Apr. 27, 2023, 8:00 AM), https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230427/-1/30673#info_; N.D Legis. Assemb., *House Floor Video*, (Apr. 27, 2023, 12:48 PM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230427/-1/30674>; N.D Legis. Assemb., *House Floor Video*, (Apr. 27, 2023, 5:02 PM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230427/-1/30683>.

rules.⁵⁵² Dockter was also not familiar with the guidance provided by the Commission in Advisory Opinion no. 23-01.⁵⁵³

On November 12, 2024, Commission staff witnessed Dockter successfully declare and manage potential conflicts of interest at a North Dakota Public Employees Retirement System (“NDPERS”) Board of Trustees meeting.⁵⁵⁴ Dockter serves as a Legislative Management Appointee to the NDPERS Board of Trustees. As of April 10, 2025, Dockter has also successfully declared four potential conflicts of interest during the 2025 legislative session—including a conflict regarding the Burlington property and the Office of the Attorney General’s budget.⁵⁵⁵

The Commission still has work to do to help those under its jurisdiction understand what potential conflicts of interest are and how to manage them. The Commission recognizes this in its strategic plan and its emphasis on providing education to those in the regulated community.⁵⁵⁶ The Commission has also made training and additional resources available to individuals regarding conflicts of interest. In addition, the Commission has been working with the Legislative Assembly to help clarify and streamline the legislative conflict of interest rules. The Commission will look to do the same in its own rules following legislative session.

B. Investigation Complications

The facts set forth above seek to provide as complete a picture as possible of the Commission’s investigation. However, the following complications throughout the investigation extended the timeline and impacted Commission staff’s ability to obtain relevant information and complete the investigation more expeditiously.

1. Criminal Referral

After the Commission made the statutorily mandated criminal referral on October 25, 2023, inherent conflicts of interest within the BCI, the Office of the Attorney General, and the Burleigh County State’s Attorney’s Office added complications to the criminal review. Namely, a law enforcement officer was not readily available to assist the reviewing state’s attorney, Erickson. As a result, Erickson called the Commission’s executive director as a witness at a probable cause hearing and at trial. In order to navigate the strict confidentiality laws that apply to Commission

⁵⁵² See Transcript of Jury Trial at 179:15-25, 180:1-25, 181:1-25, 182:1-25, 183:1-25, 184:1-25, 188:10-25, 202:19-25, 203:1-25, 204:1-10, State v. Jason Dockter, No. 08-2023-cr-03618 (N.D. South Central Jud. Dist. May 3, 2024); Dockter Interview, *supra* note 364, at 02:01:49; Martinson Interview, *supra* note 472, at 00:51:26.

⁵⁵³ Dockter Interview, *supra* note 364, at 02:21:07.

⁵⁵⁴ N.D. Pub. Emps. Ret. Sys., *Meeting Minutes* 1 (Nov. 12, 2024).

⁵⁵⁵ *Conflict of Interest*, N.D. Legis. Assemb., <https://ndlegis.gov/assembly/69-2025/regular/journals/journal-conflicts.html> (last visited Apr. 10, 2025).

⁵⁵⁶ 2023 – 2025 Biennium Strategic Plan, N.D. Ethics Comm’n, <https://www.ethicscommission.nd.gov/sites/www/files/documents/Final%20Strategic%20Plan.pdf> (last visited Apr. 10, 2025).

investigations, the district court ordered Binstock to provide testimony pursuant to N.D.C.C. § 44-04-18.11.

Under N.D.C.C. § 54-66-08(2), once the Commission makes a referral it “may not take further action on the complaint until the law enforcement agency informs the commission law enforcement proceedings regarding the complaint are complete.” This statute properly precludes the Commission from resolving a complaint matter during a pending related criminal proceeding. However, it does extend the timeline for how long a complaint is pending with the Commission. The Commission referred this matter on October 25, 2023 and could not resume its review until the appeal deadline passed on June 8, 2024. While on average the criminal case occurred quite expeditiously, it added roughly eight months to the Commission’s timeline.

2. Interviews and Documents – Unclear Process to Compel

Substantial time and state resources were required and expended seeking compliance with Commission requests for interviews, documents, information, and other evidence. Throughout the investigation, the Commission had to navigate multiple situations where the availability of a clear process to obtain a subpoena would have resulted in a more thorough and expedited investigation.

Article XIV, § 3(2), N.D. Const., empowers the Commission to investigate. Additionally, N.D.C.C. § 54-66-08(3) provides, “The Commission may require the testimony of a witness or the production of a book, record, document, data, or other object at any of the commission’s investigator interviews or proceedings held in connection with the investigation of a complaint.” While the North Dakota Constitution and N.D.C.C. § 54-6-08(3) inherently authorize the Commission to compel witness testimony and production of records, no process is provided in the law to efficiently secure this testimony or production. The Commission and its staff thoroughly researched and discussed options for compelling this information. Without a clear process, the Commission concluded under current law it must undergo costly, time-consuming, and confidential litigation to secure compliance.

One witness, Grossman, requested the Commission secure or issue a subpoena for his interview.⁵⁵⁷ The Commission and staff conducted extensive research and evaluated options for how to proceed with Grossman’s request without a clear process in the law to compel testimony. Ultimately, Grossman agreed to participate in an interview without a subpoena, and the Commission greatly appreciated his cooperation.⁵⁵⁸

The Commission also requested any of Dockter’s relevant legislative emails.⁵⁵⁹ Bjornson requested the Commission provide a waiver from Dockter or a subpoena for the records.⁵⁶⁰ The Commission again evaluated its options to secure compliance, but did not believe the value of such

⁵⁵⁷ Email from Mr. Parrell Grossman to General Counsel Logan Carpenter (June 11, 2024, 3:39 PM).

⁵⁵⁸ Email from Mr. Parrell Grossman to General Counsel Logan Carpenter (July 23, 2024, 9:25 AM).

⁵⁵⁹ Letter from Executive Director Rebecca Binstock to Director John Bjornson (Oct. 23, 2023).

⁵⁶⁰ Letter from Director John Bjornson to Executive Director Rebecca Binstock (Oct. 31, 2023).

emails, if they even existed, would outweigh the cost and time to pursue securing a subpoena through the courts.

The Commission requested Brocker provide an interview to the Commission.⁵⁶¹ Brocker did not sit for an interview, but provided a written response to the request saying she had little information that would be helpful.⁵⁶² Again, the Commission evaluated its options to secure an interview, but did not believe an interview with Brocker would outweigh the time and cost invested to compel her testimony.

Two important witnesses who could have provided important information for the investigation are deceased, Seibel and Stenehjem.

3. Lack of Cooperation from the Office of the Attorney General

The Commission was required to invest a substantial amount of time during this investigation seeking cooperation and information from the Office of the Attorney General. Despite multiple assurances of transparency and openness from the Office of the Attorney General in public, in conversations, and in writing,⁵⁶³ the Commission was met with the opposite. The Commission's efforts to secure information from the Office of the Attorney General were generally unsuccessful.

The Commission considered its options for securing the Office of the Attorney General's cooperation. The Commission determined using state and taxpayer resources for litigation against the Office of the Attorney General would not be constructive for the investigation or the state.

⁵⁶¹ Letter from General Counsel Logan Carpenter to Ms. Elizabeth Brocker (Oct. 7, 2024).

⁵⁶² Letter from Ms. Elizabeth Brocker to General Counsel Logan Carpenter (Oct. 25, 2024).

⁵⁶³ *E.g.*, 67th N.D. Legis. Assemb. Interim Sess., *Legis. Budget Section Comm.* (June 28, 2022, 1:36:44 PM), <https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20220628/-1/2581> (Wrigley stated, "We have been, and are going to be, completely transparent about this matter. We are doing everything we can to resolve it internally."); 67th N.D. Legis. Assemb. Interim Sess., *Gov't Admin. Comm.* (Aug. 24, 2022, 10:19:13 AM), https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20220823/-1/26913#info_ (Ness stated, "Attorney General Wrigley and I and our entire office are absolutely committed to transparency and accountability."); 67th N.D. Legis. Assemb. Interim Sess., *Legis. Audit and Fiscal Rev. Comm.* (Sept. 27, 2022, 4:48:46 PM), https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20220927/-1/27958#info_ (Wrigley stated, "It has to be vetted and and done openly with this uh with this committee, and with the full legislature. That's our pledge. Now and going forward, and whatever is found up ahead, same thing."); LAFRC Hearing Dec. 19, 2023, *supra* note 258, at 1:19:29 PM ("You can't interview our witnesses there's a criminal investigation, potential criminal investigation going on, and I'm not going to free up our witnesses. *I mean you'll be able to talk to them eventually . . .*" (emphasis added)); *Id.* at 1:37:27 PM (Wrigley stated, "We alerted everybody who needed to be alerted. We've been completely transparent."); *Id.* at 1:52:20 PM (Wrigley stated, "We're an open book on these matters and why our people get our people get interviewed [sic] by investigators and we get interviewed by investigators and we do it individually with them, just like anyone else. I don't seek any special privilege. I go can we be interviewed together so we all know what each other said. Nope, I haven't reviewed anyone else's sworn testimony or anything else. I hope that makes crystal clear just how completely transparent, thorough and complete this is."); *Id.* at 2:07:00 PM (Wrigley stated, "We're the most open, accessible agency in state government. There's nobody more accessible, nobody."); *Id.* at 2:28:00 PM (Wrigley stated, "We're not looking for technicalities ever to not be forthcoming with something.").

Ultimately, the Commission concluded it could acquire enough information for its investigation through other channels.

a. Interview Requests

Originally, the Commission requested interviews from Grabowska and Keller. After communications back and forth, on October 12, 2023, Wrigley requested the Commission interview Grabowska and Keller “only after a state’s attorney has had an opportunity to evaluate [the Montana] report and complete the investigation and make any charging determinations.”⁵⁶⁴ A year later, following Enget’s review of the Montana Report, the separate criminal case of Dockter, and the Commission resuming its investigation, the Commission renewed its request for interviews on October 7, 2024.⁵⁶⁵ On October 17, 2024, Ness responded saying, “Director Grabowska and Director Keller have agreed to speak with the Ethics Commission for purposes of that investigation. You may work directly with them or their administrative assistants to schedule the interviews.”⁵⁶⁶

Commission staff then contacted Grabowska and Keller to schedule the interviews.⁵⁶⁷ In response, Grabowska sent a list of eleven questions he requested Commission staff answer before he would schedule an interview.⁵⁶⁸ Commission staff responded to those questions in good faith and answered them as best as they could.⁵⁶⁹ Following this exchange, both Grabowska and Keller requested the original interview request letters from September 22, 2023.⁵⁷⁰ Grabowska also requested copies of the complaints.⁵⁷¹ The Commission could not provide copies of the complaints, as they are confidential records, but both individuals received copies of the respective letters originally requesting interviews.⁵⁷²

Ultimately, Grabowska told Commission staff:

Thank you for the reply.

The ND Ethic’s [sic] Commission has access to the ND Auditor’s report, Montana Division of Criminal Investigation (DCI) report, and transcription of testimony from Representative Jason Dockter’s criminal trial as they relate to Representative

⁵⁶⁴ Letter from Attorney General Drew Wrigley to Chair Paul Richard (Oct. 12, 2023).

⁵⁶⁵ Letter from Executive Director Rebecca Binstock to Attorney General Drew Wrigley (Oct. 7, 2024).

⁵⁶⁶ Letter from Chief Deputy Attorney General Claire Ness to Executive Director Rebecca Binstock (Oct. 17, 2024).

⁵⁶⁷ Email from Operations Administrator Alisha Maier to Director Lonnie Grabowska (Oct. 21, 2024, 2:41 PM); Email from Operations Administrator Alisha Maier to Ms. Becky Keller (Oct. 21, 2024, 2:43 PM).

⁵⁶⁸ Email from Director Lonnie Grabowska to Operations Administrator Alisha Maier (Oct. 22, 2024, 9:57 AM).

⁵⁶⁹ Email from General Counsel Logan Carpenter to Director Lonnie Grabowska (Oct. 23, 2024, 12:24 PM).

⁵⁷⁰ Email from Ms. Becky Keller to General Counsel Logan Carpenter (Oct. 24, 2024, 10:59 AM); Email from Director Lonnie Grabowska to General Counsel Logan Carpenter (Oct. 23, 2024, 2:44 PM).

⁵⁷¹ Email from Director Lonnie Grabowska to General Counsel Logan Carpenter (Oct. 23, 2024, 2:44 PM).

⁵⁷² Email from General Counsel Logan Carpenter to Director Lonnie Grabowska (Oct. 24, 2024, 10:45 AM); Email from General Counsel Logan Carpenter to Ms. Becky Keller (Oct. 24, 2024, 11:04 AM).

Dockter's involvement in the lease of 1720 Burlington Drive to the Office of the Attorney General.

With these documents in mind, I will participate in the requested interview process through the receipt and submission of written questions between your office and myself. This means of conducting the interview will allow for the exchange of question and answer in an effective manner.

Thank you and I look forward to receiving your written questions.

Lonnie⁵⁷³

Keller referenced Grabowska's email and informed Commission staff that she too would only participate in the Commission's investigation through the "receipt and submission of written questions."⁵⁷⁴ The Commission determined Grabowska and Keller's requests to direct the Commission's investigation were inappropriate. On October 30, 2024, the Commission informed both Grabowska and Keller it would not accept their requests to respond to written questions.⁵⁷⁵ Article XIV, § 3(2), N.D. Const., provides the authority to the Commission, as an independent constitutional entity, to conduct and direct its investigations. Witnesses in those proceedings do not have the authority to dictate the course of Commission investigations.

Additionally, responding to written questions is not the equivalent of a recorded interview. Without an interview, the ability for the Commission to ask follow-up questions and assess a witness' credibility is removed. Further, it is of the utmost importance for an investigation to determine whether the information provided is a witness' own knowledge and not the knowledge of others assisting to respond to written questions.

b. *Requests for Records and Documentation*

The Commission did receive some records it requested from the Office of the Attorney General. These records included some of Stenehjem's emails and records previously provided to the Office of the State Auditor.⁵⁷⁶

The Commission also requested records that were not provided by the Office of the Attorney General. These records included additional emails from Stenehjem and the records from the Montana Report investigation.⁵⁷⁷ The Commission learned it was missing Stenehjem emails when the media posted the emails online after open records requests were fulfilled. The Commission,

⁵⁷³ Email from Director Lonnie Grabowska to General Counsel Logan Carpenter (Oct. 25, 2024, 7:10 PM).

⁵⁷⁴ Email from Ms. Becky Keller to General Counsel Logan Carpenter (Oct. 25, 2024, 7:52 PM).

⁵⁷⁵ Letter from Executive Director Rebecca Binstock to Director Lonnie Grabowska (Oct. 30, 2024); Letter from Executive Director Rebecca Binstock to Ms. Becky Keller (Oct. 30, 2024).

⁵⁷⁶ Email from Ms. Suzie Weigel to Executive Director Rebecca Binstock (Nov. 13, 2023, 10:05 AM); Email from Ms. Suzie Weigel to Executive Director Rebecca Binstock (May 1, 2024, 2:39 PM).

⁵⁷⁷ Letter from Executive Director Rebecca Binstock to Attorney General Drew Wrigley (Oct. 23, 2023).

despite having an outstanding request for such emails, did not receive them.⁵⁷⁸ However, the Commission determined the emails, despite the public buildup and anticipation, largely did not contain information useful to the Commission's investigation.

4. No Clarity on Burlington Project Financials

To date, it appears no agreed upon reconciliation has occurred for the Burlington property between the Office of the Attorney General and Stealth Properties, LLC. According to Stealth, after unsuccessful attempts to meet and reconcile the matter with the Office of the Attorney General, Stealth reviewed the financials on its own and considers the matter reconciled. While the inability to mutually reconcile the Burlington property matter between Stealth and the Office of the Attorney General is unfortunate, it does not forestall the Commission from resolving these complaint matters.

It is clear that Dockter had a potential conflict of interest on SB 2003 in 2023.⁵⁷⁹ The inability to reconcile the financials on the Burlington project does impact the Commission's ability to assess the breadth of that potential conflict of interest and the situation as a whole. Without this information, the Commission is left with a partial narrative of Dockter's involvement in the Burlington property. However, a dollar amount is not determinative of whether a public official has a potential conflict of interest.⁵⁸⁰ In addition, as noted above Dockter left the floor when SB 2003 came up for a vote, surely to evade having to declare a personal or private interest in the bill.

Remaining questions exist regarding the financial state of the Burlington property that other government entities are in better positions to gather information for and clarify. These questions include, among others:

- (1) Were the expenditures made by the Office of the Attorney General for the Burlington property authorized by law?

⁵⁷⁸ It appears emails from Stenehjem were released in three groups from the Office of the Attorney General. The first group of emails was released to the media on March 27, 2024. *Read former North Dakota Attorney General Wayne Stenehjem's emails*, FORUM COMM'NS CO. (Mar. 27, 2024), <https://www.inforum.com/news/north-dakota/read-former-north-dakota-attorney-general-wayne-stenehjems-emails>. The Commission received the first group of emails from Erickson after he issued a subpoena to Wrigley for Dockter's criminal case. The second group of emails was released to the media on May 1, 2024. April Baumgarten, *Wayne Stenehjem's private emails don't mention lease deal slated for trial*, FORUM COMM'NS CO. (May 1, 2024), <https://www.inforum.com/news/north-dakota/wayne-stenehjems-private-emails-dont-mention-lease-deal-slated-for-trial>. The Commission received these emails at the same time the media received them. Email from Ms. Suzie Weigel to Executive Director Rebecca Binstock (May 1, 2024, 2:39 PM). The Office of the Attorney General released the third group of emails on September 6, 2024. *Read the last batch of former North Dakota Attorney General Wayne Stenehjem's emails*, FORUM COMM'NS CO. (May 1, 2024), <https://www.inforum.com/news/north-dakota/read-the-last-batch-of-former-north-dakota-attorney-general-wayne-stenehjems-emails>. The Commission never received the third batch of emails from the Office of the Attorney General.

⁵⁷⁹ N.D. Admin. Code § 115-04-01-01; House Rule 321, 68th Legis. Assemb. Manual (N.D. 2023).

⁵⁸⁰ See generally N.D. Admin. Code ch. 115-04-01.

- (2) Why has no agreed upon reconciliation occurred with the Office of the Attorney General?
- (3) Does a performance audit need to be conducted since the Office of the State Auditor could only do an abbreviated review? Does enough documentation exist to do one?

These questions came up during the Commission's investigation and Commission staff attempted to answer them to provide the Commission a complete picture of the situation related to Dockter. However, they are not instrumental to the conclusion of this investigation and are the prerogative of other entities' review of the financial reconciliation, notably LAFRC, the Legislative Assembly, and the Office of the State Auditor. Notably, the Legislative Assembly has a clear subpoena process outlined in statute. *See* N.D.C.C. ch. 54-03.2. The Legislative Assembly has the ability to use its subpoena power to provide more transparency regarding the Burlington property lease to the public.

C. Recommendation for Resolution of the Complaints

As noted above, currently the Commission's conflict of interest rules do not provide a sanction for a violation of the rules. As understanding and the practice of disclosing and managing conflicts continues to increase, the Commission may want to revisit the rule and determine if it should add a penalty provision. Because no penalty provision currently exists, the Commission does not have a penalty to impose upon Dockter for the violations.

Pursuant to N.D. Admin. Code § 115-02-01-07, the executive director recommends the Commission adopt and issue the proposed order, which has been attached to this Report and Recommendation as Attachment 1. By adopting and issuing the proposed order, the Commission will:

- (1) Find Dockter, a state legislator in District 7, is a public official subject to the Ethics Commission's authority under N.D. Const. art. XIV, §§ 3(2), 4(2);
- (2) Find Dockter engaged in an ethical violation on April 11, 2023 by failing to disclose a potential conflict of interest (a/k/a a personal or private interest) and proceeding to vote on HB 1004, which funded Dockter's interest in a lease at 1720 Burlington Drive, Bismarck, ND;
- (3) Find Dockter engaged in an ethical violation on April 26, 2023 by failing to disclose a potential conflict of interest (a/k/a a personal or private interest) and proceeding to vote on HB 1003, which funded Dockter's interest in a lease at 1700 Schafer St, Bismarck, ND;

- (4) Take official notice of the jury’s verdict from May 6, 2024 finding Dockter violated a criminal statute related to transparency and corruption, N.D.C.C. § 12.1-13-02(2);
- (5) Refer the Report and Recommendation to the Legislative Assembly with the recommendation the Legislative Assembly review the matter, analyze the likely violations of the Legislative Assembly’s own rules by Dockter, and determine whether imposition of any disciplinary action on Dockter is warranted at the discretion of the Legislative Assembly pursuant to N.D. Const. art. IV, §§ 10, 12; N.D.C.C. § 54-66-09(2); and N.D. Admin. Code § 115-02-01-08(3);
- (6) Refer the Report and Recommendation to LAFRC, the Legislative Assembly, and the State Auditor to request review of unanswered questions from the Commission’s investigation and to assist in review of matters associated with 1720 Burlington Drive, Bismarck, ND by those entities; and
- (7) Conclude the complaint matter and resolve the complaints against Dockter.

V. CONCLUSION

Thank you to the individuals and entities who cooperated in the Commission’s investigation. By providing crucial information, documents, and interviews your assistance in the Commission’s review of this matter is greatly appreciated. Your participation serves to “strengthen the confidence of the people of North Dakota in their government” and exemplifies “support[ing] open, ethical, and accountable government.”⁵⁸¹

⁵⁸¹ N.D. CONST. art. XIV, § 3, 1.

Before the North Dakota Ethics Commission

In the Matter of:
Representative Jason Dockter

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

Complaint Nos. 22-003 – 22-010

In October 2022, the North Dakota Ethics Commission (“Commission”) received eight complaints against Representative Jason Dockter. The complaints generally allege Representative Dockter received an improper financial benefit as a public official when entities he has an ownership interest in renovated and leased 1720 Burlington Drive in Bismarck, North Dakota to the Office of the Attorney General. The Commission initially reviewed the complaints and offered both the complainants and Representative Dockter the opportunity for informal resolution as required by N.D.C.C. §§ 54-66-05, 54-66-07 and N.D. Admin. Code §§ 115-02-01-03, 115-02-01-05.

Representative Dockter declined to proceed with informal resolution and the Commission opened an investigation of the complaint matters on July 6, 2023, pursuant to N.D.C.C. § 54-66-08 and N.D. Admin. Code § 115-02-01-06. The Commission’s investigation focused on determining whether Representative Dockter had any potential conflict(s) of interest, the size of the potential conflict(s), if any potential conflict(s) were ongoing, the facts creating the potential conflict(s), whether a criminal referral was required by N.D.C.C. § 54-66-08(2), and whether a pattern of similar conflict scenarios existed.

During the investigation, the Commission learned information necessitating a criminal referral as required by N.D.C.C. § 54-66-08(2). The Commission made the required referral to the Burleigh County State’s Attorney, who appointed Mr. Ladd Erickson as a Special Assistant Burleigh County State’s Attorney to review the matter. The criminal referral resulted in a criminal charge for a violation of N.D.C.C. § 12.1-13-02(2), speculating or wagering on official action or information. On May 6, 2024, a twelve-person jury rendered a guilty verdict against Representative Dockter on the charge.

While the criminal referral was pending, the Commission could not take further action on the complaint matters pursuant to N.D.C.C. § 54-66-08(2). Once Representative Dockter’s time to appeal his criminal case elapsed, the Commission’s investigation resumed on July 9, 2024. Commission staff concluded the investigation and provided Representative Dockter and the Commission with the Report and Recommendation required by N.D.C.C. § 54-66-09 and N.D. Admin. Code § 115-02-01-07.

After providing Representative Dockter reasonable time to respond to the Report and Recommendation, the Commission considered the record in this matter and adopts the Report and Recommendation in its entirety. N.D.C.C. § 54-66-09; N.D. Admin. Code § 115-02-01-08. By adopting the Report and Recommendation the Commission finds and orders:

- (1) Representative Dockter, a state legislator in District 7, is a public official subject to the Ethics Commission's authority under N.D. Const. art XIV, §§ 3(2), 4(2);
- (2) Representative Dockter engaged in an ethical violation on April 11, 2023 by failing to disclose a potential conflict of interest (a/k/a a personal or private interest) and proceeding to vote on HB 1004, which funded Representative Dockter's interest in a lease at 1720 Burlington Drive, Bismarck, ND;
- (3) Representative Dockter engaged in an ethical violation on April 26, 2023 by failing to disclose a potential conflict of interest (a/k/a a personal or private interest) and proceeding to vote on HB 1003, which funded Representative Dockter's interest in a lease at 1700 Schafer St, Bismarck, ND; and
- (4) The jury rendered a guilty verdict against Representative Dockter and found he violated a criminal statute related to transparency and corruption, N.D.C.C. § 12.1-13-02(2).

Upon the record becoming open in this matter, the Commission further orders:

- (1) The Report and Recommendation and this Order shall be referred to the Legislative Assembly with the recommendation the Legislative Assembly review the matter, analyze the likely violations of the Legislative Assembly's own rules by Representative Dockter, and determine whether imposition of any disciplinary action on Representative Dockter is warranted at the discretion of the Legislative Assembly pursuant to N.D. Const. art. IV, §§ 10, 12; N.D.C.C. § 54-66-09(2); and N.D. Admin. Code § 115-02-01-08(3);
- (2) The Report and Recommendation and this Order shall be referred to the Legislative Audit and Fiscal Review Committee, the Legislative Assembly, and the State Auditor to request review of unanswered questions from the Commission's investigation and to assist in review of matters associated with 1720 Burlington Drive, Bismarck, ND by those entities; and
- (3) The complaint matter is concluded and the complaints against Representative Dockter are resolved.



IT IS SO ORDERED.

Dated this ____ day of _____, 2025.

Dave Anderson, Chair
North Dakota Ethics Commission