

Alaska State Legislature

Select Committee on Legislative Ethics

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SENATE SUBCOMMITTEE COMPLAINT S 10-01

DETERMINATION OF PROBABLE CAUSE OPINION RECOMMENDING CORRECTIVE ACTION

The Senate Subcommittee hereby finds that there is *probable cause* to believe that Senator Albert Kookesh violated the Ethics Code.

The Senate Subcommittee investigated allegations contained in complaint S 10-01 and determined that:

COMPLAINT S 10-01

The Senate Subcommittee received a properly filed complaint against Senator Albert Kookesh dated January 15, 2010.

The complaint alleged the following:

“At the Craig City Council meeting in Craig, Alaska on Thursday, January 7th, Albert Kookesh used his position as an Alaska State Senator in an attempt to force a favorable vote from the Craig City Council on an issue that would provide considerable financial gain to a private corporation he has shares in, and is seated on its board of directors. On the agenda for this meeting was a letter expressing concerns the council had with Sealaska’s (an ANSCA Native Corporation) land selection legislation, currently in front of Congress. The meeting provided a forum for comments on the council’s letter and Sealaska’s pending bill. In his parting comments Kookesh who until that point has been participating in the meeting in his capacity as Sealaska Board Chairman, then clearly identified himself as Craig’s state senator. He then went on to draw a direct correlation between the council’s favorable vote on Sealaska’s legislation and future state funding for Craig’s capital improvement projects that would have to cross his state senate desk. In attachment (B) I

have provided a transcribed copy of senator Kookesh's statement. In his statement he made reference to Representative Bill Thomas, for the record, Representative Thomas did not attend the meeting and at no time in my dealings with him has he used his legislative position to further his personal agenda. The ethics law that was allegedly violated is AS 24.60.030(e)(1) Prohibitions related to conflicts of interest and unethical conduct."

SCOPE OF INVESTIGATION

The Senate Subcommittee met February 17, 2010 and adopted a Scope of Investigation focusing on AS 24.60.030(e)(1), prohibitions related conflicts of interest and unethical conduct.

A legislator may not directly, or by authorizing another to act on the legislator's behalf, agree to, threaten to, or state or imply that the legislator will take or withhold a legislative ... action, as a result of a person's decision to provide or not provide a thing of value;

"Legislative action" is defined in AS 24.60.990(a)(10) to mean; conduct relating to the development, drafting, consideration, sponsorship, enactment or defeat, support or opposition to or of a law, amendment, resolution, report, nomination, or other matter affected by legislative action or inaction;

"Thing of value" is defined in AS 24.60.990(a)(2) to mean: all matters, whether tangible or intangible, that could reasonably be considered to be a material advantage, of material worth, use, or service to the person to whom it is conferred; the terms are intended to be interpreted broadly and encompass all matters that the recipient might find sufficiently desirable to do something in exchange for;

On February 17, 2010, the subcommittee reviewed the investigative material and heard from Senator Kookesh. The subcommittee found that Senator Kookesh cooperated fully in the investigation.

DETERMINATION OF PROBABLE CAUSE

The Senate Subcommittee finds that after a thorough investigation, the actions of Senator Kookesh at the January 7, 2010, City of Craig Council meeting were in violation of AS 24.60.030(e)(1) in that Senator Kookesh implied that he would use his senatorial power by withholding a legislative action – state funding for the City of Craig capital improvement projects – in exchange for a thing of value – a favorable vote by the City of Craig Council on the federal Sealaska land issue (U.S. Senate Bill 881).

Recommending Corrective Action

While the subcommittee found Senator Kookesh in violation of AS 24.60.030(e)(1), it found no evidence that Senator Kookesh actually gained any advantage from his statements. In light of this finding, the Senate Subcommittee finds this violation may be addressed by corrective action instead of sanctions.

The following corrective action is recommended: Senator Kookesh must write a letter of public apology on his official legislative letterhead to the City of Craig stating that he accepts responsibility for a poor choice of words which implied he would use his senatorial power to block funding for capital improvements projects for the City of Craig unless the Craig City Council voted in favor of the federal Sealaska land issue.

The letter must be concise, factual and address the ethics violation and nothing more. The verbiage must stay on point and not debate whether he agrees with this finding nor how the public or media may have misconstrued his words. It is important that Senator Kookesh realize that his words at the Craig City Council meeting resulted in a widely held public perception that he violated the Ethics law and that the Ethics Committee has found that he did indeed violate the statute.

Further, the letter of public apology must contain a commitment that in the future Senator Kookesh will not imply use of his senatorial power to obtain a favorable outcome of an issue before the Craig City Council or any other elected body or organization. A copy of the letter will be sent to the Senate President, all members of the Senate and members of the media from the senator's district as well to any other individuals who request a copy.

Compliance

Senator Kookesh must either comply with the recommended corrective action within 20 days of receipt of this decision or request a hearing within 20 days of receipt of this decision. AS 24.60.170(g).

Adopted this 17th day of February 2010
by a majority of the Senate Subcommittee



Gary J. Turner, Chair

Members Participating

- Dennis "Skip" Cook
- Ann Rabinowitz
- H. Conner Thomas
- Gary J. Turner, Chair
- Herman G. Walker, Jr.
- Senator Gary Stevens
- Senator John Coghill