

Alaska State Legislature

Select Committee on Legislative Ethics

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HOUSE SUBCOMMITTEE COMPLAINT H 08-03

DETERMINATION OF PROBABLE CAUSE

The House Subcommittee hereby finds that there is probable cause to believe that Representative Kevin Meyer violated the Ethics Code.

The House Subcommittee investigated allegations contained in complaint H 08-03 and determined that:

1. The House Subcommittee received a properly filed complaint against Representative Kevin Meyer dated July 9, 2008.
2. The complaint alleged the following:
 - That Representative Meyer, representing House District 30, used state resources to prepare and send his legislative newsletter to non-constituents who resided in House District 29 in violation of AS 24.60.030.
 - That Representative Meyer, representing House District 30, used state resources for campaigning in violation of AS 24.60.030(a)(5) to prepare and send his legislative newsletter to residents of House District 29. He was a declared candidate for Senate District O which encompassed both House District 29 and House District 30.
 - That Representative Meyer, representing House District 30, received a private benefit from using state resources to prepare and send his legislative newsletter to residents of House District 29 in violation of AS 24.60.030. He was a declared candidate for Senate District O which encompassed both House District 29 and House District 30.

Note: The newsletter was a joint newsletter from legislators representing House District 29 and House District 30 in Senate District O.

SCOPE OF INVESTIGATION:

The House Subcommittee met on the following dates: August 19, 2008 and January 7, 2009.

- On August 19, 2008 the subcommittee adopted a Scope of Investigation focusing on AS 24.60.030(a)(2)(J), prohibitions related to the use of public funds, facilities, equipment, services, or another government asset or resource and AS 24.60.030(a)(5), use of public funds, facilities, equipment, services, or another asset or resource for campaigning.

AS 24.60.030(a)(2)(J) A legislator ... may not use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of ... the legislator, ...; this paragraph does not prohibit a legislator from sending any communication in the form a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator ...;

AS 24.60.030(a)(5) A legislator ... may not use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning;

- On January 7, 2008, the subcommittee reviewed the investigative material and heard from Representative Meyer.

DETERMINATION OF PROBABLE CAUSE

The House Subcommittee finds that after an extensive and thorough investigation, the newsletter in question was sent in violation of AS 24.60.030(a)(2)(J), use of state resources for “sending any communication in the form of a newsletter to the legislator’s constituents.” The subcommittee determined the residents of House District 29 were not Representative Meyer’s constituents and the use of state resources to send a newsletter to non-constituents as a general mailing served no demonstrable legislative purpose.

The subcommittee further concluded that a mailing by a legislator to residents not in the legislator’s district did not have a legitimate legislative purpose and was in violation of

AS 24.60.030(a)(2)(J), use of state resources for “a nonlegislative purpose.”¹ This would be true even if the Senator in the two house districts was included in the newsletter.

The subcommittee found it unnecessary to issue a ruling regarding the allegations that Representative Meyer received a private benefit from the mailing or that the mailing was campaign related.

Representative Meyer used both state resources and non-state resources for the preparation and mailing of the newsletter. Representative Meyer used the Legislative Affairs Agency Print Shop, a state resource, to print the newsletter. Legislative staff, a state resource, prepared the newsletter. POET (Public Office Expense Term) account funds were used to pay for coordination of the mailing and postage costs. The POET account is comprised of unused campaign contributions. The POET account, pursuant to AS 15.13.116(a)(8)(B) “may be used only for expenses associated with the candidate’s serving as a member of the legislature.”

RECOMMENDATION:

The subcommittee determined no corrective action was warranted. Representative Meyer stated he had no intent to violate the statute. Regardless of intent, however, the subcommittee recognized the fact that state resources, specifically the Legislative Affairs Agency Print Shop, was used to print the newsletter and cautions Representative Meyer that in the future he should be mindful that state resources used for a general mailing newsletter to a legislative district he does not represent would be in violation of AS 24.60.030.



Herman G. Walker, Jr.

Adopted this 7th day of January 2008
by a majority of the House Subcommittee

Members Participating

Herman G. Walker, Jr., Chair
Dennis “Skip” Cook
Ann Rabinowitz
Representative Bob Roses

H. Conner Thomas
Gary J. Turner
Representative Berta Gardner

¹ During the investigation, the legislator in House District 29 concluded there were some areas in House District 30 where no legislative purpose was served by the joint newsletter.