

Alaska State Legislature

Select Committee on Legislative Ethics

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HOUSE SUBCOMMITTEE COMPLAINT H 07-05

DETERMINATION OF PROBABLE CAUSE AMENDED February 24, 2012

The House Subcommittee hereby finds there is probable cause to believe that former Representative Pete Kott violated the Ethics Code.

The House Subcommittee investigated allegations contained in complaint H 07-05 and determined that:

1. The House Subcommittee received a properly filed complaint against former Representative Pete Kott dated June 11, 2007.
2. The date of the alleged actions, on or about September 2005 and continuing until on or about August 2006, are within the two year requirement for filing a complaint under AS 24.60.170(a).
3. The complaint alleged that former Representative Pete Kott solicited and received money, other financial benefits and a promise of a job in exchange for agreeing to perform and performing official acts as a member of the Alaska State Legislature for the benefit of Veco and other oil producers that Veco solicited support from. Former Representative Pete Kott attempted to conceal the true nature and source of the monetary payments and other financial benefits. Official acts included: voting in favor of versions of the PPT bill supported by Veco; lobbying other elected officials to support versions of PPT that Veco and the oil producers favored; and repeatedly offering to assist and help Veco by providing official support for the PPT bill and for the natural gas pipeline legislation.

- a. Did former Representative Pete Kott violate AS 24.60.030(a)(1) by:

soliciting, agreeing to accept or accepting a benefit other than official compensation for the performance of public duties;

- b. Did former Representative Pete Kott violate AS 24.60.030(e)(1) by:

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, administrative, or political action, including support or opposition to a bill, employment, nominations, and appointments, as a result of a person's decision to provide or not provide a political contribution, or donate or not donate to a cause favored by the legislator, or provide a thing of value;

AS 24.60.990(a)(2) defines a "thing of value" as follows:

"anything of value," "benefit," or "thing of value" includes 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;

- c. Did former Representative Pete Kott violate AS 24.60.100 by:

representing another person for compensation before an agency, committee, or other entity of the legislative branch;

SCOPE OF INVESTIGATION:

The House Subcommittee met on the following dates: June 11, 2007, September 28, 2007, and December 12, 2007.

- On June 11, 2007, the subcommittee adopted a Scope of Investigation.

The subcommittee reviewed and analyzed the following:

- U.S. Federal Indictment dated May 3, 2007
 - Count 1: Conspiracy to commit extortion under color of official right, bribery, and honest services mail and wire fraud – 18 U.S.C. § 371

- Count 2: Interference with commerce by extortion induced under color of official right – 18 U.S.C. § 1951(a) and § 2
- Count 4: Bribery concerning programs receiving federal funds – 18 U.S.C. § 666 (a)(1)(B) and § 2
- Count 6: Honest services wire fraud – 18 U.S.C. §§ 1343, 1346 and § 2
- Guilty verdicts issued for Counts 1, 2 and 4.
- Not guilty verdict issued for Count 6

DETERMINATION OF PROBABLE CAUSE

The House Subcommittee finds probable cause that the actions of former Representative Pete Kott violated AS 24.60.030(a)(1), AS 24.60.030(e)(1) and AS 24.60.100 as proven by the three guilty verdicts issued in Federal Court on September 25, 2007.

RECOMMENDATION:

The House Subcommittee recommends no sanctions as allowed under AS 24.60.178. The subcommittee determined former Representative Pete Kott received sufficient punishment when he was sentenced to six years in prison on December 7, 2007.

Adopted this 12th day of December 2007
by a majority of the House Subcommittee

_____/s/_____
Herman G. Walker, Jr., Chair

Members Participating

Herman G. Walker, Jr., Chair
Dennis “Skip” Cook
H. Conner Thomas
Gary J. Turner
Representative Bob Roses
Representative Berta Gardner

COMPLAINT DECISION H 07-05
AMENDED February 24, 2012

The House Subcommittee of the Select Committee on Legislative Ethics met on Friday, February 24, 2012 to discuss Complaint Decision H 07-05 against former Representative Pete Kott. The committee amended the Complaint Decision issued December 12, 2007.

Complaint Decision H 07-05 is hereby amended on February 24, 2012 by a majority of the House Subcommittee. The amendment is based on the fact Mr. Kott's conviction was overturned. On October 19, 2011, Mr. Kott pled guilty to Count Four of the original indictment, Bribery Concerning Programs that Receive Federal Funds in violation of 18 U.S.C. § 666(a)(1)(B).

The following statements are quoted from the Plea Agreement:

- Between January and the end of August 2006 in Alaska, Kott corruptly solicited and agreed to accept over \$7,900 in monetary payments and a promise of future employment from Bill Allen, Rick Smith and VECO Corporation. (Page 7 of 19.)
- Kott knew that he was not entitled to these things of value, and he solicited and accepted them intending to be influenced and rewarded in connection with his official acts as a member of the State Legislature related to the PPT legislation, specifically working to have the legislature adopt the 20/20 tax structure that VECO wanted, and trying to stop any amendments that proposed a higher tax structure. (Pages 7 and 8 of 19.)
- Bill Allen and Rick Smith also arranged for a political poll for Kott that was paid for by VECO at a cost of \$2,700 and Allen gave Kott \$1,000 in cash. In connection with the benefits they provided or promised to him, Kott took direction from Allen and Smith on how to vote on various amendments to and versions of the PPT legislation that were considered by the State House in 2006, he lobbied his fellow legislators to do the same, and he provided Allen and Smith with information about the status of projected outcomes of House votes on various versions of this legislation. (Page 8 of 19.)

DETERMINATION OF PROBABLE CAUSE

The House Subcommittee finds probable cause that the actions of former Representative Pete Kott as outlined in the October 19, 2011 Plea Agreement violated AS 24.60.030(a)(1), AS 24.60.030(e)(1) and AS 24.60.100 based on his admission of guilt to the factual basis stated in the plea agreement.

RECOMMENDATION

The House Subcommittee recommends no sanctions as allowed under AS 24.60.170. The subcommittee recognizes former Representative Pete Kott served seventeen months of his six year sentence and was placed on three years of supervised release with a curfew for the first twelve months.

Adopted this 24th day of February 2012
by a majority of the House Subcommittee

/s/

Herman G. Walker, Jr., Chair

Members Participating

Herman G. Walker, Jr., Chair
Dennis “Skip” Cook
Antoinette “Toni” Mallott
H. Conner Thomas
Gary J. Turner
Representative Chris Tuck

Member Absent

Representative Carl Gatto