

Alaska State Legislature

Select Committee on Legislative Ethics

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SENATE SUBCOMMITTEE COMPLAINT S 10-02

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 10-02 and determined that:

COMPLAINT S 10-02

The Senate Subcommittee received a properly filed complaint against Senator Albert Kookesh dated January 29, 2010.

The complaint alleged the following:

“During the Craig City Council meeting on January 7, 2010 and the Sitka Assembly meeting on February 26, 2010 Senator Kookesh inappropriately mixed his role as State Legislator with his role on the Sealaska board. In both cases, Kookesh cited how much the communities needed him to provide State funding for local projects and then in the same breath identified his need for support from us for the Sealaska Land Bill. Both incidents strongly reflected the idea of a “favor for a favor” and are entirely inappropriate in this context, I believe. Sitka’s comments, although less directly threatening, provide supporting evidence that Kookesh has blurred the lines before Craig. Both actions were in violation of AS 24.60.030(e)(1), Prohibitions related to conflicts of interest and unethical conduct. “

ALLEGATION 1: That Senator Albert Kookesh used his position as an Alaska State Senator inappropriately when he mixed his role as a State Senator and that of his role as chair of the Sealaska board of directors before the January 7, 2010, City of Craig Council meeting. Senator Kookesh cited how much the communities needed him to provide State funding for local projects and then in the same breath identified his need for support for the Sealaska Land Bill – a favor for a favor.

ALLEGATION 2: That Senator Albert Kookesh used his position as an Alaska State Senator inappropriately when he mixed his role as a State Senator and that of his role as the chair of the Sealaska board of directors before the February 26, 2008, City of Sitka Assembly meeting. Senator Kookesh cited how much the communities needed him to provide State funding for local projects and then in the same breath identified his need for support for the Sealaska Land Bill – favor for a favor.

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.

ALLEGATION 1: DETERMINATION OF PROBABLE CAUSE

The Senate Subcommittee finds that after a thorough investigation of Allegation 1, 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 corrected 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 (U.S. Senate Bill 881).

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 also be sent to the Senate President, all members of the Senate and to 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).

ALLEGATION 2: DISMISSAL

The Senate Subcommittee finds the actions of Senator Albert Kookesh, set out in Allegation 2, did not give rise to a violation of the Legislative Ethics Act and therefore dismisses this portion of the complaint.

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

/s/

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