

Minutes approved November 1, 2018

**ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
JULY 17, 2018**

House Subcommittee

8:31:28 AM

1. Call the Meeting to Order

Chair Dennis "Skip" Cook called the meeting to order at 8:35 AM.

Committee members present:

Dennis "Skip" Cook, Chair
Representative Colleen Sullivan-Leonard
Representative Chris Tuck
Deb Fancher
Lee Holmes
Joyce Anderson
Conner Thomas

Others present:

Jerry Anderson, Administrator
Jacqui Yeagle, Administrative Assistant
Nancy Nolan, Hearing Officer
Kevin Fitzgerald, Ethics Committee Counsel
Representative David Eastman
Tim Petumenos, Counsel for David Eastman
Karina Chambers, Paralegal to Tim Petumenos

2. Approval of Agenda

Representative Colleen Sullivan Leonard made a motion to approve the agenda. No objection. Agenda approved.

3. Public Comment

No public comment.

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4. Public Hearing Related to Complaint 17-03

Chair Cook turned the meeting over to Hearing Officer Nancy Nolan.

Nancy Nolan stated that the primary witness, Naomi Klouda, was unavailable to testify. Since Nancy Nolan was notified of the witness unavailability at the last minute (close of business the evening before the hearing), the issue was addressed on record at the time set for the hearing.

After hearing from both parties, Nancy Nolan stated that, given the importance of this particular witness, and the late notice of unavailability, she would grant a continuance if that was the remedy being requested.

The attorneys held a private conference.

The attorneys agreed to proceed without the witness, pursuant to an agreement that Kevin Fitzgerald would not object to the admission of four documents that Tim Petumenos had hoped to introduce through the witness. The parties agreed to read the deposition into the record in light of the witness's unavailability.

Nancy Nolan read to the Subcommittee Pre-Evidence Instructions.

Kevin Fitzgerald delivered his opening statement on behalf of the House Subcommittee of the Select Committee on Legislative Ethics.

Tim Petumenos stated the respondent's position is that maximum access to the public be allowed to the hearing.

Nancy Nolan stated that it would be up to the Committee to decide whether the public is allowed to record the proceedings.

Chair Cook announced that there would be no restrictions on public recording of the proceedings but that there is only one official recording of the proceedings.

Chair Cook directed Nancy Nolan's attention to Kevin Fitzgerald. Kevin Fitzgerald asked Nancy Nolan to confirm

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that the Committee be allowed to ask questions during the proceedings.

Nancy Nolan confirmed that the Committee is authorized to ask questions during the proceedings.

Tim Petumenos delivered his opening statement on behalf of Representative David Eastman.

Kevin Fitzgerald called his first witness, Naomi Klouda, by a reading of Naomi Klouda's deposition. Jerry Anderson was placed under oath to read the part of Naomi Klouda. Fitzgerald read the part of Tim Petumenos.

Tim Petumenos read a selected section of Reuters Handbook of Journalism.

Exhibit 6, the transcript of the Naomi Klouda deposition, was offered and admitted into evidence.

Tim Petumenos requested then withdrew his request to admit into evidence Exhibit H, the selected section of the Reuters Handbook of Journalism. Exhibit H was withdrawn.

Jerry Anderson was called as a witness and provided testimony.

Exhibit 1, Jerry Anderson's activity log dated April 13, 2017 documenting Anderson's phone conversation with Representative David Eastman was offered and admitted into evidence.

Nancy Nolan gave instructions to the Subcommittee prior to break.

[11:24:54 AM](#)

BREAK

[1:07:21 PM](#)

Chair Cook called the public hearing back in to order. before Kevin Fitzgerald resumed direct examination of Jerry Anderson.

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Exhibit 2, the letter written by Representative David Eastman dated April 14, 2017, was offered and admitted into evidence.

Exhibit 4, the email that Jerry Anderson received from Naomi Klouda on May 18, 2017, summarizing the communication that she had had with Representative David Eastman on April 28, 2017 was offered and received into evidence.

Exhibit 5, the formal charge issued by the House Subcommittee was offered and admitted into evidence.

Tim Petumenos conducted cross examination of Jerry Anderson.

Kevin Fitzgerald conducted re-direct examination of Jerry Anderson.

Lee Holmes asked clarifying questions to Jerry Anderson regarding the confidentiality of ethics complaints.

Representative Chris Tuck asked Jerry Anderson about his recollection of the date he was contacted by Naomi Klouda.

Tim Petumenos called Karina Chambers as his first witness to read statements made by Naomi Klouda - statements made to Monique Rapuzzi on September 25, 2017. Karina Chambers was placed under oath and Tim Petumenos and Karina Chambers read the relevant parts of Naomi Klouda's statement.

Kevin Fitzgerald called Representative David Eastman to testify. Representative David Eastman was placed under oath.

Tim Petumenos questioned Representative David Eastman.

Exhibit E, the article by Suzanne Downing in Must Read Alaska dated April 19, 2017 was offered and admitted into evidence.

Exhibit D, Representative David Eastman's phone record establishing the date, time, and duration of the phone call with Naomi Klouda was offered and admitted into evidence.

Kevin Fitzgerald conducted cross examination of Representative David Eastman.

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Lee Holmes stated that Representative David Eastman had left the room when the Steve Strait complaint against Representative LeDoux was discussed at the Ethics Committee meeting in August 2017.

Exhibit B, the newspaper article written by Naomi Klouda dated January 18, 2018, and Exhibit F, an article written by Naomi Klouda dated May 3, 2017 were offered and admitted into evidence.

Representative Colleen Sullivan Leonard asked if Representative David Eastman's phone records show the phone call between Representative David Eastman and Jerry Anderson.

Representative David Eastman posed the possibility that Jerry Anderson had telephoned Representative David Eastman on his office phone and therefore, the phone would not appear on the phone record.

Tim Petumenos called Steve Strait as witness. Steve Strait was placed under oath.

Tim Petumenos questioned Steve Strait.

Kevin Fitzgerald conducted cross examination of Steve Strait.

Kevin Fitzgerald re-called Jerry Anderson as a witness.

Kevin Fitzgerald and Jerry Anderson read the transcript of the committee Investigator's Monique Rapuzzi interview of Naomi Klouda. Kevin Fitzgerald read Monique Rapuzzi's part and Jerry Anderson read Naomi Klouda's part.

Kevin Fitzgerald delivered his closing argument.

Tim Petumenos delivered his closing argument.

Kevin Fitzgerald delivered his rebuttal argument.

Nancy Nolan read to the Subcommittee Post-Evidence Instructions.

Deb Fancher asked if the Subcommittee should consider in its deliberations the *Order Addressing Motion to Dismiss*

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Due to Committee Composition that the Subcommittee had received prior to the public hearing.

Nancy Nolan responded that the Subcommittee should only consider evidence received during the public hearing.

EXECUTIVE SESSION as needed to discuss matters related to Complaint 17-03 under AS. 24.60.170(j), (k) and under Rules of Procedure Section 5(b)(2). The purpose of Executive session is to discuss matters which by law must remain confidential under Uniform Rule 22(b) regarding executive sessions, and Rules of Procedure Section 5: Executive Sessions and discussion of matters, the immediate knowledge of would adversely affect the finances of a governmental unit, and discussion of subjects that tend to prejudice the reputation and character of a person.

5. Public Session

Chair Skip Cook announced that the Subcommittee had completed their work in executive session on H 17-03.

6. Other Business

No other business.

7. Adjourn

Chair Skip Cook entertained a motion to adjourn. Conner Thomas moved to adjourn. No objection. Chair Cook adjourned the meeting.

[6:02:52 PM](#)

Administrative Footnote: Exhibits 3, A, and C as marked were not offered or admitted as part of the public hearing.