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March 2, 2012

Senator Hollis French
State Capitol Building – Room 417
Juneau, Alaska 99801

Re: Testimony concerning appointment of Attorney General.

Senator French,

Approaching the Alaska Legislature is a difficult task. I asked for guidance relating to submitting testimony that relates to a confidential matter in a letter dated February 17, 2012 addressed to both you and Representative Gatto as chairs of the Judiciary Committees. I have not been provided with that information yet my letter of inquiry was included in public testimony for the House hearing. That is not what I requested.

Because I feel this is important, I will now submit detailed testimony for the Senate Judiciary hearing on the confirmation of Mr. Michael Geraghty for Attorney General with this caveat. If my statement violates the law regarding disclosure of information relating to a complaint under the Executive Ethics Act and would subject me to sanctions then I do not want my testimony submitted.

I was sent a letter from the Department of Law dated June 14, 2010 acknowledging receipt of my ethics complaint. The letter contained the following statement: "Please also be advised that ethics complaints and any related investigations are confidential under AS 39.52.340, unless the subject of the investigation fully waives confidentiality or the proceedings reach the public phase with the issuance of a public accusation." I assumed that I would be accountable for maintaining the confidential nature of my efforts and could, in fact, face punishment or my complaint would be dismissed if I violated that restriction by discussing my complaint with anyone. I am still not sure I can legally discuss this issue including this testimony.

Re: Testimony concerning appointment of Attorney General, March 2, 2012

I have pursued this question of my being able to talk about this complaint. In October 2010 I requested and received an opinion through my State Representative from the Legislative Legal Office regarding this confidentially restriction that states; " Note, however, that the remedies for violating the provisions of AS 39.52.340 seem (emphasis added) to apply only to a public employee. Also; "While a person who files a compliant is required to treat the existence of and information about the complaint as confidential, there may be (emphasis added) no statutory remedy if the person fails to abide by this requirement.

As stated, I deem my testimony important. However since the legislature has created such ambiguity in the law, while retaining the power of the State to pursue a perceived breach of this law, I am not willing to expose myself to the costs of a legal defense. Senator French if, in your opinion, my statement is not legal I demand that it not be submitted. Thank you.



Mr. Lynn Willis

March 1, 2012

To: Senate Judiciary Committee

Subject: Testimony concerning appointment of Michael Geraghty as Attorney General.

I do not support the appointment of Mr. Geraghty as the next Alaska Attorney General. My opinion is based on my experience with Mr. Geraghty when he acted as an independent counsel for the state personnel board following my submitting an ethics complaint against the Governor. This testimony is not intended to argue the merits of my complaint or contest the outcome. I am concerned about how Mr. Geraghty conducted his review of my complaint. My specific concern is if Mr. Geraghty possesses the ability to function independently from the Governor who appointed him.

My complaint concerned the ethics of violating the State Constitution to create a position for a sitting legislator. I was and am very much concerned about the actions of the Governor and the appearance of unethical behavior especially in light of the recent scandals involving Alaska Legislators.

I filed my complaint on June 12, 2010. I had never filed an ethics complaint. My complaint was then “forgotten” for over 90 days. I now assume my complaint would have remained “forgotten” had I not called the Department of Law in September asking for the status of my complaint.

I received a letter on September 29, 2010 from the Alaska State Personnel Board Chair, Debra English. In that letter Ms. English apologized for the delay. The letter included the following statement, “I received your filing on June 14th via email at my work address. I forgot about you filing and failed to assign it to independent counsel. I did not recall your case until I was contacted by Nicki Neal for a status update on September 21st.” Also Ms English wrote; “When Nicki contacted me I reached out to the Board’s independent counsel and Mr. Geraghty agreed to take the case and review it immediately.”

Did my case not receive an adequate review because of Mr. Geraghty’s agreement to have the review done immediately? Mr. Geraghty concluded his review and published his report on September 28, 2010. He never contacted me.

Subject: Testimony concerning appointment of Michael Geraghty as Attorney General.
March 1, 2012

Mr. Geraghty's review included his charge; "A complaint filed under the Executive Branch Ethics Act requires independent counsel retained by the personnel board to determine whether the conduct alleged, if true, would constitute a violation of the Act. If counsel determines that the allegations in the complaint do not warrant an investigation, counsel shall dismiss the complaint with notice to the complainant and the subject of the complaint."

I believe Mr. Geraghty didn't search for a probable violation of the act. He instead searched for justification to exonerate the Governor - which he did. Mr. Geraghty obviously didn't believe that this issue warranted further investigating despite the fact that this particular issue had generated editorials and much public discourse regarding the appearance of the Governor's actions and the fate of those he appointed. However, Mr. Geraghty chose not to mention any of those facts. Mr. Geraghty shared the opinion of the then Attorney General that the Governor's action had not been found to be irrefutably illegal and therefore was not unethical either. I personally believe that behavior can be legal yet also unethical. Mr. Geraghty apparently does not. He refused to deal with the appearance of suspect behavior which, to me, is the difference between a breach of law and a breach of ethics.

Mr. Geraghty apparently did not understand that he was to render the final and irreversible decision on this matter of pursuing a further investigation. In his September 28th report, he concludes, "It is my opinion that the allegations contained in Mr. Willis' (sic) complaint do not constitute conduct in violation of the Ethics Act and the complaint should be (emphasis added) dismissed." Didn't Mr. Geraghty understand that he wasn't supposed to be recommending anything? He was supposed to decide the issue. I believe his argument was written as if he would be advocating for a dismissal to another authority.

I asked the Department of Law if the statute had changed so that Mr. Geraghty was not going to make the final decision concerning a further investigation and who would be acting on Mr. Geraghty's recommendation.

Subject: Testimony concerning appointment of Michael Geraghty as Attorney General.

March 1, 2012

The Department of Law must have also asked Mr. Geraghty for clarification because I was then sent another letter on October 21, 2010 from Mr. Geraghty informing me that he had, in fact, dismissed my complaint.

Between the negligence of those who "forgot" my complaint, the self imposed necessity to complete the review quickly, and the narrow scope of the review, I feel that I was subjected to a process, including the contribution of Mr. Geraghty, more designed to quash ethics complaints from individual citizens than to determine the validity of those complaints. Therefore, based on my experience with Mr. Geraghty, I very much question his ability to maintain an independent, objective approach to situations involving conflicting issues which demand impartiality. Thank you.



Mr. Lynn Willis