

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9415 HOUSE RULES

**SELECT
COMMITTEE
HEARING
TRANSCRIPT
11/14/96**

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SELECT COMMITTEE ON LEGISLATIVE ETHICS HEARING

BEFORE HEARING OFFICER MICHAEL WHITE

Anchorage, Alaska
November 14, 1996
11:00 o'clock a.m.

SUBCOMMITTEE MEMBERS PRESENT:

Margie Mac Neille, Chairman
Joseph P. Donahue
Ed Granger
Shirley McCoy
Cynthia Toohey
Edith Vorderstrasse

APPEARANCES:

FOR THE RESPONDENT:

MR. LESTER K. SYREN
Law Offices of Lester K. Syren
Attorney at Law
1351 Huffman Road, Suite 2A
Anchorage, Alaska 99515
(907) 345-3111

**FOR THE HOUSE SUBCOMMITTEE
OF THE SELECT COMMITTEE ON
LEGISLATIVE ETHICS:**

MR. MICHAEL R. SPAN
Bogle & Gates
Attorneys at Law
1031 West 4th Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

ALSO PRESENT:

SUSAN BARNETT
Staff to Ethics Committee

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SELECT COMMITTEE ON LEGISLATIVE ETHICS

ANCHORAGE, ALASKA

Margie Mac Neille, on behalf of)
the House Subcommittee of the)
Select Committee on Legislative)
Ethics,)
Complainant,)
v.)
Representative Jerry Sanders,)
Respondent.)

Complaint No.: H96-02

VOLUME I

TRANSCRIPT OF PROCEEDINGS

November 14, 1996 - Pages 003 through 205
November 15, 1996 - Pages 207 through 242

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P R O C E E D I N G S

(On record)

CHAIRMAN MAC NEILLE: I'm going to call to order the House Subcommittee of the Select Committee on Legislative Ethics. And we're here today -- our order of business is the hearing on formal charges in Case H96-02, the charges against Representative Jerry Sanders. Present are members of the Committee Shirley McCoy, Representative Toohey, Joe Donahue, myself, Margie Mac Neille, Ed Granger, Edith Vorderstrasse.

We have retained Hearing Officer Michael White to run the hearing for us and with that, I'll turn it over to him.

HEARING OFFICER: As the Chairman indicated, it's the time set for the hearing for -- I haven't spoken to any of the Legislators before about the hearing other than a brief public teleconference -- I said Legislators, I meant members of the Committee. As I'm sure you all know, your rules provide that you are the ultimate decision makers in this case. I will be making rulings on objections, if there are any, on the admissibility of evidence. But the parties have a right to have you overrule me on anything and don't hesitate to do that if there's something you want to hear. I'll be making my rulings as best I can on the rules of evidence. There may be things that you want to hear that may not fall within the formal rules of evidence and you have a right to say that and speak up. After each of the attorneys ask questions of the

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1 witnesses, you have the opportunity to ask questions if you'd
2 like. You are the decision makers in this case and you need to
3 be satisfied that you get the information that you want. Are
4 the parties ready to proceed.

5 MR. SPAAN: We are Mr. White.

6 MR. SYREN: Yes, Your Honor.

7 HEARING OFFICER: At this point I give each of the
8 parties, beginning with the Committee an opportunity to give a
9 brief opening statement as to what you intend to present as
10 evidence.

11 MR. SPAAN: Thank you. Mr. White, on behalf of the
12 Committee I'd like to say Hi to you all, Madam Chairman,
13 members of the Committee, Mr. White and Mr. Syren. The facts
14 of this case are not particularly complicated. On January
15 29th, 1996, the Republican party held a straw poll, at which
16 time party members attended and cast a vote, acknowledged their
17 preference for the Republican Presidential candidate. This
18 event was enormously successful, more than 5,000 people in the
19 Anchorage area participated in the straw poll. The straw poll
20 -- at each straw poll that was held in different districts,
21 they kept a sign-in sheet where people who participated could
22 put their name and address. Those straw poll sign-in sheets
23 were made available to party officials, if party officials
24 wanted the straw polls.

25 Around March 14th, 1996, Representative Sanders had

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1 prepared and mailed a letter to all the Republican participants
2 in the straw poll for his district which was District 19, I
3 believe. In this letter he thanked the participants for
4 participating in the straw poll. The letters -- at least the
5 letter that we have reviewed went out on March 5th, the day
6 after the letter was prepared. The evidence that the Committee
7 will put forward will show that the letter was on
8 Representative Sanders' economic development committee
9 stationary. That the letter was marked official business.
10 That over 230 letters were sent. That there was a \$76.48
11 charge to Representative Sanders mailroom account on March 5th,
12 which we believe were the letters that were mailed. The
13 evidence will show that a State computer was used. And the
14 evidence will show that Representative Sanders' employees
15 participated during a normal work week. In fact, the evidence
16 will show that the last modification made on the State computer
17 was at 10:43 a.m. on March 4th and that doesn't take into
18 account stuffing the letters into the envelopes, taking them to
19 the mailroom or whatever else needed to be done. We have run
20 an independent test that was similar to this task and it took
21 approximately six hours of work from start to finish to
22 complete the task.

23 The charges the Committee brought were brought on
24 September 24th where this Committee found probable cause to
25 bring formal charges. And again, the standard to find

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1 Representative Sanders violated this is different than probable
2 cause, it's clear and convincing evidence, we could talk about
3 that later. All three of the charges flow from the same letter
4 that went out to the Republicans who participated in the polls.
5 So that's what this case is about.

6 The first charge charges Representative Sanders with
7 using public funds, facilities, equipment, services or other
8 government assets or resources for a nongovernmental purpose or
9 for his private benefit by mailing the letter. The second
10 charge, as I said, involves the same letter. It charges
11 Representative Sanders with using or authorizing State funds,
12 facilities, equipment, services or another government asset or
13 resources for the purpose of political fundraising or
14 campaigning by producing this letter and mailing it. The third
15 charge in the same letter, it charges Representative Sanders
16 with requiring an employee to assist in political party or
17 candidate activities, campaigning or fundraising while on
18 government time by requiring a Legislative employee to perform
19 duties related to the production and the mailing of this
20 letter.

21 Now, when the evidence comes in and when you question
22 the witnesses, you should be reminded that there is an
23 exception to charges one and two and that exception is the
24 nominal use exception. And it would say that these acts, even
25 if you found they occurred, were not chargeable or

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1 Representative Sanders shouldn't be found in violation if a
2 limited use of State property and resources for personal
3 purposes if it was only a limited use. And if the use does not
4 interfere with the performance of public duties and the cost of
5 the value related to the use, it's nominal. There is no
6 similar exception to charge number three. The case, you'll
7 see, a different twist because at least a portion of the State
8 resources used were out of Representative Sanders Legislative
9 office account. And Representative Toohy would understand
10 that, but we're going to present some evidence on what exactly
11 this account is, what options are available to Legislators and
12 what restrictions, if any, are placed on them.

13 You'll hear testimony from Karla Schofield who is an
14 employee of the LAA, who will explain about non-accountable
15 accounts and accountable accounts and the difference. You will
16 hear that with a non-accountable account, a Legislator could
17 take all the money, which is \$6,000, there is deductions for
18 taxes and other deductions and use it for, I guess, whatever
19 purpose they want. For an accountable account, the rules
20 require to use it for a business purpose and that is, where the
21 Legislator could direct that certain vendors or expenses be
22 paid. There's no real policing over it other than the good
23 faith and the good will of the Legislator involved. So there
24 are no deductions from those accounts for taxes. It is to be
25 used for business purposes.

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1 You will also hear testimony regarding the Legislative
2 postage meter and how that fits in. You'll also hear testimony
3 about the cooperation or I should say the lack of cooperation
4 of Representative Sanders. You'll hear that at his deposition
5 when the Committee attempted to find out his view of the facts,
6 that he invoked the Fifth Amendment against self incrimination,
7 as did one of his employees. And I'd like you to caution you
8 that the Fifth Amendment against self incrimination is a very,
9 very important Constitutional right, but should only be invoked
10 if you have a fear of criminal charges or evidence which could
11 lead to criminal charges. The fact that you don't want to
12 testify, you don't want to cooperate is not a good reason to
13 invoke the Fifth Amendment unless there's some concern. And if
14 there is concern, an individual has the absolute right to
15 invoke the Fifth Amendment even in a civil case. This is an
16 important case because what the Committee decides today or
17 tomorrow is going to be looked at by the people in the State
18 Legislature and the public as guidance in this area, which is a
19 tricky area.

20 As you hear the evidence, I'd like to ask you to pay
21 particular attention on the three key issues, at least, the
22 issues I see and the Committee may see it differently. Was
23 there use of government resources? What was the purpose of the
24 Marc's 4th letter. And does the nominal use exception apply to
25 charges one and two.

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1 Thank you very much, Mr. White and members of the
2 Committee.

3 HEARING OFFICER: One thing I perhaps should have told
4 the Committee before Mr. Spaan's opening statement is that the
5 Committee needs to rely on the testimony of witnesses in terms
6 of finding the facts that you're going to find. The opening
7 statements and arguments at the end of the case by the
8 attorneys are often helpful in terms of putting everything in
9 context. But it's what the witnesses say when they're under
10 oath that you need to base your decision on.

11 Mr. Syren, would you like to give an opening statement
12 now?

13 MR. SYREN: Your Honor, actually I would like to
14 reserve my time allotted for opening and apply it to my time
15 for closing.

16 HEARING OFFICER: That's fine. Is there any objection?

17 MR. SPAAN: No. Fine. We're going to call Karla
18 Schofield as the Committee's first witness when Ms. Barnett is
19 done.

20 HEARING OFFICER: Would you please remain standing to
21 be sworn in. Would you raise your right hand, please.

22 (Oath administered)

23 MS. SCHOFIELD: Yes, I do.

24 HEARING OFFICER: Please be seated.

25 **KARLA SCHOFIELD**

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1 called as a witness on behalf of the Committee, testified as
2 follows on:

3 **DIRECT EXAMINATION**

4 HEARING OFFICER: Would you state your full name,
5 please?

6 A My name is Karla Schofield.

7 HEARING OFFICER: Would you spell your last name,
8 please?

9 A It's S-c-h-o-f-i-e-l-d.

10 HEARING OFFICER: And what's your mailing address?

11 A 130 Seward Street, Suite 313, Juneau, Alaska.

12 HEARING OFFICER: Thank you. You may proceed Mr.
13 Spaan.

14 MR. SPAAN: Thank you, Mr. White.

15 **BY MR. SPAAN:**

16 Q Ms. Schofield, where are you currently employed?

17 A In Juneau, Alaska.

18 Q And how long -- or who are you employed by, I'm sorry?

19 A I am employed by the Legislative Affairs Agency.

20 Q And could you explain to me what the Legislative
21 Affairs Agency is?

22 A The Legislative Affairs Agency is the administrative
23 services organization for the Legislature. And we're
24 responsible for, under the auspices of the Legislative
25 Council, for providing service of -- payroll services,

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1 procurement services, we have Legislative information
2 offices that are located around the State, computer
3 services for the Legislature.

4 Q And Ms. Schofield, what is your position within the
5 LAA?

6 A I'm the deputy director for administrative services.

7 Q And what does that include?

8 A For the most part it includes accounting services and
9 in the absence of the executive director, I handle
10 things for her.

11 Q Sure. And how long have you been employed with the
12 LAA?

13 A Since December of 1982.

14 Q Okay. Are you, in the course of your duties, Ms.
15 Schofield, familiar with the Legislative office
16 accounts?

17 A Yes, I am.

18 Q And what is the purpose of the account?

19 A The purpose of the account is for postage, stenographic
20 services, office expenses and other expenses. And each
21 Legislator's entitled to a Legislative allowance
22 account and they receive it each year.

23 Q And are there different ways that a Legislature could
24 -- are there different sorts of accounts?

25 A Yes. There's two different accounts. Different types

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1 of ways a Legislature could elect to take their
2 allowance account, they can take it as an accountable
3 allowance account which means that they would send into
4 the accounting office business expenses that they had
5 in the course of their duties as a Legislator and those
6 bills would be paid. The non-accountable plan is when
7 the Legislator elects to take the \$6,000 allowance or
8 any portion of it as income and that is run through the
9 payroll system and taxes and withholding are taken from
10 that check.

11 Q If I could just stop you for a second. That is the
12 non-accountable plan then?

13 A The non-accountable plan, yes.

14 Q And does that -- would that money be reported as income
15 to the individual Legislator who took it?

16 A Yes. It's included as income on their W-2.

17 Q Okay. And what amount of money are we talking about in
18 the office account?

19 A We are talking about \$6,000.

20 Q Okay. Has it always been \$6,000?

21 A No, it hasn't. Up until two years ago it was \$4,000.

22 Q Does the -- is there a definition within any applicable
23 statute to what the monies should be used for?

24 A Title 24 has the definition of what the Legislative
25 expenses are for.

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1 Q And what is that?

2 A And it's fairly broad and I would need to read it
3 directly. But it is what -- basically stenographic,
4 office expenses and other expenses of a Legislator.

5 Q Ms. Schofield, I'm going to hand you what's been marked
6 as Plaintiff's Exhibit 1 and ask you if you could
7 identify that document?

8 A This is a letter to -- from me.....

9 Q Could you stop for a second, I'm sorry, Ms. Schofield.
10 HEARING OFFICER: I'll inform the members of the
11 Committee that they're not in the packets that you've received
12 yet. If it is admitted as evidence you all will have access to
13 those.

14 Q Okay. Could you identify Exhibit 1, please?

15 A Okay. This is a letter from me to Susie Barnett and
16 it's dated October 16th. And it includes -- what it
17 includes are pages from the Legislator's -- the guide
18 for Legislator's staff and Legislators on business
19 expense allowances, which is a book that we gave to
20 Legislators at the beginning of this Legislative
21 session.

22 Q Okay.

23 A It also includes a copy of the annual allowance option
24 form which is what Legislators fill-out to tell us
25 which way they'd like to take their office allowance

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1 account. The next item is a form Legislators use to
2 submit expenses to the accounting office. And the next
3 item is an information sheet that Legislators who take
4 the accountable allowance account receive with their
5 packet. And the next item is also from our guide for
6 Legislators and staff that talks about the personal
7 postage accounts which Legislators are allowed to setup
8 in our Juneau mailroom.

9 Q And these are information that is available to
10 Legislators?

11 A Yes. Any of the items from the guide for Legislators
12 and staff were in the book that was delivered in
13 January to Legislative offices. And the items that are
14 just for people who choose the accountable allowance
15 account are given to them when they choose that
16 account.

17 MR. SPAAN: Mr. White, we'd move Exhibit 1.

18 HEARING OFFICER: Is there any objection, Mr. Syren?

19 MR. SYREN: No.

20 HEARING OFFICER: Okay. Exhibit 1 will be admitted.

21 (Committee's Exhibit 1 admitted)

22 HEARING OFFICER: Mr. Spaan, do you have copies for the
23 Committee so they could.....

24 MR. SPAAN: I do for the Committee, Mr. White, and I
25 don't know how you want to handle this.

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1 HEARING OFFICER: Why don't you, if you would, pass
2 them out to the Committee so they could be looking over them
3 during the testimony.

4 MR. SPAAN: Ms. Barnett, would you have time to assist?

5 MS. BARNETT: I'd be happy to.

6 MR. SPAAN: Just Exhibit 1 and what I have is a -- all
7 these are separate packages is the problem.

8 MS. BARNETT: I see.

9 MR. SPAAN: Mr. White, I'd request just a moment. I
10 think it might be easier for the Committee if they had this
11 document in front of them when I question Ms. Schofield. Mr.
12 White, I apologize to you and the Committee. After the lunch
13 break we'll have them organized in a more realistic pile.

14 BY MR. SPAAN:

15 Q Thank you, Ms. Schofield, I'm sorry for the
16 interruption. In this document, does it distinguish
17 between business and personal expenses?

18 A Expenses are the normal and current cost of carrying on
19 a trade or profession. When you have an accountable
20 allowance account, you need to have a business expense
21 -- a business connection to the expense and you need to
22 have substantiation which means that we would get the
23 -- we would have invoices for the expenses that
24 Legislators submitted.

25 Q Okay. And who, in the LAA makes the determination

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1 whether or not an expense is a business expense and
2 will be paid?

3 A The Legislators are informed in their informational
4 sheet which is included in this package that business
5 expenses are what they should be submitting and that
6 personal -- it's up to them to tell it -- to tell us if
7 it's a personal expense or not or not submit the
8 personal expense or what portion was it.

9 Q What if an expense is, as many are, part business and
10 part personal, is there any guidance to the
11 Legislators?

12 A The part that they should turn in to us is the business
13 portion of it. They could turn in the whole receipt if
14 they wanted to and only ask us to pay the business
15 portion of it.

16 Q And who could direct an expense or a invoice to be
17 paid?

18 A The Legislator.

19 Q Can he or she delegate that authority?

20 A Yes. In fact, many Legislators delegate that authority
21 to a member of their staff. And when they do that they
22 send us a memo that tells us that that staff person is
23 authorized to sign on their account.

24 Q Okay. And who -- how long does it take before you get
25 paid or when an invoice is paid?

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1 A That can vary. But I would say most invoices are paid
2 between three and five days.

3 Q May a Legislator pay for an expense and then would the
4 appropriate documentation submitted to the LAA and
5 asked to be reimbursed?

6 A Yes. A Legislator could incur the expense and pay the
7 bill and then submit that bill to us to reimburse the
8 Legislator.

9 Q I'm going to hand you, Ms. Schofield, what's been
10 marked as Exhibit 2 and ask if you could identify this
11 document?

12 A Yes. This is a docu -- this is a letter from Pam Varni
13 who is the executive director of our agency. And when
14 she -- this memo goes out before session begins and
15 explains that a business -- accountable -- it explains
16 that they have the option of choosing the non-
17 accountable or accountable allowance and this -- this
18 says in this letter that.....

19 Q Why don't you -- before you tell me what it says.....

20 MR. SPAAN: I'd move Exhibit 2, Mr. White.

21 HEARING OFFICER: Is there any objection?

22 MR. SYREN: No objection.

23 HEARING OFFICER: Exhibit 2 will be admitted.

24 (Committee's Exhibit 2 admitted)

25 Q Okay, go ahead. Why don't you explain what Exhibit 2

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1 says.

2 A Okay. What Exhibit 2 says, it explains how that they
3 can either -- if they take it as a non-accountable plan
4 that they'll be withholding from that check. And it
5 says if you take it as an accountable plan, it talks
6 about that business expenses meet the re -- has to meet
7 the three requirements of a business connection,
8 substantiation and returning amounts that are in excess
9 of expenses.

10 Q What does returning amounts in excess of expenses mean?

11 A Well, it actually doesn't -- we don't get into that
12 very much. But some people, when they run a business
13 expense allowance might give people an advance -- and
14 let them, like a petty cash account or something. And
15 then if the receipts that they turned in later didn't
16 add up to the petty cash account, then they would have
17 to turn in the difference, but we don't use that one
18 because we're just reimbursing expenses.

19 Q Can one of these accountable type of accounts be
20 carried over to a subsequent or a later Legislative
21 year?

22 A We run -- we administer the accountable allowance
23 accounts on a yearly basis. And if there's money
24 leftover in the account in December, that amount that's
25 leftover is put on a person's final paycheck.

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1 Q Can a Legislator put -- or add to the \$6,000 by putting
2 campaign funds, for instance, in it?
3 A No. They can't add money to the allowance accounts.
4 It's a set amount of money.
5 Q From any source?
6 A From any source.
7 Q Okay. Ms. Schofield, I'm going to hand you what's been
8 marked as Exhibit 3 and ask you to identify that
9 document.
10 A Exhibit 3 are the Legislative Council minutes from
11 November 9th through 10th, 1990.
12 Q Okay.
13 A And.....
14 Q Is the Legislative accounts discussed in this document?
15 A Yes, it is. Prior to this time.....
16 Q Wait a minute, I'm sorry. I do apologize. The proper
17 way is I will now move to introduce Exhibit 3, if it's
18 introduced I will ask you to briefly describe it.
19 MR. SYREN: No objection.
20 HEARING OFFICER: Exhibit 3 will be admitted.
21 (Committee's Exhibit 3 admitted)
22 MR. SPAAN: Thank you.
23 Q Ms. Schofield, why don't you briefly tell the members
24 of the Committee where this fits in the Legislative
25 office account?

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1 A Prior to this time Legislators received the office
2 allowance account in one lump sum and they didn't have
3 an option to choose either accountable or non-
4 accountable. At this meeting, the Legislative Council
5 discussed that -- which way Legislators should take the
6 office allowance account and decided that Legislators
7 could decide for themselves whether they wanted an
8 accountable plan or non-accountable plan.

9 Q Okay. Now, if I took a non-accountable plan and
10 perhaps I asked you this and if I did, I apologize,
11 would that amount be reported to the IRS as income to
12 the individual Legislator?

13 A A non-accountable plan is that -- any amount that was
14 taken as a non-accountable plan would be on the W- --
15 would be reported on the W-2 at the end of the year.

16 Q Is a postage account available to the members of the
17 Legislator -- the State Legislator?

18 A Yes, it is. There's a postage account available to
19 them in the mail -- Juneau mailroom. And Legislators
20 can put a deposit into that account and run postage
21 through the Legislative Affairs Agency and we'll deduct
22 the postage from the deposit that they placed in the
23 mailroom.

24 Q Okay. Now, is there a separate -- how is this account
25 paid for?

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1 A Legislator -- well, Legislators could pay by personal
2 check or Legislators could have money transferred from
3 their Legislative allowance account to their Juneau
4 mailroom account.
5 Q So it could be a personal check or from the office
6 allowance?
7 A (Witness nods affirmatively)
8 Q Okay. Is there any other postage available to a member
9 of the Legislature or do you pay for your own, either
10 under the Legislative office account or your personal
11 funds?
12 A Legislative committees often have a budget for
13 committee postage.
14 Q And that would be different. Can you use a postage
15 meter -- is there somebody -- are there any
16 restrictions on what this postage meter can be used
17 for?
18 A We don't actually see what's in the envelopes. If the
19 Legislator is putting something through their mailroom
20 account. The -- so really what we do is keep track of
21 how much postage they've used and then we -- they're
22 billed for that amount.
23 Q And who keeps track of that Ms. Schofield?
24 A Suzi Ronsi who is our mailroom clerk in Juneau.
25 Q And then can you incur a bill or do you deposit monies

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1 to keep ahead of the amount you.....

2 A When Suzi sees that someone is getting low on their
3 postage account, she will notify them that they need to
4 make another deposit.

5 Q Okay. Ms. Schofield, I'm going to hand you what's been
6 marked as Exhibit 4 and ask you to identify -- it's a
7 two-page exhibit and ask you to identify this document.

8 A This document is the option form that Representative
9 Sanders filled out in the beginning of this session and
10 it's also a record of the expenses that were processed
11 through that allowance account.

12 MR. SPAAN: I move Exhibit 4.

13 MR. SYREN: No objection.

14 HEARING OFFICER: Without objection, 4 will be
15 admitted.

16 (Committee's Exhibit 4 admitted)

17 Q Ms. Schofield, does Exhibit 4 indicate how
18 Representative Sanders, what plan he chose?

19 A Representative Sanders chose the accountable plan.

20 Q Okay. And that's the one where no taxes are deducted?
21 A That's no taxes where they submit receipts to the
22 accounting office and they are paid.

23 Q Does Page 2 of this document, Ms. Schofield, indicate
24 whether Representative Sanders made any payments to his
25 mail account from his office allowance?

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1 A Yes, it does.

2 MR. SYREN: I'll object at this point. I'm not sure
3 she's testifying on personal knowledge about a payment she saw
4 Representative Sanders make or whether or not this record would
5 reflect that. And to the extent it's outside the scope of her
6 knowledge, that's my objection, foundational objection, Your
7 Honor.

8 HEARING OFFICER: Why don't you lay a better foundation
9 first. I think she'd be allowed to testify off the form as
10 long as it's clear.....

11 MR. SPAAN: Okay. Right.

12 HEARING OFFICER:what the basis of her testimony
13 is.

14 Q Does the form indicate, Ms. Schofield, whether or not
15 there were any payments made to the postal fund from
16 Representative Sanders' Legislative allowance?

17 MR. SYREN: And same objection, Your Honor.

18 HEARING OFFICER: Okay. Essentially I'll explain to
19 the Committee, the objection made is that the witness doesn't
20 have personal knowledge about what she's about to testify to.
21 In a court proceeding, it probably would not be -- or it may or
22 may not be admissible depending on whether a sufficient basis
23 to establish that the record is a business record and kept in a
24 regular course of business. I will allow the testimony. Mr.
25 Syren will have an opportunity to cross examine the witness.

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1 You should consider that she's just reading off of this form
2 and to what extent she has knowledge as to the accuracy of the
3 form in deciding whether you should rely on it or not. You may
4 proceed, Mr. Spaan.

5 MR. SPAAN: Thank you.

6 BY MR. SPAAN:

7 Q Do you remember the question?

8 A I -- it does reflect that there were transfers to the
9 mailroom on this form.

10 Q And what dates are reflected on that form?

11 A January 16th.

12 Q And how much, to what amount?

13 A And that was \$100.

14 Q Okay.

15 A And March 7th and that was for \$250.

16 Q Why don't we talk a little bit about this form. Was
17 this prepared for this hearing today?

18 A This form was sent to Susie Barnett of the Ethics
19 Committee at her request.

20 Q Is there a form similar to this kept for every member
21 of the Legislature who has an accountable account?

22 A Yes, there is.

23 Q When is this information entered, if you know?

24 A When the payment is made and then the next day the
25 check -- the checks process overnight, so the next day

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1 the check number would be entered.

2 Q And who would enter this?

3 A Mindy Lobaugh who works in our accounting office and
4 pays the accountable allowance account invoices.

5 Q So this then was not specifically prepared for this
6 hearing, it was copied?

7 MR. SYREN: Objection. Foundation.

8 MR. SPAAN: That's what I'm trying to find out, if she
9 knows.

10 HEARING OFFICER: Okay. Continue on.

11 A This would have been -- in order to make sure that
12 things reconcile at the end of the month, you want to
13 keep a record of the invoices that you pay and then
14 these are compared to the automated reports we get from
15 the accounting system and also another system we have.
16 And so part of her responsibilities is to keep a sheet
17 like this from -- for each Legislator.

18 Q Okay. I'm going to hand you, Ms. Schofield, what's
19 been marked as Exhibit 8 and ask you if you could
20 identify that document.

21 A This document is a memorandum from Kris Drouillard who
22 works in the Legislative Affairs Personnel office to
23 Susie Barnett of the Ethics Committee.

24 Q Could you identify for me who Kris Drouillard -- is it
25 Drouillard?

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1 A It's Drouillard. And she is a personnel assistant in
2 the Legislative Affairs Personnel office.
3 Q Okay. Do you know that she prepared this document?
4 A I didn't know that she prepared this document, but.....
5 Q And you recognize her initials?
6 A Yes.
7 MR. SPAAN: I'd move Number 8, Your Honor.
8 HEARING OFFICER: I think you said, what number?
9 MR. SPAAN: Eight.
10 HEARING OFFICER: Eight. Is there objection?
11 MR. SYREN: I suppose it's just a foundational, Your
12 Honor. I don't know that she -- she never prepared this
13 document, she didn't know it was prepared until it was just
14 shown to her today. I don't know that she can comment upon it.
15 So my objection will be foundational.
16 HEARING OFFICER: Do you want to respond, Mr. Spaan?
17 MR. SPAAN: Yes, I would. Your Honor, when you go
18 through the Legislative Ethics Code and I do have it here, it
19 indicates that the Rules of Evidence are not enforced. What we
20 have established is that she recognized the initials of this
21 individual that she works with. And let me get you the
22 appropriate citation and I think, Mr. Syren, if he thinks this
23 document is not accurate, he'd simply -- he would surely have
24 the right to cross examine this witness if he challenges its
25 veracity.

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1 MR. SYREN: I'd just like to note my response, Your
2 Honor, is that we're now stepping outside of tried and true
3 rules of evidence, which I think filter out good evidence from
4 bad evidence. The rules -- it's not so much that they don't
5 apply, it's that the Committee, if it so chooses are not bound
6 by the Rules of Evidence. But I think before you step out of
7 those bounds, we should probably have a real good reason for
8 doing so and some way to make sure that the evidence that's
9 coming in here is going to be authentic and something that's
10 going to be credible.

11 HEARING OFFICER: Mr. Spaan, could I have a copy of the
12 document?

13 MR. SPAAN: Sure, Mike. Your Honor, I'm referring to
14 Title 24.60.170 (J).

15 HEARING OFFICER: Members of the Committee, was with
16 the last document that I admitted indicating that the rules are
17 different for a hearing like this, you need to determine how
18 much you feel a document can be relied upon based on the
19 evidence that's given. In a normal civil trial or criminal
20 trial, the judge makes a preliminary determination that
21 something has to be reliable before the jury gets to see it.
22 An administrative proceeding is somewhat different since you
23 are specialized and have specialized knowledge, you can
24 determine whether you should rely on it or not. This document,
25 Mr. Syren, it seems like it would be pretty easy to establish

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1 if there's anything incorrect in it through cross examination
2 or through affirmative presentation of evidence. I will allow
3 it to be admitted.

4 **BY MR. SPAAN:**

5 Q Ms. Schofield, does it indicate during the 1996
6 calendar year whether or not a Patricia Perez was
7 employed by Representative Sanders?

8 A Yes, it does.

9 Q And what are the dates of her employment listed?

10 A January 5th through May 11th.

11 Q Okay. What about a Ms. Jeanne Lovell?

12 A January 1st, 1996 to present.

13 Q I'm going to hand you what's been marked as Exhibit 9
14 and ask you, simply to identify that document to the
15 Committee.

16 A This is part of a phone list that the Legislative
17 Affairs Agency prepares when -- at each Legislature and
18 each interim. This one was prepared February 1st,
19 1996, so it was probably the one we prepared at the
20 beginning of session.

21 MR. SPAAN: I move Exhibit 9.

22 MR. SYREN: No objection, Your Honor.

23 HEARING OFFICER: Nine will be admitted.

24 (Committee's Exhibit 9 admitted)

25 Q Does this document indicate whether Ms. Lovell was

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1 employed as a staff personnel for Representative
2 Sanders?

3 MR. SYREN: Objection. Foundation.

4 MR. SPAAN: Your Honor, I could repeat the question. I
5 asked whether or not the document represented that Ms. Lovell
6 was employed as an employee of Representative Sanders and we've
7 admitted the document into evidence.

8 HEARING OFFICER: Again, I'm not going to repeat what I
9 indicated about the Rules of Evidence again. Mr. Syren, as to
10 things that easily could be challenged by Representative
11 Sanders, like if someone was employed or not, it seems to me
12 that the spirit of the administrative rules are such that it
13 should be admitted. If there's something that really is not
14 susceptible to corroboration or challenge, I think that we
15 would look at more closely. Whether someone was employed or
16 listed as employed in the Legislative directory is something
17 that is pretty easy to deal with one way or the other. And
18 I'll admit the document. Do you want to be heard further?

19 MR. SPAAN: I.....

20 MR. SYREN: Well, Your Honor, I understand the court's
21 position. I think again, Mr. Spaan has the burden of proof
22 here and I don't want to just sort of skate over the Rules of
23 Evidence that we have in place here. So we take exception to
24 the ruling, Your Honor.

25 HEARING OFFICER: All right.

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1 BY MR. SPAAN :
2 Q Does this document, Ms. Schofield, indicate that both
3 Ms. Lovell and Ms. Perez were employed for
4 Representative Sanders during the second session of the
5 Alaska State Legislature in 1996?
6 A Yes, it does. That's what the list is for is to show
7 which staff people are working for which Legislator.
8 Q Thank you. I'm going to now hand you what's been
9 marked as Exhibit 10 and ask you to identify that
10 document, please.
11 A This is a letter from me to Susie Barnett and it's
12 dated October 15th, 1996.
13 Q And does it -- and again, I don't want you to tell me,
14 but does it ask for a review of certain records?
15 A This letter is in response to a request for a review of
16 postage records.
17 Q And did you do that investigation or cause that
18 investigation to be done?
19 A I contacted our Legislative mail clerk and asked for
20 her -- and asked her for the information, she keeps
21 records of it.
22 Q Okay.
23 MR. SPAAN: Your Honor, I'd move 10.
24 MR. SYREN: No objection, Your Honor.
25 HEARING OFFICER: Ten will be admitted.

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(Committee's Exhibit 10 admitted)

- 1
- 2 Q Does it reflect that the -- does the investigation
- 3 reflect that there were any charges to Representative
- 4 Sanders' Juneau mailroom account on March 5th?
- 5 A Yes, it does.
- 6 Q It shows that 239 pieces of mail were mailed on March
- 7 5th, 1996 and that the cost was \$76.48.
- 8 Q Thank you. I'm going to hand you, Ms. Schofield,
- 9 what's been marked as Exhibit 12 and ask whether you
- 10 recognize this document.
- 11 A This letter is from James Crawford who.....
- 12 Q Let me interrupt you for a second.
- 13 A Okay.
- 14 Q Could you identify for me and the members of the
- 15 Committee who James Crawford is?
- 16 A James Crawford is a member of our Legislative legal
- 17 staff and it's his signature on the memo.
- 18 Q Okay. And you recognize his signature?
- 19 A I don't actually recognize James' signature, but I know
- 20 that he is on our staff in our Legislative.....
- 21 Q Okay. Does this appear to be your -- the stationary of
- 22 the legal services for the LAA?
- 23 A Yes, it is.
- 24 MR. SPAAN: I move 12.
- 25 MR. SYREN: My objection would be foundational, Your

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1 Honor. I think that the easier to have done would be to have
2 Mr. Crawford come here and testify about this, not somebody
3 else who has never seen this or doesn't recognize the
4 signature.

5 HEARING OFFICER: Well, I don't know that that would
6 have been easier for Mr. Crawford or not, but I have a
7 question. Were these exhibits in the exhibits that were
8 exchanged.....

9 MR. SPAAN: They were, Your Honor.

10 HEARING OFFICER:prior to trial.

11 MR. SPAAN: Yes.

12 HEARING OFFICER: I will admit it and inform the
13 members of the Committee that the Committee provided its
14 exhibits to Representative Sanders prior to this hearing and
15 certainly can call people if they have any dispute about it.

16 (Committee's Exhibit 12 admitted)

17 Q And why don't you -- it's a very short letter, why
18 don't you just read it for the members of the
19 Committee.

20 A Dear Ms. Barnett, enclosed is the computer generated
21 identification information for the documents previously
22 sent to the Committee.

23 HEARING OFFICER: Excuse me, could you speak up a
24 little bit, please, there's some fans running.

25 A Sure. Enclosed is the computer generated

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1 identification information for the documents previously
2 sent to the Committee. The information suggests that
3 one of the documents was apparently last modified on
4 March 4th, 1996 at 10:38 a.m. and that the other
5 document was apparently last modified on the same date
6 at 10:43 a.m.

7 Q And what's attached to the second page of Exhibit 12?

8 A A list of two word processing documents.

9 Q And are those documents identified on the left-hand
10 side, if you could read it?

11 A It says, straw poll and the next one says poli.

12 Q And is there, on the right-hand side, a date and time
13 which indicates when the work was done?

14 A The first one says, Monday, March 4th, 1996 at 10:43
15 a.m. and the second one says, Monday, March 4th, 1996
16 at 10:38 a.m.

17 Q Thank you.

18 MR. SPAAN: Mr. White, I'd have.....

19 HEARING OFFICER: Mr. Spaan, I'm going to ask you to
20 just hold off for a minute until we catch up with the
21 documents.

22 MR. SPAAN: I apologize, Your Honor.

23 HEARING OFFICER: I think we're there if you want, Mr.
24 Spaan.

25 MR. SPAAN: Fine. Ms. Schofield, thank you for

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1 attending today, I have no further questions on behalf of the
2 Committee.

3 HEARING OFFICER: Mr. Syren, do you have cross
4 examination?

5 MR. SYREN: I do, Your Honor.

6 KARLA SCHOFIELD

7 testified as follows on:

8 CROSS EXAMINATION

9 BY MR. SYREN:

10 Q Ms. Schofield, directing your attention again to
11 Exhibit 12.....

12 A Um-hum. (Affirmative)

13 Qthe second page, do you know if there were any
14 documents associated with those entries?

15 A No, I don't. Not from personal knowledge. They look
16 like.....

17 CHAIRMAN MAC NEILLE: Could you speak-up, please.

18 A Oh, no, I don't, not from personal knowledge. They
19 look like what -- it looks like when you look up a
20 document in your computer.

21 Q You don't know if there's any document associated with
22 those entries though; is that right?

23 A No, I don't.

24 HEARING OFFICER: Mr. Syren, could you speak-up also.

25 MR. SYREN: I can move this just a little bit closer,

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1 too, yes.

2 HEARING OFFICER: We're not hearing very well down
3 here.

4 Q You don't know if there's a document associated with
5 those entries, though, right?

6 A No, I don't.

7 Q All right.

8 MR. SYREN: Thank you. No further questions, Your
9 Honor.

10 MR. SPAAN: Do you have any follow-up?

11 MR. SPAAN: No, Your Honor. It's up to the Committee,
12 if they had any questions.

13 HEARING OFFICER: Does the Committee have any questions
14 of the witness.

15 CHAIRMAN MAC NEILLE: Yes, I do.

16 A Okay.

17 **KARLA SCHOFIELD**

18 testified as follows on:

19 **INQUIRY**

20 **BY CHAIRMAN MAC NEILLE:**

21 Q On Exhibit 4, the second page, are you familiar with
22 these forms?

23 A I'm familiar with the forms. They're kept in the --
24 each accountable allowance account is kept in a folder
25 by Legislator and on one side of that folder is a form

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1 like this.

2 Q And that's in your area of Legislative Affairs?

3 A Yes, it is.

4 Q And does Wendy Lovelaw work for you?

5 A Yes, Wendy Lovelaw is an accounting technician in the
6 accounting office.

7 Q Okay. Under your responsibility?

8 A Yes, that's correct.

9 Q Okay, thanks. No more questions.

10 HEARING OFFICER: Do any other members of the Committee
11 have any questions?

12 MR. GRANGER: Yes, I do.

13 HEARING OFFICER: Go ahead, sir.

14 **KARLA SCHOFIELD**

15 testified as follows on:

16 **INQUIRY**

17 **BY MR. GRANGER:**

18 Q This \$100 and this \$250 that you pointed out earlier, I
19 assume those are withdrawals from the account by
20 Representative Sanders; is that correct?

21 A Yes. What they represent is a withdrawal from his
22 accountable allowance account and a transfer to his
23 mailroom account in the Legislative mailroom.

24 Q As a bulk transfer?

25 A Yes.

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1 Q Not as a specific expenditure?

2 A That's correct. They make depos -- people make
3 deposits to the mailroom.

4 MR. GRANGER: Thank you.

5 HEARING OFFICER: Do you have a question, Mr. Donahue?

6 MR. DONAHUE: I have two questions, both relating to
7 the accountable, non-accountable type of accounts.

8 **KARLA SCHOFIELD**

9 testified as follows on:

10 **INQUIRY**

11 **BY MR. DONAHUE:**

12 Q Can a Legislator decide to take \$1,000 of the 6,000 as
13 non-accountable, then account for the next 2,000 and
14 then take another 1,000 non-accountable and then
15 account for the last 2,000 or any mix thereof?

16 A Yes, they can. At the beginning of the session, in
17 fact, if they'd like to take a certain portion of it as
18 accountable and a certain portion of it as non-
19 accountable, they can. And sometimes during the year
20 they may elect to take a certain amount of money out as
21 non-accountable.

22 Q Okay.

23 MR. DONAHUE: Can I follow-up?

24 HEARING OFFICER: Sure.

25 Q Any non-accountable funds that are taken out by the

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1 Legislator automatically would be reported on W-2s
2 and/or have taxes taken out on them?
3 A Both. They run through the payroll system so they have
4 taxes and withholding deducted from them and are
5 reported on the W-2.
6 HEARING OFFICER: Keep going. You have the floor until
7 you're done.
8 MR. DONAHUE: Okay.
9 Q In terms of transfers to the postage account.....
10 A Um-hum. (Affirmative)
11 Q from an accountable account, does that money
12 become non-accountable when it's taxed? Is it like
13 writing a check to that individual Legislator and
14 therefore does it have W-2 reporting and tax ability?
15 A If I understand your question, I think it's that if
16 it's transferred from the accountable account to the
17 mailroom account, that's considered an expenditure of
18 postage, so it doesn't go through the payroll system,
19 it is just the -- the accountable allowance account is
20 reduced by the \$100 and then they have the \$100 in the
21 mailroom account to which they could charge postage.
22 Q So following up on that, if I were a Legislator and I
23 chose to transfer \$6,000 to the postage account.....
24 A Um-hum. (Affirmative)
25 Q spend it on personal postage, I would be able to

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1 avoid having taxes taken out?

2 A That's correct. If you used it for postage. If, then,
3 you did not run for office again and did -- that money
4 would be -- then it would be issued -- you would no
5 longer have an opportunity to use our postage meter, so
6 then we would put it on your check after you -- when
7 you had left, yeah.

8 Q What I'm leading to is trying to understand that most
9 of the postage accounts or maybe not most, they can be
10 setup by a personal check from the Legislator?

11 A Yes, they can be.

12 Q And they are a service that's been provided to assist
13 the Legislator with Legislative mailings or personal
14 mailings?

15 A There's actually not a distinction. If you -- one of
16 the exhibits you have, in terms of the mailroom
17 account, there's not a distinction because it says it's
18 their personal postage account. And.....

19 HEARING OFFICER: You need to keep your voice up a
20 little.

21 A Okay. On Exhibit 1, if you look on Page -- it's the
22 second to the last page of Exhibit 1. It talks about
23 the personal postage accounts. And -- and that postage
24 account is there and Legislators run mail through it.
25 It's not -- it's not something -- we don't go through

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1 the mail and look and see what's being mailed.

2 Q Okay. And if I may, in fact, since it could
3 potentially be the Legislators private check, it's
4 their private business what happens with that account
5 even though it's a State service?

6 A That's how the -- how it's setup.

7 Q Okay.

8 A That they just pay us for that service or paid the
9 postage, is what they're paying.

10 Q But the money transferred out of their accountable
11 \$6,000 is accounted for as though it was a State
12 Legislature expenditure?

13 A The expenditures from the accountable allowance are for
14 business expenses of being a Legislator. So that
15 postage might be a little different since that's a
16 business -- that's a business expense is the definition
17 of the accountable allowance accounts.

18 Q But there is no way to track the money that goes into
19 the postage meter that's separated as being a business
20 accountable fund versus personal check fund?

21 A We know how Legislators paid for their postage -- how
22 they made their postage deposits. Because if they gave
23 us a personal check, that's recorded and if it's a
24 transfer from their accountable allowance account,
25 that's recorded.

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1 MR. DONAHUE: I think that's all I want.

2 HEARING OFFICER: Are you sure?

3 MR. DONAHUE: I think so.

4 KARLA SCHOFIELD

5 testified as follows on:

6 INQUIRY

7 BY MS. MCCOY:

8 Q So Legislators can deposit personal funds into the
9 postage account, but they cannot deposit personal funds
10 and wouldn't want to into their allowable -- or their
11 accountable?

12 A That's correct.

13 Q Okay.

14 REPRESENTATIVE TOOHEY: If I might just introduce to
15 clear things up as a Legislator, when you want to mail your
16 light bill or your phone bill, I have a roll of stamps in my
17 desk and I think most Legislators will do that. If you can you
18 put in the mailbox, if not, you put it in the postage -- in the
19 -- occasionally we put it in there because we don't have time
20 literally to go downstairs to put it in the mailbox. But
21 normally you do not put an unstamped envelope in the postage
22 bin that has a personal note to it, I don't and most
23 Legislators don't, I don't believe, to clear that up.

24 HEARING OFFICER: Mr. Spaan, do you have any follow-up
25 questions?

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1 MR. SPAAN: No, Mr. White.

2 HEARING OFFICER: Mr. Syren, do you have any follow-up
3 questions for Ms. Schofield?

4 MR. SYREN: Just so I'm clear.

5 **KARLA SCHOFIELD**

6 testified as follows on:

7 **RE CROSS EXAMINATION**

8 **BY MR. SYREN:**

9 Q You did not prepare this document, Page 2 of Exhibit 4,
10 you did not prepare that, right?

11 A I'm looking at -- I did not prepare Page 2 of 4. That
12 was prep.....

13 Q Then information entered on that page was entered by
14 somebody other than you; is that right?

15 A That's correct.

16 MR. SYREN: No further questions.

17 HEARING OFFICER: Okay. You may be excused, thank you
18 very much.

19 A Okay, thanks.

20 MR. SPAAN: Thank you.

21 HEARING OFFICER: The Committee has indicated that
22 would prefer, as far as breaking, that we go another hour. Do
23 you have another witness ready?

24 MR. SPAAN: Yes, I do.

25 HEARING OFFICER: Okay.

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1 MR. SPAAN: Is Representative Sanders attending by
2 phone?

3 MR. SYREN: I believe that was our agreement.

4 MR. SPAAN: Good. I'd like to call Representative
5 Sanders.

6 MR. SYREN: All right. I think -- Ms. Barnett you said
7 you wanted him available at what time?

8 MS. BARNETT: Right. If I could just interject for a
9 moment. We set it up so that there would be a lunch break
10 between 12:00 and 1:15 or 1:25, I haven't had a chance to tell
11 you this, and Representative Sanders is prepared to call in at
12 1:25 is my understanding.

13 MR. SYREN: That's correct.

14 MS. BARNETT: So if you are going to take a break, I
15 would prefer it was now.

16 HEARING OFFICER: Okay. We'll take a recess now until
17 1:15. One thing I should tell the Committee, as is done in a
18 trial, evidence comes in one piece at a time, don't makeup your
19 minds, you shouldn't talk to each other about the evidence
20 until all of it is in and both of the attorneys have given
21 their arguments to you as to what they think it means. Okay,
22 recess until 1:15.

23 (Off record)

24 (On record)

25 MR. SPAAN: There is a witness in the hearing room,

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1 nobody's asked for or invoked the exclusion rule for witnesses.
2 I don't care, but I just want to bring it to Mr. Syren's
3 attention if he'd like to request to the Chair.

4 MR. SYREN: Which witness is it?

5 MR. SPAAN: It's Mr. Woods.

6 MR. SYREN: I'd like him to be excluded.

7 HEARING OFFICER: I didn't hear what you said?

8 MR. SYREN: I'd like Mr. Woods to be -- all witnesses
9 to be excluded until it's time for them to testify.

10 MR. SPAAN: I think that would be normal. I wouldn't
11 -- there's a place for them to sit right outside where we don't
12 delay the hearing -- and some of these witnesses, Mr. White,
13 I've never met in person, so I'll try and do what I can.

14 HEARING OFFICER: Mr. Syren, are you ready to get
15 started.

16 MR. SPAAN: Excuse me, I.....

17 MR. SYREN: Yes.

18 MR. SPAAN:do have one objection. Ms. Barnett is
19 an investigator and my assistant as well as I intend to call
20 her, so I would like permission for her to stay.

21 HEARING OFFICER: Is there objection to that, Mr.
22 Syren?

23 MR. SYREN: No.

24 HEARING OFFICER: Okay.

25 MR. SPAAN: Thanks.

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1 HEARING OFFICER: Yes. Is the next order of business,
2 Representative Sanders?

3 MR. SPAAN: Yes, it is.

4 HEARING OFFICER: Is he hooked up yet?

5 MR. SYREN: He advised me that he was going to call at
6 the appointed time.

7 HEARING OFFICER: Where does the phone ring through?

8 MR. SYREN: Ms. Barnett, I think has the answers to all
9 those questions. I have a number where he can be reached.

10 HEARING OFFICER: Well, why don't we wait until Ms.
11 Barnett gets back and see where she is as far as that goes.

12 (Off record)

13 (On record)

14 MS. BARNETT: Representative Sanders?

15 REPRESENTATIVE SANDERS: Yes.

16 MS. BARNETT: Can you hear me, this is Susie Barnett?

17 REPRESENTATIVE SANDERS: Yes, Susie I can hear you.

18 MS. BARNETT: Okay, great. You are on speaker phone at
19 the public hearing and I'm going to turn it over to Margie Mac
20 Neille and the public hearing officer, Mike White.

21 HEARING OFFICER: Representative Sanders, this is
22 Michael White, the hearing officer, can you hear me okay?

23 REPRESENTATIVE SANDERS: Yes, I can.

24 HEARING OFFICER: I understand that you have been
25 called as a witness by the Committee, is that your

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1 understanding?

2 REPRESENTATIVE SANDERS: Yes.

3 HEARING OFFICER: And at this time I need to swear you
4 in, would you raise your right hand, please?

5 REPRESENTATIVE SANDERS: Sure.

6 (Oath administered)

7 REPRESENTATIVE SANDERS: I do.

8 JERRY SANDERS

9 called as a witness on behalf of the Committee, testified as
10 follows on:

11 DIRECT EXAMINATION

12 HEARING OFFICER: For the record, sir, would you state
13 your full name?

14 A Jerry Sanders.

15 HEARING OFFICER: Your mailing address?

16 A P.O. Box 23-0090.

17 HEARING OFFICER: And your occupation?

18 A Anchorage 99523.

19 HEARING OFFICER: I apologize for interrupting. Your
20 occupation, sir?

21 A I'm sorry, occupation?

22 HEARING OFFICER: Yes.

23 A I'm a long shoreman.

24 HEARING OFFICER: And where are you physically located
25 today?

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1 A In Santa Fe, New Mexico.

2 HEARING OFFICER: Thank you, sir. I'm going to turn
3 the microphone over to Mr. Spaan at this point.

4 BY MR. SPAAN:

5 Q Good afternoon Representative Sanders, can you hear me,
6 sir?

7 A Yes, sir.

8 Q Good.

9 MR. SYREN: Mr. Spaan, Representative Sanders, can you
10 hear me as well, this is Les Syren?

11 A Yes.

12 MR. SYREN: Okay, thanks. Thank you.

13 Q Representative Sanders, how long have you served in the
14 Alaska State Legislature, sir?

15 A It will be four years in January.

16 Q Okay. And what district do you represent, sir?

17 A District 19.

18 Q And can you tell me the -- in general term, is that in
19 Anchorage, sir, I'm sorry?

20 A Yes. That's in -- they call the South/east mid-town.

21 Q Okay. Representative Sanders, did your Counsel give
22 you the copies of the Committee's exhibits that they
23 intended to introduce, have you seen those?

24 MR. SYREN: Objection. It's attorney/client privilege.

25 Q Do you have copies of the Committee exhibits, sir, in

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1 front of you?

2 MR. SYREN: Same objection, Your Honor.

3 HEARING OFFICER: I'm going to overrule it on whether
4 he has copies of them.

5 Q Sir?

6 A Say again?

7 Q Do you have the copies of the exhibits that the
8 Committee intended to introduce into evidence today?

9 A No, sir, I don't.

10 Q Okay. Representative Sanders, did you participate in a
11 Republican Straw Poll in January of 1996, sir?

12 MR. SYREN: And at this time I'll instruct my client
13 not to answer based on the Fifth Amendment.

14 Q Representative Sanders, are you going to take the
15 advice of Counsel, sir?

16 A Yes, sir.

17 Q Did you formerly tell me that you, in fact, did attend
18 the Republican Straw Poll for District 19?

19 MR. SYREN: Same objection.

20 HEARING OFFICER: Fifth Amendment?

21 MR. SYREN: Fifth Amendment, don't answer.

22 MR. SPAAN: Your Honor, I've got a copy of the
23 deposition where he's answered this question. He's waived it
24 as to this question.

25 HEARING OFFICER: Mr. Syren, do you want to respond to

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1 that?

2 MR. SYREN: Go ahead and answer, Jerry.

3 A Tell me the question again.

4 BY MR. SPAAN:

5 Q Did you participate in the Republican Straw Poll for
6 District 19 in January of this year, sir?

7 A Yes, sir.

8 Q Mr. Sanders, did you cause a letter to be written to
9 participants of that straw poll from your district?

10 MR. SYREN: Now, I'll instruct my client not to answer
11 the question, Your Honor.....

12 HEARING OFFICER: Based on.....

13 MR. SYREN:based on the Fifth Amendment.

14 HEARING OFFICER:Fifth Amendment? Mr. Spaan, do
15 you want to respond to that assertion of privilege?

16 MR. SPAAN: Well, first of all, I want to simply have
17 the Chair and myself inquire if Representative Sanders is going
18 to take the advice of Counsel?

19 HEARING OFFICER: Representative Sanders, did you hear
20 Mr. Spaan's comment?

21 A Yes.

22 HEARING OFFICER: When your attorney indicates on your
23 behalf that you intend to take the Fifth Amendment and refuse
24 to answer, is it your intention to follow his advice?

25 A Yes, sir.

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1 HEARING OFFICER: Okay.

2 BY MR. SPAAN:

3 Q Representative Sanders, is it your contention that an
4 answer to that question would lead to possible criminal
5 charges, sir?

6 MR. SYREN: Objection, Your Honor. Don't answer the
7 question Representative Sanders.

8 HEARING OFFICER: Overall, Representative Sanders, in
9 this period of time while your attorney is making objections
10 question by question, I want to caution you since you're not
11 here next to him to withhold your answer until Mr. Syren
12 instructs you one way or another okay.

13 A Yes, sir.

14 MR. SYREN: The objection goes to the Fifth Amendment,
15 but also the attorney/client privilege.

16 HEARING OFFICER: What was the question again, I was
17 listening to Fifth Amendment?

18 MR. SPAAN: I'm sorry. The question was whether or not
19 he had caused a letter dated March 4th to be mailed. I think
20 he evoked the Fifth Amendment. I then asked him if it was on
21 the advice of Counsel, he said, yes, I then asked him if he
22 thought -- I wanted to make sure it was a proper exercise of
23 the Fifth Amendment that an answer to that question could lead
24 to criminal charges or to a chain of evidence which could lead
25 to criminal charges, that was my question.

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1 HEARING OFFICER: I'll certainly permit you to argue
2 that later on. And you are permitted to inquire question by
3 question, but if Mr. Syren indicates that he's asserting the
4 Fifth, I think based on Representative Sanders' prior answer
5 that he's going to follow the advice of Counsel, we don't need
6 to go any further beyond Mr. Syren's objection.

7 MR. SYREN: For the record though, Your Honor, I'd like
8 to note that I have raised the other objection and that is,
9 attorney/client privilege to the last question.

10 HEARING OFFICER: Well, I'm not sure I.....

11 MR. SPAAN: Well, I'd like to talk about it. This
12 individual is a witness.....

13 HEARING OFFICER: One moment please. Mr. Syren, what
14 question is it that you're objecting to the
15 attorney/client.....

16 MR. SYREN: The last one.

17 HEARING OFFICER: Could you restate it?

18 MR. SYREN: The last one where he's asking for -- of
19 Representative Sanders' understanding of whether or not these
20 things would lead to -- any of these questions would lead to
21 criminal violations. That gets right into the area of our
22 discussions back and forth.

23 MR. SPAAN: Well, then I withdraw that question.

24 MR. SYREN: And that's -- that's.....

25 HEARING OFFICER: Okay. I agree with you.

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1 MR. SPAAN: And he's absolutely right.

2 HEARING OFFICER: Okay.

3 MR. SPAAN: I apologize, Mr. Syren.

4 **BY MR. SPAAN:**

5 Q Mr. Sanders, what's been admitted as Committee Exhibit
6 4 is a Legislative Affairs agency form, sir, where
7 you've checked a box that you were going to take the
8 \$6,000 office allowance in an accountable account, I
9 guess, is that your memory of how you took this?

10 MR. SYREN: All right. And I'll instruct my client not
11 to answer the question based on the Fifth Amendment.

12 HEARING OFFICER: Do you want to argue that, Mr. Spaan?

13 MR. SPAAN: No.

14 HEARING OFFICER: Okay. I'm going to interrupt for one
15 second and give an instruction to the Committee members. Most
16 people are used to understanding, to the extent they do, the
17 Fifth Amendment privilege in the context of criminal cases.
18 This is different than a criminal case. If this were a
19 criminal case, you wouldn't be informed that the person accused
20 took the Fifth Amendment because it's a Constitutional right.
21 There's an exception on civil matters. Where one exercises the
22 Constitutional right not to testify, that is something in a
23 civil case, a factfinder can be made aware of and you can
24 consider that for whatever weight you think it is as to the
25 answers and I'll instruct in more detail at the end of this

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1 case after talking to both lawyers and getting suggestions from
2 them. But it is not improper to bring to your attention that a
3 witness in a civil case is taking the Fifth Amendment.

4 MR. SPAAN: Thank you.

5 BY MR. SPAAN:

6 Q Representative Sanders, I have in front of me an
7 exhibit labeled 5 which I purport to you is a sign-in
8 list for the Republican Straw Poll for District 19.
9 Have you ever seen such a document?

10 MR. SYREN: And I'll instruct him not to answer. I
11 also object to this has not been admitted into evidence, this
12 exhibit.

13 MR. SPAAN: I was going to establish a foundation
14 through Representative Sanders to admit it, but apparently
15 we're not going to do that.

16 HEARING OFFICER: I'll overrule the objection as far as
17 foundation. As to Fifth Amendment privilege, do you want to
18 argue that Mr. Spaan or move on?

19 MR. SPAAN: No.

20 Q Representative Sanders, I have marked as Exhibit 11,
21 sir, what purports to be a form letter and this is not
22 in evidence, but I want to see whether or not you could
23 authenticate this document, it's a form letter which
24 bears the date of March 4th, 1996 with your name on it
25 which was sent to participants in the Republican Straw

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1 Poll of your district. Do you know anything about this
2 letter, sir?
3 MR. SYREN: Same instruction.
4 HEARING OFFICER: As to the Fifth Amendment?
5 MR. SYREN: Right.
6 HEARING OFFICER: Very well.
7 MR. SPAAN: Let me try.....
8 HEARING OFFICER: Mr. Spaan, let's have this ground
9 rule so.....
10 MR. SPAAN: Okay.
11 HEARING OFFICER:we can be most efficient. When
12 the objection is made, I'm going to look to you to either move
13 on.....
14 MR. SPAAN: Okay.
15 HEARING OFFICER:or if there's some particular
16 point you want to argue, you know.....
17 MR. SPAAN: Okay.
18 HEARING OFFICER:use your initiative to say that
19 otherwise just move on.
20 BY MR. SPAAN:
21 Q Let me ask you this, Representative Sanders, is there
22 anything that you could tell this Committee that has
23 any bearing on this letter that you'd like to say?
24 MR. SYREN: Same instruction.
25 MR. SPAAN: Well, I don't -- okay.

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1 MR. SYREN: The question is broad enough to.....

2 HEARING OFFICER: Well, if you want to argue it, Mr.
3 Spaan, argue it.

4 MR. SYREN:include just about anything at all.

5 MR. SPAAN: Well.....

6 HEARING OFFICER: Exasperation isn't going to
7 communicate much.

8 MR. SPAAN:the problem -- and let me argue it to
9 the Court.....

10 HEARING OFFICER: Go ahead.

11 MR. SPAAN:and it might be more of a thinking out
12 loud. I mean the question was to Representative Sanders, is
13 there anything that he could bring to the Committee's attention
14 when they review this matter that's not protected, in his view,
15 by the Fifth Amendment. And when Mr. Syren objected, I
16 thought, well, if he's talked to Mr. Syren about that that
17 would be protected by the attorney/client privilege, so I guess
18 I don't have anything to say about that.

19 HEARING OFFICER: Okay.

20 MR. SPAAN: Okay.

21 Q Have you, other than from the advice of your Counsel,
22 sir, identified any specific fear of criminal
23 prosecution from you testifying in this matter and if
24 -- let me be clear, if it was from discussions with
25 your Counsel, he's going to tell you not to answer and

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1 so am I, but do you have any independent basis other
2 than advice of Counsel which would give you a
3 reasonable and justifiable fear of being prosecuted by
4 answering these questions.

5 MR. SYREN: And same instruction. Don't answer the
6 question. I'd like to make some other objections, too.

7 HEARING OFFICER: All right.

8 MR. SYREN: It's vague. It's overbroad. I think there
9 might be more than one question in there.

10 HEARING OFFICER: I agree.

11 MR. SYREN: It calls for speculation. It calls for
12 legal.....

13 HEARING OFFICER: I'll sustain it, it was compound and
14 it was somewhat vague. Do you want to be more specific about
15 whether it's factual issues as to a basis for him -- I can't
16 tell from your question if you're asking if there are
17 factual.....

18 MR. SPAAN: Okay. Let me ask it this way.....

19 **BY MR. SPAAN:**

20 Q Representative Sanders, have you, independently from
21 your Counsel, ever reviewed the criminal codes for the
22 State of Alaska to identify any particular crime that
23 you might be concerned about?

24 MR. SYREN: Same objection. Your Honor, I'm
25 instructing my client not to answer that question. And also I

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1 will include the objection that it calls for a legal opinion
2 and it's again, vague and overbroad.

3 MR. SPAAN: That's.....

4 HEARING OFFICER: I'm going to deny the objection on
5 vague and overbroad. Do you want to address the Fifth
6 Amendment issue?

7 MR. SPAAN: I think what I've asked him is, does he
8 have an independent source and if the answer is no, it's -- it
9 would be the Fifth Amendment and the attorney/client privilege.
10 But I think I'm entitled to an answer whether he has an
11 independent non-attorney/client reason to assert this
12 privilege.

13 MR. SYREN: No, no, he's not -- the question is whether
14 or not my client can assert the Fifth Amendment and he's just
15 admitted that this client -- that this question invades the
16 Fifth Amendment.

17 MR. SPAAN: No.

18 HEARING OFFICER: Mr. Spaan, are you trying to get at
19 whether there is a reasonable basis for the exercise or.....

20 MR. SPAAN: That's what I'm trying to.....

21 HEARING OFFICER:are you trying to get the state
22 of mind of Representative Sanders?

23 MR. SPAAN: No, I'm trying to get whether there is a
24 reasonable basis. And, Your Honor, I don't think I could get
25 it from what Mr. -- I know I can't get it from what Mr. Syren

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1 discussed with Representative Sanders. If he has an
2 independent basis that's not based on the attorney/client
3 privilege, I just want an answer, yes or no.

4 HEARING OFFICER: What's the relevance of it?

5 MR. SPAAN: Well, then I think I could ask him for the
6 basis and then ask you, sir, to decide whether or not it's a
7 reasonable basis.

8 MR. SYREN: Your Honor, that.....

9 HEARING OFFICER: There does have to be a foundation
10 that is a reasonable basis. I don't know that that has to be
11 from the witness's mouth or argument from the attorney, what's
12 the basis?

13 MR. SYREN: The basis, Your Honor, is that if -- if
14 what the Committee is alleging happened did, in fact, happened,
15 this could qualify as official misconduct.

16 MR. SPAAN: Your Honor, I.....

17 HEARING OFFICER: Do you dispute that, Mr. Spaan?

18 MR. SPAAN: Yeah.

19 MR. SYREN: It's stealing.

20 MR. SPAAN: Well, I have the official misconduct
21 statute, Your Honor, with the Chair's permission, I'll hand to
22 the Chair.

23 HEARING OFFICER: Well, even without official
24 misconduct, wouldn't it constitute theft if the facts, as
25 asserted are true?

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1 MR. SPAAN: I don't think so, no. Now, if it was a
2 knowing violation it would and that's why I'm not going to ask
3 the Chair to make a ruling that there are no facts which would
4 support a prosecution, I can't do that and won't.

5 HEARING OFFICER: I think that there is a reasonable
6 basis for the exercise. I'm not making an assumption as to
7 what the facts are. I want to make that clear to the members
8 of the Committee. I'm not saying that there are any facts
9 establishing that Representative Sanders did anything wrong.
10 You people determine the facts and the trial's not over. But
11 if the facts are as they are alleged, it seems to me that this
12 would fall within 11.56.850(a)(1) and it would fall within
13 theft statutes. And certainly that's a reasonable, would be a
14 reasonable basis to take the -- to exercise the privilege. The
15 Legislature has the ability to immunize a witness if it's
16 unhappy with the exercise of a privilege. And I think that
17 that's where this is. I think if you want to obtain
18 information from Representative Sanders where he's exercising
19 the Fifth as to facts in the chain of causation towards this
20 case, that he has the right to exercise that, absent immunity
21 being provided.

22 MR. SPAAN: Well, with that then, Mr. Chairman, I would
23 conclude my testimony. Thank you, Representative Sanders.

24 A Thank you.

25 HEARING OFFICER: Don't hang-up please. Did any of the

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1 Committee members -- Mr. Syren, do you have any questions you
2 want to ask?

3 MR. SYREN: I do have a couple of questions.

4 JERRY SANDERS

5 testified as follows on:

6 CROSS EXAMINATION

7 BY MR. SYREN:

8 Q Representative Sanders, could you tell us where you are
9 today?

10 A I'm in Santa Fe, New Mexico at the Council of State
11 Governments, Western Division.

12 Q When does that conference begin?

13 A It begins tomorrow.

14 Q And what speakers are you going to hear from?

15 A Oh, there'll be several. One's going to be Senator Tim
16 Kelly from Alaska talking about fishing and resources.
17 But Rodrico Penz (ph) is going to be talking about
18 transportation in the western states. We'll have
19 sessions on welfare reform and telecommunications and
20 how the '96 elections are going to effect the western
21 states, managed health care, water in the western
22 states, just things like that.

23 Q And it's my understanding that you purchased -- made
24 your reservations on or about September 30th of this
25 year for this conference; is that right?

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1 A I got the tickets then. We made all the arrangements
2 around the middle of September and the tickets and the
3 confirmations came in around the last -- around the
4 30th.

5 Q Okay.

6 MR. SYREN: No further questions.

7 HEARING OFFICER: Any follow-up, Mr. Spaan?

8 MR. SPAAN: Let me check with Ms. Barnett. Suzi
9 Barnett had a question of Representative Sanders regarding a
10 procedural manner with the Chair's permission.

11 MS. BARNETT: I just wanted to know if Representative
12 Sanders wanted to continue to listen in to the hearing and
13 therefore we'll put it on mute or if he's going to hang-up.

14 MR. SYREN: I think he's preparing for the
15 conference.....

16 HEARING OFFICER: Well, after he.....

17 MR. SYREN:and -- after he, you know, finishes
18 questions.

19 HEARING OFFICER:don't hang-up yet, I want to
20 give the Committee members a chance. Do any of the Committee
21 members wish to ask questions.

22 JERRY SANDERS

23 testified as follows on:

24 INQUIRY

25 BY MS. MCCOY:

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1 Q Representative Sanders?
2 A Yes.
3 Q Shirley McCoy here. I was just curious, you knew that
4 the hearings were going to be scheduled for today and
5 you made your arrangements for this trip after that was
6 slated?
7 A No. I think the schedules for today was sometime in
8 the middle of October.
9 Q Okay. Can you.....
10 A I'd had my tickets and everything for about two weeks
11 before they set this date.
12 Q Do you feel there's justifications to the allegations
13 that you've been charged with by the Committee?
14 MR. SYREN: All right. And I'll instruct my client not
15 to answer that question based on the Fifth Amendment.
16 HEARING OFFICER: I will sustain that objection.
17 MS. MCCOY: Okay.
18 HEARING OFFICER: Go ahead.
19 Q One other question then.....
20 HEARING OFFICER: Don't be hesitant to ask questions
21 because objections are made.
22 MS. MCCOY: Okay.
23 BY MS. MCCOY:
24 Q Do you feel, Representative Sanders, that you're
25 serving your constituency well by addressing everything

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1 on the Fifth?

2 MR. SYREN: All right. And I'll instruct my client not
3 to answer that based on the Fifth Amendment. Also I raise the
4 objection that it's argumentative.

5 HEARING OFFICER: Do you want to be heard, Mr. Spaan?

6 MR. SPAAN: I think it was a proper question. I think
7 if he raises the Fifth Amendment that ends it -- well, I'm not
8 sure whether that answer would tend to incriminate, to tell you
9 the truth. I don't think there's a reasonable basis to give
10 that instruction.

11 HEARING OFFICER: I am going to overrule the objection
12 as to that question.

13 MR. SYREN: What about the other objection, Your Honor.
14 This is argumentative and I guess I would also question whether
15 or not it's relevant. Today, we're here to decide whether or
16 not Representative Sanders broke the law. We're not interested
17 in whether or not he thinks this serves his constituents.

18 HEARING OFFICER: Well, I think the Committee is
19 charged with two functions. One, to determine whether he has
20 committed an ethical violation and the second function is what
21 they should do if he has. And I think there may be some
22 relevance to that question to that.

23 MR. SYREN: I'm not sure I see the connection between
24 those questions and whether or not he believes he's serving his
25 constituents.

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1 HEARING OFFICER: By the exercise of the Fifth
2 Amendment?

3 MR. SYREN: Right. I'm not sure I see the.....

4 HEARING OFFICER: I think it's a proper question given
5 the fact that the Committee has to decide what to do. And one
6 of the things that the Committee is charged with considering is
7 the respondent's cooperation in the investigation.

8 MR. SYREN: Well, Your Honor, I think, with all due
9 respect, I'd like to take a break and take this up with another
10 body. Once Representative Sanders waives his right, it's gone,
11 it's out the window. And at this point, rather than have the
12 trains go by, I'd like to appeal this because I feel that, we
13 just stop everything right now and we can reassemble at another
14 time. But I can't let him answer that question in good
15 conscious based on my concerns about the Fifth Amendment.

16 HEARING OFFICER: Well, I.....

17 MR. SYREN: Part of the problem is with the question,
18 the other part is the answer may open the door to other areas
19 the way it's -- it's so broad and open ended.

20 HEARING OFFICER: Well, I will break for a few moments
21 if you want to talk to him privately before he answers the
22 question, but I think it's an appropriate question and I'll
23 leave it up to the Committee if they want to withdraw the
24 question. But, I mean it's a two-faceted proceeding. The
25 Committee needs to decide what to do. I think it was a

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1 legitimate question.

2 MR. SYREN: I understand and we take exception, Your
3 Honor. And at this point, I think that the thing to do is to
4 take it to a higher body.

5 HEARING OFFICER: To what? The Court's already said it
6 doesn't have any jurisdiction over this proceeding.

7 MR. SYREN: We've actually filed a petition to the
8 Supreme Court -- a motion for extension of time to file a
9 petition with the Supreme Court and we can do that as well.

10 HEARING OFFICER: Well, you can instruct him not to
11 answer. If that's what your instruction is.....

12 MR. SYREN: It is.

13 HEARING OFFICER:I'm going to overrule the
14 objection. And if somebody moves me to do something, I'll
15 consider it, but all I can do is overrule the objection.

16 MR. SYREN: I understand. And I'm still going to
17 instruct my client not to answer.

18 HEARING OFFICER: Okay. Do you have further questions?
19 He's not going to answer the question.

20 MS. MCCOY: I guess not.

21 HEARING OFFICER: Okay.

22 MS. MCCOY: Thanks.

23 HEARING OFFICER: Are there other questions by
24 Committee members?

25 REPRESENTATIVE TOOHEY: Thank you. I just have a

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1 clarification. One of the questions asked to Representative
2 Sanders was concerning a piece of mail that we have in front of
3 us signed by Representative Sanders. I'm a little left out in
4 the dark on why we have this and he won't answer the question
5 on the letter itself when we have it in front of us. Is
6 that.....

7 HEARING OFFICER: Well.....

8 REPRESENTATIVE TOOHEY: Please, I'm a neophyte.

9 HEARING OFFICER: Well, ask him a question and see if
10 he answers.

11 REPRESENTATIVE TOOHEY: Good.

12 JERRY SANDERS

13 testified as follows on:

14 INQUIRY

15 BY REPRESENTATIVE TOOHEY:

16 Q Representative Sanders? Hello?

17 A Hello.

18 Q Yes. We have a letter.....

19 MR. SYREN: Excuse me, Representative, could you
20 identify yourself.

21 REPRESENTATIVE TOOHEY: I'm sorry.

22 Q Representative Toohey here. Representative Sanders, we
23 have a letter here dated March 4th with the Alaska
24 State Legislature letterhead with your name on it.
25 It's addressed to no one and it is left blank and it's

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1 signed by you congratulating people for attending the
2 straw poll and voting. Can you -- do you remember that
3 letter?

4 MR. SYREN: Okay. And I'll instruct my client not to
5 answer that question.

6 HEARING OFFICER: I'll sustain that objection. He
7 would have the right, if he has a good faith belief that that
8 may incriminate him to not answer.

9 REPRESENTATIVE TOOHEY: Thank you. No further
10 questions.

11 HEARING OFFICER: Do other Committee members have any
12 questions? Mr. Donahue?

13 MR. DONAHUE: I have a question I want to ask before
14 he's off the line, but it has to do with, did someone here say
15 that there was some method where he could -- the Committee or
16 someone could say that they wouldn't take charges against him
17 in a criminal case if he would answer the questions and we
18 could get him to not to the Fifth? Is there some mechanism,
19 did I hear that be said here sometime?

20 HEARING OFFICER: I said that. There is a statute
21 which provides that a House of the Legislature can immunize a
22 witness by a -- by the Committee -- my understanding is that
23 the Committee could not do it by itself. It would require a
24 resolution of the House. It would be A.S. 24.25.070 and it
25 would prohibit future criminal prosecution, it'd be binding on

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1 the executive branch, but it would require a resolution of the
2 House. And if that were done, then a witness would have no
3 right to not answer questions based on the Fifth Amendment.
4 It's similar to what happens in any prosecution where that is
5 used in the executive branch.

6 MR. DONAHUE: Thank you. I appreciate the
7 clarification. And, of course, not being familiar with
8 criminal trials and when people take the Fifth and don't, I was
9 looking for a way -- I have a concern in wanting to hear what
10 Representative Sanders has to say and I'd like to ask a
11 question that would get him to tell us something. And that's a
12 precursory to try to justify my question.

13 JERRY SANDERS

14 testified as follows:

15 INQUIRY

16 BY MR. DONAHUE:

17 Q Representative Sanders, this is Joe Donahue.

18 A Yeah, Joe.

19 Q Is there anything you wish to tell the Committee?

20 MR. SYREN: Same objection. Your Honor, and not only
21 that, but asked and answered. It's getting to the point of
22 actually harassment, I think at this point.

23 HEARING OFFICER: Well, I think.....

24 MR. SYREN: We really need to move on. We're sort of
25 whipping a dead horse here, I think and it's time to move on.

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1 HEARING OFFICER: That question is sufficiently broad
2 that there may be things not within the privilege that he may
3 want to say. If you instruct him not to answer it, you know,
4 we'll move on.

5 MR. SYREN: I have instructed him not to answer.

6 HEARING OFFICER: All right. Any other questions?
7 That will -- do you have any follow-up, Mr. Spaan?

8 MR. SPAAN: No.

9 HEARING OFFICER: Mr. Syren, any follow-up?

10 MR. SYREN: No.

11 HEARING OFFICER: That will conclude your testimony,
12 Representative Sanders, thank you for being available.

13 A Thank you.

14 HEARING OFFICER: Now, Ms. Barnett, you were doing
15 something with the phones.

16 MS. BARNETT: Representative Sanders, would you like to
17 stay on and listen or would you -- are you going to hang-up?

18 A No, that's fine. I've got some things I need to get
19 done.

20 MS. BARNETT: Okay, thank you.

21 HEARING OFFICER: Thank you. Mr. Spaan, your next
22 witness.

23 MR. SPAAN: Yeah. If I could have one second with Ms.
24 Barnett, I was going to call Mr. Woods and I think he's
25 out.....

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1 MS. BARNETT: I can go get him.

2 MR. JACOBUS: Linda McKay is also here.

3 MR. SPAAN: Great.

4 HEARING OFFICER: Would you remain standing, sir, for a
5 moment.

6 MR. WOODS: Okay, sure.

7 HEARING OFFICER: What's your name, sir?

8 MR. WOODS: My name is Ernest Woods.

9 HEARING OFFICER: Okay. Would you raise your right
10 hand, please.

11 (Oath administered)

12 MR. WOODS: I do.

13 HEARING OFFICER: Okay, please be seated.

14 **ERNEST WOODS**

15 called as a witness on behalf of the Committee, testifies as
16 follows on:

17 **DIRECT EXAMINATION**

18 HEARING OFFICER: I've already asked you what your name
19 is, could you tell me your mailing address, please?

20 A It's 3457 East 67th Avenue.

21 HEARING OFFICER: And your occupation, sir?

22 A I'm a contract specialist.

23 HEARING OFFICER: Okay. And the address you gave us,
24 is that in Anchorage?

25 A Yes, it is.

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1 HEARING OFFICER: Thank you, sir. Mr. Spaan.

2 MR. SPAAN: Thank you, Your Honor.

3 BY MR. SPAAN:

4 Q Mr. Wood.....

5 A With an S.

6 Q Is it Woods, I'm sorry, okay. Where are you employed
7 as a contract specialist?

8 A At the Army Corp of Engineers.

9 Q Do you know an individual by the name of Mr. Mike
10 Miller?

11 A I do.

12 Q And do you know whether or not Mr. Miller made a
13 complaint against Representative Sanders?

14 A I believe he told me he did.

15 Q On or about some time March 5th or afterwards, did you
16 receive a letter addressed to you, sir, from
17 Representative Sanders?

18 MR. SYREN: Objection. Your Honor, this is outside the
19 scope of his knowledge. I think he can testify

20 HEARING OFFICER: I'm going to sustain the objection.

21 MR. SPAAN: I asked him if he received the letter, not
22 Mr. Miller.

23 HEARING OFFICER: I understand.....

24 MR. SYREN: No, from Representative Sanders.

25 HEARING OFFICER:that. You can ask him what the

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1 letter said, what it said on it, he doesn't know who physically
2 mailed it, I think was the basis of the objection.

3 MR. SPAAN: I'm sorry, okay.

4 Q Did you receive a letter that purported to be from
5 Representative Sanders sometime after March 4th, 1996?

6 A Yes.

7 Q Did you, sir, in January of 1996 attend a Republican
8 straw poll?

9 A Yes, I did.

10 Q And where was that held?

11 A That was at the Abbott Loop Community Church or thing
12 there at the corner of Abbott Loop and Lake Otis.

13 Q And what district, sir, was this for, was it for all of
14 Anchorage?

15 A I'm not sure.

16 Q Did you have an opportunity, sir, to sign-in at that
17 poll?

18 A I did.

19 Q And what did the sign-in list -- what information did
20 you provide when you signed in?

21 A Basically my mailing address, my name.

22 Q I'm going to hand you, Mr. Wood (sic), what's been
23 marked as Exhibit 6 and ask you to look at the portion
24 which is a letter, it's about two pages in that was
25 marked -- that was addressed to you.

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1 MR. SPAAN: Mr. White, the rest of the exhibit is the
2 complaint which the Committee already has attached to their
3 material, they may have this letter as well.

4 MS. BARNETT: They do.

5 Q Do you recognize the letter that's contained in Exhibit
6?

7 A Yes, I do.

8 Q Did you receive that letter?

9 A Yes, I did.

10 Q And why don't you just read it to the Committee, it's a
11 short letter.

12 A Okay. It says, Alaska State Legislator Chairman
13 Economic Development Committee, Representative Sanders,
14 District 19. It goes on, it's dated March the 4th,
15 addressed to me, it says, Dear Ernest, I would like to
16 take this opportunity to thank you for your
17 participation in the first presidential straw poll to
18 be held in Alaska. Not only have we broken new ground
19 historically, politically we have gained prestige on
20 the national level. It was exciting to learn that
21 District 19's participation was among the strongest
22 areas to go out and cast a vote for a presidential
23 candidate. With the inclement weather to deal with, I
24 really appreciate the interest shown by my fellow
25 Republicans. Seeing a lot of you in the halls of the

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1 polling station within my district was indeed a
2 pleasure. If I didn't get a chance to talk with you,
3 please accept my apology. I have always held in high
4 regard those people who will go that extra mile to do
5 what is needed. Taking the time out of your busy
6 schedule to fulfill your civic duty is greatly
7 appreciated. With warm regards, I remain Jerry,
8 Representative Jerry Sanders is who signed it.
9 MR. SPAAN: I move 6, Mr. White.
10 HEARING OFFICER: Any objection?
11 MR. SYREN: No.
12 HEARING OFFICER: Six will be admitted.
13 (Committee's Exhibit 6 admitted)
14 Q Did you talk with Representative Sanders at the straw
15 poll that was held in January of 1996?
16 A No, I did not.
17 Q Do you know who ran the straw poll?
18 A No.
19 Q Okay. What was your reaction when you got this letter?
20 A I thought it was nice to get the letter and then I
21 noted on Page 2 here of this, that it was sent from
22 Juneau, Alaska. I don't know whose postage -- who paid
23 the postage on it, but anyway I was -- I thought it was
24 nice to get the letter.
25 Q What was the official business that was conveyed to you

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1 from this letter?

2 MR. SYREN: Objection. Objection, Your Honor.

3 HEARING OFFICER: Sustained.

4 MR. SPAAN: Okay. I have nothing further Mr. Woods.

5 HEARING OFFICER: Mr. Syren.

6 ERNEST WOODS

7 testified as follows on:

8 CROSS EXAMINATION

9 BY MR. SYREN:

10 Q Mr. Woods, my name is Les Syren, I represent
11 Representative Sanders in this matter.

12 A Um-hum. (Affirmative)

13 Q I'm going to ask you a couple of questions about that
14 letter. If you don't understand the question that I
15 ask, if you could just ask me to repeat it or.....

16 HEARING OFFICER: Mr. Syren, I know you're standing
17 there facing him, but you need to speak up loud enough so we
18 can hear you over here.

19 MR. SYREN: Okay.

20 Q If I say something that you don't understand, just --
21 will you ask me to repeat it or ask it in a different
22 manner?

23 A Sure.

24 Q Thank you.

25 A Um-hum. (Affirmative)

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1 Q All right. You don't know, based on personal
2 knowledge, who sent this letter; is that right?
3 A No. I don't have any personal knowledge, but I do have
4 his signature here.
5 Q But you don't know who sent it, right?
6 A No, I don't know.
7 Q All right. Do you know who signed it?
8 A I don't know personally.
9 Q Okay. Do you know who paid for it to have it sent out?
10 A I think that the postage on the letter says it came
11 from Juneau, Alaska. I don't know whose account that
12 is on that.
13 Q Have you ever complained to anybody about this letter?
14 A No. I didn't complain.
15 Q So you didn't complain to Jerry Sanders about it; is
16 that right?
17 A No.
18 Q All right. I'm going to ask you about something that
19 happened last June, about last June and see if you
20 remember this. There was some articles in the paper
21 about Governor Tony Knowles writing some words on
22 longevity bonuses and those longevity bonuses were sent
23 out to certain people who received those checks and
24 caused quite a stir, do you remember anything about
25 that?

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1 A No.

2 Q Okay. Would it surprise you to that he had done
3 something like that?

4 MR. SPAAN: Your Honor, I object to Counsel testifying.

5 MR. SYREN: I haven't testified, I've asked a question,
6 whether or not it would surprise him.

7 MR. SPAAN: Which was.....

8 HEARING OFFICER: Why is it relevant that it would
9 surprise this gentleman whether that was done or not?

10 MR. SYREN: I think what I'm getting at, Your Honor, is
11 that.....

12 HEARING OFFICER: You're getting at arguing.

13 MR. SYREN: No, I'm not. I'd like to have his opinion
14 about this activity.

15 HEARING OFFICER: But why is his opinion relevant?
16 With due respect, sir, I mean why is his opinion relevant to
17 any issue in this case?

18 MR. SYREN: Well, he's the one who received the letter,
19 Your Honor.

20 HEARING OFFICER: It's irrelevant. Sustained.

21 MR. SYREN: No further questions, Your Honor.

22 HEARING OFFICER: Just as I wouldn't let Mr. Spaan ask
23 him what the official purpose of the letter is, it's.....

24 MR. SYREN: I understand. We take exception, but I
25 have no further questions.

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1 HEARING OFFICER: The tit for tat evidentiary rule.

2 MR. SPAAN: Fair enough.

3 HEARING OFFICER: Do members of the Committee have any
4 questions?

5 CHAIRMAN MAC NEILLE: I have one question.

6 ERNEST WOODS

7 testified as follows on:

8 INQUIRY

9 BY CHAIRMAN MAC NEILLE:

10 Q Mr. Woods, are you at all concerned about any reprisals
11 against you or any consequences for your testifying
12 today? I think the Committee's trying to make sure
13 that witnesses feel free to come forward.

14 A I'm not afraid of anything like that.

15 Q Okay, thanks.

16 A I'm sure nothing like that would happen.

17 HEARING OFFICER: Any further questions from anybody?

18 MR. SPAAN: Not on behalf of the Committee.

19 HEARING OFFICER: Thank you, sir, for coming in, you
20 can be excused.

21 MR. SPAAN: Mr. White, we call Ms. McKay, who's right
22 out in the hall.

23 HEARING OFFICER: Would you remain standing for a
24 moment, please. Would you state your full name, please.

25 MS. MCKAY: Linda Suzanne McKay.

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1 HEARING OFFICER: Would you raise your right hand,
2 please.

3 (Oath administered)

4 MS. MCKAY: I do.

5 HEARING OFFICER: Please be seated.

6 MR. JACOBUS: Excuse me, before Ms. McKay testifies I
7 should identify myself, Ken Jacobus, the general counsel for
8 the Republican Party of Alaska. I'm here to represent Ms.
9 McKay.

10 HEARING OFFICER: You may be seated next to her if you
11 like.

12 LINDA S. MCKAY

13 called as a witness on behalf of the Committee, testifies as
14 follows on:

15 DIRECT EXAMINATION

16 HEARING OFFICER: Ma'am, what's your mailing address?

17 A 3190 Marathon Circle, 99515.

18 HEARING OFFICER: You're occupation?

19 A Office manager for Republican Party of Alaska.

20 HEARING OFFICER: Thank you, ma'am. Mr. Spaan.

21 BY MR. SPAAN:

22 Q Ms. McKay, good afternoon, how long have you been
23 employed as the office manager for the Republican
24 Party?

25 A A little over a year.

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1 Q And were you the office manager when the Republican
2 Straw Poll was held?
3 A Yes.
4 Q And do you remember how many people -- and what was the
5 purpose of this straw poll as you understood it, Ms.
6 McKay?
7 A The purpose of the straw poll was to conduct -- to
8 receive delegates for the State convention and to have
9 prescient committee woman and man elected.
10 Q Okay. And was there a presidential preference also
11 included in this?
12 A Yeah. There was a presidential preference also.
13 Q Okay. And how many folks, if you remember, signed in
14 just in the Anchorage area?
15 A Over five.....
16 MR. SYREN: Objection. This is outside the scope of
17 her knowledge unless she was there to witness the people
18 signing in.
19 MR. SPAAN: Your Honor, I think the.....
20 HEARING OFFICER: I'm going to overrule . Did you
21 ask her how many people signed in?
22 MR. SPAAN: Right.
23 HEARING OFFICER: Why don't you lay a foundation if she
24 saw the sign-in sheet or.....
25 MR. SPAAN: Sure.

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1 HEARING OFFICER:how she knows what you're
2 asking.

3 Q Did the Party keep or compile a sign-in list of people
4 who attended and participated in the straw poll?
5 MR. SYREN: Same objection.
6 HEARING OFFICER: Overruled.

7 MR. SYREN: Excuse me, Your Honor, I don't know who
8 he's talking about here. He asked her if the Party and if she
9 is the Party, that's fine, she can answer that.

10 HEARING OFFICER: You can cross examine here if she's
11 testifying about something she has no knowledge about.

12 Q Was a sign-up list kept of those people that
13 participated in Anchorage?
14 A Yes.

15 Q And how many people participated in Anchorage?
16 A Oh.....

17 MR. SYREN: Same objection, Your Honor.

18 HEARING OFFICER: I'm going to sustain it to that
19 question. Mr. Spaan, you can ask her how many people's names
20 appear on the sign-up list.

21 Q Do you have any knowledge regarding how many people's
22 names appeared on the sign-up list?
23 A Yes.

24 Q And how many?
25 A Over 5,000.

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1 Q And what's the basis of that knowledge?

2 A Based on the sign-in sheets.

3 Q Was this, in your view, a successful event, a good turn
4 out?

5 MR. SYREN: Objection, Your Honor, vague. I don't know
6 what successful is. By whose definition we're talking about,
7 Republican Party, her personally, Pete Halgrin, it's just not
8 clear.

9 HEARING OFFICER: Sustain it. Also as to some question
10 as to relevance.

11 MR. SPAAN: Okay.

12 Q Were separate sign-in sheets, Ms. McKay, kept each for
13 each district?

14 A Yes.

15 Q And at one time did the office, to your knowledge, have
16 possession of these lists?

17 A Yes, we do.

18 Q Were those lists made available to people who wanted
19 access to them?

20 A Yes.

21 Q Okay. Did any members of the State Legislature ask you
22 for this list?

23 A No.

24 Q Okay. I'm going to hand you, Ms. McKay, which has been
25 marked as Exhibit 5 and ask whether you could identify

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1 this document.

2 A This looks like some of District 19's sign-in sheets.

3

4 Q Okay.

5 MR. SPAAN: I'd move 5 into evidence.

6 HEARING OFFICER: Is there any objection?

7 MR. SYREN: Foundation. She said it looks like, she
8 doesn't -- she has no personal knowledge of whether it was or
9 not. So the objection is outside the scope of her knowledge
10 and foundation.

11 MR. SPAAN: Your Honor, respectfully I think he could
12 -- if he thinks this is a phony list, that should be something
13 he could cross examine her about. I mean she said this -- they
14 kept the list, this looked like the list, the foundation is
15 there.

16 HEARING OFFICER: Ms. McKay, does that look like the
17 list you saw at.....

18 A Yes. But it doesn't look like all of them are there.

19 HEARING OFFICER: It looks like the list, but it
20 doesn't look like it's complete?

21 A Yes, sir.

22 Q Let me show you another copy, Ms. McKay and perhaps we
23 could see whether this looks more complete for District
24 19, I'm not representing this to be the list of
25 everybody.

R & R COURT REPORTERS

810 N STREET
277-0572/Fax 274-8982

1007 WEST THIRD AVENUE
272-7515