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March 4, 2016

Jerry D. Anderson
Administrator
Select Committee on Legislative Ethics
716 W. 4th Ave., Suite 217
Anchorage, Alaska 99501-2133

Re: Complaint H07-06 Against Former Representative Bruce Weyhrauch

Dear Mr. Anderson:

I represent former Representative Bruce Weyhrauch in the above-entitled matter, along with Ray Brown of Dillon Findley PC in Anchorage. We are in receipt of your letter, dated February 16, 2016, along with the Determination of Probable Cause and Opinion Recommending Corrective Action by the House Subcommittee, dated January 26, 2016. As the subcommittee acknowledges, it has been nearly nine years since the complaint in this matter was filed and over five years since the complaint was amended.

You suggest in your letter that Mr. Weyhrauch must either “comply with Complaint Opinion H07-06 or request that the subcommittee hold a public hearing.” We don’t see the law as limiting Mr. Weyhrauch to those two options. The probable cause determination and recommended corrective actions raise serious statutory and constitutional questions. Rather than request a “public hearing” on the subcommittee’s probable cause determination and recommended corrective actions, Mr. Weyhrauch wants it abundantly clear that he contests the determination of probable cause by the subcommittee, and has no intention of voluntarily complying with any of the corrective actions recommended by the subcommittee. We understand that, by doing so, Mr. Weyhrauch will fail to comply with the opinion recommending corrective actions, and he may be “formally charge[d]” under A.S. 24.60.170(h), at which time a public hearing will be scheduled under A.S. 24.60.170(j), and he may then address, in public, why such charges are meritless and/or inconsistent with applicable law and the constitutions of Alaska and the United States.

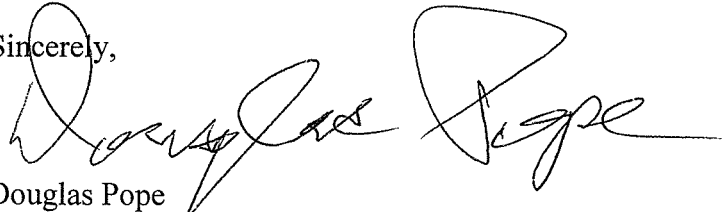
We understand from the probable cause determination that “outside legal counsel” has been employed in this matter. In the event Mr. Weyhrauch is charged under A.S. 24.60.170(h), we think it likely that legal counsel will be employed to “present the

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case” against Mr. Weyhrauch pursuant to A.S. 24.60.170(j). In that event, we request that such legal counsel be authorized to confer with us, at the earliest possible time, on scheduling matters for the following reasons: (1) since the ultimate decision maker on the merits in this matter will be the House of Representatives, we think everyone should be able to agree that it is in the interest of the parties and the public that a hearing be scheduled with an eye toward any recommendations on any proposed sanctions being timely presented to the House while it is in session. As you may be aware, Mr. Brown and I have represented Mr. Weyhrauch since 2007 on the underlying charges that he violated his duties as a legislator, through proceedings before the United States District Court, the Ninth Circuit Court of Appeals, and the United States Supreme Court. We therefore have a good faith basis to believe that any proceedings going forward will be complex. We anticipate that, if Mr. Weyhrauch is charged, any hearing would likely consume five to seven full days. In that event, of course, there will have to be prehearing deadlines set for motions, document exchanges, witness lists and the like. It will be helpful to all under those circumstances if there can be cooperation in setting the hearing date and those prehearing deadlines; (2) once charged under A.S. 24.60.170(h), a respondent “may engage in discovery” under A.S. 24.60.170(i) “in a manner consistent with the Alaska Rules of Civil Procedure.” We believe that, if Mr. Weyhrauch is charged, there will be extensive discovery in this matter, particularly of third parties. Also, given that many witnesses are far flung and it has been nearly ten years since the events took place, it will likely be preferable to schedule depositions of some witnesses rather than calling those witnesses live. It will be helpful to all if there can be cooperation in the setting of discovery deadlines and in the setting on of those deposition dates. In addition, we anticipate that there will be substantial motion practice. For that reason and the reasons stated above, we also request that a hearing officer be appointed as soon as possible in the event Mr. Weyhrauch is charged.

As in the past, we will continue to cooperate in this matter within the strictures of the Legislative Ethics Act. Please do not hesitate to contact me if you have any questions.

Sincerely,


Douglas Pope

cc. Bruce Weyhrauch
Ray Brown