

LEGISLATIVE ETHICS COMMITTEE

Complaint 2013-5

Rep. Rick Watrous, Complainant

v.

Senator Peter Bragdon, Respondent

Order

The Committee has received Senator Bragdon's written consent to the Committee's proposal for Informal Resolution. Accordingly, the matter is concluded.

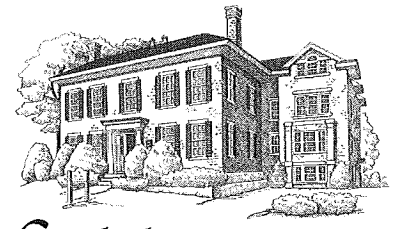
Martin L. Gross, Chairman
Representative Janet G. Wall, Vice Chairman
Representative Jordan G. Ulery
Senator Jim Rausch
Senator Martha Fuller Clark
Attorney Wilfred L. Sanders, Jr.
Mr. David A. Welch

February 14, 2014

For the Committee,

A handwritten signature in black ink, appearing to read "Martin L. Gross". The signature is written in a cursive style with a large initial "M".

Martin L. Gross
Chairman



**Upton
& Hatfield**^{LLP}
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Attorneys At Law

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Justin C. Richardson

Please respond to the Portsmouth office

February 14, 2014

Martin L. Gross, Esq., Chair
Legislative Ethics Committee
State House
107 N. Main Street; Room 112
Concord, NH 03301

Re: Complaint 2013-5
Representative Rick Watrous v. Senator Peter Bragdon

Dear Chairman Gross and Committee Members:

I write on behalf of Senator Bragdon to accept the informal resolution you have proposed. We do so with the following understanding.

In his prior submission, Senator Bragdon confirmed the statement in his preliminary response to the effect that he has been, and intends to continue, "recusing [him]self from any legislative matters that relate specifically to HealthTrust or RSA 5-B risk pools." See Bragdon November 12, 2013 Affidavit, at 15.

In your February 10, 2014 letter, you confirm that the conditions of the proposed informal resolution "are intended to isolate Senator Bragdon from his employer's relations with the State." Moreover, following the discussion of the declaration that he filed with regard to the Medicaid bills, you referred to his previous assurance that he would not participate in any matter involving his employer.

Senator Bragdon stands by this assurance, and with this understanding, will abide by the informal resolution you have proposed.

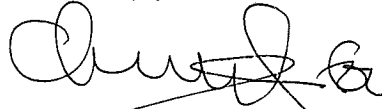
We have reviewed today's letter from the Senate President's Office regarding this matter, and the concerns about the proposed conditions. We believe that the concerns expressed there are addressed by our understanding set forth above.

February 14, 2014

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We are grateful to the Committee for its diligent work on this matter, and we are glad we have been able to resolve it by this agreement.

Very truly yours,

A handwritten signature in black ink, appearing to read "Russell F. Hilliard". The signature is fluid and cursive, with a large loop at the end.

Russell F. Hilliard
rhilliard@uptonhatfield.com

RFH/sem

cc: Senator Peter Bragdon
Representative Rick Watrous



State of New Hampshire

GENERAL COURT

LEGISLATIVE ETHICS COMMITTEE

State House - Room 112
Concord, NH 03301-4951

February 3, 2014

Honorable Peter Bragdon
PO Box 488
Milford, NH 03055

Re: Complaint #2013-5—Informal Resolution—Letter of Caution

Dear Senator Bragdon:

Per its Report of Preliminary Investigation, adopted January 27, 2014, as to Allegations #2 and 5 of the Complaint, the Committee resolved to invite your consent to informal resolution of the case in accordance with RSA 14-B:4, VII and Committee Procedural Rule 6, VI. Such informal resolution would require your acceptance of a Letter of Caution as follows.

Allegation #2 of the Complaint asserted that you violated Legislative Ethics Guidelines, Section 4, Prohibited Activities, in seeking and accepting employment with LGC/HealthTrust. Allegation #5 asserted that you violated RSA 15-B:3, III by accepting salary from LGC/HealthTrust, which was not entitled to exemption under RSA 15-B:2, V(a)(1).

Your conduct, as disclosed in the Committee's Preliminary Investigation, suggests that you misunderstood the relationship between the provisions of Guidelines Section 4, and the provisions of Guidelines Section 5 relating to "Conflict of Interest Procedure", as well as the effect of filing the Declarations prescribed in Section 5. Your conduct in accepting salary indicates a similar misunderstanding about the relationship between requirements of RSA 15-B and the Declaration procedure available under Guidelines Section 5.

Properly understood, the activities prohibited by Section 4 are separate and distinct from the Section 5 procedure, and cannot be avoided or excused by use of Section 5 Declarations. Section 5 Declarations are effective only to permit legislators the option to participate or recuse in particular official activities that could involve a financial conflict of interest, as defined in Guidelines Section 2. They do not relate to the broader forms of conduct described in Section 4, which are absolutely prohibited and cannot be "declared away" by use of Section 5. Similarly, use of Section 5 Declarations cannot absolve legislators from complying with the prohibition on acceptance of gifts in RSA 15-B:3, III.

Because the Committee has not previously described those relationships in an official ruling, the alleged violations of Guidelines Section 4 can be viewed as inadvertent on your part, and so eligible for informal resolution. Similarly, the allegation that you violated RSA 15-B:3, III in accepting payment of salary from your employer can be viewed as not a “knowing” violation. *See*, RSA 14-B:4, VII and Committee Procedural Rule 6, VI.

Even so, to lessen the possibility that your continued employment by HealthTrust may generate prohibited official activity on your part as a Senator, as a condition of Informal Resolution, the Committee will require that as long as you remain in the Senate:

- (1) As a Senator, you will not take any part in any official activity that concerns, involves or would have any effect on your employer. You will file Section 5 Declarations identifying any such matters as they arise, and will declare that you will not participate in any official activity associated with the matter. “Official activity” includes, without limitation, any communication with legislators or legislative staff regarding the matter, other than the filing of Section 5 Declarations. When any such matter arises in any context, you will announce your recusal and physically absent yourself from participation.
- (2) As an employee of HealthTrust, you shall not take any part in your employer’s consideration or decision-making process involving such matters. You shall clearly indicate to your employer your recusal from participation and physically absent yourself. Also, you shall establish with your employer clear lines of authority for considering and deciding such matters that do not involve your participation, and revise your employment agreement appropriately.
- (3) As to regulatory activity by the State of New Hampshire which may concern, involve, or have any effect on your employer, you shall not take any part in your employer’s consideration, or decision-making, or communication with State regulatory personnel. Also you shall establish with your employer clear lines of authority for such consideration, decision, and communication that do not involve your participation, and revise your employment agreement appropriately.

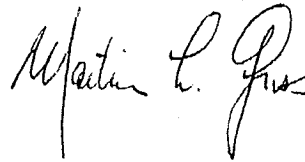
Please advise us whether you accept Informal Resolution of this matter on the terms described. You may do so by signing in the space provided below and returning the signed letter to the Committee.

This letter is a public document. If you accept it, copies will be provided to the presiding officers of the House and Senate, and will be submitted for inclusion in legislative calendars. If you do not accept it, the Committee will go forward with further consideration of the Complaint in a Formal Proceeding.

Martin L. Gross, Chairman
Representative Janet G. Wall, Vice Chairman
Representative Jordan G. Ulery
Senator Jim Rausch
Senator Martha Fuller Clark
Attorney Wilfred L. Sanders, Jr.
Mr. David A. Welch

February 3, 2014

For the Committee,



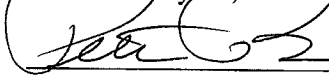
Martin L. Gross
Chairman

[Vote 7-0]

I (consent) (~~do not consent~~) to the Committee's proposal for Informal Resolution as set forth above. [Circle one choice, strike through the other].

Date 2/14/14

Please see attached letter from my counsel dated February 14, 2014.



Senator Peter Bragdon

Cc: Parties and Counsel
President of the Senate
Speaker of the House
Members of the Committee