

MINUTES
LEGISLATIVE ETHICS COMMITTEE
FEBRUARY 11, 2010 MEETING
{Approved: May 17, 2010}

The Legislative Ethics Committee (RSA 14-B:2) met on Thursday, February 11, 2010, at 2:00 p.m. in Room 104 of the Legislative Office Building. The following members were present: Attorney Martin L. Gross, Chairman, Representative Janet G. Wall, Vice Chairman, Senator Sheila Roberge, Senator Amanda Merrill, Representative Stella Scamman, Attorney Kimon S. Zachos, and Attorney Richard L. Russman. Also present were alternate members: Representative Shawn N. Jasper and Attorney Joseph A. Foster, and the Committee's Executive Administrator Richard M. Lambert. The Committee's meeting consisted of the following items:

ITEM #1

Consideration and adoption of the proposed *Agenda*.

Vice Chairman Wall moved to adopt the proposed *Agenda*. Attorney Russman seconded the motion and the Committee voted 6-0 to adopt the *Agenda*.

ITEM #2

Consideration of the draft *Minutes* from the Committee's meeting held on November 19, 2010. Following review, Attorney Russman moved to adopt the *Minutes* as drafted. Senator Merrill seconded the motion and the Committee voted 7-0 to adopt the *Minutes*.

ITEM #3

Review of 2010 Financial Disclosure Forms.

Chairman Gross referred to the stack of filed 2010 Financial Disclosure Forms on the table in front of him and asked if anyone would like to look at them. {No one did.} He also referred to a report submitted by the Committee's Executive Administrator, Rich Lambert, and said "as you can see by Rich's report, all have been filed by the end of January, some were a little tardy but we followed up with reminders and there are 23 Senate ones filed, there's 1 vacancy. There were 398 House ones. Does that mean there are 2 vacancies, Rich?"

Mr. Lambert replied: "Now there are 3, but at that point 2."

Chairman Gross then asked: "So Rich, your recommendation is that we transmit these to the Secretary of State as complete filings?"

Mr. Lambert responded: "Yes, it is."

Chairman Gross said: "You've heard the recommendation, is there a motion?"

Attorney Russman moved to transmit the filed forms to the Secretary of State's Office. Vice Chairman Wall seconded the motion and the Committee voted 7- 0 in favor of the motion.

ITEM #4

Consideration of and action on the draft "Report of Preliminary Investigation of Complaint #2009-1."

Chairman Gross thanked Attorney Zachos and Representative Scamman for their attendance and stated that both had recused from participation in the Committee's consideration of Complaint #2009-1. He asked them to stand down so the Committee could impanel the 2 stand-in members: Representative Shawn N. Jasper and Attorney Joseph A. Foster. He stated: "Let the record show that we're now joined by Attorney Joe Foster and Representative Shawn Jasper, who are stand-in members of this Committee for the purpose of consideration of Complaint #2009-1, and that is now before us. The Agenda item is: 'Consideration of and action on the draft Report of Preliminary Investigation of Complaint #2009-1.'"

Chairman Gross then reviewed the procedural status of the complaint:

"This complaint was originally lodged on the 12th of October 2009, and after the requisite oath to the materials was provided, we accepted it for filing on the 20th of October. Due to the volume of materials accompanying the complaint, on October 21, the Committee asked the Complainant for more specificity and the Complainant supplied a more specific statement on November 3rd. The Respondent, Representative Leishman, submitted a motion to dismiss dated November 9. On November 19, the Committee met to conduct its initial review, as provided by the statute and our rules. And following an executive session as provided by the rules, the Committee issued its decision determining to proceed with a preliminary investigation into the complaint on 2 specified subjects: first, the Respondent's activities relative to House Bill 613 of the 2009 session; and second, the Respondent's activities associated with renewal of the Milford-Bennington Railroad operating agreement. At that point, when we issued our Report, all previous submissions to this Committee became public documents, along with all subsequent submissions, and our proceedings will be public except those where we go into nonpublic session for deliberation.

"The Committee called for a response from the Respondent to the decision to conduct a preliminary investigation. The Respondent supplied it on or about December 1st, and that completed the paperwork and we were able to start the preliminary investigation, and we did that during the month of December, and it was completed before the end of December. This meeting was then scheduled in early January and a draft Report of Preliminary Investigation was provided to the parties, circulated to the Committee, and released to the public on January 22. Notice of this meeting and of the availability of the draft Report has been duly published in the legislative calendars and posted in accordance with the Right-to-Know Law. Written responses to the draft Report have been received from the parties and distributed to Committee members. Those have been received in the last couple of weeks.

"Now, the purpose of today's meeting as stated in the Agenda is to consider and take action on the draft Report of Preliminary Investigation. Now, let's talk a little bit about what's in that draft Report. Since it has been distributed to parties and been made widely available to the public and legislators, as well as reported in the press, I don't plan to review it in detail. To briefly summarize, for the reasons stated in the Report, the first thing the Report recommends is that, as to the Respondent's activities with respect to House Bill 613 of the 2009 session, the draft Report recommends resolution by informal methods, specifically a letter of caution to be issued to the Respondent. This would require consent of the Respondent under our Rules of Procedure and the statute. I understand through the Respondent's filed comments that the Representative has given his consent in his written response to the draft Report dated February 8 -- that was the date of his response. Secondly, the draft Report also recommends that there be no further Committee action in connection with the Respondent's activities regarding renewal of the Milford-Bennington operating agreement due to lack of substantial evidence of violation of the Ethics Guidelines or statutes. However, the draft Report includes cautionary language directed at the Respondent regarding conduct of his contractual relationship to the state. And that summarizes the draft Report.

"Let me talk a little bit now about the procedure that I hope will be acceptable to the Committee that we can follow today. Consistent with its customary practice, the Committee will hear comments by the parties and interested members of the public or the legislature directed at the action the speakers think the Committee should take regarding the draft Report. I plan to ask first for comments from the Complainant, then the Respondent, then members of the legislature and the public who may wish to say something. Then we'll give the Respondent an opportunity for follow-up and, last, the Complainant an opportunity to wrap up. That is a customary order of presentation, I think.

"I'll ask all speakers to direct their remarks to the draft Report and what the Committee should do about it. In that regard, the Committee has the following options that are laid out in our statutes and rules. First, to adopt the draft Report or not, second, to adopt the Report with revisions, or third, to reject the Report and instead either: a) dismiss the complaint, or b) proceed to open a formal investigation into the complaint.

"Now, I ask the speakers to start their presentations by telling us which of these alternatives they support. In other words, if you want to tell us that we ought to adopt the draft Report, please start with that. And similarly, if you think we ought to reject it, tell us that and tell us what we ought to do if we reject it. If you think we ought to adopt the Report with revisions, please specify what revisions

you think we should make. What I'm trying to do is set a frame of reference here so that we don't wander off into various fields of battle that I don't think will do anyone any good to wander off into at this time. This is not a substitute for a formal investigation, which would involve full hearings with testimony and cross-examination. The purpose of today's exercise is to have you tell us what you think we ought to do with that draft Report.

"After each speaker has made a presentation, the Committee will have the opportunity to direct questions to the presenter as is customary in legislative hearings and I remind Committee members -- which I'm sure I don't have to -- that this is not an opportunity for running debate or cross-examination. I'll ask Committee members to withhold their comments or their own statements about what we should do until a later stage of this meeting. After all public presentations have been completed, I'll ask for a motion to recess the public session and to go into nonpublic deliberative session. After the Committee has completed its deliberations, we'll resume our public session and move forward with motions, discussion, and action. At that stage -- at the motion and discussion stage -- the floor will surely be open to Committee members to say what they think we ought to do and why. I'm just hoping that we can withhold expressions of that during the periods when the presenters are making presentations.

"Are there any concerns or problems with the procedure that I laid out? Is it satisfactory to folks? {Committee members indicated their agreement.}

"All right, let's begin. I'll now call on the representative of the Complainant to take a chair and give us your comments and what you suggest we do about the draft Report, and if you will identify yourself for the record, please."

Robert B. Culliford, Esq., counsel for the Complainant, then addressed the Committee:

"Good afternoon, my name is Rob Culliford. I represent the Complainants, Boston and Maine Corporation, Springfield Terminal Railway. And with all due respect to the Committee, I think we made clear in written comments to the draft Report that the options laid out at the hearing are not necessarily options that are open to this Committee at this point. We believe that the statute forming the Committee is very clear as to the procedure that must be followed. In the event of a complaint, and after a preliminary investigation the decision to proceed to the next stage, at the end of that stage, I do not see anywhere in the forming statute the authority to forgo a formal hearing after the findings that were made in the draft Report were made. The statute is clear that if there is evidence of wrongdoing the next step must be -- not could be, not may be -- must be to have a formal hearing. I raised this issue in written comments to the Committee. I did see the email from the chairman with a question regarding what procedural process needs to enact the rule the Committee is relying on: Procedural Rule VI. I have not seen any further information on that. If I could ask the Committee if, in fact, despite that this is a legislative Committee as opposed to an executive branch agency or committee, the rule was passed by a full review by any other entity other than this Committee."

Chairman Gross replied: "I'll respond in due time, but if you would continue with your presentation?"

Attorney Culliford said: "Well, it can be that simple, obviously we think that something very wrong has been performed here. We think the facts support that. I personally in reading the draft Report, think that the Committee sees something's wrong here, but the remedy selected I don't think is proper in light of the findings by the Committee, and I don't think it is authorized by the findings of the Committee. I know you want to keep it strictly to the record because of the 'he said, she said'...{inaudible}... but we don't need to do that here. I think we made it clear where we stand...{inaudible}... and I thank you for your time."

Chairman Gross: "I think you made your position clear. Any questions from members of the Committee? {There were none.} Just let me respond to the process question that you raised. The response that I received is that the proposed Procedural Rules of this Committee in the past have been posted and printed in the calendars and have been open to hearing from legislators and anyone else, and after due consideration, only then does the Committee then adopt the Procedural Rules. So I think it's fair to say that the Rules have been adopted after full airing before the authorizing body, and if there are members of this Committee who have been through that process who would like to add something to that, feel free. {No one} Rich, you had supplied me with that information."

Mr. Lambert: "Yes, I did."

Chairman Gross: "And the other piece of information that I can supply is that this Committee has resolved complaints by informal resolution previously. This is not the first time that this proposal has been made; and so there is precedent for doing this."

Attorney Culliford: "If I could ask a simple question: where is the language in the statute authorizing this remedy?"

Chairman Gross: "I'm not going to enter into the discussion with you on that, Mr. Culliford, because we get to ask you the questions. Suffice it to say that I believe that there is sufficient authority for the Committee to decide that it is going to resolve this by an informal resolution."

Attorney Culliford: "And I'm simply asking that you point me to the authority."

Chairman Gross: "Well, you can read the statutes and the rules as well as I. Rule VI clearly contemplates that. You have your position; I at least understand your position. You don't think that the rule is authorized by the statute and, I believe, we disagree on that."

Attorney Culliford: "Very well. It is disappointing because I believe the statute is clear and I believe that this Committee is charged with enforcing the ethics rules of the House of the State of New Hampshire, and for the Committee to sort of not take a more substantive view of our objections is very disappointing. It sends a ...{inaudible}...message for ethics enforcement...{inaudible}...but obviously we are not going to decide that today. I assume it could be the subject of judicial review on issues like this...{inaudible}...."

Chairman Gross: "I may simply say that your position is not being set aside. You've made your point and this is obviously one of the points that we're going to be discussing in our deliberative process. And the outcome will be the outcome. Don't feel that simply because I as one person believe that there is a basis for proceeding this way, don't think that your argument is falling on deaf ears because other members of this Committee may agree with you."

Attorney Culliford: "Well, then can I ask you?"

Chairman Gross: "No, no more questions from you. Thank you. Now we'll hear on behalf of the Respondent."

Kirk C. Simoneau, Esq., counsel for the Respondent, addressed the Committee:

"Good afternoon, my name is Kirk Simoneau. I am counsel to Representative Peter Leishman...I guess, for the most part, I would like to really rely on the Representative's sworn statement. But, I think, in asking this Committee to do 2 things: first of all, to consider just dismissing the charges, and secondly, if not, reluctantly the Representative has acknowledged, as you suggest, adopting the draft Report. But, I think, the question that was put to the Committee a minute ago can be answered in Mr. Culliford's last submission, the rule, the statute that he cites where he demands that there be a hearing on formal charges is only required if this Committee finds the charges are of a serious nature. And only then is this requirement that he's talking about triggered. This Committee is charged with doing the sort of preliminary investigation it did and looking at the charges and saying: 'Okay, is this serious, does this rise to this level?' Obviously, the Committee has said: 'Well, gee, all we've got is one party making an accusation not under oath, and another party denouncing that accusation under oath 3 times. We've not risen to the level of 'serious nature' as it's clearly outlined in the statute.' So other than that, I don't think I can add anything. The Committee has the Representative's statement and I have nothing further to add. If there are questions obviously we'd entertain them...{inaudible}."

Chairman Gross: "Attorney Foster."

Attorney Foster: "Let me ask this: So I understand your point that Representative Leishman made a statement under oath. The witness, though, disagrees with that statement and has stood by his statement and hasn't been put under oath.... But assume for the moment that Commissioner Campbell would sit here, raise his hand, and swear to that statement, what would you say? Would that then take this to a significant or material level? A serious charge? I mean you go to 'he said, she said' at that point."

Attorney Simoneau: "I don't think it would. In large part because of the nature of what the allegation is. The allegation is that Representative Leishman made promises that if something happened he'd make a bill go away. And under the rules, the way the legislative rules in New Hampshire work, that simply is not possible. So on the face of it, the thing he was supposed to have said is nonsensical. So I think we get to a place where, again, you balance -- okay you have 2 people making a statement under oath -- now let's look at what the statements are, the substantive words that are being used. And one person is accusing another person of saying: 'I'm going to do something completely beyond the realm of that person's power.' And we don't feel that that is credible. So I don't think that rises to a serious nature because it's making a threat or promise to do something that one cannot do."

Attorney Foster: "So, maybe I'm not remembering the procedure right, but I'm thinking that there were bills that I filed as the prime sponsor that if I went to a legislative committee and said 'I'm no longer interested in pursuing them' often magically a motion is made 'Inexpedient to Legislate' and are you saying that can't happen?"

Attorney Simoneau: "There's a rule which is cited in one of our earlier filings that describes the process at the point where this statement was supposed to have been made and, at that point, it was at the point where some sort of public action was going to need to take place. I'll admit fully that my knowledge of the legislative procedure is limited to that handful of rules. But those rules are cited clearly in our response."

Attorney Foster: "I'll take another look, thank you."

Chairman Gross: "Any further questions? Is there anyone else who wishes to be heard on the question before the Committee, and that is: what action should we take with respect to the complaint?"
{No one}

Attorney Culliford: "If I could just respond briefly to this issue of statements made under oath. I, too, had the same question regarding Commissioner Campbell and I would note that I did sign an affirmation when the complaint was filed as to the truthfulness of the allegations so, therefore, I don't think that could be questioned. I would say this: Representative Leishman has in his mind submitted documents under oath. He said in his documents 'I'm submitting this under oath.' I personally am not aware of who administered that oath. I personally am not aware of what the penalty is for him making untrue statements in that oath. I also in some of the filings have seen things that are contradictory and raise credibility questions particularly related to his relationship with Granite State Concrete and the manner in which he disclosed his conflict in relation to House Bill 613. So I don't see that this 'Okay, I'm saying this under oath' is the same as the Committee ordering it to be submitted under oath, which the Committee had the authority to do, which it did not, or taking live testimony under oath. So the only way to truly test the credibility of Commissioner Campbell and Representative Leishman is through a hearing where live testimony is taken, in my opinion. Thank you very much."

Chairman Gross: "Okay. Stand down if you would like. I would just like to observe that as one of the people who participated in the preliminary investigation -- and Attorney Russman can have his say in a moment because he participated as well -- I'm not really impressed one way or the other with the weight of the oath situation here. Yes, Representative Leishman submitted all his stuff under oath and, yes, the railroad submitted all of their stuff under oath. And in the process of not 1, but 2, interviews the Commissioner was aware that he was responding to inquiries of an official investigation

and was subject to a misdemeanor sanction under state law for not accurately speaking to an official investigator with the State of New Hampshire. So I guess I have to say I don't think that moves the ball one way or the other. As far as I'm concerned, I believe everybody who speaks to this Committee believes that he or she is supposed to tell the truth to us, and the formality of an oath is not something that moves me one way or the other, and particularly in this case because of the official investigations that were undertaken.

So if there is nothing more to be said from the parties or from members of the public, is there now a motion that we recess from our public session and proceed to deliberations?"

Vice Chairman Wall moved to enter nonpublic session, pursuant to RSA 14-B:3(d), to deliberate on Complaint #2009-1. Attorney Russman seconded the motion and the Committee voted as follows:

Attorney Russman	Yea
Senator Roberge	Yea
Chairman Gross	Yea
Vice Chairman Gross	Yea
Representative Jasper	Yea
Senator Merrill	Yea
Attorney Foster	Yea

{MOTION ADOPTED}

{NONPUBLIC SESSION}

Attorney Russman moved to exit nonpublic session. Senator Roberge seconded the motion and the Committee voted as follows:

Attorney Russman	Yea
Senator Roberge	Yea
Chairman Gross	Yea
Vice Chairman Gross	Yea
Representative Jasper	Yea
Senator Merrill	Yea
Attorney Foster	Yea

{MOTION ADOPTED}

Chairman Gross: "Let the record show that we're now back in public session and that the Committee has completed its deliberations on the matter before us, which is consideration and action on the draft Report of Preliminary Investigation of Complaint #2009-1. Is there someone ready to make a motion?"

Attorney Russman: "Yes, I'd like to move adoption of the Report with -- I think you have a couple of changes -- with those changes."

Chairman Gross: "Is there a second?"

Attorney Foster: "I'll second it."

Chairman Gross: "Moved and seconded to adopt the Report of the Preliminary Investigation with certain changes. Let me say what the changes are. If folks want to follow along with me, the first change would appear on page 3, middle paragraph on the page that begins with the language: 'It is a close question.' The admonitory language that would go in the letter of caution to Representative Leishman, if this motion is adopted, would begin in the middle of the paragraph after the end of the sentence that finishes with 'clear and convincing evidence.' We start a new sentence there. And the new sentence would read as follows: 'There is disagreement on the Committee about the technical requirements for filing a Declaration of Intent Form. However, in light of the Respondent's legislative position and his private business interests, the Committee agrees the better practice would be to avoid

concerns by filing a Declaration of Intent Form whenever a bill involves his railroad interests.' That would be the language that would go into the letter of caution as recommended by this Report...Now, this motion has been made and seconded. The floor is open for discussion by the Committee and this would be an opportunity for members of the Committee appropriately to say whether they can support the motion or are not going to support the motion, or whatever else they want to say about their reason for supporting or not."

Representative Jasper: "Thank you, Mr. Chairman. I will not be supporting the motion. Chapter 14-B has several standards and what I believe that this motion essentially does is find that the violation is of a de minimis nature and should be addressed through informal methods. I cannot support the fact that it is of a de minimis nature. I do believe that the conduct complained of is of a serious nature and formal proceedings should be instituted. Now, the risk with doing that is we need to have a standard of clear and convincing evidence to either convict, and make recommendations, or even to have it an informal disposal of this issue. And I had not reached that conclusion as to whether there is clear and convincing evidence. I would like to be able to get to that point and that does risk the fact that everything would be dismissed and this informal resolution would not be possible.

"There are a number of things that have troubled me from the beginning. The first was that in the Respondent's first motion to dismiss -- and I understand that it was through his attorneys -- it says: 'the Attorney General has found that no illegal or questionable activity has occurred.' The Attorney General found that no criminal conduct occurred. And first of all, that's not one in the same. There are illegal activities and there are criminal activities; this Committee is dealing with ethical issues. And so, just reading that caused me to question the veracity by straying so far from what the Attorney General said in what it was reported the Attorney General said. But what really caused me a great deal of concern to question the veracity of the Representative was the document we received only yesterday, and it was addressed to the Governor on November 20th, just the day after I believe we had our initial determination in this case. He came across, or was probably given through this process, emails that were between the Commissioner and Kay Peters from the Governor's Office. And it says to the Governor first: 'the email strongly urges the Governor's Office not to meet with legislators who are supporting this bill.' That is just blatantly not true. In reading that email, the only thing the Commissioner says is: 'I'm glad no meeting has been set and that none may be.' By no reading of that can you come to the conclusion that the Commissioner was urging for a meeting not to take place. And, in fact, that meeting did take place. Then in the sworn statement of Representative Leishman, which was delivered to this Committee dated February 8, 2010, there are statements in here that caused me great concern because while Representative Leishman is saying he will agree to an informal resolution, he does so with 'the greatest of reluctance.' And he states that it would be 'irresponsible of me to demand a costly hearing.' The hearings in these proceedings are not costly. I am not convinced that the Representative truly accepts and understands what the Committee is saying. Again: 'I will reluctantly accept a cautionary letter.' It goes on to say that 'the Commissioner falsely claimed I told him.' Well, there is a difference of opinion there and, frankly, I would have to believe that the Commissioner had some sort of a {pause} I'll just leave that and say that there could be no reason that I could think of that the Commissioner would make up that statement and then report it to others because it would not serve him in any possible manner. There is another statement ... talking about the statement that Representative Leishman was alleged to have made about making the 'bill go away' if certain things happened. Again, anyone at all familiar with the New Hampshire legislative process would find a claim that such a statement was made by any legislator unbelievable on the face of it, not credible. Those types of statements are made all the time in the legislature, not in return for something, but generally people coming up and saying: 'Don't worry about the bill, it's gonna go away, it's got no merit,' telling people not to invest a lot of time in it. Bills are 'ITL-ed' all of the time and they're 'ITL-ed' for a lot of reasons, but it is quite common for people to tell others 'don't worry about that bill, it's dead.' So, that one causes me quite a bit of concern.

"Given all of the evidence -- or some of it is evidence, some of it is merely allegations -- I think that it is the responsibility of this Committee to go to the next step and have a formal hearing and bring in witnesses so that we can cross-examine them. I recognize that much of it may be 'he said, he said.' That's a chance I'm willing to take for the opportunity to look into that. And finally, the last concern that I have is that at the end of the day -- some of it quite innocently and not meaning to cast any aspersions on any Representatives -- there were a total of 5 members of the Finance Committee that

were somehow, some way, brought into this and mentioned one way or another either through newspaper reports or emails, and that is a concern because I think any Commissioner recognizing that 5 ranking and important members of any committee had an interest in an issue that would give that Commissioner pause. I would like the opportunity to be able to talk to those legislators about their involvement in this process. This motion does not allow that to take place. Thank you, Mr. Chairman."

Chairman Gross: "Does anyone else wish to be heard on the motion?"

Senator Merrill: "Thank you, Mr. Chairman. I guess first of all with regard to the issue of the statement about the legislation 'going away,' I don't think that a purpose would be served to clarifying what actually happened by going to the hearing stage. I think we're left with a lack of resolution that would not be sufficiently addressed by a hearing. I'm ready to support the Report with the additional language. I think that looks important in that, in general, those of us serving in the legislature are often faced with decisions about our behavior within the legislative process and we are given a lot of latitude given our Ethics Guidelines about how we can behave. And I do agree about the language that has been added with respect to the disclosure issue that there is disagreement, and I would add there is still confusion among legislators about the requirements and about what the necessary steps are to meet the requirements of our Guidelines. So, I would hope that this Committee will take up the issue of our disclosure requirements in the future and, as I said, I will support the Report in that I feel the language that is proposed serves the purpose of addressing what I would see as perhaps some decisions that were made that might not have reflected the best possible judgment in a couple of situations."

Chairman Gross: "Thank you. Anyone else?" Mr. Russman.

Attorney Russman: "Thank you, Mr. Chairman. I agree with much of what my fellow Committee member Representative Jasper has just said. But I do reach a different result in terms of voting for the motion that I made. I'm concerned that we may not, perhaps, be able to meet the clear and convincing burden of proof required in this matter. And if that were the case, it would have to be dismissed and I don't think it should be dismissed. So this, I hope, will let Representative Leishman know, and others know, that when there's any question whatsoever about whether or not they should or should not file a special disclosure, they should, that's clear. Maybe we can make it more clear, but I think that's surely a message that needs to go forward. I think that's all I'm going to say."

Chairman Gross: "Representative Wall."

Vice Chairman Wall: "Representative Jasper raises some very important and interesting issues regarding this case, yet I think we need to remember that there was an investigation by the Attorney General's Office to find no criminal activity. That happens with this Committee that cases get bounced back to us for the ethical aspects of it. We need to remember that interviews did take place. We need to remember sworn statements have been made. And I honestly don't believe that anything in a further hearing would be any more clear or convincing than what we've already been presented with. I'm troubled with the fact that it appears that several legislators were involved with something. But we've gone as far as we can with this case. We've taken all the evidence we possibly can. There's nothing new that can be presented to us that would change the outcome of this.

"I will support the Report because I believe it is firm enough and strong enough to send a strong message that we need to be very careful about how we conduct ourselves with each other and with the departments of this state. We need to watch out for the better interests of State of New Hampshire and put that beyond our own interests. We need to be respectful in how we conduct ourselves with other legislators, and agencies, and departments in this state, and I believe the Report will support that. Thank you."

Chairman Gross: "Senator Roberge."

Senator Roberge: "I will support the Report but I truly hope that Representative Leishman will take our remarks very seriously. We spent a lot of time crafting this and we mean it. We mean what we say and I think it's a very good report, and it's a consensus by all of us."

Chairman Gross: "Anyone else? {No one.} I'd like to say that I will also support the motion. If there's any principle that's involved here, that is the first principle of the Guidelines is: legislators should not mix their private business with their public business. For whatever reasons, that line got blurred here and I'm not prepared to find, based on this evidence -- which is why I'm supporting the motion -- that there was a violation. But I am sure that there was some carelessness here. I think Representative Leishman -- there's no dispute about this -- has a unique position here because he is not only the chair of a division of the House Finance Committee, but he is also a private contractor with the State of New Hampshire. There's probably no clearer polarity here. One is a private relationship with the state; the second is a very public responsibility. It's basic that the two should be completely separate. But what also falls within Representative Leishman's lap, for better or for worse, is that in order to avoid confusion, not only on his own part, but on the part of others, he needs to work hard at keeping these separate. And he can't forget it for a moment. And that's what I hope this caution will help him and other legislators to remember: that you can't mix your personal business with your private business. And sometimes it happens inadvertently or carelessly, but you've got to work hard to make sure that it doesn't. And that's why I'm going to support the motion."

Chairman Gross: "Is there anything else to be said?"

Attorney Russman: "I call for a vote."

Chairman Gross: "The question has been called."

The Committee voted as follows:

Attorney Russman	Yea	
Senator Roberge	Yea	
Chairman Gross	Yea	
Vice Chairman Wall	Yea	
Representative Jasper		Nay
Senator Merrill	Yea	
Attorney Foster	Yea	

{MOTION ADOPTED}

Chairman Gross: "The motion is adopted. A letter will be forthcoming from the Committee to Representative Leishman in accordance with the vote and Representative Leishman's consent that the case be resolved on an informal basis."

The Committee's meeting adjourned at approximately 4:25 p.m. The Committee's next meeting will be at the call of the Chair.

{Prepared by: Richard M. Lambert, Executive Administrator}