

Alaska State Legislature

Select Committee on Legislative Ethics

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HOUSE SUBCOMMITTEE Complaint H 17-03: Representative David Eastman

DECISION AFTER PUBLIC HEARING

Following a public hearing on July 17, 2018, the House Subcommittee determined by clear and convincing evidence that Representative David Eastman violated AS 24.60.170(c) and (l).

On August 31, 2017, Representative David Eastman was formally served by the Administrator of the Ethics Committee with Complaint H 17-03 and the Scope of Investigation. The complaint alleged that Representative David Eastman had violated the Legislative Ethics Act by disclosing to a member of the public the existence of a complaint filed with the Select Committee on Legislative Ethics that was confidential under specific provisions of AS 24.60.170(c) and (l)¹. A letter accompanying this paperwork offered Representative Eastman the opportunity to respond to the allegation in writing by September 15, 2017. No response was received.

The Scope of the Investigation included an interview of Representative Eastman by the investigator for the Select Committee on Legislative Ethics. At the interview with the investigator on September 20, 2017, Representative Eastman was informed that the member of the public he was alleged to have disclosed a confidential complaint to was Naomi Klouda, a reporter for the Alaska Journal of Commerce. During the interview with the investigator, Representative David Eastman was given the opportunity to fully explain his conduct, but he failed to do so as documented in the interview. That interview contained the following troubling dialogue:

INVESTIGATOR: Is it possible you could have said to call here about an alleged complaint?

¹ Relevant portions of:

AS 24.60.170(c) When the committee received a complaint under (a) of this section ... A proceeding conducted under this subsection, documents that are part of a proceeding, and a dismissal under this subsection are confidential as provided in (l) of this section unless the subject of the complaint waives confidentiality as provided in that subsection. ...

AS 24.60.170(l) Proceedings of the committee relating to complaints before it are confidential until the committee determines that there is probable cause to believe that a violation of this chapter has occurred.

REPRESENTATIVE EASTMAN: "I suppose it's possible, but I guess -- yeah, I'm trying to figure out why I would have said something like that. I can't make any sense out of that."

Under the provisions of the complaint process, Representative David Eastman was then afforded a confidential probable cause hearing, scheduled for January 12, 2018. In the notice for the probable cause hearing sent on January 2, 2018 to Representative Eastman, he was advised "[y]ou have the continued right to explain the conduct alleged to be in violation of the Legislative Ethics Act." At the probable cause hearing, Representative David Eastman failed to respond to the allegation either in writing or verbally.

For the first time, at the public hearing on July 17, 2018, Representative David Eastman made a definitive complete denial of disclosing to Naomi Klouda, a reporter for the Alaska Journal of Commerce, the existence of a confidential complaint filed with the Select Committee on Legislative Ethics. The Committee found this statement to be inconsistent with the statements made to the investigator on September 20, 2017 as cited above.

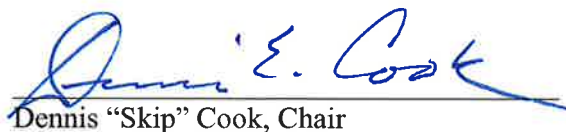
The subcommittee found five statements by Naomi Klouda, a reporter for the Alaska Journal of Commerce, to be consistent and credible as to the essential and relevant facts stated in:

- 1) A phone call on April 28, 2017 from Naomi Klouda to the Administrator of the Select Committee on Legislative Ethics.
- 2) An email dated May 18, 2017 from Naomi Klouda to the Administrator of the Select Committee on Legislative Ethics.
- 3) An interview on September 25, 2017 of Naomi Klouda by the Investigator for the Select Committee on Legislative Ethics.
- 4) An article dated January 18, 2018 by Naomi Klouda in the Alaska Journal of Commerce.
- 5) The deposition on May 3, 2018 of Naomi Klouda by attorneys representing the parties in this matter.

The subcommittee determined that Naomi Klouda appeared to have no motive or reason to provide false information.

Based on the facts stated above and the totality of the evidence presented during approximately seven hours of testimony at the July 17, 2018, public hearing, and then weighing the evidence, the House Subcommittee of the Select Committee on Legislative Ethics finds by clear and convincing evidence under AS 24.60.170(j) that Representative David Eastman violated AS 24.60.170(c) and (l) of the Legislative Ethics Act by disclosing to Naomi Klouda, a reporter for the Alaska Journal of Commerce, the existence of a confidential complaint filed with the Select Committee on Legislative Ethics.

Adopted July 17, 2018
by a majority of the House Subcommittee


Dennis "Skip" Cook, Chair

Members Participating

Dennis "Skip" Cook, Chair

Representative Chris Tuck

Representative Colleen Sullivan-Leonard

Deborah Fancher

Joyce M. Anderson

Lee Holmes

H. Conner Thomas