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**CONFIDENTIAL report regarding
Ethics Complaint pursuant to
Alaska Statute 39.52.340**

July 21, 2009

VIA EMAIL

Debra English, Chair
Alaska Personnel Board
9787 Middlerock Road
Anchorage, Alaska 99507

Re: Andree McLeod Ethics Complaint Dated July 14, 2009

Dear Ms. English:

You have asked me to serve as independent counsel pursuant to AS 39.52.310(c), to address the ethics complaint filed by Andree McLeod dated July 14, 2009. Under the Ethics Act, my first obligation is to review the complaint "to determine whether it is properly completed and contains allegations which, if true, would constitute conduct in violation of [the Executive Branch Ethics Act]." AS 39.52.310(d).

Nature of the complaint

Ms. McLeod's complaint alleges that Governor Sarah Palin continued to receive her \$125,000 annual state salary while she was "off duty" in the fall of 2008, traveling around the United States as the Republican vice presidential candidate. The complaint alleges that Governor Palin signed a travel authorization dated August 27, 2008,¹ which states "Conclusion of State Business." Then on November 7, 2008, the governor signed a travel authorization that states, under the heading "Purpose," "return to duty status." That travel authorization also states under the cost category, by the date 11/7/2008, "return to duty in Anchorage, meet with staff, interviews." The complaint states that these travel documents show that the governor "had full

¹ The travel authorization that Ms. McLeod included with her complaint is actually dated August 21, 2008.

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knowledge, intent, and a willingness to forego her duties as governor of Alaska in order to travel Outside on the national campaign trail as the Republican VP candidate." Yet Governor Palin accepted her full state-funded salary during this period. (Copies of the governor's payroll register forms showing that she was paid her salary during the fall campaign, are enclosed with the complaint.) In addition, the complaint alleges that the governor had a staffer "by her side during the campaign."

Ms. McLeod's complaint alleges that these facts establish that Governor Palin violated AS 39.52.120(a) prohibiting a public officer from using her position for personal gain. In addition, the complaint alleges that the governor violated AS 39.52.120(b)(4) and (6) which prohibit a public officer from (4) taking or withholding official action in order to effect a matter in which the public officer has a personal or financial interest, and (6) using state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes.

Finally, the complaint alleges that the governor violated the Alaska Constitution, Article 3, Section 9, providing that "in case of the temporary absence of the governor from office, the lieutenant governor shall serve as acting governor." The complaint alleges that Governor Palin failed to temporarily assign her duties to the lieutenant governor during her absence from the state while campaigning for vice president.

Analysis

Alaska Statute 39.20.010 provides that "the annual salary of the governor is \$125,000." In addition, AS 39.20.050 provides, "the compensation fixed by law for the governor and lieutenant governor is in full for all services rendered by each of them in any official capacity or employment whatsoever during their respective terms of office, and shall be paid throughout their respective terms of office unless the office becomes vacant." In short, the salary of the governor and lieutenant governor is compensation for their services while in office, not the amount of time they spend performing those services.

This concept – payment of a fixed salary regardless of the hours worked – is a familiar one in wage and hour law. One of the statutory requirements for exempt employees, i.e., employees who are exempt from overtime pay, is that they must be paid on a "salary basis."² An exempt employee must be compensated for "his full salary for any week in which he performs any work without regard to the number of days or hours worked." 29 C.F.R. §541.118(a). Thus, an exempt employee is not entitled to overtime pay when he works more than 40 hours in a week. Conversely, an exempt employee is entitled to his full pay, even if he only works one hour in each day of the week. *See generally*, The Fair Labor Standards Act 187-189 (Ellen C. Kearns,

² See, for example, the three major classifications of exempt employees – executive, administrative, and professional. In addition to a requirement that they perform certain duties, they also must be compensated on a salary basis. See AS 23.10.055(c)(1) and 29 U.S.C. § 201-219.

Editor-in-Chief, 1999). In sum, an exempt salaried employee is paid for the performance of the job, not the number of hours that they work.

This concept is reinforced by AS 39.20.060, which provides that "the governor and lieutenant governor are not considered employees of the state for the purpose of state personnel laws relating to hours of employment, annual leave, sick leave, overtime, compensatory time, and travel allowances." This provision, when read in combination with the provision regarding the governor's compensation, means that the governor is entitled to receive her full salary without regard to how many hours she works or how much leave she takes. So long as she is serving as governor, she is entitled to the full compensation established for the office of governor.

One additional statute is relevant here. AS 39.25.160(e) states that an "employee in the classified, partially exempt, or exempt service who seeks nomination or becomes a candidate for state or national political office, shall immediately resign any position held in the state service." However, that section goes on to state that it does not apply to the governor or the lieutenant governor. AS 39.25.160(e)(2). In other words, unlike other state employees, the governor and the lieutenant governor are not required to resign their office if they become a candidate for state or national elective political office.

In sum, the governor was not required to resign from the office of governor when she became a candidate for vice president of the United States. Nor was the governor required to relinquish her salary, because as long as she held the office of governor, she was entitled to receive the compensation of the office.

Ms. McLeod asserts that the governor's travel authorization forms show that the governor was absent from her duties as governor from August 21, 2008, until November 26, 2008, and thus should not have been paid during this time period. But as explained above, the governor's compensation is for the services she performs for the entire time she holds office. Even if it were true that she performed no duties whatsoever for the state of Alaska for the entire three-month period from August 21, 2008, until November 26, 2008, she would be entitled to receive the compensation fixed by law. The only act that would cause the governor to relinquish her right to compensation during this period would be her resignation from office, but no one contends that Governor Palin resigned from the office of governor when she ran for vice president.

Moreover, there is evidence that the governor did perform duties as governor of Alaska while she was on the campaign trail in the fall of 2008. Another ethics complaint filed by Ms. McLeod alleged that Kristina Perry, Director of the Anchorage Office of the Office of the Governor, violated the Ethics Act by traveling with and assisting Governor Palin with duties unrelated to state business, during the 2008 Presidential campaign. That complaint was dismissed because the investigation by the Attorney General's office revealed that Ms. Perry's duties were not to assist the governor with campaign activities, but rather to assist the governor with state business.

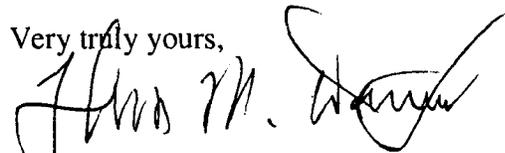
Debra English, Chair
July 21, 2009
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See Recommendation of Dismissal of Ethics Complaint Against Perry, from Assistant Attorney General Julia Bockmon (June 2, 2009) (copy attached). Ms. Perry traveled with the governor to keep her informed of state business, to assist in communicating with other state officials, and to communicate decisions in a timely and efficient manner. *Id.* If Ms. Perry traveled with the governor on the campaign trail to assist with state business, it follows that the governor was performing some amount of state business while campaigning for vice president. Thus, the assertion that the governor performed no state business from August 21, 2008, until November 26, 2008, is contradicted by the investigation findings of a previous ethics complaint.

The final issue raised in Ms. McLeod's complaint is the assertion that the governor violated Article 3, Section 9, of the Alaska Constitution, which states, "[i]n case of the temporary absence of the governor from office, the lieutenant governor shall serve as acting governor." The question of whether the governor was constitutionally required to temporarily step aside when she ran for vice president does not fall within my jurisdiction as independent counsel for the Personnel Board. The Ethics Act only authorizes independent counsel to address allegations of violations of the Ethics Act, not the Constitution. Accordingly, I express no opinion on this question.

For all of the foregoing reasons, I conclude that there is not probable cause to believe that Governor Palin violated the Ethics Act by accepting her state salary while campaigning for the office of vice president.

Very truly yours,



Thomas M. Daniel

TMD:mlc

Enclosure

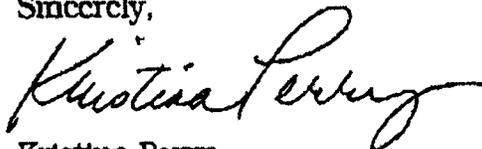
June 22, 2009

Attorney General Sullivan
Assistant Attorney General Bockmon
State of Alaska, Department of Law
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501

Attorney General Sullivan and Assistant Attorney General Bockmon:

In accordance with AS 39.52.340(c) and 9 AAC 52.160(c), I hereby fully waive the confidentiality protection of AS 39.52.340 regarding the ethics complaint filed against me by Andree McLeod on January 26, 2009.

Sincerely,

A handwritten signature in cursive script that reads "Kristina Perry". The signature is written in black ink and is positioned above the printed name.

Kristina Perry

MEMORANDUM

State of Alaska

Department of Law

To: Richard A. Svobodny
Acting Attorney General

Date: June 2, 2009

Thru: Joanne Grace
Section Chief
Opinions, Appeals & Ethics

File: AN2009100867

Tel. No.: 269-5216

From: Judy Bockmon
Assistant Attorney General

Subject: Recommendation of
Dismissal of Ethics
Complaint against Perry

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On January 26, 2009 Andrée McLeod filed an ethics complaint alleging that Kristina Perry, an employee of the Office of the Governor, violated the Executive Branch Ethics Act. Thereafter, Ms. McLeod advised that she intended to submit additional documentation in support of her complaint once she received records requested in various public records requests to the Office of the Governor. We conducted a preliminary investigation of the matter as permitted by 9 AAC 52.140 pending receipt of documents from Ms. McLeod. Ms. McLeod advised in early May that she intended to submit records on May 11 and I advised that she could provide them by the end of that week. No records have been received.

We have now concluded the preliminary investigation and recommend that the complaint be dismissed under AS 39.52.310(d) because the evidence reviewed does not support the alleged violations of the Ethics Act and no further investigation is warranted. Attached is a Report of Preliminary Investigation explaining the basis for the recommendation. Please indicate below whether you concur in the dismissal.

If you concur in dismissal, a copy of your determination and the report will be forwarded to Ms. Perry, Ms. McLeod and the State Personnel Board.

The complaint and its investigation remain confidential under AS 39.52.340 and 9 AAC 52.160(f), unless confidentiality is waived by the subject. Ms. Perry has not waived confidentiality to date.

 I concur. I do not concur.

Richard A. Svobodny
Acting Attorney General

Date: June 5, 2009

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In re Perry – AGO File No. AN2009100867 Report of Preliminary Investigation

I. Description of Complaint

On January 26, 2009 Andrée McLeod filed an ethics complaint alleging that Kristina Perry, Director of the Anchorage Office of the Office of the Governor, violated AS 39.52.120 of the Executive Branch Ethics Act by misusing her official position and state time, property, and resources to benefit Governor Palin's personal and political interests unrelated to state business. She advised that she would supplement her complaint with documents she received through public records requests, but did not submit further documentation in support of her allegations.¹

The essence of Ms. McLeod's complaint is that Ms. Perry misused state resources because she did not take personal leave when she traveled with Governor Palin on three occasions.² In the first instance, she accompanied Governor Palin beginning September 27, 2009 when the governor was campaigning as the Republican vice presidential candidate during the election campaign. The second trip was to a Republican Governor's Association meeting from November 11th to 13th, 2009.³ On the third trip, the governor traveled to a

¹ On May 6, 2009 Ms. McLeod advised that she would submit documents by May 11, but no documents have been received.

² Ms. McLeod also describes three instances in which Ms. Perry took personal leave to travel to Arizona with Governor Palin, to attend the Republican National Convention, and on the day of September 17, 2008. She also reports that on August 27, 2008 Bill McAllister, the governor's communications director, copied Ms. Perry on an email to the governor outlining a series of media appointments scheduled for her during the convention. Ms. McLeod highlights a note in the email about an unscheduled request from the "convention itself... requesting [the governor] to act as a surrogate for McCain." Mr. McAllister was passing on information relevant to the governor's schedule. Ms. Perry was scheduled to travel as state staff support for the governor during the convention. That later changed and Ms. Perry traveled on her own.

³ Ms. McLeod asserts this trip began November 30th. However, Ms. Perry's state travel authorization and other publicly available information confirm that this meeting occurred earlier in November.

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National Governor's Association Conference in Philadelphia with a stop in Georgia to campaign for U.S. Senator Saxby Chambliss from November 30, 2009 to December 2, 2009. Ms. McLeod supports her allegations by citation to various news media and website reports that Governor Palin made these trips. In the case of the latter two trips, she provided photographs of Ms. Perry with Governor Palin, which she obtained from websites.

II. Summary of Findings

The evidence reviewed does not support the alleged violations of the Ethics Act or suggest the need for further investigation. Accordingly, Ms. McLeod's January 26, 2009 ethics complaint should be dismissed pursuant to AS 39.52.310(d) as it does not warrant further investigation.

III. Responsibilities Under the Ethics Act

The Executive Branch Ethics Act is intended to ensure that public officers will not base their official decisions and actions upon their own personal or financial interests.⁴ The Act acknowledges that public officers should be free to pursue personal and financial interests, and are valued for those interests, as long as the interests do not interfere or conflict with the officers' public responsibilities.⁵ The Alaska Legislature also observed that "no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation."⁶ The unique circumstances occasioned by the governor's selection as the Republican vice presidential candidate qualifies as one of those unanticipated situations.

The Alaska Legislature recognized in the Ethics Act that Alaska's governor and lieutenant governor are elected officials. It included provisions in the code of conduct relating to political activity.⁷ It also precluded the acceptance of ethics

⁴ AS 39.52.010.

⁵ AS 39.52.110(a).

⁶ AS 39.52.010(a)(6).

⁷ See AS 39.52.120(b)(6) and (f).

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complaints initiate against these officers during a campaign for state office.⁸ The legislature also recognized that all public officers may engage in campaign or other political activity as pursuits independent of their state positions, subject to their obligations under the Ethics Act and other state law.⁹

In addition to acknowledging public officers' right to independent pursuits, the Legislature also required that the standards of ethical conduct in the Ethics Act be interpreted in a manner that distinguishes "between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts of interests that are substantial and material."¹⁰ Also the Act speaks principally to actual substantial conflicts of interest, not the appearance of conflict alone.¹¹

Upon receipt of a complaint, the attorney general must determine if it is properly completed and whether it contains factual allegations which, if true, would constitute a violation of the Ethics Act.¹² The attorney general may conduct a preliminary investigation of the allegations to determine whether to accept the complaint.¹³ The attorney general may accept a complaint and undertake an in depth investigation in order to reach a determination whether there is probable

⁸ AS 39.52.310(c). The governor or lieutenant governor are permitted to retain their positions when a candidate for state or national elective political office. AS 39.25.160(e).

⁹ See AS 39.52.120(d) (public officers must take leave for campaigning, except minor, unavoidable activities); AS 39.52.960(18) ("personal interest" includes involvement in political organizations). The State Personnel Act prohibits certain conduct related to political activity, but also recognizes a state officer's right to be a member of a political party and participate in political campaigns generally. See generally AS 39.25.160 and AS 39.25.178.

¹⁰ AS 39.52.110(b).

¹¹ 9 AAC 52.010; 1993 *Inf. Op. Att'y Gen.* (Jan. 1; 663-93-0113), 1993 WL 595769 (Alaska A.G.) at *2-3, 5.

¹² AS 39.52.310(d).

¹³ 9 AAC 52.140.

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cause to believe that a violation of the Act occurred.¹⁴ The Act does not specify how an investigation is to be conducted or the expected scope of any investigation. It does not mandate that every complaint be given the same degree of attention. Rather the attorney general exercises discretion to use state resources to address substantial violations and dismiss other complaints consistent with the statement of scope stated in the Act.¹⁵

We attempt to read complaints broadly to effectuate the purposes of the Ethics Act and give the benefit of the doubt to complaints that may not be artfully drafted. We aim to ensure the conduct of public business is free from substantial conflicts of interest. At the same time, we may consider whether a complaint may be prompted by purposes other than upholding ethical standards and protecting the integrity of state actions and state resources. We also must ensure that complaints about inadvertent or unavoidable minor conflicts or unsubstantiated matters do not disrupt state business or distract public officers from their public duties.

IV. Preliminary Investigation of January 26, 2009 Complaint

Linda Perez, Director of Administrative Services for the Office of the Governor reports that there is a long standing practice to task a member of a governor's staff to accompany a governor who is traveling to assist with state business and assure prompt communication regarding that business on most trips a governor takes out of state.¹⁶ The staff member is considered to be working a normal work day,¹⁷ although the time required is often longer than the typical work day. If during the work day the staff member attends a political event related to or as a result of the staff member's own interests, the staff member must take personal leave, just as if he or she were working that day at an office of the governor in Alaska.

¹⁴ AS 39.52.310(f) and (g); AS 39.52.320.

¹⁵ AS 39.52.110.

¹⁶ The governor is also accompanied by a state security officer.

¹⁷ The hours for the Office of the Governor are 8:00am to 5:00pm. Staff hours are set at either 8:00 to 4:30 or 8:30 to 5:00 with an hour for lunch. However, the governor's senior staff members typically work longer hours as the governor's schedule and the needs of state business require. The staff is expected to be on call most evenings and weekends.

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We have reviewed Ms. Perry's time and attendance reports, leave records, travel authorizations and other records related to the identified travel.¹⁸ The records confirm that Ms. Perry traveled on state business as outlined below and did not take personal leave.

Vice Presidential Campaign Travel:

Ms. Perry left Anchorage to join Governor Palin in Philadelphia, Pennsylvania, on Saturday September 27, 2008 and returned to Anchorage on Wednesday November 5, 2008. She traveled with the governor for the entire period, except for a weekend in October she spent with family in the Seattle area.

Ms. Perez reports that Ms. Perry was tasked to travel with Governor Palin during the national election campaign by Chief of Staff Michael Nizich with the concurrence of Governor Palin. After Ms. Perry was assigned this duty, she consulted with Ms. Perez about the ethics rules applying to the situation. Ms. Perez provided an ethics determination, dated September 26, 2008 with guidance to Ms. Perry. A copy is attached to this summary. Following her return from travel Ms. Perry prepared an itinerary to document the details of her daily travel with the governor and expenses consistent with the guidance in the determination and office requirements.

Ms. Perry advised that she traveled where the governor went and attended events with her. She made every effort to stay in the background. The governor had campaign staff assigned to assist the governor with campaign-related activity.

Republican Governor's Association Meeting:

Ms. Perry traveled with the governor to Florida, leaving on a 9:20am flight on Tuesday November 11, 2008 (Veteran's Day) and returning to Anchorage just before midnight Thursday November 13, 2008.

Ms. Perry has staffed the governor when she has traveled to RGA meetings in the past. She reports that the photos included by Ms. McLeod in her complaint

¹⁸ These records were produced to Ms. McLeod in reply to her public records requests dated December 31, 2008 and January 20, 2009. We have also reviewed Ms. Perry's email communications during the vice presidential campaign period.

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were taken during a break between events. She recalls that the governor was working on a speech using an RGA computer and that she (Ms. Perry) ordered and ate a cheeseburger.

National Governor's Association Conference:

Ms. Perry left Anchorage on a 1:45am flight to Georgia on Sunday November 30, 2008. On Monday December 1, 2008 she accompanied Governor Palin who was campaigning for Senator Chambliss and then traveled from Georgia to Philadelphia on a 6pm flight. She returned to Anchorage on December 2, arriving at approximately 11:00pm.

Ms. Perry reports that she tried to remain in the background at the campaign events in Georgia for Senator Chambliss. But, as the governor had no other staff to help her, Ms. Perry helped hold the governor's belongings or handed her a pen when the governor was interacting with other people at the events.

V. Analysis of Allegations

There is a presumption that public officers conduct their official duties honestly and impartially.¹⁹ The Act provides a framework for determining whether the circumstances overcome that presumption.

We examine Ms. McLeod's allegations against Ms. Perry recognizing that it was not a violation of the Ethics Act for Governor Palin to choose to run for the vice presidency while continuing to serve as governor and Ms. Perry did not make the decision that she would staff the governor during the campaign and later travel. The assignment of Ms. Perry to staff the governor during the campaign was considered to be in the best interests of the state consistent with longstanding practice to ensure that the governor receives information essential to state business, is able to communicate with other state officials and makes decisions or gives directions in a timely and efficient manner.²⁰ We also consider that Ms.

¹⁹ See *Bruner v. Petersen*, 944 P.2d 43, 49 (Alaska 1997) (agency personnel and procedures presumed to be honest and impartial absent showing of actual bias or prejudice); *Earth Resources Co. of Alaska v. State, Dep't of Rev.*, 665 P.2d 960, 962 n.1 (Alaska 1983) (same) (citing *Withrow v. Larkin*, 421 U.S. 35, 47-48 (1975)).

²⁰ See attached September 26, 2008 Ethics Determination.

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Perry sought and received advice from her ethics supervisor, Linda Perez, when leaving to join the governor. One of the clear purposes of the Ethics Act is to promote such consultation and disclosure in advance of engaging in activities that may potentially result in ethics concerns.²¹

Under these circumstances, Ms. Perry was not using her official position for her own personal gain or to provide an unwarranted benefit to Governor Palin in violation of AS 39.52.120(a) because Ms. Perry was traveling on authorized state business.

The other Ethics Act provisions pertinent to the allegations in Ms. McLeod's complaint are AS 39.52.120(b)(6) and (d).

AS 39.52.120(b)(6) states that a public officer may not "use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes." The phrase "for partisan political purposes" means "having the intent to differentially benefit or harm a (i) candidate or potential candidate for elective office; or (ii) political party or group." It does not include "having the intent to benefit the public interest at large through the normal performance of duties." Thus for a violation of this provision, the evidence must establish the inappropriate intent.

Alaska Statute 39.52.120(d) provides:

[W]hen determining whether a public officer is considered to be performing a task on government time, the attorney general and personnel board shall consider the public officer's work schedule as set by the public officer's immediate supervisor, if any. A public officer other than the governor and lieutenant governor who, during the work days, engages in political campaign activities other than minor, inconsequential, and unavoidable campaign activities shall take approved leave for the period of campaigning.

To establish a violation of this provision, the evidence must show that the officer engaged in a campaign activity without taking leave under circumstances that can not be characterized as minor or inconsequential or unavoidable.

²¹ AS 39.52.210.

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The principal allegation in Ms. McLeod's complaint is that Ms. Perry used state time for other than state business and failed to take personal leave while she was accompanying Governor Palin on the described trips, as she was not physically in her state office during this time. Ms. McLeod has provided no evidence, and we have not found any, suggesting that Ms. Perry misused her state time in any substantial way or did not intend to benefit the public interest when accompanying the governor on the trips.

The purpose of Ms. Perry's assignment in each case was to accompany the governor to facilitate state business. The assignments necessarily required that Ms. Perry be with the governor, even if it meant standing in the background while the governor herself engaged in partisan political activity during the vice presidential campaign or while in Georgia or involved conferring at a poolside patio during a break in events at the Republican Governors meeting in Florida. Attendance at campaign events during the Fall and on December 1 was unavoidable if Ms. Perry was to do the assignment she was tasked to do and does not establish that she used state resources for partisan political purposes or engaged in campaigning without taking personal leave. With respect to the poolside break, the same is true. Regardless of what time of day it was, Ms. Perry was eating a meal, which she was entitled to do. And whether she was on a lunch or dinner break, again Ms. Perry was where she was supposed to be, that is with the governor. There is no evidence to overcome the presumption that Ms. Perry conducted herself appropriately given the work assignments she received.

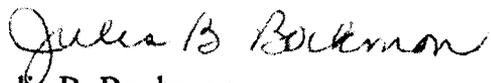
We would not have been surprised to learn that, during the Fall campaign period, or even the day in Georgia, Ms. Perry did something that may appear to be a campaign activity. But the appearance of impropriety does not establish an ethics violation.²² If we could have watched Ms. Perry's every move, there may have been moments that might look like campaigning. But, absent compelling evidence to the contrary, which we do not have, such activity would likely fall within the stated exception in AS 30.52.120(d) recognizing that a state officer may engage in minor, inconsequential and unavoidable campaign activity without taking leave in the circumstances. We would also be remiss in not stating for the record that for the highly unusual situation of the vice presidential campaign, and even the two other trips, the record clearly shows that Ms. Perry gave far more of her personal time to the State of Alaska than she may have used state time, if any, for non-state related or unavoidable personal activities.

²² 9 AAC 52.010.

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Accordingly, Ms. McLeod's January 26, 2009 ethics complaint against Kristina Perry should be dismissed pursuant to AS 39.52.310(d) as it does not warrant further investigation.

RICHARD A. SVOBODNY
ACTING ATTORNEY GENERAL

By: 
Julia B. Bockmon
Assistant Attorney General

JBB/ljt

Attachment

SARAH PALIN
Governor



P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

MEMORANDUM

TO: Kris Perry, Director
Anchorage Executive Office

DATE: September 26, 2008

FROM: 
Linda Perez
Administrative Director
Designated Ethics Supervisor
Office of the Governor

SUBJECT: Ethics Determination

I am writing with regard to your recent assignment to staff the governor while she is out-of-state campaigning for national office. By officially staffing the governor, you will be providing a more efficient means for direct communication between the state and the governor. While the present circumstance is unusual, historically the Office of the Governor has had a state employee staff governors who are attending partisan political events as part of their official state duties. The primary purpose for this is to provide a more efficient means for governors to receive information and communicate with state officials on state matters. Although the governor is campaigning for national office, she is still governing the state and must be kept apprised of issues and developments as they arise. It is in the best interest of the state at this time to have a state employee provide that staff function to ensure that information is provided timely to the governor and any decisions, questions or directions relayed back to the state.

During this staff assignment, you will be on official duty. You will not be required to take personal leave for your staffing role, and you will be in official state travel status. Any transportation, lodging, or meals you may receive from the McCain campaign while staffing the governor must be declared and reviewed as a gift under the Ethics Act. I suggest you keep a log of any travel on a campaign bus, charter aircraft, or other transportation that may be provided, and of any lodging and meals you may receive. If you are aware of the actual or estimated value of the services at the time, please note it in your log.

Please have your staff prepare a travel authorization (TA) and submit it for approval. I realize that it will need to be amended as your trip develops but we can

reconcile the travel with your records and receipts when you return. Where possible to identify transportation costs such as airfare, or other expense, we will reimburse the campaign for your travel.

Please remain cautious regarding the use of your time. Please be confident that you are staffing the governor for state business during your work day. If you have instances where you feel you are acting in a capacity to further her election effort and not as a state staffer, please keep a log of those times in order to submit leave slips when you return. Remain aware that for the state to pay your travel expenses, the majority of your workday while in travel status should be spent on state business.

Finally, if you receive any other gifts during your travel, remember that gifts valued in excess of \$150 must be disclosed.

If you have any questions or concerns regarding this memo or at any time, please feel free to call me.

cc: Michael Nizich
Chief of Staff

Judy Bockmon
Assistant Attorney General
