

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Charlie Huggins
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Gene Therriault

Senate Judiciary Committee

September 1, 2008

Mr. Thomas V. Van Flein
Clapp, Peterson, Van Flein, Tiemessen and Thorsness, LLC
711 H Street, Suite 620
Anchorage Alaska 99501

Dear Mr. Van Flein:

I am in receipt of your letter dated August 29, 2008, sent to Stephen Branchflower on August 30, 2008. It's worth pointing out that we have not received any notice from the Department of Law that the Governor was retaining private counsel. Given the nature of your letter, it seemed more appropriate that I reply to it, rather than Mr. Branchflower.

You assert in your letter that you believe that the Personnel Board is "statutorily mandated to oversee these proceedings." I don't see it that way. The Personnel Board oversees complaints brought against the Governor under the state's ethics laws. While the Board may be engaged now in investigating an ethics complaint, that process is held confidential until the Board makes a finding of probable cause. Indeed, the Board would not have jurisdiction unless someone has filed a complaint. I am unaware of one being filed. Perhaps you know differently.

Your letter goes on to request that Mr. Branchflower work with you "in adhering to state law and submitting these issues to the body properly vested with primary jurisdiction." I confess that I may be misunderstanding your point. The Legislature, of course, has its own separate powers of investigation. I hope you are not suggesting that the Legislature does not have the authority to investigate potential violations of law by members of the Executive Branch. Governor Palin has repeatedly stated that she has nothing to hide and that she and her administration will cooperate fully with this investigation. Is your client aware that you seem to be challenging the Legislature's jurisdiction? Such a position is at odds with our state's constitution, and with your client's public statements.

Your letter also requests a copy of all witness statements that Mr. Branchflower has secured. I have instructed him to not comply with that request. I think you will agree that it would be highly unusual for an investigator to share information with one of the targets of the investigation. I am unaware of any precedent for such an arrangement. Furthermore, the Attorney General is conducting his own inquiry into this matter on behalf of the Governor. As the Governor's lawyer, I feel sure that you will have access to information developed through General Colberg's efforts.

Likewise, I have instructed Mr. Branchflower to adhere to the witness interview schedule that he has worked assiduously to set up. It is very important that the interviews take place as previously arranged by Mr. Branchflower. Delays in witness interviews will jeopardize the timely conclusion of this investigation. Indeed, delays would cause me to convene a meeting of the Judiciary Committee and ask that subpoenas be considered.

With regard to the Governor's deposition, Mr. Branchflower made his initial request for an interview with the Governor last Thursday morning. There has not been a response to his request. Clearly the Governor's new political role will make it more challenging for her to make time for this investigation. Nevertheless, her repeated promises to cooperate fully with the investigation, as well as her statements that her new role as the Republican Vice Presidential nominee will not interfere with the day-to-day functioning of state business, should result in a concrete willingness to schedule and conclude her deposition. In sum, I am requesting that you set a September date for the Governor's deposition, as well as the deposition of Mr. Mike Nizich, and Mr. Randy Ruaro, by the close of business this Friday, September 5, 2008.

I appreciate your stated willingness to cooperate with the Legislature's investigation. Please keep in mind that it was the initial cooperation from the Administration with regards to witness depositions that allowed us to avoid the issuance of subpoenas. I have stated publicly that while the Governor's new status raises the profile of this investigation, it does not change the steps we must go through to see to its completion. I trust that the Governor feels the same way.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Hollis French", written in a cursive style.

Senator Hollis French