

MEMORANDUM

State of Alaska
ALASKA PUBLIC OFFICES COMMISSION
DEPARTMENT OF ADMINISTRATION

TO: APOC Members
DATE: December 14, 2007
FROM: Jeff Berliner
Investigator
TEL. NO: 907-334-1724
SUBJECT: Metcalfe v. McGuire
07-01-LFD

SUMMARY

This complaint and investigation have evolved and expanded since the initial complaint was filed on March 15, 2007. Complainant Ray Metcalfe alleged that Sen. Lesil McGuire violated financial disclosure laws in her 2004 Legislative Financial Disclosure statement by making inaccurate, inconsistent and untrue statements about the work she performed when the legislature was not in session.

Following a preliminary investigation based on the formal complaint, the staff submitted a report which concluded that the facts did not support the allegation. The August 30, 2007 staff report was taken up by the Commission at its September 14, 2007 meeting.

At that meeting, the complainant appeared and made additional allegations. The respondent was out of state on business and did not appear. Nor did she submit a response to the complaint. The Commission concluded that additional investigation was needed and specified areas of inquiry where it sought more information. The Commission also asked that the respondent submit an answer to the complaint.

This report is based on the findings of the expanded investigation into the original complaint and the additional areas of inquiry identified by the Commission. Staff has gathered additional documents and conducted interviews. As a result, staff concludes that there is insufficient evidence to support the allegations in this case.

Didn't review file. Didn't call Scott

COMPLAINT

Complainant Ray Metcalfe alleged in the original complaint that Sen. McGuire's 2004 Legislative Financial Disclosure [2004 LFD, Exhibit 1] presented a description of her self-employment (Schedule A) that may have been altered and which conflicted with other statements about her work [Complaint, Exhibit 2]. Metcalfe made further verbal allegations against Sen. McGuire at the Commission's September meeting.

At that meeting, commissioners requested further inquiry and information in the following areas: proof of employment, proof of payment, details about the nature of the work performed, whether the work was connected to any legislation and whether the veracity of the LFD was in question.

Complainant's allegations of Legislative Financial Disclosure violations

1. Rep. McGuire described her self-employment in three different ways:

(1) Her 2004 LFD Schedule A statement listed the nature of services provided as "Consulting & Research."

(2) A July 6, 2004 Anchorage Daily News article said she described her job as to "review legal documents."

(3) She testified in an unrelated lawsuit that her job was to "review medical records."

2. The LFD statement Schedule A "bears the tell-tale markings of whiteout that has been written over with the words Consulting & Research.."

3. These acts show a violation of the reporting requirements of AS 39.50 and 24.60.200 because these different descriptions cannot all be true and thus violate the requirement that statements be accurate, consistent and sufficient. In 2003, the period covered in the report under investigation, AS 24.60.200(a)(2) required a legislator to report receipt of income over \$5,000 as compensation for personal services by providing the name and address of the source of income and a statement describing the nature of the services performed. If the source of income is known or reasonably should be known to have a substantial interest in legislative, administrative or political action, and the recipient of the income is a legislator, the amount of income must also be disclosed.

Commission's request for more investigation

The Commission's request for more information served to essentially broaden the investigation beyond disclosure violations to determine details about McGuire's self-employment and whether her LFD contained truthful information.

FACTS

Sen. Lesil McGuire was a state representative during the period covered by the complaint. Her 2004 LFD statement covered calendar year 2003. She submitted her 2004 LFD Statement, including Schedule A, which has been challenged by the complaint, to APOC by fax on March 4, 2004, prior to the March 15 deadline.

In a routine review of required filings, staff noticed an obvious facial error on Schedule A, where she mistakenly listed herself as the client/customer for self-employment even though she correctly listed the client/customer address as Providence Drive, where Providence Hospital is located. Staff clarified this with her and then corrected the mistake by lining out Lesil McGuire's name, writing in Providence Hospital and initialing and dating the correction.

The Schedule A self-employment section stated that Sen. McGuire earned \$10,500 by contracting for "Consulting & Research" services through her sole proprietorship business, Midnight Sun Consulting.

Sen. McGuire's work was an outgrowth of a complex land swap and comprehensive U-Med District Land Use Plan which made possible the transaction in which Providence negotiated for the old API.

PROCEDURES

- After Ray Metcalfe filed the complaint on March 15, 2007, APOC staff notified Sen. McGuire in writing on March 16, 2007 and discussed the procedure for follow-up in a March 22, 2007 telephone conversation.
- The complaint was filed during the legislative session. Since legislators have immunity from legal actions (except felony charges) while in session, no action was taken for the duration of the session.
- During the third week of August 2007, APOC hired an investigator who conducted a preliminary investigation and interviewed Sen. McGuire, who denied the allegations and decided not to exercise her right to make a statement at the time.
- APOC staff requested [Exhibit 3] a statement of fact from Providence about Sen. McGuire's work. Providence attorney Dan Hickey submitted a statement [Exhibit 4].
- The August 30, 2007 staff report summarized the findings, which the Commission discussed at its September 14 meeting. The Commission heard further allegations by the complainant, asked questions of its own and called for further investigation. Sen. McGuire was out of state on business and did not attend the Commission meeting. Nor did she submit a statement. However, a member of her staff attended the meeting as an observer and later obtained a recording of the meeting for Sen. McGuire.
- The investigation continued along with renewed requests to Sen. McGuire for a response to the allegation and the additional questions raised by the Commission. McGuire continued to deny the allegation and, as a result of the Commission request, agreed to submit a statement. But no statement was immediately forthcoming and she requested more time as a result of her husband's impending sentencing (October 15, 2007) on federal corruption charges.
- The legislature went into special session on October 18, 2007. All legislators have immunity from civil actions while the body is in session plus five days before and five days after the session. Sen. McGuire contacted APOC after her immunity ended and indicated she was hiring an attorney.
- Attorney Charles Dunnagan notified APOC on November 29, 2007 that he was representing Sen. McGuire [Exhibit 5]. He promised that his client would respond to the allegations, but requested more time to prepare and asked for a continuance beyond December 11 when the Commission was scheduled to take up the case. The Commission granted a continuance, but set deadlines for Sen. McGuire's statement and for a new APOC report so that the Commission could consider the matter at a special meeting on December 18, 2007.

RESPONSE TO STATEMENT

Sen. McGuire denied the allegations in repeated telephone conversations with APOC and asserted that her 2004 LFD was correct. She stated that reviewing legal documents was a part of the project, which she discussed in some detail. APOC requested a written statement, but she preferred to stand on her verbal denials. APOC informed Sen. McGuire, prior to the Commission's September meeting, that she had the right to respond to the allegations, but she was not required by law to do so. However, the Commission made it clear in their instructions to staff at the September 14, 2007 Commission meeting that it wanted a direct response from Sen. McGuire.

As soon as she obtained counsel, he set in motion steps to get a direct written response. Sen. McGuire and her attorney requested questions for her to answer. She submitted a sworn statement and sworn answers to APOC questions [Exhibit 6] on December 12, 2007. - 9 months to get a response

Sen. McGuire objected to the expanded nature of the investigation, but addressed the allegations and answered the new questions. Her sworn statement reasserted that her LFD provided accurate and lawful disclosures. Among her assertions:

- She never misrepresented her contract work for Providence.
- She reviewed documents involving plans by Providence hospital to obtain the old Alaska Psychiatric Institute building, which contained asbestos and was scheduled for demolition. The documents she worked with included legal, property, asbestos and financial issues. She never claimed that she reviewed medical records as part of her job.
- Her project did not involve any health care or other issues before the legislature. Nor did it involve any legislation in which her physician father, Dr. David McGuire, had a vested interest. She was not involved in the Certificate of Need issue, a regular subject of legislation and controversy.
- She was hired by Providence CEO Al Parrish and Laurie Herman, regional director of government affairs.
- When the project was complete, she worked with Laurie Herman on a final written work product and signed off on it.

DOCUMENTS, EXHIBITS & EVIDENCE

Before looking at the evidence gathered in the case, it is critical to establish the integrity of documents upon which the allegations are based and which figure into the case.

The original allegation says this about Sen. McGuire's 2004 LFD statement: "The copy available through APOC bears the tell-tale markings of whiteout that has been written over with the words Consulting & Research." This is misleading. Sen. McGuire's 2004 LFD statement was faxed to APOC on March 4, 2007. It arrived at APOC with the whiteout changes made prior to the statement being faxed to APOC. When documents arrive at APOC, they are stamped in with a dated, blue "ARRIVED" stamp to designate the original. APOC allows disclosure statements to be submitted by fax. The fax received at APOC

How could you know this? Do you have an unbroken chain of custody? Who is telling custody?

becomes the original document that is stamped in. Clearly, Sen. McGuire used whiteout to make a change on her LFD, but that change was made before the LFD was faxed to APOC. APOC received the LFD with the change already made. Documents prepared for APOC only become official APOC documents after they are received at APOC. From APOC's standpoint, it doesn't matter what a document says that is not submitted or before it's submitted. What matters is what the submitted document says after it is submitted and received by APOC.

The original complaint also alleges: "According to the Anchorage Daily News July 6, 2004 account of what Lesil McGuire had reported, her report had said she was paid to 'review legal documents'." The ADN article [Exhibit 7] reported: "McGuire, an Anchorage Republican who has a law degree, told the Alaska Public Offices Commission that she was hired by Providence Alaska Medical Center to review legal documents. **She did not return calls seeking a fuller explanation."**

There is no evidence that Sen. McGuire told APOC that she reviewed legal documents. The article gives no source for the information, and there is nothing in APOC files to indicate that she told APOC anything at all except what she disclosed in writing on her LFD statement. APOC asked reporter Sean Cockerham the source of the information, and he told his editors of the APOC request. Cockerham said they decided to assert their right not to respond to the inquiry. But he also gave no indication that the ADN possessed any documents that would support or refute the allegation. One can speculate how this originated. Perhaps, Sen. McGuire even showed an earlier version of her form to Cockerham, thus the "told APOC." Then, perhaps she changed it before submitting. This is all speculation, but there is nothing in APOC files to show she ever "told" APOC that she did legal research.

Although this issue remains one for speculation, it is not recommended that APOC go so far as to subpoena documents or information from a reporter, especially when APOC itself possesses nothing to support this allegation.

This may be an overly long discussion of these issues, where no evidence exists to support the allegations. However, the integrity of documents is a critical and principled issue underlying all disclosures and investigations. APOC cannot use documents unless they can be authenticated. It is important to investigate challenges to the integrity of documents, and APOC must be satisfied with the integrity and authenticity of any documents it accepts and uses.

II VESTIGATIONI

The McGuire-Providence Contract

Providence CEO Al Parrish and Lesil McGuire signed a contract [Exhibit 8] on October 23, 2003. Most of the contract is Providence boilerplate language, but the nature of Sen. McGuire's work is described on the last page.

Invoices, Proof of Payment

Providence has given APOC payment documents [Exhibit 9], including invoices, payment records and related internal accounting records.

Final work product

A December 2003 "Confidential Memorandum" [Exhibit 10] from Lesil McGuire, Midnight Sun Consulting, to AL Parrish, Vice President/Chief Executive, Providence Health System Alaska, outlines the project.

This document is the result of Providence officials debriefing Sen. McGuire on her work. Providence submitted this document to APOC as Sen. McGuire's work product. Both Providence and Sen. McGuire acknowledge that this is not an original piece of writing from McGuire, but rather a joint effort. McGuire addresses in her sworn statement, and says she worked on this with Laurie Herman, the regional director of the government affairs.

In addition, Providence consultant and lobbyist Eldon Mulder pitched in and worked with both Sen. McGuire and Laurie Herman to refine and polish the final report. Mr. Mulder, a former legislator, said he met with Sen. McGuire twice to discuss her work and that he and Laurie Herman passed drafts back and forth until everyone involved was satisfied with the final product. Then McGuire signed off on it and initialed it.

Eldon Mulder described his role as "basically clean-up with Lesil." He said Al Parrish brought him in because he had been on the House Finance Committee during the complicated transactions involving a land swap and planning for both the old and new API, which ultimately involved Providence.

Project documents

APOC staff reviewed a sampling of the documents that Sen. McGuire dealt with on the project, according to Providence attorney Dan Hickey, who permitted the review in his office.

APOC staff reviewed additional documents at the Alaska Mental Health Trust Land Office, which was the prime landowner and prime mover behind the transaction involving a land swap and Providence closing a deal to obtain the old API.

There is a long and complex history involving many agencies and going back many years in effort to figure out how to replace the old API. Key decisions were made before Sen. McGuire entered the legislature. A series of "Best Interest Decisions" - which were subjected to public scrutiny - provided the foundation for the series of events that ultimately led to the Providence purchase of old API and the McGuire contract. All this took place within the context of the U-Med District Land Use Plan, which included the Alaska Mental Health Trust, the Trust Land Office, API, the Department of Health and Social Services, UAA, Providence, the Municipality of Anchorage, community councils, private land owners and others.

The Trust Land Office documents comprise many volumes stacked high covering an entire conference room table. APOC reviewed these files for background and evidence in this case, but these voluminous files covering many years are not incorporated as exhibits here.

A Laverant of doubt speak and plausible deniability

on how the

→ why did he need to discuss advice Finance Committee with mcguire

The court made the need of information hidden in the way stack made Available for your Review

to cover her ass and then got cold feet about swearing to the authenticity as a letter from McGuire as it says "Dale" to be

Offer to purchase land

Only one document makes a reference to Lesil McGuire in the massive volumes in the complex land swap and subject planning for the area. This document does not reference Providence Hospital or Sen. McGuire's contract, but it was examined to either determine that there was a connection or to rule out any connection.

and it had to do with her father's attempt to buy land, not

This document is a Trust Land Office (TLO) letter [Exhibit 11] from TLO Executive Director Dave Hanson on October 7, 2004, to realtor Chris Stephens as a follow-up to discuss a land purchase. Mr. Stephens and Sen. McGuire had gone to the TLO to make an offer on behalf of Dr. David McGuire to purchase land at the southeast corner of 36th Avenue and Lake Otis. This is noteworthy because that parcel of land figured into the much larger multi-agency land swap that ultimately led to Providence acquiring the old API.

Providence Land Swap.

was her father a beneficiary of the land swap? is that why her name is in the letter

Mr. Hanson's letter indicates that the TLO rejected the offer to purchase land and returned the offer without considering it. Hanson, now the Director of Economic Development for the Mat-Su Borough, and current TLO Deputy Director Wendy Woolf said in separate interviews that offers to buy land, like McGuire's, are fairly common, especially when prime real estate becomes available. The McGuire offer was rejected because TLO puts most of its real estate out to competitive bid for long-term leases and does not entertain offers to buy. Hanson also noted that Sen. McGuire was in the TLO office as a representative of her father and avoided any mention of her role as a legislator.

then how does this letter tie her to the "pile of documents" at Providence

Al's Action Line

"Al's Action Line" is an internal Providence system that allows employees to communicate directly with the chief executive, to ask questions, make proposals or register complaints. Questions arose recently about Sen. McGuire's Providence contract, and Parrish answered the questions on Al's Action Line [Exhibit 12]. Although this is an internal message system, Providence is the largest private employer in Alaska so this message was accessible by thousands of people.

Al Parrish affidavit

Sen. McGuire's contract with Providence became an issue in a personal injury lawsuit (3AN-03-08531 CI) in which she was injured and sued for damages. Her non-legislative earnings became an issue in the damage claim and the defendants asked for details of her Providence work. Providence attorney Peter Gruenstein submitted an opposition to the request, but ultimately provided the documents under seal along with an affidavit from Providence Chief Executive Al Parrish [Exhibit 13] that gave a brief description of her work, made mention of the "performance" of the agreement, what her services included and what she reviewed "in the process of her work."

Did the McGuire-Providence work involve any issues before the legislature?

The Commission asked this question as a result of insinuations that she was working on Certificate of Need (CON) legislation in which the hospital and her physician father had an interest.

Sen. McGuire's sworn statement denies that her contract work involved CON measures or any other legislation.

Rep. Ralph Samuels sponsored major CON legislation in the 23rd legislature. When it came to a vote on April 28, 2004, then-Rep. McGuire asked that she be allowed to abstain from voting because of a conflict of interest, according to the House Journal text, page 3597 [Exhibit 14]. She was not excused and was ordered to vote.

In her sworn statement, Sen. McGuire said her conflict of interest involved family business not related to her contract with Providence.

APOC asked Rep. Samuels if then-Rep. McGuire had anything to do with his CON bill, HB511. "Absolutely not," he said. "She was not involved in this bill." Rep. Samuels said much of content came from the Dept. of Health and Social Services. He said Dr. McGuire was on the periphery and he spoke to him once. "I think this is an issue because Lesil McGuire has the wrong last name because of Dr. McGuire."

Providence lobbyist Eldon Mulder said he approached Rep. Samuels on the issue. Rep. Mulder dismissed allegations that then-Rep. McGuire was involved in the CON bill. "I know it's untrue. I was there," he told APOC. "Lesil had nothing to do with it."

Paul Fuhs, a lobbyist for the opposite side on CON legislation from Dr. McGuire and Providence, also denied that then-Rep. McGuire had anything to do with the legislation. He wrote a letter to the editor of the Anchorage Daily News on the subject. The letter [Exhibit 15] was published September 23, 2007. Fuhs later told APOC in an interview that the CON measure was a matter of life and death for his imaging center clients. But he said that Sen. McGuire "never had anything to do with it." Fuhs said: "I know. I was there."

A review of all legislation sponsored or co-sponsored by then-Rep. McGuire turns up a few measures related to health care, but nothing with any apparent connection to her Providence work.

AI ALYSIS & COI CLUSIOI

This broadened investigation delved into many areas not directly related to this APOC complaint in the search for any evidence related to the allegations and Sen. McGuire's work for Providence. Based on the evidence and interviews gathered, APOC has found that the allegations are not supported by the evidence and that the additional questions posed by the Commission have been answered satisfactorily.

There is no evidence that documents were altered or changed after being submitted to APOC. There is no evidence that the integrity of APOC documents has been compromised.

Although Sen. McGuire's 2004 LFD statement description of her self-employment as "Consulting & Research" may seem suspect from the vantage point of a changed political environment in 2007, she has gone far beyond any requirements in the 2004 law or the tougher 2007 law in describing her self-employment.

There is no evidence to support the allegation that her disclosure presented inaccurate, inconsistent or untruthful information. On the contrary, there is substantial evidence, including sworn statements, that she engaged in a project for Providence and that she was paid for her services.

APOC staff recommends that the complaint be dismissed.

*= attachment
to following contract.*

Scope of Deliverables

Lesil McGuire will provide services to Providence to assess the necessary steps and develop a plan with implementation strategies that requires the State of Alaska to release the existing Alaska Psychiatric Institute building to Providence and pay Providence the sum of \$7 million for said structure. In turn, Providence will release the State of Alaska of their obligation for demolition and removal of said structure, under terms of the fully executed purchase agreement between Providence and the Alaska Mental Health Trust Authority for purchase of the land upon which said structure stands. Consultant will work with Providence and any other parties so designated by Providence to ensure that at completion of this contract an agreement to fulfill this objective has been drafted, liability concerns have been addressed, and funding sources and mechanisms have been identified.

*Where is this contract with
API? Is it contingent
on appropriation*

Duration and Compensation

The term of this agreement shall run from October 15, 2003 until December 31, 2003.

Providence will pay a fee of \$10,500 for services provided by the Consultant. The fee shall be payable at \$3,500 monthly commencing on October 31, 2003 and continuing through December 31, 2003. Consultant will submit an invoice (including Federal Tax Identification Number) of services performed by the 15th of each month to the attention of Al Parrish, VP/Chief Executive, Alaska Region, Providence Health System in Alaska, P.O. Box 196604, Anchorage, Alaska 99519-6604.

*→ mc Guire said she
did not keep
copies of Billing Records
see Affidavit
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**CONSULTING SERVICES AGREEMENT
(INDEPENDENT CONSULTANT)**

This Consulting Services Agreement (this "Agreement") is made between Lisel McGuire ("Consultant") and Providence Health System - Washington d/b/a Providence Health System Alaska ("Providence").

In consideration of the mutual covenants contained herein, Consultant and Providence agree as follows:

MASTER FILE

Section 1. The Services

Consultant will perform the services described in the Scope and Deliverables attached as Exhibit A (the "Services") in accordance with the terms and conditions of this Agreement. Consultant will perform the Services in a professional manner in compliance with all applicable laws and regulations and all standards and rules reasonably established by Providence from time to time.

Section 2. Compensation

Providence will pay Consultant for Services rendered in the amount and on the payment terms described in the Scope and Deliverables attached as Exhibit A. In addition to the compensation described in Exhibit A, Providence will reimburse Consultant for the actual cost of any travel, lodging, meals, and other out of pocket expenses necessary to complete the Services so long as such costs and expenses are approved in advance and in writing by Providence.

Section 3. Term and Termination

This Agreement shall be effective on the date written on the signature page of this Agreement and shall continue until all Services are provided or as otherwise described in the Scope and Deliverables attached as Exhibit A, unless earlier terminated in accordance with the terms of this Agreement. Either party may terminate this Agreement at any time, without cause and without penalty, by giving the other party thirty (30) days advance written notice of termination. Either party may terminate this Agreement for material breach upon ten (10) days advance written notice specifying such breach unless the breach is cured within such ten (10) days.

Section 4. Independent Consultant

Consultant will perform the Services as an independent Consultant of Providence and this Agreement will not be construed to create a partnership, joint venture, or employment relationship between Consultant and Providence. No employee or agent of Consultant will represent himself or herself to be an employee or agent of Providence or enter into any agreement on Providence's behalf or in Providence's name. Consultant will retain full control over the manner in which the Services are performed and Consultant's employees and agents will not be entitled to workers' compensation, retirement, insurance or other benefits afforded to employees of Providence.

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Section 5. Compliance With Laws

Consultant will (a) comply with all federal, state, and local laws, ordinances, regulations and orders with respect to its performance of the Services; (b) file all reports relating to the Services (including, without limitation, federal, state, and local tax returns); (c) pay all filing fees and federal, state and local taxes applicable to Consultant's business as the same shall become due; and (d) pay all amounts required under local, state and federal workers' compensation acts, disability benefit acts, unemployment insurance acts and other employee benefits acts when due. Consultant will provide Providence with such documents and other supporting materials as Providence may reasonably request to evidence Consultant's continuing compliance with this Section 5.

Section 6. Medicare/Medicaid Participation

Consultant hereby represents and warrants that neither Consultant nor consultant's principals (if applicable) are presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in any federally funded health care program, including Medicare and Medicaid. Consultant hereby agrees to immediately notify Providence of any threatened, proposed, or actual debarment, suspension, or exclusion from any federally funded health care program, including Medicare and Medicaid. In the event that Consultant is debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in any federally funded health care program during the term of this Agreement, or if at any time after the effective date of this Agreement it is determined that Consultant is in breach of this Section, this Agreement shall, as of the effective date of such action or breach, automatically terminate.

Section 7. Insurance; Risk of Loss

For purposes of this contract, Providence has determined that liability insurance is not required, however, Consultant will maintain insurance policies reasonably required by Providence sufficient to protect against all applicable risks. Consultant will provide Providence with certificates of insurance and other supporting materials as Providence may reasonably request to evidence Consultant's continuing compliance with the preceding sentence. Consultant will be liable for all loss or damage, which is caused by Consultant, other than ordinary wear and tear, to Providence's property in Consultant's possession or control. In the event of any such loss or damage, Consultant will pay Providence the full current replacement cost of such equipment or property within thirty (30) days after its loss or damage.

Section 8. Ownership and Use of Proprietary Materials

8.1 Proprietary Materials. As used in this Agreement, "Proprietary Materials" means all products, devices, computer programs, techniques, know-how, algorithms, procedures, discoveries, or inventions, whether patentable or copyrightable and whether reduced to practice, and all materials, texts, drawings, specifications, source code, data and other recorded information, in preliminary or final form and on any media whatsoever, that (a) is within the scope of Providence's business, research or investigations or results from or is suggested by Consultant's performance of the Services, and (b) is created, conceived, reduced to practice, developed, discovered, invented or made by Consultant during the term of this Agreement, whether solely or jointly with others while engaged in performing the Services.

8.2 Ownership. Providence will be the exclusive owner of all Proprietary Materials. To the extent permitted under the US Copyright Act (17 U.S.C. § 101, et seq., and any successor statute thereto), the Proprietary Materials will constitute "works made for hire," and the ownership of such Proprietary Material will vest in Providence at the time they are created. If the Proprietary Materials do not constitute a "work made for hire" under federal copyright laws, this Agreement shall constitute an assignment by Consultant of all of Consultant's rights in and to such Proprietary Materials created and developed by Consultant under the Agreement for the benefit of Providence. Consultant shall also execute such separate written instruments assigning such rights to Providence as Providence may request from time to time.

8.3 Further Acts. Consultant will take such action (including, but not limited to, the execution, acknowledgment, delivery, and assistance in preparation of document or the giving of testimony) as may be requested by Providence to evidence, transfer, vest or confirm Providence's right, title and interest in the Proprietary Materials.

8.4 Limitation. Notwithstanding any other provision of this Agreement to the contrary, this Section 8 will not obligate Consultant to assign or offer to assign to Providence any of Consultant's rights in an invention for which no equipment, supplies, facilities, or trade secret information of Providence was used and which was developed entirely, on Consultant's own time, unless the invention results from any work performed by Consultant for Providence.

8.5 Use and Confidentiality. Except as required for Consultant's performance of the Services or as authorized in writing by Providence, Consultant will not use, disclose, publish, or distribute any Proprietary Materials or remove any Proprietary Materials from Providence premises. Consultant will hold all Proprietary Materials in trust for Providence and will deliver them to Providence upon request and in any event upon the expiration or termination of this Agreement. Upon termination of this Agreement, Consultant will delete all Proprietary material from Consultant media.

Section 9. No Conflicting Obligations

9.1 Other Agreements. Consultant's execution, delivery, and performance of this Agreement will not violate any other employment, nondisclosure, confidentiality, consulting or other agreements or commitments to which Consultant is a party or by which Consultant may be bound.

9.2 Confidential Information. Consultant will maintain the confidentiality of any confidential or proprietary information provided to or obtained by Consultant in performing the Services under this Agreement. If Consultant as a result of the work Consultant is performing under this Agreement, obtains information that Providence has in the past or is presently in violation of any federal, state or local law, regulation or order, Consultant shall have an affirmative obligation to promptly notify Providence and shall not otherwise use or disclose such information except as provided herein.

9.3 Third-Party Confidential Information. Consultant will not use, in the performance of the Services or the creation of any Proprietary Materials, or disclose to Providence any confidential or proprietary information of any other person if such use or disclosure would violate any obligation or duty that Consultant owes to such person. Consultant warrants and represents that Consultant's compliance with this Section 9.3 will not prohibit, restrict, or impair Consultant's performance of the Services and its other obligations and duties to Providence.

Section 10. Indemnification

Consultant will indemnify, defend and hold Providence (and Providence's agents and employees) harmless from all claims, damages, losses and expenses (including attorneys' fees) arising out of or resulting from any claim, action, or other proceeding (including any proceeding by any employees, agents or Consultants) that is based upon (a) Consultant's breach of this agreement, (b) the conduct of Consultant's business, (c) any negligent act or omission of Consultant, or (d) the infringement or misappropriation of any foreign or United States patent, copyright, trade secret, or other proprietary right.

Section 11. Remedies and Applicable Law

The parties agree that damages may be inadequate to compensate for the unique losses to be suffered in the event of a breach hereof, and that the damaged party will be entitled, in addition to any other remedy it may have under this Agreement or at law, to seek and obtain injunctive and other equitable relief, including specific performance of the terms of this Agreement without the necessity of posting bond. This Agreement will be governed in all respects by, and construed and enforced in accordance with, the laws of the State of Alaska, without regard to any rules governing conflicts of laws.

Section 12. Assignment

Consultant may not assign this Agreement, in whole or in part, without Providence's prior written consent. All the terms and provisions of this Agreement will be binding upon and inure to the benefit of and be enforced by the parties hereto and their respective successors and permitted assigns.

Section 13. Entire Agreement, Interpretation and Changes

This Agreement constitutes the entire agreement between the parties with respect to the subject matter described herein and all prior or contemporaneous oral or written communications, understandings, or agreements between Consultant and Providence with respect to such subject matters are hereby superseded in their entirety. In the event of any inconsistency between the terms of the main body of this Agreement and the terms of the Scope and Deliverables attached as Exhibit A, then the terms of the main body of this Agreement shall take precedence over the terms of Exhibit A. Any changes, amendments, or modifications to this Agreement and/or Exhibit A shall not be binding on the parties unless mutually agreed to by the parties in writing. If any such changes, amendments, or modifications cause an increase or decrease in the cost or time required to complete the Services, mutually agreed adjustments shall be made in the contract price and/or the period of service described in Exhibit A.

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Section 14. Access to Books and Records

During the term of this Agreement and for a period of four years after the termination hereof, Consultant shall grant access to the following documents to the Secretary of the U.S. Department of Health and Human Services ("Secretary"), the U.S. Comptroller-General and their authorized representatives: this Agreement, and all books, documents and records necessary to verify the nature and costs of services provided hereunder. If Consultant carries out the duties of this Agreement through a subcontract worth \$10,000 or more over a 12-month period with a related organization, this subcontract shall also contain a clause permitting access by the Secretary, Comptroller-General and their authorized representatives to the related organization's books, documents and records.

Section 15. Severability

If any provision of this Agreement is held invalid, illegal or unenforceable in any jurisdiction, for any reason, then, to the fullest extent permitted by law (a) all other provisions hereof will remain in full force and effect in such jurisdiction and will be liberally construed in order to carry out the intent of the parties hereto as nearly as may be possible, (b) such invalidity, illegality, or unenforceability will not affect the validity, legality, or enforceability of any other provision hereof, and (c) any court or arbitrator having jurisdiction thereover will have the power to reform such provision to the extent necessary for such provision to be enforceable under applicable law.

Section 16. Confidentiality of Patient Records

The Consultant agrees to hold all individually identifiable patient health information ("Protected Health Information") that may be shared, transferred, transmitted, or otherwise obtained pursuant to this Agreement strictly confidential, and provide all reasonable protections to prevent the unauthorized use or disclosure of such information, including, but not limited to the protection afforded by applicable federal, state and local laws and/or regulations regarding the security and the confidentiality of patient health care information. Consultant further agrees to make every reasonable effort to comply with any regulations, standards, or rules promulgated pursuant to the authority of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), including those provisions listed below, as soon as possible, but in no event later than April 14, 2003. The Consultant may use and disclose Protected Health Information when necessary for Consultant's proper management and administration (if such use or disclosure is necessary), or to carry out the Consultant's specific legal responsibilities pursuant to this Agreement. Specifically, the Consultant agrees as follows: (1) to maintain safeguards as necessary to ensure that the Protected Health Information is not used or disclosed except as provided herein; (2) to mitigate, if possible, any harmful effect known to Consultant of a use or disclosure of Protected Health Information by Consultant; (3) to ensure that any subcontractors or agents to whom it provides Providence's Protected Health Information will agree to the same restrictions and conditions that apply with respect to such information; (4) to make available respective internal practices, books and records relating to the use and disclosure of Protected Health Information received from Providence to the Department of Health and Human Services or its agents; (5) to incorporate any amendments or corrections to Protected Health Information when notified by Providence that the information is inaccurate or incomplete; (6) to return or destroy all Protected Health Information received from Providence that Consultant still maintains in any form and not to retain any such Protected Health Information in any form upon termination or expiration of this Agreement, if feasible or, if not feasible, Consultant agrees to limit any uses of Providence's Protected Health Information.

Agreement's termination or expiration to those specific uses or disclosures that make it necessary for Consultant to retain the information; (7) to ensure applicable policies are in place for providing the Protected Health Information to Providence to satisfy an individuals' request to access their information; (8) to report to Providence any use or disclosure of Protected Health Information which is not provided for in the Agreement; and (9) to make Protected Health Information available to Providence as requested to provide an accounting of disclosures to an individual who is the subject of the information, to the extent required by HIPAA. If at any time after the effective date of this Agreement it is determined that Consultant is in breach of this Section, Providence, in its sole discretion, may immediately terminate this Agreement. Consultant further agrees to sign any other documents, as appropriate, including but not limited to a Business Associate Agreement with Providence, if requested to do so by Providence.

EFFECTIVE DATE of this Agreement is 10/23, 2003.

CONSULTANT:

Name: Kevin McGuire

By: _____

Its: _____

Date: 10/23/03

PROVIDENCE HEALTH SYSTEM -
Washington dba PHSA

By: [Signature]

Its: E. A. PARSONS
CE - ALASKA

Date: 10/23/2003

agrmts\ConsultIndCon - rev. 03-17-03

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a

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

RAY METCALFE,

Complainant,

v.

LESIL McGUIRE,

Respondent.

APOC Case 074-01-LFD

SWORN STATEMENT OF LESIL McGUIRE

INTRODUCTION

I have cooperated fully and voluntarily in this investigation. In a memo to APOC Commissioners dated August 30, 2007, APOC staff recommended that the complaint be dismissed because the facts did not support the allegation that a violation had occurred. The Commission did not accept the recommendation. I was then asked to provide a written statement. On advice of counsel I asked for a list of questions from APOC so I could respond specifically to any remaining areas of concern. On Saturday, December 8, APOC Staff forwarded to my counsel and myself a list of questions requesting a response in writing. In the materials below, I have answered the questions to the best of my ability subject to the general objection below which I am making on advice of counsel.

GENERAL OBJECTION

The original complaint in this case alleges that I stated under oath in an unrelated lawsuit that I was paid by Providence to "review medical records." The complaint alleged this was inconsistent with my disclosure form that described the work done for

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EXHIBIT 6
Page 2 of 9

Providence as "consulting and research." APOC investigated the claim and in its memo of August 30, 2007, stated:

The complaint offers no evidence and names no case or source for the allegation that then Rep. McGuire had claimed that her job involved reviewing medical records. She denies this and Providence says that she came in contact with no medical records.

Memo at p. 7. Thus, although the complaint in this case alleged inconsistent statements by me, there was never any evidence to support the allegation. By failing to provide the basis for an allegation the complaint is deficient on its face. 2 AAC 50.450(a)(5). I never came into contact with any medical records no was I asked to work with any as part of my Providence contract. I have never stated under oath or otherwise that I reviewed medical records, the heart of the complaint. But even assuming that I ever said or was quoted as saying that I reviewed medical records, it would have simply been a misstatement or misunderstanding. As explained below, I never reviewed medical records and, importantly, I never reported to APOC that I did. Again, there is no evidence of misstatements in my APOC reporting.

When the Commission Staff finds that there is no evidence to support a violation, dismissal is the appropriate action for the Commission. 2 AAC 50.460(c)(2). That should have already happened in this case based on the lack of evidence reported in the August 30 memorandum. Nothing in the Commission's current questions to me are reasonably related to the issues set out in the original complaint. To my knowledge, the ongoing APOC investigation has not uncovered any evidence of other violations. Thus, the Commission is proceeding without a viable complaint and without evidence of any violation. By doing so, the Commission is exceeding its authority. Interestingly, it appears

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EXHIBIT

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Page 3 of 9

that the only clear misstatements this investigation has uncovered are those of Mr. Metcalfe in his complaint. By continuing to cooperate with APOC and by answering personal, family, and business questions which go far beyond the scope of the original claim, I do not give my consent to this expanded inquiry nor do I waive my right to object at any future time on any and all grounds now or then available.

Notwithstanding the objections above and with full reservation of my rights, my answers to APOC's questions are below. Some questions have been broken down into parts to make the answers more clear and specific.

SWORN STATEMENT

I, Lesil McGuire, being first duly sworn upon oath, depose and state as follows:

1. *In carrying out your contract with Providence in late 2003, where did you perform your work and about how many hours/days/weeks did you spend working on the project?*

A – I kept a copy of the project file with me at all times over the period of the contract and worked from it. I worked from my home office, by phone and at Providence when I met with Laurie Herman. I did not keep copies of the billing records, and at this writing I have been unable to review the billing records which have been provided by Providence to APOC. However, I have no present reason to believe the billing records created at the time the work was done are incomplete or inaccurate. With respect to the work itself, please see the following question.

2. *Your 2004 LFD, covering calendar year 2003, described the nature of services as "Consulting & Research." Since questions have been raised about the actual work performed for Providence, can you describe it in more detail?*

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A – I reviewed and analyzed legal documents, land documents, technical documents pertaining to asbestos, and correspondence related to Providence Hospital's expansion of its medical facilities. I researched and analyzed the validity of assessments and opinions about the proposed development to determine how various options would best fit Providence Hospital's needs. Specifically, I was asked to focus on the old Alaska Psychiatric Hospital and how it should be incorporated into Providence's campus development. The building had asbestos in it and there were liabilities associated with its existence and costs associated with its removal. Providence believed it could be central to its development plans, but there were risks and hurdles associated with its acquisition. I was asked to analyze all so that a plan could be formulated.

I worked with many documents, none of which were medical in nature. My understanding is that the part of my contract that references medical records is put into Providence contracts as a part of the Health Insurance Portability and Accountability Act of 1996 (HIPPA), in case a person contracting with the hospital comes into contact with patient records.

3. *Did any of the work involve legislation or health care issues before the legislature? Health care and mental health issues and budgets are considered by the legislature every session. Was there ever any conflict that arose between issues in the legislature and your Providence work?*

A – My work for Providence did not involve legislation or health care issues before the legislature. With respect to the rest of the question about conflicts between my work with Providence and issues with the legislature, I think the general answer is "no."

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More specifically, I never crafted or sponsored a budget item or a legislative item that, to my knowledge, benefited Providence.

4. *Did any of the Providence work involve state of Alaska business, health care issues or legislation that your father, Dr. David McGuire, had a stake in?*

A - No.

5(a) *Did any of the work involve the Certificate of Need issues?*

A - No.

5(b) *Were you involved in writing or proposing the CON legislation, HB511 sponsored by Rep. Samuels in 2004?*

A - No.

5(c) *When this legislation came to the House floor, you asked to be excused from voting - why?*

A - My family has business interests involving Certificate of Need issues. I typically recuse myself when those issues come up.

5(d) *Did this have anything to do with your work at Providence?*

A - As I recall, no. As I recall, my recusal had to do with the usual family business issues. No part of my Providence contract in the fall/winter of 2003 involved legislation related to the certificate of need or any other piece of legislation.

6. *Who at Providence hired you and to whom did you report?*

A - I cannot presume to speak for Providence and this question is more properly directed to Providence. However, with that reservation, I can tell you that it is my belief that the hiring decision was made by Laurie Herman and Al Parish.

↳ Both former aids to Sheffield, Lisa's mother's ~~son~~ boyfriend

During the time I worked on the Providence project I reported to Laurie Herman.

7. *There is a final work product, a three-page memorandum, dated Dec. 30, 2003, outlining the project: "Old Alaska Psychiatric Hospital (API) Status and Recommendations." The memo is addressed to Al Parrish from Lesil McGuire, and you signed off on it by initialing by your name. Can you discuss the evolution of this memorandum?*

A - Laurie Herman and I communicated during the project. At the end of the project, Laurie wanted a document that would serve as a closure for my work. I reviewed the memorandum after my contract was complete and signed off on it. My contract spanned from October to December of 2003. *It sure looked like a memorandum from Lesal.* I have no present recollection of, or copies of, or other records with respect to any earlier drafts of the three-page memorandum.

8. *Have you described your work for Providence in different ways to different people at different times? Did you make any changes using whiteout after you filed your LFD with APOC?*

A - I have tried to be consistent in describing my work for Providence. I have never intentionally misrepresented my work for Providence. You have to remember that in 2004 the terminology used for describing work was not required to be as detailed as it is today. Review of legal documents, research and consulting were all accurate descriptions of the work I performed. If I had it to do over today, I would have been more detailed.

I never changed any documents after they were signed and filed with APOC. I am aware that APOC Staff corrected a clerical error in my LFD on or about 4/16/04 with

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my knowledge and consent. This was mentioned, accurately, in the APOC memorandum of August 30, 2007, at p. 5.

9. In October 2004, nearly a year after you began your Providence project, you and a realtor went to the Alaska Mental Health Trust Land Office to make an offer to purchase land at the southeast corner of 36th and Lake Otis on behalf of Dr. David McGuire. Did this offer to purchase property arise from any of the work you did for Providence?

A - No.

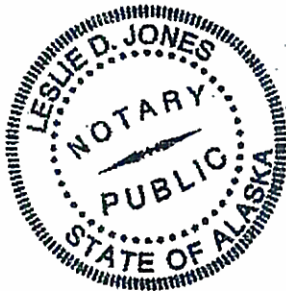
Date: 12/12/07

Lesil McGuire
Lesil McGuire

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 12th day of December, 2007, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Lesil McGuire known to me or to me known to be the individual named in and who executed the foregoing document, and she acknowledged to me that she signed the same as her free and voluntary act for the uses and purposes therein set forth.

WITNESS my hand and notarial seal the day and year first written above.



Leslie D. Jones
Notary Public in and for Alaska
My commission expires: 3/20/11

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CONFIDENTIAL MEMORANDUM

To: Mr. Al Parrish
Vice President/Chief Executive
Providence Health System Alaska

FROM: *JM* Lesil McGuire
Midnight Sun Consulting

RE: Old Alaska Psychiatric Hospital (API) Status and Recommendations

DATE: December 30, 2003

*This is the doc.
created to fool
some one into believing
McGuire did something
it was not produced
when subpoenaed
when confronted
Providence &
McGuire denied
she did it*

Over the past several months I've interviewed individuals from the Departments of Administration, Transportation, Health & Social Services and Natural Resources and reviewed pertinent documents to establish a baseline of understanding of the old Alaska Psychiatric Hospital and develop recommendations for its renovation or removal.

HISTORY:

In the spring of 2002, the 22nd Alaska Legislature authorized the construction of a new API, concluding nearly two decades of debate over the facility's future. Parties involved in the Memorandum of Agreement that successfully negotiated the transaction were the University of Alaska, the Department of Health and Social Services, the Alaska Mental Health Trust Authority, Providence Hospital and the City of Anchorage. The stewards of mental health clients received a new, "state-of-the-art" treatment facility, Providence Hospital and the University of Alaska received an opportunity to acquire additional property for growth, and the City of Anchorage the opportunity to locate a new public health facility in proximity.

Left unresolved in the aftermath was the remediation/removal of the old API facility. Contractually, the Mental Trust Authority accepted the facility, but only under the condition that the State of Alaska (through the Department of Natural Resources) remove the old, asbestos-laden facility (or come to another mutually acceptable conclusion.) Additionally, if the old facility were not removed by mid-2005, the State would begin paying rent to the Authority for its existence.

In July of 2002, documents were signed officially transferring the land from the Department of Natural Resources to the Trust Authority, but with the proviso that the State remove the old facility. In September of 2002, the Trust Authority, in turn, sold the land under the old API to Providence Hospital and with it, the consideration for the removal of the old API transferred to Providence Health Systems.

It is projected that in July of 2004, the Department of Health and Social Services will move its long-term psychiatric services to the new API, vacating the old premises and thus, completing the actual land transfer to Providence Hospital.

COST OF REMOVAL:

In 1997, the Department of Transportation and Public Facilities pursued a bid to demolish the old API. Constructed primarily of concrete, the 40+ year-old facility is laden with asbestos from rafters to concrete flooring and walls.

The bid for the work in 1997 was \$9.6 million. Since that time, the Department has added actual annual inflation to that cost estimate, producing an updated adjusted estimate of \$11.4 million. The Department also adds a "project factor" to the estimate – 10% for contingency, 9 % for Architect/Engineer Services, and 6% for Contract/Project Management. **Today, the total DOT estimate for the removal of the old API is \$14,236,004.00.**

It is important to note that the original bid was for demolition and full cleanup. The State will likely maintain that they are responsible for something less.

Since 1997, the DOT has not pursued another cost estimate or bid for the removal of the facility. The accuracy of the DOT estimate is frequently questioned, but never proven incorrect. The complexity of the asbestos problem combined with removing and burying massive amounts of poured concrete makes subjective "guesstimates" of removal costs almost impossible.

REMEDIATION:

Remediation of the old API remains a viable option for Providence Hospital. Built in the same time frame as the old API, Anchorage City Hall (the old Hill Building) was renovated in the late 1990's. The interior of the building was modernized while the existing asbestos was stabilized, controlled or removed. If the same process were possible for the old API, considerable value could be derived from the existing facility.

Added to this potential value is the State's liability to "remove" the old facility. As the owner of the property below old API, Providence could attempt to negotiate a cash payment from the State in exchange for relieving the State of its liability to remove the old facility. If Providence were to accept a fraction, say half, of what it costs to remove the old facility, both the State and Providence would benefit substantially (assuming renovation costs are similar to those of the Old Hill Building.)

NEGOTIATION STRATEGIES:

As the State of Alaska is facing reoccurring financial difficulties, negotiating for a lump-sum cash payment will be difficult, at best. To maximize opportunity for resolution, Providence should undertake several steps:

First, encourage the Department of Transportation to update their cost estimate. Chances are great that DOT will defend their existing numbers, but “pushing” them early will encourage them to be prepared to defend their figures.

Second, engage the Department of Health and Social Services regarding resolution. H&SS has a variety of interests in the University medical district, including the Crisis Treatment Center (a 16-bed short-term mental health treatment facility that will need to be relocated in the near future) that could be addressed with a renovated, Providence-owned facility.

Another reason to engage H&SS is the fact that Commissioner Joel Gilbertson (H&SS) is very close to the Governor. If he pushes a particular conclusion (hopefully ours), it is likely the Administration will favor that action.

Third, structure a flexible payment schedule by drawing the Mental Trust Authority into the equation. While a cash payment to Providence Hospital may draw raised eyebrows, an annual \$ 1 million payment from the State to the Trust Authority for 7 or 8 years would most likely not.

As Providence purchased the property from the Trust in 2002 but has not completed payment for the property, the State could make payment to the Trust in lieu of Providence’s obligation. In exchange for extended payments, Providence could compensate the Trust with additional interest.

Additionally, the Legislature is far more likely to add a multi-year, million-dollar payment to the Capital Budget than a one-time, lump-some payment.

Last, embark on an educational campaign within the current Administration. Few current administration executives were present when the obligation to remove the old API was established. Three key individuals remain, however; Jerry Watkins, demolition cost-estimator for DOT, Mary Rutherford, Deputy Commissioner for the Department of Natural Resources and Janet Clarke, Director of Administrative Services for H&SS. Through these individuals, the obligation can be verified and action planned.

CONCLUSION:

Providence should anticipate a number of known and unknown challenges while attempting to resolve the question of remediation versus removal. The biggest challenge, however, will be getting a cash-strapped State and Legislature to resolve a pre-existing obligation they didn’t create. Undoubtedly, if Providence is able to be a “problem-solver” for the State in other avenues while pursuing compensation, the opportunity for success should be greatly enhanced.

THIRD JUDICIAL DISTRICT AT ANCHORAGE

LESIL McCracken,)
)
 Plaintiff)
)
 vs.)
)
 PATRICIA A. TYLER and)
 DAVID H. SHOUP,)
)
 Defendants.)

Case No. 3AN-03-08531 CI

AFFIDAVIT OF AL PARRISH

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

Al Parrish, being duly sworn, deposes and says:

1. I am Vice President and Chief Executive of the Alaska Region, Providence Health System in Alaska. It is a part of my job responsibilities to be aware of the content and performance of the independent consulting arrangement between Lesil McGuire and Providence Health System Alaska ("Providence").

2. Providence and Ms. McGuire are parties to a Consulting Services Agreement ("the Agreement") signed October 23, 2003, the term of which ran from October 15 to December 31, 2003. Pursuant to the Agreement, Ms. McGuire performed consulting services for Providence for the sum of \$10,500, which was paid in three installments of \$3,500 each.

AFFIDAVIT OF AL PARRISH
McCracken v. Tyler and Shoup
 Case No. 3AN-03-08531 CI
 Page 1

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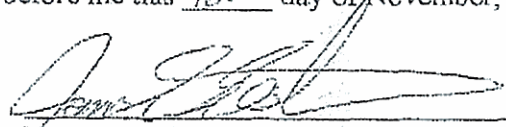
3. In general terms, Ms. McGuire's services included assessment and planning necessary for a project involving acquisition of new assets and negotiation with a number of parties regarding treatment of the asset, funding mechanisms, and other matters. In the process of her work she reviewed or had access to financial and other planning documents that apparently fall within the intended scope of Defendant's Subpoena Duces Tecum. The project and related documentation are not public information, and Providence has taken reasonable steps to ensure that they do not become public information. Maintaining the proprietary and confidential nature of the project, and of the Agreement, is critical to Providence's economic interests in continuing negotiations and other steps in the project's implementation.

Dated at Anchorage, Alaska, this 1st day of November, 2004.



AL PARRISH

SUBSCRIBED AND SWORN TO before me this 12th day of November, 2004.



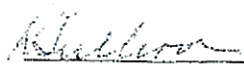
Notary Public in and for the State of Alaska
My Commission Expires: 10-25-07

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U. S. Mail, postage prepaid, this 1st day of November, 2004, on:

William F. Brattain, II
Baker Brattain, LLC
821 N Street, Suite 101
Anchorage, AK 99501

Paul W. Waggoner
Law Offices of Paul W. Waggoner
632 Christensen Drive, Suite 200
Anchorage, AK 99501



AFFIDAVIT OF AL PARRISH

McCracken v. Tyler and Shoup

Case No. 3AN-03-08531 CI

Page 2

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EXHIBIT
13
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5/11/04

1 (aa) The sum of \$135,300 in federal unrestricted receipts expenditure authority is
2 appropriated to the Department of Health and Social Services, McLaughlin Youth Center, for
3 payment to the Department of Administration for telecommunications services for the fiscal
4 year ending June 30, 2004.

5 (bb) The sum of \$110,700 in federal unrestricted receipts expenditure authority is
6 appropriated to the Department of Health and Social Services, public assistance field services,
7 for payment to the Department of Administration for telecommunications services for the
8 fiscal year ending June 30, 2004.

9 (cc) The sum of \$159,900 in federal unrestricted receipts expenditure authority is
10 appropriated to the Department of Health and Social Services, pioneers' homes, for payment
11 to the Department of Administration for telecommunications services for the fiscal year
12 ending June 30, 2004.

13 (dd) The sum of \$1,000,000 is appropriated from the general fund to the Department
14 of Health and Social Services for costs associated with fulfilling the obligation of the State of
15 Alaska related to the demolition and asbestos abatement of the old Alaska Psychiatric
16 Institute. This appropriation represents the first installment of up to \$7,000,000 plus interest
17 due to satisfy the obligation of the state in this matter.

18 * **Sec. 21.** JUDGMENTS AND CLAIMS. The sum of \$3,862,300 is appropriated to the
19 Department of Law from the general fund to pay judgments and claims against the state for
20 the fiscal year ending June 30, 2004.

21 * **Sec. 22.** DEPARTMENT OF LAW. (a) Section 60, ch. 82, SLA 2003, is amended to
22 read:

23 Sec. 60. DEPARTMENT OF LAW. The sum of \$175,000 is appropriated
24 from the general fund to the Department of Law, criminal [CIVIL] division, for
25 outside counsel and expert witness costs for the fiscal years [YEAR] ending June 30,
26 2004, and June 30, 2005.

27 (b) Section 11(a), ch. 1, SLA 2003, as amended by sec. 54, ch. 82, SLA 2003, is
28 amended to read:

29 (a) The sum of \$582,600 is appropriated from the general fund to the
30 Department of Law, criminal division, for outside counsel costs for the fiscal years
31 ending June 30, 2002, June 30, 2003, [AND] June 30, 2004, and June 30, 2005.

5/24/05

24-GH1075\S

1 * **Sec. 7.** PURPOSE. In accordance with AS 37.14.003 and 37.14.005, the appropriations
2 made by this Act are for the state's integrated comprehensive mental health program.

3 * **Sec. 8.** DEPARTMENT OF HEALTH AND SOCIAL SERVICES. The sum of
4 \$3,000,000 is appropriated from general fund/mental health to the Department of Health and
5 Social Services for costs associated with fulfilling the obligation of the State of Alaska related
6 to the demolition and asbestos abatement of the old Alaska Psychiatric Institute.

7 * **Sec. 9.** NONGENERAL FUND RECEIPTS. (a) Alaska Mental Health Trust Authority
8 authorized receipts (AS 37.14.036) or administration receipts (AS 37.14.036) that exceed the
9 amounts appropriated by this Act are appropriated conditioned upon compliance with the
10 program review provisions of AS 37.07.080(h).

11 (b) If Alaska Mental Health Trust Authority authorized receipts (AS 37.14.036) or
12 administration receipts (AS 37.14.036) fall short of the estimates appropriated in this Act, the
13 affected appropriation is reduced by the amount of the shortfall in receipts.

14 * **Sec. 10.** LAPSE OF APPROPRIATION. The appropriation made by sec. 8 of this Act is
15 for a capital project and lapses under AS 37.25.020.

16 * **Sec. 11.** This Act takes effect July 1, 2005.

5/8/2006

1 * **Sec. 5.** The following appropriation items are for capital projects and grants from the
 2 general fund or other funds as set out in section 6 of this Act by funding source to the
 3 agencies named for the purposes expressed and lapse under AS 37.25.020, unless otherwise
 4 noted.

	Appropriation	General	Other
	Allocations	Items	Funds
		Funds	Funds
7	*****	*****	
8	*****	Department of Health and Social Services	
9	*****	*****	
10	Alaska Psychiatric	3,000,000	3,000,000
11	Institute Asbestos		
12	Abatement (HD 17-32)		
13	This appropriation is for costs associated with fulfilling the obligation of the State of Alaska		
14	related to the demolition and asbestos abatement of the old Alaska Psychiatric Institute.		
15	Cost Share Match for Bring	5,000,000	5,000,000
16	the Kids Home (HD 1-40)		
17	Home and Community-Based	400,000	400,000
18	Group Home Development (HD		
19	1-40)		
20	Home Modification and	200,000	200,000
21	Design Upgrades (HD 1-40)		
22	Transitional Housing for	1,200,000	1,200,000
23	Substance Abuse (HD 1-40)		
24	*****	*****	
25	*****	Department of Natural Resources	
26	*****	*****	
27	Mental Health Trust Land	550,000	550,000
28	Development (HD 1-40)		
29	Mental Health Trust Land	350,000	350,000
30	Facilities Maintenance (HD		
31	1-40)		

The TRUST
LAND OFFICE

October 7, 2004

Mr. Chris Stephens
Bond, Stephens & Johnson
3000 A Street, Suite 200
Anchorage, Alaska 99503

Chris
Dear Mr. Stephens,

I enjoyed meeting with you and Lesil McGuire last Monday regarding Dr. David McGuire's offer to purchase the property at the southeast corner of 36th Avenue and Lake Otis Boulevard. As we discussed by phone, the Trust Land Office has considered and decided to decline the offer. We have determined that it is best for the Trust to continue with our current plans to seek a long-term lease for the property rather than sell the property.

I am returning and have enclosed the documents setting forth Dr. McGuire's offer. To protect its confidentiality, we did not keep a copy and have only retained a copy of the cover letter and disclosure acknowledgement. We will send you any notices regarding any lease offering for this property.

Thank you for your interest.

Sincerely,

Dave Hanson

Dave Hanson
Executive Director

Enclosures

EXHIBIT 11
Page 1 of 1

ALASKA PUBLIC OFFICES COMMISSION

DECISION AND ORDER

Metcalfe v. McGuire, 07-03-LFD

On December 28, 2007, Ray Metcalfe filed his second complaint against Senator Lesil McGuire concerning her disclosure in 2004 under AS 24.60.210 of work she performed for Providence Hospital the preceding year. On January 11, 2008, staff rejected the complaint and declined to initiate an investigation because the complaint did not allege the violation of a law administered by the Alaska Public Offices Commission (Commission). Mr. Metcalfe appealed staff's action, and the Commission considered the appeal in a publicly noticed meeting on February 7, 2008, in Juneau. Chair Roger Holl and Commission members Elizabeth Hickerson, Larry Wood, and Shirley Dean participated. Commissioner Claire Hall was not present. Executive director Brooke Miles presented a review of the basis for declining to investigate the complaint. Attorney Charles Dunnagan appeared on behalf of Senator McGuire. Mr. Metcalfe did not participate.

The Commission affirmed staff's action and adopted its analysis, concluding as follows:

Because the allegations of violations of the legislative financial disclosure laws in AS 24.60, and those parts of AS 39.50 that apply to legislators, were considered in a previous investigation and dismissed (07-01-LFD);

because the allegations outside of the jurisdiction of the Commission are not an appropriate subject for an inquiry or complaint to the Commission;

because the allegations concerning the lobbying laws do not state a violation because they do not support the conclusion that Senator McGuire was a "lobbyist" for Providence Hospital as that term is defined in AS 24.45.171(10)); and

because more than one year has elapsed since the date of the allegations, and 2 AAC 50.452(a)(4) requires staff to reject a complaint regarding the lobbying laws when it is filed more than one year after the events occurred;

the complaint does not allege facts that, if true, would state a violation of AS 24.45, AS 24.60.220 - .260, 24.45, and AS 39.50.50.

ORDER

Staff's decision not to initiate an investigation on the complaint is affirmed.

Dated: February 20, 2008

Alaska Public Offices Commission

ALASKA PUBLIC OFFICES COMMISSION

ORDER OF DISMISSAL

Metcalfe v. McGuire, 07-01-LFD

Ray Metcalfe filed a complaint against Sen. Lesil McGuire concerning her 2004 legislative financial disclosure statement in which he alleged violations of the financial disclosure laws. Specifically, he alleged that (1) the 2004 statement had been altered after it was filed because the statement appeared to have whiteout on it and (2) a description of services for Providence Hospital varied from other descriptions of them in a media report and in an unrelated lawsuit. In summary, because a staff investigation did not find sufficient cause to support a conclusion that the financial disclosure requirements were violated, the Commission decided not to hold a hearing.

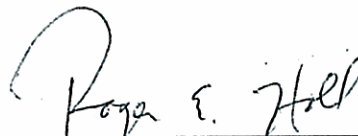
As provided in 2 AAC 50.815, after receipt of the complaint, the staff undertook a preliminary investigation and prepared a written summary of the findings. That summary was provided to Mr. Metcalfe and Sen. McGuire with notice that the staff's recommendation would be considered by the Alaska Public Offices Commission on Friday, September 14, 2007. At that meeting, the Commission directed staff to conduct further investigation about the employment, payment, nature of the work, and whether there was a connection to legislation. An expanded investigative report was prepared, provided to the parties, and considered on December 18.

Participating were Chair Roger Holl, Vice Chair Elizabeth Hickerson, and Commissioners Shirley Dean, Claire Hall, and Larry Wood. Present were Executive Director Brooke Miles, investigator Jeff Berliner (not present on December 18), Assistant Attorney General Jan DeYoung, and Ray Metcalfe. Sen. McGuire did not appear on September 14, but was represented by Attorney Charles A. Dunnagan on December 18.

ORDER

After consideration of the investigative reports and a statement by attorney Dunnagan, the Commission finds that sufficient cause does not exist to support the allegations of a violation of AS 39.50.030 and AS 24.60.200 and concludes that the complaint should not be set for a hearing under 2 AAC 50.820. Because the Commission has decided not to hold a hearing on this complaint, the complaint is dismissed.

Alaska Public Offices Commission



Roger Holl, Chair

Alaska State Legislature

Select Committee on Legislative Ethics

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Anchorage AK 99501-2133
(907) 269-0150
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P.O. Box 101468
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May 14, 2008

Roger Holl, Chair
Alaska Public Offices Commission
2221 Northern Lights Blvd, Room 128
Anchorage AK 99508-4149

Chair Holl:

At your February 7, 2008, meeting the Commission voted (by a majority vote of 3-1) to direct staff to refer the staff investigation report in Metcalf v. McGuire, 07-02-LFD to the Select Committee on Legislative Ethics without recommendation.

The Senate Subcommittee of the Select Committee on Legislative Ethics met on Monday, May 12, 2008, and declined to address Metcalf v. McGuire, 07-02-LFD due to the two year statute of limitations for legislative ethics complaints.

AS 24.60.170(a) "The committee shall consider a complaint alleging a violation of this chapter if the alleged violation occurred within two years before the date that the complaint is filed with the committee ..."

Sincerely,



Dennis (Skip) Cook, Chair
Senate Subcommittee

cc: Senator Lesil McGuire

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MAY 21 2008

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PM HC FAX
5.20.08

Alaska State Legislature

Select Committee on Legislative Ethics

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May 19, 2008

Roger Holl, Chair
Alaska Public Offices Commission
2221 East Northern Lights Blvd, Room 128
Anchorage AK 99508-4149

Chairman Holl:

At your February 7, 2008, Commission meeting Metcalf v. McGuire 07-07-LFD was referred to the Select Commission on Legislative Ethics for consideration pursuant to AS 24.60.220(1)¹. The commission discussed the referral and took action in a public meeting.

As required by AS 24.60.170, Proceedings before the Committee, the matter was discussed in executive session by the Senate Subcommittee of the Select Committee on Legislative Ethics. The public referral placed the Committee in a difficult situation. The committee is bound by confidentiality and may only release information as allowed under AS 24.60, the Legislative Ethics Act. As such, information requests from the public and media result in either the administrator or committee chair only being able to render "no comment" statements.

In this instance, if the Commission had actually filed a complaint, the Senate Subcommittee would have dismissed the complaint as required by statute. When a complainant has made known the fact that a complaint has been filed, the confidentiality provisions of AS 24.60.170(1)² are violated and the complaint must be dismissed.

¹ AS 24.60.220(3) The Alaska Public Offices Commission shall examine, investigate, and compare all reports and statements required under AS 24.60.200, and report all possible violations of this chapter it discovers to the committee.

² AS 24.60.170(1) ... The confidentiality provisions of this subsection may be waived by the subject of the complaint. Except to the extent that the confidentiality provisions are waived by the subject of the complaint, if the committee finds that a complainant has violated any confidentiality provision, the

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Mr. Roger Holl

In order to comply with the requirements and provisions of AS 24.60, the Select Committee on Legislative Ethics requests that in the future the Alaska Public Office Commission meet in executive session when considering referrals to the Committee regarding possible violations of the Legislative Ethic Act.

Thank you for your consideration of this request. We are available to answer any questions you may have concerning AS 24.60. Joyce Anderson, administrator, is available to attend your June meeting. She can be reached at 269-0150.

Sincerely,



Herman G. Walker, Jr.
Chair, Full Committee
Chair, House Subcommittee



Dennis (Skip) Cook
Co-Chair, Full Committee
Chair, Senate Subcommittee

committee shall immediately dismiss the complaint. Dismissal of a complaint under this subsection does not affect the right of the committee or any other person other than the complainant to initiate a complaint based on the same factual allegations.