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April 12, 2016

Ms. Cathy Derbonne
Executive Director
State Police Commission
P.O. Box 66555
Baton Rouge, Louisiana 70896

**Re: *Preliminary Investigation Results*
Allegations of Prohibited Political Activity
by Members of the State Police Commission
in Violation of the Louisiana Constitution, Article X, Sec. 47,
and State Police Commission Rules**

Dear Ms. Derbornne:

This office has been engaged by you, Cathy Derbonne, acting in your official capacity as the Executive Director of the State Police Commission, to investigate allegations of violations of law, State Police Commission rules, and the Louisiana Constitution by members of the State Police Commission. We understand that as Agency Head, you satisfied your obligations under La. R.S. 42:1161 by first reporting the allegations of prohibited political activity to the Ethics Board and the Office of the Governor. The Ethics Board confirmed that Members of the Commission were subject to the Ethics Code, but ultimately declined jurisdiction in this matter because the specific provisions are not in the Ethics Code, but in the Commission's own rules and in the Constitution.

We further understand that you, as the Executive Director, have a duty "to make such investigations as may be necessary to enforce the provisions of the State Police Service Article and Rules..." pursuant to SPC Rule 3.1(l). In order to guarantee a fair and impartial investigation, the Executive Director, who was appointed by Members of the Commission,¹ charged my office with the task of investigating the public allegations of political activity by members of the State Police Commission.

¹ La. Const. La. Art. X, Sec. 44.

As a preliminary matter, we advise you that the factual basis of the statements contained in this report were largely obtained from public records maintained by the Louisiana Ethics Administration Program, including the Board of Ethics Computerized Data Management System (see La. R.S. 42:1158), the records of the Louisiana Secretary of State, and State Police Commission oaths, correspondence, and official documents. Other records, including ones from the Federal Elections Commission, were also examined and included in this report.

State Police Commission

The State Police Commission was established by pursuant to the Louisiana Constitution, Article X, Section 41, et. seq. The Commission is composed of seven (7) individuals representing each of the six congressional districts of the state. Six (6) members are nominated by the Presidents of certain private universities and appointed to serve by the Governor. The seventh member is an "employee representative," who is elected by his fellow classified members of the State Police Service. Appointed Members of the Police Commission may be removed *only* "by the governor for cause after being served with written specifications of the charges against him and being afforded an opportunity for a public hearing thereon by the governor." La. Const. Art. X, Sec. 47(D).

Members of the State Police Commission and state police officers are expressly prohibited from engaging in political activity. La. Const. Art. X, Sec. 47. More specifically, Section 47 provides that "No member of the commission and no state police officer in the classified service shall participate or engage in political activity . . . make or solicit contributions for any political party, faction, or candidate . . . except to exercise his right as a citizen to express his opinion privately . . . and to cast his vote as he desires. La. Const. Art. X, Sec. 47(A)."

"Political activity" is defined as "an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election." La. Const. Art. X, Sec. 47(C).

Willful violations of the constitutional provision relative to the State Police Commission is a crime, a misdemeanor, punishable by a fine of not more than \$500 or imprisonment for not more than six months, or both. La. Const. Art. X, Sec. 47.

Chapter 14 of the State Police Commission Rules, enacted in accordance with the broad rulemaking, investigative, and subpoena powers granted by La. Const. Art. X, Sec. 48, details the rules regarding Prohibited Political Activity. SPC Rule 14.2(a)(1), provides that **no member of the State Police Commission and no classified member of the State Police Service "shall participate or engage in political activity, including, but not limited to, any effort to support or oppose the election of a candidate for political**

office or support or oppose a particular political party in an election.” “Political activity” is also defined in Chapter 1 of the State Police Commission’s own rules as “an effort or activity to support or oppose the election of a candidate for political office or, to support or oppose a particular political party in an election, other than party registration.”

Members of the Commission are expressly prohibited from making or soliciting contributions for any political purpose, party, faction, or candidate. SPC Rule 14.2(a)(4). The individuals governed by these rules are prohibited from participating in political activities “**directly or indirectly**” by paying or promising to pay any assessment, subscription, or contribution for any political party, faction or candidate.” SPC Rule 14.2(a)(8).

Generally, new Members of the Commission are given a binder containing the relevant constitutional provisions as well as the State Police Commission Rules at the time they swear their oath of office. The constitution and State Police Commission Rules are also available online at laspc.dps.louisiana.gov.

FINDINGS

The investigation into public allegations of political activity by State Police Commission Members revealed evidence of political activity by three of the seven Commission Members.

The investigation uncovered **no evidence** of political activities by the following Commission Members:

<u>Member</u>	<u>Date Term Began</u>
W. Lloyd Grafton, Vice Chairman	March 28, 2013
Donald Breaux	March 14, 2014
Calvin Braxon, Sr.	June 10, 2015
Thomas Doss (employee representative)	January 1, 2015

However, the investigation did reveal evidence of political activity by the following Members during their term*:

<u>Member</u>	<u>Date Term Began</u>
Freddie J. Pitcher, Jr.	July 1, 2010
William A. Goldring	June 25, 2010
Franklin M. Kyle, III	September 3, 2010*; July 19, 2013

FACTUAL EVIDENCE REGARDING POLITICAL ACTIVITY
BY MEMBERS OF THE STATE POLICE COMMISSION

Freddie J. Pitcher, Jr. (Resigned)

Mr. Freddie J. Pitcher, Jr. was first appointed to the State Police Commission on July 1, 2010 and his term was set to expire on June 30, 2016. In an e-mail dated March 29, 2016, Mr. Pitcher stated that he was previously unaware of the fact that Commission members were not allowed to participate in political activities. Mr. Pitcher tendered his resignation, stating in part:

Now that I am fully aware of the prohibition, I feel that I must step down as a Commission Member so I will not feel constrained in my desire to help persons who I would like to support politically.

We recommend no further action in light of the fact that Mr. Pitcher has voluntarily resigned from the Commission. See the Pitcher Attachment for a complete list of political contributions made by Mr. Pitcher and a copy of his resignation. We note that there is now a vacancy on the Commission, which we will address under separate cover.

Franklin M. Kyle, III

First Term

Mr. Franklin M. Kyle was first appointed to the State Police Commission on September 2, 2010 and swore his first oath on October 15, 2010 for a term, which was set to expire on December 5, 2012.²

By his own admission, Mr. Kyle engaged in political activity during his first term on the Commission, which began on September 3, 2010. From September 2010 through June 2013, Mr. Kyle of 131 Seven Pines Boulevard, Mandeville, LA 70471 made no less than thirty (30) campaign contributions to various candidates for political office, as set forth in Kyle Attachment at page 1.

Mr. Kyle violated the prohibition against political activity during his first term after having received a copy of the constitutional provisions and Commission Rules. In an e-mail to Mr. Pitcher dated March 29, 2016, Chairman Kyle acknowledged receipt of *“an extensive rule book in which to abide by. It is a cumbersome document, but admittedly one that was provided”* when he was appointed and sworn in for his first term.³

² Kyle Attachment at pages 23-26.

³ Kyle Attachment at page 10.

Due to the fact that the term expired on December 5, 2012, Governor Jindal appointed Donald Bollinger to serve as the Commission member for the First Congressional District on March 28, 2013. However, there is no record of Mr. Bollinger attending the April 2013 meeting, nor ever swearing the oath of office. By letter dated May 15, 2013, Mr. Bollinger declined the appointment to the Commission.

As an aside, it should be noted Mr. Kyle never resigned and was never removed from the Commission. In other words, his seat was not interrupted by the Bollinger appointment. Even assuming that Mr. Kyle was not a Member from December 5, 2012 through July or September 2013, there is still ample evidence of violations during his first term.

Second Term

Mr. Kyle was appointed to the Commission by Governor Jindal for a second term on July 19, 2013, which term is set to expire on July 18, 2019. Mr. Kyle swore his second oath of office on September 12, 2013 and he currently serves as Chairman of the State Police Commission

In a letter sent to the Executive Director by e-mail on March 11, 2016, Chairman Kyle stated that the contributions made during his first term were **due to lack of knowledge of the law**. Mr. Kyle further stated that he has *“abided by the political participation rules as required”* during his second term. Records from the Board of Ethics website confirm the Chairman’s unsupported assertion that he has not participated in political activities by personally making political contributions since taking the oath of office for the second time.

In the same correspondence, Chairman Kyle advised the Executive Director that his wife, Mrs. Melissa N. Kyle does engage in political activity, and according to Mr. Kyle, has used “her own separate funds” and “her own account” in making these contributions. The Chairman further stated that it was his understanding that his wife was *“not subject to State Police Commission rules, therefore her participation is of no concern to the Commission.”*⁴

The Chairman has offered no proof of his assertion that Mrs. Kyle uses her separate property when participating in political activity. Our investigation confirmed that Mr. and Mrs. Kyle entered into a “Marriage Contract,” which was filed for recordation on February 12, 2004 in the records of St. Tammany Parish, Instrument No. 1416200.⁵ However, at this point, the source of the funds has not been determined, and thus it

⁴ A full copy of the letter is in the Kyle Attachment at page 5.

⁵ A full copy of the Marriage Contract is in the Kyle Attachment at pages 15-22.

remains unclear as to whether the funds were actually from Mrs. Kyle's separate estate, if the funds were community property, or if the funds were derived from some other source.

Further, according to Board of Ethics Records, Mrs. Melissa N. Kyle *first* began making political contributions in October 2013, with no contributions in her own name prior to that date. Records show her most recent contribution dated November 2015. Mrs. Kyle also gave contributions to candidates in federal elections, as discussed in the next paragraph.⁶

A Federal Elections Commission filing by Jindal for President shows that a Mr. Franklin Kyle, 6725 Rue Bocage, Baton Rouge, LA and Mrs. Melissa N. Kyle, 131 Seven Pines Blvd., Mandeville each contributed \$2,700 on June 26, 2015. Secretary of State records indicate that this may be the address of a Mr. Franklin Mckenzie Kyle, Jr., 6725 Rue Bocage, Baton Rouge, who owns an interest in Louisiana Timber Ventures, LLC with Mr. Franklin Kyle, III, 131 Seven Pines. This individual is likely a relative of Mr. Kyle, however, under the circumstances, this matter warrants further investigation, including testimony at a public hearing.⁷

Since first being appointed in September 2010, and despite receiving a copy of the constitutional provisions, including Art. X, Sec. 47 of the Louisiana Constitution, which *expressly prohibits political activity by members of the State Police Commission*, Mr. Kyle participated in political activity during his first term, and may have done so during his second term.

As you know, political activity, whether undertaken *directly or indirectly*, is prohibited by the Rules of the State Police Commission. The evidence, including an admission, clearly shows that Mr. Kyle failed to abide by the rule against political participation during his first term. Although the public record is void of evidence of Mr. Kyle making political contributions in his own name during his second term, we would still recommend further investigation, including an examination of Mrs. Kyle's financial records to determine the source of the funds used in making political contributions. Barring voluntary resignation, a public hearing should be held where both Chairman Kyle and his wife, Melissa Kyle may give sworn testimony regarding these matters, and as to whether Chairman Kyle broke the rule against political participation in any other way(s) during his second term.

⁶ See the Kyle Attachment at pages 6, 8, and 9 for contributions made by Mrs. Kyle.

⁷ See the Kyle Attachment at pages 7, and 13-14.

Commissioner William Goldring

Mr. William Goldring was first appointed to the State Police Commission on June 25, 2010 and his term is set to expire on June 24, 2016.⁸ On July 29, 2010, Mr. Goldring swore the oath of office required of members of the Police Commission. As required by law, he has filed Tier 2.1 Personal Financial Disclosure Statements since April, 2012 for the years 2010 - 2015.⁹ Mr. Goldring disclosed that he is the chairman and owner of eleven percent (11%) of Crescent Crown Distributing; as well as the chairman and owner of ninety percent (90%) of Sazerac Company, Inc. Further, Mr. Goldring has indicated that the following addresses are either his personal mailing address or are associated with his business interests:

524 Metairie Avenue, Metairie, LA
Post Office Box 53333, New Orleans, LA
5900 Almonaster Avenue, New Orleans, LA
809 Jefferson Highway, New Orleans, LA

The factual evidence shows that Mr. Goldring has violated the Article and SPC Rules by participating in political activity, namely by giving of political contributions through his business entities. As explained in detail below, there was one questionable contribution made in his own name, which may have been made by his wife. There is a host of undisputable evidence showing that Mr. Goldring does participate extensively in political activity through his businesses. For example, Sazerac Company, Inc., the business Mr. Goldring owns 90% of, has made political contributions to individual candidates totaling \$5,800 since being appointed to the Commission.¹⁰ Addresses associated with these gifts include 524 Metairie Avenue, Metairie, LA, 809 Jefferson Highway, New Orleans, LA.¹¹

Another company on which Mr. Goldring serves as Chairman, Crescent Crown Distributing, regularly engages in political activity by giving financial and in-kind contributions to individual candidates and political action committees.¹² Addresses associated with these gifts include, among others, ones disclosed on the Tier 2.1 filings, i.e., 5900 Almonaster Avenue, New Orleans, LA and 809 Jefferson Highway, New Orleans, LA.

⁸ See Goldring Attachment at page 99.

⁹ See Goldring Attachment at pages 1-41 for copies of Tier 2.1 filings.

¹⁰ See Goldring Attachment at page 50 for a complete list of political contributions made by Sazerac Company, Inc.

¹¹ Another address associated with a financial contribution made by Sazerac is 10401 Linn Station Rd, Louisville, KY 40223.

¹² See Goldring Attachment at Page 55 for a complete list of political contributions made by Crescent Crown Distributing.

Yet another potential violation involves a company in which Mr. Goldring has not disclosed any ownership or employment. Magnolia Marketing Company, LLC, domiciled at 524 Metairie Road and controlled by Diane G. Franco and Jeffrey B. Goldring, individuals whom we believe to be related to William Goldring. Other public records indicate that Mr. Goldring was the Manager of a *now-inactive* entity, Magnolia Marketing Company of Lafayette, LLC, 809 Jefferson Highway, New Orleans, LA, which was merged with Magnolia Marketing Company, LLC prior to his appointment. That LLC has made nine (9) political contributions totaling more than \$15,000 since the start of Mr. Goldring's term in June 2010.¹³ The addresses associated with the entity are either 524 Metairie Road or 809 Jefferson Highway.¹⁴ Although Mr. Goldring's association with the entity is unconfirmed, it should be noted that his 2014 Tier 2.1 Personal Financial Disclosure Statement filed with the Ethics Board was faxed from the office of Magnolia Marketing.

Further, Mr. Goldring has participated in federal political activity since his term began. The Federal Elections Commission shows that Mr. Goldring, individually, through his businesses, and through other membership organizations, has contributed \$84,000 to political committees and \$12,500 to joint fundraising efforts.¹⁵

Finally, on or about February 20, 2013, a political contribution to Jack Rizzuto was made in the name of a "W. Goldring," from an address listed as 5101 St. Charles Avenue, New Orleans. Mr. Goldring has disavowed this contribution as one made by his former wife and has stated that it was "in no way connected to" him.¹⁶ According to the Tier 2.1 filings, Mr. Goldring was still married to Jane Goldring in 2013. Civil District Court records in Orleans Parish, Docket No. 2014-8854, indicate that Mr. and Mrs. Goldring divorced the year after the contribution was made, on September 10, 2014.

A copy of the candidate's report (Jack Rizzuto) on file with the Board of Ethics, No. 36144,¹⁷ shows the donation in the name of W. Goldring. On the same date, February 20, 2013, Crescent Crown Distributing, 5900 Almonaster Avenue, made a contribution to Mr. Rizzuto's campaign. Additionally, PACs supported by Mr. Goldring's businesses, including Louisiana Restaurant Association Host PAC and Business Affairs Research Program, Inc., made donations to Mr. Rizzuto's campaign on February 20, 2013.

Also in 2013, Mr. Goldring sought information from the Office of Governor on the prohibition of political activity. In a letter dated July 3, 2013, Governor Jindal's

¹³ See Goldring Attachment at page 68 for a complete list of political contributions made by Magnolia Marketing Company, LLC.

¹⁴ Note: The contribution to Hilary Landry lists a contributor address of 609 Jefferson Highway, however, this is likely a typographical error.

¹⁵ See Goldring Attachment at pages 95-98 for federal contributions.

¹⁶ See Goldring Attachment at pages 71-73 for Goldring E-mail dated March 27, 2016 and attachment.

¹⁷ See Goldring Attachment at pages 74-94 for a complete copy of Report 36144.

Executive Counsel, Thomas J. Enright, Jr., provided Mr. Goldring with the relevant Constitutional provisions prohibiting political activity and made himself available by phone if further information was required.⁸

Since being appointed in July 2010, and despite being informed in July 2013 that *Art. X, Sec. 47 of the Louisiana Constitution expressly prohibits political activity by members of the State Police Commission*, Mr. Goldring, through businesses owned by him, has participated in political activity. Further, Mr. Goldring apparently believes different rules apply to him. In a March 29, 2016 e-mail to the Executive Director, Mr. Goldring stated:

"I fully understand rules and regulations put on state troopers, but cannot understand commission members having to adhere to same in that we do not come in contact with the public."⁹

The factual evidence clearly shows participation in the political process by Mr. Goldring during his term. Political activity, whether undertaken directly or indirectly, is prohibited by the Rules of the State Police Commission. The evidence shows that Mr. Goldring has continuously failed to abide by the rule against political participation. Barring voluntary resignation by Mr. Goldring, a public hearing should be called to address this matter in full, including gifts by various entities and the 2013 gift to Mr. Rizzuto.

CONCLUSION

The integrity of the State Police Service requires your immediate action and attention. The law, specifically the Louisiana Constitution, Article X, Sec. 47 and State Police Commission Rule 14.2, are both clear: *Members of the State Police Commission are expressly prohibited from participating in political activity*. The findings of fact outlined above clearly show evidence of multiple violations of the applicable law by Mr. Kyle and Mr. Goldring. As you know, the authority to remove Members of the Commission is invested in the Governor. Barring voluntary resignation by these Members, I see no alternative but to ask the Governor to call a public hearing.

Respectfully,



T. Taylor Townsend
Attorney, State Police Commission

⁸ See Goldring Attachment at pages 72 for a full copy of the 7/3/13 letter from the Office of the Governor.
⁹ See Goldring Attachment at pages 43-44.