

Sen. Nass: Response to Attorney Fiedler on Ethics Investigation of Brian Bell

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January 11, 2018

Patrick J. Fiedler

Hurley, Burish & Stanton, S.C.

33 E. Main Street, Suite 400

Madison, WI 53703

Dear Mr. Fiedler:

I acknowledge your request for a meeting regarding Mr. Brian Bell of the Wisconsin Ethics Commission. You have informed my staff of your role as investigator, hired by the Wisconsin Ethics Commission, to gather information regarding an ethics inquiry of Mr. Bell.

First, I must share with you my objection with the commission's decision to utilize its powers to investigate potential violations of state ethics law in this situation. This is not a matter of alleged ethics law violations. The issues before us are related to an investigation of leaked documents gathered during the John Doe II and "III" by investigators including former staff of the Government Accountability Board (GAB). The leak investigation was authorized statutorily by the Wisconsin State Assembly and conducted by the Wisconsin Department of Justice (WDOJ).

Second, the inferences by Chairman David Halbrooks that authorizing an ethics

investigation would allow the agency to utilize its subpoena powers in response to statements made by members of the Legislature regarding Mr. Bell is nothing short of intimidation. It's also an attempt to interfere with the Wisconsin State Senate's role of confirmation as prescribed in statute.

Third, the issues identified in the WDOJ investigation must also be taken in context with the facts already known from other sources regarding the scandalous nature of the John Doe II and "III". As you know, from your previous role as an attorney representing a former GAB investigator involved in the John Doe, the Wisconsin Supreme Court not only ended the abusive Doe investigation but clearly ruled that no violations of law had occurred.

My statements regarding the need for Mr. Bell to resign are based on the details of the WDOJ report and the supplemental materials released by that agency. Based on the information provided by the WDOJ, there exist serious questions regarding the level of cooperation that Mr. Bell provided to the WDOJ in conducting their investigation and the search for records in the possession of the Ethics Commission.

At a minimum, the WDOJ findings identified the flawed handling and storage of confidential records by the staff of the Ethics Commission. Vast amounts of John Doe records containing personally sensitive health, family, financial, and business information were maintained in an unprofessional manner and with minimum levels of security. While Mr. Bell may have taken steps to address these issues after the WDOJ investigation, it must be asked if anything would have been done if not for the WDOJ investigation.

The WDOJ report also lays out an interesting circumstance that Mr. Bell and the Ethics Commission's general counsel were aware that the former Special Prosecutor Francis Schmitz was storing John Doe records in space under the control of the Ethics Commission despite an order of the Wisconsin State Supreme Court that all such records be turned over to the court. Key questions are did Mr. Bell defer to the wishes of Francis Schmitz in allowing the records to stay in their facility and why would he do that in relation to the order of the Wisconsin State Supreme Court. Mr. Schmitz had no authority to request that such records be stored at the Ethics Commission and be deemed under his control as to disposition.

Finally, I would also share with you that on February 1, 2017, Mr. Bell met with me to discuss the Ethics Commission's biennial budget request and his confirmation.

My chief of staff also participated in this meeting. At that meeting, I did share with Mr. Bell my reservations regarding his appointment because of his previous employment with the former GAB. I felt then and now that the Ethics Commission won't be able to exit the clouds of the GAB scandal without appointing an administrator free of any connections to that rogue agency.

Morally, I can't ignore the unjustified harm and civil rights violations that the targets of the John Doe II and "III" suffered because of the inappropriate conduct of rogue employees of the GAB. I can't ignore the conclusions of the WDOJ investigators that employees of the GAB weaponized the John Doe process to achieve partisan goals to harm citizens involved in the constitutionally protected political process.

For these reasons, I will be unable to support the confirmation of Mr. Bell as Administrator of the Wisconsin Ethics Commission.

Sincerely,

Steve Nass

State Senator

11th Senate District