

BEFORE THE STATE OF ALASKA PERSONNEL BOARD

In the Matter of)

WALTER C. MONEGAN III, former)
Commissioner of the Alaska Department)
Public Safety)

Case No. _____)

**REQUEST FOR DUE PROCESS HEARING
TO ADDRESS REPUTATIONAL HARM**

1. Walter C. Monegan III was selected by Governor Sarah Palin to serve as Commissioner of the Alaska Department of Public Safety in December, 2006.

2. Mr. Monegan served as Commissioner of the Alaska Department of Public Safety until July 11, 2008, when his appointment was abruptly terminated at the direction of Governor Palin.

3. Over the following weeks, Governor Palin offered a series of changing and inconsistent explanations of the basis for her decision to terminate Mr. Monegan.

4. Initially, Governor Palin and her staff provided no explanation for the termination of Mr. Monegan's appointment as Commissioner, except to say that the Governor wanted the Department of Public Safety to go in an unspecified "new direction."

5. Shortly thereafter, allegations surfaced that the Governor's decision to terminate Mr. Monegan was based on his refusal to fire her ex-brother-in-law, Alaska State Trooper Mike Wooten.

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6. In subsequent statements, Governor Palin then asserted that she removed Mr. Monegan as Commissioner because she wanted a new “focus” on filling vacant trooper positions and dealing with rural crime, including issues of alcohol and drug abuse. This explanation raised questions among members of the public and the press, since filling trooper vacancies and addressing rural crime had been cornerstones of Mr. Monegan’s administration of the Department of Public Safety.

7. As public scrutiny and criticism of her decision to terminate Mr. Monegan grew and pressure for an investigation by the Alaska Legislature mounted, Governor Palin changed her explanation of the basis for the termination. She next stated that she terminated Mr. Monegan because of poor performance in his position as Commissioner. She asserted that he had failed to “make headway” on filling trooper vacancies and addressing alcohol abuse issues, and that he was not a “team player on budgeting issues.” These assertions were untrue.

8. After Governor Palin was selected as the Republican candidate for Vice-President on August 29, 2008, and questions persisted about the role the Wooten matter played in her decision to terminate Mr. Monegan, the Governor’s explanations changed yet again, and statements by the Governor and her campaign representatives took a decidedly more aggressive tone and substance. In public filings before the Alaska Personnel Board, Governor Palin abandoned her earlier explanations and she now asserted that she fired Mr. Monegan because he had a “rogue mentality” and committed acts of “outright insubordination.” Governor Palin attempted to support these allegations

with selected documents to make it appear as if there was a factual basis for the assertions. The allegations were untrue, however.

9. Mr. Monegan was, in fact, very much a team player. At no time did he have or exhibit a "rogue mentality," nor did he at any time commit any acts of insubordination during the period of time he served as Commissioner of the Department of Public Safety.

10. Before being discharged by Governor Palin, Mr. Monegan accumulated a record of thirty-five years of distinguished public service in law enforcement. During the course of his long career he had never been subjected to adverse action or discipline by his employers and he earned an outstanding, unblemished, and valuable professional reputation.

11. Mr. Monegan does not challenge the Governor's right to discharge him as the Commissioner of the Department of Public Safety. Like all cabinet officers, Mr. Monegan served at the pleasure of the Governor and she could terminate him for any just reason or for no reason at all. But the Governor is not entitled to make untrue and defamatory statements about her reasons for discharging a cabinet officer. Governor Palin's public statements accusing Mr. Monegan of serious misconduct were untrue and they have stigmatized his good name, severely damaged – and continue to damage – his reputation, and impaired his ability to pursue future professional employment in law enforcement and related fields. This damage thus implicates his constitutionally protected liberty interests.

12. The Alaska Constitution's due process clause, Article I, section 7, entitles Mr. Monegan to a fact-finding hearing that will afford him a fair opportunity to disprove the Governor's claims, clear his good name, remove the stigma he has suffered, and redress his reputational interests.

13. Neither the Alaska Constitution nor any Alaska statute expressly states what entity should provide the hearing that allows an employee an opportunity to clear his name; the most directly relevant Alaska Supreme Court decision, *State, Department of Military and Veteran Affairs v. Bowen*, 953 P.2d 888 (Alaska 1998), suggests that such hearings properly are conducted by an administrative agency vested with authority over employment claims arising in the field of employment where the reputational damage occurs.

14. Governor Palin has asserted that the Alaska Personnel Board is the entity with jurisdiction to preside over claims that she violated the Alaska Executive Branch Ethics Act with respect to her real reasons for terminating Mr. Monegan from his position as Commissioner of the Department of Public Safety.

15. The factual questions raised in Governor Palin's complaint to the Personnel Board are closely related to the factual questions raised by Mr. Monegan's constitutional claim of right to a hearing that will provide him the opportunity to clear his name and redress reputational harm by publicly proving that he was not a rogue employee or grossly insubordinate, as the Governor has alleged, and that he was not terminated as Commissioner of the Department of Public Safety for those reasons.

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16. Under *Bowen*, the Personnel Board has inherent constitutional authority to take jurisdiction over Mr. Monegan's claim in the first instance; and, under the Alaska Executive Branch Ethics Act, the Board has broad authority to conduct hearings, issue a public decision, and adopt appropriate remedial measures to restore Mr. Monegan's professional reputation.

17. Mr. Monegan requests that the Personnel Board assert jurisdiction over his claim and conduct the hearing to which he is entitled under the Alaska Constitution by investigating the nature of his conduct as Commissioner and making findings on whether he did or did not display a rogue mentality and commit acts of outright insubordination.


18. To establish that there is ample evidence and a strong factual basis for Mr. Monegan's denial of wrongdoing and right to a due process hearing, a memorandum that summarizes evidence that supports his assertions that he was not guilty of the misconduct that Governor Palin asserted is submitted with this Request for Due Process Hearing and is incorporated by reference. Additional evidence will be presented at the Due Process Hearing.

19. In the alternative, Mr. Monegan requests that the Board declare, or secure a declaration from the Attorney General, that Mr. Monegan has exhausted his administrative remedies and may assert his claim in Superior Court.

20. Because Mr. Monegan's interests are in clearing his name publicly, he waives all confidentiality with respect to the review of his performance as Commissioner.

DATED this 13th day of October 2008, at Anchorage, Alaska.

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