

Peter Frei
101 Maybrook Road
HOLLAND, MA 01521

March 11, 2019

State Ethics Commission
Legal Department
One Ashburton Place — Room 619
BOSTON, MA 02108

Re: Public Education Letter: Wettlaufer et al,
(11/30/2015).

Dear Madam, Sir;

In Wettlaufer et al, this Commission made the finding that Brian Johnson violated G.L. c. 268A. Johnson solicited and accepted \$23,023.00 from the Town to finance a civil suit he filed in his private capacity to "deter" and "discourage" Peter Frei, the writer, from filing future petitions against him and other town officials.

As stated in Wettlaufer et al, Frei, pro se, appealed the District Court's decision and the Appeals Court of the Commonwealth found in favor of Frei. Frei

had appealed the dismissal of his counterclaim for abuse of process. The Appeals Court ruled in Frei's favor and remanded to the District Court, see attached rescript, attachment 1).

The key element to prove an abuse of process claim is the malicious and deliberate misuse of the civil process that is not justified by the underlying legal action, and that the abuser of process is interested only in accomplishing some improper purpose. As the key element is the state of mind of the accused abuser, such cases are difficult to prove.

Despite Johnson's efforts to prevent Frei from including a copy of this Commission's Public Education Letter ("PEL") in the addendum of his brief as appellee, Frei succeeded to include a copy. There is no doubt in Frei's mind that the Appeals Court remanded based on the PEL. The investigation by this Commission brought to light, in the clearest form, Johnson's motive and his state of mind to file his civil action against Frei.

Frei is aware of the fact that this Commission's PEL is considered "hearsay" and is inadmissible as evidence during trial.

However, Frei could impeach Johnson based on transcripts of his testimony he gave under oath to this Commission and also based on signed written statements to this Commission.

For obvious reasons G.L. c.268B, §4, declares the record of a preliminary inquiry as confidential as investigated parties are considered innocent. The records of ensuing adjudicatory hearings however are public.

In Wettlaufer et al, this Commission made the finding that Johnson was guilty of having violated the Conflict of Interest Law and made it public by issuing its PEL.

However, this Commission chose to refrain from holding an adjudicatory hearing as the town was reimbursed by the individuals authorizing and accepting the town funds.

Frei needs to know how to get a copy of sworn statements and testimony given under oath by Johnson and the other involved parties so he can use such record to impeach Johnson during trial.

Will this Commission produce the record by simply answering a Public Information Request, or does Frei need to subpoena the record with a Court issued subpoena?

Frei appreciates this Commission's advice in this matter. Thank You.

With kind regards,
March 11th, 2019,

Peter Frei
phone/text (413) 245 4660
email: peterfrei@cox.net

Attachments:

- 1) Appeals Court of the Commonwealth, docket 17-P-218; MEMORANDUM AND ORDER PURSUANT TO RULE 1:28
- 2) Commonwealth of Massachusetts, State Ethics Commission, Public Education Letter Wettlaufer et al