

**COMPILATION OF FORMAL REPORTS OF THE  
HOUSE INVESTIGATIVE COMMITTEE**

**Dated: February 2, 2017**

House Speaker-elect Charles McCall tasked the House's standing Rules Committee to act as an Investigative Committee (the "Committee") to consider the following three issues:

- a.) The authority of the Speaker to enter into a settlement agreement regarding a claim against the House of Representatives and to pay the settlement using House Funds;
- b.) Claims of sexual harassment against Representative Dan Kirby and whether Representative Kirby has engaged in conduct which impairs the ability of the Member to perform the duties of his or her office, impairs public confidence in the Legislature, or otherwise constitutes disorderly behavior;; and
- c.) A Claim of sexual harassment against Representative Dan Will Fourkiller and whether Representative Fourkiller has engaged in conduct which impairs the ability of the Member to perform the duties of his or her office, impairs public confidence in the Legislature, or otherwise constitutes disorderly behavior.

The Committee began formal hearings on January 10, 2017, and concluded its work on February 2, 2017. During its investigation, it interviewed the Chief Clerk of the House of Representatives, Comptroller of the House of Representatives, House Human Resources Manager, House of Representatives General Counsel, and House of Representatives Outside Counsel. The Committee also interviewed former Legislative Assistant to the House Carol Johnson, and Representative Dan Kirby. The Committee would like to thank each of these individuals who voluntarily gave of their time and came forward to present statements and evidence to the Committee to aid in its work.

Upon concluding its deliberations, the Committee prepared three separate reports, one for each issue cited above. Each of the three reports is contained herein, and represents the consensus of the entire participating Committee Members.

Participating Members of the Committee included:

Chairman Josh Cockroft, District 27, Republican  
Vice Chair Kevin West, District 54, Republican  
Representative Elise Hall, District 100, Republican  
Representative Weldon Watson, District 79, Republican  
Representative Jon Echols, District 90, Republican  
Representative Terry O'Donnell, District 23, Republican  
Representative Meloyde Blancett, District 78, Democrat

Non-Participating Members of the Committee included:

Representative David Perryman, District 56, Democrat  
Representative Steve Kouplen, District 24, Democrat

## House Investigative Committee Findings and Recommendations

- a. The authority of the Speaker to enter into a settlement agreement regarding a claim against the House of Representatives and to pay the settlement using House Funds;

### Witnesses Appearing Before the Committee:

- House of Representatives General Counsel
- House of Representatives Outside Counsel
- Chief Clerk of the House of Representatives
- Comptroller of the House of Representatives

### Exhibits Reviewed & Considered:

- Oklahoma Constitution, Article 5, §29
- Oklahoma Constitution, Article 5, §30
- House Rules of the Oklahoma House of Representatives Fifty-Fifth Oklahoma Legislature (2015-2016)
- House Rules of the Oklahoma House of Representatives Fifty-Fourth Oklahoma Legislature (as Amended in 2014)
- Precedents of the Oklahoma House of Representatives House, 50th - 54th Oklahoma Legislatures (2005-2014)
- 2015 House Precedents
- Invoice & Memo from House to OMES dated November 17, 2016 Regarding Payment of Legal Settlement – Attached with personal identifiers removed
- Legal Memorandum from House General Counsel, dated January 17, 2017 - Attached
- November 17, 2016 Memorandum to Comptroller, from Clerk of the House, Re: Payment of Legal Settlement – Attached with personal identifiers removed
- Office of Management and Enterprise Services Object of Expenditure Code (OEC) Listing and Definitions – Attached

### Committee Hearings:

- The Committee heard testimony regarding the issue on January 12, 2017 from House of Representatives General Counsel.
- On January 17, 2017 the Committee heard testimony of the Comptroller of the House of Representatives, as well as the Chief Clerk of the House of Representatives.

- Through interviews with witnesses and information given by in-house and outside counsel, the committee gathered all available non-privileged information regarding the settlement agreement and payment that was able to be shared with the Committee

**Background regarding a Speaker’s authority to reach settlement agreements and to pay settlement amounts from public funds.**

- The Committee sought legal advice from inside and outside counsel on the authority of a Speaker of the House to enter into a settlement agreement on behalf of the House of Representatives. The claim settled was asserted against the House itself, and not against any individual Member.
- The Committee began by looking to the relevant Oklahoma Constitutional provisions, Article 5, §§ 29 and 30, and then at both previous and current House Rules.
- The Committee further gathered information on general House operating procedures for payments of any amount for any purpose.
- Article 5, § 29 of the Oklahoma Constitution requires the House to elect one of its members as Speaker at the beginning of each regular session.
- Article 5, §30 of the Oklahoma Constitution states in part that “Each House may determine the rules of its proceedings...” The Constitution gives no further direct guidance or limitation as to the boundaries of those rules.
- House Rule 1.5(b) states:
  - (b) The Speaker shall sign all subpoenas, warrants, writs, vouchers for expenditures chargeable to the House, contracts binding upon the House or other papers issued by the House. The Speaker may delegate the authority to sign papers authorizing payments and other papers of an administrative nature. (emphasis added)*
- The portions of House Rule 1.5(b) relevant to the issue before the Committee were identical in both the House Rules for the Fifty-Fifth Oklahoma Legislature, as well as the House Rules for the Fifty-Fourth Oklahoma Legislature.
- Unlike other agencies, the House only has access to one fund – those that are appropriated to the House each year.
- No Oklahoma Constitutional provision, statute, House Rule, or House precedent limits the dollar amount a Speaker can spend on any expenditure, so long as that expenditure relates to House business or operations.

***The House’s General Expenditure Process***

- In practice, vendor invoices are sent to the Comptroller, for initial review. The Comptroller will match the invoice to a packing slip to ensure the items charged were actually received.
- The Comptroller codes the invoice into the House’s internal accounting software, and then submits the invoice to the Clerk of the House for review.

- The Clerk of the House has general authority to process regular and ordinary expense invoices for payment. If an expenditure is for an expense outside the ordinary, then the Clerk takes the matter to the Speaker for approval.
- An approved invoice is then sent by the Comptroller to the Oklahoma Office of Management and Enterprise Services (“OMES”) in a small packet of documents that includes (i) a Memo explaining the expense, and (ii) a voucher requesting payment, which categorizes the expense using the correct OMES expense code.
- OMES then issues checks to pay the invoices submitted by the House.

#### **Settlement Process for Harassment Claims**

- The settlement process examined by the Committee began by a complaint lodged by a House employee against Representative Kirby.
- The complaint was internally investigated by the House’s HR department, and the matter was resolved following the investigation.
- The employee was later terminated for reasons unrelated to the complaint.
- Following termination, the employee filed a complaint with the federal Equal Employment Opportunity Commission (the “EEOC”) against the House alone, and not against any Member.
- The Speaker engaged outside counsel to respond to the EEOC complaint pursuant to his authority under House Rule 1.6.
- On Tuesday, September 27, 2016, the EEOC mailed its Notice of Right to Sue letter to the parties. This meant that the EEOC had declined to take the matter further itself, and was authorizing the employee to initiate state or federal litigation on the matter if desired.
- A mediation was held between the parties on October 5, 2016. The mediation concluded with settlement terms generally agreed to, and with the acknowledgment that the parties would memorialize the settlement in a formal, written agreement.
- After the mediation, the respective counsel for the employee and for the House exchanged various drafts of a written settlement agreement. A final agreement on the terms was not reached until or about November 11, 2016. The delay in finalizing the agreement was simply the result of multiple drafts being sent back and forth and a review of certain technical aspects of the agreement by the former employee and her counsel, which took some time to complete.
- Speaker Jeffrey W. Hickman signed the written settlement agreement on November 16, 2016. The settlement agreement included provision for part of the settlement amount to be paid directly to the former employee, and the other part of the settlement amount to be paid directly to the law firm of the employee’s attorney.
- On November 18, 2016, the Comptroller sent a request for payment of the settlement amounts to OMES, including a Memo openly explaining the expenditure as “for the

settlement sum” related to “the Confidential Settlement Agreement and General Release document approved by Jeffrey W. Hickman, Speaker of the House on 11/16/16...”

- The Comptroller correctly coded the two settlement payments as legal settlement payments in accordance with the House’s internal accounting categories in its own accounting software.
- However, the Comptroller told the Committee that she made a scrivener’s error in the OMES coding on one of the two settlement checks. She stated that under OMES’s payment coding system, “SETTLEMENTS – PAID TO/THROUGH ATTORNEY” are coded under the number “553180.” When she typed in the code on the OMES payment voucher form, however, she erroneously typed the number 533180. OMES expense code 533180 is reserved for “GENERAL HOUSEKEEPING/JANITORIAL/SANITATION SUPPLIES AND MATERIALS”.
- The Comptroller explained that she was responsible for the coding error, that the error was a mistake and not an attempt to hide the settlement, and that the mistake was corrected with OMES when brought to her attention. Again, the erroneous payment voucher was sent to OMES together with a Memo that correctly detailed the exact nature of the payment requested. This Memo is the one that was discussed by the Daily Oklahoman, and that was released pursuant to a FOIA request.

#### **Committee Findings of Fact:**

- The Committee finds that as a matter of general operating procedures, each Speaker has set his or her own internal, unofficial limit as to the amount he or she would spend on any one item without seeking other consultation/approval of some sort. To be clear, the practice has been self-imposed by each individual Speaker, and no requirement for such conduct is found in any law or Rule.
- The Committee finds that a Speaker of the House has the authority under Oklahoma Constitution Article 5, §§ 29 and 30, as well as House Rule 1.5 to enter into contracts such as settlement agreements related to claims brought against the House.
- The Committee finds that a Speaker of the House has the authority under Oklahoma Constitution Article 5, §§ 29 and 30, as well as House Rule 1.5 to pay settlement amounts from the public funds appropriated to the House each year.
- The Committee finds that there is no prescribed dollar amount above which a Speaker must seek other consultation before paying.

#### **Committee Conclusions:**

**Committee Conclusions:**

- Former Speaker Jeffrey W. Hickman possessed the authority to enter into the settlement agreement related to the claim brought against the House.
- Former Speaker Hickman possessed the authority to pay the agreed upon settlement amount from public funds appropriated to the House.
- The miscoding of the payment to the former employee's law firm was an unfortunate, but unintended mistake.
- The committee found that once realized, the mistake was corrected by the House Comptroller so that the correct code was and is now reflected in the House's documentation.
- The committee found that all settlement payments were paid to the correct parties for a legal settlement only, and not for general housekeeping/janitorial/sanitation supplies and materials.

**Recommendations Based on Findings:**

Based upon the conclusions made by the Committee, the Committee recommends the following:

- While not required to do so, the Speaker should consider establishing a written procedure for the authorization of any legal settlement expense the House potentially will incur over \$15,000. Such a procedure should allow for greater input from other Members on large purchases or other payments.

**Affirmation of Findings and Recommendations:**

By signing below, the Committee finds the above findings and recommendations just and appropriate under the circumstances.

  
\_\_\_\_\_  
Rep. Josh Cockroft – Chairman

  
\_\_\_\_\_  
Rep. Kevin West – Vice-Chairman

  
\_\_\_\_\_  
Rep. Meloyde Blancett

  
\_\_\_\_\_  
Rep. Jon Echols

  
\_\_\_\_\_  
Rep. Elise Hall

\_\_\_\_\_  
Rep. Steve Kouplen

  
\_\_\_\_\_  
Rep. Terry O'Donnell

\_\_\_\_\_  
Rep. David Perryman

  
\_\_\_\_\_  
Rep. Weldon Watson



## **Attachments Regarding Settlement Agreement:**

- Invoice & Memo from House to OMES dated November 17, 2016 Regarding Payment of Legal Settlement – Attached with personal identifiers removed
- Legal Memorandum from House General Counsel, dated January 17, 2017 - Attached
- November 17, 2016 Memorandum to Comptroller, from Clerk of the House, Re: Payment of Legal Settlement – Attached with personal identifiers removed
- Office of Management and Enterprise Services Object of Expenditure Code (OEC) Listing and Definitions – Attached



## House of Representatives

STATE OF OKLAHOMA

### MEMORANDUM

Date: November 17, 2016  
To: Stacey Trivitt, Comptroller  
From: Jan Harrison, Clerk of the House  
  
RE: Payment of Legal Settlement

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Pursuant to the Confidential Settlement Agreement and General Release document approved by Jeffrey W. Hickman, Speaker of the House on 11/16/16, please process payments for the settlement sum as follows:

1. \$28,414.20 to Hollie Bishop (VID 0000410742)
2. \$16, 085.80 to the law firm Nelson, Terry, DeWitt & Paroulo (VID 0000410743)

Due to the confidential nature of the settlement agreement, it may not be attached to this memo or the voucher when processed for payment. This memo and my signature will be considered documentation and approval for payment.

Thank you

5318  
Approved for Payment  
BY Jan Harrison  
DATE 11/17/16

STATE OF  
OKLAHOMA

Claim Jacket Voucher Form

Page 1 of 1 OMES AUDITED BY:

INVOICE NO 430JV INV DATE 11/17/2016

CLAIM OF: NELSON TERRY MORTON DEWITT PARUOLO PLLC  
 Address: All Name: Vend ID: 0000410743  
 ASSIGNMENT SECTION: ASSIGNMENT SECTION  
 Address: All Name: Vend ID: 0000410743  
 I hereby assign this claim to the above assignee and authorize the State Treasurer to issue a warrant in payment to said assignee

0.00	42200	00019025	Not Paid
TOTAL CLAIM AMOUNT	AGENCY BUSINESS VOUCHER NO.	CLAIM WARRANT NO.	

VCR DT: December 22, 2016 Warr Dt:

Agency Board, Comm. Dept: Okla House of Representatives

Claimant: Date:

Description: Related Vcr No. 00018937 Amt 16,085.80

ORDER NO.	AMOUNT	ACCOUNT	SUB ACCT	FUNDING CLASS	DEPT	BUD REF YR	CFDA	PROJECT	ACTIVITY	OPER UNIT	Program Code	Chart Field 2
	-16,085.80	533180		19611	1000001	17					NP000	
	16,085.80	553180		19611	1000001	17					NP000	

TOTAL 0.00

I hereby approve this claim for payment and certify it complies with the purchasing laws of this State

Agency Approving Officer's signature  
 Approving Officer's Name: STACEY TRIVITT  
 Title: COMPTROLLER Date: 12/22/2016



VCHR

42200

00019025

STATE OF  
OKLAHOMA

Claim Jacket Voucher Form

Page 1 of 1  
OMES AUDITED BY:

INVOICE NO

INV DATE

430

11/17/2016

Description:

Related Vcr No.

Date

CLAIM OF: NELSON TERRY MORTON DEWITT PARUOLO PLLC

Address: .

All Name: Vend ID: 0000410743

ASSIGNMENT SECTION

ASSIGNEE:

Address:

All Name:

Vend ID: 0000410743

LOC: 0001

I hereby assign this claim to the above assignee and authorize the State Treasurer to issue a warrant in payment to said assignee

16,085.80

TOTAL

CLAIM

AMOUNT

VCR DT: November 10, 2016

Warr Dt:

Agency Board, Comm., Dept.

Okla House of Representatives

42200

AGENCY

BUSINESS

UNIT

00018937

CLAIM

VOUCHER

NO.

11/22/16

WARRANT

NO.

107654162

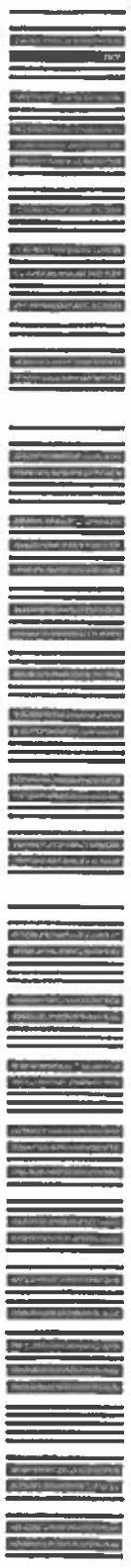
ORDER NO.	AMOUNT	ACCOUNT	SUB ACCT	FUNDING CLASS	DEPT	BUD REF YR	CFDA	PROJECT	ACTIVITY	OPER UNIT	Program Code	Chart Field 2
	16,085.80	583180		19611	1000001	17					NP000	
		553180										

TOTAL 16,085.80

I hereby approve this claim for payment and certify it complies with the purchasing laws of this State

Agency Approving Officer's signature  
Approving Officer's Name: STACEY TRIVITT  
Title: COMPTROLLER

Date: 11/18/2016



VCNR

42200

00018937

STATE OF OKLAHOMA  
Claim Jacket Voucher Form

CLAIM OF: Nelson, Terry, Morton, DeWitt &  
Address:

Alt. Name:  
Vend ID: 0000410743      LOC: 0001

ASSIGNMENT SECTION

ASSIGNEE:  
Vend ID:      LOC:      I hereby assign this claim to the above assignee and authorize the State Treasurer to issue a warrant in payment to said assignee.

INVOICE NO.      INVOICE DATE  
11172016      11/17/2016

16,085.80	42200	18937	
TOTAL CLAIM AMOUNT	AGENCY BUSINESS UNIT	CLAIM VOUCHER NO.	WARRANT NO. DATE
House of Representatives			
Agency, Board Comm., Dept.			
Claimant Signature		Date	

ORDER NO.	AMOUNT	OBJECT ACCOUNT	OBJECT SUB-ACCT	FUNDING CLASS	AGT/SUB DEPT	BUDGET REF YR	CFDA CHARTFIELD	PROGRAM	PROJECT	OPER UNIT	INV NO.	INV DATE
	16,085.80	553180	00001	19611	1000001	17					11172016	20161117
TOTAL											16,085.80	

AGENCY USE:

I hereby approve this claim for payment and certify it complies with the purchasing laws of this State.

Agency's Approving Officer  
COMPTROLLER  
Date 11/17/2016

Warrant Mailed  
Date 11/20/16  
By *Morgan C. Warrington*

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**TO:** The Honorable Charles McCall, Speaker of the Oklahoma House of Representatives

**FROM:** General Counsel

**DATE:** January 17, 2017

**RE:** Authority of the Speaker of the House to Settle Employment Matters

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**Question Presented:**

*Whether the Speaker has authority to settle employment matters?*

**Answer:**

Yes, based on the Oklahoma Constitution and the Oklahoma House Rules, the Speaker has the authority to settle employment matters. The law and reasoning is set forth in the paragraphs below.

**Law:**

Article 5, Section 29 of the Oklahoma Constitution states: "The House of Representatives shall, at the beginning of each regular session and at such other times as may be necessary, elect one of its members Speaker."

Article 5, Section 30 of the Oklahoma Constitution states, in part: "Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member."

Oklahoma House Rule 1.5 (b) states: "The Speaker shall sign all subpoenas, warrants, writs, vouchers for expenditures chargeable to the House, contracts binding upon the House, or other papers issued by the House. The Speaker may delegate the authority to sign papers authorizing payments and other papers of an administrative nature."

Oklahoma House Rule 1.6 states, "The Speaker may authorize or engage legal counsel on behalf of the House, a committee of the House, a member or former member of the House in his or her legal capacity as a member, or an officer, employee or agent of the House in their official capacity when the Speaker determines that such action would be in the best interest of the House of Representatives. Expenses incurred for legal services authorized by the Rules may be paid upon the approval of the Speaker."

Oklahoma House Rule 3(c) states: "The Speaker has the right at any time to transfer any employee to another department or discharge any employee of the House without cause."

**Explanation:**

The Constitution gives the House the authority to elect a Speaker. The Constitution also gives authority for the House to determine its own rules. The Speaker is the leader of the House and is vested with the authority to make decisions on its behalf, under the institution's rules. The Speaker has the authority to transfer or discharge employees, to engage legal counsel and to make payments. Payments are processed as vouchers, through OMES. Thus, a payment that is a settlement for an employment matter would be a "voucher for expenditure." This authority—coupled with the aforementioned authority of the Speaker to "engage legal counsel" on behalf of the House—make clear that the Speaker has authority under the Constitution and House rules to settle legal matters on behalf of the House.



House of Representatives  
STATE OF OKLAHOMA

MEMORANDUM

Date: November 17, 2016  
To: Stacey Trivitt, Comptroller  
From: Jan Harrison, Clerk of the House  
  
RE: Payment of Legal Settlement

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Pursuant to the Confidential Settlement Agreement and General Release document approved by Jeffrey W. Hickman, Speaker of the House on 11/16/16, please process payments for the settlement sum as follows:

1. \$28,414.20 to Hollie Bishop (VID 0000410742)
2. \$16,085.80 to the law firm Nelson, Terry, DeWitt & Paroulo (VID 0000410743)

Due to the confidential nature of the settlement agreement, it may not be attached to this memo or the voucher when processed for payment. This memo and my signature will be considered documentation and approval for payment.

Thank you

5316  
Approved for Payment  
BY Jan Harrison  
DATE 11/17/16



STATE OF  
OKLAHOMA  
Claim Jacket Voucher Form

CLAIM OF: Hollie Bishop  
Address:

Alt. Name:  
Vend ID: 0000410742      LOC: 0001

ASSIGNMENT SECTION

ASSIGNEE:

Vend ID:      LOC:

I hereby assign this claim to the above assignee and authorize the State Treasurer to issue a warrant in payment to said assignee.

Claimant Signature

Date

28,414.20	42200	18936	
TOTAL CLAIM AMOUNT	AGENCY BUSINESS UNIT	CLAIM VOUCHER NO.	WARRANT NO. DATE

Agency, Board Comm., Dept.:  
House of Representatives

INVOICE NO.	INVOICE DATE
11172016	11/17/2016

Description	ORDER NO.	AMOUNT	OBJECT ACCOUNT	OBJECT SUB-ACCT	FUNDING CLASS	ACT/SUB DEPT	BUDGET REF YR	CFDA CHARTFIELD	PROGRAM	PROJECT	OPER UNIT	INV NO.	INV DATE
		28,414.20	553160	00001	19611	1000001	17					11172016	20161117
<p>Warrant Mailed</p> <p>Date 11/23</p> <p>By Wanda L. Determination</p>													
<b>TOTAL</b>		28,414.20											

AGENCY USE:

I hereby approve this claim for payment and certify it complies with the purchasing laws of this State.

Agency's Approving Officer

COMPTROLLER

11/17/2016

Title Date

OMES FORM 15 A  
(REVISED 2/14)

STATE OF  
OKLAHOMA

Claim Jacket Voucher Form

Page 1 of 1

OMES AUDITED BY: INVOICE NO

INV DATE

429 11/17/2016

Description:

Related Vcr No.

Date

CLAIM OF: HOLLIE BISHOP

Address:

All Name:

Vend ID: 0000410742

LOC: 0001

ASSIGNMENT SECTION

ASSIGNEE:

Address:

All Name:

Vend ID: 0000410742

LOC: 0001

I hereby assign this claim to the above assignee and authorize the State Treasurer to issue a warrant in payment to said assignee

Claimant

Date

VCR DT: November 18, 2016 Warr Di: 11/18/16  
Agency Board, Comm., Dept: Okla House of Representatives



107654146

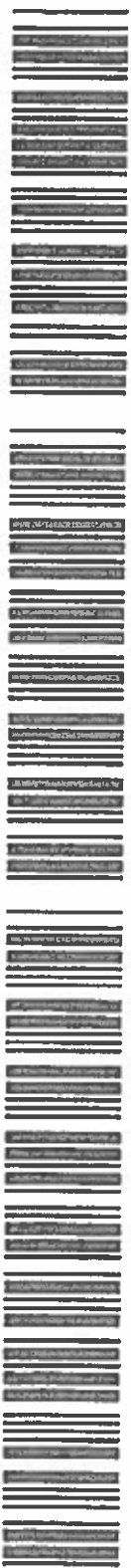
ORDER NO.	AMOUNT	ACCOUNT	SUB ACCT	FUNDING CLASS	DEPT	BUD REF YR	CFDA	PROJECT	ACTIVITY	OPER UNIT	Program Code	Chart Field 2
	28,414.20	553160		19611	1000001	17					NP000	

TOTAL 28,414.20

I hereby approve this claim for payment and certify it complies with the purchasing laws of this State

Agency Approving Officer's signature  
Approving Officer's Name: STACEY TRIVITT  
Title: COMPTROLLER

Date: 11/18/2016



VCHE

42200

00018936

**533130 MAINTENANCE & REPAIR OF TELECOMMUNICATIONS EQUIPMENT-  
OUTSIDE VENDOR**

Payments for repair and maintenance of telecommunications equipment by outside vendor due to routine wear and tear, as well as accidents, inclusive of parts, materials, supplies and labor. Also covers payment of maintenance contracts purchased on telecommunications equipment.

*NOTE:* Requires OMES Information Services Division Review.

**533140 MAINTENANCE & REPAIR OF DATA PROCESSING EQUIPMENT -  
OUTSIDE VENDOR**

Payments for repair and maintenance of data processing equipment outside vendor due to routine wear and tear, as well as accidents, inclusive of parts, materials, supplies and labor. Also covers payment of maintenance contracts purchased on the data processing equipment.

*NOTE:* Requires OMES Information Services Division Review.

**533150 MAINTENANCE & REPAIR OF DATA PROCESSING SOFTWARE -  
OUTSIDE VENDOR**

Payments for repair and maintenance of data processing software by outside vendor, inclusive of materials and labor. Also covers payment of maintenance contracts purchased on data processing software.

*NOTE:* Requires OMES Information Services Division Review.

**533180 GENERAL HOUSEKEEPING/JANITORIAL/SANITATION SUPPLIES  
AND MATERIALS**

Payments for general housekeeping and janitorial supplies and materials (e.g., cleaning soaps, floor sweep compounds, mops and brooms, dust cloths, etc.) used in the upkeep of a building or facility. Also includes laundry supplies (e.g., detergents, bleaches, fabric softeners, etc.) used for cleaning of patients' and wards' of the state personal effects, rooms, dorms and other living areas. May also include payments for supplies and materials (e.g., toilet tissue, hand soap, hand towels, toilet bowl deodorants, garbage/refuse bags, etc.) used for sanitation and health purposes in maintaining public-use facilities, e.g., rest rooms, roadside rest stops and similar type facilities.

normally subject to payroll processing. Exceptions are on a case by case basis.

553170 ROYALTIES

Payments of royalties, to individuals or corporations, resulting from sale of publications, research, inventions, etc.

553180 SETTLEMENTS - PAID TO/THRU ATTORNEY

Payments for settlements of litigation when checks are issued to (either as sole payee or joint payee) or delivered to an attorney not retained by the State. (For plaintiff and plaintiff's attorney for awarded amount.)

NOTE: The total amount of the settlement, not just the attorney's portion (if known), should be included on the 1099 form issued to the attorney. Agencies will need to adjust the 1099 registers to reflect the total amount of the settlement.

553190 REFUNDS -- OVERPAYMENT CHARGES

Payments of refunds for overpayments received for licenses or other fees collected by a controlling agency, board or commission. Also may include payments of returned unused funds received under a grant or similar contractual agreement. May further include payment to a bank to cover loss of monies released by the bank for deposit to an agency's account (maintained for such deposits) when due to redemption of customer's bad check for purchase of services (e.g., fishing/hunting license) from the state.

553200 REFUNDS - TAXES

Payments of refunds for taxes when authorized by law or other edict.

553210 REFUNDS -- HABITAT PROGRAM

Payments of refunds to dealers for the sale of hunting and fishing licenses.

## House Investigative Committee Findings and Recommendations

- b. Claims of sexual harassment against Representative Dan Kirby and whether Representative Kirby has engaged in conduct which impairs the ability of the Member to perform the duties of his office, impairs public confidence in the Legislature, or otherwise constitutes disorderly behavior.

**Background: Two complaints of sexual harassment from two former Legislative Assistants.**

### **Witnesses Appearing Before the Committee:**

- Chief Clerk of the House of Representatives.
- House of Representatives General Counsel.
- House Human Resources Manager.
- House of Representatives Outside Counsel.
- Ms. Carol Johnson, with counsel Justin Meek.
- Rep. Dan Kirby, with counsel Rachel Mathis, and guest Sen. Ralph Shorty.

### **Exhibits Reviewed & Considered:**

- Oklahoma Constitution, Article 5, §29
- Oklahoma Constitution, Article 5, §30
- House Rules of the Oklahoma House of Representatives Fifty-Fifth Oklahoma Legislature (2015-2016)
- House Rules of the Oklahoma House of Representatives Fifty-Fourth Oklahoma Legislature (as Amended in 2014)
- Precedents of the Oklahoma House of Representatives House Precedents, 50th - 54th Oklahoma Legislatures (2005-2014)
- Carol Johnson text messages – Attached with the express approval of Ms. Johnson
- Rep. Kirby 2016 & 2015 text log – Attached with the express approval of Rep. Kirby (the handwritten explanation of missing pictures on the attachment from counsel for Rep. Kirby; all personal identifiers have been redacted on the attachment)
- Confidential Telephone Transcript of conversation between Rep. Kirby and House Staff
- Representative Kirby Affidavit – Attached with the express approval of Rep. Kirby. Personal identifiers were redacted, as well as pictures and information relating to uninvolved parties.

- Confidential August 22, 2016 memo from Human Resource Manager, including letter dated August 22, 2016 from Carol Johnson
- Confidential Memo dated August 25, 2016 from Human Resource Manager.
- Rep. Dan Kirby's Letter of Resignation dated December 23, 2016 – Attached
- Rep. Dan Kirby's Letter Rescinding his resignation dated December 28, 2016 - Attached
- Oklahoma House of Representatives Anti-Nepotism/Anti-Fraternization Affirmation – Attached

#### **Committee Hearings:**

- The Committee heard testimony regarding Representative Kirby on January 12, 2017 from (i) House of Representatives General Counsel, (ii) House of Representatives Outside Counsel, and (iii) the House Human Resources Manager.
- On January 17, 2017 the Committee interviewed Chief Clerk of the House of Representatives.
- On January 18, 2017 the Committee spoke with Carol Johnson, who was accompanied by her legal counsel.
  - Ms. Johnson brought copies of certain text messages and FaceBook posts between her and Representative Kirby, including picture evidence, to support her allegations against Rep. Kirby. Ms. Johnson gave her permission for these materials to be appended to this report.
- Finally, on January 27, 2017, the Committee talked with Representative Kirby, who was accompanied by his legal counsel, as well as by his political consultant; State Senator Ralph Shorty.
  - Rep. Kirby brought print outs of text messages, Facebook posts, photographs, and third party statements, as evidence which was presented to the committee to support his case against Carol's allegations. Rep. Kirby gave his permission for these materials to be appended to this report.

#### **Background regarding Rep. Dan Kirby:**

##### ***Carol Johnson Testimony & Exhibits:***

- Ms. Johnson stated that she had a friendship with Rep. Kirby.
- Ms. Johnson stated she had worked as a Session Only Legislative Assistant ("LA") to Representative Kirby during 2012 and 2013, and as a Full Time LA from January 2016 to August 2016.

- Ms. Johnson stated she had received requests for topless pictures from Rep. Kirby dating back to 2011; she specified that those requests occurred before, during, and between her times of employment with the House of Representatives.
- Ms. Johnson stated that if she did not comply with Representative Kirby's requests for topless photos, he would make her work environment difficult.
- Ms. Johnson stated that she often tried to distract Rep. Kirby from his requests and redirect text and verbal conversations a different direction.
- Ms. Johnson admitted that ultimately she sometimes complied.
- Ms. Johnson said that the requests were made and responded to only via text messaging because Representative Kirby knew his emails were monitored.
- Ms. Johnson said that Rep. Kirby used code words that were created for the photo requests such as "motivation" and "dare."
- Ms. Johnson supplied a screen shot of a text conversation between she and Representative Kirby. In it, she asked to leave early from work one day. Representative Kirby responded "What about my motivation to do anything?" Ms. Johnson responded "I will motivate the hell out of you tonight if you say yes." After a text exchange the following morning, a topless picture was sent to Representative Kirby. She claimed the term "motivation" was a code word for topless pictures.
- Ms. Johnson stated that she did accompany Representative Kirby to after work hours functions and receptions, but only to network at those events, as she had desired to potentially run for office in the future.
- She further related an instance where Representative Kirby asked her to go to a strip club with him and another man. She ultimately agreed to go; however, she did not want to be there and was uncomfortable the entire time. She further stated that Representative Kirby paid a dancer to perform a "lap dance" for her at the establishment.
- Ms. Johnson stated that she was never in a dating relationship with Rep. Kirby.
- Ms. Johnson complained to the House HR department August 25, 2016. The course of the House's HR investigation is noted below.
- Upon her complaint to HR, she was granted a short administrative leave as she requested, and was reassigned to a different House Member.
- Ms. Johnson stated she was treated well by House staff following her complaint, and that she was satisfied with the manner in which it was handled by HR, and in the resulting reassignment.
- Ms. Johnson said she ultimately resigned her position with the House due to family concerns unrelated to Representative Kirby.

***Representative Kirby Testimony & Exhibits:***

- Rep. Kirby claimed he had a close personal relationship with Ms. Johnson dating back to 2011. He stated that the relationship included sharing personal information about their families, talking about life's troubles with one another, going out for drinks, and at least at time, kissing. Twice he referred to the relationship as "dating." He further stated that their friendship and communications continued even during the times she was not employed by the House.
- Representative Kirby stated he first received a topless photo from Ms. Johnson in 2011, and that the photo was unsolicited.
- Rep. Kirby admitted that on occasions he did ask Ms. Johnson to send him topless photos.
- Rep. Kirby further admitted he continued to receive solicited and unsolicited text messages, including topless pictures, as well as other general pictures, from Ms. Johnson during, and between her times of employment with the House of Representatives.
- Representative Kirby stated that, while he acknowledged their friendship had developed well past a work relationship, their relationship was fully consensual, including the sharing of the subject pictures. He also stated that Ms. Johnson never complained to him at any time that she felt uncomfortable or intimidated.
- Representative Kirby acknowledged the text in which he asked what his "motivation" for letting her leave early was, but stated he did not necessarily intend that statement to mean a topless photo.
- Representative Kirby also acknowledged that on one occasion he asked Ms. Johnson to go with him and another individual to a strip club. He stated that he believed she went willingly and did not have any qualms with anything that happened.
- In an attempt to refute that certain text message conversations provided by Ms. Johnson were requests for topless pictures, or that they were in some manner coerced, Representative Kirby provided the Committee a condensed print out of what he stated were all the texts between him and Ms. Johnson for the entire year of 2016, and a summary of several text messages sent/received in 2015.
- When asked whether it was wrong in general to receive topless pictures from an LA, Representative Kirby claimed it would depend on when he received the picture. He explained that most of the pictures were received either after business hours or while the House was not in session.
- Representative Kirby's Letter of Resignation dated December 23, 2016, which he later rescinded, stated in part, "Recent events have caused a situation where my continuing in office would be such a distraction that I could not serve my constituents in the manner they deserve." When asked how circumstances had changed regarding his ability to perform his legislative duties, Representative Kirby did not articulate how he would be able to adequately perform his duties. Instead, he replied that he now wanted to clear his name from what he believes are false charges.



### ***House Staff Investigative Activities:***

- Ms. Johnson first came to the House HR department on August 22, 2016. She stated that she needed to take several days off for personal reasons and was concerned that Representative Kirby would fire her for taking off. Ms. Johnson was given the time off she requested.
- Upon her return on August 25, 2016, the House HR department followed up with Ms. Johnson. At that time, Ms. Johnson alleged that Rep. Kirby had displayed inappropriate behavior. When asked for examples, she stated that he would send inappropriate text messages asking her to send him motivation. When asked what motivation meant, she replied it was clear it was meant for her to send him topless pictures. Ms. Johnson said that before working for the House, she and Rep. Kirby were friends and she had in fact sent naked pictures before. She said that there were no emails, just text messages between them.
- Ms. Johnson stated she feared retaliation if Rep. Kirby knew she had complained, and was assured that her allegations would be taken seriously and that any retaliation would not be tolerated. The House gave Ms. Johnson administrative leave for personal family reasons until September 6, 2016.
- On August 29, 2016 the House HR department held a 45-minute telephone conversation with Rep. Kirby about Ms. Johnson's complaints. During the call, Representative Kirby admitted to exchanging inappropriate text messages with Carol Johnson. He explained that they had known each other for five years and he considered her to be his best friend. He admitted to giving her a hard time about not showing up for work on occasion. He said that he felt everything was mutual in their relationship. Rep. Kirby also stated that March 2016 was the most recent time any inappropriate text messages had been exchanged.
- During the HR department's investigation, Ms. Johnson provided some text messages from both Rep. Kirby and herself. Based upon their investigation, it was concluded that some type of relationship had existed in the past between the two and in the best interest of all Ms. Johnson should be reassigned.
- The House also decided at that time Rep. Kirby would not have a Legislative Assistant located in his office, but that the House would continue to investigate the matter.
- On September 6, 2016 Carol Johnson was reassigned to Rep. Brumbaugh's office.
- On November 7, 2016 Carol Johnson, citing personal family reasons, resigned from Rep. Brumbaugh's office.

- On December 23, 2016, Rep. Kirby sent a letter to the Speaker-Elect McCall notifying him of Rep. Kirby's intent to resign from the House. In the letter, Rep. Kirby stated that, "Recent events have caused a situation where my continuing in office would be such a distraction that I could not serve my constituents in the manner they deserve."
- On December 28, 2016, Rep. Kirby sent another letter to then Speaker-Elect McCall stating he rescinded his resignation.

### **Committee Findings of Fact:**

#### **General Findings**

- All LA's are employees of the House, not of the individual Members for whom they perform work.
- Although Members have the privilege of requesting that the House extend offers of employment to individuals they specify, they have no actual authority to hire LA's, and Members have absolutely no authority to terminate LA's.
- It is apparent from the materials reviewed and the House staff questioned, that employees of the House receive sufficient training in how to make harassment and other complaints to the House HR Department.
- In each instance examined by the Committee, employees knew where and how to make a complaint. The HR department promptly investigated the matter thereafter and took steps to ensure that the issues were resolved. In Ms. Johnson's case in particular, she was satisfied by the way she was treated by HR, by the way her complaint was handled, and by the resolution provided by the HR department.
- The Committee wants to be clear that is pleased by the current state of its sexual harassment policies and procedures, as well as General and Outside Counsel. However, the Committee believes that additional training, given to both staff and Members alike, would be beneficial. The Committee also believes that the House's employment policies and procedures should be fully reviewed to determine if updates or additions would be helpful going forward in maintaining the House's ability to protect its employees and to even potentially enhance the work environment of the House in general.

#### **Findings Regarding Representative Kirby**

- Rep. Kirby and Carol Johnson were in a relationship of some nature from at least 2011 through 2016, both inside and outside the workplace.
- This relationship included sending inappropriate text messages and pictures, some of which Rep. Kirby admits were solicited.
- Rep. Kirby engaged in these activities before, during, and between the times Ms. Johnson was employed by the House of Representatives.
- Further, at least some of these activities took place on Capital grounds and during regular business hours at the House.

- Rep. Kirby admittedly never discouraged Ms. Johnson from sending inappropriate pictures at any time, including during the time she worked for the House of Representatives. and including during working hours.
- Rep. Kirby stated he deleted the topless photos he received from Ms. Johnson each time he received them. However, some of the text messages contained in the screen shots provided to the Committee by Ms. Johnson, which were in response to, or otherwise related to the subject photos, were missing from the 2016 summary of texts provided by Rep. Kirby. The Committee takes this to mean they were individually deleted by Representative Kirby in an attempt to hide their existence.
- Rep. Kirby did not inform the House of any relationship between he and Ms. Johnson, or that he had requested/received topless photographs from Ms. Johnson at any time including when he requested the House employ her has a session only LA, or as a full time LA.
- Contrary to the stated position of Rep. Kirby, a House Member should never solicit or receive inappropriate material from an LA or any other House employee, no matter whether during business hours or after business hours, and no matter whether the House is in session, our out of session.
- The actions of Rep. Kirby with respect to Ms. Johnson were inappropriate and below the standards expected of a Member of the House.
- While the Committee reviewed confidential material regarding Holly Bishop and her complaints related to Rep. Kirby, that matter was settled with no party admitting fault. Further, the settlement agreement entered into contained a confidentiality clause. In any event, based upon the documents and the witnesses questioned, the Committee was unable to determine the level of fault, if any, of Representative Kirby in that matter. Ultimately, however, the existences of the Holly Bishop matter did not factor into the Findings, the Conclusions, or the Recommendations of the Committee in any way.

#### **Committee Conclusions:**

Based upon the testimony of the evidence, as well as upon review of the House Rules:

- Ms. Johnson was an employee of the Oklahoma House of Representatives.
- Ms. Johnson was assigned to work as the Legislative Assistant of Rep. Kirby while employed by the House, first as a Session Only employee in 2012 and 2013, and then as a full time House employee during 2016.
- There was conflicting testimony about whether some of the photos received by Representative Kirby were unsolicited. However, even if Rep. Kirby had merely received such photos from his LA, it was inappropriate not to demand those actions stop in their entirety, and not simply try to limit those activities to outside business hours or during session. The Committee believes that a Member receiving such photos, whether solicited or unsolicited, from a House employee is improper.

- Moreover, Rep. Kirby admits that he solicited some of the inappropriate photographs from an employee of the House. Such solicitation, whether made during business hours or after, whether while the House was in session or out, was completely inappropriate for a Member.
- Rep. Kirby admits that he invited an employee of the House to accompany him to a strip club. Such invitation, whether made during business hours or after, whether while the House was in session or out, was completely inappropriate for a Member.
- Rep. Kirby's attempt to hide the existence of certain text messages with Ms. Johnson from the Committee by deleting them in order to present an incomplete picture of events was inappropriate, and led, in part, to the conclusion that Rep. Kirby was not credible in his statements to the Committee
- Although Rep. Kirby admitted that requesting topless photographs from a House employee was not a wise decision, the manner in which Rep. Kirby attempted to justify his actions by stating that the events occurred after business hours or out of session, led the Committee to believe he does not truly believe he engaged in any wrong behavior.
- Rep. Kirby's Letter of Resignation admitted that the allegations of sexual harassment against him caused a situation in which he "could not serve [his] constituents in the manner they deserve." His inability to articulate any change in circumstances that would alter his previous conclusion leads the Committee to believe that the circumstances have not changed.
- Rep. Kirby's behavior toward and with Ms. Johnson has impaired his ability to perform the duties of his office.
- Rep. Kirby's behavior toward and with Ms. Johnson has impaired the public confidence in the Legislature.
- Rep. Kirby's behavior toward and with Ms. Johnson constitutes disorderly behavior of a Member of the Oklahoma House of Representatives.

### **Recommendations Based on Findings:**

Based upon the Conclusions made by the Committee, the Committee recommends the following actions be taken:

- 1- Expulsion of Rep. Dan Kirby to be scheduled and voted upon by the full body.**
  - 2- Further, that the Speaker immediately and permanently;**
- Remove Rep. Kirby from his Chairmanship,**
  - Remove Rep. Dan Kirby from the membership of any Legislative Committee,**
  - Reassign Rep. Dan Kirby's bills to another member of the House**
  - Remove Rep. Dan Kirby's ability to have a Legislative Assistant work for him.**


In addition to the above recommendations, the Committee recommends the following changes:

- The House should expand yearly sexual harassment and reporting training for both Members and employees of the House.**
- The House should establish written procedures to ensure that Members and employees are better educated on the proper chain of command and authority between the House and its employees.**
- The House should require Members sign and update the Anti-Nepotism/Anti-Fraternization Affirmation form every elected term.**


**Affirmation of Findings and Recommendations:**

By signing below, the Committee finds the above findings and recommendations just and appropriate under the circumstances.

  
\_\_\_\_\_  
Rep. Josh Cockroft – Chairman

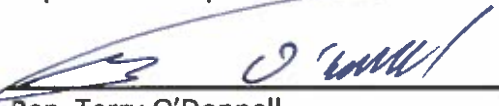
  
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Rep. Kevin West – Vice-Chairman

  
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Rep. Meloyde Blancett

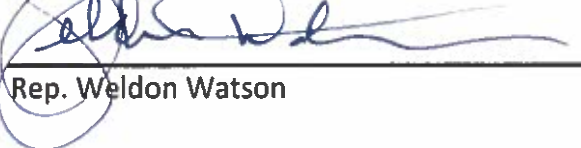
  
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Rep. Jon Echols

  
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Rep. Elise Hall

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Rep. Steve Kouplen

  
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Rep. Terry O'Donnell

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Rep. David Perryman

  
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Rep. Weldon Watson

## **Attachments Regarding Rep. Kirby:**

- Carol Johnson text messages – Attached with the express approval of Ms. Johnson
- Rep. Kirby 2016 & 2015 text log – Attached with the express approval of Rep. Kirby (the handwritten explanation of missing pictures on the attachment from counsel for Rep. Kirby; all personal identifiers have been redacted on the attachment)
- Representative Kirby Affidavit – Attached with the express approval of Rep. Kirby  
Personal identifiers were redacted, as well as pictures and information relating to uninvolved parties.
- Rep. Dan Kirby's Letter of Resignation dated December 23, 2016 – Attached
- Rep. Dan Kirby's Letter Rescinding his resignation dated December 28, 2016 - Attached

4:06 PM

It's a Harry Potter reference. If Dobby gets a sock, he can go home.



4:07 PM



What about my motivation to do anything?

4:10 PM

I will motivate the hell out of you tonight if you say yes.



4:11 PM



See you Monday! 😊

4:11 PM



Be sure and lock the pc on your way out.

4:13 PM



See I am not a mean boss.

4:14 PM



Enter message







Good morning your highness! O "Short memored,forgetful" Queen! The Queen of "promises- made-but- not- carried- out"! Long live the Queen! Please tell your loyal subject what "I'll motivate the hell out of you tonight" means?

... ..

9:16 AM



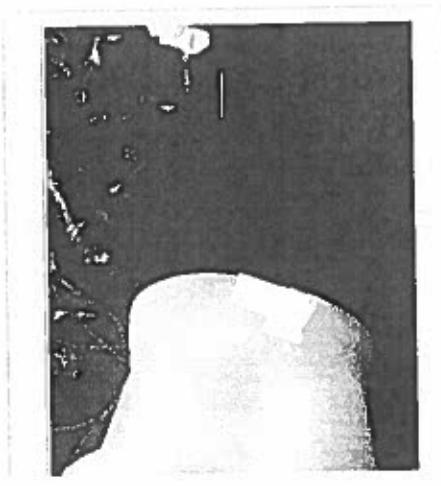
I know. I'm pretty funny, huh? Lol.



9:25 AM

Hahahahah! Patience. It will happen!

10:07 AM



Enter message



← Dan Kirby

MT Dew on your way in.

8:54 AM

Are you even coming in today?

9:52 AM



Of course. Couldn't miss seeing you!

9:56 AM

Awww. That's actually sweet. Lower your expectations today. :)

9:56 AM



Lower than chest high?

9:57 AM

I encourage focusing on anything which isn't my hair. :)

9:58 AM



Don't I always do that?

9:58 AM



Enter message



 Dan Kirby



10:24 AM



I heard 2760 was assigned already. How can I hear things before you do?

10:26 AM

I can only go based upon what I see online. Let me contact \_\_\_\_\_ and see if she has another list.



10:27 AM

Stop being so antagonistic

10:27 AM



Did you ride today?

4:10 PM



It's raining. Guess I'm gonna go drink alone. Lol. Have a great weekend!

4:16 PM

Mon. 03/14/2016



Enter message



want to remove yourself?

9:38 PM



Could be some illegal stuff going on.  
It's a great time for pics! Always!!



9:41 PM



An excellent picture

MMS 9:43 PM



Hahaha. Don't be mean to me.

9:46 PM

Fri, 03/18/2016



Enter message





9:46 PM

Fri, 03/18/2016

Resign from the Board



8:26 AM



Good morning. Something is wrong with my phone. I'm not getting the pictures that you are sending.

9:16 AM

Last night was St Patrick's day. I'm lucky I even knew how to USE my phone.



9:18 AM



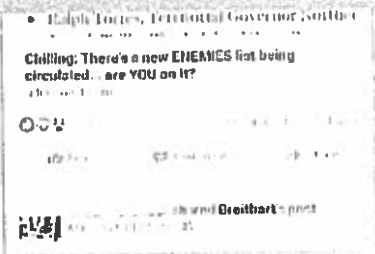
Lol. That's when the pics are REALLY good! Drunk pics. Haha. So I'm guessing you had fun? Going to be a slow day at the Capitol. Maybe you can take off a little early today (if you're nice) 😊

9:22 AM



Enter message





Here is the link  
<http://www.allenbwest.com/2016/03/chilling-theres-a-new-enemies-list-being-circulated-are-you-on-it/>

Interesting article. Read it and share your thoughts?

MMS 8:09 AM



Hmmm. I thought something was wrong with you. Was going to ask if you were ok. I said something nice about you and didn't get a response. 😊  
Nobody cares about the list. If trump wins they'll be heroes.

8:54 AM



I see how you are

10:40 AM



Enter message



Dan Kirby



MMS 11:15 AM



Lol!! You are the bomb! I'll remember to never bet against you doing a dare! 😊😊😊😊😊😊😊😊



Enter message





LOL!! You are the dumb! I'll remember to never bet against you doing a dare! 😄 😊 😏 😬 😇 😜

11:21 AM

Everyone except for me, \_\_\_\_\_, and \_\_\_\_\_ left at noon. 2 of them didn't even arrive until 10. I would never do that to you. Just saying.

3:00 PM



I said you could leave. Have a great weekend

3:10 PM

I knw. And I did. And you too!

3:10 PM



I am still smiling / laughing over our "dare" today. Didn't think you would do it. 😊 You do make me smile sometimes. Thanks for all you do. Talk to you later.

5:55 PM



Enter message







And I KNEW it would happen.

9:53 AM

Ok. Thanks for your concern.

9:54 AM



You have an athletic trainer here to see you. He is interested in your bill. Can you come down?

10:15 AM



One second. I'm in office

10:16 AM



Disappointed (again) :(

10:49 AM

Seriously. Kill the manipulation.

10:50 AM



I went to lunch. See you Monday.

12:05 PM



Enter message



group at 940, room 412.

9:13 AM



Shit

9:20 AM

Oh man. Dare I ask?

9:21 AM



I just woke up with a severe hangover. Let know

9:22 AM



Jumping in the shower now

9:22 AM

I'll leave out the hangover part. You'll be fine.

9:22 AM



Will not make 940

9:23 AM

I've sent her the message



Enter message





What's my motivation?

6:43 PM

Cool OHP stuff?

6:47 PM



Haha

6:50 PM

Met a teacher tonight. Her argument was wonderful.

8:39 PM



What was her argument about?

9:39 PM

How she is fired/reassigned. How she was forced to teach to the test, not the child. How she always had high test scores, yet now has no job. How she wonders why the education system is flawed, yet people are still bitching at the legislature, which is doing their best



Enter message





Hey will you sign hb2205 out of insurance conference? Is the workers comp bill and we still need signatures

11:33 AM

Yep.

11:35 AM



Answer your phone

12:49 PM



They are awaiting you in the conference room

12:49 PM



412c. Now.

12:49 PM



You need to let me know what you want me to do.



I am heading to the Senate side with hjr1002



Enter message



8:51 AM

Now 206  
8:58 AM

Did you eat food?  
12:42 PM



Yes  
12:45 PM



I'm looking for  
1:00 PM

1:02 PM



I thought I was your rep. ?  
1:12 PM

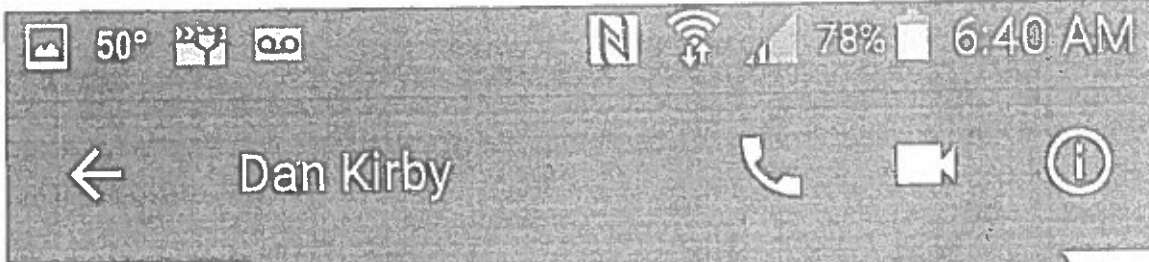


Also need a md. (With alcohol )!  
Lol.  
1:16 PM



Enter message





Tired yet ambitious! 😊 You? Big holiday plans?

What holiday? Are you ever going to see me again?



Aren't I over due for some new pics? 😊

Thanksgiving. And whenever I get rehired at the Capitol you will see me every day.  
Tell your friends. I want full time republican. 😊

Potentially



It's only \$36K.

In an environment I love

Thanksgiving socks.



Write a message...





Sucks.

Same as I did before. Senate has my resume. She called last week to make sure I still wanted it distributed. Yup. We shall see.  
😊

Senate pays more. I don't know if I'm going to get full time yet



Would you work for me again?

I do care about the pay to an extent. I'm really good at what I do. I do want full time. And in a heartbeat.

Hope to find out about whether I get a full time la by Dec. Will let you know. If you haven't been snatched up before then.  
Now about those pics!!!



Write a message...



MAY 5, 2013 AT 7:07 PM

Go to lookout.com. Enter your gmail address and gmail password. It can locate it within a few feet.

Look how accurate.....

JUN 7, 2013 AT 11:27 PM



Me? 😊

You?



JUN 8, 2013 AT 12:17 AM



Wish you were in my bed right NOW! 😊





you keep popping up on both of my accounts as a friend suggestion. Facebook is a jerk (but [redacted] is ADORABLE)!

JUL 30, 2013 AT 3:24 PM

And you ignore your messages!

JUL 30, 2013 AT 5:06 PM



I'm in a meeting about guns. AK47

Jealous!



Come here! !

Can't!



Promise to make it a fun evening!



Write a message...









3/19

8/25/2016 Received

8/25/2016 Received

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8/25/2016 Send

And I like the word Chippy. Post a "late night at the Capitol" picture. Every else has.

No.

I'm not like everyone else

Honey

Make\* So tired.

What's happening there? I want to be involved!

Left at 9:15. Everyone went home. Very tired. You coming to work tomorrow?

I'll be there. Please be nice. Rest well tonight.

They're trying to fix my computer. I have no BT online. Bear with for the other stuff.

Ok. Also please pull the Journal record out of my trash can.

Done. I have a friend dropping off some medicine I didn't have time to get today. May have to step out for a minute.

Did you step out to stillwater?

Call

Vote no!

Make her stop! Make her read the Constitution!

How's the weekly wrap? I sent an email with a corrected one.

Thank you very much. You know you are greatly appreciated even though you get fired at least once a week.

Hahahah! You're the best!

I downloaded the entire album...Tennessee Whiskey is the best! Still working?

Yep and no. On my way home

Drive safely!

Seriously?

Just being nice. Wanted to give you something.

Punk.

That's rude.

As rude as POPCORN! Go get on that Harley and have an amazing day!

They can you check to see if my bills have been assigned to Senate committees yet? Thank you

Absolutely.

With the exception of 2758

I heard 2760 was assigned already. How can I hear things before you do?

I can only go based upon what I see online. Let me contact [redacted] and see if she has another list.

Stop being so antagonistic

Did you ride today?

It's raining. Guess I'm gonna go drink alone. Lol. Have a great weekend!

You may want to pick up some MT Dew on your way in.

Are you even coming in today?

Of course. Couldn't miss seeing you

Awww. That's actually sweet. Lower your expectations today~!)

Lower than chest high?

I encourage focusing on anything which isn't my hair. :)

Don't I always do that?

In which case

I tried to be nice to [redacted]

Can you get a ball gag or some duct tape from one of your colleagues? I know someone will have one handy... I need it for [redacted]

Screenshot (Mar 14)

election year. You can make it funny. You make

which still the other's first reading. No commit

keep up the good work!

2016 8:59:20 PM) she's awaiting his review. SOS will not. We can

I'll be thrilled.

4







































Rec'd (text sent by Carol)

42146 Received On a middle floor?  
42146 Send Of course  
42146 Received Great plan! I approve!  
42146 Send Almost drowned  
42146 Received In alcohol or rain? :)  
42146 Send Water. His car went under water  
42146 Received Is he ok?  
42146 Send  
42146 Received Such a sad picture :(  
42146 Send 2 years of pictures. Lol. Very nice but would rather see you in person. :-)  
42146 Send Hmm. No response?  
42146 Received I was still at work. I'm sorry.  
42146 Send Crazy crazy crazy night  
42146 Received Good crazy? Or bad crazy? I'm heading into work. I probably can't reply until I leave. Don't yell at me.  
42146 Received I hate men. Hate them with a passion. He was married. What the fuck is wrong with me that nobody wants me  
42146 Send You should be here. Private meeting of political minds. Would make you forget your troubles. And be happy. So  
42146 Received Dan. Why can't I find someone honest? Why am I always the "side chick"?  
42146 Send Quit looking! If you're not looking then it normally happens.  
42146 Received Ok :)  
42146 Send Hang out with me!  
42146 Received Dan. I really want something serious. I am not good company  
42146 Send I gave you my advice  
42146 Received That has never led to serious  
42146 Send Love always comes to those who are not necessarily looking but ready. Have fun while being patient. :-)

4/15  
0/15

to be theirs? Why am I always the one that be used?  
Why you are sad



STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF TULSA )

I, DAN KIRBY, being first being sworn to upon my oath state that the documents, enclosed herein and identified below as Exhibits are known to me to be copies of true and accurate:

- (1) Screenshots I personally took from Carol Johnson's Facebook page;
- (2) Text messages from Carol Johnson to me and my responses which were created at the time listed; and
- (3) Photographs which accurately depict those portrayed and contain writings and signatures which were made near the time the photographs were taken.

Exhibit 1: Facebook post dated March 1, 2016 taken from one of Carol Johnson's ("CJ's") Facebook pages.

Exhibit 2: Facebook post dated March 10, 2016 taken from CJ's Facebook pages.

Exhibit 3: Facebook post dated April 13, 2016 taken from one of CJ's Facebook pages.

Exhibit 4: Facebook post dated April 14, 2016 taken from one of CJ's Facebook pages.

Exhibit 5: Text from CJ to me dated May 4, 2016. Please note that the initial text in white is a screen shot of a text between CJ and another employee, which she forwards to me and states "You're wonderful."

Exhibit 6: Picture of me taken with CJ's daughter in May 2016 after she completed her third time as a page for me.

Exhibit 7: Text from CJ to me at the end of the May 2016 session in which she states, "This is the first year I've not left in absolute tears, because I get to return next week." (This is stated because she was no longer a part time employee).

Exhibit 8: Facebook post dated August 5, 2016 taken from one of CJ's Facebook pages.

Exhibit 9: Text from CJ to me initiated August 22, 2016 in which she advises that she can't be at work because she is covered in bruises and that she can't handle her life very well. (3 pages)

Exhibit 10: Miscellaneous text messages from 2016 between CJ and me. (6 pages)

Exhibit 11: 2014 resignation.

Exhibit 12: Photograph of my 2011 legislative assistant.

Exhibit 13: Letter voluntarily written and sent to me by my 2011 legislative assistant after she heard the false accusations made by HB against me.

Exhibit 14: Photograph of my 2014 legislative assistant who describes me as an "amazing teacher, and a wonderful friend."

Exhibit 15: Photograph with CJ's daughter and another page, at the end of the 2015 legislative session.


Dated this 22 day of January, 2017.

  
\_\_\_\_\_  
Representative Dan Kirby

STATE OF OKLAHOMA )  
                                  ) ss.  
COUNTY OF TULSA )

Subscribed and sworn to before me this 22 day of JANUARY, 2017.



  
\_\_\_\_\_  
Notary Public

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF TULSA )

I, DAN KIRBY, being first being sworn to upon my oath state:

In conformity with the Special Investigative Committee Rules, I submit the following written statement and documentary evidence in response to the allegations of sexual harassment which have been asserted against me. It is my understanding in submitting this statement and the documents I am enclosing that they are to be kept confidential by the committee. Insofar as the committee rules allow for me or my attorney to be present and examine witnesses who testify during this investigation, unless otherwise directed by the Chair, I can only assume that the Chair of the committee directed that neither I nor my attorney could be present during Carol Johnson's questioning or that of any other witnesses who may have been questioned. Because I have not been made privy to any substantive information relating to the accusations against me, have not been provided the names of the individuals who have been questioned, and pursuant to the Committee Rules which allow the Chair, in his sole discretion, to exclude my attorney from the proceedings, I have chosen to submit a statement rather than appear for questioning by the Committee.

Although an investigation has already been conducted into the allegations previously made by former legislative assistant "HB", and no wrongdoing on my part was substantiated, I once again reiterate and maintain my denial of the allegations of sexual harassment she made against me. I also was not aware of, nor was I involved in, the decision to settle any claims with her.

In response to the allegations which have been raised by Carol Johnson, I acknowledge that she and I became close friends beginning in 2011 after she contacted me through Facebook. Carol Johnson subsequently applied for a position as my part-time legislative assistant, and after reviewing her work qualifications and speaking with her references, I recommended her for the position. She worked as my part-time assistant from January through May of the 2012 and 2013 sessions. Although she returned in January 2014, she submitted her resignation on January 15th, citing monetary reasons for her resignation. A copy of her resignation is enclosed. However, in 2015 she reapplied and because she had previously been proficient at performing her job duties as a legislative assistant, in January 2016 she was re-hired and returned as my full time assistant. She remained in that position through August 2016. As is reflected in this timeline, other than a few days in January 2014, from June 2013 until January 2016 she did not work as my assistant; however, our close friendship continued.

At some point during this time period, Carol Johnson began sending me photographs of herself, which she has apparently now chosen to disclose to others. Although these photographs were originally unsolicited by me, there were occasions when I asked her to send me a picture.

Our relationship was such that we often confided in each other about our personal lives. In 2016, I learned that Carol Johnson was in an intimate relationship with someone and based upon her text message to me on Monday, August 22, 2016, which is enclosed for your review, she could not be at work





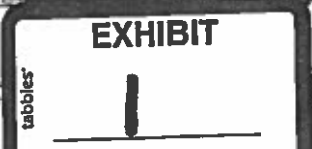
**Carol Johnson**

Mar 1 at 3:27pm • 26

How I love watching this outstanding Representative fight for legislation which will further the safety of our state's children! HB2760 has passed from the House Floor with a vote of 65/26! Great job, **Dan!**



👍 You, [redacted] and 10 others



3 Comments



**Carol Johnson**

Mar 10 at 6:23pm • Stillwater, Oklahoma •

I want to give a shout out to my FAVORITE Legislator. He, alongside his fellow Representatives, has worked such long hours during this legislative deadline week. I am so proud of him, his abilities (every bill he had heard PASSED from the House Floor), and his dedication to the people of Oklahoma. There is no one else I would rather work for or with. Thanks for all you do, **Dan!**

You, and 8 others 1 Comment

Like

Comment

Share



Go, go, go



Write a comment...



**Carol Johnson**

Mar 1 at 3:27pm •

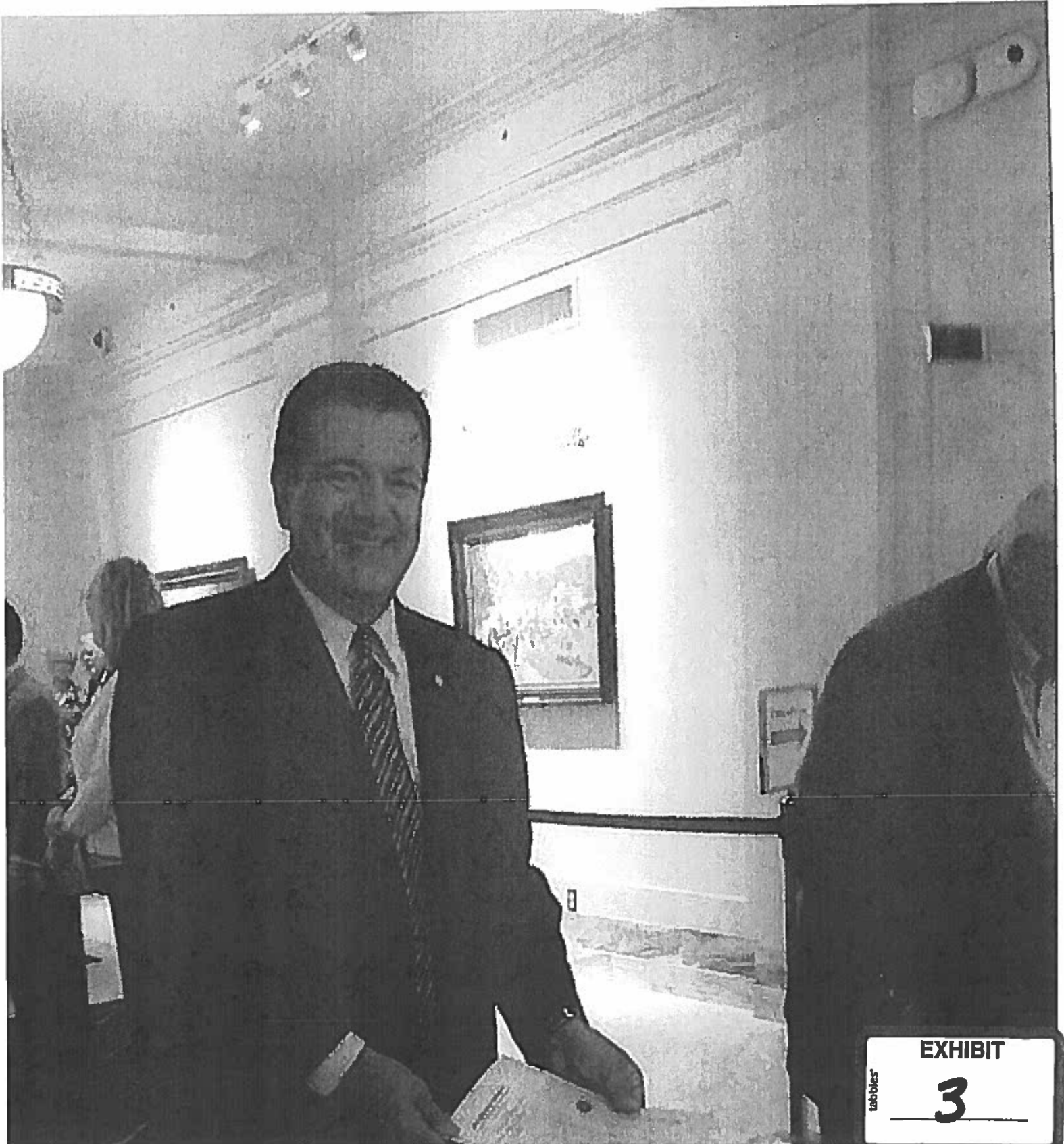




# Carol Johnson with Dan Kirby.

Apr 13 at 9:54am •

I am so proud of him! It's official!



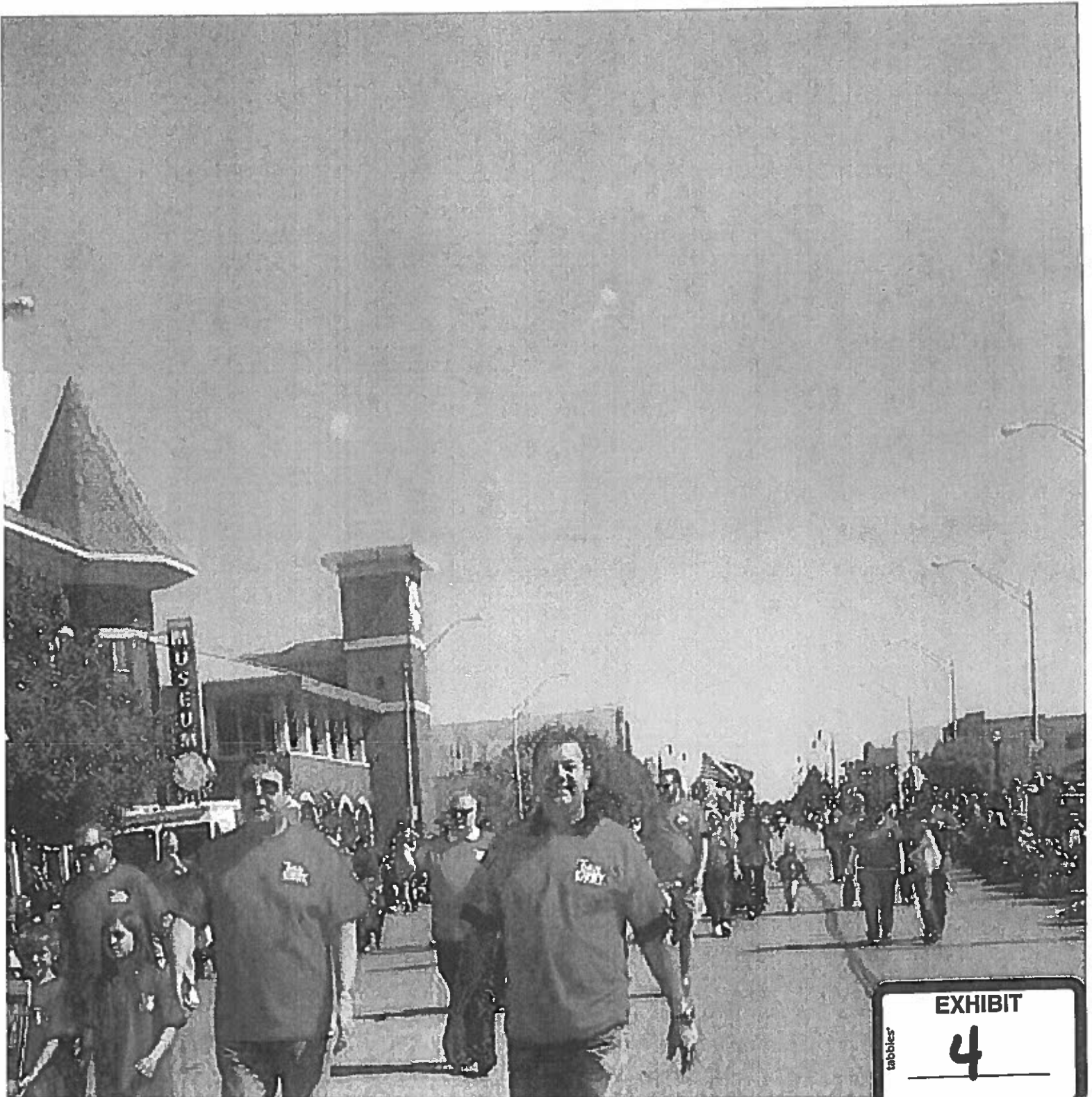




**Carol Johnson with Dan Kirby and Dan Patten at Broken Arrow Rooster Day Parade.**

May 14 at 10:44am •

**Go Dan!**





Wednesday, May 4, 2016



we need a madness cat.



those things are kinda creepy

10:50 AM



Do you have access to the BBT vouchers? They are setting up out my door ATM

Let me see what I can do.



Thank you gorgeous

Dan will send you his.



Is Dan not going to use his?

He would rather you have it.



Tell him thank you!!!



Does that mean I get to see your



You're wonderful

MMS

11:10 AM



Liotta is here early

2:30 PM



82/0!!!! You rock!

2:32 PM

EXHIBIT

5

tabbles

Oh Give me a couple



As speaker?

He's fantastic

10:05 AM



I actually agree with him! This is delirium.

10:09 AM



How long do you think until lunch adjournment?

12:42 PM



I'm heading to lunch. Be back soon...

12:44 PM



And before 3! 487/2

2:45 PM



This is the first year I've not left in absolute tears, because I get to return next week.

Thank you.

5:15 PM





# Carol Johnson at Oklahoma State Capitol.

Aug 5 at 7:44am •

## I'll probably haunt this place when I die. #LoveMyJob



### Oklahoma State Capitol



Government Organization



1 and 15 others

7 Comments

Like

Comment

Share



### Carol Johnson

We'll be such happy ghosts!





← Carol Johnson ▼

CALL MORE

Monday, August 22, 2016



Dr. [redacted] Still. They're working on scheduling.

I am covered in bruises. I can't be there. She agreed.

11:14 AM

Why are you covered in bruises?

11:19 AM



I can't talk about it right now.

11:19 AM

Are you okay?

11:26 AM



I am. I just can't handle my life very well right now.

11:26 AM

Are you moving back to stillwater?

11:27 AM

Seriously [redacted]

11:28 AM



Enter message



SEND

EXHIBIT

9

← Carol Johnson ▼

CALL MORE

Why are you covered in bruises?

11:19 AM

I can't talk about it right now.

11:19 AM

Are you okay?

11:26 AM

I am. I just can't handle my life very well right now.

11:26 AM

Are you moving back to Stillwater?

11:27 AM

11:28 AM

I have a house in Stillwater. I never moved.

11:28 AM

You ok?

5:15 PM

Tuesday, August 23, 2016

Enter message



SEND

← Carol Johnson ▼

CALL MORE

11:28 AM [Message partially obscured]



I have a house in Stillwater. I never moved.

11:28 AM

5:15 PM

You ok?

Tuesday, August 23, 2016

Hello?

8:50 AM

Can you call me please



I'll be fine. I'll call in a while.

8:50 AM

8:52 AM

I am driving so now is a good time to call if you are available

Thursday, August 25, 2016

2:29 PM

You ok?

2:38 PM

Seriously worried



Enter message



SEND

4:11 PM

See you Monday!

4:13 PM

Be sure and lock the pc on  
your way out.

4:15 PM

See I am not a mean boss.



You are a fantastic boss,  
friend, legislator, human.

4:15 PM



Enter message



SEE

EXHIBIT

10

tabbles

4:31 PM

Lol. So I'm 486 and you 2!

5:13 PM

No response?

C

No clue HOW to respond to that! :)

5:19 PM

I was very nice to you today. I gave you a card AND let you win one!

5:26 PM

We are still here. Ugh!

C

You're absolutely wonderful. I completely adore you. True story.

I heard a sergeant say you would be there until midnight, but can't see why...

5:28 PM

5:36 PM

6 more bills

C

Crap. You're fantastic! One





And I like the word Chippy.

8:19 PM



Post a "late night at the Capitol" picture. Every else has.

9:04 PM

9:16 PM

No.

9:17 PM

I'm not like everyone else



Honey, election year. You can make it funny. You male everything funny. Threaten to fire them all.

Make\*  
So tired.

9:18 PM



What's happening there? I want to be involved!

10:13 PM

Left at 915. Everyone went home. Very tired. You coming

He's decent.  
Kids are tough. I know.  
Remember I have one that  
hasn't spoken to me in 1 1/2  
years.

10:42 PM

C  
But you know she loves you.  
How could anyone not?

[REDACTED]

10:47 PM

What's wrong with her driving  
it? Is it not tagged?

10:51 PM

C  
[REDACTED]  
[REDACTED] Hence the big deal  
about the 29th.

10:53 PM

read the Constitution!

2:07 PM

C

How's the weekly wrap? I sent an email with a corrected one.

3:37 PM

Thank you very much. You know you are greatly appreciated even though you get fired at least once a week.

6:35 PM

C

Hahahaha! You're the best!

6:36 PM

C

I downloaded the entire Chris Stapleton album..Tennessee Whiskey is the best!

Still working?

8:59 PM


9:00 PM

Yep and no. On my way home

C


Drive safely!

9:00 PM



  
Lindsey A. Smith, DDS  
ODA President

Here is a copy of the  
letter


MMS  
1:40 PM

 I'm sorry you're tired. I wish  
I could help you. I hope your  
day gets better.

1:49 PM

 If it helps any,   
replied to your picture on your  
work Facebook. That should  
make you feel all warm and  
fuzzy!

1:57 PM

 I feel like you need a pep talk!  
You don't seem like yourself  
today. Whatever it is is  
temporary! You are so smart  
and strong, and well liked for  
the differences you make.  
This weekend will be amazing  
for riding your bike! Think  
happy thoughts!

3:41 PM

**Subject:** Carol Johnson Resignation  
**From:** cjohnsprint (cjohnsprint@gmail.com)  
**To:** dan.kirby@okhouse.gov; Dkirby12@sbcglobal.net; overtakele@okhouse.gov;  
**Date:** Wednesday, January 15, 2014 2:11 PM

Dear Representative Kirby and Mrs. Overstake,

It is with a heavy heart that I must share with you my decision to resign my position of Legislative Assistant.

At this point in my career and personal life, I need to be able to pursue full-time employment closer to home, in Stillwater.

I am grateful for the opportunity and the experience. I have formed friendships that will last forever, and have met some wonderful people who have helped me grow personally and professionally.

I apologize for the late notice and any difficulties which may arise as a result. The last minute changes in my circumstances prevented my sharing this sooner.

I wish you all the very best.

Sincerely,  
Carol Johnson

Sent via the Samsung Galaxy S™ III, an AT&T 4G LTE smartphone



[REDACTED]

"In 2011, I worked as a session-only legislative assistant for Rep. Dan Kirby at the Oklahoma State Capitol. Throughout the entirety of my employment with Rep. Kirby, I experienced a positive working environment in which I was treated with the utmost professional courtesy and respect. Rep. Kirby was dedicated to his district and made every effort to personally connect with his constituents.

"As an employer, I found that Rep. Kirby valued my work and encouraged me to take on additional projects that would be beneficial to my graduate studies and career.

"Were I to return to Oklahoma in the future, I would not hesitate to again pursue employment with Rep. Kirby or with the Oklahoma House of Representatives."

[REDACTED]

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF [REDACTED] )

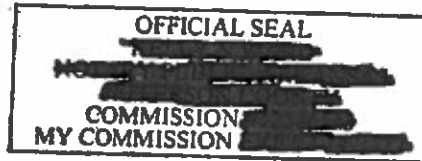
I, \_\_\_\_\_, being first sworn to upon my oath state:

Several years ago when I was working as a lobbyist at the Oklahoma State Capital, I received an unsolicited topless photograph from Carol Johnson. This photograph was received one evening as I was having dinner and was sent to my cellular telephone. I did not recognize the telephone number from which it came, so I responded by asking, "Who is this?" In response I received a text advising me that it was Carol Johnson. At first I did not know the name, so I responded, "Carol Johnson?" and she responded by stating she was Dan Kirby's Legislative Assistant. I asked her not to send me anymore.

Dated this 26<sup>th</sup> day of January, 2017.

[REDACTED]

STATE OF OKLAHOMA ) [REDACTED]  
 ) ss.  
COUNTY OF [REDACTED] )



Subscribed and sworn to before me this 26 day of January, 2017.

[REDACTED]  
Notary Public

5/24/13

Dan,

Thank you for everything you have done for me, taught me, and shared with me - I truly do appreciate, respect, and admire you more than I can verbalize. You are a wonderful person, and a fabulous legislator.

I am beyond blessed to have been able to work with and for you. I hope you have the best triumph ever!

I can't wait until next session! ☺

Carole



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## Charles McCall

---

**From:** Dan Kirby  
**Sent:** Friday, December 23, 2016 5:53 PM  
**To:** Charles McCall  
**Subject:** Dan Kirby resignation letter

The Honorable Charles McCall  
Speaker of the House  
State Capitol  
Oklahoma City, Oklahoma 73105

Re: Resignation letter

Dear Speaker McCall

Please accept my resignation as representative of District 75 in the Oklahoma House of Representatives.

Recent events have caused a situation where my continuing in office would be such a distraction that I could not serve my constituents in the manner they deserve. I believe that a resignation is in the best interest of the district, the House of Representatives and the state of Oklahoma.

I want to say what a privilege it has been to represent the people of District 75. I have always sought to do everything I can to serve the people of the district and the state in the best manner possible. I am truly honored to have had the opportunity to serve in the house for these past 8 years. However it is now best for all concerned if I step aside.

Sincerely yours

Dan Kirby

Sent from my Verizon, Samsung Galaxy smartphone

December 28, 2016

*Via Facsimile: 405-962-7605*  
Representative Charles McCall  
Speaker of the House  
State Capitol  
Oklahoma City, Oklahoma 73105

Re: Resignation Letter Dated December 23, 2016

Dear Speaker McCall:

On Friday, December 23, 2016, I communicated with you by email and by telephone that I would resign effective December 31, 2016. That attempted resignation did not conform with 51 O.S. § 9-2. I have determined that my decision to resign was hasty and based upon bad advice. Therefore, please accept this written notice that I *rescind* my notice of intent to resign. I have no intent to resign my office as Representative for District 75 - House of Representatives for the State of Oklahoma. I believe it is in the best interests of my constituents that I serve out the term that they graciously elected me to serve.

Sincerely,

  
Representative Dan Kirby

Cc: Govenor Mary Fallin  
(*Via Facsimile: 405-521-3353*)

# Oklahoma House of Representatives

## Anti-Nepotism/Anti-Fraternization Affirmation

The purpose of this Policy is to provide guidelines and avoid conflict regarding the employment of immediate family members of employees of the Oklahoma House of Representatives (the "House"). "Immediate family members" includes the following relationships: parent and child, brothers and sisters, grandparent and grandchild, aunt and/or uncle and niece and/or nephew, first cousins, stepparent and stepchild, stepbrothers and stepsisters, husband and wife, parents-in-law and children-in-law, brothers-in-law and sisters-in-law, guardian and ward, and persons engaged in amorous relationships, including but not limited to situations in which, without the benefit of marriage, two persons voluntarily have engaged in a romantic courtship (e.g., dating or engaged to be married).

Immediate family members of employees of the House shall be eligible for employment in any position/classification, provided said employment:

1. Will not have the potential for creating an adverse impact on safety, security, or morale of other employees of the House.
2. Does not place an employee in a position where he/she will directly or indirectly supervise or be supervised by his/her immediate family member.
3. Does not place an employee in a position where he/she will maintain or have access to personnel and/or payroll records of his/her relative or immediate family member.

Employees of the House shall not participate, in any matter, in the selection or interview process when his/her immediate family member is being considered for employment with the House, regardless of the position for which the individual is being considered. Additionally, if an employee has a change in immediate family member status, the employee may continue employment with the House, provided that his/her continued employment does not have an impact on supervision, safety, security, or morale, as outlined in Sections 1, 2 and 3 of subsection G in this manual. If there is an impact on supervision, safety, security or morale, then the affected employees must choose which of them will resign from employment with the House, and if one of the employees does not submit a resignation within thirty (30) days thereafter, the employee with the least amount of service with the House will be required to resign.

The provisions of this policy shall apply only with reference to appointments made after February 9, 2007.

---

Printed Employee Name

---

Employee Signature

---

Date

## **House Investigative Committee Findings and Recommendations**

- c. Whether Representative Fourkiller has engaged in conduct which impairs the ability of the Member to perform the duties of his or her office, impairs public confidence in the Legislature, or otherwise constitutes disorderly behavior;

### **Witnesses Appearing Before the Committee:**

- Chief Clerk of the House of Representatives.
- House of Representatives General Counsel.

### **Exhibits Reviewed & Considered:**

- Oklahoma Constitution, Article 5, §29
- Oklahoma Constitution, Article 5, §30
- House Rules of the Oklahoma House of Representatives Fifty-Fifth Oklahoma Legislature (2015-2016)
- House Rules of the Oklahoma House of Representatives Fifty-Fourth Oklahoma Legislature (as Amended in 2014)
- Precedents of the Oklahoma House of Representatives, 50th - 54th Oklahoma Legislatures (2005-2014)
- Confidential 2015 Memorandum from House of Representatives General Counsel summarizing HR discussion with Representative Fourkiller regarding incident

### **Committee Hearings:**

- The Committee heard testimony regarding Representative Fourkiller from: (i) the Chief Clerk of the House of Representatives, and (ii) the House of Representatives General Counsel.

### **Background regarding Rep. Will Fourkiller:**

- In 2015 a House page made a complaint against Representative Fourkiller asserting that she was made to feel uncomfortable because of statements he made towards her.
- The Chief Clerk of the House and General Counsel personally met with Representative Fourkiller to discuss the alleged statements and their implications.
- During the meeting, it was reported that Representative Fourkiller seemed to take the matter very seriously, but did not admit he made the statements.

- Representative Fourkiller was repeatedly invited to meet with the Committee to discuss the matter but declined the invitations.
- On or about January 10, 2017, Representative Fourkiller stated to media that he “didn’t have a clue what this is about” and that he would work with the Committee “after I have been told what I’m suspected of having done.” (See, [newsok.com/article/5533797](http://newsok.com/article/5533797))
- On Wednesday February 1, 2017, an email was sent to Representative Fourkiller asking permission, in the interest of transparency, to release the full Memorandum regarding the complaint to the public. No response was received.

**Committee Findings of Fact:**

- Based upon the testimony and evidence before the Committee, the Committee concludes that a report was made about alleged statements of Representative Fourkiller to a page that, if true, would have been unprofessional and inappropriate.
- The matter was promptly brought to Representative Fourkiller’s attention.
- At the time of the investigation, Representative Fourkiller did not admit nor deny that the comments were made.
- Representative Fourkiller refused to appear before the Committee to answer questions about the alleged comments or otherwise refute the claims.
- No similar issues have been reported involving Representative Fourkiller since that time

**Committee Conclusions:**

- The House’s High School Page Program is an important program sponsored by the House. It allows hundreds of students from across the State a chance to experience the inner workings of the Legislature.
- The House is committed to preserving the integrity of the Page Program and the safety and well-being of its participants. For example, Page Program Directors and house parents are required to undergo mandatory training and background checks.
- The House takes very seriously any concerns about inappropriate behavior by its Members, especially those involving high school students whose care is entrusted to the House by their parents during their time in the Page Program.
- Without the benefit of hearing from Representative Fourkiller on this issue, the alleged comments from the confidential Memorandum, out of an abundance of caution, are taken as true.
- With the complete absence of any rebuttal evidence by Representative Fourkiller, and out of an abundance of caution due to the concerns at stake, the Committee firmly believes that the following recommendations are just and appropriate under the circumstances.

**Recommendations Based on Findings:**

Based upon the conclusions made by the Committee, the Committee recommends the following actions be taken:

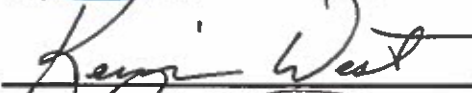
- 1.) Representative Fourkiller be required to attend a one-on-one professional workplace conduct training course; and
- 2.) While he may still host pages from his district, Representative Fourkiller be prohibited from any direct involvement in the High School Page Program for one year. This includes:
  - Spending any one-on-one time with any page.
  - Attending the weekly page breakfast.
  - Participating in the weekly Page Mock Legislative Session.

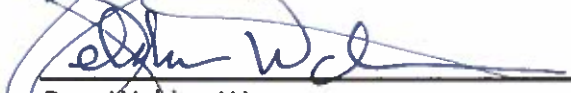
**Affirmation of Findings and Recommendations:**

By signing below, the Committee finds the above findings and recommendations just and appropriate under the circumstances.


  
\_\_\_\_\_  
Rep. Josh Coekroft – Chairman


\_\_\_\_\_  
Rep. David Perryman

  
\_\_\_\_\_  
Rep. Kevin West – Vice-Chairman


  
\_\_\_\_\_  
Rep. Weldon Watson

  
\_\_\_\_\_  
Rep. Meloyde Blancett

  
\_\_\_\_\_  
Rep. Jon Echols

  
\_\_\_\_\_  
Rep. Elise Hall

\_\_\_\_\_  
Rep. Steve Kouplen

  
\_\_\_\_\_  
Rep. Terry O'Donnell

\_\_\_\_\_



## **Areas of Public Concern (FAQ)**

- Given the vast amount of questions which have been raised by members of the public, the committee thought it best to directly answer the questions which been the most prevalent. The Committee's answers are included within.

## **Areas of Public Concern (FAQ's):**

### **Specific Questions on the Financial Settlement:**

**What legal authority did Speaker Jeff Hickman have to negotiate a settlement payment of this type? And are there no financial limits to what a Speaker can approve to be spent of taxpayer dollars?**

The Oklahoma Constitution and the Oklahoma House Rules state that the Speaker has the authority to settle employment matters. Article 5, Section 30 of the Oklahoma Constitution states, in part: "Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member." Oklahoma House Rule 1.5 (b) states: "The Speaker shall sign all subpoenas, warrants, writs, vouchers for expenditures chargeable to the House, contracts binding upon the House, or other papers issued by the House. The Speaker may delegate the authority to sign papers authorizing payments and other papers of an administrative nature."

The Committee heard testimony that Speakers have traditionally set their own financial limits. Speaker Hickman was within his authority to settle the claim. Further, testimony showed that by settling for the amount he did, he gained certainty and very likely saved significant money compared with the cost of defense

**Why was the payment to Holly Bishop and her law firm done in secret? Was it done to protect Rep. Kirby and the Republican Party from potential scandal, particularly given that Rep. Kirby was up for reelection Nov. 8?**

The Defendant in the case was the house of Representatives, the employer. The settlement was not done in secret, but was done confidentially to protect the alleged victim. There was no evidence that any consideration was given to the election. The evidence showed that the timing of the settlement was due to the filing of the claim and right-to-sue letter issued by the EEOC, the mediation, and the back forth of the language, rather than any other consideration.

### **3. Why was the payment to Holly Bishop coded to "housekeeping"?**

- On November 18, 2016, the Comptroller sent a request for payment of the settlement amounts to OMES, including a Memo openly explaining the expenditure as "for the settlement sum" related to "the Confidential Settlement Agreement and General Release document approved by Jeffrey W. Hickman, Speaker of the House on 11/16/16..."
- The Comptroller correctly coded the two settlement payments as legal settlement payments in accordance with the House's internal accounting categories in its own accounting software.
- However, the Comptroller told the Committee that she made a scrivener's error in the OMES coding on one of the two settlement checks. She stated that under OMES's

payment coding system, “SETTLEMENTS – PAID TO/THROUGH ATTORNEY” are coded under the number “53180.” When she typed in the code on the OMES payment voucher form, however, she erroneously typed the number 533180. OMES expense code 533180 is reserved for “GENERAL HOUSEKEEPING/JANITORIAL/SANITATION SUPPLIES AND MATERIALS”.

- The Comptroller explained that she was responsible for the coding error, that the error was a mistake and not an attempt to hide the settlement, and that the mistake was corrected with OMES when brought to her attention. Again, the erroneous payment voucher was sent to OMES together with a Memo that correctly detailed the exact nature of the payment requested. This Memo is the one that was discussed by the Daily Oklahoman, and that was released pursuant to a FOIA request.

**4. Timing of the payment - it appears the payment was made just one week after Rep. Kirby's November 8 reelection. Was the timing of the payment engineered to intentionally occur after the election? It was not. The timing and sequence of events were as follows:**

- On Tuesday, September 27, 2016, the EEOC mailed its Notice of Right to Sue letter to the parties. This meant that the EEOC had declined to take the matter further itself, and was authorizing the employee to initiate state or federal litigation on the matter if desired.
- A mediation was held between the parties on October 5, 2016. The mediation concluded with settlement terms generally agreed to, and with the acknowledgment that the parties would memorialize the settlement in a formal, written agreement.
- After the mediation, the respective counsel for the employee and for the House exchanged various drafts of a written settlement agreement. A final agreement on the terms was not reached until or about November 11, 2016. The delay in finalizing the agreement was simply the result of multiple drafts being sent back and forth and a review of certain technical aspects of the agreement by the former employee and her counsel, which took some time to complete.
- Speaker Jeffrey W. Hickman signed the written settlement agreement on November 16, 2016. The settlement agreement included provision for part of the settlement amount to be paid directly to the former employee, and the other part of the settlement amount to be paid directly to the law firm of the employee's attorney.
- On November 18, 2016, the Comptroller sent a request for payment of the settlement amounts to OMES, including a Memo openly explaining the expenditure as “for the settlement sum” related to “the Confidential Settlement Agreement and General Release document approved by Jeffrey W. Hickman, Speaker of the House on 11/16/16...”

**5. Who else knew about the Holly Bishop complaint and the subsequent settlement negotiation? Who was directly involved in the settlement negotiation either directly or indirectly?**

As a matter of course, Complaints of this nature are kept confidential. The complaint, negotiation, and settlement were limited to the appropriate House staff, General Counsel, Outside Counsel and the Speaker's office.

### **Specific Questions Regarding the Overall Process:**

#### **8. What is the House's procedure for employees who make a sexual harassment claim?**

The procedures for making a claim are outlined in the House manual which is provided to all employees of the House as a matter of course.

#### **9. Why were the proceedings of the committee kept confidential and not opened up to the public?**

As a matter of course, Complaints of this nature are kept confidential. The complaint, negotiation, and settlement were limited to the appropriate House staff, General Counsel, Outside Counsel and the Speaker's office.

#### **10. Why was this investigation not turned over to an independent body?**

The investigation of a member of the House of Representatives is within the purview of the House as outlined in the Constitution. While an independent investigation was considered, it was learned that a previous independent investigation cost the House approximately \$250,000.00-\$300,000.00. Considering the current budget crisis an independent investigation was not seen as necessary or prudent.

#### **11. Is there a stated process for dealing with problematic or inappropriate behavior by a State Representative? If yes, what is the process? Who aside from the Speaker of the House is involved? If not today, are you going to institute a procedure that doesn't change at the discretion of each new Speaker as they come in?**

Each Speaker has the authority and ability to determine the proper procedures for their legislative session. Because each Legislature is different, there is a need for each Speaker to have the ability to adjust these procedures as needed to govern and lead their membership.

## **Specific Questions Regarding Rep. Kirby:**

**Are complaints like the one that was brought against Representative Kirby common in the House of Representatives?**

These types of complaints are rare and are quickly addressed by the appropriate House Staff. Other than the formal complaints investigated by this Committee on current House members, only two other complaints were filed against House members in the last five (5) years. Both complaints were minor, were resolved by the House Human Resources Department, and were against members who are no longer in the House. One of these individuals was not even a member at the time of the complaint. Therefore, those complaints were outside of this Committee's purview and are now outside of the House of Representative's authority.

**Rep. Kirby simultaneously had two complaints made against him by female employees under his direct supervision, one of which was settled out of court and the other resolved by transferring the employee to work for another representative. Why was some disciplinary action not taken by the House? Why was he allowed to come back into office with a committee chairmanship?**

Given the findings of a consensual relationship, the House Human Resources Department resolved on September 12, 2016 that it was in the best interest that Carol Johnson no longer work as Representative Dan Kirby's Legislative Assistant. Furthermore, the House has decided at that time, Representative Kirby would not have a Legislative Assistant located in his office.

In regards to Representative Dan Kirby's Chairmanship, the Speaker of the House has full authority to designate any member of the legislature as a Chairman. Most often this decision is based on the expertise, experience, and seniority of the member. After Representative Kirby publicly announced his intent to refuse to testify before the Committee at the beginning of the investigation, Speaker McCall suspended his Chairmanship pending the findings of the House Special Investigation Committee.

## **Specific Questions Regarding Rep. Fourkiller:**

**Why was Representative Will Fourkiller included in the Committee's investigation proceedings at the last minute?**

Before this investigation began, only the allegations brought against Rep. Dan Kirby were known by House members or the public.

The process of the investigations was as followed:

First - House Speaker Charles McCall and House Minority Leader Scott Inman jointly called for an investigation into the circumstances that lead to the settlement agreement.

Second - Minority Leader Inman specifically and publically called for an investigation into all complaints made against members of the Oklahoma House of Representatives.

Third - In response, to both expedite the investigation and restrain the investigation to members under the authority of the House of Representatives, Speaker McCall authorized the Committee to investigate formal complaints made against current House members.

The Committee found formal complaints made against two current House members: Rep. Dan Kirby and Rep. Will Fourkiller.

Other than the formal complaints investigated by this Committee on current House members, only two other complaints were filed against House members in the last five (5) years. Both complaints were minor, were resolved by the House Human Resources Department, and were against members who are no longer in the House. Therefore, those complaints were outside of this Committee's purview and are now outside of the House of Representative's authority.

**Are complaints like the one that was brought against Representative Fourkiller common in the House of Representatives?**

Other than the formal complaints investigated by this Committee on current House members, only two other complaints were filed against House members in the last five (5) years. Both complaints were minor, were resolved by the House Human Resources Department, and were against members who are no longer in the House. Therefore, those complaints were outside of this Committee's purview and are now outside of the House of Representative's authority.