BEFORE THE STATE OF ALASKA PERSONNEL BOARD

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3	In the Matter of)		
4	SARAH PALIN, Governor)		
	,)	Case No.	
5)		
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6)		

NOTICE TO ATTORNEY GENERAL UNDER ALASKA ETHICS ACT IN ACCORDANCE WITH AS 39.52.210(a)(2)

ETHICS DISCLOSURE FORM¹

"For the record, no one ever said fire Wooten. Not the governor. Not Todd. Not any of the other staff ... "

> former Public Safety Commissioner Walt Monegan, Anchorage Daily News, August 30, 2008

The Honorable Sarah Palin, through her counsel, states as follows:

1. In 2005 and early 2006, State Trooper Mike Wooten was the subject of a courtimposed Domestic Violence Protective Order and, as Governor Palin learned only in 2008, an order suspending him from the Alaska State Troopers for violent behavior. Some of this violent behavior, including a death threat, was directed at the governor's sister (who was divorced from Trooper Wooten in 2006), daughter, nephew, and father. There were several

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Though the Governor has a right to a confidential review of this complaint, she is expressly waiving that right pursuant to AS 39.52.340(c).

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threats against Sarah Palin's family, including a threat to "bring Sarah Palin down." Over the past several weeks, there has been a suggestion that these events are somehow connected to Governor Palin's decision in 2008 to replace Public Safety Commissioner Walt Monegan, whom Governor Palin appointed to the position after becoming Governor and after the events involving Trooper Wooten had occurred. There is no such connection.

- 2. Governor Palin came to office on a promise of clean government after a long career in public service as a reformer and crusader against corruption. Throughout her term as governor, she has adhered to that promise by undoing corrupt deals and passing ethics reform. Governor Palin holds herself to the highest ethical standards, and has nothing to hide regarding her employment decisions with regard to Commissioner Monegan.
- 3. To put these matters to rest, Governor Palin asks the Attorney General to accept this complaint and forward it, pursuant to AS 39.52.310(c), to the personnel board, the only entity with statutory authority for investigating allegations such as these. Governor Palin requests that the Alaska personnel board's independent counsel investigate the allegations and unfounded rumors that have been made in the media about the Governor and about Walt Monegan, a distinguished law enforcement officer.

JURISDICTION

- 4. This statement is made pursuant to AS 39.52.210(a), which requires a public employee faced with a matter that "may" violate the Alaska ethics laws, shall "immediately disclose the matter in writing to... the attorney general."
- 5. Under AS 39.52.310(c), a complaint that alleges a violation of the Alaska ethics laws by the governor "shall be referred to the personnel board." The personnel board is

statutorily mandated to oversee these proceedings. It is the only body in Alaska with the legal authority to do so.

- 6. The personnel board is established by AS 39.52.060(a), and consists of three members with six-year terms "appointed by the governor and confirmed by the legislature meeting in joint session." All three members of the board were initially appointed by Governor Murkowski. One member, Debra English, was reappointed by Governor Palin in January 2008.
- 7. If the true facts are evaluated by an impartial fact-finder, Governor Palin believes it will find no conceivable violation of the Ethics Act.
- 8. Governor Palin requests the Attorney General to refer this matter to the personnel board so that the independent body tasked by state law to investigate allegations of ethics violations can make a determination and clear her name.
- 9. The personnel board is mandated to retain independent counsel who shall act in the place of the attorney general in prosecuting this matter. AS 39.52.310(c).
- 10. The independent counsel then is to make an independent determination whether there is probable cause to find a violation of the ethics laws and whether the allegations "warrant an investigation." AS 39.52.310(d); AS 39.52.350.
- 11. It is at the discretion of the personnel board to choose its own independent counsel. Governor Palin takes no position as to whom the personnel board should appoint to that position.
- 12. If the independent counsel does not find probable cause sufficient to warrant an investigation, the independent counsel is to dismiss the complaint. AS 39.52.310(d).

- 13. If, on the other hand, the independent counsel determines that there is probable cause to believe that a knowing violation of the Alaska Ethics Act has occurred, he or she "shall initiate formal proceedings by serving a copy of an accusation upon the subject of the accusation." AS 39.52.350(a). The accusation shall specifically set out the alleged violation. AS 39.52.350(a).
 - a. The independent counsel shall permit Governor Palin to file a formal response under AS 39.52.350(b), at which time the matter will be referred to the personnel board.
 - b. The personnel board shall notify the chief administrative law judge, who shall appoint an administrative law judge to serve as a hearing officer to conduct a hearing. AS 39.52.350(c).

The Replacement of Commissioner Walt Monegan

- 14. Walt Monegan was the former chief of police in Anchorage. He had been terminated from his job by Mayor Mark Begich in 2006. (Mayor Begich is currently the 2008 Democratic candidate for U.S. Senator.)
- 15. When Governor Palin took office later in 2006, she appointed Monegan to be Commissioner of the Department of Public Safety.
- 16. Over the course of eighteen months, Monegan took actions and positions that contradicted Governor Palin's beliefs that taxpayers are entitled to efficient and cost-effective government. These were good-faith disagreements about appropriate government policy, and the governor and others in her administration saw it that way.

17. On or about July 1 through July 10, 2008, Governor Palin and her chief of staff, Mike Nizich, had several conversations and disagreements with Monegan about budget policy and the governor's desire to reach recruitment goals and run the department more efficiently. Monegan and the governor simply did not see eye to eye on this issue, and it was interfering with her policy goals.

- 18. On or about July 11, 2008, Governor Palin and Nizich discussed the Monegan situation, and came to the conclusion that, while they liked Monegan personally, and felt that he had talents that the Palin administration could use, the Palin administration needed a Public Safety Commissioner who would more effectively implement solutions within his department consistent with the governor's priorities and goals.
- 19. Under Article III of the Alaska Constitution, the Commissioner of the Department of Public Safety serves at the governor's pleasure.
- 20. At Governor Palin's instruction, Nizich offered Monegan a new position within the administration, but Monegan did not want the job he was offered. As a result, he left the administration.

Background: Trooper Mike Wooten

21. Before Sarah Palin took office as governor, Alaska State Trooper Mike Wooten had a domestic dispute with her sister, Molly McCann, on or about February 17, 2005, in which he threatened to kill her father (and the governor's father), Chuck Heath, and make him "eat a f***ing lead bullet." Wooten said this in an extremely intimidating fashion with his state-issued firearm on his hip.

- 22. Molly McCann successfully obtained a Domestic Violence Protective Order against Wooten on or about April 11, 2005.
- 23. As a result of the Domestic Violence Protective Order, the Alaska State Troopers, as the law required, immediately initiated an investigation into Wooten.
- 24. It was immediately apparent to Sarah Palin's family that the troopers' investigation into Wooten was negligently or deliberately slipshod. The trooper who interviewed Palin and her husband did not record all of their statements. The Palins learned later that many witnesses to wrongful or possibly illegal behavior by Wooten were never interviewed.
- 25. In order to assist the trooper investigation, the Palins spent \$1000 of their own money on a private investigator to conduct interviews that the Alaska State Troopers refused to conduct, and forwarded these reports to the Alaska State Troopers.
- 26. Though investigators seemed more concerned about exonerating Wooten than protecting public safety or the Palin family, on March 1, 2006, Colonel Julia Grimes still made investigative findings about Wooten that demonstrated his inappropriate behavior.
- 27. Grimes determined that Wooten had exhibited a "serious and concentrated pattern of unacceptable and at times, illegal activity," and threatened to fire him if his poor behavior continued, telling him that the letter served as a "last warning." Grimes found that Wooten had violated several department policies:
 - a. Wooten used a Taser on his ten-year-old stepson.
 - b. Wooten illegally shot a moose, though his job involved enforcing wildlife laws.
 - c. Wooten drank beer in his patrol car and drove under the influence of alcohol.

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- d. Wooten told others his father-in-law would "eat a f***ing lead bullet" if he helped his daughter get an attorney for the divorce.
- 28. Grimes suspended Wooten for ten days. The union appealed on his behalf, and the suspension was reduced to five days.
- 29. The Palin family did not learn the results of this investigation and did not learn the results of Grimes's discipline until after she replaced Commissioner Monegan. The decision was not released, as it was then deemed a confidential personnel matter.
- 30. Throughout this time, Wooten would taunt Molly McCann and the Palin family that he was a trooper and that nothing would happen to him. As far as the Palin family knew, Wooten was telling the truth and had escaped discipline. Wooten continued to threaten to "bring her down."
- 31. Even now that Governor Palin has learned that Wooten has had a five-day suspension, she finds this slap on the wrist by the prior administration's Department of Public Safety a dereliction of their duty to ensure that troopers are law-abiding and of good character.
- 32. Wooten has continued to act aggressively, including attempting to intimidate Governor Palin's teenage daughter, Bristol, by confronting her at a football game and calling her a "f***ing a*****." Though no one in the Palin family ever filed a formal complaint, members of the family at times informally let officials in the Alaska State Troopers know their concerns about a rogue trooper, the safety of their family and of the public.

The Palin Administration, Walt Monegan and Mike Wooten

33. Around the same time that the Palin administration replaced Walt Monegan, Mike Wooten was having custody and visitation disputes with Molly McCann.

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- 34. Wooten refused to comply with a court order on visitation and return children to Molly.
- 35. Molly was forced to call the police. Because Wooten was a trooper, the police refused to intervene, but eventually Wooten's boss arrived personally to tell Wooten to comply with the court order.
- 36. Wooten was furious with the humiliation, and warned Molly that he was going to "get" both her and Governor Palin. There is evidence suggesting that Wooten was following the Governor.
- 37. Wooten met with blogger Andrew Halcro shortly afterwards. (Halcro has told the press that he got his information from Wooten.) Halcro was one of the governor's opponents in the 2006 gubernatorial elections, but lost after receiving only 9% of the vote. After the governor refused to give him a job in the Palin administration, his weblog appears to have made it a mission to attack Governor Palin. Halcro posted many false rumors about Governor Palin and her administration on his weblog. On information and belief, Wooten persuaded Halcro to print a false story that Governor Palin fired Monegan because Monegan did not fire Wooten. The story was false. Monegan himself has said that no one in the Palin administration told him to fire Wooten.
- 38. Governor Palin fired Monegan because she needed a new direction for the department. Monegan's direction was contrary to the governor's interest in reducing costs to taxpayers.
- 39. Governor Palin never asked Monegan to do anything improper, and she never asked him to fire Wooten.

- 40. Monegan has told the press that in February 2007, Governor Palin mentioned Wooten to him, and he told her "I need to keep you at arm's length with this. I can't deal about him with you. If need be, I can talk to Todd [Palin, the governor's husband]."
- 41. In addition, Special Agent Bob Cockrell, of the governor's security detail, instructed that the governor's husband, Todd Palin, notify Public Safety Commissioner Monegan about Wooten's threats on Chuck Heath's life and against the governor and the first family because Wooten constituted a legitimate security threat.
- 42. Todd Palin thus had a conversation with Monegan about Wooten, letting Monegan know about Wooten's violations of the law and his threats. At no time did Todd order or ask Monegan to fire Wooten, nor could he, as he was not a government official.
- 43. Monegan never told Governor Palin or Todd about the discipline that Wooten received. Todd thought the matter had never been pursued when he raised it again with Monegan.
- 44. In addition, Governor Palin's former chief of staff and attorney general raised the Wooten issue with Monegan. Monegan rebuffed them. Monegan has stated that no one asked for Wooten to be fired.
- 45. It was a matter of public importance that some Alaska State Troopers seemed to feel themselves above the law. Beyond the governor's own personal experience, the state was sued for troopers' violations of constitutional rights, occasionally losing jury trials that would cost the taxpayers substantial money. And, of course, such abuses of power by troopers are exactly the kind of corruption that the governor has long opposed. On occasion, Governor Palin would let Monegan know that she felt that this was a problem within the Department of

Public Safety; Monegan has told the press that at least once the Governor included mention of Wooten as a prime example of someone who was a problem within the department. Monegan himself told the Washington Post about an e-mail Governor Palin sent him after he informed the governor about one such jury trial loss.

46. No one asked Monegan to do anything improper. The fact was simply that the first family and the Palin administration, as citizens and public figures, had concern about a rogue trooper who had made threats, and the parties involved had no idea how the matter was resolved or what was being done to protect the public.

The Bailey Phone Call

- 47. Frank Bailey is Governor Palin's Director of Boards and Commissions.
- 48. On February 29, 2008, Frank Bailey, on his own initiative, raised the subject of Trooper Wooten with Lieutenant Rodney Dial of the Alaska State Troopers.
- 49. During that conversation, Bailey made statements that one might infer to be pressure to take action against Wooten. In addition, Bailey improperly claimed to be speaking on behalf of the governor and her husband.
- 50. Governor Palin did not authorize Bailey to address the Wooten situation or speak on her behalf. Todd Palin did not authorize Bailey to address the Wooten situation or speak on his behalf.
- 51. Bailey has acknowledged under oath that he acted on his own initiative. The governor values her staffers taking initiative to further the goals of her administration, but in this case he acted far outside his authority, and he has been placed on administrative leave

52. That said, Bailey did not ask Dial to do anything improper, and has testified under oath that he was not asking Dial to do anything improper. The governor holds her administration to the highest standards, and Bailey did not meet those standards in that instance, even though he did not violate the law.

There is No Violation of Alaska Ethics Law and There is No Plausible Allegation That There Has Been a Violation

- 53. Walt Monegan has not filed an Ethics Disclosure Form with the attorney general, suggesting that he personally does not believe that he has ever been faced with a matter that violates the Alaska ethics laws. State employees are required to report ethics violations.
- 54. Indeed, according to the July 22, 2008 Anchorage Daily News, Monegan explicitly told KUDO that he was not "accusing the governor of anything."
- 55. Furthermore, according to the August 30, 2008 Anchorage Daily News, Monegan said "For the record, no one ever said fire Wooten. Not the governor. Not Todd. Not any of the other staff."
 - 56. There has been no adverse action taken against Mike Wooten.
 - 57. Governor Palin has not attempted to use her official position for personal gain.
- 58. Governor Palin has not intentionally secured or granted unwarranted benefits or treatment for any person.
- 59. There has been no violation of the ethics laws, notwithstanding blog rumors and speculative press reports.

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60. The Governor of Alaska deserves a fair inquiry into these allegations by the proper entity, specifically established for this purpose. The Governor welcomes an unbiased review.

WHEREFORE, the following action is requested:

- 1. The attorney general shall forward this Disclosure to the personnel board pursuant to AS 39.52.310(c);
- 2. The personnel board shall retain independent counsel who shall act in the place of the attorney general, pursuant to AS 39.52.310(c).
- 3. The independent counsel shall determine whether there is probable cause to believe that a knowing violation of the Alaska Ethics Act occurred. AS 39.52.350.
- 4. If the independent counsel determines there is probable cause, the independent counsel shall initiate formal proceedings by serving a copy of an accusation upon the Governor's counsel. The accusation shall specifically set out the alleged violation. AS 39.52.350(a).
 - a. The independent counsel shall permit Governor Palin to file a formal response under AS 39.52.350(b), at which time the matter will be referred to the personnel board.
 - b. The personnel board shall notify the chief administrative law judge, who shall appoint an administrative law judge to serve as a hearing officer to conduct a hearing. AS 39.52.350(c).

5. If there is no probable cause, the independent counsel shall state so and dismiss the complaint, AS 39.52.310, and shall communicate disposition of the matter promptly under AS 39.52.335(c). DATED: September 1, 2008 THOMAS VAN FLEIN, ESQ. **COUNSEL FOR GOVERNOR SARAH PALIN** Clapp, Peterson, Van Flein, Tiemessen & Thorsness, LLC 711 H Street, Suite 620 Anchorage, Alaska 99501

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