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STATE SENATOR  
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Senate of Pennsylvania

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January 13, 2016

Bruce R. Beemer, First Deputy Attorney General  
Office of Attorney General  
Strawberry Square  
Harrisburg, PA 17120

Dear First Deputy Beemer:

I appreciated your testimony before the Special Committee on Senate Address on November 18, 2015. Since the Committee made its report to the full Senate on November 25, 2015, several intervening events have taken place.

Most importantly, on December 1, 2015, Kathleen Kane publicly announced the appointment of a special prosecutor to review potentially pornographic and otherwise offensive emails exchanged by state officials. I have enclosed correlating documents, one dated December 16, 2015, signed Kathleen G. Kane, Attorney General (hereinafter "Charge") and a second, with an effective date of December 1, 2015, signed Kathleen G. Kane, Attorney General, on December 8, 2015 (hereinafter "Contract").

Yesterday, in accordance with Senate Resolution 256 of 2015, a hearing was held to examine Kathleen Kane's ability to perform the duties of Attorney General with a suspended law license. Chief of Staff Jonathan Duecker appeared on behalf of the Attorney General. Although he provided some important insights, he was unable to adequately respond to my inquiries.

I am requesting answers to the following questions regarding the Charge and Contract, and other related actions, as well as some clarifications regarding prior OAG testimony:

**Appointment, Charge and Contract of Special Prosecutor**

- 1) Is there a procedure within the Office of Attorney General (OAG) for determining that a Special Prosecutor or Special Deputy Attorney General is necessary?
- 2) Under what legal authority does the Attorney General make such an appointment?

- 3) Who participated in deciding that a Special Prosecutor or Special Deputy Attorney General was needed for the investigation outlined in the Charge and Contract?
- 4) Who wrote the Contract and the Charge?
- 5) What is the process for reviewing and approving such documents? Was it followed?
- 6) Did any lawyer at OAG review and approve the Charge before it was signed? If so, who?
- 7) Who approved the Contract "as to form and legality" at the OAG and signed the same on December 9, 2015?
- 8) Do the provisions and terms of the Charge and/or the Contract differ in any material way from other contracts and/or charges or appointments of Special Deputy Attorneys General? If so, how?

### **Appointment of Douglas F. Gansler and BuckleySandler LLP**

- 9) What are the qualifications for consideration for appointment as a Special Prosecutor or Special Deputy Attorney General? What process was used in the selection of Douglas Gansler? Is this procedure set forth within the memo created by you and the other deputies regarding the operation of OAG during Kathleen Kane's suspension?
- 10) Was anyone else considered for this appointment?
- 11) What is the contractual relationship between the Special Prosecutor or Special Deputy Attorney General Douglas Gansler and the OAG? Is he an employee, an independent contractor or other? To whom will he report?
- 12) What is the contractual relationship between the OAG and BuckleySandler LLP and the people at the firm who will work under Mr. Gansler's supervision and direction?

### **Email Review**

- 13) Who at the OAG ordered the release of the emails to Buckley Sandler LLC?
- 14) In releasing the emails, has the OAG violated internal procedures or the Grand Jury Secrecy oaths of its lawyers, investigators and staff members?
- 15) When were the emails delivered?
- 16) Did any of the emails contain secret Grand Jury information? Information which may violate any privacy laws? Information protected by attorney client privilege or attorney client confidentiality?
- 17) Did anyone waive privacy, attorney client privilege or attorney client confidentiality rights on behalf of the Commonwealth before releasing the emails? If so, who made such a waiver?
- 18) Were the emails released before the OAG received signed secrecy oaths from the lawyers and staff working under the Contract and Charge at BuckleySandler LLC?
- 19) Has anyone at OAG asked BuckleySandler LLP or Douglas Ganser to return emails to the OAG. If so, who? For what reason(s)?

- 20) If there has been a request, what issues or problems with Kathleen Kane's appointment of the Special Deputy Attorney General or the Charge and/or Contract have resulted in the request for the return of the emails? And what response has OAG received?

### **Bond or Indebtedness of the Commonwealth**

- 21) Robert Mulle testified before the committee that one duty of the Attorney General which may not be able to be delegated is the obligation to sign bonds or instruments of indebtedness for the Commonwealth. Has there been any further research to determine whether or not this duty can be delegated?
- 22) What other duties of the Attorney General are or may not be capable of being delegated?

### **Miscellaneous**

- 23) Since you testified, has anyone at OAG violated or failed to abide by the terms of the memo created by you and the other deputies regarding the operation of OAG during Kathleen Kane's suspension?
- 24) Is there anything else you wish to add or you believe the Committee should know regarding operation of OAG, which would assist the Committee in its charge?

I would appreciate receiving your responses no later than January 20, 2016, as the Committee works to meet its obligation to provide a report to the Senate by January 27, 2016.

Thank you for your cooperation.

Sincerely,



Lisa Baker  
Senator

pc: Kathleen Kane, Attorney General  
Lawrence Cherba, Executive Deputy Attorney General  
James A. Donahue, III, Executive Deputy Attorney General  
Robert A. Mulle, Executive Deputy Attorney General  
Special Committee on Senate Address