

OBJECTIONS TO JANUARY 2016 COLLINS HEARING

1. The hearing officer (HO) was not chosen by City Council (CC). The CC voted only not to hear evidence itself. It did not appoint a named individual, as required by the ethics process. All actions and “orders” of Boyd Boland are illegal. Boland refers in a written “order” to “my appointment by the City Council,” when no such appointment of Boland was ever made. Boland's statement is false.
2. The new lawyer for the Independent Ethics Commission (IEC) was not chosen by the CC, as required by charter section 13-90(b). Nor is Mr. Wright a member of the City Attorney's prosecution division, as specified in the ethics rules.
3. The former IEC lawyer, Jane Feldman, now in New York, was not chosen by the CC, as required by charter section 13-90 (b). All her actions were also illegal.
4. The lawyer advising the CC, Suzanne Dugan, was not chosen by the CC, as required by charter section 13-90 (b). All her actions are also illegal.
5. There was no public appointment or appropriation to pay for the four Denver lawyers above. That violates the separation of powers doctrine in the charter. The mayor's chief of staff cannot sign a contract to pay funds not appropriated.
6. The IEC cannot prosecute complaints; it can only investigate and advise on them. The IEC cannot file or advise on its own complaints. Code 1.3.103A.
7. There is no complaining party, as shown in the revised case caption. The prior caption showed CC as the complainant. Collins has a right to know her accuser.
8. Only two IEC members participated in the case. Two others signed the report without hearing the evidence. The fifth did not act at all. Three members is “a quorum for doing business” per Res. 4-13. Thus, IEC meetings here were illegal.
9. The City Attorney (CA) personally filed the complaint on behalf of the city. That complaint alleged Collins cost the city about \$7,400 and was liable to pay double that sum. That complaint was rejected. No revised complaint was filed.
10. The CA and the IEC violated their legal duty of confidentiality by sharing the complaint anonymously with Pam Zubeck, a reporter for a weekly newspaper, at the start of the IEC investigation, in order to help a pending recall of Collins.

11. The IEC is not “independent;” it works out of the CA office. It has no separate staff and even its email is tied to the CA. The IEC could not and did not perform a neutral, professional, independent investigation of the CA-city complaint.

12. Once confidentiality was broken by the IEC and CA, Collins requested the investigation be open to the public. The IEC wrongly denied that request.

13. The IEC wrongly suppressed a detailed ethics complaint filed by Collins and Bruce against specified parties, like the CC and CA. Resolution 257-07 adopted rules of procedures for the IEC. Rules 6.3 and 7.3 provide the CA “in writing shall inform the individual submitting the inquiry of the (IEC) determination.” That was not done in the case of the Collins-Bruce complaint. That, shows disqualifying bias by both the CA-CC (complainant) and IEC.

14. The HO demanded he be paid \$3,000 a day for three days by the city for not holding a hearing, if it got canceled. He has a gross financial interest in pleasing the city, his employer, which means he is not neutral in this case.

15. The CC decided not to hear the case itself. It did so by a series of illegal secret meetings violating state law, the Open Meetings Act. The Council president met individually and secretly with each of the other seven members in an evasion of the legal requirement that meetings of more than two members are open meetings. Collins was excluded from those meetings and their decision (sentenced before a verdict) even though she was still a member of CC.

16. Mr. Wright moved that he can find no authority for the HO to issue subpoenas. The HO claimed the hearing is “akin” to arbitration hearings. That is ludicrous. Collins has no written contract with the city and there is no arbitration clause. This case is meant to stigmatize her and impugn her status; it is no employment dispute. Collins is an elected official, not an employee. No authority allows a HO to issue subpoenas, so Collins cannot use any. City witnesses for this illegal prosecution are being deceived into attendance.

17. The HO has insisted on feeding information to council president Bennett and the CC's legal adviser, Suzanne Dugan. That is improper because the CC must vote on the HO's written recommendation, not insider information received from the HO. Bennett has received information not shared with all other CC members in this case. Such an imbalance deprives Collins of due process of law. The HO finds Bennett is “interested” in this case. That itself disqualifies him as a neutral decision maker. It does not justify including him in the hearing. He must evaluate the HO

report on an equal basis with all other members. Dugan's 10/13/15 letter says it is improper to notify her client, but the HO did so anyway.

18. The affidavit of Mr. Bennett is void on its face. The notary certified she was notarizing her own statement! The HO called that “evidence” when it was not. She then placed her notary seal upside down. Yet the HO relied on this document.

19. The defective Bennett affidavit admits CC did not approve Boland as the HO. It says there was an email (not produced) and total silence. State Open Meetings law does not let CC take actions by email, and here the CC took no action anyway. Silence is not approval. As Collins stated, there was never a public vote to appoint Boland. Further, appointment by Dugan was not lawful because she was not even chosen by the CC as a private attorney under charter section 13-90(b).

20. The Dugan response and Bennett affidavit admit the CC appointment rule in resolution 58-13 was not complied with. Instead, an illegally-chosen lawyer stood “in the shoes” of the CA, who does not appoint a HO in ethics hearings. Dugan says she is representing the CA, the original complainant (complaint rejected). The complainant cannot pick the HO, who must be neutral. Yet she is doing both roles, an ethical conflict of interest, as well as advising the CC, which must rule on the HO's report on the CA's complaint via the IEC. Dugan says she appointed the HO; the HO says the CC appointed him. They can't both be right.

21. Collins requested discovery and the HO ruled “that no discovery is allowed.”

22. The caption still does not identify the complaining party. The HO says the CC “is responsible for issuing formal ethics charges.” The original complaint by the CA was rejected. The CC cannot issue its own complaint and then rule on it. The ethics process requires a private complaint handled by the IEC. None exists.

23. The HO refused to require a statement as to what particular actions violate what specific charges.

24. The HO seems to insert himself as a witness. Perceptions and appearances are the heart of the charges against Collins. That is absurd. The HO cannot testify and be subject to cross-examination about his perceptions of possible improprieties. See “Order” of November 30, p. 9. Collins is entitled to know who had those views. The issue is real acts, not possibilities, perceptions, and appearances.

25. The HO is required to be an attorney. Collins noted that the HO did not list his current address on public records, in violation of attorney registration rules. The HO never addressed his illegal and deceptive action.

26. The November 12 meeting was illegally called and illegally held. Collins said in her November 6th motion she was unavailable on the 12th. The HO falsely said in his November 12th “order” she had not objected.

27. The city code of ethics defines “direct official action,” and signing a private grant deed to which the city is not a party is not covered. It also “does not include signatures by the Mayor, City Council...” for matters that are not city contracts.

28. IEC rule 8.4 says “Only members of the Commission who participated in the investigation shall participate in the deliberations.” Collins and Bruce saw only two members participated in the investigation, including their interviews. The two other signers could not join in the deliberation. The IEC violated its own quorum rules and cannot proceed. Its report to the CC was void. Its actions here are void.

29. The HO says the hearing is “akin” to arbitration, but arbitration allows the parties to choose their tribunal by mutual consent. Collins objected to this HO.

30. The HO recently divulged a conflict of interest with Mr. Wright, the illegally-chosen prosecutor. In a recent business relationship with that law firm, the HO is its paid witness. The HO has refused to disqualify himself promptly, creating in the statutes the HO cited a presumption of “evident partiality.” Collins renewed her motion to disqualify the HO; no ruling has been made.

31. The complaint said it was brought “on behalf of the City of Colorado Springs.” The CC cannot rule on its own complaint, brought by its own attorney.

32. All written motions and requests by Collins were wrongly denied by the HO. This corrupt process denies Collins a number of her federal civil rights, including freedom of speech, freedom of association, due process, and equal protection, as well as the right to run for and serve in public office.

Helen Collins

Date