

<p>In Re the Matter of:</p> <p>Colorado Springs City Counsel, (sic)</p> <p>Claimant,</p> <p>v.</p> <p>Helen Collins,</p> <p>Respondent.</p> <hr/> <p>Helen Collins 632 Lakewood Circle Colorado Springs CO 80910</p>	<hr/> <p>JAG Case No. : 2015-1169A</p>
<p>MOTION TO COMPEL RULING OF LACK OF JURISDICTION</p>	

Without conceding his jurisdiction, respondent Helen Collins moves Boyd N. Boland grant this motion and the prior two motions forthwith. Boland has **NO JURISDICTION** to act in this case except to admit in writing he has no jurisdiction. His conduct demonstrates his bias, dishonesty, and obsession in presiding over this case, for which he is being paid handsomely. The longer he drags it out, the more his billable hours. He has a financial incentive to delay admitting he lacks jurisdiction, in order to bilk the taxpayers of Colorado Springs.

Boland was notified twice he was not lawfully appointed, but refuses to admit that. In a prior “order,” Boland falsely said he had been (legally) appointed but still did not rule on the motion to declare he was not legally appointed. Boland said “the parties” would receive time to address that issue, but gave no deadline. In his 11/12 “order,” he gave a deadline of November 23, then illegally changed the case caption to remove any identification of those other secret “parties.”

Boland's 11/13/15 "order" asserts respondent's second motion did not allege facts to compel disqualification, "based either on actual bias or the appearance of impropriety." Boland is confusing Rule 97 bias issues. Yes, it is improper for one illegally appointed to continue illegal actions without ruling on that second motion. He finally denies the second motion. Then he again "orders" a response to the First Motion (already DENIED) by 11/23/15. He also "orders" a 11/23/15 "response to the current Motion," which motion he already DENIED in the prior paragraph.

Boland's 11/12/15 "order" does not state he even physically attended the hearing he "ordered" respondent to attend in person. Respondent believes Boland lives in Paonia, Colorado, which is almost 200 air miles from Colorado Springs. Respondent questions whether Boland personally attended the 9 a.m. meeting.

If there is no party to this case besides respondent, neither the City Council nor the IEC, nor any attorney purporting to speak for either, may intervene in this case, nor file motions, nor establish new rules, nor change the charges or the caption. Yet Boland "granted" a "motion" of Ms. Dugan, someone with no legal standing, to change the caption, withdraw the named "claimant," suppress the identity of who or what entity is filing charges, and NOT attend future proceedings. Ms. Feldman, the illegal IEC "attorney" was present to discuss prospective rules (after charges were brought) to govern this political show trial. Neither was legally appointed either; see city charter limits, section 13-90 (b). Only Council may appoint private attorneys and shall "fix" their compensation (not hourly) at the time of appointment. Only Council

may appropriate money; it is called “the power of the purse” by a legal tradition existing over 800 years; it is part of the charter. Boland is also being appointed as an attorney so that charter section applies to him. He is hired to assist the city attorney, which filed the original complaint, and so he cannot be fair or neutral.

Boland issued his third “order” on November 12, 2015, but its certificate of service said it was sent by email to four persons on October 7, 2015, over a month before it existed. The only “party” on whom it was served is respondent.

By definition and law, no case or controversy may proceed with only one party. Respondent is entitled to know who is charging her and how to contact her accuser, called a plaintiff or claimant. Until Boland's illegal amendment, that party was the City Council, misspelled as “Counsel,” which is a synonym for attorney. By his illegal action, Boland suppressed identification of any adverse party. Resolution 58-13, section 5, adopts procedures for ethics complaint hearings . It calls the person filing the action the “complainant,” who “shall also be notified of the date and time of the hearing.” That party (“City Counsel”) is no longer named in the caption.

Boland also denied respondent discovery of the case against her. See page 3, line (b) of his November 12 “order.” His pretext for saying “none is allowed” is that “No discovery has been requested.” Respondent has insisted in writing on all her due process rights. Furthermore, an impostor hearing officer cannot make discovery orders or anything else. Respondent denies Boland has the power to order or deny discovery, since Boland has no jurisdiction to do anything. It is only a lawful hearing

officer to whom respondent may and will address her pre-trial motions in the future.

To repeat, respondent has never been properly arraigned, nor received a formal statement of the exact charges against her. An email from a council member does not count. Nor has respondent received a contact list of witnesses for the prosecution, nor the identity of the prosecutor or the prosecuting party. The IEC cannot intervene as a party and lacks legal authority to prosecute respondent. No private attorney has been properly or legally appointed for the IEC. All of this is “unethical” and illegal.

Respondent mailed her objection to Boland on November 6, 2015. His “order” of November 12 did not address it. Boland stated respondent's first objection to the November 12 hearing had not said she was unavailable that day. Respondent's 11/6 motion clearly said respondent was unavailable on the 12th, an illegal meeting.

Boland's order had apparently been prepared before the 9 a.m. hearing because respondent received an email describing it at 2 p.m. that same day, November 12th.

Boland's attorney registration, number 10419, does not list his current address, nor the JAG address on Blake Street, but an address of 901 19th Street. Attorneys are required by law to maintain their current address as a public record. Boland issued “orders” using a false public address, in violation of attorney registration regulations.

In his latest “order,” dated November 13, 2015, Boland cites “my appointment by the City Council.” That claim was not under oath, nor did he offer any evidence of his appointment by Council. He says the pending motion “primarily challenges

the propriety of my appointment by the City Council” and is “substantially similar” to “the First Motion,” then he denies the pending motion for lack of an affidavit. The First Motion had an affidavit and also noted his illegal appointment. He also says motions to challenge jurisdiction require a Rule 97 affidavit on bias; that is false.

No affidavit is required on a motion on lack of jurisdiction, but respondent attaches a second affidavit anyway, in which she testifies the City Council made no such appointment. Her affidavit trumps his self-serving statement made for his own venal interest. False statements by a hearing officer are also more evidence of bias that compels him to recuse himself. Respondent cannot obtain a fair hearing with Boland as the hearing officer and fact finder. He does not understand basic law or facts or fundamental concepts of due process of law. He has been proven dishonest.

Boland's demand that all motions be made by email has the same irrational basis as his other actions. Since he lacks jurisdiction based on his illegal pretense that he is the lawfully-appointed hearing officer, he can demand nothing. Respondent has valid reasons to get proof of receipt of mailed motions, such as who received the motion and when. Further, an affidavit shows a notary's jurat, seal, and original signature, which cannot be emailed.

Boland states in his footnote on page 2 of the 11/13 “order” that neither the City Council nor council member Bennett “is a party to this case. They are interested in the matter, however, and are entitled to service of all matters filed.” Is that the test for required service? Respondent knows of media members and other citizens who

are interested; does anyone get legal service solely because they are interested? No. Further, members of council have a legal duty to review the hearing officer report and render an impartial verdict. It is unethical for them to receive prior information. That Bennett has received such information disqualifies him as a decision maker.

All these actions violate respondent's rights to due process of law and equal protection of the law under the Fourteenth Amendment of the U.S. Constitution. Respondent has been damaged by those violations, and each of them. Boland is not protected from personal liability for damages for these violations, since he is not now a duly-appointed judge in any government, by which he might enjoy immunity.

WHEREFORE, respondent moves Boyd Boland reconsider and grant her first motion to recuse, and that Boland also admit he lacks all jurisdiction, based on his illegal appointment, as described by Boland himself on page one of his first "order." His false statement regarding his appointment disqualifies him from serving as the hearing officer. His recusal and admission must be made promptly and in writing. Boland is acting in bad faith and digging a deeper hole with every illegal action.

Submitted,

Helen Collins
632 Lakewood Circle
Colo. Spgs. CO 80910
(719) 538-4458

DATE

AFFIDAVIT

I make the following statement under oath:

I, Helen Collins, am the respondent in JAG case 2015-1169A. I can name no other party. I am a duly-elected member of the Colorado Springs City Council. I have attended all formal Council meetings at which any Council action, decision, or vote may be taken. I have read and am familiar with all 2015 Council agenda items.

At no time did Council ever formally discuss or vote on appointment of Boyd N. Boland. Public appointment of a hearing officer by the Council is required in ethics cases such as mine, as stated in resolution 58-13. Public appointment by Council of a private attorney is also required by City Charter section 13-90 (b). All 2015 Council agenda items are public records online. None has any reference to the appointment of Boyd Boland. His alleged appointment is unlawful, secret, and imaginary. My attached Motion also cites many examples of his dishonesty, incompetence, and bizarre behavior, which I adopt here as my sworn testimony.

Sworn to and subscribed before me by Helen Collins on November _____ 2015.

Notary Public

SEAL

Address: _____

My commission expires: _____