

<p>In Re the Matter of:</p> <p>Colorado Springs City Counsel, (sic) Claimant,</p> <p>v.</p> <p>Helen Collins, Respondent.</p> <hr/> <p>Helen Collins 632 Lakewood Circle Colorado Springs CO 80910</p>	<hr/> <p>JAG Case No. : 2015-1169A</p>
<p>MOTIONS TO CANCEL HEARING AND DISQUALIFY HEARING OFFICER</p>	

The IEC attorney, Mr. Wright, who has been illegally appointed, just like attorney Dugan and attorney Feldman, wrote the hearing officer ("HO"), who was never legally appointed by name by the council, about issuance of subpoenas. Helen Collins finds no authority in the code of ethics or related resolutions for the HO or anyone else to issue subpoenas to any witness to the hearing now set (over objection) for January 5, 6, and 7, 2016.

This illegal proceeding is without jurisdiction and there is no authority given to the HO or to a private attorney with a private law firm to issue compulsory service of process here. Helen Collins objects to issuance of fraudulent subpoenas for an illegal proceeding. She does not have the right to issue subpoenas in this illegal proceeding. It is not a "criminal prosecution" within the meaning of the Sixth Amendment to the United States Constitution, as applied to the City under the Fourteenth Amendment. Nor has the City code or City resolutions authorized this HO to have the power to issue subpoenas. To command the

attendance of any person by a fraudulent and illegal subpoena is akin to kidnapping that person into attending this illegal hearing.

Mr. Wright's motion admits he sees no legal authority to issue subpoenas, yet the HO granted the motion. The HO asserts this is an arbitration proceeding and cites C.R.S. 13-22-217 as an authority to issue subpoenas. This is not an arbitration proceeding, which is a process to enforce a contractual provision to resolve contract disputes. Helen Collins never signed any employment contract with the City. As a matter of law, she is not a City employee, but an elected official. The HO cannot point to any contract with an arbitration clause for this situation; it does not exist.

Exhibits 1 and 2 demonstrate this. Exhibit 1 lists excerpts from C.R.S. 13-22 201 *et seq.* Helen Collins has printed some of the wording in **bold print**. It clearly shows it applies only to “a controversy **that is subject to an agreement to arbitrate.**”

A motion to compel arbitration must be made in court. Helen Collins is the “refusing party” and would oppose any motion to compel arbitration. Under 13-22-207 (b), the court must find “there is no enforceable agreement to arbitrate.” The matter should then be returned to the City Council to appoint lawfully a HO or to hear the case itself, per the city resolution. See case law included in Exhibit 1.

Exhibit 2 is a summary of general arbitration law. It makes clear that Helen Collins

and the unknown other party have equal rights to “choose their own tribunal.” It also says questions of “status,” like censuring a public official, are not subject to arbitration. Helen Collins did not choose this HO to be the HO. The purpose of an arbiter is primarily to award money damages, which are not in issue here. Helen Collins never agreed the HO decision would be “final and binding.” The City resolution makes clear it is not final, but only advisory, and therefore not the subject of arbitration.

The HO also just disclosed his prior relationship with the City's IEC prosecutor. That relationship is a clear conflict of interest which disqualifies the HO from any participation in this case. See Exhibit 1, section 13-22-212. Based on his new admission, Helen Collins renews her motion to disqualify the HO, incorporating his admission by reference. The HO knew of this relationship and still violated 13-22-212 C.R.S. That 11-day non-disclosure creates a presumption of “evident partiality” under 13-22-212 (5).

Helen Collins objects to this illegal proposed action in addition to all her prior objections, repeated here by reference. In addition, the IEC cannot be a party to or prosecute this case because its legal role is solely investigatory and advisory per the ethics ordinances and resolutions. Helen Collins still does not know her accuser, which is a denial of due process.

The case must be returned to the City Council for further action. The hearing must be canceled.

Submitted,

Helen Collins
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DATE