



STATE ETHICS COMMISSION

Walker Boyd, General Counsel
800 Bradbury Drive Southeast, Suite 215
Albuquerque, NM 87106
505.554.7196 | walker.boyd@sec.nm.gov

Hon. William F. Lang (Chair)
Jeffrey L. Baker
Stuart M. Bluestone
Hon. Celia Castillo
Hon. Dr. Terry McMillan
Ronald Solimon
Dr. Judy Villanueva

Jeremy D. Farris, Executive Director

February 12, 2024

Ron Lowrance
Post Office Box 186
Capitan, NM 88316-0186

20 Carson City Road
Dexter, NM 88230-9522

Via First Class U.S. Mail

Dear Mr. Lowrance:

On February 2, 2024, the State Ethics Commission authorized the Commission's attorneys to make a demand and commence a civil action against you for violations of the Governmental Conduct Act, NMSA 1978, §§ 10-16-1 to -18 (1967, as amended through 2023). I write to apprise you of the Commission's claims and to offer a pre-litigation settlement.

Factual background

Until early this year you were the mayor of the Village of Capitan. On or around September 26, 2023, when you were the village mayor, you sent a "mayor's letter" to residents of the Village of Capitan. *See* Attachment. The letter begins with the following two paragraphs:

The Election is coming up on Tuesday, November 7th, 2023. Absentee ballots must be requested by October 24th. You can call the County Clerk's office at 575-648-2394 or at NMVote.org. I hope to see all of you at the voting booths.

I want to show my support for the following positions; Minerva J. Davalos for mayor, Sherry Ann Hair for trustee. These two candidates (in my opinion) have the best intentions for Capitan's future.

Id.

The Commission's claims and offer of pre-litigation settlement

Under the Governmental Conduct Act, the State Ethics Commission may institute a civil action "to prevent a violation of any provision of the Governmental Conduct Act." *See* NMSA 1978, § 10-16-18(B) (2019). "Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order . . ." *Id.* Further, the Governmental Conduct Act allows for civil penalties in the amount of two-hundred-fifty dollars (\$250.00) for each violation of the statute, not to exceed five-thousand dollars (\$5,000). *See id.*

State Ethics Commission
Mr. Ron Lowrance
February 12, 2024
Page 2 of 4

The letter you sent to Village of Capitan residents on the Village's official letterhead and with postage paid by the Village is likely a violation of Section 10-16-3.1 of the Governmental Conduct Act, which provides:

10-16-3.1. Prohibited political activities.

A public officer or employee is prohibited from:

- A. directly or indirectly coercing or attempting to coerce another public officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;
- B. threatening to deny a promotion or pay increase to an employee who does or does not vote for certain candidates, requiring an employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities; or
- C. violating the officer's or employee's duty not to use property belonging to a state agency or local government agency, or allow its use, for other than authorized purposes.

NMSA 1978, § 10-16-3.1 (2011).

Section 10-16-3.1(C) prohibits a local government official from using property belonging to the local government entity "for other than authorized purposes." This provision applies to prohibit a government official, acting in his official capacity, from using government property to provide a benefit to a candidate for elected office.

Because the Commission has reason to believe that your conduct violated Section 10-16-3.1 of the Governmental Conduct Act, it has authorized its attorney staff to file a civil action seeking injunctive relief, civil penalties, and other remedies against you. The Commission has also authorized me to offer to settle its claims against you in lieu of litigating this case. The terms of my proposed settlement are as follows:

1. Within 15 days of the date of this correspondence, by your signature below, you agree that your conduct as described above was a violation of Section 10-16-3.1(C) of the Governmental Conduct Act;
2. Within 15 days of the date of this correspondence, you tender \$250, payable to the State of New Mexico, and postmarked to the State Ethics Commission, 800 Bradbury Drive Southeast, Suite 215, Albuquerque, NM 87106. This amount corresponds to the civil penalties available for six separate violations of the Governmental Conduct Act.

State Ethics Commission
Mr. Ron Lowrance
February 12, 2024
Page 3 of 4

In exchange for your agreement, the Commission will refrain from filing a civil enforcement action against you seeking all available relief, expenses, fees and court costs and will agree not to file a civil action seeking civil penalties or equitable relief for the transactions described in this letter. Please be aware that any settlement agreement will be a public record, as will any civil enforcement action.



Ron Lowrance

I am requesting all correspondence the State Ethics Commission has received on this matter under the freedom of information act. If there is any monetary reciprocal needed please contact me immediately as to not break the law of this days upon notification to deliver these materials.



State Ethics Commission
Mr. Ron Lowrance
February 12, 2024
Page 4 of 4

Demand for preservation of evidence

New Mexico law recognizes a duty not to destroy, mutilate, or alter potential evidence for the purpose of defeating recovery in a civil action. Accordingly, please instruct your client to take immediate action to preserve all electronically stored information (“ESI”), copies and backup, along with any paper files which your client maintains, that might contain evidence related to this matter. Accordingly, I request the following actions:

1. You immediately stop any destruction or alteration of documents or ESI in your possession, custody or control, including e-mail, instant messages, text messages, voice mail, electronic calendars, telephone logs, photographs, word processing documents, spreadsheets, and databases, including all underlying metadata, that might be relevant to this matter.
2. You immediately take steps to secure and preserve any ESI, backup tapes, hard drives, CDs, paper and other archival storage media in your possession, custody or control, including those provided by third-party vendors, that might be relevant to this matter.

Please respond to this request by March 1, 2024. Please do not hesitate to contact me with any questions.

Very truly yours,



Walker Boyd

cc: Jeremy Farris, Executive Director



NEW MEXICO STATE ETHICS COMMISSION

Hon. William F. Lang, Chair
Jeff Baker, Member
Stuart M. Bluestone, Member
Hon. Celia Foy Castillo, Member
Dr. Terry McMillan, Member
Ronald Solimon, Member
Dr. Judy Villanueva, Member

**[DRAFT] RESOLUTION NO. 2024-02 Authorizing a demand and civil action
to enforce the Governmental Conduct Act**

WHEREAS, THE NEW MEXICO STATE ETHICS COMMISSION
("Commission") met virtually on February 2, 2024, at 9:00 a.m.;

WHEREAS, the Commission has the power to investigate violations and bring a
civil action to enforce the Governmental Conduct Act;

WHEREAS, the Commission has reason to believe that Ron Lowrence violated
NMSA 1978, Subsections 10-16-3(A) and 10-16-3.1 of the Governmental Conduct
Act;

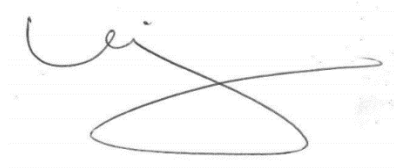
WHEREAS, Mr. Lowrence is a member of the Village of Capitan ("VTSV")
Board of Trustees and was until recently its mayor;

WHEREAS, the Executive Director has sought the approval of the commission to
initiate a civil action under NMSA 1978, Sections 10-16-14(E), 10-16-18(B), and
10-16G-9(F) against Lowrence, and has explained the proposed civil action and
remedies to be sought;

NOW, THEREFORE, BE IT RESOLVED by the New Mexico State Ethics
Commission

1. The Commission's staff are authorized to demand that Lowrence comply with the Governmental Conduct Act and to prepare and file a civil action in a court of competent jurisdiction seeking to enforce the civil compliance provision of the Government Conduct Act and any other relief that the court deems just and proper.
2. If Commission staff file a lawsuit against Lowrence, the Executive Director is instructed to provide regular updates on the status of the suit at the Commission's meetings during closed session. Commission staff shall communicate with the Chair as necessary between Commission meetings.
3. The Executive Director is authorized to enter an agreement to settle or dismiss claims brought against Lowrence or any other person, upon having conferred with the Chair or his designee.

Adopted by the New Mexico State Ethics Commission this 2nd day of February, 2024.

A handwritten signature in black ink, appearing to read 'W. Lang', is written on a grid background. The signature is fluid and cursive, with a large loop at the end.

The Hon. William F. Lang
New Mexico State Ethics Commission
Chair