COLORADO INDEPENDENT ETHICS COMMISSION

Complaint No. 20-73

ORDER OF PARTIAL DISMISSAL

IN THE MATTER OF: TOM FLOWER

On October 16, 2020, Jim McMahon ("Complainant") filed a complaint against Custer County Commissioner Tom Flower ("Respondent") with the Independent Ethics Commission ("IEC"). At its December 15, 2020 meeting, the IEC voted to find the complaint non-frivolous pursuant to § 5(3)(b) of Article XXIX of the Colorado Constitution and IEC Rule 7.G.

Thereafter, in open session and on its own motion, the IEC dismissed certain claims in the complaint for lack of jurisdiction. The IEC will consider only the following allegation against Respondent: That Respondent, at an August 28, 2020 meeting of the Custer Board of County Commissioners ("BOCC"), voted to increase the pay of all Custer County Public Health Agency employees, including that of his wife, Cindi Flower.

The IEC finds that it lacks jurisdiction over all allegations regarding policy decisions of the Custer BOCC regarding the COVID-19 outbreak in Custer County, including any recommendations of the county Public Health Agency to the BOCC. *See* Colo. Const. art. XXIX, § 5(1). Any allegations that Respondent inappropriately sought advice from Ms. Flower, inappropriately advised her of the public health liaison hire, or otherwise inappropriately communicated with his wife are likewise outside the scope of the IEC's jurisdiction. To the extent Complainant alleges the Custer BOCC is acting contrary to the "will of the people," that is not an appropriate complaint to file with the IEC.

Respondent is therefore directed to respond only to the allegations in the Complaint regarding the August 28, 2020 meeting of the BOCC and alleged vote at that meeting, as set forth in IEC Rule 7.J. Respondent's Response is due 30 days from the day of this Order.

THE INDEPENDENT ETHICS COMMISSION

Elizabeth Espinosa Krupa, *Chair*

William Leone, *Vice Chair*

Selina Baschiera, *Commissioner*

Debra Johnson, *Commissioner*

Yeulin Willett, *Commissioner*

DATED: December 30, 2020