

**Independent Ethics Commission – Formal Complaint Form**

Before the Independent Ethics Commission  
of the State of Colorado

*For Commission Use Only*

Received date: 7-Aug-2023

Case. No.: 23-17

The Complainants: Kelly W. Elliott, Darcy Schoening, Amy Stephens

Mailing Address: 15848 Agate Creek Drive  
Monument, CO 80132

Daytime telephone number: 720-425-0528 (K Elliott – correspondent)

Email address: kelliottcr730@gmail.com (K Elliott – correspondent)

The Respondent is: Mitch LaKind

Mailing Address: 1060 Knight Blue Circle, Monument, CO 80132

Daytime telephone number: 480-678-3860

Email address: mitch@LaKind.me

**When did the alleged violation occur: NOV 8, 2022**

The last year has been difficult for the leadership of the Town of Monument (TOM), particularly Mayor Mitch LaKind. In November 2021, the town began pursuing Home Rule and agreed to start the process to form a Home Rule Charter Commission. The TOM accepted applications for a Home Rule Charter Commission (the Charter Commission), and by the start of 2022, a Commission was elected by voters to pursue crafting a Home Rule Charter.

At the first meeting of the Charter Commission on November 29th, a home rule commissioner asked if the Town could possibly fund the passage of the charter. The Charter Commission was instructed by Attorney Cory Hoffman of Hoffman, Parker, Wilson & Carberry, that under no circumstances could the Town give money to persuade voters, as that would be electioneering – forbidden under Colorado campaign finance law. Despite that warning, the Charter Commission continued to talk about printed materials for electioneering well into the Spring of 2022 (**Attachments A-B**).

In April 2022, the Board of Trustees heard a presentation by the Charter Commission and referred the proposed Home Rule Charter to the citizens of Monument for a November 2022 vote.



Subsequently and unbeknownst to the Trustees, the Town of Monument Finance Department authorized a payment of \$2,512.50 to a newly formed issue committee, Citizens for Home Rule (CFHR). The issue committee was composed of several people from the Charter Commission, who later formed a slate of candidates with Mitch LaKind as the Mayoral candidate.

In October 2022, CFHR filed a campaign finance report showing the committee had only spent \$5.00 from March through October 2022 (**Attachment C**). However, signs and door hangers were placed throughout the Town of Monument, with the Town of Monument seal, advocating a YES on 2A vote, with NO registered agent listed on the materials. A Monument citizen filed a campaign finance complaint with the TOM. CFHR had 30 days to respond, which was well after the November 8, 2022, election. The YES on 2A committee aligned itself with four specific candidates – and included then-Trustee, Mitch LaKind, running as Mayor of Monument.

On November 8th, 2022, the voters passed the Home Rule Charter. (The Board of Trustees was referred to as the Town Council after November 8th due to the passing of the Home Rule Charter.) The slate of candidates who directly benefited from the misappropriated funds that the candidates used to pass the YES on 2A also won their elections, including Mitch LaKind.

On November 18th, 2022, the issue committee CFHR filed an amended campaign finance report that showed that a \$2,512.50 in-kind donation was received from the Town of Monument for signs and door hangers (**Attachment D**). At least four Trustees, who were not elected to the 2023 Town Council, reviewed all of their emails, meeting minutes, and other documents and saw NO correspondence from the Town relaying that money had been given to an Issue Committee for electioneering purposes.

The \$2,512.50 taxpayer funds that the Town of Monument illegally used for electioneering is a serious issue. CRS 1-45-117 (1) (a) (1)(B) prohibits, “any agency, department, board, division, bureau, commission or council of the state or a political subdivision of this state from expending any money or make any contribution to urge electors to vote in favor or against any local ballot issue or referred measure.”

BUT for this illegal use of taxpayer dollars – this group would have had to fund their campaign like any other citizen or issue committee. The prohibited use of the contribution is close to 100% of the total contributions made to the Committee. The issue committee knew this and chose to keep it from the public. The Trustees demanded to know how a payment was made without their knowledge advocating for a YES vote on an issue that amounted to electioneering. The combination of the usage of the Town seal and taxpayer dollars misled voters - directly and indirectly, Monument taxpayers themselves helped fund the elections of these candidates, including the new Mayor-elect, Mitch LaKind.

The Home Rule Charter went into effect November 9, 2022. By law, the new Town Council Members were to be sworn in January 3rd, 2023.

Mayor Pro Tem Elliott and Trustees Stephens, Schoening, and Romanello asked the Town Manager how this could have happened without any communication to any of them. The Town Manager feigned innocence – until the trustees said they wanted a full investigation before leaving office. The Trustees demanded an investigation into how taxpayer funds were used illegally for electioneering without their knowledge.

In October 2022, the contracted town attorney, Joseph Rivera, submitted his resignation notice. Kathryn Sellars, of Hoffman, Parker, Wilson & Carberry, the same firm who helped advise the Charter Commission, was contracted as the interim town attorney in November 2022.



The new incoming Council, including the incoming Mayor, Mitch LaKind, (as he had tied his election to this group) strongly objected to an investigation.

The outgoing board quickly found an investigator who could work over Christmas and investigate how this electioneering happened. After Mayor-elect LaKind said he would not support the first investigator, Grant Van Der Jagt was recommended. Van Der Jagt could complete the investigation in the timeframe needed, the Board found no conflicts, and both parties agreed to the scope of work assigned to him (**Attachment E**). Kathryn Sellars was still the Town Attorney when the Board voted to hire Van Der Jagt for the investigation. On December 13th, 2022, Van Der Jagt was approved by the Board (LaKind voted NO) as an investigative attorney. By now, the media started picking up on the story and investigating the matters at hand.

Van Der Jagt was immediately met with resistance from the Monument Town Manager, Mike Foreman. Foreman stalled in sending the requested documents and information requests and tried to prevent Van Der Jagt from asking questions of town staff until Van Der Jagt told Foreman he could be held legally in contempt of an investigation.

On December 12th, *Citizens for Home Rule* transferred the in-kind donation via their amended report, from the Town of Monument, to Brandy Turner, a *Citizens for Home Rule* spokesperson. She stated on Facebook that she paid the invoice for Tri-Lakes printing totaling \$2512.50. Turner claimed at the December 16th Town Council meeting that the problem had been “fixed”, the town was made whole, and an investigation was not necessary. Critics of this move argued that CFHR wanted the investigation to go away.

During the course of his investigation, Van Der Jagt was given access to town staff for interviews, town records and emails, to the Trustees for interviews, and emails and information to and from the TOM. The first call Van Der Jagt made was on December 20th, 2022, to the interim town attorney, Kathryn Sellars. He asked Sellars, as the attorney for the Home Rule Charter Commission, if she was aware, at any time, that money had been paid to an issue committee. Sellars did not respond to the question, and Sellars resigned as interim town attorney an hour later.

Van Der Jagt began to hear from town “whistleblower” employees about the town’s toxic, “good ol’ boy” work environment (**Attachment F**). Concerned about what he was hearing, he asked Trustees if they were aware of this. He also heard from two former Trustees that Mayor-elect LaKind had made an inappropriate sexual comment to then-appointed Trustee Schoening. The comment was verified by another female board member, Mayor Pro Tem Kelly Elliott. Trustee Schoening was so taken aback by the comment, she endeavored to stay away from LaKind while on the board as much as possible.

The comment made was, “Had I known you were giving out blow jobs to get appointed, I would have changed my vote.” Schoening reported this behavior, as well as multiple other instances of verbal and written harassment by LaKind, to Mike Foreman and the town attorney at the time, Joe Rivera. The emails from Schoening to Foreman, discussing the sexual harassment, were turned over to Van Der Jagt during the course of his investigation. Schoening was told to “go to the police” with her complaints, and seeing that there was no support from town administration, she decided to stay away from LaKind and continue to do her work.

On December 20, 2022, Van Der Jagt asked Mayor-elect LaKind if he had ever been reprimanded for sexual harassment on Town Council. On December 22, 2022, Mitch LaKind hired William Reed of Sherman & Howard, LLC, as his personal attorney to provide advice into matters around the Van Der Jagt investigation. There was no resolution passed by the Town Council authorizing or supporting the engagement of the law firm. LaKind publicly introduced William Reed on December 28th as his personal attorney at a special meeting of the Council (**Attachments G-H**).



LaKind knew his inappropriate comment to a Trustee could potentially become public, so he hired a personal attorney to protect himself. The incoming Council Members, realizing Van Der Jagt had the receipts and names of the Council Members tied to the issue committee that was going to become public, staged “outrage” protests at each special meeting to shut the meetings down. The outgoing Council Members were harassed and followed to their cars by screaming people, threatened on social media and bullied for daring to continue with the investigation (**Attachments I-M**). Van Der Jagt, as well, was threatened and he called the Sheriff’s office to report the abuse.

The Monument Town Council held meetings December 5, 13, 16, 19 and 28<sup>th</sup>, 2022 to deal with the investigation. At any of those meetings, Mayor-elect LaKind could have requested consent from the Council to engage Sherman & Howard, LLC, for legal services pertinent to the Town. Mayor Pro Tem Elliott texted LaKind asking for his agreement that they contact the town manager to begin interviewing attorneys and go through the standard procedure of requesting proposals (**Attachment N**). There was no response from LaKind. LaKind unilaterally acted in his own interest and continued to reiterate that Sherman & Howard, LLC, represented him personally, not the Town of Monument.

On December 28, 2022, Mr. Van Der Jagt delivered his report and back-up documentation in a special meeting. The report was to be delivered in an Executive Session. However, Mayor-elect LaKind objected to going into Executive Session, forcing the report to be presented publicly. Van Der Jagt said he would not release the names or expose the employees he spoke with under attorney/client privilege as they feared retaliation. Van Der Jagt said there could not be an honest dialogue of his findings – so he excused himself from the meeting.

The report exposed that the Monument Town Manager, Mike Foreman, had approved the electioneering expenditure, arguably in his own interest of getting the Home Rule Charter passed (the new charter makes it virtually impossible to fire him without a supermajority 5 votes from the Council). The report also exposed new Council Members Sana Abbott, Steve King, and Laura Kronick as knowingly taking Town money for their issue committee, CFHR, to make signs and door hangers to promote passing the Charter. The report challenged the legitimacy of the Charter given the electioneering. As well as exposing who authorized payment for electioneering, the report also tackled the troubling “good ol’ boy” internal town work environment and the inappropriate sexual comment made to a Trustee by Mitch LaKind (**Attachment O**).

On January 3, 2023, the new Monument Town Council took office. At no time in the month of January 2023, was it acknowledged that Sherman & Howard, LLC were serving in any capacity in the “town’s interests”. A new Monument Town Attorney was hired at the end of December 2022 and started January 17<sup>th</sup>, 2023 (**Attachment P**).

- **NOTE 12/22, 23,24,26** – Invoice detail refers to LaKind alone: “Drafting responses to Van Der Jagt stopping improper council actions”.
- **NOTE 12/27** – LaKind was trying to get the new Council Members sworn-in prior to the legal date of January 3, 2023, as directed by law, planning to oust the former Council Members as “illegitimate” in effort to stop the results of the investigation from being made public.
- **NOTE 12/27** – the billing notes, “Researched ability of private attorney to attend executive session”.

Mayor LaKind was so outraged over the report and its dissemination to the media that he plotted with his private attorney on 1/4/2023, a retaliation claim in the form of an ethics complaint to the Colorado Attorney Regulation Counsel against Van Der Jagt. From January 4, 2023, to January 25, 2023 – LaKind alone, without input from any of the newly elected Town Council or new Town Attorney, worked with his private attorney, William Reed and Sherman & Howard, LLC, to file a retaliation ethics complaint to the court (**Attachment Q**).



- **NOTE 1/4/23 – 1/25/23** – all work performed by the law firm is for Mr. LaKind alone. There is no mention of the Town of Monument, its attorney, or its Town Council.
- **NOTE 1/12/23 – 1/25/23** – ONLY LaKind was called, consulted, and engaged to help in the retaliation complaint against Mr. Van Der Jagt. There is no mention of “town interests” or any other Council Member “interests” in the billing.
- **NOTE 1/4/23 - 1/31/23:** ostensibly with the new Town Council on board as of 1/3/23, Mayor LaKind could have stopped his services with Sherman & Howard, LLC. The bill for providing advice to Mayor-elect LaKind from 12/22 to 1/4/23 totaled \$10,311. But LaKind did not stop there. He decided to personally go after Van Der Jagt’s role as investigator because he did not like what the report exposed. Newly elected Council Members had deceitfully engaged in electioneering and had to come clean only when a campaign finance complaint was filed. LaKind didn’t like the public knowing about his inappropriate comment, or the electioneering - and so he personally chose to go after the person hired to reveal what the Town asked Van Der Jagt to investigate.

If there was any doubt left that perhaps the Town benefited from LaKind’s personal attorney or that he served the Town Council or the Town in any way whatsoever, the first meeting of the new Council on January 3rd proves otherwise (**Attachment R**). LaKind made multiple statements regarding the Van Der Jagt investigation and claimed that since the TOM had no attorney and no one to weigh in on the report, the report should be set aside. LaKind stressed several times during this meeting that the Town had no legal help at all, but he would later claim in April that Reed helped the Town when there was no attorney. His January 3rd statements directly prove the assertion of “Reed helping the Town” was a lie (**Attachment S-T**).

On January 26, 2023, Mr. LaKind personally filed an ethics complaint with the Colorado Supreme Court Attorney Regulation Counsel against Van Der Jagt. He signed the complaint “Mayor Mitch LaKind”. LaKind neglected to mention to the Court that his personal attorney wrote the complaint, or that anyone from the Town of Monument approved or had input into the complaint, which was later exposed to the Court by Van Der Jagt’s attorney.

In total, after January 4, 2023, Mitch LaKind spent over \$9,500 of taxpayer dollars from the TOM on his retaliation efforts against Van Der Jagt. This is a direct benefit to LaKind, who sought to undermine the credibility of the investigation. The rest of the funds spent on LaKind’s private attorney were to disavow a report with factual findings and emails to support the sexual harassment perpetrated by LaKind. Over \$10,000 of taxpayer dollars were spent to defend Mitch LaKind’s inappropriate comment to another Trustee (**Attachment U**).

In February and March of 2023, Mayor LaKind reportedly told some elected officials that he was on the hook personally for a huge legal bill from Sherman & Howard, LLC, due to the former “terrible” Trustees. He also told people that his daughter was getting married. LaKind also made his financial woes known to his fellow Council Members.

In April 2023, with a 60-day past due invoice, LaKind argued to William Cole that this invoice was in the town’s interest to cover LaKind’s personal legal expenses. Cole’s answer was to write a “report” disavowing the investigation Van Der Jagt conducted. LaKind led a special meeting on April 3<sup>rd</sup> to take a vote by the Council Members (most who were identified as engaging in electioneering) to pay LaKind’s personal invoice and to “disavow” the investigation.

The deception did not stop there. On April 7th, 2023, Kelly Elliott submitted a CORA request to the TOM for the invoice from Sherman & Howard for LaKind’s expenses. The TOM responded on April 12th, 2023, with a heavily redacted invoice, in which no line items could be discerned (**Attachment V**). Elliott’s attorney filed a formal complaint with the TOM, arguing that this was of public interest to view how taxpayer dollars are spent. (**Attachment W**). The TOM Clerk Kyle Anderson responded to the



complaint on April 27th with a less redacted invoice, uncovering the personal nature of LaKind's \$20,737 invoice. The clerk was terminated, with apparently no explanation from the TOM, the next day.

On April 11, 2023, the Monument Town Council held a special meeting. The meeting began with a disclosure of conflicts of interest from three town council members. Six town council members were present for the meeting. Sana Abbott, Steve King, and Laura Kronick filed identical conflicts of interest forms, asserting that they were each discussed in the Van Der Jagt report, and asserting that the services of Sherman & Howard, LLC, protected the Town's interests, though none of that was acknowledged regarding Resolution 28-2023 for payment to Sherman & Howard, LLC.

Abbott, King, and Kronick's conflict of interest forms all read:

"Services which benefited the Town, which resulted in this invoice, and which the Resolution proposes to pay were provided at my request without prior approval of the Town Council. If such charges are not paid by The Town, the financial obligation may be attributed to me. Although this resolution involves a pecuniary matter, I shall recuse myself from its consideration and will not vote or exercise any substantial discretionary function related to it."

In his disclosure, Mayor LaKind acknowledges that if the Town of Monument chooses not to authorize payment of \$20,737 to Sherman & Howard, LLC, Mr. LaKind will be personally obligated to pay the bill.

After reviewing the conflict of interest disclosures, the town Council retired to Executive Session for discussion of three resolutions:

- **Resolution No. 26-2023:** A Resolution Adopting the Ballot Question 2A Donation Report and Disavowing the Van Der Jagt Report (**Attachment X**);
- **Resolution No. 27-2023:** A Resolution Authorizing Actions Related to The Previous Engagement by the Town of Monument of Van Der Jagt and the Law Firm Starzunski Van Der Jagt, P.C. (**Attachment Y**); and
- **Resolution No. 28-2023:** A Resolution Authorizing Payment of Sherman & Howard, LLC. Legal Service Invoice (**Attachments Z**).

All six of the town council members who were present for the April 11, 2023, meeting participated in the entirety of the executive session. There are no notes, recordings, or minutes to indicate that anyone recused themselves from discussion of any of the issues. Because the stated purpose of the executive session was to receive legal advice from counsel, the session was not recorded, and it cannot be determined which members participated in the discussion or what their contributions to that discussion were. The executive session lasted for approximately 45 minutes.

After the executive session, the town council voted on the proposed resolutions. Council Members Kronick and Abbott recused themselves from voting on Resolutions 26-2023 and 27-2023. Those resolutions passed 4-0. Mayor LaKind recused himself from Resolution 28-2023 which concerned payment of legal fees to Sherman & Howard, LLC.

The town council agreed with LaKind that the services provided by Sherman & Howard, LLC, "benefited the town". The Council also agreed that those services were rendered without proper authorization. Mr. LaKind participated in the executive session where payment for those services was discussed, and if the town chose not to pay, he would have been personally liable for over \$20,000 in legal fees. Mr. LaKind hired Sherman & Howard, LLC, in part, to protect his own personal interests and reputation, which was called into question by the Van Der Jagt report. LaKind racked up over \$10,000 in legal fees to help him out of his inappropriate sexual comments and another \$9,500 in legal fees to personally attack Van Der Jagt and his ability to practice law in Colorado. All told, LaKind spent over \$20,000 to defend his own reputation while attempting to smear those who brought his inappropriate behavior to light. When he



could not pay his own legal bill amassed for the defense of his own inappropriate sexual comments while at the dais, he passed that bill off onto the taxpayers.

By acting unilaterally to engage an attorney on matters involving his conduct as a public official and by participating in the executive session where payment for services rendered by that attorney was discussed, and to conduct his own personal retaliation towards the investigative attorney hired by an affirming vote, Mayor LaKind conducted official acts using town resources for his own personal benefit.

As taxpayers witnessing the use of town resources for personal benefit, the filers of this Ethics Complaint believe the taxpayer interest was never once considered in this series of events by elected officials – especially that of Mayor LaKind. These legal bills were for protection of LaKind's personal inappropriate behavior potentially being revealed to the public and then more legal hours spent in a personal retaliation towards Mr. Van Der Jagt for revealing a range of issues surrounding the illegal use of taxpayer dollars for electioneering purposes.

There is no "town interest" except to cover-up and "make the report go away" in the findings Mr. Van Der Jagt was paid to investigate. Harassment in any form is of zero benefit to the citizens of Monument. On the contrary, the public has the right to know the truth about their mayor's behavior. Mayor LaKind personally benefited from the payment of his legal bills approved by his allies on the Town Council. Sadly, he was able to almost fully hide the harassment allegations as well as the fact that he was advanced into office by illegal funds. We respectfully ask the Ethics Commission to investigate this personal benefit to Mayor LaKind.

**Please download the attachments.**

We hereby acknowledge that the facts presented herein are true to the best of my knowledge, and I will cooperate in the process regarding this complaint and will appear at any proceeding of the Independent Ethics Commission if the complaint is scheduled for a hearing.

Signature:  Kelly W. Elliott  
Kelly W. Elliott (Aug 6, 2023 17:01 MDT)

Signature:  Darcy Schoening  
Darcy Schoening (Aug 6, 2023 16:54 MDT)

Signature:  Amy Stephens  
Amy Stephens (Aug 6, 2023 16:53 MDT)

Attorney (if applicable): N/A

Dated at Monument, Colorado, this 6<sup>th</sup> day of August 2023.

Created by Article XXIX of the Colorado Constitution, the Independent Ethics Commission may review and hold hearings on matters falling within its jurisdiction as outlined in Article XXIX.



**TOWN OF MONUMENT  
HOME RULE CHARTER COMMISSION  
MEETING MINUTES  
MONDAY, NOVEMBER 29, 2021 – 5:30 PM  
Monument Town Hall - Board Room  
645 Beacon Lite Road - Monument CO 80132**

HRCC: all present

Staff: Foreman, Rivera, Fox, Herington, VanDenHoek, Romero, Hogan, Herman

Guest: Duffey, Penny, Hoffmann

**1. Welcome and Introductions:** *(Mayor Wilson and Mike Foreman)*

Wilson and Foreman introduced staff and guest speakers. Members of the home rule charter commission (HRCC) introduced themselves.

**2. Background of Home Rule Governance, the Purpose and Philosophy of a Charter, Provisions to be Considered/Addressed in a Charter, and Charter Timelines:**

- a.** Presentation From Corey Hoffmann - *Attorney with Hoffmann Parker Wilson & Carberry P.C. and Municipal Attorney for Black Hawk, Northglenn, Canon City, Elizabeth, Foxfield, Hudson, Deer Trail, and Gilcrest*

Hoffmann identified what should and should not be included in a charter. Hoffmann suggested including (if applicable) election dates, initiative/referendum/recall procedures, procedures for filling vacancies, minimum age for elected officials, form of government, wards/districts, adoption procedures for ordinances/resolutions, manner of publication, establishing meeting procedure, conduct of executive session. Hoffman suggested providing flexibility as opposed to limiting authority. The home rule charter is a document of limitation and the only way to modify the charter is through an election.

King: no income tax? Hoffmann: Correct, can impose any kind of tax except an income tax, but all subject to voter approval. Trustee vs. Council, any difference? Hoffman, no difference.

Brunk: can put in as long as no conflict? Hoffmann: yes on matters of local concern – but don't have to put it in the charter to make it so, just by having the charter allows governing body to act in areas of local concern. Brunk: elected official requirements, can make longer residency? Hoffmann: yes.

- b.** Presentation From Joseph Rivera - *Special Counsel with Murray Dahl Berry & Renaud L.L.P. and Interim Town Attorney for the Town of Monument*

Rivera presented key milestones. Deadline for submission is May 1, 2022. After submission, BOT sets election date. Consider aligning charter approval election with coordinated election to save money and increase participation and combine with elected official voting. If included to try to coordinated, then the window is April 7 and April 30. The only regular meeting of the board of trustees in that window is April 18. Charter effective on date proposed in the charter subject to challenge dates.

Brunk? What challenge? Hoffman: perhaps not included a required provision

Coopman? What if election changes the structure? Hoffmann: identify how the terms are going to be effective as part of the continuity of the charter. Same as wards/districts.

Brunk? What kind of access to lawyer and someone like you. Foreman set aside budget, money to hire attorney, can chose representation.

- c.** Presentation From Michael Penny - *City Manager of Castle Pines*

Penny stated a benefit to home rule is being able to collect you own sales tax and showed the HRCC a video they created to educate citizens on benefits of home rule. Penny stated the charter passed because the HRCC was drafted by their neighbors. Lusby: asked for better publicity campaign to pass



the charter? Hoffmann stated real world constraint, once ballot issue is set Town can't spend any money for or against. Hoffmann discussed issue committees can be formed, Town can put together factual information. Lusby asked if we have to or others? Hoffmann stated anyone can. Penny stated their council passed a resolution in support of charter. Penny stated don't write the ordinance, that's for the governing body, the charter is the framework. Penny described how the process looked with Castle Pines wrote their charter. Penny suggested using key staff as resources and to create verbiage that is timeless. Penny provided examples of things that were and weren't included in their charter and the reason why.

King: question about removal from office, can charter have code of conduct or expectations. Penny: having a section for removal of officers, enabling them so they can do it but enabling it. Hoffmann: annexation is a matter of statewide concern.

### **3. Structure of the Home Rule Charter Commission and Meetings Thereof:**

#### **a. Election of a Chairman, Secretary and Other Officers Deemed Necessary**

Rivera read 31-2-206(4). Stated HRCC meetings are open to the public – includes email and text messages – think about structuring time where all present and receiving same information. Purpose of adopting chairman and secretary is who will lead meetings and present final product – call and chair the meetings – conduit for setting the agenda. Rivera, talk about how this board will make decisions. Who's the chair, who's the secretary, what other officers, designate subgroup for rules and procedures. Have a procedure for how you make decisions. ID a means to make decisions. Talk about a meeting calendar. Lusby: take names for Chair and Secretary.

Lusby treasurer.

Turner secretary agenda. Ladowski deputy secretary minutes.

King chairman

Brunk vice-chairman.

#### **b. Consideration of a Meeting Schedule, Location of Meetings, and Public Notice of Meetings**

Thursday – except for New Years and Christmas

Dec. 21 will be on a Tuesday, Dec. 28 on Tuesday – Dec. 9 first meeting. 5:30pm. 9, 16, 21 and 28.

In Jan. 6, 13, 20, 27.

#### **c. Consideration of Rules of Procedure for Future Meetings**

Quorum includes online attendance.

### **4. Next Steps:**

**a.** Set Next Meeting

**b.** Identify Needs -

**c.** Assign Tasks -

### **5. Adjournment:**



## Town of Monument Home Rule Commission Meeting Agenda

Wednesday, April 6, 2022 - 5:00pm

Monument Town Hall Public Hearing - 645 Beacon Lite Rd, Monument, CO 80132

1. Open Meeting
2. Roll Call
3. Approval of prior meeting minutes
4. Voting to approve final draft of charter
5. Review the graphics for the informational mailer, approve or send back for edits
6. Public discussion and comments
7. Adjourn



Colorado Secretary of State  
Elections Division  
1700 Broadway, Ste. 200  
Denver, CO 80290  
Ph: (303) 894-2200 ext. 6383  
Fax: (303) 869-4861  
Email: cphelp@sos.state.co.us  
www.sos.state.co.us



Space Below For Office Use Only



## REPORT OF CONTRIBUTIONS AND EXPENDITURES

<b>Full Name of Committee/Person:</b>	Citizens for Home Rule (1-45-108, C.R.S.) As Shown On Registration
<b>Address of Committee/Person:</b>	1083 Night Blue Circle
<b>City, State &amp; Zip Code:</b>	Monument, CO 80132
<b>Committee Type:</b>	Issue Committee
<b>Name and Address of Financial Institution</b>	Air Academy FCU, 417 Third St., Monument, CO 80132

**SOS ID NUMBER** (state and county committees):

### Type of Report

☐ Regularly Scheduled Filing.

☒ **Amended Filing.** This amends previous report filed on (date)  
Submit changes or new information ONLY

12/7/2022

☐ **Termination Report.** (Termination Reports MUST Have a Monetary Balance of Zero in Line 5)

☐ Check this box if this Report Contains Electioneering Communications Information

**Reporting Period Covered:** 10/13/2022

Date

**Through** 12/12/2022

Date

**Declared Total Spending** (if applicable)  
[Art. XXVIII, Sec. 4(1)]

\$

		Totals Detailed Summary Page
1	Funds on Hand at the Beginning of Reporting Period (monetary only)	\$ 5.00
2	Total Monetary Contributions (line 11)	\$ 0.00
3	Total of Monetary Contributions & Beginning Amount (line 1 + line 2)	\$ 0.00
4	Total Monetary Expenditures (line 19)	\$ 0.00
5	Funds on Hand at the End of Reporting Period (monetary) (line 3 - line 4)	\$ 5.00

**The appropriate officer shall impose a penalty of \$50 per day for each day that a report is filed late.**  
[Art. XXVIII Sec. 10(2)(a)]

**Authorization** (Must be completed by either the Registered Agent OR the Candidate): I hereby certify and declare, under penalty of perjury, that to the best of my knowledge or belief all contributions received during this reporting period, including any contributions received in the form of membership dues transferred by a membership organization, are from permissible sources.

Print Registered Agent's Name: Laura Kronick

Registered Agent's Signature: Laura Kronick

Date: 12/12/22

Print Candidate Name: \_\_\_\_\_

Candidates Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# **DETAILED SUMMARY**

**Full Name of Committee/Person:** Citizens for Home Rule \_\_\_\_\_

**Current Reporting Period:** 10/13/2022 **Through** 12/12/2022

<b>Funds on hand at the beginning of reporting period (Monetary Only)</b>		\$	5.00
6	<b>Itemized Contributions \$20 or More [C.R.S. 1-45-108(1)(a)]</b> (Please list on Schedule "A")	\$	0.00
7	<b>Total of Non-Itemized Contributions</b> (Contributions of \$19.99 and Less)	\$	0.00
8	<b>Loans Received</b> (Please list on Schedule "C")	\$	0.00
9	<b>Total of Other Receipts</b> (Interest, Dividends, etc.)	\$	0.00
10	<b>Returned Expenditures (from recipient)</b> (Please list on Schedule "D")	\$	0.00
11	<b>Total Monetary Contributions</b> (Total of lines 6 through 10)	\$	0.00
12	<b>Total Non-Monetary Contributions</b> (From Statement of Non-Monetary Contributions)	\$	2,512.50
13	<b>Total Contributions</b> (Line 11 + line 12)	\$	2,512.50
14	<b>Itemized Expenditures \$20 or More [C.R.S. 1-45-108(1)(a)]</b> (Please list on Schedule "B")	\$	0.00
15	<b>Total of Non-Itemized Expenditures</b> (Expenditures of \$19.99 or Less)	\$	0.00
16	<b>Loan Repayments Made</b> (Please list on Schedule "C")	\$	0.00
17	<b>Returned Contributions (To donor)</b> (Please list on Schedule "D")	\$	0.00
18	<b>Total Coordinated Non-Monetary Expenditures</b> (Candidate/Candidate Committee & Political Parties only)	\$	0.00
19	<b>Total Monetary Expenditures</b> (Total of lines 14 through 17)	\$	0.00
20	<b>Total Spending</b> (Line 18 + line 19)	\$	0.00



**Schedule A – Itemized Contributions Statement (\$20 or more)**

[C.R.S. 1-45-108(1)(a)]

Full Name of Committee/Person: Citizens for Home Rule**WARNING: Please read the instruction page for Schedule "A" before completing!**

PLEASE PRINT/TYPE

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	5. Address: _____
3. <u>Aggregate Amt. *</u> \$	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	5. Address: _____
3. <u>Aggregate Amt. *</u> \$	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	7. Address: _____
3. <u>Aggregate Amt. *</u> \$	8. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	5. Address: _____
3. <u>Aggregate Amt. *</u> \$	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

\* For contribution limits within a committee's election cycle or contribution cycle, please refer to the following Colorado Constitutional cites: Candidate Committee Art. XXVIII, Sec. 2(6); Political Party Art. XXVIII, Sec. 3(3); Political Committee Art. XXVIII, Sec 3(5); Small Donor Committee Art. XXVIII, Sec. 2(14).



**Schedule B – Itemized Expenditures Statement (\$20 or more)**

[1-45-108(1)(a), C.R.S.]

Full Name of Committee/Person: Citizens for Home Rule

PLEASE PRINT/TYPE

1. <u>Date Expended</u>	4. Name: _
2. <u>Amount</u> \$	5. Address: _
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____ <input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u> \$	5. Address: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____ <input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u> \$	5. Address: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____ <input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u> \$	5. Address: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____ <input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u> \$	5. Address: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____ <input type="checkbox"/> Check box if Electioneering Communication

## Schedule C - Loans

Full Name of Committee/Person: NONE

### LOANS - Loans Owed by the Committee

(Use a separate schedule for each loan. This form is for line item 8 and 16 of the Detailed Summary Report.)  
[No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose. [Art. XXVIII, Sec. 9(e)] Notwithstanding any other section of this article to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule [Art. XXVIII, Sec. 3(8)]

### LOAN SOURCE

Name (Last, First or Institution): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Original Amount of Loan: \$ \_\_\_\_\_ Interest Rate: \_\_\_\_\_

Loan Amount Received This Reporting Period: \$ \_\_\_\_\_

Total of All Loans This Reporting  
Period: \$ \_\_\_\_\_  
(Place on line 8 of Detailed Summary Report)

Principal Amount Paid This Reporting Period: \$ \_\_\_\_\_

Interest Amount Paid This Reporting Period: \$ \_\_\_\_\_

Amount Repaid This Reporting Period: \$ \_\_\_\_\_  
(Amount Repaid is sum of Principal & Interest entered on Detail Summary)

Total Repayments Made: \$ \_\_\_\_\_  
(Sum of Schedule C pages, Place on line 16 of  
Detailed Summary)

Outstanding Balance: \$ \_\_\_\_\_

### TERMS OF LOAN:

\_\_\_\_\_ Date Loan Received

\_\_\_\_\_ Due Date for Final Payment

### LIST ALL ENDORSERS OR GUARANTORS OF THIS LOAN

Full Name	Address, City, State, Zip	Amount Guaranteed



## Schedule D – Returned Contributions & Expenditures

Full Name of Committee/Person: Citizens for Home Rule

### Returned Contributions

*(Previously reported on Schedule A – Contributions accepted and then returned to donors)*

PLEASE PRINT/TYPE

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u> \$	6. City/State/Zip: _____
	7. Purpose: _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u> \$	6. City/State/Zip: _____
	7. Purpose: _____

### Returned Expenditures

*(Previously reported on Schedule B – Expenditures returned or refunded to the committee)*

PLEASE PRINT/TYPE

1. <u>Date Expended</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u> \$	6. City/State/Zip: _____
	7. Comment (Optional): _____

1. <u>Date Expended</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u> \$	6. City/State/Zip: _____
	7. Comment (Optional): _____

**Statement of Non-Monetary Contributions**  
[Art. XXVIII, Sec. 2(5)(a)(II)(III) & Sec. 5(3) & 1-45-108(1), C.R.S.]

**Full Name of Committee/Person:** Citizens for Home Rule **AMENDED**

**PLEASE PRINT/TYPE**

1. <u>Date Provided</u> <b>12/10/22</b>	4. Name (Last, First): <u>Brandy Turner</u>
2. <u>Fair Market Value</u> <b>\$2,512.50</b>	5. Address: <u>2065 Bobcat Valley Ct</u>
3. <u>Aggregate Amt.</u> <b>\$</b>	6. City/State/Zip: <u>Monument, CO 80132</u>
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: <u>The in-kind donation previously reported from the Town of Monument was transferred to Brandy Turner. The Town was refunded the money from the printer and Brandy Turner purchased the signs and door hangers.</u>
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____
	10. <input type="checkbox"/> Check box if Coordinated with a Candidate/Candidate Committee or Political Party. *

1. <u>Date Provided</u>	4. Name (Last, First): _____
2. <u>Fair Market Value</u> <b>\$</b>	5. Address: _____
3. <u>Aggregate Amt.</u> <b>\$</b>	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____
	10. <input type="checkbox"/> Check box if Coordinated with a Candidate/Candidate Committee or Political Party. *

1. <u>Date Provided</u>	4. Name (Last, First): _____
2. <u>Fair Market Value</u> <b>\$</b>	5. Address: _____
3. <u>Aggregate Amt.</u> <b>\$</b>	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____
	10. <input type="checkbox"/> Check box if Coordinated with a Candidate/Candidate Committee or Political Party. *

\* Note: If coordinated, then contribution must also be reported as a non-monetary expenditure on Detailed Summary. Art. XXVIII, Sec. 2(9) states: "...Expenditures that are controlled by or coordinated with a candidate or candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee."



Colorado Secretary of State  
Elections Division  
1700 Broadway, Ste. 200  
Denver, CO 80290  
Ph: (303) 894-2200 ext. 6383  
Fax: (303) 869-4861  
Email: [cpfhel@sos.state.co.us](mailto:cpfhel@sos.state.co.us)  
[www.sos.state.co.us](http://www.sos.state.co.us)



Space Below For Office Use Only



## REPORT OF CONTRIBUTIONS AND EXPENDITURES

<b>Full Name of Committee/Person:</b>	Citizens for Home Rule (1-45-108, C.R.S.) As Shown On Registration
<b>Address of Committee/Person:</b>	1083 Night Blue Circle
<b>City, State &amp; Zip Code:</b>	Monument, CO 80132
<b>Committee Type:</b>	Issue Committee
<b>Name and Address of Financial Institution</b>	Air Academy FCU, 417 Third St., Monument, CO 80132

**SOS ID NUMBER** (state and county committees):

### Type of Report

☐ Regularly Scheduled Filing.

☒ Amended Filing. This amends previous report filed on (date)  
Submit changes or new information ONLY

10/13/2022

☐ Termination Report. (Termination Reports MUST Have a Monetary Balance of Zero in Line 5)

☐ Check this box if this Report Contains Electioneering Communications Information

**Reporting Period Covered:** 10/13/2022

Date

**Through** 11/20/2022

Date

**Declared Total Spending** (if applicable)  
[Art. XXVIII, Sec. 4(1)]

\$

		Totals Detailed Summary Page
1	Funds on Hand at the Beginning of Reporting Period (monetary only)	\$ 5.00
2	Total Monetary Contributions (line 11)	\$ 0.00
3	Total of Monetary Contributions & Beginning Amount (line 1 + line 2)	\$ 5.00
4	Total Monetary Expenditures (line 19)	\$ 0.00
5	Funds on Hand at the End of Reporting Period (monetary) (line 3 - line 4)	\$ 5.00

**The appropriate officer shall impose a penalty of \$50 per day for each day that a report is filed late.**  
[Art. XXVIII Sec. 10(2)(a)]

**Authorization** (Must be completed by either the Registered Agent OR the Candidate): I hereby certify and declare, under penalty of perjury, that to the best of my knowledge or belief all contributions received during this reporting period, including any contributions received in the form of membership dues transferred by a membership organization, are from permissible sources.

Print Registered Agent's Name: Laura Kronick

Registered Agent's Signature: Laura Kronick

Date: 11/20/22

Print Candidate Name: \_\_\_\_\_

Candidates Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**DETAILED SUMMARY**

Full Name of Committee/Person: Citizens for Home Rule

Current Reporting Period: 10/13/2022 Through 11/20/2022

	<b>Funds on hand at the beginning of reporting period (Monetary Only)</b>	\$	5.00
6	<b>Itemized Contributions \$20 or More [C.R.S. 1-45-108(1)(a)]</b> (Please list on Schedule "A")	\$	0/00
7	<b>Total of Non-Itemized Contributions</b> (Contributions of \$19.99 and Less)	\$	0.00
8	<b>Loans Received</b> (Please list on Schedule "C")	\$	0.00
9	<b>Total of Other Receipts</b> (Interest, Dividends, etc.)	\$	0.00
10	<b>Returned Expenditures (from recipient)</b> (Please list on Schedule "D")	\$	0.00
11	<b>Total Monetary Contributions</b> (Total of lines 6 through 10)	\$	5.00
12	<b>Total Non-Monetary Contributions</b> (From Statement of Non-Monetary Contributions)	\$	2,500.00
13	<b>Total Contributions</b> (Line 11 + line 12)	\$	2,505.00
14	<b>Itemized Expenditures \$20 or More [C.R.S. 1-45-108(1)(a)]</b> (Please list on Schedule "B")	\$	0.00
15	<b>Total of Non-Itemized Expenditures</b> (Expenditures of \$19.99 or Less)	\$	0.00
16	<b>Loan Repayments Made</b> (Please list on Schedule "C")	\$	0.00
17	<b>Returned Contributions (To donor)</b> (Please list on Schedule "D")	\$	0.00
18	<b>Total Coordinated Non-Monetary Expenditures</b> (Candidate/Candidate Committee & Political Parties only)	\$	0.00
19	<b>Total Monetary Expenditures</b> (Total of lines 14 through 17)	\$	0.00
20	<b>Total Spending</b> (Line 18 + line 19)	\$	0.00



**Schedule A – Itemized Contributions Statement (\$20 or more)**

[C.R.S. 1-45-108(1)(a)]

Full Name of Committee/Person: Citizens for Home Rule**WARNING: Please read the instruction page for Schedule "A" before completing!**

PLEASE PRINT/TYPE

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	5. Address: _____
3. <u>Aggregate Amt. *</u> \$	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	5. Address: _____
3. <u>Aggregate Amt. *</u> \$	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	5. Address: _____
3. <u>Aggregate Amt. *</u> \$	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Contribution Amt.</u> \$	5. Address: _____
3. <u>Aggregate Amt. *</u> \$	6. City/State/Zip: _____
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: _____
	8. Employer (if applicable, <u>mandatory</u> ): _____
	9. Occupation (if applicable, <u>mandatory</u> ): _____

\* For contribution limits within a committee's election cycle or contribution cycle, please refer to the following Colorado Constitutional cites: Candidate Committee Art. XXVIII, Sec. 2(6); Political Party Art. XXVIII, Sec. 3(3); Political Committee Art. XXVIII, Sec 3(5); Small Donor Committee Art. XXVIII, Sec. 2(14).

**Schedule B – Itemized Expenditures Statement (\$20 or more)**

[1-45-108(1)(a), C.R.S.]

Full Name of Committee/Person: NONE

PLEASE PRINT/TYPE

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u>	5. Address: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	6. City/State/Zip: _____
	7. Purpose of Expenditure: _____
	<input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u>	5. Address: _____
\$	6. City/State/Zip: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	7. Purpose of Expenditure: _____
	<input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u>	5. Address: _____
\$	6. City/State/Zip: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	7. Purpose of Expenditure: _____
	<input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u>	5. Address: _____
\$	6. City/State/Zip: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	7. Purpose of Expenditure: _____
	<input type="checkbox"/> Check box if Electioneering Communication

1. <u>Date Expended</u>	4. Name: _____
2. <u>Amount</u>	5. Address: _____
\$	6. City/State/Zip: _____
3. Recipient is (optional): <input type="checkbox"/> Committee <input type="checkbox"/> Non-Committee	7. Purpose of Expenditure: _____
	<input type="checkbox"/> Check box if Electioneering Communication



## Schedule C - Loans

Full Name of Committee/Person: NONE

### LOANS - Loans Owed by the Committee

(Use a separate schedule for each loan. This form is for line item 8 and 16 of the Detailed Summary Report.)  
[No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose. [Art. XXVIII, Sec. 9(e)] Notwithstanding any other section of this article to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule [Art. XXVIII, Sec. 3(8)]

### LOAN SOURCE

Name (Last, First or Institution): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Original Amount of Loan: \$ \_\_\_\_\_ Interest Rate: \_\_\_\_\_

Loan Amount Received This Reporting Period: \$ \_\_\_\_\_

Total of All Loans This Reporting  
Period: \$ \_\_\_\_\_  
(Place on line 8 of Detailed Summary Report)

Principal Amount Paid This Reporting Period: \$ \_\_\_\_\_

Interest Amount Paid This Reporting Period: \$ \_\_\_\_\_

Amount Repaid This Reporting Period: \$ \_\_\_\_\_  
(Amount Repaid is sum of Principal & Interest entered on Detail Summary)

Total Repayments Made: \$ \_\_\_\_\_  
(Sum of Schedule C pages, Place on line 16 of  
Detailed Summary)

Outstanding Balance: \$ \_\_\_\_\_

### TERMS OF LOAN:

\_\_\_\_\_ Date Loan Received

\_\_\_\_\_ Due Date for Final Payment

### LIST ALL ENDORSERS OR GUARANTORS OF THIS LOAN

Full Name	Address, City, State, Zip	Amount Guaranteed

## Schedule D – Returned Contributions & Expenditures

Full Name of Committee/Person: NONE

### Returned Contributions

*(Previously reported on Schedule A – Contributions accepted and then returned to donors)*

PLEASE PRINT/TYPE

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u>	6. City/State/Zip: _____
	7. Purpose: _____

1. <u>Date Accepted</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u>	6. City/State/Zip: _____
\$	7. Purpose: _____

### Returned Expenditures

*(Previously reported on Schedule B – Expenditures returned or refunded to the committee)*

PLEASE PRINT/TYPE

1. <u>Date Expended</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u>	6. City/State/Zip: _____
\$	7. Comment (Optional): _____

1. <u>Date Expended</u>	4. Name (Last, First): _____
2. <u>Date Returned</u>	5. Address: _____
3. <u>Amount</u>	6. City/State/Zip: _____
\$	7. Comment (Optional): _____



**Statement of Non-Monetary Contributions**  
[Art. XXVIII, Sec. 2(5)(a)(II)(III) & Sec. 5(3) & 1-45-108(1), C.R.S.]

**Full Name of Committee/Person:** Citizens for Home Rule

**PLEASE PRINT/TYPE**

1. <u>Date Provided</u> <u>5/6/22</u>	4. Name (Last, First): <u>Town of Monument</u>
2. <u>Fair Market Value</u> \$ <u>2,500.00</u>	5. Address: <u>645 Beacon Lite Road</u>
3. <u>Aggregate Amt.</u> \$	6. City/State/Zip: <u>Monument, CO 80132</u>
<input type="checkbox"/> Check box if Electioneering Communication	7. Description: <u>Yard signs, door hangars</u>
	8. Employer (if applicable, <u>mandatory</u> ):
	9. Occupation (if applicable, <u>mandatory</u> ):
	10. <input type="checkbox"/> Check box if Coordinated with a Candidate/Candidate Committee or Political Party. *

1. <u>Date Provided</u>	4. Name (Last, First):
2. <u>Fair Market Value</u> \$	5. Address:
3. <u>Aggregate Amt.</u> \$	6. City/State/Zip:
<input type="checkbox"/> Check box if Electioneering Communication	7. Description:
	8. Employer (if applicable, <u>mandatory</u> ):
	9. Occupation (if applicable, <u>mandatory</u> ):
	10. <input type="checkbox"/> Check box if Coordinated with a Candidate/Candidate Committee or Political Party. *

1. <u>Date Provided</u>	4. Name (Last, First):
2. <u>Fair Market Value</u> \$	5. Address:
3. <u>Aggregate Amt.</u> \$	6. City/State/Zip:
<input type="checkbox"/> Check box if Electioneering Communication	7. Description:
	8. Employer (if applicable, <u>mandatory</u> ):
	9. Occupation (if applicable, <u>mandatory</u> ):
	10. <input type="checkbox"/> Check box if Coordinated with a Candidate/Candidate Committee or Political Party. *

\* Note: If coordinated, then contribution must also be reported as a non-monetary expenditure on Detailed Summary. Art. XXVIII, Sec. 2(9) states: "...Expenditures that are controlled by or coordinated with a candidate or candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee."

(and applicable  
personnel and elected  
officials)

TOWN OF MONUMENT  
RESOLUTION NO. 94-2022

(CRS 1-45-117  
(1)(a)(1)(B))

A RESOLUTION TO LAUNCH THE INVESTIGATION ON FAIR CAMPAIGN PRACTICES ACT TO INVESTIGATE IN KIND DONATION FROM THE TOWN OF MONUMENT TO THE MONUMENT FOR HOME RULE ISSUE COMMITTEE FOR SIGNS AND DOOR HANGERS. THE INVESTIGATION, PAID FOR BY THE TOWN OF MONUMENT, REQUIRES THAT THE TOWN STAFF ~~AND ANY OTHERS~~ TO BE INVESTIGATED FULLY COOPERATE WITH THE INVESTIGATIVE ATTORNEY DURING INTERVIEWS, PROVISION OF DOCUMENTS, ACCESS TO EMAILS AND PHONE RECORDS, AND TIMELY RESPONSES TO PHONE CALLS AND EMAIL QUESTIONS AS REQUESTED BY THE ATTORNEY. THE INVESTIGATOR WILL PROVIDE WEEKLY UPDATES TO THE TOWN COUNCIL ON THE APPROXIMATE DATES: DEC 19 AND DEC 27 WITH THE GOAL TO HAVE THE INVESTIGATION COMPLETED BY DECEMBER 30, 2022.

PASSED AND RESOLVED by the Town Council of the Town of Monument, Colorado, this 13<sup>th</sup> day of December, 2022, by a vote of 4 for and 2 against.

ATTEST:



Tina Erickson, Deputy Clerk

TOWN OF MONUMENT



Kelly Elliott, Mayor Pro Tem





darcy schoening <schoeningdarcy@gmail.com>

---

## Fwd: Attorney Client Privileged Communication -- Reports of Criminal Conduct

1 message

---

**Darcy Schoening** <schoeningdarcym@gmail.com>  
To: Darcy Schoening <schoeningdarcy@gmail.com>

Sun, Dec 18, 2022 at 9:48 PM

Darcy Schoening  
Cell 630-796-5885

Begin forwarded message:

**From:** Darcy Schoening <schoeningdarcym@gmail.com>  
**Date:** November 30, 2022 at 11:15:52 AM MST  
**To:** Mark Waller <markwaller.law@comcast.net>  
**Subject:** Fwd: Attorney Client Privileged Communication -- Reports of Criminal Conduct

Darcy Schoening  
Cell 630-796-5885

Begin forwarded message:

**From:** Darcy Schoening <schoeningdarcym@gmail.com>  
**Date:** November 29, 2022 at 6:17:28 PM MST  
**To:** [stephens.amyg@gmail.com](mailto:stephens.amyg@gmail.com)  
**Subject:** Fwd: Attorney Client Privileged Communication -- Reports of Criminal Conduct

Darcy Schoening  
Cell 630-796-5885



Begin forwarded message:

**From:** Darcy Schoening <[schoeningdarcym@gmail.com](mailto:schoeningdarcym@gmail.com)>  
**Date:** November 29, 2022 at 6:16:05 PM MST  
**To:** Darcy Schoening <[schoeningdarcym@gmail.com](mailto:schoeningdarcym@gmail.com)>  
**Subject:** Fwd: Attorney Client Privileged Communication -- Reports of Criminal Conduct

Darcy Schoening  
Cell 630-796-5885

Begin forwarded message:

**From:** Darcy Schoening <[dschoening@tomgov.org](mailto:dschoening@tomgov.org)>  
**Date:** March 14, 2022 at 7:16:23 PM MDT  
**To:** Darcy Schoening <[schoeningdarcym@gmail.com](mailto:schoeningdarcym@gmail.com)>  
**Subject:** Fwd: Attorney Client Privileged Communication -- Reports of Criminal Conduct

Darcy Schoening, Trustee  
Town of Monument  
Cell 630-796-5885  
<https://www.townofmonument.org/>

Begin forwarded message:

**From:** Darcy Schoening <[dschoening@tomgov.org](mailto:dschoening@tomgov.org)>  
**Date:** March 14, 2022 at 7:15:00 PM MDT  
**To:** Laurie Clark <[lclark@tomgov.org](mailto:lclark@tomgov.org)>  
**Subject:** Fwd: Attorney Client Privileged Communication -- Reports of Criminal Conduct

Darcy Schoening, Trustee  
Town of Monument  
Cell 630-796-5885  
<https://www.townofmonument.org/>

Begin forwarded message:

**From:** Mike Foreman <[Mforeman@tomgov.org](mailto:Mforeman@tomgov.org)>  
**Date:** March 14, 2022 at 5:25:55 PM MDT  
**To:** Darcy Schoening <[dschoening@tomgov.org](mailto:dschoening@tomgov.org)>, Joe Rivera <[jrivera@mdbrlaw.com](mailto:jrivera@mdbrlaw.com)>  
**Subject:** Fwd: Attorney Client Privileged Communication -- Reports of Criminal Conduct

Ms. Schoening:

In response to your email to me concerning potential sexual harassment from a fellow Board Member I sent that to our Town Attorney. He then consulted with our Insurance Risk Provider, CIRSA. I have included a copy of the results from his consultation with CIRSA and instructions if a board member feels like they are the victim of or have witnessed criminal conduct, the board member, like any member of the public, should feel free to contact local law enforcement.

Please let me know if you need me to follow up on this in any way.

Mike Foreman  
Town Manager  
Town of Monument  
[www.TownofMonument.org](http://www.TownofMonument.org)  
645 Beacon Lite Rd.  
Monument, CO 80132  
719-322-3043 Cell  
719-884-8011 Fax  
Follow @TownofMonument  
[Facebook](#) | [Twitter](#) | [Instagram](#) | [Nextdoor](#)

---

**From:** Joe Rivera <[jrivera@mdbrlaw.com](mailto:jrivera@mdbrlaw.com)>  
**Sent:** Monday, March 7, 2022 5:33 PM  
**To:** Mike Foreman <[mforeman@tomgov.org](mailto:mforeman@tomgov.org)>  
**Subject:** FW: Attorney Client Privileged Communication -- Reports of Criminal Conduct

Mike

As we discussed, to the extent that a board member feels like they are the victim of or have witnessed criminal conduct, the board member, like any member of the public, should feel free to contact local law enforcement.

When a board member alleges criminal conduct in a report to Town of Monument police, depending on the specific allegations, it may be wise to have the Town's PD refer the investigation to a sister law enforcement agency. The determination of whether to handle the investigation internally or refer to another agency should be made on a case-by-case basis.

Please let me know if you need me to follow up on this in any way. Thanks.

**Joseph Rivera**

Direct: 303-493-6678  
[jrivera@mdbrlaw.com](mailto:jrivera@mdbrlaw.com)  
[www.mdbrlaw.com](http://www.mdbrlaw.com)

---

**From:** Joe Rivera <[jrivera@mdbrlaw.com](mailto:jrivera@mdbrlaw.com)>  
**Sent:** Wednesday, February 9, 2022 6:25 AM  
**To:** Mike Foreman <[mforeman@tomgov.org](mailto:mforeman@tomgov.org)>  
**Subject:** Fw: Attorney Client Privileged Communication -- 2d Message

Mike --

There is also a similar provision in the Town's code:

**9.12.040 - Harassment.**



A.

It is unlawful for any person, with intent to harass, annoy or alarm another person, to:

1. Strike, shove, kick or otherwise touch a person or subject him or her to physical contact;
2. In a public place, direct obscene language or make an obscene gesture to or at another person;
3. Follow a person in or about a public place or places;
4. Initiate communication with another, anonymously or otherwise, by telephone, in a manner intended to harass or threaten bodily injury or property damage, or to make any comment, request, suggestion or proposal which is obscene;
5. Make a telephone call or cause a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
6. Repeatedly insult, taunt, challenge, or communicate in offensively coarse language to another in a manner likely to provoke a violent or disorderly response; or
7. Commit any one or more of the acts specified in this subsection against the same person.

B. Any person who is convicted of, or pleads guilty or no contest to, a violation of this section shall face a minimum fine of fifty dollars (\$50.00) or maximum sentence of six months imprisonment and/or a seven hundred fifty dollar (\$750.00) fine.



18-9-111 Harassment--Kiana Arellanos law copy.pdf

120K

**MONUMENT TOWN COUNCIL  
SPECIAL MEETING MINUTES**

Wednesday, December 28, 2022 – 3:30 PM  
Monument Town Hall – 645 Beacon Lite Rd., Monument CO 80132  
Hybrid Meeting – Remote Participation Via Teams

**1. Call to Order, Pledge of Allegiance, Roll Call:** Mayor Pro Tem Elliott called to order the special meeting of the Monument Town Council and led those assembled in the Pledge of Allegiance. Elliott introduced Gregory Carlson, professional registered parliamentarian, and stated he will act as an advisor and assist with matters of Robert's Rules of Order. Councilmember LaKind introduced his personal legal counsel, William Reed with Sherman and Howard. Elliott identified Grant Van Den Jagt as investigative attorney and presenter during executive session. Elliott read the rules of the meeting. Proper notice of the meeting was posted for more than 24 hours in the designated posting locations. The following Council members were present for the meeting:

TOWN COUNCIL	TOWN STAFF
PRESENT: Mayor Pro Tem Kelly Elliott Councilmember Jim Romanello Councilmember Mitch LaKind Councilmember Darcy Schoening	Mike Foreman, Town Manager Laura Hogan, Town Clerk Drew Anderson, IT Thomas Tharnish, Director of Public Works
ATTENDED REMOTELY: Councilmember Ron Stephens	
ABSENT: Councilmember Redmond Ramos	

**2. Executive Session:** Romanello moved to enter executive session. LaKind made a point of order as executive session information has been leaked to certain members of the public and media and stated the Council can't go into executive session. Van Der Jagt stated he is obligated to present his findings in executive session. Van Der Jagt clarified that the executive session information was emailed to the members of Town Council at the start of the meeting. Carlson stated the chair must rule on the point of order raised. LaKind moved to review the report in public. Schoening seconded the motion. Roll call vote was taken and the motion passed 5 to 0. LaKind asked for time to review the report. Van Der Jagt asked for a motion to waive atty client privilege. Schoening moved to waive attorney-client privilege in the investigation pursuant to Resolution No. 95-2022. LaKind seconded the motion. Roll call vote was taken, and motion passed 5 to 0. Elliott announced a 15-minute recess at 3:45 pm. The meeting resumed at 3:59pm. Van Der Jagt attempted to present his report and upon mention of "the town manager", Foreman stated he was not notified the executive session was about him. Reed stated executive sessions regarding personnel matters require additional notification; a lengthy discussion ensued regarding this matter. Schoening moved to go into executive session to discuss a personnel matter. LaKind stated the Town paid for the investigative attorney to produce the report, not to provide legal advice. LaKind reiterated that employee(s) were not give the proper notice so Council cannot go into executive session for personnel matters. A discussion took place regarding the differences between executive sessions to receive legal advice and personnel matters as the relate to the matter at hand. Romanello moved to adjourn the meeting. LaKind seconded the motion. Roll call vote was taken, and the motion failed 2 to 3. Elliott, Schoening and Stevens opposed the motion. LaKind left the meeting at 4:18pm. Romanello moved to adjourn the meeting and no second was received. Schoening stated the contents of the investigation are now public and made a motion to adjourn. Romanello seconded the motion. Roll call vote was taken, and the motion passed 4 to 0. The meeting was adjourned at 4:23 pm.

Respectfully submitted,

Laura Hogan, Town Clerk

9:09



**Savemonument**

[Moderator](#) · Greg Coopman · 2h ·



use any of the town facilities. How can they call a board meeting when they are no board members? Why are they let into the building and meeting room? I can't just go to the building and into the meeting room. Call the police who is in the same building to escort them off the property. If they have concerns they can get their own expensed lawyers and file with the court.

15m Like



**Allison Smith Thompson**

[Alps To Rockies](#) they can't. They are illegitimate. They do think a lot of themselves. Mayor LaKind needs to fire the attorney. That IS within his authority to do so. If the attorney won't refund, if they've paid a retaining fee, the losing trustees need to foot the bill.

8m Like



**Alps To Rockies**

If they were out legally on election day, how can they even do this? This law that they are no longer board members on election day needs to be submitted to that lawyer. And the Town Manager needs to tell the staff not to pay any legal invoices. Period. As regular residents, they can not just go into the meeting room and call a meeting. They need to be escorted off the property by the police who are in the same building. I don't get this.

18m Like



Commenting has been turned off for this post.



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executive session, outside the eyes of the public,  
WITHOUT A TOWN ATTORNEY present. This is collusion  
by an unelected and rogue Board to discredit the Voice of  
the People of the Town of Monument.

 Like

 Comment

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  5

### Top comments ▾



**Joy McElwee Dunphey**

Wow. The board members who have been voted out, need to move on. You were voted out for a reason and if you are continuing to have meetings, the people of Monument would like to know and would like to attend or at minimum, see minutes of these meetings.

10m Like Reply



**Suzanne Weuve Schwartz**

1) Why was there this long "waiting period" to swear in the new board? Do it now. It's an "emergency." Two can play at this game.

2) Take away their keys to the building.

3) Hand them a box of their personal belongings and escort them out of the building .

4) Change the locks.

8m Like Reply

1 

Rules



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to the Town in regards to legal action, lawsuits, and ultimate reversals of their actions. Regarding the No2a campaign, there is actually state law that makes it a criminal offense to distribute knowingly false information and material with the intent of influencing or impacting votes.

41m Like Reply



**Danielle Steinhoff**

[Lori Reed](#) umm, they are responsible for all the insane, irresponsible building in this town, for one.

34m Like Reply



Write a reply...



**Tim Cameron**

How hard is it to get a couple of strong guys to show them the way out?

38m Like Reply



**Steve Petalas**

[Tim Cameron](#) hey all in good fun with you. Maybe we can wrangle up the beavers and tie logs to them and let the beavers go to town! 👍

9m Like Reply



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**monumenttownco.documents-on-demand.com**


4 comments


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 1

Top comments ▾

- 

**Laura Liposky McGraw**  
Thank you for posting!  
37m   Like   Reply
- 

**Chad Smith**  
Thanks for the heads up! I will try to make it.  
45m   Like   Reply
- 

**Patti Oringel Shank**  
Saw this, Ken. Another day, another farce. Guess we'll see what additional damage they decide to do and what lies they will tell.  
44m   Like   Reply
- 

**Jane Andersen McNally**  
I don't have skin in the Monument Town stuff but those people need to get over themselves and realize no one likes them and are DONE. One in particular needs to realize that they are so unliked by so many, they should move.  
48m   Like   Reply

Rules

 Write a public comment...   



9:03

5G



**Savemonument**

Greg Coopman · 2h · 🌐



**Barbara Knitt**

[Danielle Steinhoff](#) they are indeed responsible for irresponsible building, and are friends of the investigator THEY hired.

11m Like Reply



Write a reply...



**Tim Cameron**

How hard is it to get a couple of strong guys to show them the way out?

1h Like Reply

2



**Steve Petalas**

[Tim Cameron](#) hey all in good fun with you. Maybe we can wrangle up the beavers and tie logs to them and let the beavers go to town! 👍

1h Like Reply

1



Write a reply...



**Allison Smith Thompson**

It's an illegitimate board of butt hurt trustees who need to throw their weight around in a last ditch effort for power. They've no ability or authority to do so. I'm assuming Mayor LaKind can stop this?

37m Like Reply

1

Rules



Write a public comment...



Home



Friends



Marketplace



Watch






Notifications



Menu

11:59      •


  93% 

← **ML** Mitch La... @   ⋮

another attorney. We need to talk because you are starting to lose my support on this.

1:50 pm

Sorry, I thought you saw my email in the town email. Tomorrow

1:52 pm 


Ah, ok sorry I've been in meetings today. I did see it.

1:53 pm

Tue, Dec 20

I think if I have your agreement, we ask Mike to begin interviewing for a new attorney and go through standard procedures of requesting proposals. Your thoughts?

We need legal counsel, but will probably need to go with a contract attorney.

8:53 am 



Signal message



**STARZYNSKI  
VAN DER JAGT P.C.**  
Attorneys and Counselors at Law  
[www.VDJLAW.com](http://www.VDJLAW.com)



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**MEMORANDUM**

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TO: Town of Monument, Town Council  
FROM: Grant Van Der Jagt, Special Investigator  
DATE: December 28th, 2022  
RE: Report of Investigation Findings  
Privileged & Confidential Attorney-Client Communications

DO NOT PUBLISH OR DISSEMINATE PUBLICLY

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The Town Council of Monument, Colorado ("Monument") retained Starzynski Van Der Jagt P.C. to conduct an impartial and independent investigation regarding "some issues for the Board". This was a broad mandate given very little time. During the December 16<sup>th</sup>, 2022 Special Meeting, the Lead Investigator Grant Van Der Jagt, Esq. made the urgency of responses clear and material to the ability to conduct the investigation and addressed any possibility of conflicts of interests and the effect of the limitations of time to conclude the report to the satisfaction of the Town Council before accepting the appointment.<sup>1</sup>

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<sup>1</sup>Engagement Agreement authorized by the Town Council on Friday, December 19, 2022 in Resolution 95-2022, [signed by Mayor Pro Tem Kelly Elliott](#) on Sunday December 18, 2022 after she and the Lead Investigator had prodded Town Manager Mike Foreman on December 16<sup>th</sup>, 2022 without response until December 19, 2022, in which response, the Town Manager stated he needed an "original copy". After receiving another copy by email as an attachment, said the Town Manager sent it to "Joe to review" and 3 hours later followed up after prodding that Joe is reviewing it. (Email from Town Manager to Lead Investigator December 19<sup>th</sup>, 2022 9:04 am. & from Investigator to Town Manager prodding for a return signature 12:05 PM & 4:44PM). After reading Joe was reviewing, I wrote Joe to ask. No response was received. Eventually, an email was received from Mike saying Joe declined to review the agreement. Despite assurances from the Town Manager that he would cause no delay or obstruction, he has only caused delay and obstruction, having been one of the only persons to fail to provide any answers to any questions after the first full day of investigating. His obstructive conduct persisted throughout the investigation. I conclude that his conduct was more likely than not designed to obstruct my investigation. Finally, the Engagement Agreement was signed by Mike Foreman 12/21/22 just 4 full business days before the report was due. I recommend the Town Council hold the Town Manager in Contempt.

As an independent special investigator, I made it clear that I am not political in my findings. All of my findings are conclusions based on objective information and are not pre-designed to result in any particular outcome. The allegations given the Investigator primarily focused on lay terms of “Electioneering,” “Misappropriation of Funds”, “Failure to Supervise”, “Conflicts of Interest” and “Gerrymandering”, leaving the door open to anything else the investigator finds noteworthy or concerning, with a primary focus on education rather than penalty.<sup>2</sup> These allegations were all exclusively brought to the Lead Investigator by members of the Town Council pursuant to the Resolution. The scope was not limited to an internal investigation, allowing for the interview and investigation of private citizens and including other legal issues the Investigator discovers during the course of the investigation.

During the investigation, everyone interviewed expressed support for a Home Rule Charter as a concept, however, the focus of the investigation was on whether the Home Rule Charter and election were legally fair in procedure and substance. Nothing in this investigation should be understood as an affront against the concept of Home Rule Charter, or an effort by establishment versus grassroots. To the contrary, it is not a political piece. It is in essence a Constitutional audit of the Charter, the election and the internal workings of the Town of Monument related thereto.

The primary reason an attorney was required for a Special Investigation was that much of the information requested was expected to be confidential and not for public consumption, including attorney-client privileged information and executive session privileged information. Therefore, information gleaned from privileged sources, has all referenced material logged on a privileged log, while generic conclusions about the data are contained directly in this report. Because of the potential for conflicts of interest with the town attorney, each person asked to provide documents was additionally asked whether they had been represented by the town attorney, and if so, were provided a privilege folder to sort information they subjectively thought was privileged. Access to this data is controlled exclusively by the investigator and its employees or contractors as authorized by the engagement agreement and subject to its independent duty to protect confidential information.

All self-sorted data is secured and marked appropriately to reflect the type of privilege asserted. Should the Town Council decide to publish any or all of this investigation to the public, it should be made known in advance that anything based on privileged or confidential information should first be redacted to protect all privileged data and confidential data sources. The investigator wrote the report presuming it would be published, and therefore drafted the document carefully not to reveal such information.

Some information was gathered, which the investigator did not use in the report. No decision of the Town Council can overturn my own independent decision to keep certain information confidential, which includes all information provided by the Town’s former Attorney, who claimed

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<sup>2</sup> During the December 16<sup>th</sup>, 2022 Special Meeting, the Lead Investigator explained that certain observations could trigger an affirmative duty to report violations of laws, particularly to the Attorney Regulation Counsel should the Town’s attorney be implicated, and therefore could not limit the review to education only.



her privilege at the time of publishing continues unwaived. If the Town Council authorizes that information to be released, the Town can obtain that information from other sources.

The format of my report blends the Issues, Rules, Analysis and Conclusions into a simple to read memorandum. You will find important rules and analysis with reference material in the footnotes, leaving the majority of the body of my report for the summary.

#### Town's Questions [list of the issues]

##### 1. Distribution of Public Funds for Promotional Material

- a. Did the Town Manager himself, or through others at his direction, authorize the marketing and/or funding of promotional materials?
  - i. Use of the Town Seal
  - ii. Absence of required language
  - iii. Clerk Reporting Issues
  - iv. Common Art
  - v. Conflict of Interest
  - vi. Attempt to Conceal or Obstruct Investigations
  - vii. Cure
- b. Did the Town attorney herself, or through others at her direction, authorize the marketing and/or funding of promotional materials?
  - i. Use of the Town Seal
  - ii. Absence of required language
  - iii. Tracer Reporting Issues
  - iv. Common Art
  - v. Conflict of Interest
  - vi. Attempt to Conceal or Obstruct Investigations
  - vii. Cure
- c. Did the Town Attorney herself, or through others at her direction, authorize the Charter language and certify that no laws were violated therein, while acting as Counsel for the Charter, particularly Gerrymandering? And are there such legal issues?<sup>3</sup>

#### Summary of Findings

The Town has requested a report of the findings of the investigation. These findings are based only on the documentary and recorded evidence collected or reviewed and the witness interviews

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<sup>3</sup> There were additional areas of concern identified that should be addressed. First, during the course of my investigation, I was told in person that there had been regular violations of the open meetings laws. Second, I observed what can only be viewed as a hostile work environment and later uncovered evidence of several severe instances of sexual harassment. Third, meetings appear to have been run afoul of Robert's Rules for so long that no one actually knew or respected proper procedure. I recommend education to be provided on each of these topics to facilitate better conduct for the public. Also, the Charter Commission was subjected to the open meetings laws, but did not audio/video record its meetings like all of the other town business had required, leaving gaps in the record of what and how the Charter was developed. Finally, several reports were made that the Town Manager and a person in HR are in a relationship, which would explain some of the above, as there is no record of any action taken to curb misconduct by those who supported the Charter against those who did not, and which resulted in elected officials resigning to avoid further sexual harassment. Removing political adversaries by allowing a hostile work environment is unprofessional and should never be tolerated.

conducted in the course of this rapid investigation by end of business on December 26th.<sup>4</sup> Although I consider the investigation sufficient for making the conclusions herein, it is by no means comprehensive. As stated at the onset of this investigation, more time and resources are needed to fully investigate what happened and how, as well as the legal ramifications and damages caused, as well as how to best address the educational aspects so that the same mistakes are not repeated in the future. I was allowed a tight budget and less than 7 business days (From December 19-December 28th) to complete this investigation. All fact gathering concluded at midnight on December 26th, allowing just 2 days to draft the final report.

The Town requested that this investigation answer three categories of specific questions drafted by the Town Council. Therefore, the findings are presented below, organized according to the overarching subject and then by specific sub-questions asked by the Town.

In reaching these findings, I have applied a “preponderance of the evidence” standard, rather than the higher standard of “beyond a reasonable doubt” applicable in criminal investigations and the “clear and convincing evidence” standard imposed on some civil claims by statute. A preponderance of the evidence standard requires a finding that something is more likely than not, or that 50.01% of the evidence weighs in favor of a finding. A preponderance of the evidence standard is the most common governing standard in civil claims and, relevant here, is the standard that would govern many claims implicated by the Town’s questions. My selection of this standard is not a statement about whether I believe there is any criminal guilt based on the standard “beyond a reasonable doubt”, or civil liability based on “clear and convincing evidence”. In fact, in many of the instances of misconduct identified, I do believe there is criminal culpability for certain staff and recommend that the Town Council pursue such additional investigation and prosecution as it deems necessary or appropriate.

On the issue of Using Public Funds, I found that the Town Attorney is more likely than not culpable, whether by gross negligence or failure to supervise because she reportedly authorized the payment without knowing the content of the invoice at hand. While she insists she did not have mal intent, the Rules and Statutes dictating how attorneys handle money for others are based on “Strict Liability”. That is to say, if the money was improperly applied, culpability follows regardless of intent. The amount of public money spent was substantial enough to impact the election outcome. The money spent by the Town of Monument (“TOM”) was the “only” money spent on the Home Rule ballot question. Equally concerning was the manner in which the issue was “cured”.<sup>5</sup> One can not embezzle funds from a trust account for one’s self-interest and then take funds from another source not available previously to cure the mistake, and then doctor the required Clerk filings to cover up the mistake after the error was caught, and avoid culpability entirely. Although the Town Attorney is culpable, she is not alone. The Town Manager has failed to set up proper accounting procedures to prevent this type of mistake from happening, and thus

---

<sup>4</sup> My first interview began just after the hearing on Friday December 16th, when I met with Darcy Schoening to discuss her witness testimony over dinner. Once finished, I interviewed Mayor Pro Tem Kelly Elliott at the same restaurant. My last interview ended at 11 PM on December 26th, 2022. Some individuals were given the opportunity to provide information, but refused.

<sup>5</sup> To say that a violation of trust was cured by replenishing the funds with other funds and updating reports, is to ignore the fundamental breach of trust. This “curing” occurred only after public scrutiny, not born of honesty or the desire to do the right thing. And raising the first 98% of money needed for any ballot measure is difficult because that is where the risk lies. Offsetting stolen money after the measure gains momentum is not as difficult as raising the seed money to start the venture.

I find the Town Manager also culpable for failing to properly supervise. Ultimately, the efforts of the 2A Charter, Town Attorney, and others to cure the misappropriation of funds do not satisfy either the FCPA (Fair Campaign Practices Act) or SOS (Secretary of State) rules for curing a reporting or spending transgression. While a fine would potentially be in order for a non-attorney-represented organization, the issues in total created by the sequence of capricious errors and omissions ultimately undermined the procedural integrity of the entire 2A election as further demonstrated by the other issues identified.

On the issue of Conflicts of Interest,<sup>6</sup> I find that the Town Attorney has entered into too many roles as an attorney to avoid the conflicts of interest and failed to obtain sufficient written informed consent from each of the parties she advised.<sup>7</sup> I heard from staff that she had represented them in personal capacities, official titles, as a quorum, as Town Council, as the Board, as Town Manager, as the Town of Monument, as a Charter Committee<sup>8</sup>, as a Charter Commission, and more, all without a written engagement or disclaimer of conflicts of interest. In my estimation, it is impossible to sufficiently disclaim the conflicts of interest in advising a Home Rule Committee on the legality of the Charter, the funding of that Charter, the Advertising of that Charter, and also upon its passage be the attorney who is to be retained through that charter by the new government. One can only conclude that her misappropriation of funds and failure to advise on material substantive or procedural legal matters related to the Charter was caused by her blinding self-interest, rather than her mistake or omission. Education being the primary motivation of this investigation, I recommend that the Town seriously consider hiring several different law firms to represent the town's various entities, rather than lumping them all into one person or one firm.<sup>9</sup>

On the issue of using the Seal, failing to provide required payor information on promotional materials, and failure to properly report expenditures to the Town of Monument, I conclude that the Charter Committee, including the Town Attorney, are more likely culpable than not. Campaign

---

<sup>6</sup> [A conflict of interest may arise when representation of a client affects a lawyer's loyalty and independent judgment in the lawyer's representation of another client, former client, or third person \[C.R.P.C. 1.7 n1\]. If the lawyer identifies a conflict, the lawyer must either decline the representation or obtain informed consent. See § 1.03\[4\], \[5\], below. Conduct violating C.R.P.C. 1.7 in conjunction with other disciplinary provisions has been held sufficient to justify disbarment \[People v. Calvert, 280 P.3d 1269, 1290 \(Colo. O.P.D.J. 2011\)\].](#)

<sup>7</sup> The Town Attorney regularly [advises individuals](#) in Monument government but the contract with the town does not provide for that service. Instead, she is to [represent the Town](#). Because of the conflict, the advice often serves her self interest in conflict with what other [disinterested attorneys recommend](#) based on the same facts. On her application to be Town Attorney, she touts the expertise her firm has on many of the issues raised by this investigation, including open meetings laws.

<sup>8</sup> The Charter Committee is an Issue Committee as defined in [Colo. Const. Art. XXVIII, Section 2](#):

“(10)

(a) “Issue committee” means any person, other than a natural person, or any group of two or more persons, including natural persons:

(I) That has a major purpose of supporting or opposing any ballot issue or ballot question; or

(II) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

(b) “Issue committee” does not include political parties, political committees, small donor committees, or candidate committees as otherwise defined in this section.

(c) An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.”

<sup>9</sup> Other communities recognize the inherent conflict between their duties to the public and their role to the town. Larimer County, Colo., Code § 2-71 requires members of the Larimer County Board of Commissioners to represent unconflicted loyalty to the interests of the citizens of the entire county and states that this accountability supersedes any conflicting loyalty such as that to any advocacy or interest groups, or membership on other boards or staffs and the personal interest of any board member acting as an individual consumer of the county government's services. § 2-71(1). [No Laporte Gravel Corp. v. Bd. of Cty. Comm'rs, 2022 COA 6M, P1](#)

Finance Laws on reporting use “Strict Liability” as the test for culpability for improper filings.<sup>10</sup> The town attorney has presented no valid excuse for these errors and omissions, and in the case of Clerk filings, none is available. The appearance of a town seal on an issue committee’s private promotional material is an “endorsement” by Colorado Law.<sup>11</sup> The fact that it was intentionally, by mistake, or otherwise improperly authorized, renders the document void as a materially fraudulent misrepresentation to the public.<sup>12</sup> The placement of the seal was in my opinion either wantonly intended to misrepresent a Town endorsement to the voting public, or at a minimum the drafters callously disregarded the misrepresentation of the town’s endorsement on the matter at hand in violation of electioneering communications [Colo. Const. art. XXVIII, § 6](#).<sup>13</sup> This error on the Town attorney’s part, ultimately corrupted the procedural legitimacy of the entire 2A election and led to one of the most scandalous elections in Monument history. Many members of the public attested that they voted for 2A in part because they incorrectly understood 2A to be “endorsed” by the Town Council.<sup>14</sup>

The [first meeting](#) of the HRCC was November 29th, 2021, held in the TOM boardroom. All HRCC members were present. Town Manager Mike Foreman was present. Mayor Don Wilson was present. TOM Attorney Joe Rivera was present. Town Clerk Laura Hogan was present. Very curiously, none of the Town Council was present because they were expressly told they were not allowed to observe or participate in any way.<sup>15</sup> Also, I found it curious that no developers or owners

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<sup>10</sup> See Colo. Rev. Stat. § 1-45-108 for TRACER reporting laws and definitions.

<sup>11</sup> Colorado law defines the mere presence of a corporate seal as an endorsement. “Similarly, the authorized affixing of a corporate seal bearing the corporate name to a contractual writing purporting to be made by the corporation may have effect as a signature without any reference to the law of sealed instruments.” [C.R.S. 4-2-203](#)  
In [Hayden v. Aurora](#), 57 Colo. 389, 393, the seal was concluded to be a necessary part of a government endorsement. “The bonds were signed by the mayor, attested by the town recorder under the corporate seal, and countersigned by the town treasurer.”

<sup>12</sup> A town seal is a corporate seal. In cases of unauthorized use of corporate seals, the document is rendered void, so no benefit is realized by the fraud. If a person has been fraudulently deceived about the nature of a document, so that he or she is excusably ignorant about what has been signed, courts recognize “fraud in the factum.” See *Meyers v. Johanningmeier*, 735 P.2d 206, 207 (Colo. App. 1987) (explaining relationship between statutory defense against holders in due course of negotiable instruments and the common law defense of fraud in the factum). Unlike other types of fraud, fraud in the factum yields an instrument that is void, and not merely voidable. [Svanidze v. Kirkendall](#), 169 P.3d 262, 266. Therefore, the 2A issue committee, which resorted to misuse of the corporate seal of the Town should be disallowed any benefit therefrom.

<sup>13</sup> “Callous Disregard” is a concept applied sparingly in law as an aggravating factor when considering the severity or reprehensibility of a wrongdoer’s conduct. Some courts have found that an individual acted with callous disregard when the individual knew or should have known the conduct was wrong. See, e.g., *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 640-43 (1976) (upholding sanction under rule requiring “willfulness, bad faith or fault” where trial court found the party’s violation of the rule showed “flagrant bad faith” and “callous disregard” for the party’s duties under the rule) (quotations omitted); *Ramsden v. United States*, 2 F.3d 322, 325 (9th Cir. 1993) (finding callous disregard for criminal defendant’s constitutional rights where the government admitted not obtaining a warrant before conducting a search, the government had the opportunity to obtain a warrant, and the government chose not to obtain a search warrant); *People v. Tucker*, 755 P.2d 452, 452-53 (Colo. 1988) (finding “callous disregard for the integrity of the judicial process and for the substantive laws of this state” when defendant married his second wife knowing that the divorce from his first marriage was incomplete). Courts also have found callous disregard when an individual was cruelly reckless and indifferent to whether his or her actions would cause harm or would cause a particular type of harm or harm to a particular individual. E.g., *People v. Fei Qin*, 470 P.3d 863, 871 (Colo. O.P.D.J. 2016) (severity of assault revealed perpetrator’s callous disregard for the victim’s welfare and “indifference” to whether the assault would harm a child held by the victim); *Pettit v. Namie*, 931 A.2d 790 (Pa. Commw. Ct. 2007) (distinguishing between willfulness and callous disregard). Courts consider whether a defendant exhibited callous disregard only after finding particular wrongdoing giving rise to legal liability. As discussed elsewhere in this report, I find it more likely than not that the Town Attorney did engage in conduct that would give rise to legal liability. Because that prerequisite to finding callous disregard is present, I find it more likely than not that the facts do support a finding that the Town Attorney’s conduct with respect to the Gerrymandering and Misrepresentation of the Endorsement and Seal of the Town to the Public was aggravated by callous disregard.

<sup>14</sup> The Investigator collected Affidavits from citizens attesting to being confused by the endorsement of the ballot measure, lack of attribution and being disenfranchised by unfairly being excluded from the redistricting process of the Charter. These Affidavits are available for inspection in the evidence folder.

<sup>15</sup> Link to [Affidavit](#) by Kelly Elliott



of water rights were in attendance.<sup>16</sup> Attorney Corey Hoffman with Hoffman, Parker, Wilson, & Carberry gave a presentation to the HRCC. The presentation identified what should and should not be included in a Home Rule Charter. He mentioned topics such as minimum age for an elected official, establishing meeting procedures, wards/districts, and conduct of executive sessions. At that meeting, Commissioner Joel Lusby asked for better publicity and campaigning to pass the charter. Hoffman stated, “real world constraint, once ballot issue is set, town cannot spend any money for or against.”

A little over three months later, at the [March 3rd](#), 2022 HRCC meeting, Mike Foreman informed the HRCC on the role of the town once the charter is brought to the Board of Trustees and placed on the ballot. He stated, “any printing must be completed by May 18th. [Foreman] discussed the need for an issue committee. Someone outside the Charter Commission should be the Chairperson. Laura Kronick may be able to take on this role.” Foreman’s statement in this March 3rd HRCC meeting clarifies that he is aware of electioneering laws for municipalities. Kronick did, indeed, assume the role of registered agent for Citizens for Home Rule.

On [March 20th, 2022](#), Mike Foreman emailed a link to a [Canva account](#), which is still active and shared by both [Foreman and Sana Abbott](#). The link contains a mailer and a door hanger, which clearly states vote “YES on Home Rule.” The [hanger created](#) within the Canva account is the exact same [door hanger that appeared on Schoening’s door](#) on October 8th that she later flagged as electioneering with the town seal. Brandy Turner forwarded Foreman’s email with the Canva link he shares with Sana Abbott to Ashley Watts on March 29th for ongoing edits, which lasted until April 4th. On April 4th, Brandy Turner sent the revised artwork to Mike Foreman and Laura Hogan and asked, “Can you please forward this to the HRCC fir [sic] review. I dud [sic] already now [sic] that we need to name and add the name of the Facebook page.” Mike Foreman was not only aware of the artwork in question; he was actively creating it and dispersing it to the HRCC. Since Mike Foreman directly benefited from the Charter, his ongoing help with artwork approval combined with the misuse of taxpayer funds to pass the Charter further corrupted the November 2022 TOM election.

Artwork was forwarded by Mike Foreman to the HRCC on April 4th because the HRCC was set to meet April 6th to approve the artwork contained in the April 4th email. A public agenda for the [April 6th HRCC meeting](#) exists on the TOM website. The agenda states “Review graphics for the information mailer, approve or send back for edits.” However, minutes for the April 6th HRCC meeting are not available on the TOM website. There is no record of the artwork discussion on electioneering materials. TOM Clerk Laura Hogan states [she did not receive minutes](#) for the last two HRCC meetings, including April 6th. The HRCC did not record meetings.

HRC Commissioner Sana Abbott emailed and created artwork for electioneering materials such as door hangers and signs [with Mike Foreman](#) and directed the final materials to be printed at Tri-Lakes Printing. Sana Abbott gave Kathy at Tri-Lakes Printing the final approval for artwork clearly stating “YES on 2A Home Rule” on April 15th, 2022. Sana Abbott emailed the invoice for \$2512.50

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<sup>16</sup> Developers and owners of water rights explained to me that they were not afforded an opportunity to be heard in relation to their opinions on district lines. They did not receive any notice of meetings.

from Tri-Lakes Printing to Brandy Turner, Home Rule Commissioner, and Mike Foreman at 3:14 PM on April 18th, 2022. The [Board of Trustees met](#) April 18th, 2022 at 6:30 PM. At that meeting, Kathryn Sellars of Hoffman, Parker, Wilson, & Carberry presented the Home Rule Charter to the Board of Trustees ("BOT"). Steve King presented the bulk of the more detailed information, and the BOT voted to place the Home Rule ballot question onto the November 8th, 2022 ballot. The April 18th BOT meeting adjourned at 8:12 PM. Mike Foreman forwarded the Tri-Lakes Printing invoice (dated April 15th) from Sana Abbott to the TOM Finance department and stated "approved to pay" at 9:21 PM on April 18th, 2022, little over one hour after the BOT concluded their meeting and voted to place the Home Rule Charter onto the ballot. The timing of Foreman and Abbott's actions, combined with Corey Hoffman's clear instructions to be wary of accidentally electioneering, point to a clear scheme to deceive the BOT and the voters.

The misappropriation of funds and town assets scheme continued into the Spring and Fall of 2022, and Mike Foreman covered it up. On May 11th, [Sana Abbott emailed Mike Foreman](#) and Laura Hogan and asked them to inform the rest of the HRCC, "I have finally picked up the door hangers, as well as the yard signs today from Kathy. I need to know how you want them dispersed, we need to discuss this. I am proposing a dinner meeting at [La] Casa Fiesta for the board, as well as Mike and Laura if you are able to join us." It is clear the Home Rule Commission had the strong support of TOM staff. Later on in the same email to Mike Foreman and Laura Hogan, as Abbott proposed further use of taxpayer dollars to help pass a ballot issue, she directly used said language, "Also, we need to get dates to support the passing of the HRC and speak to the public/answer questions etc...I am proposing 2 dates each for the months of August, September, October." Those signs were likely stored at Abbott's home until they were dispersed with the other electioneering materials in early October, 2022.

On October 8th, 2022, the first known "YES for Home Rule" door hangers began arriving on Monument doorsteps. On that day, Councilwoman [Schoening emailed requests](#) for a cease and desist to Mike Foreman and Joe Rivera due to the town seal being used in electioneering. The Attorney and Town Manager did not respond to Schoening's complaints, so she again demanded this electioneering with the town seal be investigated and/or stopped in a [second email](#) on the morning of October 11th. On October 11th, Both Joe Rivera and Mike Foreman called Schoening in separate calls in the afternoon to inform her the town seal is neither copyrighted nor protected. Schoening asked the Town Manager if he approved the use of the town seal, to which he said that he did not. On October 11th, Mike Foreman and Joe Rivera were properly alerted to the improper use of the town seal. At no time during these phone conversations did Rivera or Foreman inform Schoening that the materials in question were illegally paid for by the Town of Monument, a fact that was known to the Town Manager at the time of the calls since he directly and indirectly created the electioneering materials Schoening was calling about. Schoening states that at the time of the calls, she assumed the Citizens for Home Rule Committee had improperly used the town seal; she didn't know at the time that the TOM had used the seal on materials it illegally donated to an issue committee. Foreman made no mention to Schoening of any involvement on his behalf in the door hangers in question. This lack of transparency leads the investigator to believe that the facts were purposefully hidden from the Town Council. It was not until Mayor Pro Tem Elliott [filed a complaint](#) on October 21st against the Citizens for Home Rule

Committee that the Council was made aware that the marketing materials in question were purchased by the Town of Monument.

Laura Kronick “cured” Elliott’s complaint on November 20th by [amending her original filing](#) to state that Citizens for Home Rule received an in-kind contribution of \$2500 on May 6th of 2022, which included “door hangers, signs...” from the Town of Monument. Several council members raised issues with this contribution, as municipalities are explicitly prohibited from contributing to issue committees. The TOM paid invoice A-82975 from Tri-Lakes printing dated April 15th, 2022 [with a check](#) on April 29th, 2022. At the December 13th Council meeting, Citizens for Home Rule registered agent Laura Kronick stated in [public comments](#) (55:00) that the late filing was an “innocent mistake.” Kronick also stated the SOS had investigated this case and dismissed it. The SOS does not investigate such matters, but [this lie was also predicated](#) by [Steve King](#) (53:00) and used by several of the HRC Commissioners in their public comments or social media posts to negate the need for an investigation of misappropriation and the issues stemming from it. The disclosure of the in-kind donation of electioneering materials to Citizens for Home rule by the TOM, equating to misappropriation of funds and violation of state statute by the TOM, was not disclosed until a complaint was “cured” by Laura Kronick, filing agent, on November 20th, 2022. The invoice date and amount are still filed incorrectly; the date of the in-kind donation occurred on April 15th, and the filing states May 6th as reported by Kronick, and the total of the invoice is \$2512.50. Kronick’s filing states the in-kind value of \$2500.00 on her filing. The actual total invoice amount, \$2512.50, comprises 99.8% of the total amount reportedly spent by Citizens for Home Rule to convince voters to vote YES on Ballot Issue 2A. This illegal contribution undoubtedly had a direct impact on the outcome of the Home Rule Charter ballot question in the November 8th, 2022 election.

On December 5th, the Town Council discussed the contribution at length in the [Executive Session](#). According to witness statements from Darcy Schoening, Schoening asked Sellers “Why did you not tell them [CHARTER COMMISSION] these signs were illegal?” Sellers replied, “my only job was to oversee the charter. I didn’t notice signs or invoices.” Sellers said, “the BOT approved the expenditure April 18th.” Sellers’ statement was immediately disproven. Schoening said, “I checked the minutes on my phone. No, we did not. We would never approve misappropriation.” When Schoening asked who approved this, Mike Foreman said he did not know. Only educational materials were approved, according to Mike Foreman. This was clearly a lie, as Foreman helped create the electioneering materials in question per emails, Canva links, and testimony obtained during this investigation. Schoening told Sellers she is incompetent, and this happened under her watch. Sellers replied, “My only job is to help write the charter.”

According to statements from Mayor Pro Tem Kelly Elliot, Kathryn Sellars alleged during the Executive Session that the Council approved the misappropriation of funds on April 18th, 2022. When Schoening looked at the minutes for that meeting and proved that statement to be untrue, Sellars looked at Mike Foreman and said “You told me they did...” At that point, Foreman shrugged in alleged confusion. During the executive session, Councilman Ramos demonstrated extreme aggression and hostility, and Councilman LaKind repeatedly tried to stall the investigation by making assertions that the investigation could be completed by the future Council, which

assumed office January 3rd. Nothing was resolved during the Executive Session, aside from the fact that Kathryn Sellars recused herself from future meetings regarding the electioneering. The exact statements made by Sellars, Foreman, and Councilmembers during the December 5th Executive Session are unavailable because the TOM has not complied with C.R.S. Section 24-6-401 and 24-6-402; Kathryn Sellars stopped recording at the beginning of the December 5th Executive Session. Furthermore, any Executive Session not recorded (except for attorney client privileged information) by the TOM violates OML, and the number of violations should also be investigated.

The Town Council met again on [December 13th](#) and again discussed the same issues that were previously discussed in Executive Session. Ramos was extremely aggressive in his stance against an investigation. He was combative and rude throughout the meeting and alleged that an investigation was only occurring out of “spite.” LaKind raised the issue with the appointment of Gesler as Special Attorney, which was likely a delay tactic.

Concerning the issue of misappropriation of funds in the purchase of electioneering materials by the TOM, an overwhelming amount of evidence and statements support that there was a deliberate attempt to purchase the materials in question with TOM funds, and then to hide that purchase from the public and the BOT. Sana Abbott and Mike Foreman at the head of the conspiracy created a Canva account to direct the artwork collusion and created the electioneering materials for Ballot Issue 2A and then regularly corresponded about electioneering with taxpayer dollars and placement of said electioneering materials throughout town. The actions of Sana Abbott, Brandy Turner, and Mike Foreman equated to a misuse of funds in that the signs clearly stated “YES” on Ballot Issue 2A. Corey Hoffman warned the TOM in a public meeting about the difference between educational materials and electioneering on November 29th, 2021, yet everything that transpired since that HRCC meeting went directly against his advice. The actions of Mike Foreman, Sana Abbott, Brandy Turner, and the HRCC as a whole are a clear misappropriation of funds, and they covered up their actions throughout March-November of 2022.

On the issue of intimidation and the creation of a hostile work environment, several members of the Town Council, staff and even citizens indicated to me that they felt uncomfortable answering my questions because they feared retribution.<sup>17</sup> During the investigation, Town Councilman Ramos has been [cyber-bullying](#) the Investigator and witnesses with a chilling effect on social media, which may have been criminal in nature.<sup>18</sup> A close associate of Mith LaKind, Ryan Levier, whom LaKind recommended for [appointment to the Home Rule Charter Commission on January](#)

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<sup>17</sup> Whether a potential witness has been subpoenaed at the time of defendant's intimidating contact is irrelevant. The witness intimidation statute, Colo. Rev. Stat. § 18-8-604, expressly forbids intimidation, not only of a witness, but also of one whom the accused believes is to be called as a witness in the future. All that is necessary to complete this crime is to presently attempt, by threat of harm or injury, to influence someone to withhold testimony at a future time. It is clear that "unlawfully" refers to the time when the testimony is to be actually withheld, not to the time of the contact. [People v. Proctor, 194 Colo. 172, 173](#) Several witnesses had committed to providing affidavits of their testimony and after seeing rants by Town Councilman Ramos on social media decided not to provide those affidavits to me.

<sup>18</sup> The Investigator Recommends Sanctions of Town Councilman Ramos for [intimidating witnesses and the investigator](#) during the investigation using a public rant against the investigation, witnesses, council people and the investigator. The Town Council should additionally consider referring the matter for criminal prosecution or publicly censuring his conduct as unbecoming of a sitting councilman.



[3rd](#), but was not appointed, [attacked and spread outright lies](#) about several Councilmembers between October and December of 2022 on social media and within his Substack account, which he emailed to Monument residents. [Several false claims](#) repeated by Levier, such as [Schoening](#) being a felon and the current Council not being a valid and elected body, also point to criminal behavior by Levier. This repeated, chilling intimidation by LaKind's close friend Levier created a [hostile environment for voters/residents](#) and elected officials. Many residents told me they feared retaliation by LaKind and Levier in the form of [social media posts](#) or [Substack articles](#) and were consequently afraid to speak on the record. [Steve King](#) participated in ongoing cyber-bullying, posting on facebook "we are waiting" amongst a dozen other [threatening posts](#). [Sana Abbott](#) also participated in the ongoing cyber-bullying, adding to the hesitance of residents to speak in this investigation.

Witnesses said they observed backroom dealings and violations of open meetings laws, where the Town Council was meeting without public access. A few women reported sexually motivated intimidation over the course of past years.<sup>19</sup> Some of the witnesses admitted to participating in such conspiracies and backroom dealings themselves, confirming the allegations. While violations of the open meetings laws were not the primary mission of this investigation, it is an aggravating circumstance because it demonstrates the ability of certain members to co-conspire against others in secret. In my judgment, these bad actors should not be afforded the benefits of their tainted actions, and I recommend that the Town seriously address the culture among the staff and Town Council with educational materials, so as not to continue running afoul of the Open Meetings Law (CRS 24-6-4). And when the conduct results in misogyny or a hostile work environment, the TOM should refer it for criminal prosecution.

On the third issue of the Kathryn Sellars' supervision over the Commission and the Charter's legality, and the broader question of whether the Charter and the election was legal, I outline the legal standard and apply the facts as follows:

- i. Evidence of Addressing whether Attorney Kathryn Sellars certified the legality of the Charter: Despite my best efforts to obtain the information necessary from the Home Rule Commission, the Home Rule Commission's Attorney (now also known as the "Former Town Attorney" and Kathryn Sellars),<sup>20</sup> and the Home Rule Committee,<sup>21</sup> no evidence was gathered directly from Kathryn Sellars before her resignation, which could support or defend whether she herself addressed or certified the legality of the Charter.<sup>22</sup> All members of the

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<sup>19</sup> After a citizen made an inappropriate comment about sex and a councilwoman, Councilman Mitch LaKind responded with a sexually offensive statement on the dais about that councilwoman. After [receiving a complaint](#), the Town Manager did nothing to stop the sexual harassment of a Councilwoman and allowed the hostile work environment to continue, suggesting the councilwoman report it to police instead.

<sup>20</sup> Normally an investigator would use titles as a courtesy to refer to individuals in government, however due to the resignation of the Town Attorney, I determined it was safer to address her by name than to risk confusion with other former Town Attorneys.

<sup>21</sup> The Charter Commission consisted of Chair Steve King, Vice Chair Matt Brunk, Treasurer Joel Lusby, Secretary Brandy Turner, Secretary Janet A. Ladowski, Sana Abbott, Jennifer Coopman, Wayne Laugesen, Shannon Clark. The Charter Commission crafted the language of the Charter and is a different entity from the Charter Committee, which was the issue Committee responsible for the promotional materials that contained fraud, excluded attribution and failed to properly report campaign contributions.

<sup>22</sup> Email sent to Steven King requesting all communications between the Home Rule Committee and the Attorney Kathryn Sellars was sent on 12/19/2022. At the time of publishing, no response was received. It is recommended Steven King be publicly censured for obstructing an official governmental investigation. An email for information was sent to Attorney Kathryn Sellars, the "Town Attorney," requesting information on 12/20/2022. At the time of publishing this report, no information was received. I recommend

Commission who were asked for information did not provide any information. However, others familiar with the process, including Mike Foreman, did provide affidavits that the attorney provided some legal oversight but declined to say whether she certified the Charter's legal compliance. After inspecting the minutes of the Commission, it is clear in 8.2 that the attorney discussed her own role as future counsel, and offers a clear statement that the language of the Charter is approved, "as is". In response to my inquiry for more details about the meeting, the Town Clerk explained that unlike other town public meetings subject to sunshine laws, no complete video or audio recordings were made of the Commission meetings, nor are they required.<sup>23</sup> This is the only known anomaly to the Town's standard procedure of recording public meetings.

- ii. I find by the preponderance of the evidence that the Town Attorney Kathryn Sellars did certify the language as being legal, but did so without doing sufficient research to make such a conclusion. Since several people had raised concerns about gerrymandering, Kathryn Sellars knew gerrymandering was an outstanding issue and was therefore at least negligent in failing to address the concern.
- iii. Does the Home Rule Charter violate Gerrymandering Laws?
  - 1. The US Constitution requires that a court consider any election process involving redistricting to be "fair and effective."
  - 2. In Article XX of the Colorado Constitution, home rule gives local municipal governments the power to make legislation relevant to their areas, exercising control over issues of "local concern" while minimizing state intervention in municipal affairs. The municipality can make stricter rules, for example by imposing a 3% deviations instead of 5%, however, it can not allow for redistricting in violation of US or State Constitutional limitations on Gerrymandering which are broader, for example 16% instead of 5%.
  - 3. [Colo. Rev. Stat. § 2-1-102](#) (2011) defines the Colorado standard for "fair and effective" redistricting of congressional districts.
  - 4. [Hall v. Moreno, 2012 CO 14](#) sets forth a 6 part test for the Colorado standard:

In determining whether the process passed or failed, I again used the preponderance of the evidence standard, though I would have the same conclusion using the clear and convincing evidence standard as well.

- a. Does the Charter "maximize fair and effective representation for all citizens?" FAILED. There is no redeeming reason to pass the effort, which substantially failed the other five tests<sup>24</sup>

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publicly censuring her for obstructing an official government investigation. Sana Abbot also has not responded to the document request, thus I suggest publicly censuring her for obstructing an official government investigation.

<sup>23</sup> The repetitive feeling of having private meetings that are not recorded continually gave me the impression that everyone is involved with backroom dealings within the town. From the instant I stepped forward to be interviewed for the job until my last communication, I witnessed shady conduct and bizarre body language, including rooms that go silent when I enter and pupils that contract to extremes upon sight of me. In light of this and other findings, I can not in good faith claim the process was fair. It is more likely than not that a small to medium sized group of people in the public and in Town Hall manipulated and conspired within the Charter process to make it as unfair as possible with the hopes of benefiting personally and not getting caught. Reports of terrible behavior going unchecked and staff resigning due to intimidation simply highlighted my own intuitive and observed suspicions of malicious collusion.

<sup>24</sup> Worthy of additional note are the resulting substantial disparities in water & development rights created by the redistricting, which was raised to me by several citizens concerned about the unfair election process. They claim they were never given the opportunity to be heard prior to the Home Rule Charter being approved to be placed on the ballot. I interviewed several developers who said they had a substantial interest in the issue, but were never afforded a fair opportunity to participate or be heard prior to districts being formed and the language being approved for the ballot.

- b. Was it subjected to an open and fair process? FAILED.<sup>25</sup>
  - c. Did the Charter Committee abuse its discretion? YES. FAILED.<sup>26</sup>
  - d. Was the Charter Committee reasonable in placing its concern for present communities of interest above a mechanistic attempt to minimize the disruption of existing district boundaries? No. FAILED.<sup>27</sup>
  - e. How many Coloradoans in Monument were moved from their existing districts? More than 5%? Yes. FAILED. By the Calculation of Experts interviewed and the 2020 census 16% of Monument voters were moved from their existing districts.
  - f. Was the redistricting Arbitrary or Capricious? BOTH. FAILED.
5. Although the Municipal Code is silent on the subject of Gerrymandering standards, the Home Rules for County issues have adopted the state rules and the Municipality can only create rules which are more strict than the State's. See Recommendations.

My research of the substance and the procedure of the 2A ballot measure led me to conclude it was substantially corrupted by the omissions of Kathryn Sellars and the conspiracies hatched during the illegal meetings held outside of public meetings. The Charter election process and substance appears to be patently in violation of the US and Colorado Constitution because it arbitrarily and capriciously violates the notion of "fair and effective" representation and the Gerrymandering laws in the State of Colorado. There was no record of any discussion of other methodologies for dissecting the voting district from public or private meetings. A whopping 16% voter disparity was created between one side of the district and the other, while wildly changing existing voting districts, and the incoming authorities. Members of the public, Town Council and persons with substantial interests in the process and outcomes were denied access and opportunity for input.

TOM Home Rule Charter Section 7.1 addresses Qualifications and Appointment of the Town Manager. TOM Mike Foreman had a vested interest in the Charter Commission creating Section 7, which would benefit him personally. Rather than requesting an unbiased third party to advise the HRCC on this section, Foreman alone guided the HRCC on section 7.2 of the Charter. The HRCC should have requested an unbiased third party to advise the writing of this section of the

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<sup>25</sup> Members of Town Council most familiar with the issues of the town were told by their attorney they can not participate at all in the Commission's formation of language. Public meetings were held by the commission but not well attended, suggesting there was little to no attempt to include the public. No recording of the meetings was made, the only known anomaly in the Town of Monument's standard procedure, giving rise to suspicion of improper process. Witnesses reported seeing members of the Commission meeting together without a public meeting. Evidence of collusion and conspiracy has been presented. Affidavits regarding misappropriation of funds, town assets, misrepresentations and electioneering all strongly support my finding that there was an illegal, corrupt and unfair election process to determine the new voting districts, which seemingly served the self interest of those on and near to the Commission.

<sup>26</sup> In my research, as flushed out in more detail throughout this report, I conclude based on objective evidence both the Charter Commission and Committee abused their discretion by violating several laws, defrauding the public and electioneering so that both the substance and process of the 2A election were entirely corrupted.

<sup>27</sup> My investigation turned up no evidence of any attempt to honor existing boundaries. I find it more likely than not that the boundaries were decided at best arbitrarily or capriciously, but unfortunately, at worst, which is most likely, based on the self-interest of the members of the Commission, who reportedly immediately started discussing how they would financially benefit during the first set of meetings. No recording of the meetings was made and I therefore can not prove beyond a reasonable doubt, but I do conclude this by the preponderance of the evidence.

Charter. Any legal actions taken within Section 7.2 should have been taken without the presence of Mike Foreman. The near impossibility of firing the Manager, according to witness statements, was added at the behest of the Town Manager himself.

Those in favor of 2A who participated in the transgressions reportedly all stand to gain power as a result of their failure to collaborate on fair election redistricting. For example, under the statutory form of government, the Town Manager could be removed by majority vote. After the passage of the Home Rule Charter, termination of the Town Manager requires 5 votes, regardless of how many Councilmembers are present. The Town Manager now finds himself in the midst of at least two investigations. Due to the Charter that he helped pass, both directly and indirectly, he would now be almost impossible to terminate. I find all of this highly suspicious and riddled with proof of an unfair election process.

The HRCC formed on November 29th, 2022. On December 9th, 2021, at the first HRCC meeting, Steve King asked for a population map and discussed dividing the Town of Monument into districts. He discussed this same issue at length at the HRCC December 9th and December 16th meetings of 2021. Redistricting was discussed, and votes were taken on Monument districts at the December 9th, 16th, and 21st HRCC meetings. HRCC attorney Kathryn Sellars was hired on December 16th, 2021 but did not attend an HRCC meeting until January 20th, 2022. At the March 15th, 2022 HRCC meeting, “public comments”, where only a select few were noticed of the meeting or allowed to be present, expressed concerns about public boundaries in HRC Section 2.2. Sellars did ultimately review and approve the Home Rule Charter and present it as a legal ballot document on April 18th, 2022 to the Board of Trustees. Over the span of the eighteen HRCC meetings Sellars attended, over eighty (80) requests exist in the available minutes that instruct Sellars to reword, provide opinion, give advice, or review the completed charter. No proof of such edits being completed were provided to the Investigator at the time of publishing these findings.

Steve King presented the contents of the Home Rule Charter on April 18th, 2022 to the Board of Trustees. King stated “We define residential districts. We break Monument into two residential districts so that each district could have its own councilmember. And two council members come from each district. We felt that the West and East part of town are different in character. We tried to balance how the population bases out. We incorporated the Village North of Higby as part of the Western Zone, and then the entire Western Zone is one district. And then South of Higby is the other district, which gets the population fairly close. And that can be adjusted as populations change.”

When Councilman Stephens asked Kathryn Sellars how the redistricting could legally have a 16% disparity on October 21st, she emailed back, “I do want to add a couple of clarifications. It is population which is a factor, not registered voters. I ***don’t know how much that makes a difference in Monument.*** There are a variety of other factors that go into drawing districts than just population. The article I will forward to you will discuss those other factors.”

The attorney for the Charter, Kathryn Sellars, was hired to be the attorney for the Home Rule Government. When I asked Sellars on December 20th how that transpired, within 90 minutes, she



turned in her resignation, citing that my questions escaped the scope of the investigation as her reason. Combining her refusal to answer basic questions about her role and the crafting of the Charter language and testimony by witnesses who raised the issue of Gerrymandering without a response from Kathryn, the end result has become an unshakable aura of unfair election processes, disparity of power in the community and unfair representation in government. For these reasons, I find that the Town Attorney acted with self-interested callous disregard for the illegality of the issues discovered in the substantive development and procedural supervision of the passage of the Town Charter, rendering the town Charter VOID as against the US Constitution, Colorado Constitution, State Statute, and all notions of fairness.<sup>28</sup>

### Recommendations to Town Council

#### 1. Publicly Censure:<sup>29</sup>

- a. Steven King- for obstructing an official investigation<sup>30</sup>
- b. Kathryn Sellars- for obstructing an official investigation<sup>31</sup>
- c. Sana Abbott- for obstructing an official investigation<sup>32</sup>
- d. Mike Foreman- for obstructing an official investigation and failing to completely address misogyny and the hostile work environment<sup>33</sup>
- e. Redmond Ramos- publicly intimidating witnesses, ridiculing the investigation and the investigator during the investigation<sup>34</sup>

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<sup>28</sup> I did consider the alternative of reforming the Charter, as most of the folks I interviewed, even those who testified against the Charter as written, support the move toward Home Rule, however, I do not see authority for any reformation of the Charter in the Home Rule Statute.

<sup>29</sup> Public Censure is a civil remedy. The Town Council may generally discipline its Members for violations of law, including crimes; for violations of internal rules; or for any conduct which the Town Council finds has reflected discredit upon the institution, or which is found to breach its privileges, demonstrate contempt for the institution, or reflect discredit on the Town. When the most severe sanction of expulsion has been employed, the underlying conduct deemed to have merited removal from office has historically involved either disloyalty to the United States, or the violation of a criminal law involving the abuse of one's official position, such as bribery. The House of Representatives for example has actually expelled only five Members in its history, but a number of Members, facing likely congressional discipline for misconduct, have resigned from Congress or have been defeated in an election prior to any formal House action. A "censure" is a formal, majority vote on a resolution disapproving a Member's conduct, generally with the additional requirement that the Member stand at the "well" of the House chamber to receive a verbal rebuke and reading of the resolution by the Speaker. Twenty-three Members of the House have been censured for various forms of misconduct, including (in the 19th century) insulting or other unparliamentary language on the floor or assaults on other Members, as well as, more recently, financial improprieties. A "reprimand" involves a lesser level of disapproval of the conduct of a Member than that of a "censure," but also involves a formal vote by the Town Council. Historically, Members are "reprimanded" for a range of misconduct, including failure to disclose personal interests in official matters; misrepresentations to investigating committees; failure to report campaign contributions; conversion of campaign contributions to personal use; ghost voting and payroll improprieties; the misuse of one's political influence in administrative matters to help a personal associate; providing inaccurate, incomplete, and unreliable information to the investigating committee; for a breach of decorum in a joint session; and the misuse of official resources by compelling congressional staff to work on political campaigns.

<sup>30</sup> Refused to answer any questions about the investigation.

<sup>31</sup> Refused to answer any questions about the investigation.

<sup>32</sup> Refused to answer any questions about the investigation.

<sup>33</sup> Initially refused to answer any questions about the investigation by making excuses, only answered questions after threat of contempt, and even then, answered in a manner which provided no useful information. Mitigating circumstances include the Town's right to an attorney, but he never raised his right to an attorney, and the technology excuse Drew claimed was a true problem, which could have been avoided by sending pdf's of the emails requested rather than the computer code of those emails. In my opinion, these were intentional obstruction techniques deployed by the manager who has a tattered past of being terminated for similar conduct. In the end, the limited evidence and testimony provided supported my findings in this report.

<sup>34</sup> A video of Redmond Ramos is in the evidence file. He publicly made statements designed to intimidate and ridicule the investigator, investigation and witnesses.

- f. Mitch LaKind- For obstruction of an official investigation and for directing a disgusting misogynist comment to a Councilwoman while at the Dias<sup>35</sup>
  - g. Drew Anderson-<sup>36</sup> For aiding in the obstruction of the investigation
2. Hold in Civil Contempt of Town Council:
  - a. Mike Foreman- for unjustifiably delaying or refusing to carry out the orders of Resolution 95-2022, for obstructing an official investigation and failing to completely address misogyny and the hostile work environment<sup>37</sup>
  - b. Steven King- for obstructing an official investigation<sup>38</sup>
  - c. Sana Abbott- for obstructing an official investigation<sup>39</sup>
  - d. Redmond Ramos- publicly intimidating witnesses, ridiculing the investigation and the investigator during the investigation<sup>40</sup>
  - e. Mitch LaKind- For obstruction of an official investigation and for directing a disgusting misogynist comment to a Councilwoman while at the Dias<sup>41</sup>
3. Terminate the employ of
  - a. Mike Foreman
  - b. Kathryn Sellars<sup>42</sup> - Accept the Resignation "Under Investigation"
4. Formally accept the finding that Kathryn Sellars committed the following under aggravating circumstances and file an ethics complaint with the Supreme Court Attorney Regulation Counsel against Kathryn Sellars for further investigation:<sup>43</sup>

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<sup>35</sup> Refused to answer any questions about the investigation and on 12//22/2022 the investigator was told to direct all questions to his attorney who would answer by the 27th, which would be too late for inclusion in this report, which was known by LaKind to be after the deadline set for evidence gathering by the investigator, and just before the scheduled release of the report. The attorney acknowledged the deadline set in writing, and refused to meet it in writing. Mitch LaKind did not assert or invoke his 5th Amendment Right against civil liability, which is described more fully in footnote 43.

<sup>36</sup> The conduct of Drew Anderson during the Investigation was less than expected particularly when contrasted with Town Clerk Laura Hogan's professionalism. I suspect he was either voluntarily or in collusion and conspiracy with others intentionally obstructing the investigation. However, once he was directed by Mike Foreman to do something, he did exactly as told. My concern is that he knowingly participated in actions designed to obstruct the investigation, undermining the intent of the Town in identifying wrongful or incriminating conduct by employees, something no citizen should tolerate.

<sup>37</sup> Initially Mike Foreman refused to sign the Investigator's engagement letter as ordered by the Town Council and refused to answer any questions about the investigation by making excuses. He only signed and answered questions after threat of contempt, and even then, answered in a manner which he thought provided no useful information. Mitigating circumstances include the Town's right to an attorney, but Mike Foreman never asserted his personal Rights, and the technology excuse Drew claimed on Mike's behalf was a true problem, which could have been avoided by sending pdf's of the emails requested rather than the computer code of those emails. In my opinion, these were intentional obstruction techniques deployed by the Town Manager to escape culpability. He has a tattered past of being terminated for similar conduct. In the end, the limited evidence and testimony provided became a major support for my findings in this report.

<sup>38</sup> Refused to answer any questions about the investigation.

<sup>39</sup> Refused to answer any questions about the investigation.

<sup>40</sup> A video of Redmond Ramos is in the evidence file. He publicly made statements designed to intimidate and ridicule the investigator, investigation and witnesses.

<sup>41</sup> Refused to answer any questions about the investigation.

<sup>42</sup> In light of her resignation, officially accept her resignation and document that she would have been fired with cause. Although she could be fired after resignation, this does not likely work to the advantage of the Town. Seek the legal advice of an HR attorney for advice on firing her. No additional advice is needed for accepting her resignation "under investigation".

<sup>43</sup> "Colorado cases involving the type of rule violations before us support a period of suspension. Cases in which a lawyer converts funds and engages in dishonest conduct point toward a term of suspension that lasts longer than one year. In *In re Fischer*, for instance, the Colorado Supreme Court reversed an order of disbarment and suspended a lawyer for one year and one day based on the lawyer's misappropriation of funds from marital assets while representing a client in a dissolution proceeding.<sup>22</sup> The lawyer sold marital property pursuant to the parties' settlement agreement, which the court had approved as an order.<sup>23</sup> The lawyer knowingly disbursed the proceeds from the sale and paid himself for attorney's fees, even though the disbursements were not authorized under the settlement agreement and order.<sup>24</sup> The Colorado Supreme Court determined that the lawyer's misappropriation of the third-party funds entrusted to him warranted a suspension in light of the mitigating factors, including that the lawyer conducted the unauthorized transactions in the open, paid restitution to address the injuries from his misconduct, and expressed remorse.<sup>25</sup> The

- a. Obstruction of an official government investigation<sup>44</sup>
- b. Acting on conflicts of interest
- c. Malpractice, error or omission, resulting in deception of the public<sup>45</sup>

*Fischer* court noted three aggravating factors: a remote letter of admonition, the lawyer's substantial experience in the practice of law, and the lawyer's dishonest or selfish motive.<sup>26</sup> But the factors added little aggravation under the facts of the case, as the lawyer did not take payment beyond his earned fees and in part had acted out of concern for his client's welfare.<sup>27</sup> Though the lawyer admitted that he violated Colo. RPC 3.4(c), the admission did not factor heavily in the Colorado Supreme Court's decision, as the lawyer's admission was inconsistent with his assertion that he was not aware he violated a court order when he disbursed the funds.<sup>28</sup> Kathryn Sellars' conduct is similar in that she presents her extensive experience in these subjects on her application for employment, acted in self interest and in conflict of interests, oversaw the misappropriation of funds and assets (seal) in furtherance of her interest and that of the Issue Committee's interest and attempted to fix the issues by seeking another party to pay back the funds to the town, who in fact did pay it all back. Although it is claimed to have been a mistake, it is my conclusion it was by design or at least out of callous disregard.

"In *People v. McGrath*, the Colorado Supreme Court approved a stipulation to suspend a lawyer for one year and one day after the lawyer misappropriated garnished payments that he had received in satisfaction of a judgment he obtained for his client.<sup>29</sup> The lawyer deposited some of the garnished funds into his operating account while misrepresenting to his client that he had deposited all of the funds into his trust account.<sup>30</sup> The lawyer later made the same misrepresentation to disciplinary authorities.<sup>31</sup> Though the lawyer's misconduct included his neglect of his client's matter, the *McGrath* court relied on ABA *Standard* 4.12 to suspend the lawyer for one year and one day, stating that suspension was the appropriate sanction when a lawyer knows or should know that the lawyer is mishandling client property, thereby potentially causing the client harm.<sup>32</sup> The *McGrath* court also found that the lawyer's dishonesty aggravated his misconduct.<sup>33</sup> Kathryn Sellars similarly attempted to cover up the mistake. Whether or not she was responsible for the errors in the Clerk reporting to cure her mistake, she certainly had influence over the decision, which resulted in false reporting. I conclude these are additionally aggravating circumstances.

"Last, the Colorado Supreme Court imposed a significant period of suspension when, among other misconduct, a lawyer knowingly engaged in a conflict of interest without disclosing the conflict to his client, injuring his client.<sup>34</sup> In that case, *People v. Schmad*, the lawyer attempted to settle a personal injury case with an insurer under terms similar to those that the lawyer's client had already rejected.<sup>35</sup> The lawyer's client had an immediate need for funds to pay for therapy and rehabilitation and thus did not want to receive future settlement payments. Even so, the lawyer pressed his client to agree to a lump-sum payment of \$25,000.00." Kathryn Sellars' conduct was in furtherance of her self-interest by among other logic, further securing her position as Town Attorney, and she failed to obtain written informed consent on these conflicts. Several staff members reported feeling like Sellars represented them, which raised additional concern that in my investigation, no evidence of an attempt to describe or delineate her role as Town Attorney had been made by her. Her resignation and refusal to answer questions made it impossible for me to disprove this point. I recommend that the Attorney Regulation Counsel look closer at the emails if time permits, which my investigation did not have. I do suspect there was collusion and a broader conspiracy related to the misrepresentations and electioneering, as I believe the evidence has proven.

Complainant: the People of Colo. Respondent: Brenda L. Storey, 2022 Colo. Discipl. LEXIS 56, \*16-19

<sup>44</sup> An email was sent to Kathryn Sellars in the early hours of the investigation on Tuesday the 19th, and approximately 3 hours later, the Town received her resignation. No assertion of her 4th, 5th, or 6th amendment rights were made. The resignation and refusal to provide the information demanded under official government investigation resulted in a substantial obstruction in the investigation of not only her conduct but that of other individuals in the Town of Monument's staff, and the potential conspiracy to electioneer and misrepresent the Charter to the public. When a criminal defendant pleads the Fifth, jurors and in this matter an investigator and the Town Council are not allowed to take the refusal into consideration when deciding whether a defendant is guilty. In the 2001 case *Ohio v. Reiner*, the U.S. Supreme Court held that "a witness may have reasonable fear of prosecution and yet be innocent of any wrong doing. The [Fifth Amendment right against self-incrimination] serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances." Defendants may assert their Fifth Amendment rights during civil trials, too, if testimony would open them up to criminal charges. But defendants in civil trials do not enjoy the same protections against bias with respect to liability. This means that an investigator, jury or Town Council is free to make inferences when a defendant chooses not to testify in a civil trial for fear of self incrimination. And, merely refusing to answer or stating that questions are to be directed to an attorney, or that a person is represented by counsel, or that one will answer questions much later is not an assertion of this privilege. Several witnesses decided not to answer any questions or to do so with extreme delay or to answer questions with technology the investigator could not decipher even with technology support, or to direct questions to attorneys, all of which failed to assert a 5th Amendment right, and the investigator and Town Council are therefore free to read into these actions in determining civil liability.

<sup>45</sup> Throughout the investigation, I immediately concluded that any attorney would have and should have known about Clerk reports, the duties associated with campaign finance laws, the US Constitution and related Gerrymandering laws and applied these laws to any analysis on the Charter language before allowing it to proceed to the voters. I asked several witnesses with personal eye-witness knowledge of the Commission meetings whether any legal advice was given on the substance of the Charter. At least one witness signed an affidavit stating no advice was ever given. It is my conclusion that the failure to advise the stated client the Commission about gerrymandering was either an innocent omission, or in light of how the failure served her self interest was more likely than not done in callous disregard to secure her promised Town Council position. During the investigation, I came across testimony that during the Commission's initial meeting, the members began immediately discussing how they would design the Charter to maximize their personal gain, including discussions of salaries and who would be the Town Attorney. This was the strongest evidence of collusion and conspiracy, a conclusion I did not find enough information to support as a finding because meetings were not recorded and I don't know who all was involved in what became electioneering, misappropriations and misrepresentations.

- d. Misappropriation of public funds and assets<sup>46</sup>
  - e. Misrepresent the Charter to the Public<sup>47</sup>
  - f. Electioneering
5. File a claim against Kathryn Sellars for damages caused by failure to correct the unconstitutional nature of the Charter before it was placed on the ballot.
  6. Formally waive governmental immunity for everyone named in the above recommendations.
  7. Create an anonymous reporting method for staff and the public to disclose their concerns to management and Town Council, log those concerns and address them completely. I recommend a “suggestion” box.
  8. Conduct a processes audit for Accounts Payable to identify how anyone could have processed a check without knowing precisely what it was for.
  9. Monitor the intimidation tactics of Councilman Ramos and Mike Foreman and refer any future complaints to a criminal prosecutor.
  10. Require Robert’s Rules of Order training, particularly on how to deal with unruly individuals both at the dias and in the audience.
  11. Formally adopt the State Standard for Gerrymandering and apply it to the Home Rule Charter, and thereby acknowledge and adopt my finding that the Charter as presented to and passed by the voters under unfair and illegal election practices and with unconstitutional language is VOID.

The findings in this report are both reasonable and necessary. They support my sworn oath of admission as an attorney to *“support the Constitution of the United States and the Constitution of the State of Colorado”*. The US and Colorado Constitution operate to invalidate any law that violates its terms. Any law that is written which denies your authority or duty to refuse to enact or enforce an unconstitutional law, is itself void, for violating the Constitution. The mere fact that the Statute giving rise to home rule is silent on whether you can refuse to enact or enforce the Charter or accept its election process for violating the Constitution, does not negate your duty to do so. In fact, if you fail to acknowledge the illegality of the Charter after reading this official finding, and instead authorize the Charter for enforcement as written, you could face legal liability both as a Town and personally as an ultra vires act. Town Council expressly has the power to legislate, adjudicate and execute laws. State statute clearly supports the Town Council in this self-governance. Implied in that is always the duty to remove any law deemed Unconstitutional.

It is not you who voids the law, by my analysis, the Constitution of the United States and the Constitution of Colorado both voided it already. It is your duty by your oath to acknowledge that the Constitution voided the Charter. If the next Town Council decides to ignore this recommendation, a court would likely issue an emergency injunction preventing it from being enacted pending ratification of this report.

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<sup>46</sup> It is important to note that the element of misappropriation does not require intent. It is a strict liability standard. During my investigation, I did find mitigating circumstances to show it could have been a mistake, however, in light of all of the conflict of interest, I find it was more likely than not based in callous disregard.

<sup>47</sup> The evidence strongly supports the conclusion that Kathryn Sellars authorized the use of the Town Seal on marketing materials, which resulted in misrepresenting the Charter as having the Town’s endorsement.



The law clearly states that you can not reform the Charter after it is passed by the Commission but must put it to the people for a vote in its flawed form. Therefore, the only remedy is to acknowledge it was void when presented to the public, and the Charter process must start over. This entire investigation is about Due Process, and how a few isolated violations led to one massive violation of Rights. Have faith in the process and justice will prevail. As the interim Town Council, your authority continues until the next elected Town Council is sworn in.

In unbiased Truth,

Grant Van Der Jagt, Esq.

**MONUMENT TOWN COUNCIL  
REGULAR MEETING MINUTES**

Monday February 6, 2023 – 6:30 PM

Monument Town Hall – 645 Beacon Lite Rd., Monument CO 80132

Hybrid Meeting – Remote Participation Via Teams

**1. Call to Order, Pledge of Allegiance, Roll Call:** Mayor LaKind called to order the regular meeting of the Monument Town Council and led those assembled in the Pledge of Allegiance. Proper notice of the meeting was posted for more than 24 hours in the designated posting locations. The following Council members were present for the meeting:

TOWN COUNCIL	TOWN STAFF
PRESENT: Mayor Mitch LaKind Councilmember Jim Romanello Councilmember Steve King Councilmember Sana Abbott Councilmember Kenneth Kimple	Mike Foreman, Town Manager Tina Erickson, Deputy Clerk Shelia Booth, Director of Planning Shawn Snow, AICP Robert Cole, Interim Town Attorney Erica Romero, Director of Operations
ATTENDED REMOTELY:	
ABSENT WITH PRIOR NOTICE:	
ABSENT WITHOUT PRIOR NOTICE:	

**2. Approval of the Consent Agenda:**

- a. Agenda- February 6, 2023
- b. Minutes Regular Meeting – January 17, 2023
- c. RESOLUTION NO. 07-2023: A RESOLUTION ENTERING INTO AN ANIMAL SERVICES CONTRACT WITH THE HUMANE SOCIETY OF THE PIKES PEAK REGION
- d. RESOLUTION NO. 08-2023: A RESOLUTION TO APPROVE AMENDMENT NO. 3 TO THE PROJECT AGREEMENT BETWEEN THE TOWN OF MONUMENT AND FORSGREN ASSOCIATES INC.
- e. RESOLUTION NO. 09-2023: A RESOLUTION AWARDDING A CONTRACT TO SERVEPRO OF SOUTHEAST COLORADO SPRINGS AND SERVE PRO OF SOUTHWEST COLORADO SPRINGS, AND SERVEPRO OF NORTHERN COLORADO SPRINGS/TRI-LAKES FOR WATER DAMAGE REPAIRS AT 259 BEACON LITE ROAD
- f. RESOLUTION NO. 10-2023: A RESOLUTION APPOINTING AN ALTERNATE MEMBER TO THE PLANNING COMMISSION

Romanello moved to approve the consent agenda. Abbott seconded the motion. Roll call vote was taken, motion passed 5 to 0.

**3. Beacon Lite LLC Annexation:**

1. PUBLIC HEARING on Resolution No. 11-2023: A Resolution Setting Forth Findings of Fact and Conclusions Based Thereon Regarding the Eligibility for Annexation to the Town of Monument of Territory Known as Beacon Lite LLC, Generally Located at 19375 Beacon Lite Road and Hereinafter More Specifically Described in Exhibit "A". Snow Presented Resolution No. 11-2023 as included in the council packet.
2. PUBLIC HEARING on Resolution No. 12-2023: A Resolution Approving the Beacon Lite LLC Annexation Agreement and Development Agreement. Snow Presented Resolution No. 12-2023 as included in the council packet.
3. PUBLIC HEARING on Ordinance No. 02-2023: An Ordinance Annexing to the Town of Monument the Area Known as the Beacon Lite LLC Annexation. Snow presented Ordinance No. 02-2023 as included in the council packet.
4. PUBLIC HEARING on Ordinance No. 03-2023: An Ordinance Amending the Official Zoning Map of the Town of Monument Establishing the Light Industrial (LI) Zone District Related to the Area Known as Beacon Lite LLC Annexation and Consisting of 5.02 Acres. Snow Presented Ordinance No. 03-2023 as included in the council packet.

Keith Moore the architect and planner with RMG Engineers/Architects gave a presentation as included I on the Beacon Lite Development; introduced phases of buildings proposed office spaces in phase 1, storage buildings- 2 story with basement in phase II, one story storage building in phase III along with the of businesses going into the developed area.

King expressed his concern about the rezoning to LI straight zone district, his concern with heavy traffic on Beacon Lite and road improvements needing to be addressed and if there can be restrictions made. John Clark owner of RMG explained the focus of the project currently. Cole clarified a PUD zone would be the best way to go or an annexation agreement could be considered with the owner with annexation. Booth stated restrictions could not be placed on uses unless the building proposed didn't follow the standards. King is opposed to the following uses: warehousing with distribution, micro fulfillment centers, heavy vehicle repair, heavy equipment sales and service. Kimple questioned if Clark has contacted the El Paso County to possibly develop in the county, Clark stated the county suggested they annex into the Town of Monument and to connect to the Town water to get off their current well. Kimple stated his concern for safety and accessibility, road being inadequate.

LaKind opened the floor to comments from the public and the following were Received:

1. Laura Lucero submitted images that she took to submit into the minutes. She stated her concern about the condition of Beacon lite and the safety of pedestrians and the increase of traffic.
2. Mike Kopycinski spoke on the increase of heavy traffic on Beacon Lite, speeding on the road, trash, light pollution and noise. Citizens are asking for an accumulative traffic impact study, repaving and maintenance of Beacon Lite, right turn lanes into the businesses, sidewalks, landscape standards, preservation of trees, maximize setbacks, minimizing building heights water usage and to consider citizen concerns when approving development.
3. James Stempeck expressed his concern for safety with the increase of traffic, the congestion of adding another traffic light.
4. Kathryn Boyd asked the footprint of the current operation that RMG has in the springs, number of current employees and types of vehicles.

Clark explained the two 3500 square feet proposed building is office use, the drill rigs they have is 3 350-450 Ford trucks no semi's and they will be stored in garages when not in use. Kimple questioned a time line for construction Clark stated the urgency of getting off the well will be within the first year and connecting to the town water system to the currently built buildings, 2-3 years to start construction on office building development. Clark agreed with the citizens' concern of the condition of the Beacon lite road and encourages the council to push the county to widen and improve the road. Romero spoke about grants that have been received for current projects. King questioned if this were annexed into the Town what priority would sidewalks have compared to current projects. Foreman stated it would be on the developer initially as they develop and build, roads and sidewalks are high priority for the town. LaKind closed the public comment portion of the hearing.

Booth passed out the updated annexation and development agreement showing corrections and revisions to the agreements which will be posted on the website for viewing.

Romanello Moved to approve Resolution No. 11-2023. LaKind Seconded the motion. Roll call vote was taken and the motion passed 3 to 2.

Kimple and King opposed the motion

Romanello Moved to approve Resolution No. 12-2023. LaKind Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

Romanello Moved to approve Ordinance No. 02-2023. Abbott Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

Romanello Moved to approve Ordinance No. 03-2023. LaKind Seconded the motion. Roll call vote was taken and the motion failed 3 to 2.

Kimple, King and Abbott opposed the motion.

Romanello and LaKind strongly encouraged the citizens to reach out to the County Commissioners about Beacon Lite road conditions. Cole explained to outcome of council actions of their motions that were made on the resolution and ordinances about the zoning and uses, further discussion was had about the resolutions and ordinances. Booth clarified the property could be developed in the county. Booth asked for clarification on uses they want excluded. King listed LI zone: warehouse with distribution; equipment sales and services- heavy; vehicle service and repair- heavy, and micro fulfillment distribution center.

Cole encouraged the council to make a motion to reconsider the initial motions on Ordinance No 03-2023, Ordinance No. 02-2023, Resolution No. 12-2023 and Resolution No. 13-2023 and to make a motion to table the initial items until the February 21 Town Council meeting to continue public hearing.

LaKind Moved to reconsider Ordinance No. 03-2023. Romanello Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

LaKind Moved to table Ordinance No. 03-2023 until the next town council meeting on February 21,2023 regular meeting. Romanello Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

LaKind Moved to reconsider Ordinance No. 02-2023. Romanello Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

LaKind Moved to table Ordinance No. 02-2023 until the next town council meeting on February 21,2023 regular meeting. Kimple Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

Abbott Moved to reconsider Resolution No. 12-2023. Kimple Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

Abbott Moved to table Resolution No. 12-2023 until the next town council meeting on February 21,2023 regular meeting. King Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

LaKind moved to reconsider Resolution No. 11-2023 2023 until the next town council meeting on February 21, 2023, regular meeting. Romanello Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

LaKind moved to table Resolution No. 11-2023 until the next town council meeting on February 21,2023 regular meeting. Kimple Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

Cole suggested the council make a motion to reopen and continue the public hearing at the February 21 2023 regular Town council meeting

Romanello moved to reopen and continue the public hearing at the February 21,2023 meeting. King seconded the motion. Roll call vote was taken and the motion passed 5 to 0

Mayor LaKind called a Recess 8:00-8:10pm

#### **4. Ordinance(s):**

- a. Ordinance No. 04-2023: An Ordinance Amending the Official Zoning Map of the Town of Monument Rezoning 5.0 Acres From Commercial Center (CC) Zone District to Light Industrial (LI) Zone District for Property Known as XL3 Rigging Located on Beacon Lite Road. Snow presented Ordinance No. 04-2023 as included in the council packet. Mitchell Hess introduced the Owner Brett Leveare with XL3 Rigging to explain the business plan and provide information about the business. Mr. Hess explained the site plan and the need for storage of equipment and the reasoning behind rezoning the property to LI, funds would be available by escrow for sidewalks and fire hydrants to be installed with cost sharing and the proposed property details. King expressed his concern of setbacks, trees being kept on the property and not removed.  
Kimple clarified if restrictions could be applied to uses, and the removal of trees on the property.  
Lakind opened the floor to public comments from the public and the following were received:



1. Mike Kopycinski asked for details on the perimeter fencing heights.
  2. Laura Lucero questioned what types of vehicles the owner would be using to conduct business Hess gave further information about the property and the conceptual plan. LaKind closed the public comment portion of the hearing.
- Romanello Moved to approve Ordinance No. 04-2023. Abbott seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

#### **5. Resolution(s):**

- a. PUBLIC HEARING on Resolution No. 13-2023: A Resolution Approving a Final Plat for SBR Subdivision Filing No. 1. Snow presented Resolution No. 13-2023 as included in the council packet. LaKind opened the floor to comments from the public, none were received. LaKind closed the public comment portion of the hearing.

Romanello moved to approve Resolution No. 13-2023. LaKind Seconded the motion. Roll call vote was taken and the motion passed 5 to 0 .

- b. PUBLIC HEARING on Resolution No. 14-2023: A Resolution Approving a Preliminary/Final Plat for Home Place Ranch Filing No. 6. Snow presented Resolution No. 14-2023 as included in the council packet. The Applicant Phil Stuepfert gave a brief presentation of the proposed final Plat as included in the council packet. Kimple stated his concern about proper screening for privacy between lot 6 and lot 7, appreciated the applicant reducing the number of lots. King stated his concern about trees being removed and questioned the acceptable number of trees that can be removed or transplanted process.

LaKind opened the floor to comments from the public and the following were Received:

Danny Ours with Town of Monument Planning Commission explained the reasoning for why it was decided to record lot 6 and start development; the traffic will be minimal and a good transition between the two currently developed areas. LaKind closed the public comment portion of the hearing.

Romanello moved to approve Resolution No. 14-2023. LaKind Seconded the motion. Roll call vote was taken and the motion passed 5 to 0.

#### **5. Candidate Interviews:**

Cole explained the process developed for conducting the interviews for candidates, prior to the meeting Erickson and Hogan performed a lot drawing for the order of candidate presentations.

1. Thomas R. Penewell
2. Jason Gross
3. Marco P. Fiorito
4. Roman Peek
5. Laura Kronick

The council asked questions of the applicants allowing candidates to present themselves.

Hogan passed out the Ballots to the Councilmembers, Cole explained how each councilmember was to fill in their name on the ballot and vote for two (2) candidates, the 2 candidates with the highest number of votes would fill the vacancies. Hogan collected all the ballots, Erickson tallied the votes and read them for public record.

Councilmember Romanello voted for Thomas R. Penewell & Marco P. Fiorito

Councilmember Abbott voted for Marco P. Fiorito & Laura Kronick

Mayor LaKind voted for Roman Peek & Laura Kronick

Councilmember King voted for Marco P. Fiorito & Laura Kronick

Councilmember Kimple voted for Marco P. Fiorito & Laura Kronick

Erickson stated Marco P. Fiorito and Laura Kronick obtained the most tallied votes to fill the Town Council Vacancies.

**6. Public Comment(s):** The following citizens commented:

- a. No comments were made.

**7. Council Authorization Item(s):** The Council authorized the following:

- a. Presentation from Tri-Lakes Views on February 21 Regarding the Town Taking Ownership of Public Art Sites Program. Foreman authorized to add item to the February 21<sup>st</sup> agenda.

**8. Town Council Comment(s):**

- a. Kimple thanked the candidates that applied for council vacancies, appreciates citizens and staff that appeared to the meeting. Would like to see funds considered for upgrading parks on the west side of I-25 and to include ADA compliance.
- b. King thanked candidates that applied for council vacancies and encourages their continued involvement and participation.

**9. Executive Session:** Executive Session Pursuant to C.R.S. Section 24-6-402 (4)(b) for a Conference with the Interim Town Attorney for the Purpose of Receiving Legal Advice on Specific Legal Questions Relating to the Report of the Investigation Findings Dated December 28, 2022. Romanello moved to move into executive session and upon finishing resume regular meeting. LaKind Seconded the motion. Roll call vote was taken motion passed 5 to 0.

LaKind called a recess for 5 minutes prior to Executive session.

The Town Council entered Executive Session at 10:16pm

The Town Council ended Executive Session at 11:05pm

The Town Council returned to the open meeting at 11:10pm.

**9. Adjournment:**

- a. Romanello moved to adjourn the meeting. Abbott seconded the motion. The motion passed unanimously, and the meeting was adjourned at 11:11 PM.

Respectfully submitted,

Tina Erickson, Deputy Clerk

Attorney Regulation Counsel  
Jessica E. Yates

Chief Deputy Regulation Counsel  
Margaret B. Funk

Deputy Regulation Counsel  
April M. McMurrey

Deputy Regulation Counsel  
Dawn M. McKnight

Deputy Regulation Counsel  
Gregory G. Sapakoff

**COLORADO SUPREME COURT  
ATTORNEY REGULATION COUNSEL**



Attorneys' Fund for Client Protection  
Unauthorized Practice of Law

Senior Assistant Regulation Counsel  
Erin Robson Kristofco  
Alan C. Obye  
Lisa E. Pearce

Assistant Regulation Counsel  
Jill Perry Fernandez  
Jody McGuirk  
Michele Melnick  
Justin P. Moore  
Matt Ratterman  
Catherine S. Shea  
Jacob M. Vos  
Jonathan P. White  
Rhonda White-Mitchell  
E. James Wilder

Inventory Counsel  
Jay Fernandez

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March 10, 2023

***Via email only***

Grant D. Van Der Jagt, Esq.  
200 S. Wilcox St., #206  
Castle Rock, CO 80104

Re: Request for investigation filed by Mitchell LaKind, #23-54

Dear Mr. Van Der Jagt:

The enclosed request for investigation that has been filed with this office. The Colorado Supreme Court Office of Attorney Regulation Counsel is now investigating this matter pursuant to Colorado Rule of Civil Procedure 242.14. **This investigation has been assigned to Senior Assistant Regulation Counsel Alan C. Obye (whose direct phone number is 303-928-7812) and Chief Investigator Laurie Ann Seab (whose direct phone number is 303-928-7864).** Now that your case is assigned to Mr. Obye and Ms. Seab, future contact should be with them.

At this time, the facts and circumstances set forth by the request for investigation implicate Colorado Rules of Professional Conduct 1.1 (competence), 1.6(a) (confidentiality), 1.7(a)(2) (conflicts of interest), 1.9(c) (duties to former clients), 1.13 (organization as client), 1.16(d) (duties upon termination), 4.1(a) (truthfulness in statements to others), 4.4(a) (respect for rights of third persons), 4.5(a) (threatening prosecution), 7.1 (communications concerning a lawyer's services), 7.6 (political contributions to obtain legal engagements or appointments by judges); 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), and 8.4(h) (conduct that directly, intentionally, and wrongfully harms others and adversely reflects on a lawyer's fitness to practice law). Reference to these Rules is intended to facilitate your response and is not intended as an exclusive list of the Rules that may be implicated in this matter. Please be advised that other Rules may become implicated as we conduct our investigation.

Accordingly, you must file with this office AN ORIGINAL AND ONE COPY of an appropriate response, EACH WITH EXHIBITS, if any, **within 21 days** of receipt

Grant D. Van Der Jagt, Esq.

Re: Request for investigation filed by Mitchell LaKind, #23-54

March 10, 2023

Page 2

of this letter. See C.R.C.P. 242.14(a)(3). This office will furnish a copy of your response to the Complainant. Thereafter, an investigator will contact you. Following our investigation of the allegations, you will be advised of our determination or that of the Supreme Court Legal Regulation Committee.

In connection with this investigation, you have a legal obligation to preserve documents and data relating to the allegations made in this investigation. "Documents and data," as used here, means hard copy documents, email, word processing documents, spreadsheets, databases, calendars, telephone logs, Internet usage files, and any and all other electronic information created, received, and/or maintained on your computer(s) or computer system(s). "Sources," as used here, includes all hard copy files, computer hard drives, removable media (e.g., CDs and/or DVDs), laptop computers, desktop computers, PDAs, iPhones, cell phones, and any other locations where hard copy and electronic data may be stored. These sources may include personal computers, office computers, and computers previously used and still possessed by you, as well as other storage media, accessible or inaccessible, such as cloud storage accounts and/or back-up tapes, which may contain relevant electronic information that does not exist in any other form.

In order to comply with your obligations, you should also immediately suspend deletion, overwriting, or any other possible destruction of relevant documents and data. You should also maintain your personal, office, and other computers such that those sources may be accessed in the future, and avoid destruction or altering of the same. You should instruct any staff, partners, employees, independent contractors, agents, or others who may have access to the documents, data, and sources described herein of your obligations as outlined in this letter so as to ensure that they understand the same and avoid destruction, alteration, or other interference with the accessibility of the documents, data, and sources. This same obligation applies to any such documents or data that may come into your possession in the future.

Electronically stored data is an important and irreplaceable source of discovery and/or evidence in this matter. You must take every reasonable step to preserve this information until further notice from the Office of Attorney Regulation Counsel. Failure to do so may be a violation of Colo. RPC 8.4(d) and/or other Rules of Professional Conduct, and may constitute additional grounds for discipline.

The rules for the discipline of lawyers, enacted by the Supreme Court, are contained in Chapter 20, C.R.C.P., Court Rules Book 1, C.R.S. The Colorado Rules of Professional Conduct are also found in Book 1.

For your information, the Colorado Bar Association Ethics Committee is piloting a program designed to assist lawyers in disciplinary matters. For



Grant D. Van Der Jagt, Esq.

Re: Request for investigation filed by Mitchell LaKind, #23-54

March 10, 2023

Page 3

information regarding the CBA Ethics Committee Assistance Program for OARC Disciplinary Matters, please visit the following link: <https://www.cobar.org/For-Members/Committees/Ethics-Committee/OARC-Hearing-Assistance-for-Lawyers>.

Sincerely,

/s/ *Catherine S. Shea*

Assistant Regulation Counsel

Enclosure

**Catherine Shea**

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**From:** investigations investigations  
**Sent:** Thursday, January 5, 2023 6:04 AM  
**To:** Rosemary Gosda  
**Subject:** Fw: Request for Investigation of Lawyer/Choice of Form - Mitchell LaKind

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**From:** Colorado Supreme Court Office of Attorney Regulation Counsel <notifications@cognitoforms.com>  
**Sent:** Wednesday, January 4, 2023 10:25 PM  
**To:** investigations investigations  
**Subject:** Request for Investigation of Lawyer/Choice of Form - Mitchell LaKind

# Colorado Supreme Court Office of Attorney Regulation Counsel

## Request for Investigation of Lawyer/Choice of Form

### Entry Details

ENGLISH/SPANISH FORM

English

### Office of Attorney Regulation Counsel

YOUR NAME

Mitchell LaKind

YOUR ADDRESS

1060 Night Blue Cir, Monument, Colorado 80132

YOUR EMAIL ADDRESS

mlakind@tomgov.org

YOUR PHONE NUMBER

(719) 822-4865

NAME OF LAWYER

Grant Van Der Jagt

ADDRESS

200 S. Wilcox St. 206, Castle Rock, Colorado 80104

IS THIS PERSON A LAWYER?

Yes

TEXT

The Town Council of Monument hired Mr. Van Der Jagt to conduct an investigation. He conducted the investigation as a political vendetta against certain public officials and employees. His conduct includes:

- Waiving attorney-client privilege by intentionally giving access to privileged documents in a Dropbox account to certain third parties who are his political allies.
- Threatening the Town Manager that if he did not sign the attorney's engagement letter, he would face civil or criminal liability.
- Providing a report that displays legal incompetence, recommending among other things the Town Council unilaterally declare laws unconstitutional.
- Refusing to provide his file to his client, the Town of Monument.
- Filing a frivolous retaliation claim with the DOJ when the Town terminated his engagement after completion of the investigation report.
- Mr. Van Der Jagt also surrendered his real estate broker license in 2017 following several complaints.

DID YOU HIRE THE LAWYER?

Yes

TEXT

I was on the Monument Town Council when the council voted 4-1 to hire the attorney named in this complaint to investigate alleged violations of the fair campaign practices act, which I voted against.

## Electronic Signature

SIGNATURE

Captured

TODAY'S DATE

1/4/2023

Mitchell LaKind  
Mayor, Town of Monument  
480.678.3860  
mitch@lakind.me

January 25, 2023

Catherine S. Shea, Esq.  
Assistant Regulation Counsel  
Colorado Supreme Court  
Office of Attorney Regulation Counsel  
1300 Broadway, Suite 500  
Denver, CO 80203

Received

JAN 26 2023

Office of Attorney  
Regulation Counsel

Re: **Request for Investigation**  
OARC Case #23-54  
Attorney Grant Van Der Jagt

Dear Ms. Shea,

Thank you for the telephone call and your time in conducting the preliminary investigation of this complaint regarding the conduct of Mr. Van Der Jagt. This Request for Investigation includes a narrative of what has occurred, detailed allegations of misconduct, and supporting documents. As discussed, I'm making this request in my official capacity as Mayor of the Town of Monument, which retained Mr. Van Der Jagt.

I'm delivering the RFI to you in paper because the files with images exceed the file sizes allowed by the online portal, but I'm happy to provide any document to you in a digital format. Likewise, I'm happy to provide any additional information you may need as the investigation proceeds. My personal attorney, William Reed of Sherman & Howard L.L.C., assisted me in organizing the information in this RFI and connecting my concerns to specific ethical obligations, but the thoughts are my own.

Mr. Van Der Jagt's conduct continues to harm the Town of Monument, and I deeply appreciate that this process is available to potentially address those concerns and allow the Town to begin healing from his actions.

## **I. Background Narrative**

In November 2022, the Town of Monument held local elections in conjunction with state and national elections. Citizens elected three new members to the Town Council to replace incumbents and passed a home rule charter with roughly 70% in support. During the election, it became known that the Town had approved a \$2,500 reimbursement request from the Home Rule Charter Commission for election signage that included the message "vote yes" on the home rule charter. Town staff explained they hadn't examined the signage and seen the "vote yes" message before approving the request. Once the error was pointed out, a citizen paid for the signs

with private funds and the Town was reimbursed. Term-limited council member Kelly Elliott filed a Fair Campaign Practices Act complaint. **Attachment 1.** The hearing officer determined that the violation was sufficiently cured by the reimbursement to the Town and the complaint was legally deficient. **Attachment 2.** Nevertheless, Town leaders agreed that we should investigate, in my view, to improve processes moving forward. The three lame duck council members pushed for an investigation by outside counsel.

On December 13, the Town Council passed Resolution No. 94-2022 authorizing an investigation on the Fair Campaign Practices Act (FCPA), C.R.S. § 1-45-11.7(1)(a)(I)(B) “to investigate in kind donation from the Town of Monument to the Monument for Home Rule Issue Committee for signs and door hangers.” **Attachment 3.** Pursuant to Resolution No. 95-2022, the Town Council hired special investigator Grant Van Der Jagt for the purpose of investigating the issues identified in Resolution No. 94-2022. **Attachment 4.**

At our December 16 public meeting, Mr. Van Der Jagt explained that he would be representing the Town of Monument. **Attachment 5.** Admittedly, I opposed appointing Mr. Van Der Jagt as investigator because he appeared to lack experience in conducting government investigations and seemed to have close ties with certain council members. For example, Mr. Van Der Jagt attended a campaign fundraising event for now-former council member Darcy Schoening and had written an open letter defending her, by explaining that her four previous misdemeanor convictions did not constitute a felony that prohibited her from holding office. **Attachment 6.** Still, I believed Mr. Van Der Jagt’s representations that he is an officer of the court who is committed only to pursuing to the truth and would not take part in a “witch hunt.” **Attachment 5.** I promised that I would support the completion of the investigation after the change-over in council members on January 3, 2023, as I thought a thorough investigation would require several weeks. Mr. Van Der Jagt initially said that he could not conduct a thorough investigation between December 16 and the end of the year. **Attachment 5.** But under urging from the lame duck council members, he agreed to try to produce an investigation report before they left office.

Once appointed, Mr. Van Der Jagt revealed his true colors. He conducted the investigation as a political vendetta by the ousted council members against the election winners, Town staff, and the Town itself. As I’ll explain in more detail below, Mr. Van Der Jagt was abusive to Town staff and investigation targets, issuing threats of civil and criminal liability if they did not sign his engagement letter or respond to information requests within 24 hours. The interim Town attorney resigned as a result on December 20. Mr. Van Der Jagt also established a Dropbox for confidential Town of Monument documents in connection with the investigation, then granted “editor” access only to the three lame duck council members, and to third parties who are not his clients but conservative political operatives in El Paso County. When the Town’s IT manager discovered this breach of confidence, Mr. Van Der Jagt denied it and continued to demand upload of confidential Town documents to the compromised Dropbox.

Ultimately, Mr. Van Der Jagt did produce a lengthy investigation report on December 28, and the lame duck council members called a special meeting to attempt to take action on its recommendations. **Attachment 7.** Rather than focus on the scope of the investigation provided in Resolution 94-2022 on campaign finance, Mr. Van Der Jagt took aim at virtually all Town



officials other than his few council allies, with a host of unsupported and unrelated allegations. As you'll see, the report recommends public censure of seven people, civil contempt actions against five people, termination of the Town Manager and Town Attorney, a civil action and ethics complaint against the Town Attorney, waiver of governmental immunity for all, possible referrals to criminal prosecutors for people who criticized his investigation, and for the Town Council to unilaterally declare the voter-adopted Home Rule Charter unconstitutional and void. At best, these recommendations are irresponsible. At worst, Mr. Van Der Jagt advises the Town to take illegal actions.

The Town Council did not take action on the report's recommendations on December 28. The special meeting was adjourned after it became clear that affected Town staff had not been given notice of the personnel issues to be discussed including possible termination, were not represented, were not given the opportunity to choose between discussion in executive session or public session as required by the Open Meetings Act, and Mr. Van Der Jagt's continued insistence on discussion in executive session despite this lack of notice appeared to be a violation of the Open Meetings Act. See C.R.S. § 24-6-402(4)(f)(I); § 24-6-401.

On January 3, the newly elected Town Council met. We passed a motion to terminate Mr. Van Der Jagt's engagement for the investigation, as his report was complete, we didn't want to incur further costs, and Mr. Van Der Jagt appeared to be biased. While committed to completing the investigation process, we also passed a motion to set aside those decisions until the Town could engage a new Town Attorney experienced in municipal law to provide guidance. We requested Mr. Van Der Jagt's investigation file to assist the Town Attorney in this effort. At this point, Mr. Van Der Jagt became vindictive toward the Town of Monument. He contacted the media to make allegations against the Town and elected officials; he said, among other things, on social media that the Town is run by "tyrants and perverts"; and he reported that he filed a retaliation complaint with the Department of Justice against the Town for terminating his engagement after completion of his investigation. Mr. Van Der Jagt has kept up this public barrage on his client for weeks. On January 24, he released the report publicly and called for the recall of Town Council members based on his findings.

Mr. Van Der Jagt's actions have given the Town of Monument a black eye, cost the Town good people, and continue to disrupt government business with an unnecessary sideshow. I truly do not understand how an attorney who was hired to assist the Town of Monument, and was paid \$25,000 for a two-week investigation, has decided that he will go to such effort to hurt us.

Below, I will discuss specific acts of misconduct and the supporting documents for each point.

## **II. Specific Instances of Misconduct**

### **1. Breach of Client Confidentiality, Rule 1.6**

Mr. Van Der Jagt established a Dropbox account for Town staff to upload confidential documents related to the ongoing investigation. **Attachment 8.** A screenshot of the account

shows who had access to the documents. Mr. Van Der Jagt is the "Owner." He granted "Editor" access to certain people by inputting their email addresses. He properly gave access to the Town, Town Manager (Mike Foreman), and Town IT Manager (Drew Anderson). Among Town Council members, he gave access only to the three lame duck members at their personal email addresses (Kelly Elliott, Darcy Schoening, Ron Stephens). But Mr. Van Der Jagt also gave access to the Town's confidential documents during the investigation to two third parties: (1) Rob O'Regan, a political consultant and owner of The Strategy Firm, LLC; and (2) Amy Stephens, former Colorado House majority leader. This was an intentional act. Mr. Van Der Jagt had to input specific email addresses to grant access. This is not an inadvertent disclosure.

The Town IT Manager noticed the third parties with "Editor" access in the account and the Town notified Mr. Van Der Jagt, expressing concern about placing documents in the account. **Attachment 9.** Despite the fact that he had specifically granted "Editor" access to third parties, and apparently unaware that the Town could verify the others with access, Van Der Jagt insisted that no one else had access and the account was secure. He demanded that the Town continue to provide investigation files despite the compromised access and threatened that "further obstruction is actionable both civilly and criminally."

## 2. Threats and Intimidation

Mr. Van Der Jagt conducted his investigation in a bullying and unprofessional manner. As one example, after the Town Attorney resigned, the Town Manager informed Mr. Van Der Jagt that he was seeking representation to review the engagement letter before signing, as the Town does with all contracts. On December 20, Mr. Van Der Jagt wrote that the Town Manager must immediately sign the engagement letter, without input from counsel. **Attachment 9;** see Rule 4.4. Mr. Van Der Jagt wrote, "you are required by law to produce the requested data and signature. Further obstruction is actionable both civilly and criminally. I expect both the answers to my questions and the signature received by 5 PM tomorrow." Mr. Van Der Jagt also threatened that "insulting or intimidating witnesses, the investigator or the investigation is also actionable civilly and criminally."

However, Mr. Van Der Jagt was the only person engaging in intimidation. Generally, Mr. Van Der Jagt sent information requests and demanded responses within 24 hours. He again claimed that a failure to respond within his unreasonable time frame could give rise to civil or criminal liability. Mr. Van Der Jagt was undoubtedly in a rush to complete the investigation before the outgoing council left office, but this does not excuse his abusive behavior toward witnesses connected to his investigation. Rule 4.4(a). Several of Mr. Van Der Jagt's communications during the investigation are collected in **Attachment 10.** Among them is an unprofessional message to me on Facebook Messenger, in which Mr. Van Der Jagt chides me for not being his "friend" and makes allegations of sexual harassment with no basis.

## 3. Legal Competence, Rule 1.1

Mr. Van Der Jagt's report displays incompetence in completing the investigation he was hired to do and ignores the scope of Resolution 94-2022. **Attachment 7.** Throughout, he speculates about people's motives and flings serious accusations without factual support. In his rush to attack his cronies' perceived enemies, he ignores the legal elements of the claims he

alleges. For instance, Mr. Van Der Jagt claims several people are liable for civil contempt for not responding to his inquiries within 24 hours. He claims several people face criminal liability for obstruction of justice, with no support for the necessary statutory elements. Perhaps most troubling, Mr. Van Der Jagt advises that the Town Council must strike down the Home Rule Charter approved by voters as unconstitutional and void based on his wild accusations. Mr. Van Der Jagt seems completely unaware that only a court could take such action in determining the constitutionality of a voter-approved measure. The action he commands his client to perform is clearly illegal.

#### 4. Organization as Client, Rule 1.13

The Town of Monument retained Mr. Van Der Jagt and he represented the organization in conducting the investigation. Yet, Mr. Van Der Jagt consistently displayed that in practice he served only a few Town Council members, to the detriment of the Town. Mr. Van Der Jagt granted access to investigation files and report drafts to only three Town Council members, at their personal email addresses. **Attachment 8.** Mr. Van Der Jagt's report reflects his bias to attack other Town officials on behalf of council members Elliott, Schoening, and Stephens. **Attachment 7.** Finally, after his termination, Mr. Van Der Jagt revealed his belief that he represented only the Town Council members who appointed him, rather than the Town of Monument. **Attachment 11.** He continues to attack the Town on behalf of a few individuals. (See section II.6.) Mr. Van Der Jagt's actions have harmed his actual client.

Mr. Van Der Jagt is particularly loyal to former Town Council member Schoening. He wrote an open letter defending her fitness for office because her criminal convictions are not felonies. **Attachment 6.** He also hosted a campaign fundraising event for Schoening in 2022, prior to his appointment as investigator. **Attachment 12** (witnesses also available); see Rule 7.6.

Mr. Van Der Jagt has made clear in his public statements that he represented a few individuals instead of the Town of Monument, contrary to his duties.

#### 5. Refusal to Provide Client File, Rule 1.16(d)

On January 3, the Town Council ended Mr. Van Der Jagt's engagement and requested his investigation file. The Town is entitled to the documents related to the investigation. Further, the new Town Attorney would need access to the Town's files, even if Mr. Van Der Jagt's report had been competent and unbiased. Given the incompetent and biased work, the Town's need for the investigation file is especially pressing.

Mr. Van Der Jagt responded through the press and social media that he refuses to surrender the papers to which the Town is entitled. **Attachment 11.** Mr. Van Der Jagt insists that the "new council" is not his client and he has no contract with anyone other than the lame duck council members. This is directly contradictory to his earlier representation that his client is the Town of Monument. **Attachment 5.** The Town of Monument hired and paid Mr. Van Der Jagt, not particular Town Council members. Through the doctrine of perpetual succession, the incorporated town is an ongoing entity regardless of change in personnel, and Mr. Van Der Jagt owes duties to the Town of Monument. His spiteful refusal to turn over the files related to his representation of the Town violates his duties. Even if Mr. Van Der Jagt feels he has an

obligation to protect certain investigation witnesses through redactions, he has turned over no files whatsoever.

#### 6. Vindictive Actions Toward Town, Rules 1.9 and 3.6

As soon as the Town terminated Mr. Van Der Jagt's engagement, he began an assault through social media and mainstream media. Mr. Van Der Jagt conducted interviews with newspapers and television stations, who then contacted me to seek responses to his allegations. Mr. Van Der Jagt combined information from his investigation with his personal views to attempt to portray the Town in a negative light and advocate for punitive actions such as criminal charges and recall. Rather than exhibit loyalty or concern for his former client, Mr. Van Der Jagt is, in my opinion, attacking the Town to advance his political agenda and aspirations. The articles from Mr. Van Der Jagt's media campaign are collected in **Attachment 13**.

His social media attacks are vicious and contain many false accusations. He accuses Town leaders of being "tyrants and perverts," along with unsupported allegations of misappropriations, fraud, hostile work environment, and illegal decisions. The social media posts and online rants I have found are collected in **Attachment 14**.

Mr. Van Der Jagt reports that he is filing complaints with the Department of Justice, Department of Labor, and others. **Attachment 15**. Mr. Van Der Jagt alleges that he was retaliated against as a whistleblower because the Town terminated his engagement as special investigator after he concluded his investigation. I honestly do not know what further work Mr. Van Der Jagt thought he was hired to do or why he thinks he was an employee of the Town based on the engagement as investigator. On one hand, Mr. Van Der Jagt says he will not provide the Town's investigation file to the new Town attorney because he has no ongoing contract with the Town, only with the former Town Council members. On the other hand, Mr. Van Der Jagt seems to think he had an ongoing contract and the end of that engagement somehow constitutes retaliation. At this point, I believe Mr. Van Der Jagt will say anything that he believes will harm the Town.

On January 24, Mr. Van Der Jagt released the investigation report publicly in a self-serving media placement, accused Town Council member Sana Abbott of criminal conduct, and called for the recall of Town Council members based on his findings. **Attachment 16**.

#### 7. Pattern of Deceit

Mr. Van Der Jagt's unfounded attacks on the Town of Monument are part of a larger pattern of deceit in his career. For example:

- On his Avvo online profile, Mr. Van Der Jagt advertises himself as an estate planning attorney. For the purpose of deceiving his target demographic, Mr. Van Der Jagt (who appears in person to be in his early 40s) presents himself as much older. He has uploaded a photo doctored to show him with white hair and a white beard. Compare **Attachment 17** (Avvo profile) to **Attachment 18** (resume photo). This would appear to be a misleading communication about the lawyer, in violation of Rule 7.1.

- On his Zillow profile, Mr. Van Der Jagt presents himself as a real estate attorney with “27 years experience.” However, Mr. Van Der Jagt became a lawyer only 13 years ago. **Attachment 19.** See Rule 7.1.
- In the resume presented to the Town Council, Mr. Van Der Jagt presents himself as an “expert” in 24 separate skills as disparate as insurance, human resources, mergers & acquisitions, estate planning, tax, finance, marketing, construction management, regulatory compliance, probate, real estate, fire sciences, social media, and personal injury litigation. He appears to exaggerate other qualifications (portraying his appointment to the Douglas County Planning Commission as being a “Douglas County Commissioner”) and makes dubious claims (such as becoming president of the board of directors of GoPro Enterprises LLC in 1996, three years before he graduated college). Amongst his awards, Mr. Van Der Jagt also claims he was “Voted Most Popular Attorney by Martin Dale Hubble [sic] in 2022.” No such award appears on his Martindale-Hubbell profiles. In response to an inquiry, a Martindale-Hubbell representative responded that “Grant David Van Der Jagt does not have a rating on our database.” **Attachment 18.**
- Mr. Van Der Jagt is a defendant in ongoing litigation that alleges he is liable for patent infringement, in *Elide Fire USA, LLC v. Grant Van Der Jagt, et al*, Civil Action No. 21-CV-00943-NYW, U.S. District Court for the District of Colorado.
- In 2017, the Colorado Real Estate Commission took disciplinary action against Mr. Van Der Jagt in response to five complaints. The Division of Real Estate investigated and found reasonable grounds for a hearing on several violations of real estate licensing law, including misrepresentations, incompetence, and mishandling of monies. Mr. Van Der Jagt stipulated to a surrender of his real estate license. **Attachment 20.**

Again, thank you for your time. I will be available to discuss further or to provide additional documents or contacts you may need in the course of the investigation. I genuinely hope that the nightmare caused by the Town of Monument’s engagement of Mr. Van Der Jagt will soon come to an end.

Sincerely,



Mitchell LaKind  
Mayor, Town of Monument



## Index of Documents Attached

Number	Description
1	Campaign Finance Complaint
2	Hearing Officer Decision on FCPA Complaint
3	Resolution No. 94-2022
4	Resolution No. 95-2022
5	Dec. 16 Meeting Transcript (Excerpted) -Representing Town of Monument -Officer of the court committed to truth, not a witch hunt -Investigation cannot be completed properly in two weeks
6	VDJ Letter on Schoening Public Record re Schoening Convictions
7	VDJ Investigation Report
8	Dropbox Access Screenshot
9	Dec. 20 Emails re Dropbox Access, Engagement Letter
10	VDJ Investigation Communications
11	Gazette Article and Social Media (represents only former Council members)
12	VDJ Campaign Event re Schoening
13	Articles after Jan.3 Attacking Town
14	VDJ Social Media Posts and Change.org
15	DOJ Complaint Posts and Article
16	Jan. 24 Colorado Herald Article
17	Avvo Profile (white hair)
18	VDJ Resume and Engagement Letter
19	Zillow Profile
20	Colorado Real Estate Commission Decision
21	VDJ Invoice



Submit complaint to:  
Monument Town Clerk  
645 Beacont Lite Road  
Monument, CO 80132  
[lhogan@tomgov.org](mailto:lhogan@tomgov.org)



### CAMPAIGN FINANCE COMPLAINT COVER SHEET

A complaint may be filed up to 30 days after the date on which the Complainant either knew or should have known, by the exercise of reasonable diligence, of an alleged violation. A complainant must specifically identify one or more respondents, a violation of Colorado campaign finance rules and regulations (Constitution Article XXVIII, the Fair Campaign Practices Act, or the Secretary of State's rules concerning Campaign and Political Finance), and allege specific facts to support a legal and factual basis for the complaint. (See section 1-45-111.7, C.R.S.) Please be advised, complaints are public information and the Respondent will be provided a copy of this Complaint.

\*Denotes required field

**Your Information** - Information about the person or entity filing the complaint:

\*Full Name: Kelly W. Elliott  
\*Mailing Address: 15848 Agate Creek Drive  
\*Telephone Number: (720) 425-0528 \*Email Address: kelliottecr730@gmail.com  
\*Date Made Aware of Violation: 21Oct2022

**Respondent's Information** - Information about the person or entity alleged to have committed the violation:

\*Full Name: Monument Citizens for Home Rule - Steve King  
\*Mailing Address: 255 McShane Place, Monument, CO 80132  
Telephone Number: 303-726-8369 Email Address: steve@steveformonument.com

**Briefly summarize the allegations of your complaint including dates of the alleged violations and attach any supporting documents and materials.**

I want to file a complaint against Monument Citizens for Home Rule with Steve King as their Facebook Administrator. There is no accounting for their funds used for signs and door hangers. They reported \$5.00 March 2022 - October 2022. If they refuse to accurately report their finances then the signs need to be removed as they do not comply with state and town rules.

By submitting this cover sheet with the attached complaint and any supporting evidence, I hereby affirm that I have read and am familiar with the procedures set forth in section 1-45-111.7, of the Colorado Revised Statute (C.R.S.).

\*Complainant's Signature: \_\_\_\_\_

Date: 21 Oct 2022





## WILSON WILLIAMS LLP

### Town of Monument-Campaign Finance Complaint:

#### *Elliott v. Monument Citizens for Home Rule, et al*

#### Decision of Hearing Officer Geoff Wilson

December 12, 2022

On October 21, 2022, Kelly Elliott (Complainant) filed with the Town clerk a Campaign Finance Complaint against Monument Citizens for Home Rule (Respondent). The basis of that Complaint is set forth below in its entirety:

"I want to file a complaint against Monument Citizens for Home Rule with Steve King as their Facebook Administrator. There is no accounting for their funds used for signs and door hangers. They reported \$5.00 March 2022-October 2022. If they refuse to accurately report their finances, the signs need to be removed as they do not comply with state and town rules."

Town of Monument Code, Section 1.14.010 (b) provides as follows, in pertinent part, that

The hearing officer may dismiss, in his or her discretion, a complaint that does not specifically identify the section of the FCPA that the respondent allegedly violated or a complaint that does not assert facts sufficient to support the alleged violations.

Section 10(b) plainly intends an economical and remedial process that allows a complaint process to be terminated if a proper "cure" is timely made. Here, I believe that the cure filed by Respondent on November 13, 2022 provided the "accounting" requested by Complainant, and that the Clerk consequently ought to have ended this proceeding upon review of that filing. As that did not happen, I believe that dismissal now, on that basis, would be appropriate and serve the purpose of the ordinance. In this context, I do not believe that the language quoted above from Section 10(b) describes the exclusive basis for dismissal, thus foreclosing dismissal if the hearing officer finds that a timely filed cure has addressed the complaint.

The Complaint does not specifically identify a section of the FCPA section that Respondent is alleged to have violated, as explicitly required in the Town ordinance. And without such an alleged violation being included, it becomes impossible to "assert facts sufficient to support the alleged violation" (emphasis added); the emphasized language obviously refers back to the cited statute. A reasonable construction is that, to avoid dismissal, a complaint must include both a citation to the statute allegedly violated and assertion of facts sufficient to show a violation of that section. Indeed, the language of the FCPA upon which the Town's ordinance was modeled, C.R.S. 1-45-111.7(3)(a)(II) and (III), clearly requires a showing of both elements.

The requirement to identify the statute violated is essential. Without a citation to the law alleged to be violated, Respondent's ability to cure the violation, or otherwise develop a defense against the Complaint is severely compromised. A fundamental precept of constitutionally required due process is that a person be able to determine what the allegations are against them. While efforts to comply with





## WILSON WILLIAMS LLP

the Town's ordinance are judged by a somewhat forgiving "substantial compliance" standard, discussion of and application of that standard is only appropriate where there is *some* initial compliance. Here there was precious little compliance *at all*, and what compliance there was was well short of "substantial."

Because I believe the Complaint was answered with a sufficient cure by Respondent, and because the Complaint wholly failed to comply the clear and basic requirements for a lawful complaint under the Town's ordinance, Complainant's Complaint is hereby DISMISSED.



6. applicable  
personnel and elected  
officials

TOWN OF MONUMENT  
RESOLUTION NO. 94-2022

(CRS 1.-45-117  
(1)(a)(1)(B))

A RESOLUTION TO LAUNCH THE INVESTIGATION ON FAIR CAMPAIGN PRACTICES ACT TO INVESTIGATE IN KIND DONATION FROM THE TOWN OF MONUMENT TO THE MONUMENT FOR HOME RULE ISSUE COMMITTEE FOR SIGNS AND DOOR HANGERS. THE INVESTIGATION, PAID FOR BY THE TOWN OF MONUMENT, REQUIRES THAT THE TOWN STAFF ~~AND ANY OTHERS~~ TO BE INVESTIGATED FULLY COOPERATE WITH THE INVESTIGATIVE ATTORNEY DURING INTERVIEWS, PROVISION OF DOCUMENTS, ACCESS TO EMAILS AND PHONE RECORDS, AND TIMELY RESPONSES TO PHONE CALLS AND EMAIL QUESTIONS AS REQUESTED BY THE ATTORNEY. THE INVESTIGATOR WILL PROVIDE WEEKLY UPDATES TO THE TOWN COUNCIL ON THE APPROXIMATE DATES: DEC 19 AND DEC 27 WITH THE GOAL TO HAVE THE INVESTIGATION COMPLETED BY DECEMBER 30, 2022.


PASSED AND RESOLVED by the Town Council of the Town of Monument, Colorado, this 13<sup>th</sup> day of December, 2022, by a vote of 4 for and 2 against.

ATTEST:



Tina Erickson, Deputy Clerk

TOWN OF MONUMENT

  
Kelly Elliott, Mayor Pro Tem






**TOWN OF MONUMENT  
RESOLUTION NO. 95-2022**

**A RESOLUTION TO HIRE SPECIAL ATTORNEY GRANT VAN DER JAGT FOR THE INVESTIGATION OF CONCERNS THE COUNCIL HAS IDENTIFIED RELATED TO THE NOVEMBER 2022 ELECTION AND 2A AND TO FULLY EXECUTE MR. GRANT VAN DER JAGT'S LETTER OF ENGAGEMENT**

**PASSED AND RESOLVED** by the Town Council of the Town of Monument, Colorado, this 16<sup>th</sup> day of December, 2022, by a vote of 4 for and 1 against.

ATTEST:

  
Tina Erickson, Deputy Clerk

TOWN OF MONUMENT:

  
Kelly Elliott, Mayor Pro Tem







Kelly Elliott: [00:00:00](#) I'd like to call to order this town of Monument, Town Council's special meeting for Friday, December 16th, 2022.

[00:00:15](#) Let's all stand for the Pledge of Allegiance

EVERYONE: [00:00:16](#) I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible with liberty and justice for all.

Kelly Elliott: [00:00:32](#) Can you take roll please?

Ms. Erickson: [00:00:42](#) Mayor Pro Tem Elliot.

Kelly Elliott: [00:00:43](#) Here.

Ms. Erickson: [00:00:44](#) Council Member LaKind

Mitch LaKind: [00:00:45](#) Here.

Ms. Erickson: [00:00:46](#) Council member Romanella.

Jim Romanello: [00:00:48](#) Here.

Ms. Erickson: [00:00:49](#) Council Member Schoening.

Darcy Schoening: [00:00:50](#) Here.

Ms. Erickson: [00:00:51](#) Council Member Stephens.

Ron Stephens: [00:00:52](#) Here.

Ms. Erickson: [00:00:53](#) Council Member Ramos is noted absent.

Kelly Elliott: [00:00:57](#) Thank you. Before us, we have an agenda? Do we have any changes to the agenda?

Mitch LaKind: [00:01:05](#) Yes. I'd like to make a motion to remove discussion item 3 A

Ron Stephens: [00:01:11](#) Second

Kelly Elliott: [00:01:12](#) We have a motion and a second.

[00:01:14](#) Ms. Erickson,

Ms. Erickson: [00:01:18](#) Mayor Pro Tem Elliot?

which he or she has a conflict of interest. A conflict of interest occurs when a member of the Town Council has a substantial personal or financial interest in the outcome of the question whether direct or indirect or on any questions concerning his or own conduct. A conflict of interest does not include general personal interest in the outcome of the matter.

[00:06:15](#) So that's straight from our charter number three in section two dot ten.

[00:06:23](#) Right, now the agenda.

[00:06:27](#) So we have before US resolution 95- 2022. A resolution to hire special attorney, Grant Van Der Jagt for the investigation of concerns the council has identified related to the November 2022 election in two A and to fully execute Mr. Grant Van Der Jagt's letter of engagement.

[00:06:50](#) Mr. Van Der Jagt, thank you for being here. Would you like to say anything or would you like the board to start with questions?

Grant Van Der J...: [00:07:02](#) I'm happy to address the Town Council and I'd like to make a few comments upfront, I think, that may clarify some of the issues. I was approached with the task to investigate some issues. The issues have not been made entirely clear to me. I don't have an entire scope of what those issues might include, and I have heard that other folks have been talking about whether I would be here in the capacity of an attorney, and whether I'd be here in the capacity of an investigator. And I want to be clear that a special investigator must be an attorney and an attorney is an officer of the court.

Jim Romanello: [00:07:42](#) Is your microphone on sir? The green light will be on.

Grant Van Der J...: [00:07:46](#) No, I don't believe it is.

Jim Romanello: [00:07:47](#) Can you push the button? Oh, is it on? Okay. I'm sorry. Okay. All right.

Grant Van Der J...: [00:07:52](#) So one of the pieces of confusion as being an attorney and being a special investigator is who is my client? Right? If I'm hired today, if you approve this resolution, you are my employer, this, the town of Monument is my employer. But my fiduciary obligation in this matter is to seek truth. Okay. My allegiance is to truth. It is not to any particular character and it is absolutely objective. It has no, who is involved is not going to

the next couple weeks? Namely, by around December 30th or somewhere in that timeframe?

Grant Van Der J...: [00:15:43](#)

Quite honestly, no. There's not enough time, but I will give it my best. Right. We've got 15 days. That's not a lot of time. I do have the skillsets to read and review and determine what I think happened. I'm happy to investigate and talk with people and that would be the task. So do I have the skillset? Yes. Do I have the time? No, I will give it my best. I will give a report at the end of the period. I think the end of the year is when you want the report. Will it be complete? Probably not, but I can at the very least make initial determinations of what I think happened.

Darcy Schoening: [00:16:19](#)

Thank you.

Kelly Elliott: [00:16:20](#)

Thank you. Go ahead.

Ron Stephens: [00:16:23](#)

May I clarify... From our perspective, what came up, just so you're aware, and I don't know how much you've been filled in on anything, but, what come up is the fact that there was an issue committee that received a gift in kind from the town of Monument. And as you're aware, that's a violation of Colorado's statute. So all we're, I mean, just as a preliminary investigation, we're not trying to turn this into a witch hunt or anything like that, but we just want to know. It may just be that we need training and everybody needs to know what's going on.

[00:17:00](#)

So I just wanted, would like to do the, from my perspective, just a preliminary investigation, which is probably all you have time to do, to say what's, what happened here, and how did this take place? And I think that is a very, hopefully that's a doable scope in the next two weeks. Just the initial, what happened and what detail. I know there's a lot of speculations and a lot of people want to report here and there and say this and say that. And I think we need, that's why we needed independent counsel to be able to verify the facts and not just go off of rumors or somebody's comments and stuff like that. So that's my perspective on it.

Kelly Elliott: [00:17:48](#)

Any other questions?

[00:17:51](#)

I do have a question. We did pass at the last special meeting, a resolution to launch the investigation. And so the resolution does include weekly updates to the town council and the dates are approximate, because we don't know how this will go, but we had put weekly updates, say December 19th and December 27th, and that's flexible. What would you think would be the

best way to provide an update on how the investigation is going? If you know you're making progress and you've been able to reach X amount of people out of how many you want to talk to or whatever, what do you think is the best way, the most efficient way to give us updates?

Grant Van Der J...: [00:18:38](#) Quite honestly, I don't think the updates would be appropriate, given the timeline. It would give particular people special access and I think that would be unfair.

Kelly Elliott: [00:18:48](#) Sorry,

Grant Van Der J...: [00:18:50](#) My personal opinion is that I should be doing the investigation and then presenting to everybody the findings without anybody having special access to me or anything else. If I'm hired, I would come and I would do my interviews. I would ask that anybody, staff or otherwise, respect the process, allow me to do my job, not try to prevent me from getting access to documents or whatever records are necessary, and then just let me have the time. I'm going to have to honestly push pretty hard given my own family schedule and my own current client load. 15 days is probably going to be more like eight days that I can give to the board, or the town council. And in that eight days, I just have to push through it. I don't want to be doing updates

Jim Romanello: [00:19:42](#) In our board packet. We had your resume, et cetera, but could you, for the record, explain why you would be qualified and what your expertise has been and how you'd be qualified for handling this situation?

Grant Van Der J...: [00:19:54](#) Well first, the qualification that is required is being an attorney. I am duly licensed in Colorado to practice law. My license is active. I would hope that nobody files any ethics complaints, although you're free to do that. I've never had an ethics complaint filed against me in the past. I hope that nobody tries to go do that anyway. I have the skillset, being able to read super fast, understand the legal consequence of it, draft legally binding documents, and be able to reconcile the data that I've got into a legal argument. The one caveat I have to really express is if I come across something that's an affirmative reporting situation, then my law license requires me to make certain reports.

[00:20:48](#) I would recommend to the town council, given what I've just been explained about, part of the issue, is you may want to consider my report privately before you discuss it publicly. I don't really think that a lot of this is for public consumption,





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**From:** "Grant Van Der Jagt, Esq." <grant@vdlaw.com>  
**Date:** March 14, 2022 at 5:08:21 PM MDT  
**To:** [Schoeningdarcym@gmail.com](mailto:Schoeningdarcym@gmail.com)  
**Subject:** Election & Campaign Integrity: Dispelling False Rumors

Dear Delegates,

Election and Campaign Integrity matters.

I am an attorney, an officer of the court and a strong Conservative in Colorado. I am District Captain in Douglas County District 1 and a delegate but I am NOT a delegate to HD 20.

I have heard many campaign rumors and I have taken it upon myself to thoroughly investigate the truthfulness of the rumors in my district and now in yours. To be clear, I do not have any "dog in this fight". But I do stand for truth. I'm putting my credibility on the line to certify the statements below.

There is a false rumor about Darcy Schoening being a felon. I have researched her background and pulled the court records to review her past. **Darcy is not a Felon.**

We must stand against these false rumors. Stop the circular firing squad within the GOP. Stand in the GAP. If you like Darcy, rest easy knowing the rumors are attorney certified lies.

Question who would spread such terrible lies. Cory Wise? A campaign opponent? What integrity do you expect from your elected officials? You get to decide that at Assembly.



# Hamilton County Criminal Court

Courtroom 102 - 102 Court Building - 600 Market St. - Chattanooga, TN 37402

Vince Dean - Criminal Court Clerk

102 Court Building @ 600 Market St.

Chattanooga, TN 37402

Phone: (423) 209-7500 Fax: (423) 209-7501

Hours: Mon - Fri 8:00am-4:00pm

[For Sessions Court Click Here](#)

Last Name:  First Name:  Middle:  Suffix:

Case Number:

Begin Filing Date:  End Filing Date:  Judge:

Officer Last Name:  Officer First Name:

☐ Future Courts Dates Only

Case Number:  Defendant:  Bondsman:

Next Court Date:  Judge:  Division:

Disposition(s):

Disposition	Date	Fine	Sentence	Suspended	Court	Charge - Fel/Mis - Class
Plea of Guilty	7/15/2015		11 Months 29 Days	YES	1	THEFT OF PROPERTY - Misd Class A

**Name:** DARCY M SCHOENING  
**Date of birth:** 11/00/1981  
**County:** RUTHERFORD  
**State:** TN

**Offense Details**

**Case Number:** 340489  
**Date:** 05/03/2013

**Court Details**

**Case Number:** 340489  
**Offense:** POSSESSION LEGEND DRUG W/O PRESCRIPTION

**Arrest Details**

**Date:** 05/03/2013  
**Agency:** MPD

**Name:** DARCY MARIE SCHOENING  
**Date of birth:** 11/00/1981  
**County:** DAVIDSON  
**State:** TN

**Offense Details**

**Case Number:** GS455494

**Court Details**

**Case Number:** GS455494  
**Date:** 10/13/2009  
**Description:** BIRCH BLDG, COURT ROOM 4C  
**Disposition:** GUILTY Status:CLOSED  
**Fine:** 35000  
**Level:** MISDEMEANOR  
**Offense:** DUI

**Arrest Details**

**Date:** 08/23/2009

**Name:** DARCY M SCHOENING  
**Date of birth:** 11/00/1981  
**County:** RUTHERFORD  
**State:** TN

**Offense Details**

**Case Number:** 71379

**Court Details**

**Case Number:** 71379  
**Date:** 03/16/2015  
**Disposition:** GUILTY PLEA-AS CHARGED  
**Level:** MISDEMEANOR  
**Offense:** DUI (2ND OFFENSE)

**Arrest Details**

**Agency:** CARL WILKINS, MPD



**STARZYNSKI  
VAN DER JAGT P.C.**  
Attorneys and Counselors at Law  
[www.VDJLAW.com](http://www.VDJLAW.com)



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**MEMORANDUM**

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TO: Town of Monument, Town Council  
FROM: Grant Van Der Jagt, Special Investigator  
DATE: December 28th, 2022  
RE: Report of Investigation Findings  
Privileged & Confidential Attorney-Client Communications

DO NOT PUBLISH OR DISSEMINATE PUBLICLY

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The Town Council of Monument, Colorado ("Monument") retained Starzynski Van Der Jagt P.C. to conduct an impartial and independent investigation regarding "some issues for the Board". This was a broad mandate given very little time. During the December 16<sup>th</sup>, 2022 Special Meeting, the Lead Investigator Grant Van Der Jagt, Esq. made the urgency of responses clear and material to the ability to conduct the investigation and addressed any possibility of conflicts of interests and the effect of the limitations of time to conclude the report to the satisfaction of the Town Council before accepting the appointment.<sup>1</sup>

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<sup>1</sup>Engagement Agreement authorized by the Town Council on Friday, December 19, 2022 in Resolution 95-2022, [signed by Mayor Pro Tem Kelly Elliott](#) on Sunday December 18, 2022 after she and the Lead Investigator had prodded Town Manager Mike Foreman on December 16<sup>th</sup>, 2022 without response until December 19, 2022, in which response, the Town Manager stated he needed an "original copy". After receiving another copy by email as an attachment, said the Town Manager sent it to "Joe to review" and 3 hours later followed up after prodding that Joe is reviewing it. (Email from Town Manager to Lead Investigator December 19<sup>th</sup>, 2022 9:04 am. & from Investigator to Town Manager prodding for a return signature 12:05 PM & 4:44PM). After reading Joe was reviewing, I wrote Joe to ask. No response was received. Eventually, an email was received from Mike saying Joe declined to review the agreement. Despite assurances from the Town Manager that he would cause no delay or obstruction, he has only caused delay and obstruction, having been one of the only persons to fail to provide any answers to any questions after the first full day of investigating. His obstructive conduct persisted throughout the investigation. I conclude that his conduct was more likely than not designed to obstruct my investigation. Finally, the Engagement Agreement was signed by Mike Foreman 12/21/22 just 4 full business days before the report was due. I recommend the Town Council hold the Town Manager in Contempt.

As an independent special investigator, I made it clear that I am not political in my findings. All of my findings are conclusions based on objective information and are not pre-designed to result in any particular outcome. The allegations given the Investigator primarily focused on lay terms of "Electioneering," "Misappropriation of Funds", "Failure to Supervise", "Conflicts of Interest" and "Gerrymandering", leaving the door open to anything else the investigator finds noteworthy or concerning, with a primary focus on education rather than penalty.<sup>2</sup> These allegations were all exclusively brought to the Lead Investigator by members of the Town Council pursuant to the Resolution. The scope was not limited to an internal investigation, allowing for the interview and investigation of private citizens and including other legal issues the Investigator discovers during the course of the investigation.

During the investigation, everyone interviewed expressed support for a Home Rule Charter as a concept, however, the focus of the investigation was on whether the Home Rule Charter and election were legally fair in procedure and substance. Nothing in this investigation should be understood as an affront against the concept of Home Rule Charter, or an effort by establishment versus grassroots. To the contrary, it is not a political piece. It is in essence a Constitutional audit of the Charter, the election and the internal workings of the Town of Monument related thereto.

The primary reason an attorney was required for a Special Investigation was that much of the information requested was expected to be confidential and not for public consumption, including attorney-client privileged information and executive session privileged information. Therefore, information gleaned from privileged sources, has all referenced material logged on a privileged log, while generic conclusions about the data are contained directly in this report. Because of the potential for conflicts of interest with the town attorney, each person asked to provide documents was additionally asked whether they had been represented by the town attorney, and if so, were provided a privilege folder to sort information they subjectively thought was privileged. Access to this data is controlled exclusively by the investigator and its employees or contractors as authorized by the engagement agreement and subject to its independent duty to protect confidential information.

All self-sorted data is secured and marked appropriately to reflect the type of privilege asserted. Should the Town Council decide to publish any or all of this investigation to the public, it should be made known in advance that anything based on privileged or confidential information should first be redacted to protect all privileged data and confidential data sources. The investigator wrote the report presuming it would be published, and therefore drafted the document carefully not to reveal such information.

Some information was gathered, which the investigator did not use in the report. No decision of the Town Council can overturn my own independent decision to keep certain information confidential, which includes all information provided by the Town's former Attorney, who claimed

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<sup>2</sup> During the December 16<sup>th</sup>, 2022 Special Meeting, the Lead Investigator explained that certain observations could trigger an affirmative duty to report violations of laws, particularly to the Attorney Regulation Counsel should the Town's attorney be implicated, and therefore could not limit the review to education only.



her privilege at the time of publishing continues unwaived. If the Town Council authorizes that information to be released, the Town can obtain that information from other sources.

The format of my report blends the Issues, Rules, Analysis and Conclusions into a simple to read memorandum. You will find important rules and analysis with reference material in the footnotes, leaving the majority of the body of my report for the summary.

#### Town's Questions [list of the issues]

1. Distribution of Public Funds for Promotional Material
  - a. Did the Town Manager himself, or through others at his direction, authorize the marketing and/or funding of promotional materials?
    - i. Use of the Town Seal
    - ii. Absence of required language
    - iii. Clerk Reporting Issues
    - iv. Common Art
    - v. Conflict of Interest
    - vi. Attempt to Conceal or Obstruct Investigations
    - vii. Cure
  - b. Did the Town attorney herself, or through others at her direction, authorize the marketing and/or funding of promotional materials?
    - i. Use of the Town Seal
    - ii. Absence of required language
    - iii. Tracer Reporting Issues
    - iv. Common Art
    - v. Conflict of Interest
    - vi. Attempt to Conceal or Obstruct Investigations
    - vii. Cure
  - c. Did the Town Attorney herself, or through others at her direction, authorize the Charter language and certify that no laws were violated therein, while acting as Counsel for the Charter, particularly Gerrymandering? And are there such legal issues?<sup>3</sup>

#### Summary of Findings

The Town has requested a report of the findings of the investigation. These findings are based only on the documentary and recorded evidence collected or reviewed and the witness interviews

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<sup>3</sup> There were additional areas of concern identified that should be addressed. First, during the course of my investigation, I was told in person that there had been regular violations of the open meetings laws. Second, I observed what can only be viewed as a hostile work environment and later uncovered evidence of several severe instances of sexual harassment. Third, meetings appear to have been run afoul of Robert's Rules for so long that no one actually knew or respected proper procedure. I recommend education to be provided on each of these topics to facilitate better conduct for the public. Also, the Charter Commission was subjected to the open meetings laws, but did not audio/video record its meetings like all of the other town business had required, leaving gaps in the record of what and how the Charter was developed. Finally, several reports were made that the Town Manager and a person in HR are in a relationship, which would explain some of the above, as there is no record of any action taken to curb misconduct by those who supported the Charter against those who did not, and which resulted in elected officials resigning to avoid further sexual harassment. Removing political adversaries by allowing a hostile work environment is unprofessional and should never be tolerated.

conducted in the course of this rapid investigation by end of business on December 26th.<sup>4</sup> Although I consider the investigation sufficient for making the conclusions herein, it is by no means comprehensive. As stated at the onset of this investigation, more time and resources are needed to fully investigate what happened and how, as well as the legal ramifications and damages caused, as well as how to best address the educational aspects so that the same mistakes are not repeated in the future. I was allowed a tight budget and less than 7 business days (From December 19-December 28th) to complete this investigation. All fact gathering concluded at midnight on December 26th, allowing just 2 days to draft the final report.

The Town requested that this investigation answer three categories of specific questions drafted by the Town Council. Therefore, the findings are presented below, organized according to the overarching subject and then by specific sub-questions asked by the Town.

In reaching these findings, I have applied a "preponderance of the evidence" standard, rather than the higher standard of "beyond a reasonable doubt" applicable in criminal investigations and the "clear and convincing evidence" standard imposed on some civil claims by statute. A preponderance of the evidence standard requires a finding that something is more likely than not, or that 50.01% of the evidence weighs in favor of a finding. A preponderance of the evidence standard is the most common governing standard in civil claims and, relevant here, is the standard that would govern many claims implicated by the Town's questions. My selection of this standard is not a statement about whether I believe there is any criminal guilt based on the standard "beyond a reasonable doubt", or civil liability based on "clear and convincing evidence". In fact, in many of the instances of misconduct identified, I do believe there is criminal culpability for certain staff and recommend that the Town Council pursue such additional investigation and prosecution as it deems necessary or appropriate.

On the issue of Using Public Funds, I found that the Town Attorney is more likely than not culpable, whether by gross negligence or failure to supervise because she reportedly authorized the payment without knowing the content of the invoice at hand. While she insists she did not have mal intent, the Rules and Statutes dictating how attorneys handle money for others are based on "Strict Liability". That is to say, if the money was improperly applied, culpability follows regardless of intent. The amount of public money spent was substantial enough to impact the election outcome. The money spent by the Town of Monument ("TOM") was the "only" money spent on the Home Rule ballot question. Equally concerning was the manner in which the issue was "cured".<sup>5</sup> One can not embezzle funds from a trust account for one's self-interest and then take funds from another source not available previously to cure the mistake, and then doctor the required Clerk filings to cover up the mistake after the error was caught, and avoid culpability entirely. Although the Town Attorney is culpable, she is not alone. The Town Manager has failed to set up proper accounting procedures to prevent this type of mistake from happening, and thus

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<sup>4</sup> My first interview began just after the hearing on Friday December 16th, when I met with Darcy Schoening to discuss her witness testimony over dinner. Once finished, I interviewed Mayor Pro Tem Kelly Elliott at the same restaurant. My last interview ended at 11 PM on December 26th, 2022. Some individuals were given the opportunity to provide information, but refused.

<sup>5</sup> To say that a violation of trust was cured by replenishing the funds with other funds and updating reports, is to ignore the fundamental breach of trust. This "curing" occurred only after public scrutiny, not born of honesty or the desire to do the right thing. And raising the first 98% of money needed for any ballot measure is difficult because that is where the risk lies. Offsetting stolen money after the measure gains momentum is not as difficult as raising the seed money to start the venture.

I find the Town Manager also culpable for failing to properly supervise. Ultimately, the efforts of the 2A Charter, Town Attorney, and others to cure the misappropriation of funds do not satisfy either the FCPA (Fair Campaign Practices Act) or SOS (Secretary of State) rules for curing a reporting or spending transgression. While a fine would potentially be in order for a non-attorney-represented organization, the issues in total created by the sequence of capricious errors and omissions ultimately undermined the procedural integrity of the entire 2A election as further demonstrated by the other issues identified.

On the issue of Conflicts of Interest,<sup>6</sup> I find that the Town Attorney has entered into too many roles as an attorney to avoid the conflicts of interest and failed to obtain sufficient written informed consent from each of the parties she advised.<sup>7</sup> I heard from staff that she had represented them in personal capacities, official titles, as a quorum, as Town Council, as the Board, as Town Manager, as the Town of Monument, as a Charter Committee<sup>8</sup>, as a Charter Commission, and more, all without a written engagement or disclaimer of conflicts of interest. In my estimation, it is impossible to sufficiently disclaim the conflicts of interest in advising a Home Rule Committee on the legality of the Charter, the funding of that Charter, the Advertising of that Charter, and also upon its passage be the attorney who is to be retained through that charter by the new government. One can only conclude that her misappropriation of funds and failure to advise on material substantive or procedural legal matters related to the Charter was caused by her blinding self-interest, rather than her mistake or omission. Education being the primary motivation of this investigation, I recommend that the Town seriously consider hiring several different law firms to represent the town's various entities, rather than lumping them all into one person or one firm.<sup>9</sup>

On the issue of using the Seal, failing to provide required payor information on promotional materials, and failure to properly report expenditures to the Town of Monument, I conclude that the Charter Committee, including the Town Attorney, are more likely culpable than not. Campaign

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<sup>6</sup> [A conflict of interest may arise when representation of a client affects a lawyer's loyalty and independent judgment in the lawyer's representation of another client, former client, or third person \[C.R.P.C. 1.7 n1\]. If the lawyer identifies a conflict, the lawyer must either decline the representation or obtain informed consent. See § 1.03\[4\], \[5\], below. Conduct violating C.R.P.C. 1.7 in conjunction with other disciplinary provisions has been held sufficient to justify disbarment \[People v. Calvert, 280 P.3d 1269, 1290 \(Colo. O.P.D.J. 2011\)\].](#)

<sup>7</sup> The Town Attorney regularly [advises individuals](#) in Monument government but the contract with the town does not provide for that service. Instead, she is to [represent the Town](#). Because of the conflict, the advice often serves her self interest in conflict with what other [disinterested attorneys recommend](#) based on the same facts. On her application to be Town Attorney, she touts the expertise her firm has on many of the issues raised by this investigation, including open meetings laws.

<sup>8</sup> The Charter Committee is an Issue Committee as defined in [Colo. Const. Art. XXVIII, Section 2:](#)  
“(10)

(a) “Issue committee” means any person, other than a natural person, or any group of two or more persons, including natural persons:

(i) That has a major purpose of supporting or opposing any ballot issue or ballot question, or

(ii) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

(b) “Issue committee” does not include political parties, political committees, small donor committees, or candidate committees as otherwise defined in this section.

(c) An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.”

<sup>9</sup> Other communities recognize the inherent conflict between their duties to the public and their role to the town. Larimer County, Colo., Code § 2-71 requires members of the Larimer County Board of Commissioners to represent unconflicted loyalty to the interests of the citizens of the entire county and states that this accountability supersedes any conflicting loyalty such as that to any advocacy or interest groups, or membership on other boards or staffs and the personal interest of any board member acting as an individual consumer of the county government's services. § 2-71(1). [No Laporte Gravel Corp. v. Bd. of Cty. Comm'rs, 2022 COA 6M, P1](#)

Finance Laws on reporting use "Strict Liability" as the test for culpability for improper filings.<sup>10</sup> The town attorney has presented no valid excuse for these errors and omissions, and in the case of Clerk filings, none is available. The appearance of a town seal on an issue committee's private promotional material is an "endorsement" by Colorado Law.<sup>11</sup> The fact that it was intentionally, by mistake, or otherwise improperly authorized, renders the document void as a materially fraudulent misrepresentation to the public.<sup>12</sup> The placement of the seal was in my opinion either wantonly intended to misrepresent a Town endorsement to the voting public, or at a minimum the drafters callously disregarded the misrepresentation of the town's endorsement on the matter at hand in violation of electioneering communications [Colo. Const. art. XXVIII, § 6](#).<sup>13</sup> This error on the Town attorney's part, ultimately corrupted the procedural legitimacy of the entire 2A election and led to one of the most scandalous elections in Monument history. Many members of the public attested that they voted for 2A in part because they incorrectly understood 2A to be "endorsed" by the Town Council.<sup>14</sup>

The [first meeting](#) of the HRCC was November 29th, 2021, held in the TOM boardroom. All HRCC members were present. Town Manager Mike Foreman was present. Mayor Don Wilson was present. TOM Attorney Joe Rivera was present. Town Clerk Laura Hogan was present. Very curiously, none of the Town Council was present because they were expressly told they were not allowed to observe or participate in any way.<sup>15</sup> Also, I found it curious that no developers or owners

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<sup>10</sup> See Colo. Rev. Stat. § 1-45-108 for TRACER reporting laws and definitions.

<sup>11</sup> Colorado law defines the mere presence of a corporate seal as an endorsement. "Similarly, the authorized affixing of a corporate seal bearing the corporate name to a contractual writing purporting to be made by the corporation may have effect as a signature without any reference to the law of sealed instruments." [C.R.S. 4-2-203](#)  
In [Hayden v. Aurora](#), 57 Colo. 389, 393, the seal was concluded to be a necessary part of a government endorsement. "The bonds were signed by the mayor, attested by the town recorder under the corporate seal, and countersigned by the town treasurer."

<sup>12</sup> A town seal is a corporate seal. In cases of unauthorized use of corporate seals, the document is rendered void, so no benefit is realized by the fraud. If a person has been fraudulently deceived about the nature of a document, so that he or she is excusably ignorant about what has been signed, courts recognize "fraud in the factum." See *Meyers v. Johannmeier*, 735 P.2d 206, 207 (Colo. App. 1987) (explaining relationship between statutory defense against holders in due course of negotiable instruments and the common law defense of fraud in the factum). Unlike other types of fraud, fraud in the factum yields an instrument that is void, and not merely voidable. [Svanidze v. Kirkendall](#), 169 P.3d 262, 266. Therefore, the 2A issue committee, which resorted to misuse of the corporate seal of the Town should be disallowed any benefit therefrom.

<sup>13</sup> "Callous Disregard" is a concept applied sparingly in law as an aggravating factor when considering the severity or reprehensibility of a wrongdoer's conduct. Some courts have found that an individual acted with callous disregard when the individual knew or should have known the conduct was wrong. See, e.g., *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 640-43 (1976) (upholding sanction under rule requiring "willfulness, bad faith or fault" where trial court found the party's violation of the rule showed "flagrant bad faith" and "callous disregard" for the party's duties under the rule) (quotations omitted); *Ramsden v. United States*, 2 F.3d 322, 325 (9th Cir. 1993) (finding callous disregard for criminal defendant's constitutional rights where the government admitted not obtaining a warrant before conducting a search, the government had the opportunity to obtain a warrant, and the government chose not to obtain a search warrant); *People v. Tucker*, 755 P.2d 452, 452-53 (Colo. 1988) (finding "callous disregard for the integrity of the judicial process and for the substantive laws of this state" when defendant married his second wife knowing that the divorce from his first marriage was incomplete). Courts also have found callous disregard when an individual was cruelly reckless and indifferent to whether his or her actions would cause harm or would cause a particular type of harm or harm to a particular individual. E.g., *People v. Fei Qin*, 470 P.3d 863, 871 (Colo. O.P.D.J. 2016) (severity of assault revealed perpetrator's callous disregard for the victim's welfare and "indifference" to whether the assault would harm a child held by the victim); *Pettit v. Namie*, 931 A.2d 790 (Pa. Commw. Ct. 2007) (distinguishing between willfulness and callous disregard). Courts consider whether a defendant exhibited callous disregard only after finding particular wrongdoing giving rise to legal liability. As discussed elsewhere in this report, I find it more likely than not that the Town Attorney did engage in conduct that would give rise to legal liability. Because that prerequisite to finding callous disregard is present, I find it more likely than not that the facts do support a finding that the Town Attorney's conduct with respect to the Gerrymandering and Misrepresentation of the Endorsement and Seal of the Town to the Public was aggravated by callous disregard.

<sup>14</sup> The Investigator collected Affidavits from citizens attesting to being confused by the endorsement of the ballot measure, lack of attribution and being disenfranchised by unfairly being excluded from the redistricting process of the Charter. These Affidavits are available for inspection in the evidence folder.

<sup>15</sup> Link to [Affidavit](#) by Kelly Elliott

of water rights were in attendance.<sup>16</sup> Attorney Corey Hoffman with Hoffman, Parker, Wilson, & Carberry gave a presentation to the HRCC. The presentation identified what should and should not be included in a Home Rule Charter. He mentioned topics such as minimum age for an elected official, establishing meeting procedures, wards/districts, and conduct of executive sessions. At that meeting, Commissioner Joel Lusby asked for better publicity and campaigning to pass the charter. Hoffman stated, "real world constraint, once ballot issue is set, town cannot spend any money for or against."

A little over three months later, at the [March 3rd](#), 2022 HRCC meeting, Mike Foreman informed the HRCC on the role of the town once the charter is brought to the Board of Trustees and placed on the ballot. He stated, "any printing must be completed by May 18th. [Foreman] discussed the need for an issue committee. Someone outside the Charter Commission should be the Chairperson. Laura Kronick may be able to take on this role." Foreman's statement in this March 3rd HRCC meeting clarifies that he is aware of electioneering laws for municipalities. Kronick did, indeed, assume the role of registered agent for Citizens for Home Rule.

On [March 20th, 2022](#), Mike Foreman emailed a link to a [Canva account](#), which is still active and shared by both [Foreman and Sana Abbott](#). The link contains a mailer and a door hanger, which clearly states vote "YES on Home Rule." The [hanger created](#) within the Canva account is the exact same [door hanger that appeared on Schoening's door](#) on October 8th that she later flagged as electioneering with the town seal. Brandy Turner forwarded Foreman's email with the Canva link he shares with Sana Abbott to Ashley Watts on March 29th for ongoing edits, which lasted until April 4th. On April 4th, Brandy Turner sent the revised artwork to Mike Foreman and Laura Hogan and asked, "Can you please forward this to the HRCC fir [sic] review. I dud [sic] already now [sic] that we need to name and add the name of the Facebook page." Mike Foreman was not only aware of the artwork in question; he was actively creating it and dispersing it to the HRCC. Since Mike Foreman directly benefited from the Charter, his ongoing help with artwork approval combined with the misuse of taxpayer funds to pass the Charter further corrupted the November 2022 TOM election.

Artwork was forwarded by Mike Foreman to the HRCC on April 4th because the HRCC was set to meet April 6th to approve the artwork contained in the April 4th email. A public agenda for the [April 6th HRCC meeting](#) exists on the TOM website. The agenda states "Review graphics for the information mailer, approve or send back for edits." However, minutes for the April 6th HRCC meeting are not available on the TOM website. There is no record of the artwork discussion on electioneering materials. TOM Clerk Laura Hogan states [she did not receive minutes](#) for the last two HRCC meetings, including April 6th. The HRCC did not record meetings.

HRC Commissioner Sana Abbott emailed and created artwork for electioneering materials such as door hangers and signs [with Mike Foreman](#) and directed the final materials to be printed at Tri-Lakes Printing. Sana Abbott gave Kathy at Tri-Lakes Printing the final approval for artwork clearly stating "YES on 2A Home Rule" on April 15th, 2022. Sana Abbott emailed the invoice for \$2512.50

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<sup>16</sup> Developers and owners of water rights explained to me that they were not afforded an opportunity to be heard in relation to their opinions on district lines. They did not receive any notice of meetings.



from Tri-Lakes Printing to Brandy Turner, Home Rule Commissioner, and Mike Foreman at 3:14 PM on April 18th, 2022. The [Board of Trustees met](#) April 18th, 2022 at 6:30 PM. At that meeting, Kathryn Sellars of Hoffman, Parker, Wilson, & Carberry presented the Home Rule Charter to the Board of Trustees ("BOT"). Steve King presented the bulk of the more detailed information, and the BOT voted to place the Home Rule ballot question onto the November 8th, 2022 ballot. The April 18th BOT meeting adjourned at 8:12 PM. Mike Foreman forwarded the Tri-Lakes Printing invoice (dated April 15th) from Sana Abbott to the TOM Finance department and stated "approved to pay" at 9:21 PM on April 18th, 2022, little over one hour after the BOT concluded their meeting and voted to place the Home Rule Charter onto the ballot. The timing of Foreman and Abbott's actions, combined with Corey Hoffman's clear instructions to be wary of accidentally electioneering, point to a clear scheme to deceive the BOT and the voters.

The misappropriation of funds and town assets scheme continued into the Spring and Fall of 2022, and Mike Foreman covered it up. On May 11th, [Sana Abbott emailed Mike Foreman](#) and Laura Hogan and asked them to inform the rest of the HRCC, "I have finally picked up the door hangers, as well as the yard signs today from Kathy. I need to know how you want them dispersed, we need to discuss this. I am proposing a dinner meeting at [La] Casa Fiesta for the board, as well as Mike and Laura if you are able to join us." It is clear the Home Rule Commission had the strong support of TOM staff. Later on in the same email to Mike Foreman and Laura Hogan, as Abbott proposed further use of taxpayer dollars to help pass a ballot issue, she directly used said language, "Also, we need to get dates to support the passing of the HRC and speak to the public/answer questions etc...I am proposing 2 dates each for the months of August, September, October." Those signs were likely stored at Abbott's home until they were dispersed with the other electioneering materials in early October, 2022.

On October 8th, 2022, the first known "YES for Home Rule" door hangers began arriving on Monument doorsteps. On that day, Councilwoman [Schoening emailed requests](#) for a cease and desist to Mike Foreman and Joe Rivera due to the town seal being used in electioneering. The Attorney and Town Manager did not respond to Schoening's complaints, so she again demanded this electioneering with the town seal be investigated and/or stopped in a [second email](#) on the morning of October 11th. On October 11th, Both Joe Rivera and Mike Foreman called Schoening in separate calls in the afternoon to inform her the town seal is neither copyrighted nor protected. Schoening asked the Town Manager if he approved the use of the town seal, to which he said that he did not. On October 11th, Mike Foreman and Joe Rivera were properly alerted to the improper use of the town seal. At no time during these phone conversations did Rivera or Foreman inform Schoening that the materials in question were illegally paid for by the Town of Monument, a fact that was known to the Town Manager at the time of the calls since he directly and indirectly created the electioneering materials Schoening was calling about. Schoening states that at the time of the calls, she assumed the Citizens for Home Rule Committee had improperly used the town seal; she didn't know at the time that the TOM had used the seal on materials it illegally donated to an issue committee. Foreman made no mention to Schoening of any involvement on his behalf in the door hangers in question. This lack of transparency leads the investigator to believe that the facts were purposefully hidden from the Town Council. It was not until Mayor Pro Tem Elliott [filed a complaint](#) on October 21st against the Citizens for Home Rule



Committee that the Council was made aware that the marketing materials in question were purchased by the Town of Monument.

Laura Kronick "cured" Elliott's complaint on November 20th by [amending her original filing](#) to state that Citizens for Home Rule received an in-kind contribution of \$2500 on May 6th of 2022, which included "door hangers, signs..." from the Town of Monument. Several council members raised issues with this contribution, as municipalities are explicitly prohibited from contributing to issue committees. The TOM paid invoice A-82975 from Tri-Lakes printing dated April 15th, 2022 [with a check](#) on April 29th, 2022. At the December 13th Council meeting, Citizens for Home Rule registered agent Laura Kronick stated in [public comments](#) (55:00) that the late filing was an "innocent mistake." Kronick also stated the SOS had investigated this case and dismissed it. The SOS does not investigate such matters, but [this lie was also predicated](#) by [Steve King](#) (53:00) and used by several of the HRC Commissioners in their public comments or social media posts to negate the need for an investigation of misappropriation and the issues stemming from it. The disclosure of the in-kind donation of electioneering materials to Citizens for Home rule by the TOM, equating to misappropriation of funds and violation of state statute by the TOM, was not disclosed until a complaint was "cured" by Laura Kronick, filing agent, on November 20th, 2022. The invoice date and amount are still filed incorrectly; the date of the in-kind donation occurred on April 15th, and the filing states May 6th as reported by Kronick, and the total of the invoice is \$2512.50. Kronick's filing states the in-kind value of \$2500.00 on her filing. The actual total invoice amount, \$2512.50, comprises 99.8% of the total amount reportedly spent by Citizens for Home Rule to convince voters to vote YES on Ballot Issue 2A. This illegal contribution undoubtedly had a direct impact on the outcome of the Home Rule Charter ballot question in the November 8th, 2022 election.

On December 5th, the Town Council discussed the contribution at length in the [Executive Session](#). According to witness statements from Darcy Schoening, Schoening asked Sellars "Why did you not tell them [CHARTER COMMISSION] these signs were illegal?" Sellars replied, "my only job was to oversee the charter. I didn't notice signs or invoices." Sellars said, "the BOT approved the expenditure April 18th." Sellars' statement was immediately disproven. Schoening said, "I checked the minutes on my phone. No, we did not. We would never approve misappropriation." When Schoening asked who approved this, Mike Foreman said he did not know. Only educational materials were approved, according to Mike Foreman. This was clearly a lie, as Foreman helped create the electioneering materials in question per emails, Canva links, and testimony obtained during this investigation. Schoening told Sellars she is incompetent, and this happened under her watch. Sellars replied, "My only job is to help write the charter."

According to statements from Mayor Pro Tem Kelly Elliot, Kathryn Sellars alleged during the Executive Session that the Council approved the misappropriation of funds on April 18th, 2022. When Schoening looked at the minutes for that meeting and proved that statement to be untrue, Sellars looked at Mike Foreman and said "You told me they did..." At that point, Foreman shrugged in alleged confusion. During the executive session, Councilman Ramos demonstrated extreme aggression and hostility, and [Councilman LaKind repeatedly tried to stall the investigation by making assertions that the investigation could be completed by the future Council, which](#)

assumed office January 3rd. Nothing was resolved during the Executive Session, aside from the fact that Kathryn Sellars recused herself from future meetings regarding the electioneering. The exact statements made by Sellars, Foreman, and Councilmembers during the December 5th Executive Session are unavailable because the TOM has not complied with C.R.S. Section 24-6-401 and 24-6-402; Kathryn Sellars stopped recording at the beginning of the December 5th Executive Session. Furthermore, any Executive Session not recorded (except for attorney client privileged information) by the TOM violates OML, and the number of violations should also be investigated.

The Town Council met again on [December 13th](#) and again discussed the same issues that were previously discussed in Executive Session. Ramos was extremely aggressive in his stance against an investigation. He was combative and rude throughout the meeting and alleged that an investigation was only occurring out of "spite." LaKind raised the issue with the appointment of Gesler as Special Attorney, which was likely a delay tactic.

Concerning the issue of misappropriation of funds in the purchase of electioneering materials by the TOM, an overwhelming amount of evidence and statements support that there was a deliberate attempt to purchase the materials in question with TOM funds, and then to hide that purchase from the public and the BOT. Sana Abbott and Mike Foreman at the head of the conspiracy created a Canva account to direct the artwork collusion and created the electioneering materials for Ballot Issue 2A and then regularly corresponded about electioneering with taxpayer dollars and placement of said electioneering materials throughout town. The actions of Sana Abbott, Brandy Turner, and Mike Foreman equated to a misuse of funds in that the signs clearly stated "YES" on Ballot Issue 2A. Corey Hoffman warned the TOM in a public meeting about the difference between educational materials and electioneering on November 29th, 2021, yet everything that transpired since that HRCC meeting went directly against his advice. The actions of Mike Foreman, Sana Abbott, Brandy Turner, and the HRCC as a whole are a clear misappropriation of funds, and they covered up their actions throughout March-November of 2022.

On the issue of intimidation and the creation of a hostile work environment, several members of the Town Council, staff and even citizens indicated to me that they felt uncomfortable answering my questions because they feared retribution.<sup>17</sup> During the investigation, Town Councilman Ramos has been [cyber-bullying](#) the Investigator and witnesses with a chilling effect on social media, which may have been criminal in nature.<sup>18</sup> A close associate of Mith LaKind, Ryan Levier, whom LaKind recommended for [appointment to the Home Rule Charter Commission on January](#)

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<sup>17</sup> Whether a potential witness has been subpoenaed at the time of defendant's intimidating contact is irrelevant. The witness intimidation statute, Colo. Rev. Stat. § 18-8-604, expressly forbids intimidation, not only of a witness, but also of one whom the accused believes is to be called as a witness in the future. All that is necessary to complete this crime is to presently attempt, by threat of harm or injury, to influence someone to withhold testimony at a future time. It is clear that "unlawfully" refers to the time when the testimony is to be actually withheld, not to the time of the contact. [People v. Proctor, 194 Colo. 172, 173](#) Several witnesses had committed to providing affidavits of their testimony and after seeing rants by Town Councilman Ramos on social media decided not to provide those affidavits to me.

<sup>18</sup> The Investigator Recommends Sanctions of Town Councilman Ramos for [intimidating witnesses and the investigator](#) during the investigation using a public rant against the investigation, witnesses, council people and the investigator. The Town Council should additionally consider referring the matter for criminal prosecution or publicly censuring his conduct as unbecoming of a sitting councilman.

3rd, but was not appointed, attacked and spread outright lies about several Councilmembers between October and December of 2022 on social media and within his Substack account, which he emailed to Monument residents. Several false claims repeated by Levier, such as Schoening being a felon and the current Council not being a valid and elected body, also point to criminal behavior by Levier. This repeated, chilling intimidation by LaKind's close friend Levier created a hostile environment for voters/residents and elected officials. Many residents told me they feared retaliation by LaKind and Levier in the form of social media posts or Substack articles and were consequently afraid to speak on the record. Steve King participated in ongoing cyber-bullying, posting on facebook "we are waiting" amongst a dozen other threatening posts. Sana Abbott also participated in the ongoing cyber-bullying, adding to the hesitance of residents to speak in this investigation.

Witnesses said they observed backroom dealings and violations of open meetings laws, where the Town Council was meeting without public access. A few women reported sexually motivated intimidation over the course of past years.<sup>19</sup> Some of the witnesses admitted to participating in such conspiracies and backroom dealings themselves, confirming the allegations. While violations of the open meetings laws were not the primary mission of this investigation, it is an aggravating circumstance because it demonstrates the ability of certain members to co-conspire against others in secret. In my judgment, these bad actors should not be afforded the benefits of their tainted actions, and I recommend that the Town seriously address the culture among the staff and Town Council with educational materials, so as not to continue running afoul of the Open Meetings Law (CRS 24-6-4). And when the conduct results in misogyny or a hostile work environment, the TOM should refer it for criminal prosecution.

On the third issue of the Kathryn Sellars' supervision over the Commission and the Charter's legality, and the broader question of whether the Charter and the election was legal, I outline the legal standard and apply the facts as follows:

- i. Evidence of Addressing whether Attorney Kathryn Sellars certified the legality of the Charter: Despite my best efforts to obtain the information necessary from the Home Rule Commission, the Home Rule Commission's Attorney (now also known as the "Former Town Attorney" and Kathryn Sellars),<sup>20</sup> and the Home Rule Committee,<sup>21</sup> no evidence was gathered directly from Kathryn Sellars before her resignation, which could support or defend whether she herself addressed or certified the legality of the Charter.<sup>22</sup> All members of the

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<sup>19</sup> After a citizen made an inappropriate comment about sex and a councilwoman, Councilman Mitch LaKind responded with a sexually offensive statement on the dais about that councilwoman. After receiving a complaint, the Town Manager did nothing to stop the sexual harassment of a Councilwoman and allowed the hostile work environment to continue, suggesting the councilwoman report it to police instead.

<sup>20</sup> Normally an investigator would use titles as a courtesy to refer to individuals in government, however due to the resignation of the Town Attorney, I determined it was safer to address her by name than to risk confusion with other former Town Attorneys.

<sup>21</sup> The Charter Commission consisted of Chair Steve King, Vice Chair Matt Brunk, Treasurer Joel Lusby, Secretary Brandy Turner, Secretary Janet A. Ladowski, Sana Abbott, Jennifer Coopman, Wayne Laugesen, Shannon Clark. The Charter Commission crafted the language of the Charter and is a different entity from the Charter Committee, which was the issue Committee responsible for the promotional materials that contained fraud, excluded attribution and failed to properly report campaign contributions.

<sup>22</sup> Email sent to Steven King requesting all communications between the Home Rule Committee and the Attorney Kathryn Sellars was sent on 12/19/2022. At the time of publishing, no response was received. It is recommended Steven King be publicly censured for obstructing an official governmental investigation. An email for information was sent to Attorney Kathryn Sellars, the "Town Attorney," requesting information on 12/20/2022. At the time of publishing this report, no information was received. I recommend

Commission who were asked for information did not provide any information. However, others familiar with the process, including Mike Foreman, did provide affidavits that the attorney provided some legal oversight but declined to say whether she certified the Charter's legal compliance. After inspecting the minutes of the Commission, it is clear in 8.2 that the attorney discussed her own role as future counsel, and offers a clear statement that the language of the Charter is approved, "as is". In response to my inquiry for more details about the meeting, the Town Clerk explained that unlike other town public meetings subject to sunshine laws, no complete video or audio recordings were made of the Commission meetings, nor are they required.<sup>23</sup> This is the only known anomaly to the Town's standard procedure of recording public meetings.

- ii. I find by the preponderance of the evidence that the Town Attorney Kathryn Sellars did certify the language as being legal, but did so without doing sufficient research to make such a conclusion. Since several people had raised concerns about gerrymandering, Kathryn Sellars knew gerrymandering was an outstanding issue and was therefore at least negligent in failing to address the concern.
- iii. Does the Home Rule Charter violate Gerrymandering Laws?
  - 1. The US Constitution requires that a court consider any election process involving redistricting to be "fair and effective."
  - 2. In Article XX of the Colorado Constitution, home rule gives local municipal governments the power to make legislation relevant to their areas, exercising control over issues of "local concern" while minimizing state intervention in municipal affairs. The municipality can make stricter rules, for example by imposing a 3% deviations instead of 5%, however, it can not allow for redistricting in violation of US or State Constitutional limitations on Gerrymandering which are broader, for example 16% instead of 5%.
  - 3. [Colo. Rev. Stat. § 2-1-102](#) (2011) defines the Colorado standard for "fair and effective" redistricting of congressional districts.
  - 4. [Hall v. Moreno, 2012 CO 14](#) sets forth a 6 part test for the Colorado standard:

In determining whether the process passed or failed, I again used the preponderance of the evidence standard, though I would have the same conclusion using the clear and convincing evidence standard as well.

- a. Does the Charter "maximize fair and effective representation for all citizens?" FAILED. There is no redeeming reason to pass the effort, which substantially failed the other five tests<sup>24</sup>

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publicly censuring her for obstructing an official government investigation. Sana Abbot also has not responded to the document request, thus I suggest publicly censuring her for obstructing an official government investigation.

<sup>23</sup> The repetitive feeling of having private meetings that are not recorded continually gave me the impression that everyone is involved with backroom dealings within the town. From the instant I stepped forward to be interviewed for the job until my last communication, I witnessed shady conduct and bizarre body language, including rooms that go silent when I enter and pupils that contract to extremes upon sight of me. In light of this and other findings, I can not in good faith claim the process was fair. It is more likely than not that a small to medium sized group of people in the public and in Town Hall manipulated and conspired within the Charter process to make it as unfair as possible with the hopes of benefiting personally and not getting caught. Reports of terrible behavior going unchecked and staff resigning due to intimidation simply highlighted my own intuitive and observed suspicions of malicious collusion.

<sup>24</sup> Worthy of additional note are the resulting substantial disparities in water & development rights created by the redistricting, which was raised to me by several citizens concerned about the unfair election process. They claim they were never given the opportunity to be heard prior to the Home Rule Charter being approved to be placed on the ballot. I interviewed several developers who said they had a substantial interest in the issue, but were never afforded a fair opportunity to participate or be heard prior to districts being formed and the language being approved for the ballot.



- b. Was it subjected to an open and fair process? FAILED.<sup>25</sup>
  - c. Did the Charter Committee abuse its discretion? YES. FAILED.<sup>26</sup>
  - d. Was the Charter Committee reasonable in placing its concern for present communities of interest above a mechanistic attempt to minimize the disruption of existing district boundaries? No. FAILED.<sup>27</sup>
  - e. How many Coloradoans in Monument were moved from their existing districts? More than 5%? Yes. FAILED. By the Calculation of Experts interviewed and the 2020 census 16% of Monument voters were moved from their existing districts.
  - f. Was the redistricting Arbitrary or Capricious? BOTH. FAILED.
5. Although the Municipal Code is silent on the subject of Gerrymandering standards, the Home Rules for County issues have adopted the state rules and the Municipality can only create rules which are more strict than the State's. See Recommendations.

My research of the substance and the procedure of the 2A ballot measure led me to conclude it was substantially corrupted by the omissions of Kathryn Sellars and the conspiracies hatched during the illegal meetings held outside of public meetings. The Charter election process and substance appears to be patently in violation of the US and Colorado Constitution because it arbitrarily and capriciously violates the notion of "fair and effective" representation and the Gerrymandering laws in the State of Colorado. There was no record of any discussion of other methodologies for dissecting the voting district from public or private meetings. A whopping 16% voter disparity was created between one side of the district and the other, while wildly changing existing voting districts, and the incoming authorities. Members of the public, Town Council and persons with substantial interests in the process and outcomes were denied access and opportunity for input.

TOM Home Rule Charter Section 7.1 addresses Qualifications and Appointment of the Town Manager. TOM Mike Foreman had a vested interest in the Charter Commission creating Section 7, which would benefit him personally. Rather than requesting an unbiased third party to advise the HRCC on this section, Foreman alone guided the HRCC on section 7.2 of the Charter. The HRCC should have requested an unbiased third party to advise the writing of this section of the

<sup>25</sup> Members of Town Council most familiar with the issues of the town were told by their attorney they can not participate at all in the Commission's formation of language. Public meetings were held by the commission but not well attended, suggesting there was little to no attempt to include the public. No recording of the meetings was made, the only known anomaly in the Town of Monument's standard procedure, giving rise to suspicion of improper process. Witnesses reported seeing members of the Commission meeting together without a public meeting. Evidence of collusion and conspiracy has been presented. Affidavits regarding misappropriation of funds, town assets, misrepresentations and electioneering all strongly support my finding that there was an illegal, corrupt and unfair election process to determine the new voting districts, which seemingly served the self interest of those on and near to the Commission.

<sup>26</sup> In my research, as flushed out in more detail throughout this report, I conclude based on objective evidence both the Charter Commission and Committee abused their discretion by violating several laws, defrauding the public and electioneering so that both the substance and process of the 2A election were entirely corrupted.

<sup>27</sup> My investigation turned up no evidence of any attempt to honor existing boundaries. I find it more likely than not that the boundaries were decided at best arbitrarily or capriciously, but unfortunately, at worst, which is most likely, based on the self-interest of the members of the Commission, who reportedly immediately started discussing how they would financially benefit during the first set of meetings. No recording of the meetings was made and I therefore can not prove beyond a reasonable doubt, but I do conclude this by the preponderance of the evidence.

Charter. Any legal actions taken within Section 7.2 should have been taken without the presence of Mike Foreman. The near impossibility of firing the Manager, according to witness statements, was added at the behest of the Town Manager himself.

Those in favor of 2A who participated in the transgressions reportedly all stand to gain power as a result of their failure to collaborate on fair election redistricting. For example, under the statutory form of government, the Town Manager could be removed by majority vote. After the passage of the Home Rule Charter, termination of the Town Manager requires 5 votes, regardless of how many Councilmembers are present. The Town Manager now finds himself in the midst of at least two investigations. Due to the Charter that he helped pass, both directly and indirectly, he would now be almost impossible to terminate. I find all of this highly suspicious and riddled with proof of an unfair election process.

The HRCC formed on November 29th, 2022. On December 9th, 2021, at the first HRCC meeting, Steve King asked for a population map and discussed dividing the Town of Monument into districts. He discussed this same issue at length at the HRCC December 9th and December 16th meetings of 2021. Redistricting was discussed, and votes were taken on Monument districts at the December 9th, 16th, and 21st HRCC meetings. HRCC attorney Kathryn Sellars was hired on December 16th, 2021 but did not attend an HRCC meeting until January 20th, 2022. At the March 15th, 2022 HRCC meeting, "public comments", where only a select few were noticed of the meeting or allowed to be present, expressed concerns about public boundaries in HRC Section 2.2. Sellars did ultimately review and approve the Home Rule Charter and present it as a legal ballot document on April 18th, 2022 to the Board of Trustees. Over the span of the eighteen HRCC meetings Sellars attended, over eighty (80) requests exist in the available minutes that instruct Sellars to reword, provide opinion, give advice, or review the completed charter. No proof of such edits being completed were provided to the Investigator at the time of publishing these findings.

Steve King presented the contents of the Home Rule Charter on April 18th, 2022 to the Board of Trustees. King stated "We define residential districts. We break Monument into two residential districts so that each district could have its own councilmember. And two council members come from each district. We felt that the West and East part of town are different in character. We tried to balance how the population bases out. We incorporated the Village North of Higby as part of the Western Zone, and then the entire Western Zone is one district. And then South of Higby is the other district, which gets the population fairly close. And that can be adjusted as populations change."

When Councilman Stephens asked Kathryn Sellars how the redistricting could legally have a 16% disparity on October 21st, she emailed back, "I do want to add a couple of clarifications. It is population which is a factor, not registered voters. I ***don't know how much that makes a difference in Monument.*** There are a variety of other factors that go into drawing districts than just population. The article I will forward to you will discuss those other factors."

The attorney for the Charter, Kathryn Sellars, was hired to be the attorney for the Home Rule Government. When I asked Sellars on December 20th how that transpired, within 90 minutes, she



turned in her resignation, citing that my questions escaped the scope of the investigation as her reason. Combining her refusal to answer basic questions about her role and the crafting of the Charter language and testimony by witnesses who raised the issue of Gerrymandering without a response from Kathryn, the end result has become an unshakable aura of unfair election processes, disparity of power in the community and unfair representation in government. For these reasons, I find that the Town Attorney acted with self-interested callous disregard for the illegality of the issues discovered in the substantive development and procedural supervision of the passage of the Town Charter, rendering the town Charter VOID as against the US Constitution, Colorado Constitution, State Statute, and all notions of fairness.<sup>28</sup>

### Recommendations to Town Council

#### 1. Publicly Censure:<sup>29</sup>

- a. Steven King- for obstructing an official investigation<sup>30</sup>
- b. Kathryn Sellars- for obstructing an official investigation<sup>31</sup>
- c. Sana Abbott- for obstructing an official investigation<sup>32</sup>
- d. Mike Foreman- for obstructing an official investigation and failing to completely address misogyny and the hostile work environment<sup>33</sup>
- e. Redmond Ramos- publicly intimidating witnesses, ridiculing the investigation and the investigator during the investigation<sup>34</sup>

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<sup>28</sup> I did consider the alternative of reforming the Charter, as most of the folks I interviewed, even those who testified against the Charter as written, support the move toward Home Rule, however, I do not see authority for any reformation of the Charter in the Home Rule Statute.

<sup>29</sup> Public Censure is a civil remedy. The Town Council may generally discipline its Members for violations of law, including crimes; for violations of internal rules; or for any conduct which the Town Council finds has reflected discredit upon the institution, or which is found to breach its privileges, demonstrate contempt for the institution, or reflect discredit on the Town. When the most severe sanction of expulsion has been employed, the underlying conduct deemed to have merited removal from office has historically involved either disloyalty to the United States, or the violation of a criminal law involving the abuse of one's official position, such as bribery. The House of Representatives for example has actually expelled only five Members in its history, but a number of Members, facing likely congressional discipline for misconduct, have resigned from Congress or have been defeated in an election prior to any formal House action. A "censure" is a formal, majority vote on a resolution disapproving a Member's conduct, generally with the additional requirement that the Member stand at the "well" of the House chamber to receive a verbal rebuke and reading of the resolution by the Speaker. Twenty-three Members of the House have been censured for various forms of misconduct, including (in the 19th century) insulting or other unparliamentary language on the floor or assaults on other Members, as well as, more recently, financial improprieties. A "reprimand" involves a lesser level of disapproval of the conduct of a Member than that of a "censure," but also involves a formal vote by the Town Council. Historically, Members are "reprimanded" for a range of misconduct, including failure to disclose personal interests in official matters; misrepresentations to investigating committees; failure to report campaign contributions; conversion of campaign contributions to personal use; ghost voting and payroll improprieties; the misuse of one's political influence in administrative matters to help a personal associate; providing inaccurate, incomplete, and unreliable information to the investigating committee; for a breach of decorum in a joint session; and the misuse of official resources by compelling congressional staff to work on political campaigns.

<sup>30</sup> Refused to answer any questions about the investigation.

<sup>31</sup> Refused to answer any questions about the investigation.

<sup>32</sup> Refused to answer any questions about the investigation.

<sup>33</sup> Initially refused to answer any questions about the investigation by making excuses, only answered questions after threat of contempt, and even then, answered in a manner which provided no useful information. Mitigating circumstances include the Town's right to an attorney, but he never raised his right to an attorney, and the technology excuse Drew claimed was a true problem, which could have been avoided by sending pdfs of the emails requested rather than the computer code of those emails. In my opinion, these were intentional obstruction techniques deployed by the manager who has a tattered past of being terminated for similar conduct. In the end, the limited evidence and testimony provided supported my findings in this report.

<sup>34</sup> A video of Redmond Ramos is in the evidence file. He publicly made statements designed to intimidate and ridicule the investigator, investigation and witnesses.

- f. Mitch LaKind- For obstruction of an official investigation and for directing a disgusting misogynist comment to a Councilwoman while at the Dias<sup>35</sup>
    - g. Drew Anderson-<sup>36</sup> For aiding in the obstruction of the investigation
  2. Hold in Civil Contempt of Town Council:
    - a. Mike Foreman- for unjustifiably delaying or refusing to carry out the orders of Resolution 95-2022, for obstructing an official investigation and failing to completely address misogyny and the hostile work environment<sup>37</sup>
    - b. Steven King- for obstructing an official investigation<sup>38</sup>
    - c. Sana Abbott- for obstructing an official investigation<sup>39</sup>
    - d. Redmond Ramos- publicly intimidating witnesses, ridiculing the investigation and the investigator during the investigation<sup>40</sup>
    - e. Mitch LaKind- For obstruction of an official investigation and for directing a disgusting misogynist comment to a Councilwoman while at the Dias<sup>41</sup>
  3. Terminate the employ of
    - a. Mike Foreman
    - b. Kathryn Sellars<sup>42</sup> - Accept the Resignation "Under Investigation"
  4. Formally accept the finding that Kathryn Sellars committed the following under aggravating circumstances and file an ethics complaint with the Supreme Court Attorney Regulation Counsel against Kathryn Sellars for further investigation:<sup>43</sup>

<sup>35</sup> Refused to answer any questions about the investigation and on 12//22/2022 the investigator was told to direct all questions to his attorney who would answer by the 27th, which would be too late for inclusion in this report, which was known by LaKind to be after the deadline set for evidence gathering by the investigator, and just before the scheduled release of the report. The attorney acknowledged the deadline set in writing, and refused to meet it in writing. Mitch LaKind did not assert or invoke his 5th Amendment Right against civil liability, which is described more fully in footnote 43.

<sup>36</sup> The conduct of Drew Anderson during the Investigation was less than expected particularly when contrasted with Town Clerk Laura Hogan's professionalism. I suspect he was either voluntarily or in collusion and conspiracy with others intentionally obstructing the investigation. However, once he was directed by Mike Foreman to do something, he did exactly as told. My concern is that he knowingly participated in actions designed to obstruct the investigation, undermining the intent of the Town in identifying wrongful or incriminating conduct by employees, something no citizen should tolerate.

<sup>37</sup> Initially Mike Foreman refused to sign the Investigator's engagement letter as ordered by the Town Council and refused to answer any questions about the investigation by making excuses. He only signed and answered questions after threat of contempt, and even then, answered in a manner which he thought provided no useful information. Mitigating circumstances include the Town's right to an attorney, but Mike Foreman never asserted his personal Rights, and the technology excuse Drew claimed on Mike's behalf was a true problem, which could have been avoided by sending pdf's of the emails requested rather than the computer code of those emails. In my opinion, these were intentional obstruction techniques deployed by the Town Manager to escape culpability. He has a tattered past of being terminated for similar conduct. In the end, the limited evidence and testimony provided became a major support for my findings in this report.

<sup>38</sup> Refused to answer any questions about the investigation.

<sup>39</sup> Refused to answer any questions about the investigation.

<sup>40</sup> A video of Redmond Ramos is in the evidence file. He publicly made statements designed to intimidate and ridicule the investigator, investigation and witnesses.

<sup>41</sup> Refused to answer any questions about the investigation.

<sup>42</sup> In light of her resignation, officially accept her resignation and document that she would have been fired with cause. Although she could be fired after resignation, this does not likely work to the advantage of the Town. Seek the legal advice of an HR attorney for advice on firing her. No additional advice is needed for accepting her resignation "under investigation".

<sup>43</sup> "Colorado cases involving the type of rule violations before us support a period of suspension. Cases in which a lawyer converts funds and engages in dishonest conduct point toward a term of suspension that lasts longer than one year. In *In re Fischer*, for instance, the Colorado Supreme Court reversed an order of disbarment and suspended a lawyer for one year and one day based on the lawyer's misappropriation of funds from marital assets while representing a client in a dissolution proceeding.<sup>22</sup> The lawyer sold marital property pursuant to the parties' settlement agreement, which the court had approved as an order.<sup>23</sup> The lawyer knowingly disbursed the proceeds from the sale and paid himself for attorney's fees, even though the disbursements were not authorized under the settlement agreement and order.<sup>24</sup> The Colorado Supreme Court determined that the lawyer's misappropriation of the third-party funds entrusted to him warranted a suspension in light of the mitigating factors, including that the lawyer conducted the unauthorized transactions in the open, paid restitution to address the injuries from his misconduct, and expressed remorse.<sup>25</sup> The

- a. Obstruction of an official government investigation<sup>44</sup>
- b. Acting on conflicts of interest
- c. Malpractice, error or omission, resulting in deception of the public<sup>45</sup>

*Fischer* court noted three aggravating factors: a remote letter of admonition, the lawyer's substantial experience in the practice of law, and the lawyer's dishonest or selfish motive.<sup>26</sup> But the factors added little aggravation under the facts of the case, as the lawyer did not take payment beyond his earned fees and in part had acted out of concern for his client's welfare.<sup>27</sup> Though the lawyer admitted that he violated Colo. RPC 3.4(c), the admission did not factor heavily in the Colorado Supreme Court's decision, as the lawyer's admission was inconsistent with his assertion that he was not aware he violated a court order when he disbursed the funds.<sup>28</sup> Kathryn Sellars' conduct is similar in that she presents her extensive experience in these subjects on her application for employ, acted in self interest and in conflict of interests, oversaw the misappropriation of funds and assets (seal) in furtherance of her interest and that of the Issue Committee's interest and attempted to fix the issues by seeking another party to pay back the funds to the town, who in fact did pay it all back. Although it is claimed to have been a mistake, it is my conclusion it was by design or at least out of callous disregard.

"In *People v. McGrath*, the Colorado Supreme Court approved a stipulation to suspend a lawyer for one year and one day after the lawyer misappropriated garnished payments that he had received in satisfaction of a judgment he obtained for his client.<sup>29</sup> The lawyer deposited some of the garnished funds into his operating account while misrepresenting to his client that he had deposited all of the funds into his trust account.<sup>30</sup> The lawyer later made the same misrepresentation to disciplinary authorities.<sup>31</sup> Though the lawyer's misconduct included his neglect of his client's matter, the *McGrath* court relied on ABA Standard 4.12 to suspend the lawyer for one year and one day, stating that suspension was the appropriate sanction when a lawyer knows or should know that the lawyer is mishandling client property, thereby potentially causing the client harm.<sup>32</sup> The *McGrath* court also found that the lawyer's dishonesty aggravated his misconduct.<sup>33</sup>" Kathryn Sellars similarly attempted to cover up the mistake. Whether or not she was responsible for the errors in the Clerk reporting to cure her mistake, she certainly had influence over the decision, which resulted in false reporting. I conclude these are additionally aggravating circumstances.

"Last, the Colorado Supreme Court imposed a significant period of suspension when, among other misconduct, a lawyer knowingly engaged in a conflict of interest without disclosing the conflict to his client, injuring his client.<sup>34</sup> In that case, *People v. Schmad*, the lawyer attempted to settle a personal injury case with an insurer under terms similar to those that the lawyer's client had already rejected.<sup>35</sup> The lawyer's client had an immediate need for funds to pay for therapy and rehabilitation and thus did not want to receive future settlement payments. Even so, the lawyer pressed his client to agree to a lump-sum payment of \$25,000.00." Kathryn Sellars' conduct was in furtherance of her self-interest by among other logic, further securing her position as Town Attorney, and she failed to obtain written informed consent on these conflicts. Several staff members reported feeling like Sellars represented them, which raised additional concern that in my investigation, no evidence of an attempt to describe or delineate her role as Town Attorney had been made by her. Her resignation and refusal to answer questions made it impossible for me to disprove this point. I recommend that the Attorney Regulation Counsel look closer at the emails if time permits, which my investigation did not have. I do suspect there was collusion and a broader conspiracy related to the misrepresentations and electioneering, as I believe the evidence has proven.

Complainant: the People of Colo. Respondent: Brenda L. Storey, 2022 Colo. Discipl. LEXIS 56, \*16-19

<sup>44</sup> An email was sent to Kathryn Sellars in the early hours of the investigation on Tuesday the 19th, and approximately 3 hours later, the Town received her resignation. No assertion of her 4th, 5th, or 6th amendment rights were made. The resignation and refusal to provide the information demanded under official government investigation resulted in a substantial obstruction in the investigation of not only her conduct but that of other individuals in the Town of Monument's staff, and the potential conspiracy to electioneer and misrepresent the Charter to the public. When a criminal defendant pleads the Fifth, jurors and in this matter an investigator and the Town Council are not allowed to take the refusal into consideration when deciding whether a defendant is guilty. In the 2001 case *Ohio v. Reiner*, the U.S. Supreme Court held that "a witness may have reasonable fear of prosecution and yet be innocent of any wrong doing. The [Fifth Amendment right against self-incrimination] serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances." Defendants may assert their Fifth Amendment rights during civil trials, too, if testimony would open them up to criminal charges. But defendants in civil trials do not enjoy the same protections against bias with respect to liability. This means that an investigator, jury or Town Council is free to make inferences when a defendant chooses not to testify in a civil trial for fear of self incrimination. And, merely refusing to answer or stating that questions are to be directed to an attorney, or that a person is represented by counsel, or that one will answer questions much later is not an assertion of this privilege. Several witnesses decided not to answer any questions or to do so with extreme delay or to answer questions with technology the investigator could not decipher even with technology support, or to direct questions to attorneys, all of which failed to assert a 5th Amendment right, and the investigator and Town Council are therefore free to read into these actions in determining civil liability.

<sup>45</sup> Throughout the investigation, I immediately concluded that any attorney would have and should have known about Clerk reports, the duties associated with campaign finance laws, the US Constitution and related Gerrymandering laws and applied these laws to any analysis on the Charter language before allowing it to proceed to the voters. I asked several witnesses with personal eye-witness knowledge of the Commission's meetings whether any legal advice was given on the substance of the Charter. At least one witness signed an affidavit stating no advice was ever given. It is my conclusion that the failure to advise the stated client the Commission about gerrymandering was either an innocent omission, or in light of how the failure served her self interest was more likely than not done in callous disregard to secure her promised Town Council position. During the investigation, I came across testimony that during the Commission's initial meeting, the members began immediately discussing how they would design the Charter to maximize their personal gain, including discussions of salaries and who would be the Town Attorney. This was the strongest evidence of collusion and conspiracy, a conclusion I did not find enough information to support as a finding because meetings were not recorded and I don't know who all was involved in what became electioneering, misappropriations and misrepresentations.

- d. Misappropriation of public funds and assets<sup>46</sup>
  - e. Misrepresent the Charter to the Public<sup>47</sup>
  - f. Electioneering
5. File a claim against Kathryn Sellars for damages caused by failure to correct the unconstitutional nature of the Charter before it was placed on the ballot.
  6. Formally waive governmental immunity for everyone named in the above recommendations.
  7. Create an anonymous reporting method for staff and the public to disclose their concerns to management and Town Council, log those concerns and address them completely. I recommend a "suggestion" box.
  8. Conduct a processes audit for Accounts Payable to identify how anyone could have processed a check without knowing precisely what it was for.
  9. Monitor the intimidation tactics of Councilman Ramos and Mike Foreman and refer any future complaints to a criminal prosecutor.
  10. Require Robert's Rules of Order training, particularly on how to deal with unruly individuals both at the dias and in the audience.
  11. Formally adopt the State Standard for Gerrymandering and apply it to the Home Rule Charter, and thereby acknowledge and adopt my finding that the Charter as presented to and passed by the voters under unfair and illegal election practices and with unconstitutional language is VOID.

The findings in this report are both reasonable and necessary. They support my sworn oath of admission as an attorney to "*support the Constitution of the United States and the Constitution of the State of Colorado*". The US and Colorado Constitution operate to invalidate any law that violates its terms. Any law that is written which denies your authority or duty to refuse to enact or enforce an unconstitutional law, is itself void, for violating the Constitution. The mere fact that the Statute giving rise to home rule is silent on whether you can refuse to enact or enforce the Charter or accept its election process for violating the Constitution, does not negate your duty to do so. In fact, if you fail to acknowledge the illegality of the Charter after reading this official finding, and instead authorize the Charter for enforcement as written, you could face legal liability both as a Town and personally as an ultra vires act. Town Council expressly has the power to legislate, adjudicate and execute laws. State statute clearly supports the Town Council in this self-governance. Implied in that is always the duty to remove any law deemed Unconstitutional.

It is not you who voids the law, by my analysis, the Constitution of the United States and the Constitution of Colorado both voided it already. It is your duty by your oath to acknowledge that the Constitution voided the Charter. If the next Town Council decides to ignore this recommendation, a court would likely issue an emergency injunction preventing it from being enacted pending ratification of this report.

<sup>46</sup> It is important to note that the element of misappropriation does not require intent. It is a strict liability standard. During my investigation, I did find mitigating circumstances to show it could have been a mistake, however, in light of all of the conflict of interest, I find it was more likely than not based in callous disregard.

<sup>47</sup> The evidence strongly supports the conclusion that Kathryn Sellars authorized the use of the Town Seal on marketing materials, which resulted in misrepresenting the Charter as having the Town's endorsement.

The law clearly states that you can not reform the Charter after it is passed by the Commission but must put it to the people for a vote in its flawed form. Therefore, the only remedy is to acknowledge it was void when presented to the public, and the Charter process must start over. This entire investigation is about Due Process, and how a few isolated violations led to one massive violation of Rights. Have faith in the process and justice will prevail. As the interim Town Council, your authority continues until the next elected Town Council is sworn in.

In unbiased Truth,

Grant Van Der Jagt, Esq.



















Owned by Grant Van Der Jagt. Shared with Unnamed, Unnamed, Unnamed, amy stephens, and 9 others.

Manage access


People with access

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**To:** Mike Foreman <mforeman@tomgov.org>, Drew Anderson <danderson@tomgov.org>, Kelly Elliott <kelliott@tomgov.org>, Mitch LaKind <mlakind@tomgov.org>, Redmond Ramos <rmos@tomgov.org>, Ron Stephens <rstephens@tomgov.org>, Darcy Schoening <dschoening@tomgov.org>, Jim Romanello <JRomanello@tomgov.org>  
**Subject:** Re: Access to folders

Mike (and all copied on his email),

Produce the signed engagement agreement without further delay. Last I heard, you had an attorney reviewing the contract as your "standard operating procedure". I wrote that attorney a request to explain the delay. The attorney has not responded. We are now 5 days into the investigation, and you have failed to produce the signature the Town Council ordered you to provide on the document. The Town Council already reviewed the document and approved it for signature. What are you waiting for?

Additionally, I sent you a demand for production, which you assigned to Drew. To date, you have not answered all of the questions I asked of you, even with Drew's assistance. Please upload the documents I requested (which is most secure) or email them to me. If you require encryption, you are welcome to use it, just provide me with the key. If necessary, I can come to your office and put it on a memory drive. If you do not provide the data requested, my next stop will be the database or making decisions without your input.

Please be advised that you are required by law to produce the requested data and signature. Further obstruction is actionable both civilly and criminally. I expect both the answers to my questions and the signature received by 5 PM tomorrow. Before you race off to win some kind of social media war with a false narrative about access or fairness, let me remind you that insulting or intimidating witnesses, the investigator or the investigation is also actionable civilly and criminally. Councilman Ramos should also take note, as his social media rant may have already crossed the line. There are limits to free speech, which decisively end at interference with an official government investigation. I am particularly sensitive to these issues because I have very little time and therefore tolerance for distractions, delay, obstructions and intimidation.

As I have done with other data received by all other witnesses, all answers upon receipt have been transferred from the information gathering stage, to the

appropriate tier of security for inclusion into the report by hyperlink reference. No one other than myself and other members of my law firm have access to those documents.

Once I publish the report to the Town Council, each Town Council person will have equal access and opportunity to review the documents and ask me questions during the meeting that has not yet been scheduled. I expect meeting to be on December 28th, and I recommend it to be by executive session, since we will be discussing Human Resources concerns in depth and at length.

At present only a few folders remain empty. Yours is one. Kindly fill it with the requested information. This is your only opportunity to be heard in this investigation. If you have something to say, upload the documents.

My patience for your delay, obstruct and distract tactics is wearing thin. At Town Council on Friday, you assured me you would not be the problem. Nearly everyone else is complying completely with requests except for you (and Kathryn Sellars). Drew, if you have the information requested, upload it without further delay.

Sincerely,

Grant Van Der Jagt

Special Investigator Pursuant to Resolution 95-2022.

On 12/20/2022 4:23 PM MST Mike Foreman

<mforeman@tomgov.org> wrote:

Below is the investigator's explanation. i more than ever believe the Town needs a Town Attorney to review this process. I've never seen this process used before. I will await instructions from the board.

**MIKE FOREMAN**  
TOWN MANAGER  
TOWN OF MONUMENT  
[www.TownofMonument.org](http://www.TownofMonument.org)

645 Beacon Lite Rd.

Monument, CO 80132

719-322-3043 Cell

719-884-8011 Fax

Follow @TownofMonument

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Image



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**From:** grant vdjlw <grant@vdjlw.com>

**Sent:** Tuesday, December 20, 2022 4:17:31 PM

**To:** Mike Foreman <mforeman@tomgov.org>; Drew Anderson  
<danderson@tomgov.org>

**Subject:** Access to folders

Drew,

I understand that there is some concern about access to the evidence folders. In the final report, much of the evidence is allowable for public consumption, but some limited testimony is not, even if the Town Council decides to make more available, I will continue to tightly control some of the most private data, if any is shared.

To date, there has been no attorney-client privileged information shared with me. Due to the Town Attorney's resignation, I doubt she will be providing me with the documents requested.

Nonetheless, let me explain the structure of the folders.

I created a folder for all testimony and then created separate folders inside of that folder for each person to access and upload their own testimony and another folder in that to allow for privileged access. I checked on my side that only the persons with access to their own testimony folders has access.

The idea of using this system is to have "authorized tiers" of access to information. On the first tier, anyone who provided testimony can see their own testimony. On the second tier, anyone on Town Council will have access to the information that is provided by the first tier, with the exception of the privileged folders. On the third tier, any attorney or judge will have access to all of the data and the privileged folders.

I continue to tightly monitor access. You for example should not have access to the rest of the investigation.

Some witnesses, staff and from the public, have asked to remain more anonymous. For them, as data is received, I am notified and I transfer the data out of their folder into the general evidence folder to protect the identity of the people providing information and if necessary, I redact some of their personal information and transfer it to a redacted evidence folder.

I think the bottom line is that the evidence is tightly controlled. I do not believe there has been any kind of data leak.

Sincerely,

Grant Van Der Jagt, Special Investigator

This electronic transmission and any attachments may be considered PROPRIETARY INFORMATION. If you received this transmission in error, please destroy and notify the sender immediately. Sender and receiver should be mindful that all my incoming and outgoing emails may be subject to the Colorado Open Records Act, § 24-72-100.1, et seq.







**Grant Van Der Jagt**



**Grant Van Der Jagt**

Facebook

You're not friends on Facebook

7 mutual friends including Trevor Dierdorff and Jeffrey Dunston

5:43 PM

Yesterday you were a friend and now you are not. What happened? On and off again?

I have a question for you. Were you ever reprimanded for sexual harrassment on Town Council?

If you reply, Grant Van Der Jagt will also be able to call you and see info like your Active Status and when you've read messages.

**I don't want to hear from Grant Van Der Jagt**





Grant Van Der Jagt

6d · 🌐

...

Councilman Mitch LaKind, retaliation because I found you to be a pervert in the investigation you hired me for isn't a good look. (You waived attorney-client privilege and Town Council released the report to the public, so here it is.)

The new Monument Council ran on more home-town development, protection of the town's water rights, and more government transparency. In their very first public meeting on Jan. 3 they approved a KFC franchisee from Pueblo, voted to extend a water tap to a 26-home trailer park in Palmer Lake, and passed three motions to "set aside" my investigation, "fire" me as the lawyer, and "put under lock-and-key" the intellectual property of the investigation. Most of these actions are illegal, including acting on the Town Charter.

\$50,000 to \$300,000

Generally speaking, damages for creating or failing to prevent a hostile work environment ranges from \$50,000 to \$300,000. These compensatory damages are meant to reimburse victims of a hostile work environment for the expenses they have incurred as a result of inappropriate behavior such as sexual harassment, like the misogyny you (Mitch LaKind) spewed into the microphone from the dais to a Town Councilwoman on record during a public meeting.

People who report such conduct are protected from retaliation. An employer cannot retaliate against you for exercising your rights under the Department of Labor's whistleblower protection laws.

Retaliation includes such actions as "firing" - your word, not mine. The whistleblower (me) may receive a reward of 10 percent to 30 percent of what the government recovers.

Town Council of Monument & Councilman Mitch LaKind your actions at the recorded 1/03/2023 meeting violated many laws. Your Department of Justice complaint reference number is: ECN91352. You likely face personal liability as well as exposure to the Town because your actions exceed your authority.

Colorado has two statutes that protect whistleblowers. One statute, Colorado Revised Statutes Section 24-50.5-103, protects public employees, while the other statute, Colorado Revised Statutes Section 24-114-102, protects private sector employees. A complaint has been filed with both the Department of Labor and Civil Rights Division.

You are on notice that you created a hostile work environment and retaliated publicly with false and disparaging comments against me as a 3rd-party neutral whistleblower (a government official acting in my official capacity) in violation of the terms of your contract and both Federal and State laws. I welcome the Department of Justice, DLE & DORA in their impending investigation.

Mitch LaKind, I will not be intimidated into revealing sources. I was not hired by you individually, nor the new board. I do not take orders from tyrants or perverts. You waived your rights as a member of the 12/16/22 quorum. You do not have a waiver of any of my rights. I never have represented your 1/3/23 quorum and you have no authority to do any of what you claimed, without the consent of the 12/16/22 quorum members, who have also filed complaints against you.

100% of my internal report that Town Council published is true.

If anyone is curious what the retaliation is about, this guy and his new government didn't like the result of my internal investigation which concluded there was a myriad of illegal conduct, including misappropriations, fraud and sexual harassment. Here is that report. The conclusion starts on page 15.

[https://gazette.com/thetribune/monument-to-postpone-investigation-resulting-report-into-possible-campaign-finance-violations-other-town-issues/article\\_4a7ad240-8c8e-11ed-8a3d-bf634427fbb2.html](https://gazette.com/thetribune/monument-to-postpone-investigation-resulting-report-into-possible-campaign-finance-violations-other-town-issues/article_4a7ad240-8c8e-11ed-8a3d-bf634427fbb2.html)

## Monument to postpone investigation, resulting report into possible campaign finance violations, other town issues

Breeanna Jent Special from The Gazette  
Jan 10, 2023



The new Monument Town Council voted at the Jan. 3 regular council meeting. From left: Mayor Pro Tem Steve King, Councilman Kenneth Kimple, Councilman Jim Romanello, Mayor Mitch LaKind and Councilwoman Sana Abbott.

Breeanna Jent, The Gazette

**Editor's Note:** This article has been updated to correct a paraphrased quote from Mayor Mitch LaKind regarding the scope of the investigation.

Public discussions in Monument regarding an explosive and highly controversial report resulting from a town investigation that looked into, among other issues, possible campaign finance violations by the town are on hold for a while longer.


With no town attorney to review the report commissioned to investigate campaign finance violations by the town and staff and council member actions, among other issues, the Monument Town Council on Tuesday voted to postpone the investigation and report until it has hired an attorney to "properly review" it and consult with the council, at a future public meeting, on what actions the town should take.

The council also voted to terminate the town's agreement with Grant Van Der Jagt and his law firm, hired in mid-December to conduct the investigation, and demand Van Der Jagt turn over all investigative materials to the town.

The council earlier on Tuesday directed staff to seek out an interim attorney as soon as possible.

 **Dysfunctional council meeting leaves many questions unanswered | From the Editor**

Mayor Mitch LaKind said Van Der Jagt's "actions during this investigation were self-serving" and that the investigation was biased due to the "obvious persona (sic) relationship between the attorney and a sitting member of this council."

 also said the report examined the town charter, which "was not part of the resolution that the attorney was supposed to be investigating."

"I promised the previous (Town Council) that we would go through the investigation ... and what is in the report, but we will not do it without an attorney. Our own attorney," LaKind said in an interview Wednesday. "In this particular case, the investigator, while he was hired by the (council), was not a representative from the town."

Van Der Jagt said Wednesday he had no conflict of interest because he never represented or had a financial interest with any member of the Monument Town Council. He said his firing was retaliatory because some council members were upset with the findings in his report, which they have not discussed publicly.

A special council meeting on Dec. 28 ultimately ended without a discussion of the document, originally planned as a session closed to the public, as the meeting descended into chaos with members of the public and former Town Council shouting at each other. The crowd shouted statements that the council's actions could open the town up to lawsuits since it was operating without an attorney.

The report outlines several concerns, including possible redistricting problems in Monument's newly approved home rule charter, claims of sexual harassment, Town Manager Mike Foreman's work to create materials used to promote the passage of a ballot question to approve the charter and lack of oversight from the town attorney over the town's spending on materials to promote the question.

The town spent about \$2,500 on promotional materials, money that former members of the Home Rule Charter Commission said was funded to the town.

The report also calls for voiding the recently-approved home rule charter.

"Being fired is a retaliatory action governed under the (U.S. Department of Justice's) whistleblowing act," Van Der Jagt said. 

He has filed a complaint with the Department of Justice against the town and LaKind, Van Der Jagt said, adding that he will not turn over the investigative documents the town is requesting because some sources are anonymous. His contract was also made with the previous council, not the new council, he said.

"The new government I've never had a contract with, and the new government doesn't have a right to my documents," Van Der Jagt said. "It's my ethical obligation to refuse. ... I will not hand (that information) to this rogue board that's intent on retaliation against whistleblowers."

LaKind said he had not seen the filed complaint and had no comment on it. "I'm not going to address something I haven't officially seen," he said Wednesday.

Van Der Jagt also said the scope of the investigation, outlined in an eight-page engagement letter former Mayor Pro Tem Kelly Elliott signed on Dec. 18, was "intentionally very vague."

Only the first sentence of the engagement letter addresses it: "Dear prospective client: Pursuant to our telephone discussion the law firm agreed to investigate some issues for the board."

On Tuesday, LaKind also pushed back on Van Der Jagt's previous claims at a Dec. 16 special Town Council meeting that he had never had an ethics violation filed against him.

#### **■ New Monument council takes office following concern over timeline in changing town leadership**

"While this may be true considering his time as an attorney, it is not true of his time as a licensed Colorado real estate broker," LaKind said, claiming multiple ethics violations had been filed against Van Der Jagt during that time.

LaKind also claimed Van Der Jagt paid a reduced fine of about \$3,000 and had his real estate license revoked to settle the Colorado Department of Regulatory Agencies' investigation into the complaints.

The agency manages licensing and registration for Colorado businesses, among other duties.

Van Der Jagt said Wednesday the claims were false and maintained no ethics violations have been made against him.

The complaints filed with the agency were done by "customers and adverse parties" when Van Der Jagt was working as a property manager, which included conducting evictions for the property owners he represented, he said.

While his real estate license gave him "a limited license to practice law," Van Der Jagt said he was also "licensed at a higher level" and could "practice complete and comprehensive law as an attorney."

"I was authorized and I was also prohibited," he said. "What (the agency) found was I was acting as an attorney within my rights as an attorney, but I was doing things I was prohibited from doing as a broker."

For example, real estate brokers cannot draft real estate contracts, leases or amendments, and cannot provide legal advice about those documents, but attorneys can.

Van Der Jagt said he was ready to move away from real estate and focus on his law practice, so he settled the complaint with the agency with no admission of guilt to release his license, and he paid a reduced fine.

Residents during public comment at Tuesday's meeting said they wanted officials to continue the investigation into possible campaign finance violations by the town.



"I believe this is the only way that we're going to resolve this," former Home Rule Charter Commissioner Brandy Turner said.

Contact the writer: [breeanna.jent@gazette.com](mailto:breeanna.jent@gazette.com)

### More Information

Residents interested in being considered for appointment to fill two open Town Council seats should submit a letter of interest, a résumé and notarized affidavits affirming they meet the qualifications for appointment to the town clerk by 5 p.m. on Jan. 30.

Applicants are encouraged to attend the Town Council's regular meeting on Feb. 6 at 6:30 p.m. for interviews.

For more information, call the Town Clerk's Office at 719-884-8035.

### Breeanna Jent

Reporter

Breeanna Jent covers El Paso County government. She previously worked as the editorial assistant for the Pikes Peak Newspapers and joined their sister paper, The Gazette, in 2020.



# Matt & Jeffrey Dunston

Invite you to a Monument reception for:

## Monument Trustee Darcy Schoening

### \*\*\* HOSTS

Dr. Sandra Bankes  
Sandy Shakes  
Bethany VanPelt  
Rose Pugliese  
Grant VanDerJagt

Joy Hoffman  
Stacy Adair  
Russell & Juliann McPadden  
Valdamar Archuleta  
Shane Sandridge (CO House Dist. 14)

27

SUNDAY AT 5 PM - 7 PM

## Darcy for Monument Trustee Campaign Kick-off & Fundraiser

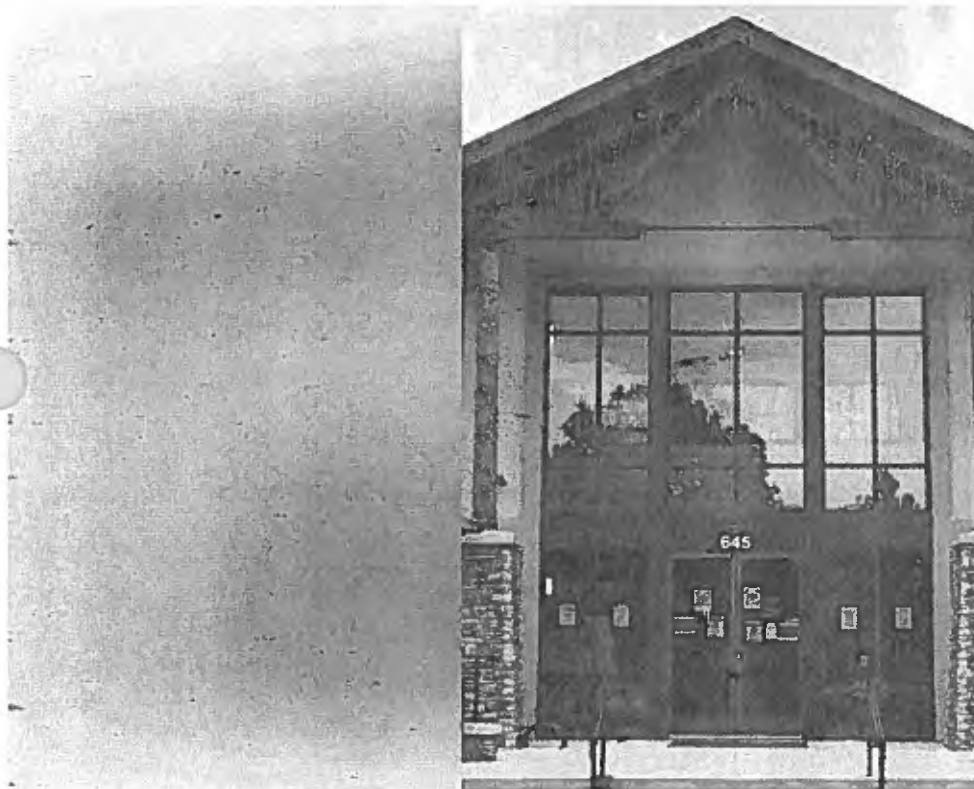
4650 Red Rock Ranch Dr, Monument, CO 80132-8263, United States



[https://gazette.com/thetribune/home-rule-charter-commission-members-answer-allegations-made-in-initial-town-of-monument-electioneering-investigation/article\\_ca6cae0e-94e7-11ed-9d9f-735ec486f564.html](https://gazette.com/thetribune/home-rule-charter-commission-members-answer-allegations-made-in-initial-town-of-monument-electioneering-investigation/article_ca6cae0e-94e7-11ed-9d9f-735ec486f564.html)

## Home Rule Charter Commission members answer allegations made in initial Town of Monument electioneering investigation report

By BENN FARRELL The Tribune  
Jan 24, 2023



A Monument Town Council meeting descended into chaos Wednesday night.  
Jeff Kearney, The Tribune

*Editor's note: This is the first of two stories from interviews conducted with members of the Home Rule Charter Commission and the Citizens for Home Rule issue committee that attempt to explain perceived discrepancies in an investigator's report. Not all of the article fit in print. For the complete version, please go to [gazette.com/thetribune](https://gazette.com/thetribune).*

MONUMENT • As the investigation into a potential violation of campaign finance laws by the Town of Monument is on pause, initial findings remain incomplete.

A preliminary report states members of the Home Rule Charter Commission and Citizens for Home Rule issue committee did not respond to email inquiries from investigating attorney Grant Van Der Jagt. With this input missing, The Tribune reached out to members of the HRCC and the issue committee in an attempt to further the investigation findings.

At the start of the HRCC's public meetings to begin drafting the town's first charter, Ashley Watt was elected to serve as one of the commissioners but later resigned and did not serve beyond its Dec. 16, 2021, meeting. Wayne Laugenson was appointed to serve on the commission and attended his first meeting Jan. 20, 2022. Neither has been contacted in the course of The Tribune's investigation thus far.

**The report states the town attorney authorized payment of the invoice for Yes on 2A signs, door hangers**

Members of the commission interviewed each said the attorney had no knowledge of the invoice at hand, let alone authorized the payment of it. Although the report cites the town attorney as Kathryn Sellers at the time of the investigation, HRCC members said neither she as the Home Rule Charter Commission counsel, or later as town attorney, nor previous interim town attorney Joe Rivera had anything to do with the authorization of the invoice for signs and door hangers in favor of the 2A ballot initiative.

**The funds were "cured" only after public scrutiny, not born of honesty or the desire to do the right thing.**

Steve King said it was his understanding at the time the cost of print materials was discussed, it was allowed for the town to purchase signs as long as it purchased them before the charter was placed on the ballot, even if it wasn't solely educational purposes.





Steve King  
Courtesy photo

“When we filled out the report for the issues committee, the issues committee was separate and a group thing,” he said. “My thought at the time was the town bought the signs, the town owns the signs. I didn’t see it as a gift.”

After Kelly Elliott filed a complaint with the town and later noted the issue committee didn’t disclose the purchase of the signs, King spoke to the commission’s legal counsel (Sellers). King said she advised him to have the issue committee disclose the purchase and amend its report of contributions and expenditures. “Which we did,” he said.

Brandy Turner, commissioner and part of the issue committee, said at some point, someone posted the state statute regarding the situation, and commissioner and issue committee treasurer Joel Lusby said, “It all came down to everything saying ‘Vote Yes.’”

Nobody noticed that wording until the signs were purchased and the committee started putting them up, Lusby said.

"I'm a very black and white person," Turner said. "I read the statute. I understand now, so I'm like, 'OK, let's just correct it.'"

Turner took it upon herself to go to Tri-Lakes Printing, the vendor for the materials, and pay for the signs herself. She asked the vendor to refund the money to the town.

"All those documents are on the town's website today. Nothing was pulled out. Nothing was covered up and redacted. It's all there," King said. "That's the trail from the start to the end. There was no embezzlement. There was no stolen money. And there was no self-interest."

Matt Brunk, commissioner and member of the issue committee, said if one follows the trail of the purchase, it can be seen where the money is at all times. The issue committee and the HRCC were allowed to have signs stating "Vote Yes on the ballot measure" prior to the measure being placed on the ballot.

Brunk said those involved thought there was nothing they hadn't been informed about at the time. "We didn't have counsel at the time this came out," Brunk said. "We were like, 'Did we do something wrong? Did Mike [Foreman] do something wrong? Did the town do something wrong?' So, we really didn't know."

The issue committee began discussions about whether paying back the money was an option, and other ways to correct the situation, Brunk said.

"There was a lot of chatter on the other side, and we really didn't know what to do because we didn't have counsel," he said. "At that point, (Turner) just said 'I'm done' and paid for the signs. We offered to help pay for them, but she just did it. And we were like, 'Well, OK then.'"

King said the issue committee did nothing wrong. When the issue committee asked Sellers for advice on the situation regarding its contributions report, Brunk said the cost for that was paid "on our own dime." That was the last time Brunk remembered the committee discussing the matter until the opposition started to make claims of an electioneering violation, he said.

## Regarding using the Town seal for promotional issue committee materials

The seal of the Town of Monument is what Town Clerk Laura Hogan uses to stamp official town documents. The "seal" that is noted in the initial investigation report refers to the Town of Monument logo which was used on the issue committee's door hangers as well as yard signs, door hangers and direct mailers used by the opposing No on 2A issue committee.

"The logo is not copyrighted," Lusby said. "It's free to use. Nobody even has access to the town seal. It's like a notary."

Turner said the town logo had been used on materials in 2021 used to educate the community on Home Rule Governance and the creation of a charter commission. She said that is where the idea to use the town logo came from.

"We thought, 'why reinvent the wheel?' A lot of that stuff had really good reasons for Home Rule," Brunk said. "Initially we talked about why not take out a few things and put some other things in order to cut down on cost."

Brunk said keeping HRCC costs low was a priority. The committee wanted to avoid the additional expense of hiring a professional graphic designer.

There was discussion between the HRCC and Town Manager Mike Foreman about the town logo long before any complaint regarding an electioneering violation was made, Turner said. Foreman told them the logo isn't copyrighted and anyone can use it, she said.

"At no point did anyone say, 'before you send anything out, let town hall look at it, approve your material,'" Shannon Clark, commissioner and issue committee volunteer, said.

Lusby said because of this situation, it probably will become a new protocol for the town.

Among the HRCC members interviewed, each said Sellers was ever asked about use of the town seal or logo.

Jennifer Coopman, a commissioner and issue committee volunteer, said the only time it was talked about was when the HRCC needed to pick a picture for the front of the charter. They agreed to use a photo of the intersection of 2nd Street and Highway 105.

"We talked about if it was a copyrighted picture," Coopman said. "We needed to check."

King said Foreman was asked if they could use that photo for the charter cover, to which he informed them the town owned the photo and it could be used.

Lusby noted once the commissioners formed an issues committee, Sellers recused herself from it and didn't sit in on any meetings of the committee. "She was out of it," he said.

**The report said town trustees were not permitted to attend HRCC meetings**

At the Nov. 29, 2021, meeting of the Board of Trustees when the board approved a resolution to set the first meeting of the HRCC, Trustee Laurie Clark asked Hogan since the meetings were open to the public if members of the board were allowed to attend as well. Mayor Don Wilson clarified board members could attend the public meetings but were not allowed to be a participant.

Lusby said he's heard from some council members they were told not to attend the meetings.

"They can go. They can watch and they can make public comments," Coopman said. "However, they cannot participate in our discussion of actually creating the verbiage of the charter. ... They may have taken it as, guessing on my part, like they are not supposed to be at the planning commission meetings because it could result in a quasi-judicial hearing and gathering of outside information."

If some council members were confused by associating the limits of attending meetings of the planning commission with the HRCC meetings, "That's on them," Lusby said.

Municipal attorney Corey Hoffman's advice to the HRCC in the report said, "real world constraint, once the ballot issue is set, town cannot spend any money for or against."

Those interviewed said everything going on the printed materials in question was decided prior to the ballot issue being set. King said it was prior to the April 18 Board of Trustees meeting when the charter was presented to trustees for affirmation.

"We didn't submit anything for Mike (Foreman) to approve," Brunk said. "We took it to Tri-Lakes Printing and that was it. Nobody approved anything and we were never told anybody had to."

Commissioner and issues committee volunteer Sana Abbott said she approved the design proof with Tri-Lakes Printing to move forward with the creation of the materials.



Sana Abbott  
Courtesy photo

Att initially took on designing the materials, but after she resigned from the commission, Abbott took over in order to meet the commission's timeline. After learning a graphic designer could cost \$35-50 per hour, Abbott decided to do the design herself, avoiding further charges to the town, she said.

"It was like herding cats to get everybody's input, so it became myself and Brandy (Turner) who did the majority of the decision making for the designs," Abbott said.

Abbott emailed the completed designs to Tri-Lakes Printing and she said she copied Turner and Foreman on that email but she couldn't confirm Foreman received or saw it.

She also believes she included Hogan on the email.

"I wasn't being secretive," Abbott said.

King said all these steps had been completed before the charter was presented to the Board of Trustees.

"The invoice was submitted before the charter went on the ballot," he said. "We are 100% sure of that."

**The investigation report states at the March 3 HRCC meeting, Foreman told commissioners any printing must be completed by May 18.**

This could have been a typo in the minutes of the March 3 meeting minutes of the HRCC, which ultimately would have been repeated in the report. All commissioners interviewed said they understood the deadline to be April 18 and don't recall Foreman saying May 18.

Brunk said the commission was diligent not to spend money inappropriately and not spend the approved tens of thousands of dollars.

"We were very cognizant to try and get the final invoice for educational materials in by April 18," Brunk said. "We were like, 'Hey, the town has offered to pay for it because they said we could have educational materials.' At this point, we had never felt we did anything wrong. Even after we saw the statute, we thought it made sense, but even then all of this was done before the ballot was even presented."

King said, interpreting the statute, he didn't feel the issue committee even needed to reimburse the town. "But it seemed like the right thing to do, and (Turner) took it upon herself," he said.

"This is nothing that any of us have ever done. We didn't know. We are volunteers," Turner said. "I think we did it and we were actually proud of ourselves that we managed to just spend \$2,500 on advertising because it can get costly. We were happy to save some money for the town."

**The report states that on March 20, Foreman emailed a link to a Canva account shared with Abbott. ... Foreman was not only aware of the artwork in question; he was actively creating it and dispersing it to the HRCC.**



Those interviewed said Foreman did email a Canva created graphic file of an educational flier drafted to inform citizens about Home Rule government. The flier was created prior to voters approving the switch to Home Rule and the creation of the charter commission in November 2021. Since no commissioner had experience with the Canva platform prior, none of those interviewed could say with certainty how Abbott was given access to a previously established Canva account used by the town.

Brunk speculates Foreman emailed the previously-created flier, which also may have served as a link to the platform account, ultimately giving Abbott access. Abbott said when she had heard about Canva, she created her own free account and believed she was making changes to the provided flier under that account. She said she added Foreman as an editor to that account so he could see what was created, but she could not say if Foreman ever knew about he was listed as an editor or even looked at the graphic she was working on.

"I kind of wish we had asked or said something, in hindsight, because of the 'Vote Yes,'" Abbott said.

The flier provided to the HRCC was created in 2021 by someone within the town, not Foreman, and was a one-page 8.5-inch by 11-inch graphic, Coopman said. Foreman dispersed the graphic to Abbott because the commission asked for it, rather than have one of the commissioners create new materials from scratch or pay a professional designer.

"He was not creating. That was the only thing he sent and it was only because he had access to it and we did not," Coopman said.

**The report states Foreman emailed the forwarded artwork to the HRCC on April 4.**

However, Coopman said records show Turner had emailed Foreman the morning of April 4. Without a response, she then emailed Laura Hogan later that morning, and Hogan forwarded the message on to Foreman. Foreman never distributed artwork that day as the report states, Coopman said.

King noted all of the commission's emails had to go through either Foreman or Hogan.

"Any time we wanted to say anything to anybody, even each other, they would disperse it, because of possible Sunshine Law violations," he said. "So there is a chain for every single email."

The actual proof of the designs from Tri-Lakes Printing was never emailed or forwarded to Foreman, just the invoice, all those who were interviewed stated.

The report said the timing of Foreman's and Abbott's actions, combined with Hoffman's instructions, "point to a clear scheme to deceive the BOT and the voters."

King said everything was approved prior to being placed on the ballot. The town has a cycle for when they pay vendors involved, so he couldn't say for sure when the invoice from Tri-Lakes Printing was paid. According to a Paid-in-Full invoice from Tri-Lakes Printing, the invoice was marked paid on May 4. The invoice date was marked April 15.

The report says on May 11, Abbott sent an email through Foreman and Hogan to the HRCC proposing a dinner meeting at La Casa Fiesta to discuss the disbursement of the printed materials.

The email also suggested inviting "Mike and Laura," which Abbott said referred to Laura Kronick, the issue committee's registered agent. Abbott said the group, now as an issue committee, met at the restaurant to pass out the printed materials among them.

"We were all going to do our share to pass out the door hangers and everyone on the issues committee was going to take some signs," Abbott said.

The report says Abbott proposed use of further taxpayer dollars to help pass the issue and directly said, "We need to get dates to support the passing of the HRC and speak to the public/answer questions, etc."

In her email, Abbott referenced a series of community engagement events which were scheduled and held through the months leading up to the November 2022 election, she said.

Each of the commissioners interviewed, who participated in the issues committee, said those community events had no cost outside of coffee and donuts, which were paid for from their own pocket. They said no taxpayer funds were used to organize or host the events.

The events were hosted at the Tri-Lakes Chamber of Commerce, for which there was no charge, they said. King said the only thing the town paid for, prior to Turner's re-purchase, was the invoice from Tri-Lakes Printing.

the report says during a Dec. 13 special meeting of the Board of Trustees, it was stated during public comment the

Condon: TCU RB Emari Demercado primed for NFLPA Collegiate Bowl in days following birth of his child



Condon: TCU RB Emari Demercado primed for NFLPA Collegiate Bowl in days following birth of his child

NFL | 2:53

Rapoport: Panthers continuing to look into Kellen Moore as HC candidate

NFL | 0:48

Garafolo, Rapoport: Sean Payton's chances of being HC in '23 looking less and less likely

NFL | 2:38

Patrick Mahomes: This high-ankle sprain isn't as bad as the turf-toe injury I had in January 2021

NFL | 8:36

Brandon Graham on potential last home: 'I'm trying to stop time and enjoy the

value of \$2,500 on her filing.

The last filing of this report from Kronick, available on the town's website, was received by Hogan on Dec. 12, marked as amended, and lists Turner as having provided \$2,512.50 on Dec. 10. In the description of the donation, it states, "The in-kind donation previously reported from the Town of Monument was transferred to Brandy Turner. The Town was refunded the money from the printer and Brandy Turner purchased the signs and door hangers."



10:13



<  grant van der jagt



All **Posts** People Groups Photos Videos



**Grant Van Der Jagt**



Jan 5 · Change.org · 

You've been gerrymandered. Your 1st and 5th Amendment Rights have been stolen by fraud, theft, electioneering, intimidation, retaliation, gerrymandering and sexual harassment. Are you ok with that? I swore an oath to defend YOUR Constitution. You can help by signing this petition.



change.org

**Can you spare a minute to help Grant Van Der Jagt?**

 5

4 comments 9 shares

 Like

 Share



**Monument, Tri-Lakes, & North Gate Community**



Home



Watch



Marketplace



Groups



Notifications



Menu

10:11



<  grant van der jagt



All **Posts** People Groups Photos Videos



**Grant Van Der Jagt**

Jan 7 · 🌐



This is a great summary of events in Monument.

It is a 3-page summary of my 16 page report on the corruption in Monument. It is humorous to me. One Councilman named King 🗨️ thinks by telling me to shut up, I will obey simply because my services are "no longer required" by him. Lol.

The other megalomaniac thinks I have "obvious relations" with someone on town council. Funny enough, I was fb friends with everyone on the hiring board except Ron Stephens, including the maniac himself (putative Mayor Mitch LaKind).

The problem for him (and them) is my duty to the Constitution far exceeds any loyalty to any of them. It doesn't matter to me who did what. I reported on all wrongdoing discovered regardless of who was my facebook friend.



ocn.me

Vol. 23 No. 1 - January 7, 2023



5

4 comments 1 share



Home



Watch



Marketplace



Groups



Notifications



Menu



10:07



<  grant van der jagt



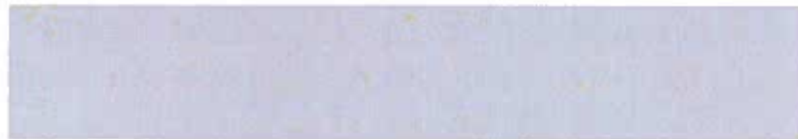
All **Posts** People Groups Photos Video



**Grant Van Der Jagt** recommends **Recall the Monument Council** . ...

16h · 

It is great to see that someone is organizing a recall effort against the Town Council. Please keep me posted.



23 comments



Like



Comment



Share



**Grant Van Der Jagt** ...

Jan 9 · 

Today is the first day of the legislative session in Colorado and the anti-gun zealots wasted no time in attacking our rights. To kick off the legislative session anti-gun leaders submitted a bill to ban "assault weapons." The bill defines assault weapons so broadly that it would ban almost all semi-automat... See more



Home



Watch



Marketplace



Groups



Notifications



Menu

## Updates

**Mayor hired investigator, doesn't like outcome & declares a local will find different facts.**

The putative Mayor of Monument didn't like my report. He thinks I'm not corruptible, so he passed a motion to hire a local to get different results. The tyranny in Monument is beyond illegal. Several Federal & State...



**Grant Van Der Jagt**

12 hours ago



Grant Van Der Jagt

2d · 🌐

...

Let's talk about anything but the facts of the investigation...

😂 (These distractions from the findings are actually funny.)

I was a biased investigator because:

👤 I have facebook friends.

👤 I have no ethics complaints.

👤 I had dinner with people I was interviewing.

👤 I charged more than I expected after finding more than expected.

👤 I don't know enough about Constitutional law.

👤 I'm not from Monument.

👤 I must stop discussing findings.

👤 I'm not supposed to reply if they open the door.

Don't be distracted by the smoke and mirrors Monument. Your Town Council is racketeering. I see a recall action has started.

Updated:

Town Attorney Kathryn Sellars resigned.

Town Councilman Raymond Ramos resigned.

Putative Mayor Mitch LaKind?

Putative Councilman Steve King?

Putative Councilperson Sana Abbott?

Town Manager Mike Foreman?

IT Director Drew Anderson?

**Grant Van Der Jagt**

January 4 at 10:01 AM · 🌐



Councilman Mitch LaKind, retaliation because I found you to be a pervert in the investigation you hired me for isn't a good look. (You waived attorney-client privilege and Town Council released the report to the public, so here it is.)

The new Monument Council ran on more home-town development, protection of the town's water rights, and more government transparency. In their very first public meeting on Jan. 3 they approved a KFC franchisee from Pueblo, voted to extend a water tap to a 26-home trailer park in Palmer Lake, and passed three motions to "set aside" my investigation, "fire" me as the lawyer, and "put under lock-and-key" the intellectual property of the investigation. Most of these actions are illegal, including acting on the Town Charter.

\$50,000 to \$300,000

Generally speaking, damages for creating or failing to prevent a hostile work environment ranges from \$50,000 to \$300,000. These compensatory damages are meant to reimburse victims of a hostile work environment for the expenses they have incurred as a result of inappropriate behavior such as sexual harassment, like the misogyny you (Mitch LaKind) spewed into the microphone from the dais to a Town Councilwoman on record during a public meeting.

People who report such conduct are protected from retaliation. An employer cannot retaliate against you for exercising your rights under the Department of Labor's whistleblower protection laws.

Retaliation includes such actions as "firing"- your word, not mine. The whistleblower (me) may receive a reward of 10 percent to 30 percent of what the government recovers.

Town Council of Monument & Councilman Mitch LaKind your actions at the recorded 1/03/2023 meeting violated many laws. Your Department of Justice complaint reference number is: ECN91352. You likely face personal liability as well as exposure to the Town because your actions exceed your authority.

Colorado has two statutes that protect whistleblowers. One statute, Colorado Revised Statutes Section 24-50.5-103, protects public employees, while the other statute, Colorado Revised Statutes Section 24-114-102, protects private sector employees. A complaint has been filed with both the Department of Labor and Civil Rights Division.

You are on notice that you created a hostile work environment and retaliated publicly with false and disparaging comments against me as a 3rd-party neutral whistleblower (a government official acting in my official capacity) in violation of the terms of your contract and both

Mitch LaKind, I will not be intimidated into revealing sources. I was not hired by you individually, nor the new board. I do not take orders from tyrants or perverts. You waived your rights as a member of the 12/16/22 quorum. You do not have a waiver of any of my rights. I never have represented your 1/3/23 quorum and you have no authority to do any of what you claimed, without the consent of the 12/16/22 quorum members, who have also filed complaints against you.

100% of my internal report that Town Council published is true.

If anyone is curious what the retaliation is about, this guy and his new government didn't like the result of my internal investigation which concluded there was a myriad of illegal conduct, including misappropriations, fraud and sexual harassment. Here is that report. The conclusion starts on page 15.

**Privileged and Confidential**  
**Attorney-Client Communication**  
**Do Not Publish or Disseminate Publicly**

**STARZYNSKI**  
**VAN DER JAGT P.C.**  
Attorneys and Counselors at Law  
www.vjdlaw.com



#### MEMORANDUM

DRIVE.GOOGLE.COM

**95-2022 Investigation Report.pdf**

👍👀❤️ 11

2 comments 18 shares

Like

Share



**John Curtiss**  
Wow! You were busy!!

Like 2w



**Steve Tobias**  
Well written report, especially considering the scope and time limitations - and all during the holidays. Good work. Sorry you have to go through this nonsense.

Like 1w





Grant Van Der Jagt

January 5 at 8:24 AM · 🌐

The Power of Nullification belongs with each individual who swore an oath to defend the Constitution. Extra-Constitutional powers (Powers beyond what is authorized in the Constitution) exist because individuals and States fail to object.

I defend the Constitution. I object. Sheriffs you are next. Do you object?

Monument, your new Home Rule Charter violates both the US and Colorado Constitution because of Gerrymandering, which substantially violates your 1st and 5th Amendment Rights. Will you object or forever hold your peace?

**AMERICANS HAVE YET TO FIGURE OUT HOW TO STOP POLITICIANS FROM PASSING LEGISLATION OR ISSUING ORDERS THAT CREATE EXTRA-CONSTITUTIONAL POWERS THAT ARISE OUT OF EMERGENCIES**

**"EMERGENCIES" ARE THEN FABRICATED BY POLITICIANS TO TRIGGER THOSE EXTRA-CONSTITUTIONAL POWERS**

**THESE POWERS ARE THEN USED BY THE POLITICIANS WHO WROTE THEM**

**TO LEVERAGE EXTRA-CONSTITUTIONAL POWERS TO RULE TYRANNICALLY**

**AND THEN STEAL ELECTIONS TO PERMANENTLY LOCK IN TYRANNY**



👍 10

3 comments 2 shares

Like

Share



Trish Gaskins



Like 1w



**Brendon Yost**

Question: why wouldn't anyone take it to the Supreme Court? State level first, then the federal level if need be?

Like 1w



**Grant Van Der Jagt**

**Brendon Yost** they can. Courts don't have a Constitutional reason for nullifying unconstitutional laws. Their power comes from case law which found the source to be the Judge's oath of office.

Like 1w





**Grant Van Der Jagt**

January 7 at 8:59 PM · 🌐

...

3 MINIMUM Things That MUST Happen In New House:

1. Release all J6 evidence
2. Investigate the FBI
3. Investigate JP Morgan, Epstein, Virgin Islands, Biden network (all the same, by the way)

Short of that, they're frauds & have no respect for the Constitution or the people.

It is almost as corrupt as watching Steve King and Mitch LaKind hire another attorney (one they can control) to change the result of my unbiased internal investigation. They are ignoring the unconstitutionality of the Charter. Glad to see a RECALL effort is already taking shape.

  30

2 comments

 Like Share**Josh Bru**

Yuppppp. Agreed. Was hoping Jim Jordan would win the house after the 10th round....

Like 1w

 2**Doug Weber**

Yup. AND something needs to be done with the results of those investigations. They can't take 3+ years and just disappear

Like 1w



**Grant Van Der Jagt**

January 8 at 10:02 AM · 🌐



Let's talk about anything but the facts of the investigation...

😏 (These distractions from the findings are actually funny.)

I was a biased investigator because:

👤 I have facebook friends.

👤 I have no ethics complaints.

👤 I had dinner with people I was interviewing.

👤 I charged more than I expected after finding more than expected.

👤 I don't know enough about Constitutional law.

👤 I'm not from Monument.

👤 I must stop discussing findings.

👤 I'm not supposed to reply if they open the door.

Don't be distracted by the smoke and mirrors Monument. Your Town Council is racketeering. I see a recall action has started.

Updated:

Town Attorney Kathryn Sellars resigned.

Town Councilman Raymond Ramos resigned.

Putative Mayor Mitch LaKind?

Putative Councilman Steve King?

Putative Councilperson Sana Abbott?

Town Manager Mike Foreman?

IT Director Drew Anderson?

**One of the most  
cowardly things ordinary  
people do is to shut  
their eyes to facts.**

**- C.S. LEWIS**



22

3 comments 1 share

Like

Share

**Trish Spaeth**

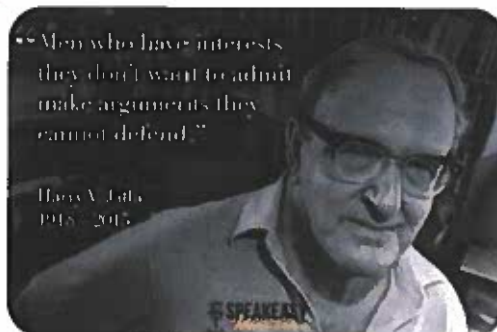
Such crookedness in our society!!!

Like 1w

**Buddy Lama**

"The men whom the people ought to choose to represent them are too busy to take the jobs. But the politician is waiting for it. He's the pestilence of modern times. What we should try to do is make politics as local as possible. Keep the politicians ne... See more

Like 1w

**Bethany Meeks Drosendahl**

Like 1w





Grant Van Der Jagt

January 8 at 12:19 PM · 🌐



[The Constitutional requirements for fair elections can't apply to Monument because it references the Bill of Rights.] - Councilman Steve King. 🤔

## ← Steve King, Monument Mayor P... 🔍



powers of home rule and self-government available under the Colorado Constitution, as limited only by the specific language of this Charter and the Constitutions of United States and the State of Colorado.

And most importantly this:

This Charter expressly incorporates the Bill of Rights found in the United States and Colorado Constitutions and the Town Council shall not adopt any ordinance, rule, and/or regulation more restrictive than state law related to the rights and freedoms guaranteed under both Bill of Rights and both Constitutions.

So, it is impossible for the Charter to violate anyone's Constitutional rights.

👍🤔🤔 6

1 comment

👍 Like

🔗 Share



Renee Glover

Wait. What? SMH

👍 Like 1w





Grant Van Der Jagt

## Intro

Just raising my family...like a forefather: God above Nation, Liberty / Security & Principles / Party



Self-Employed

## Featured

## Photos

[See all photos](#)


Wrote using Shakespearean style P. 14, 15  
 Grant Van Der Jagt is a self-proclaimed  
 member of the Constitutionalist Party of  
 America (CPA) and the author of the book  
 "The Constitution is the only document  
 that should be followed in this country."  
 He is also the author of the book  
 "The Constitution is the only document  
 that should be followed in this country."  
 He is also the author of the book  
 "The Constitution is the only document  
 that should be followed in this country."

ne of the most  
 awfully things ordina  
 people do is to shut  
 their eyes to facts.  
 S. H. W. B.



## Friends

[See all friends](#)

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Grant Van Der Jagt

Bret Esslinger thanks. The publisher called with questions about the report being confidential. I

...



Grant Van Der Jagt

January 5 at 10:12 AM · Change.org

...

You've been gerrymandered. Your 1st and 5th Amendment Rights have been stolen by fraud, theft, electioneering, intimidation, retaliation, gerrymandering and sexual harassment. Are you ok with that? I swore an oath to defend YOUR Constitution. You can help by signing this petition.



CHANGE.ORG

Can you spare a minute to help Grant Van Der Jagt?

99 signatures are still needed! Monument: Stop violating my 1st &amp; ...



4

4 comments · 9 shares

Like

Share



Curtis E. Hays II

Signed. Eloquent and thorough as always!

Like 1w



Hal Van Hercke

Signed and shared.

Like 1w



Grant Van Der Jagt

Hal Van Hercke thank you.

Like 1w



Brenda Tibbitts

Signed

Like 1w



Grant Van Der Jagt

January 5 at 8:24 AM

...

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I defend the Constitution. I object. Sheriffs you are next. Do you object?

Monument, your new Home Rule Charter violates both the US and Colorado Constitution because of Gerrymandering, which substantially violates your 1st and 5th Amendmen... [See more](#)

AMERICANS HAVE YET TO FIGURE OUT HOW TO  
 stop unconstitutional legislation or issue





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S. HAYS



## Friends

See all friends

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Grant Van Der Jagt

<https://news.marketersmedia.com/just-because-you.../89087386>

## Found my Lawyer!



It might not be **ILLEGAL**  
You may have **DUE PROCESS RIGHTS**  
You may have a **DEFENSE**  
You may be **JUSTIFIED**  
It may qualify for an **EXCEPTION**  
There may be **LIMITATIONS**  
You may have **COUNTERCLAIMS**  
There may be **OFFSETS**

(866) 463-2946

(866) 4ME-2WIN

8

9 comments

Like

Share

All comments



James Takeda

Anne Howe is "trouble"!

Were they held accountable? What were the outcomes?

Like 1w



Grant Van Der Jagt

James Takeda the Feds just got involved.

Like 1w



Curtis E. Hays II

Amazing that corrupt people hire an independent  
investigator are then surprised when their corruption is  
exposed. Never underestimate the hubris of egomaniacs

Like 1w



Grant Van Der Jagt

Curtis E. Hays II Councilman Steve King, who lied,  
saying I didn't ask him questions, and who was not  
a party to the contract, now tries to claim  
investigating the Charter was outside of the scope  
of my duties. However, that is entirely controlled by  
... See more



1/1 10/10/2023 10:10:10

Dear prospective client

Pursuant to our telephone discussion the two firms agreed

**to investigate some issues for the board.**

As this letter I want to thank you for submitting the two firms to represent me in this matter. I have been in and out of the court system as a plaintiff of my firm. My firm has legal fees but not \$175 per hour with a 2-hour minimum per matter plus any expenses that may be incurred, such as filing fees, deposition charges, copying costs, postage, and related expenses.

This letter sets out the agreement between us and with the best legal counsel. Please review it carefully before signing this agreement.

I am available

Like 1w Edited

2

**Curtis E. Hays II**

Dude, corruption is everywhere. It's naively thought by most of the public that corruption is the domain of the 3rd world or "someplace else." Technology is empowering a whole new era of shining lights into dark corners everywhere and watching the Hunter Biden's and Prince Andrew's run like cockroaches.

Like 1w

**Grant Van Der Jagt**

This guy thinks Unconstitutional is out of my scope as an investigator?...Never.

I estimated \$10k before I was given 1700 emails and 126 pages of evidence I used in my report.



Like 1w

**Grant Van Der Jagt**

The petition doesn't need standing. It will be enough evidence for a court, when the injunction gets filed and these corrupt politicians are held personally liable.

Putative Councilman King is trying to say because I was fired I can't have my personal opinion, but you see Mr. King, when you publicly attacked me at your 01/03/23 meeting, you gave me permission to publicly respond with free and political speech. You are a public person. I am not. Your politics are at issue.

Like 1w

**Bret Esslinger**

Article link returns



Like 1w

**Grant Van Der Jagt**

Bret Esslinger thanks. The publisher called with questions about the report being confidential. I explained it was released and is no longer protected. They will re-publish the article.

Like 1w



**Grant Van Der Jagt**

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 Self-Employed

## Featured

## Photos

[See all photos](#)



**ne of the most awfully things ordinary people do is to shut their eyes to facts.**



## Friends

[See all friends](#)

**Grant Van Der Jagt**  
January 7 at 11:38 PM · 🌐

This is a great summary of events in Monument.

It is a 3-page summary of my 16 page report on the corruption in Monument. It is humorous to me. One Councilman named King thinks by telling me to shut up, I will obey simply because my services

This is a great summary of events in Monument

It is a 3-page summary of my 16 page report on the corruption in Monument. It is humorous to me. One Councilman named King thinks by telling me to shut up, I will obey simply because my services are "no longer required" by him. Lol.

The other megalomaniac thinks I have "obvious relations" with someone on town council. Funny enough, I was fb friends with everyone on the hiring board except Ron Stephens, including the maniac himself (putative Mayor Mitch LaKind).

The problem for him (and them) is my duty to the Constitution far exceeds any loyalty to any of them. It doesn't matter to me who did what. I reported on all wrongdoing discovered regardless of who was my facebook friend.



OCN.ME

Vol. 23 No. 1 - January 7, 2023

In November, following the election that passed the Home Rule Charter and replaced the sitting Board of Trustees with mostly new council...

   4

4 comments 1 share

 Like

 Share

**Micah Marmaro**  
TLDR but good luck with the new assignment

Like 1w

**Grant Van Der Jagt**  
Micah Marmaro it is a 3 page summary of my 16 page report on the corruption in Monument. It is humorous to me. One Councilman named King thinks by telling me to shut up, I will obey simply because my services are "no longer required" by him. Lol

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Like 1w Edited

**Micah Marmaro**  
Grant Van Der Jagt good man

Like 1w

**Jennifer Kendrick Ertler**  
I just read the full report you posted in another post...I am dumbfounded and am sorry you have to deal with this. I am hopeful that due process will prevail as you exercise your legal rights.

Like 1w Edited

**Grant Van Der Jagt**  
January 7 at 8:59 PM · 🌐

3 MINIMUM Things That MUST Happen In New House:

1. Release all J6 evidence
2. Investigate the FBI





Grant Van Der Jagt

6d · 🌐

...

Councilman Mitch LaKind, retaliation because I found you to be a pervert in the investigation you hired me for isn't a good look. (You waived attorney-client privilege and Town Council released the report to the public, so here it is.)

The new Monument Council ran on more home-town development, protection of the town's water rights, and more government transparency. In their very first public meeting on Jan. 3 they approved a KFC franchisee from Pueblo, voted to extend a water tap to a 26-home trailer park in Palmer Lake, and passed three motions to "set aside" my investigation, "fire" me as the lawyer, and "put under lock-and-key" the intellectual property of the investigation. Most of these actions are illegal, including acting on the Town Charter.

\$50,000 to \$300,000

Generally speaking, damages for creating or failing to prevent a hostile work environment ranges from \$50,000 to \$300,000. These compensatory damages are meant to reimburse victims of a hostile work environment for the expenses they have incurred as a result of inappropriate behavior such as sexual harassment, like the misogyny you (Mitch LaKind) spewed into the microphone from the dais to a Town Councilwoman on record during a public meeting.

People who report such conduct are protected from retaliation. An employer cannot retaliate against you for exercising your rights under the Department of Labor's whistleblower protection laws.

Retaliation includes such actions as "firing" - your word, not mine. The whistleblower (me) may receive a reward of 10 percent to 30 percent of what the government recovers.

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You are on notice that you created a hostile work environment and retaliated publicly with false and disparaging comments against me as a 3rd-party neutral whistleblower (a government official acting in my official capacity) in violation of the terms of your contract and both Federal and State laws. I welcome the Department of Justice, DLE & DORA in their impending investigation.

Mitch LaKind, I will not be intimidated into revealing sources. I was not hired by you individually, nor the new board. I do not take orders from tyrants or perverts. You waived your rights as a member of the 12/16/22 quorum. You do not have a waiver of any of my rights. I never have represented your 1/3/23 quorum and you have no authority to do any of what you claimed, without the consent of the 12/16/22 quorum members, who have also filed complaints against you.

100% of my internal report that Town Council published is true.

If anyone is curious what the retaliation is about, this guy and his new government didn't like the result of my internal investigation which concluded there was a myriad of illegal conduct, including misappropriations, fraud and sexual harassment. Here is that report. The conclusion starts on page 15.

[https://gazette.com/thetribune/monument-to-postpone-investigation-resulting-report-into-possible-campaign-finance-violations-other-town-issues/article\\_4a7ad240-8c8e-11ed-8a3d-bf634427fbb2.html](https://gazette.com/thetribune/monument-to-postpone-investigation-resulting-report-into-possible-campaign-finance-violations-other-town-issues/article_4a7ad240-8c8e-11ed-8a3d-bf634427fbb2.html)

## Monument to postpone investigation, resulting report into possible campaign finance violations, other town issues

Breeanna Jent Special from The Gazette  
Jan 10, 2023



The new Monument Town Council voted at the Jan. 3 regular council meeting. From left: Mayor Pro Tem Steve King, Councilman Kenneth Kimple, Councilman Jim Romanello, Mayor Mitch LaKind and Councilwoman Sana Abbott.

Breeanna Jent, The Gazette

*Editor's Note: This article has been updated to correct a paraphrased quote from Mayor Mitch LaKind regarding the scope of the investigation.*

Public discussions in Monument regarding an explosive and highly controversial report resulting from a town investigation that looked into, among other issues, possible campaign finance violations by the town are on hold for a while longer.


With no town attorney to review the report commissioned to investigate campaign finance violations by the town and staff and council member actions, among other issues, the Monument Town Council on Tuesday voted to postpone the investigation and report until it has hired an attorney to "properly review" it and consult with the council, at a future public meeting, on what actions the town should take.

The council also voted to terminate the town's agreement with Grant Van Der Jagt and his law firm, hired in mid-December to conduct the investigation, and demand Van Der Jagt turn over all investigative materials to the town.

The council earlier on Tuesday directed staff to seek out an interim attorney as soon as possible.

 Dysfunctional council meeting leaves many questions unanswered | From the Editor

Mayor Mitch LaKind said Van Der Jagt's "actions during this investigation were self-serving" and that the investigation was biased due to the "obvious persona (sic) relationship between the attorney and a sitting member of this council."

 also said the report examined the town charter, which "was not part of the resolution that the attorney was supposed to be investigating."

"I promised the previous (Town Council) that we would go through the investigation ... and what is in the report, but we will not do it without an attorney. Our own attorney," LaKind said in an interview Wednesday. "In this particular case, the investigator, while he was hired by the (council), was not a representative from the town."

Van Der Jagt said Wednesday he had no conflict of interest because he never represented or had a financial interest with any member of the Monument Town Council. He said his firing was retaliatory because some council members were upset with the findings in his report, which they have not discussed publicly.

A special council meeting on Dec. 28 ultimately ended without a discussion of the document, originally planned as a session closed to the public, as the meeting descended into chaos with members of the public and former Town Council shouting at each other. The crowd shouted statements that the council's actions could open the town up to lawsuits since it was operating without an attorney.

The report outlines several concerns, including possible redistricting problems in Monument's newly approved home rule charter, claims of sexual harassment, Town Manager Mike Foreman's work to create materials used to promote the passage of a ballot question to approve the charter and lack of oversight from the town attorney over the town's spending on materials to promote the question.

The town spent about \$2,500 on promotional materials, money that former members of the Home Rule Charter Commission said was refunded to the town.

The report also calls for voiding the recently-approved home rule charter.

"Being fired is a retaliatory action governed under the (U.S. Department of Justice's) whistleblowing act," Van Der Jagt said.

He has filed a complaint with the Department of Justice against the town and LaKind, Van Der Jagt said, adding that he will not turn over the investigative documents the town is requesting because some sources are anonymous. His contract was also made with the previous council, not the new council, he said.

"The new government I've never had a contract with, and the new government doesn't have a right to my documents," Van Der Jagt said. "It's my ethical obligation to refuse. ... I will not hand (that information) to this rogue board that's intent on retaliation against whistleblowers."

LaKind said he had not seen the filed complaint and had no comment on it. "I'm not going to address something I haven't officially seen," he said Wednesday.

Van Der Jagt also said the scope of the investigation, outlined in an eight-page engagement letter former Mayor Pro Tem Kelly Elliott signed on Dec. 18, was "intentionally very vague."

Only the first sentence of the engagement letter addresses it: "Dear prospective client: Pursuant to our telephone discussion the law firm agreed to investigate some issues for the board."

On Tuesday, LaKind also pushed back on Van Der Jagt's previous claims at a Dec. 16 special Town Council meeting that he had never had an ethics violation filed against him.

#### New Monument council takes office following concern over timeline in changing town leadership

"While this may be true considering his time as an attorney, it is not true of his time as a licensed Colorado real estate broker," LaKind said, claiming multiple ethics violations had been filed against Van Der Jagt during that time.

LaKind also claimed Van Der Jagt paid a reduced fine of about \$3,000 and had his real estate license revoked to settle the Colorado Department of Regulatory Agencies' investigation into the complaints.

The agency manages licensing and registration for Colorado businesses, among other duties.

Van Der Jagt said Wednesday the claims were false and maintained no ethics violations have been made against him.

The complaints filed with the agency were done by "customers and adverse parties" when Van Der Jagt was working as a property manager, which included conducting evictions for the property owners he represented, he said.

While his real estate license gave him "a limited license to practice law," Van Der Jagt said he was also "licensed at a higher level" and could "practice complete and comprehensive law as an attorney."

"I was authorized and I was also prohibited," he said. "What (the agency) found was I was acting as an attorney within my rights as an attorney, but I was doing things I was prohibited from doing as a broker."

For example, real estate brokers cannot draft real estate contracts, leases or amendments, and cannot provide legal advice about those documents, but attorneys can.

Van Der Jagt said he was ready to move away from real estate and focus on his law practice, so he settled the complaint with the agency with no admission of guilt to release his license, and he paid a reduced fine.

Residents during public comment at Tuesday's meeting said they wanted officials to continue the investigation into possible campaign finance violations by the town.



"I believe this is the only way that we're going to resolve this," former Home Rule Charter Commissioner Brandy Turner said.

Contact the writer: [breeanna.jent@gazette.com](mailto:breeanna.jent@gazette.com)

### More Information

Residents interested in being considered for appointment to fill two open Town Council seats should submit a letter of interest, a résumé and notarized affidavits affirming they meet the qualifications for appointment to the town clerk by 5 p.m. on Jan. 30.

Applicants are encouraged to attend the Town Council's regular meeting on Feb. 6 at 6:30 p.m. for interviews.

For more information, call the Town Clerk's Office at 719-884-8035.

### Breeanna Jent

Reporter

Breeanna Jent covers El Paso County government. She previously worked as the editorial assistant for the Pikes Peak Newspapers and joined their sister paper, The Gazette, in 2020.





# Colorado Attorney Grant Van Der Jagt Releases Report On Monument Investigation

By Francis Gibbs (<http://newswire.net/profile/francisgibbs>) January 24, 2023



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RSS (/rssfeeds/channels) PDF (/newsroom/pr/00253302-http-www-thecoloradoherald-com.pdf)

Appointed in December 2022 by the Town of Monument to investigate a series of election-related issues, Grant Van Der Jagt is now making his findings public, raising awareness of a series of ...

Appointed in December 2022 by the Town of Monument to investigate a series of election-related issues, Grant Van Der Jagt is now making his findings public, raising awareness of a series of essential issues of public concern to the residents and the Town Council.

The Castle Rock, Colorado-based attorney Grant Van Der Jagt, hired by the Town of Monument to look into a series of election-related issues for the Board, has released the full copy of the Investigation Report, which is now cleared for public readership following the waiving of client-attorney privilege during the public December 28, 2022 Town Council meeting.

The full report can be read at <https://drive.google.com/file/d/1B0WHUuZERLAORmDttfbHt-QHhoLmk6m/view> (<https://drive.google.com/file/d/1B0WHUuZERLAORmDttfbHt-QHhoLmk6m/view>)

Mr. Van Der Jagt explains that he deems public awareness of the report findings crucial, as the Town Council has taken a series of actions against the investigator - Mr. Van Der Jagt (<http://www.vdjlaw.com/>) - which may harm the interests of both the attorney and the Monument community.

An apolitical investigator into the matters of the Town Council's interest, Mr. Van Der Jagt found, compiled, and presented over 120 pages worth of evidence into a series of concerning issues, including potential stealing of tax money, defrauding the public, and passing of an unconstitutional Municipal Charter.

In completing the report, Mr. Van Der Jagt has interviewed, met with, and obtained information from Town Council and staff members, using appropriate and reasonable means to do so. While collusion and bias accusations were brought against the attorney, Mr. Van Der Jagt explains that the claims were made by members of the Town Council who have an interest in harming his public image to weaken the findings discussed in the report, and are not substantiated by any evidence or otherwise justified considering the course and the scope of the investigation.

Deeming it necessary to both protect his public image and to shed light on the potential misconduct of the Town Council members, Mr. Van Der Jagt emphasizes that he has undertaken a thorough investigation using ethical and legal means and that his findings, presented clearly and objectively, while understandably having the potential to upset select figures, are nonetheless essential information for the Monument community, and must be brought to the awareness of the public.

Since the report was released, additional witnesses came forward, said Mr. Van Der Jagt, implicating members of The Town Council in what amounts to criminal conduct. Once these Town Council members learned they had been implicated in the report, they attempted to silence Mr. Van Der Jagt and order that his sources be made public. However, due to the extreme risk of retaliation against witnesses, Mr. Van Der Jagt refused to release some names to the rogue Town Council and instead supplied law enforcement with the evidence. Most recently, one witness said the newly elected Councilwoman Sana Abbott was instrumental in the theft of tax payer money because she submitted the illegal ballot measure promotional materials for printing and knowingly ordered that the bill be sent to the town for payment.

With his recent announcement, Mr. Van Der Jagt's goal is to empower the local public with the knowledge necessary to take the appropriate steps toward fair elections and start a Recall action against the new Monument Town Council members who partook in the illegal conduct.

Source: <http://newswire.net/newsroom/pr/00000000-http-www-thecoloradoherald-com.html> (<http://newswire.net/newsroom/pr/00000000-http-www-thecoloradoherald-com.html>)



Home > Find a Lawyer > Colorado > Castle Rock > Estate Planning > Grant Van Der Jagt



## Grant David Van Der Jagt

Estate Planning Attorney at Castle Rock, CO

★★★★★ 5.0 29 reviews

Message

### Featured estate planning lawyers in Colorado Springs, CO



Michael A Kirtland

✓ Accepting new clients

Message

Website



Terence E Doherty

★★★★★ 5.0 (10)

✓ Accepting new clients

(719) 602-8179

Message



Heather McCord Mitchell

★★★★★ 5.0 (2)

✓ Free consultation

(719) 748-7526

Book a Time

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# GRANT VAN DER JAGT

200 S. Wilcox St. Ste 206, Castle Rock CO 80104 | C: 920-214-8500 | grant@vdjlaw.com



## EXECUTIVE PROFILE

President of the Board of Directors:

GoPro Enterprises, LLC 1996- 2016	Auto Fire Guard, LLC July 2016 - Present
Denver Property Management, LLC 2010-2016	The Law Firm of Starzynski Van Der Jagt P.C. Dec 2005 - Present
Colorado Insurance Coverage, LLC 2014- 2016	Denver Firefighters Museum, 2018- 2020
GoPro Association Management, LLC 2015- 2016	Douglas County Commissioner 2022

## EXPERT SKILL HIGHLIGHTS

Legal Research	Business A/R Collections	Property Management
Legal Writing	Business Taxes	Real Estate Transactions
Defense Planning	Advanced Accounting	1031 Exchanges
Business Reputation Mgmt	Finance	Association Management
Insurance and Risk Management	Internet Lead Marketing	Business Development
Contracts and Negotiation, Mergers & Acquisitions	Construction and Rehabilitation Management	Fire Sciences, History and Emergency Medical Services
Human Resource Controls & Benefits	Regulatory and Agency Compliance, Enforcement and Defense, Gov't Admin	Social Media, Branding & Community Engagement
Estate Planning	Probate	Personal Injury Litigation

## EDUCATION

Juris Doctorate of Law

**University of Denver** - Denver, CO, USA Voted Honor Board Member and President of GSIS dual degree program, Awarded JD. Incomplete LLM in taxation and PHD at the Graduate School of International Studies (GSIS).

Master of Business Administration

**University of Colorado** - Denver, CO, USA-Voted Class President

Master of International Relations and Diplomacy

**American Graduate School of Int'l Relations and Diplomacy** - Paris, France, EU

Bachelor Of Arts: Distributed Studies

**University of Colorado** - Boulder, CO, USA Bachelor of Arts in 3 areas of study: German, Political Science and Economics.

## AWARDS

**Realtor's Diamond Circle Award, Denver Business Journal 40 under 40, Firefighter and EMR (EMT Basic) Certificate earned from Lakeshore Technical College, Voted Most Popular Attorney by Martin Dale Hubble 2022**

## Public & Private Stewardship

2011-Present

Support charities such as Susan G. Komen, Swim for MS, Good Will, Habitat for Humanity and Dads of Castle Rock and Dads of Tri Lakes. Board member of "CG at Play" a 501(c)3 aiming to rebuild parks for ADA compliance, elder engagement and child entertainment; Board member of City Club of Denver, an information sharing group; Wilhelm Scholé International Advisory Board Member to teach people "how to think...not what to think". Volunteer with the Cedar Grove, WI Fire Department as a Certified Firefighter and trained EMT. Board Member of TakeAction: A mass mobilization organization for grassroots petitions, initiatives and referenda. Sponsor organizations that protect children and abused women. Actively participate in non-partisan discussions and candidate forums such as Work with Americans for Prosperity to spread Free Market principles. Support the rehabilitation of persons convicted of felonies that completed time served and show promise of recovery. Work with community organizations such as the Rotary Club and Chamber of Commerce to help entrepreneurs. Work within my community to help neighbors through life changes. Educate the public about Fire Safety, Science and Prevention. Volunteer guest speaker at Colleges and Fire Departments about entrepreneurialism, politics and fire safety. Active member of the Larkspur and TriLakes Chambers of Commerce. Appointed by CO Senate as member of Judiciary Review Committee. Appointed Douglas County Planning Commissioner. Volunteer Couples Dancer to raise money for Great Marriages Foundation and the Mystery Ministry. Homeschool community Tutor for 8th-12th grade. Donor to non-profits. Marathon participant supporting non-profits. Supporter of the Denver area Hook and Ladders organization. Sponsor of the Larkspur Easter Egg hunt and Music in the park.

## Hands On skills

Mechanics	Metal working & Welding	Physics
Electronics	Woodworking	Chemistry & Pyrotechnics
Plumbing	Flat work	Agriculture
Arboring	Typing & Grant writing	Cleaning
1st Response:EMT(B) & CPR	Software & Event Programming	Meditation
Athletic Activity: Hiking, Incline, Skiing, Tennis, Archery, Skeet, Weights, Swimming, Windsurfing, Running, Ropes		



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**ATTORNEY ENGAGEMENT LETTER**

Dear prospective client:

Pursuant to our telephone discussion the law firm agreed

**to investigate some issues for the board.**

At this time, I want to thank you for selecting my law firm to represent you in this matter. I also wish to set forth our agreement as to payment of my fees. My fees for legal services are \$375 per hour with a 2-hour minimum per matter, plus any expenses that may be incurred, such as filing fees, deposition charges, copying costs, postage, and related expenses.

This letter sets out the agreement between us and will be our binding legal contract. Please review it carefully before signing this agreement.

Fee schedule:

Dagna Van Der Jagt, senior litigator \$375 per hour

Grant Van Der Jagt, litigator \$375 per hour

Jennifer Brown, investigator \$150 per hour

Paralegal/legal Secretary work \$100 per hour

Condition Precedents:

Starzynski Van Der Jagt, P.C. requires an initial advance deposit and a signed written retainer agreement before any work is performed or promised to be performed.

The initial advance deposit for your matter is \$ 10,000

We have the right to terminate our services to you at any time for any reason by giving you written notice that we no longer desire to represent you. Such termination does not absolve you of responsibility to pay your bill for all time spent on your case, or in any way related to our representation of you, even for time after you receive such notice. Any notice to you at your last known address shall be sufficient to satisfy our obligation to





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notify you pursuant to this paragraph or any other obligation to notify you pursuant to this Agreement or pursuant to any other notice obligation. You agree to notify us of any change of address or phone number.

Method of payment for expenses and bills incurred on your behalf:

Expenses due may be paid online by credit card through our bill4time invoice service. An invoice has been sent to you for this amount, which you can also pay by clicking on the link provided in the invoice. A check can also be mailed to:

**STARZYNSKI VAN DER JAGT PC, 200 S. Wilcox St. #206, Castle Rock, CO 80104**

Billing of COLTAF:

Your initial advance deposit (the retainer) will be deposited into a non-interest bearing client trust account called a COLTAF account. The COLTAF is billed in regular increments as services are rendered and fees are earned. The amount of your final bill will be based on our regular schedule of hourly time charges, court filing fees, transcripts of proceedings, long distance telephone calls, investigation, administration, and process service fees, deposition fees, faxes, copy charges, and mileage charges incurred on your behalf. Although these are regularly scheduled expenses, they are subject to change as the specific service provider changes its fees. The firm may bill 25 cents per copy and 50 cents per mile.

You hereby acknowledge our understanding that the hourly rates apply to all of your attorney's time expended relative to this matter, including, but not limited to the following: office meetings and conferences, telephone calls and conferences, either placed by you or otherwise made or received on your behalf, preparation, review and revision of correspondence, pleadings, motions, disclosure demands and responses, affidavits or other documents, memoranda, or papers relative to your matter: legal research, court appearances, conferences, file review, setting up file, preparation time, travel time, and other time expended on behalf of or in connection with your matter. Telephone calls, text messages, e-mails, and short faxes, are generally billed at a minimum of 0.2 of an hour. Logs are generated and maintained for each communication. For contingency fee cases, these terms may be used to determine the fair value of services rendered, should the client decide to terminate prematurely or in bad faith.

Clients who are not on a contingency fee or flat fee basis, are expected to maintain a balance of no less than \$1000, if work remains on your matter. Thus, you may periodically need to



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replenish the COLTAF funds if it becomes substantially reduced during the course of your representation. Prompt payment is appreciated.

The final bill may be more or less than the deposit on file in the COLTAF account. If the final bill is less than the COLTAF balance, the firm may agree to hold the funds on reserve for future use or refund the remainder to you within a reasonable time (within 30 days or when all invoices have been received on your behalf, whichever one is later). All refunds of remainder funds are issued by check within a reasonable time after the termination of the matter or earlier upon written demand. The firm reserves the right to use funds available in one matter to cover expenses or legal fees for the same client in another matter. This retainer will apply to future matters you may bring, which may broaden the scope of representation initially contemplated, subject to the terms and conditions found herein, and the terms found on the website, [www.vdjlaw.com](http://www.vdjlaw.com), which are valid upon publishing. It is recommended that you check the website regularly for updates. Thus, if the client later requests the firm to assist in another matter in writing, the firm may proceed without obtaining another deposit or retainer for the new matter, and billing will follow the terms contained in this agreement.

If the final bill is more than the COLTAF balance, you agree to pay in full within 30 days of being invoiced. Late payments will be charged the maximum interest rate allowed in your state, either Wisconsin or Colorado. Alternative payment arrangements may only be negotiated in a writing signed by you and your attorney. The right to collect may be sold. Failure to pay may be reported to credit bureaus and collection agencies without concern for your privacy and is not a violation of the attorney-client privilege. Partial payments will be applied first to interest and fees before principle.

Should any check be returned unpaid, you agree to pay our \$35.00 return check fee, whether or not the check is subsequently honored. In addition, we advise all our clients that the firm will exercise all its rights under the law, which may permit recovery of three times the amount of any bad check, together with costs of collection.

Should any bill from our office remain unpaid beyond the due date of any payment or installment, and a lawsuit is filed by our office to collect the unpaid fees, you agree that Douglas County, Colorado for is the proper venue in which the lawsuit will be filed. The prevailing party in such lawsuits will recover the costs of collection, including reasonable attorney's fees and court costs. You further acknowledge that this firm may obtain and enforce a lien for fees and expenses in accordance with the law.



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Likewise, you agree that any outstanding bill may be submitted to a collection agency and/or a credit reporting agency without further notice.

Additionally, in the event that any bill from our office is not paid at any time, or if you fail to make a requested additional advance deposit of fees when requested to do so, you agree that our office may exercise its option to withdraw as your attorney. You hereby acknowledge that account delinquency is considered good cause for the firm's withdrawal on all matters related to you.

All fees are earned when performance has been rendered. Some fees may be disputed and in rare cases, some itemized fees may be negotiated or refunded by the specific service provider. In the event that a fee has been disputed and the negotiated settlement of that unpaid charge has not been reached and executed within 60 days prior to any action or proceeding scheduled for trial or hearing, an additional advance deposit of fees in an amount to cover anticipated time and costs for future action will still be due and payable, subject to the same terms as the initial advance deposit of fees.

In the event that your preferred attorney is unable to make an appearance on your behalf, you agree that a substitute attorney may fill in on your behalf at the hourly rate stated above and at the discretion of Starzynski Van Der Jagt, P.C. You agree that all rights and/or obligations under this agreement may be outsourced, assigned, delegated or otherwise transferred at the discretion of Starzynski Van Der Jagt, P.C.

**Billing:**

You will be billed within a reasonable time, typically at the end of each month. A detailed explanation of the services rendered and the costs incurred by our office in connection with your case will be included in the billing statement. Upon receipt of our bill, you are expected to review the bill and bring to our attention any objections you may have within 15 days. Failure to timely object within 15 days is an acceptance of the bill's accuracy. While we strive to keep perfectly accurate time records, we recognize the possibility of human error, and we will discuss any objections you raise about your bill. You will not be charged for time expended in discussing any aspect of the bill. Your bill will reflect a credit from your advance deposit of fees, if available, but you are expected to both make up any deficiency and replenish the advance deposit of fees prior to the next billing cycle.

**Status of Cases:**



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Our office will keep you informed of the status of your matter. We will explain the laws pertinent to your situation and of any developments in your matter, including court appearances, and will be available for meetings and telephone conversations with you at mutually convenient times. Although we are happy to meet with you in person, due to scheduling conflicts we must insist that you make appointments before making personal visits to our office. Copies of all papers will be supplied to you as they are prepared (unless you request to the contrary) and you will be billed a reasonable photocopy charge of 25 cents per page for these materials which are sent to you.

**Application of fees:**

Under prevailing law, a request may be made to the court in which your action or case is pending for the other party to pay all or part of your legal fees incurred in this matter. There is no certainty that you can recover those costs; the award of attorneys' fees rests solely in the court's discretion. In the event such an award of fees is made and collected, the amount collected will be credited to your bill. At the end of the matter, any amount collected that exceeds your billing after application of your previous payments will be refunded to you. Conversely, you will remain liable for any unpaid balance after crediting any amount collected from the other party, or if the other party does not pay the fees as ordered by the Court.

**Retention of Experts:**

You have been advised that in order for us to properly protect your interests, it may be necessary to retain outside experts such as appraisers, actuaries, accountants, special masters, child and family investigators, accident reconstruction experts, real estate experts, Department of Health blood/breath test experts, custody evaluators, private judges or special counsel, i.e. an attorney with particular experience or expertise. You will be responsible for the costs incurred for any such service, which in some cases may have to be paid in advance depending upon the requirements of the particular expert. You hereby provide broad discretion to retain such experts or appraisers on your behalf and at your expense. When allowed by law and appropriate for your matter, application may be made to the Court to have the other party pay all or part of the aforementioned fees for the experts.

**Certificates:**



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Your attorney is required to file documents with the court and/or the other party that are well grounded in fact and supported by law. Additionally, you are required to provide full disclosure to your attorney and when applicable in family law cases or other civil litigation, you must fully disclose your finances to the opposing party through our office (the other party is required to do the same). Accordingly, you agree to provide our office with complete and accurate information. Any intentional misrepresentation or partial truth expressed or presented to our office, through our office, to an opposing party or to the Court will be grounds for our withdrawal from your matter.

You are also notified that all attorneys in the State of Colorado are bound by rules of ethics and professionalism. As a result, by your signing this fee agreement, you represent that you understand that our firm and the attorneys in it are bound by these rules of ethics and professionalism, and you agree that you will not ask us at any time to violate those rules. We will not threaten criminal action or make any other threats to attempt to settle a civil dispute. We will not write "nasty" emails or letters to the opposing party or attorney for the sake of appearing "aggressive." All of our dealings with judges, the opposing party, the opposing attorney, witnesses, court clerks and any other person involved in your case, will at all times be courteous and professional, and we expect you to live up to these standards as well.

**Confidentiality and Non-Disparagement:**

Both parties agree to keep the contents, methods and information discussed between each other confidential. Similarly, the parties agree to not disparage the other under any circumstance. In particular, the client agrees to never comment about the firm or attorney in any fashion to any non-party without prior written permission.

**Closing:**

You are aware of the hazards of litigation and risk of court errors and acknowledge that our office has made no guarantees as to the outcome of the matter for which you have retained this office. We are striving to explain to you the current and historical legal aspects and the law, which either favors or disfavors your argument to put you in a position to make an educated decision in regards to your case and possible outcomes and to assist you in preparing documentation for court, however, we can not predict the future, even based on the current and past. Laws may change and courts may act in unforeseen ways.



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**Arbitration:**

If a dispute arises out of or relates to this contract or the breach thereof and cannot be resolved through good faith negotiation, the parties agree first to try to settle the dispute by good faith mediation administered by a Colorado mediator who will be agreed on by both parties.

If settlement is not reached within sixty days after service of a written demand for mediation, any unresolved controversy or claim shall be settled by arbitration administered by COMA, Colorado Mediators and Arbitrators. The place of arbitration shall be Colorado. Colorado law shall apply.

Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**Severability:**

If any provision of this contract will be held illegal or otherwise unenforceable, the remainder of the contract will still apply.

**Inclusionary clause:**

This constitutes the entire agreement between the parties. If the parties wish to make any changes, both parties have to agree in writing.

If this arrangement is acceptable, kindly sign your name where indicated.

We look forward to being of service to you in this matter.

I HAVE READ AND UNDERSTAND THE ABOVE LETTER, HAVE RECEIVED A COPY AND ACCEPT ALL OF ITS TERMS. (Both the prospective client and attorney must sign the retainer agreement before the attorney-client relationship may begin. The attorney will not sign until the payment of the retainer is verified by the accounting department. This usually takes 48 hours.)

\_\_\_\_\_  
CLIENT (DATE) \_\_\_\_\_

\_\_\_\_\_  
ATTORNEY (DATE) \_\_\_\_\_



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CLIENT INFORMATION FORM

Client's Name:

Phone Number:

Fax Number:

Legal Name:

Nickname:

Email:

Billing Address:

For internal use:

Client File Number: \_\_\_\_\_

COLTAF Account: \_\_\_\_\_

Retainer **credit card amount** to be placed in escrow: \$ \_\_\_\_\_

Date Credit Received: \_\_\_\_\_

Retainer **cash amount** to be placed in escrow: \$ \_\_\_\_\_

Date cash received: \_\_\_\_\_

Retainer **check amount** to be placed in escrow: \$ \_\_\_\_\_

Date Check Received: \_\_\_\_\_ Check Number: \_\_\_\_\_

On (Date) \_\_\_\_\_, I (initials) \_\_\_\_\_ verified the Payment of the Initial

Advance Deposit in the total amount of \$ \_\_\_\_\_.

Master Transferred: ☐ Yes ☐ No





Colorado - Castle Rock - Grant Van Der Jagt

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## Grant Van Der Jagt

[Write a review for this agent](#)

### About me

**Real Estate Attorney (27 years experience)**

**Specialties:** Buyer's agent, Listing agent, Legal, Property Management, Landlord

### Ratings & reviews (0)

No reviews.

[Write a review](#)

### Service areas (10)

Englewood, CO	Lakewood, CO	Denver, CO
Aurora, CO	Castle Rock, CO	Parker, CO
Cherry Hills Village, CO	Edgewater, CO	Highlands Ranch, CO
Centennial, CO		

### Contact Grant Van Der Jagt

**Name**

**Email**

**Message**

[Contact](#)

### Professional Information

**Address:** Van Der Jagt  
200 S WILCOX ST  
Castle Rock, CO 80104

**Office:** (920) 214-8500

**Cell phone:** (920) 214-8500

**Websites:** [Website](#), [Blog](#), [LinkedIn](#)

**Screenname:** [ContractsAttorney](#)

**Member since:** 02/12/2014

**Licenses:** 42029 (Law License)

**Languages:** English, Spanish, French



BEFORE THE REAL ESTATE COMMISSION

STATE OF COLORADO

Complaint No. 2014-121425, 2014-121489, 2015-10092, 2015-10430 & 2015-50566

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STIPULATION AND FINAL AGENCY ORDER

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IN THE MATTER OF THE DISCIPLINARY ACTION AGAINST THE REAL ESTATE  
BROKER'S LICENSE OF GRANT D. VAN DER JAGT, LICENSE #ER40007584

Respondent.

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IT IS HEREBY STIPULATED by and between the Colorado Real Estate Commission (the "Commission") and Grant D. Van Der Jagt (the "Respondent"), as follows:

1. At all times relevant hereto, Respondent was a licensed real estate broker in the State of Colorado.
2. The Commission has jurisdiction over Respondent, Respondent's license and the subject matter of this action.
3. The Commission commenced an investigation of Respondent's activities based upon a complaint filed on the Commission's own motion or by an individual with specific knowledge of Respondent's actions.
4. The Commission notified Respondent of the complaint and of the investigation. The Commission offered Respondent the opportunity to give written data, views and arguments concerning the complaint and the investigation.
5. The Commission considered the factual findings of the Division of Real Estate's ("Division") investigation and Respondent's response to the same, and found reasonable grounds exist to refer Respondent to hearing for violations of the real estate licensing law. The Commission authorized the preparation of this settlement agreement including the disciplinary terms set forth herein, as a means to resolve the matter without the need for formal hearing.

6. Respondent neither admits nor denies the factual allegations and violations of real estate broker licensing law determined by the Commission. The Respondent agrees, however, that the facts revealed in the investigation if proven at a hearing held pursuant to the Administrative Procedure Act, §§24-4-104 and 105, C.R.S. would constitute the following violation(s) of real estate licensing law and/or Commission rules:

**Complaint number: 2014-121425**

§12-61-113(1)(n), C.R.S., Respondent has demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public;

§12-61-113(1)(k), C.R.S., Respondent disregarded or violated any provision of the Real Estate Broker License Law or Commission rule or regulation, or provision of this part 1 or part 8 of this article;

§12-61-808(2)(b), C.R.S., Respondent failed to disclose in writing to the party to be assisted that the broker is intending to establish a single agency relationship.

**Complaint number: 2014-121489**

§12-61-113(1)(n), C.R.S., Respondent has demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public;

§12-61-113(1)(g), C.R.S., Respondent failed to account for or to remit, within a reasonable time, any monies coming into his/her possession that belong to others;

**Complaint number: 2015-010092**

§12-61-113(1)(c), C.R.S., Respondent knowingly misrepresented or made false promises through agents, salespersons, advertising or otherwise;

§12-61-113(1)(i), C.R.S., Respondent failed to maintain possession, for future use or inspection by the an authorized representative of the Director, for a period of four years, documents prescribed by the rules and regulations of the Commission or to produce such documents or records upon reasonable request of the Commission or authorized representative of the Commission;

§12-61-113(1)(n), C.R.S., Respondent has demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public;

§12-61-113(1)(k), C.R.S., Respondent disregarded or violated any provision of the Real Estate Broker License Law or Commission rule or regulation, or provision of this part 1 or part 8 of this article;

**Commission Rule E-8,** Respondent advertised in a name other than that of his/her employing broker;

**Complaint number: 2015-040430**

**§12-61-113(1)(n), C.R.S.,** Respondent has demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public;

**§12-61-113(1)(g), C.R.S.,** Respondent failed to account for or to remit, within a reasonable time, any monies coming into his/her possession that belong to others;

**§12-61-113(1)(k), C.R.S.,** Respondent disregarded or violated any provision of the Real Estate Broker License Law or Commission rule or regulation, or provision of this part 1 or part 8 of this article;

**Commission Rule E-30,** Respondent failed to perform the duties of an employing broker as required by the Commission:

**Complaint number: 2015-50566**

**§12-61-113(1)(n), C.R.S.,** Respondent has demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public;

**§12-61-113(1)(g), C.R.S.,** Respondent failed to account for or to remit, within a reasonable time, any monies coming into his/her possession that belong to others;

**§12-61-113(1)(k), C.R.S.,** Respondent disregarded or violated any provision of the Real Estate Broker License Law or Commission rule or regulation, or provision of this part 1 or part 8 of this article;

**Commission Rule E-4,** Respondent failed to immediately deliver a duplicate of an original of any instrument to all parties executing the same when such instrument has been prepared by the broker or broker's employed licensee or closing entity and relates to the employment or engagement of the broker or pertains to the consummation of the leasing, purchase, sale or exchange of real property;

**Financial Exam Results:**

**§12-61-113(1)(n), C.R.S.,** Respondent has demonstrated unworthiness or incompetency to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public;

§12-61-113(1)(g.5), C.R.S., Respondent converted and/or diverted funds of others, without proper authorization, or commingled funds of others with his/her own funds, or failed to keep funds of others in an escrow or trust account;

§12-61-113(1)(k), C.R.S., Respondent disregarded or violated any provision of the Real Estate Broker License Law or Commission rule or regulation, or provision of this part 1 or part 8 of this article;

Commission Rule E-1(e), Respondent commingled personal funds with money belonging to others.

Commission Rule E-1(o), Respondent failed to supervise or maintain, at the broker's licensed place of business, a record keeping system, subject to subsection (7) of this rule, for each required escrow or trust account;

Commission Rule E-30, Respondent failed to perform the duties of an employing broker as required by the Commission;

7. Respondent agrees to and accepts the following discipline:

a. Respondent shall be permitted to voluntarily surrender Respondent's Colorado real estate broker's license to the Commission. Such surrender shall be effective immediately upon execution of this Stipulation and Final Agency Order by an authorized representative of the Commission. Any registration(s), license(s), certificate(s) and/or pocket card(s) of Respondent shall be immediately returned to the Commission. On and after the effective date of this Stipulation and Final Agency Order, Respondent shall not engage in any act requiring a real estate license as set forth in §12-61-101 and §12-61-102, C.R.S. The Commission reserves the right, notwithstanding the provisions of paragraph 8 below, to review the allegations and/or charges raised by the investigation which is identified in paragraphs 3, 4, 5 and 6 above should Respondent ever apply for any license issued by the Commission. The Commission shall treat the surrender of Respondent's real estate license in all respects and without exception as a permanent revocation of such license pursuant to §12-61-113(1), C.R.S.

b. Respondent agrees to a fine in the amount of \$50,000.00 (the "Fine"). The Respondent understands and acknowledges that, pursuant to § 24-34-108, C.R.S., the Executive Director of the Department of Regulatory Agencies shall impose an additional surcharge of 15% of this fine. Thus the total amount is \$57,500.00 (fine plus 15%). The Respondent agrees to pay \$2,875.00 (\$2,500.00 fine plus 15%). The fine must be paid through his/her online E-license account no later than sixty (60) calendar days after signing and returning this Stipulation and Final Agency Order to the Commission. The balance of \$54,625.00 (\$47,500.00 fine plus 15%) shall be permanently stayed unless Respondent attempts to re-apply for a real estate broker license or any other professional license issued by the Division of Real Estate. Respondent agrees that should Respondent ever attempt to re-apply for licensure as a real estate broker, or apply for a



license issued by the Division of Real Estate the fine shall be due and payable to the Commission in full and in one lump-sum payment prior to Respondent submitting an application for licensure or an application for a preliminary advisory opinion with the Division of Real Estate in the State of Colorado. Respondent and the Commission agree and understand that payment of the Fine as described herein shall not be deemed to effect or guarantee the issuance of a new license or guarantee a more favorable review of a future application for licensure. The Commission reserves the right, notwithstanding the payment of the Fine, to review the allegations, charges and admissions relating to this case should Respondent ever apply for any license issued by the Commission.

c. Respondent acknowledges that the Commission will publish this Stipulation and Final Agency Order (or a summary of the disciplinary terms provided for herein) on the Commission's website and in the "Real Estate News", a Commission publication, and will treat this Stipulation and Final Agency Order as a public record in the custody of the Commission.

8. It is the intent and purpose of this Stipulation to provide for the settlement of the particular issues, allegations and/or charges raised by the investigation of Respondent's activities by the Commission as set forth in paragraphs 3, 4, 5 and 6 above, except as provided in paragraph 11 below.

9. Upon execution by all parties, this Stipulation and Final Agency Order shall represent the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

10. Respondent expressly agrees and acknowledges that Respondent has entered into this Stipulation and Final Agency Order knowingly and voluntarily. After the opportunity to consult with legal counsel, Respondent affirms that Respondent has read this Stipulation and Final Agency Order and fully understands its nature, meaning and content. Respondent agrees that upon execution of this Stipulation and Final Agency Order, no subsequent action or assertion shall be maintained or pursued by Respondent asserting the invalidity in any manner of this Stipulation and Final Agency Order.

11. Respondent understands and knowingly and voluntarily enters into this Stipulation and Final Agency Order. Respondent further understands and knowingly and voluntarily waives the following rights:

a. The right to a formal disciplinary hearing on the merits of the matters forming the basis of this Stipulation and Final Agency Order and the right to require the Commission to meet its burden of proof in a formal hearing;

b. The right to confront and cross-examine all witnesses against Respondent at a formal hearing;

c. The right to subpoena witnesses, present evidence and to testify on Respondent's own behalf at a formal hearing;

d. The right to be represented by counsel of Respondent's own choosing and at Respondent's expense at any stage of this proceeding;

e. The right to engage in pre-hearing discovery of the Commission's evidence; and

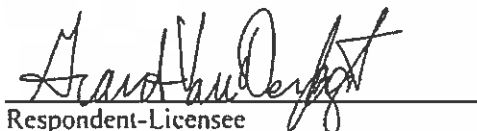
f. The right to appeal the Final Agency Order provided for by this Stipulation.

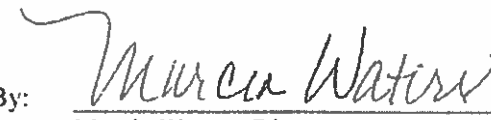
12. On the date upon which this Stipulation is executed by an authorized representative of the Commission, it shall become the Final Agency Order of the Commission.

EXECUTED BY THE COMMISSION this 9<sup>th</sup> day of June, 2017.

RESPONDENT-LICENSEE

COLORADO REAL ESTATE COMMISSION

  
Respondent-Licensee  
Grant D. Van Der Jagt

By:   
Marcia Waters, Director  
(or Designee of the Director)  
1560 Broadway, Suite 925  
Denver, CO 80202



**Starzynski Van Der Jagt, P.C.**

Phone: 866-4ME-2WIN

Email: Dagna@VDJLAW.com

**Town of Monument**

645 Beacon Lite Road

Monument, CO 80132

United States

Phone: 7194812954

Email: lhogan@tomgov.org

**Invoice 20507**

<b>Date</b>	Dec 26, 2022
<b>Terms</b>	Due upon receipt
<b>Service Thru</b>	Dec 26, 2022

**In Reference To: Resolution 95-2022 (Case)**

<b>Date</b>	<b>By</b>	<b>Services</b>	<b>Hours</b>	<b>Rates</b>	<b>Amount</b>
12/19/2022	DV	<b>A102 - Research:</b> Discovery: Begin Researching and Identifying the issues Town Council is seeking to address. Drafting affidavits, and reading documents sent to the firm in response to requests.	11.00	\$ 375.00/hr	\$ 4,125.00
12/19/2022	DV	<b>A102 - Research:</b> Telephone Interview of Witnesses, writing former attorney questions.	2.00	\$ 375.00/hr	\$ 750.00
12/20/2022	DV	<b>A103 - Draft/revise:</b> Drafted more written discovery requests and continued to draft and revise the report based on information gathered yesterday.	2.00	\$ 375.00/hr	\$ 750.00
12/20/2022	DV	<b>A108 - Communicate (other external):</b> 1.5 hours interviewing voters and Council members regarding HR concerns and election marketing. 1.5 hours drafting and incorporating data discovered into the draft report and preparing evidence for hyperlinking. Spent 1 hr arranging folders to secure data for release into the published report. Spent 2 hours reviewing and responding to Drew and Mike explaining how the investigation is being conducted and explaining the security used to protect information provided. To date, no attorney-client information has been shared, and thus, no attorney-client information could have been leaked. I verified all folders and data remain secure and have had no data breach.	6.00	\$ 375.00/hr	\$ 2,250.00
12/21/2022	DV	<b>A104 - Review/analyze:</b> Reviewing emails submitted by Drew for Mike Foreman.	4.00	\$ 375.00/hr	\$ 1,500.00
12/22/2022	DV	<b>A103 - Draft/revise:</b> Working on skeleton on the report, researching elements of laws implicated in evidence gathered.	7.00	\$ 375.00/hr	\$ 2,625.00

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12/22/2022	DV	<b>A108 - Communicate (other external):</b> Discussed fact patterns with electioneering experts.	2.50	\$ 375.00/hr	\$ 937.50
12/22/2022	DV	<b>A108 - Communicate (other external):</b> Interview witness by phone	1.00	\$ 375.00/hr	\$ 375.00
12/22/2022	DV	<b>A109 - Appear for/attend:</b> 2 hrs Scheduled executive session with Town Council December 28th 3PM - 5PM	2.00	\$ 375.00/hr	\$ 750.00
12/22/2022	DV	<b>A110 - Manage data/files:</b> Researching, analyzing and drafting conclusions about today's interviews.	4.00	\$ 375.00/hr	\$ 1,500.00
12/23/2022	DV	<b>A104 - Review/analyze:</b> Researching and developing report	4.00	\$ 375.00/hr	\$ 1,500.00
12/23/2022	DV	<b>A103 - Draft/revise:</b> Review & draft	1.00	\$ 375.00/hr	\$ 375.00
12/23/2022	DV	<b>A106 - Communicate (with client):</b> Interviewed several members of Town Council about their perception & recollection of events.	0.60	\$ 375.00/hr	\$ 225.00
12/24/2022	DV	<b>A103 - Draft/revise:</b> Reviewing testimony & Drafting report.	6.50	\$ 375.00/hr	\$ 2,437.50
12/26/2022	DV	<b>A104 - Review/analyze:</b> Review of interviews, drafting timelines, legal research, revising report & preparing for & finalizing presentation to the Town Council.	5.50	\$ 375.00/hr	\$ 2,062.50

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12/26/2022	DV	<b>A110 - Manage data/files:</b> Paralegal: December 18th 2 hours researching state statutes, developing contacts for 95-2022; December 19: 4 hours outlining timeline for misappropriation testimony; December 20th: 4 hours working on misappropriation testimony; December 22: 2 hours-data mining emails from Drew Anderson; December 23: 2 hours state laws and charter research; December 24th: 4 hours outlining timeline for misappropriation, town seal misuse, gerrymandering; December 25th & 26th: 3 hours connecting timeline within 95-2022 to statutes and exhibits. CLIENT Courtesy discount from \$2100 to \$1600	Flat Fee	\$ 1,600.00	\$ 1,600.00
12/26/2022	DV	<b>A104 - Review/analyze:</b> Final review of facts and report.	3.00	\$ 375.00/hr	\$ 1,125.00

**In Reference To: Resolution 95-2022 (Expenses)**

Date	By	Expenses	Amount
12/21/2022	DV	<b>E119 - Experts:</b> Required Tech support to decode emails from Drew Anderson provided on behalf of questions submitted to Mike Foreman for production. This format definitely caused severe delay to the investigation.	\$ 100.00

<b>Total Hours</b>	62.10 hrs
<b>Total Case</b>	\$ 24,887.50
<b>Total Expenses</b>	\$ 100.00
<b>Total Invoice Amount</b>	\$ 24,987.50
<b>Previous Balance</b>	\$ 0.00
<b>Balance (Amount Due)</b>	\$ 14,987.50

**Payment History:**

**Starzynski Van Der Jagt, P.C.**

Phone: 866-4ME-2WIN

Email: Dagna@VDJLAW.com



**Town of Monument**

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<b>Service Thru</b>	Dec 26, 2022

<b>Date</b>	<b>Type</b>	<b>Payment Description</b>	<b>Amount</b>
12/20/2022	Payment - Check		(\$10,000.00)



**Starzynski Van Der Jagt, P.C.**

Phone: 866-4ME-2WIN

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**Invoice 20507**

<b>Date</b>	Dec 26, 2022
<b>Terms</b>	Due upon receipt
<b>Service Thru</b>	Dec 26, 2022

**Trust Account Summary**

**Billing Period: 12/19/2022 - 12/26/2022**

**Client: Town of Monument | General Matter Trust**

<b>Total Deposits</b>	<b>Total Disbursements</b>	<b>Current Balance</b>
\$0.00	\$0.00	\$0.00

<b>Date</b>	<b>Transaction</b>	<b>Deposit</b>	<b>Disbursement</b>	<b>Balance</b>
No activity for this billing period.				

Align bottom

**MONUMENT TOWN COUNCIL**

**REGULAR MEETING MINUTES**

Tuesday, January 3, 2023 – 6:30 PM

Monument Town Hall – 645 Beacon Lite Rd., Monument CO 80132

Hybrid Meeting – Remote Participation Via Teams

**1. Oaths of Office:** Mayor Mitch LaKind and Councilmembers Steve King, Sana Abbott and Kenneth Kimple affirmed to support the United States Constitution, the Colorado Constitution, and the Town of Monument Charter and Ordinances and faithfully perform the duties of their respective offices of which they are about to enter.

**2. Call to Order, Pledge of Allegiance, Roll Call:** Mayor LaKind called to order the regular meeting of the Monument Town Council and led those assembled in the Pledge of Allegiance. Proper notice of the meeting was posted for more than 24 hours in the designated posting locations. The following Council members were present for the meeting:

**3. Oath of Office:** Foreman lead Timothy Johnson into his Oath of Office as Interim Chief of Police.

TOWN COUNCIL	TOWN STAFF
PRESENT: Mayor Mitch LaKind Councilmember Jim Romanello Councilmember Steve King Councilmember Sana Abbott Councilmember Kenneth Kimple	Mike Foreman, Town Manager Tina Erickson, Deputy Clerk Shelia Booth, Director of Planning Thomas Tharnish, Director of Public Works Erica Romero, Director of Operations
ATTENDED REMOTELY:	
ABSENT:	
Note: Redmond Ramos resigned prior to the Council Regular Meeting.	

**4. Approval of the Consent Agenda:**

a. Agenda – January 3, 2023

King requested to remove December meeting minutes because the council cannot depend on the legitimacy of the meeting minutes until a town attorney can be obtained to review the meeting and the minutes.

King moved to remove December meeting minutes from the consent agenda. Kimple seconded the motion. Roll call vote was taken, motion passed 4 to 1.

Romanello opposed the Motion.

Kimple moved to approve consent agenda as modified. Abbott seconded the motion. Roll call vote was taken, motion passed 5 to 0.

**5. Appointment of a Mayor Pro Tem:** Erickson explained the nomination process for choosing Mayor Pro Tem. LaKind explained this was the method the staff attorney approved in 2018. Erickson read the councilmember name along with person they nominated:

- Romanello nominated Romanello
- King nominated Kimple
- LaKind nominated King
- Kimple nominee King
- Abbott nominee King

LaKind asked if King would accept the position, King accepted the nomination as Mayor Pro Tem.

## 6. Ordinances:

- a. ORDINANCE NO. 01-2023: AN ORDINANCE APPROVING A FINAL PLANNED UNIT DEVELOPMENT FOR LOT 3 MONUMENT MARKET PLACE NORTH. Booth presented Ordinance No. 01-2023 as included in the council packet. Applicant Sandy Parrot and Kelly Marler, KB Enterprises LLC, Franchisee gave a presentation on the location. LaKind opened the floor to comments from the public and the following were received. Matt Brunk appreciated the Council and developer working together and all the hard work put into the project for the community, hopes to see future developers work hard to fit into the community. Patty Foster questioned if there is an ordinance regulating fast food, she is against another fast-food restaurant, would like another form of sit-down dining. LaKind closed the public comment portion of the hearing. Further discussion about land use zoning, design standards and traffic going in and out of the location on Jackson Creek Parkway (JCPW), Booth stated she isn't aware of a signal being added at this time as it isn't warranted currently but it will be monitored. King has concerns with the appearance of the back side of the buildings along JCPW which is the rear of buildings along the service road for future development. Romanello moved to approve Ordinance No. 01-2023. King seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.

## 7. Resolutions:

- a. RESOLUTION NO. 01-2023: A RESOLUTION INITIATING ANNEXATION AND SETTING A HEARING DATE FOR THE TOWN COUNCIL OF THE TOWN OF MONUMENT TO CONSIDER ANNEXATION OF AN AREA KNOWN AS BEACON LITE LLC ANNEXATION. Booth presented Resolution No. 01-2023 as included in the council packet. Abbott moved to approve Resolution No. 01-2023 with a hearing date of February 6, 2023. Romanello seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.
- b. RESOLUTION NO. 02-2023: A RESOLUTION APPOINTING MEMBERS TO THE PLANNING COMMISSION. Booth presented Resolution No. 02-2023 as included in the council packet. Abbott moved to approve Resolution No. 02-2023 to appoint Martin Trujillo, Daniel Ours, Ray Eagly and Greg Collins for 2-year terms. LaKind seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.  
Booth encouraged citizens to apply for the planning commission with one more chair is open.
- c. RESOLUTION NO. 03-2023: A RESOLUTION ADOPTING PUBLIC MEETING NOTICE AND POSTING REQUIREMENTS. Erickson presented Resolution No. 03-2023 as included in the council packet. Romanello moved to approve Resolution No. 03-2023. Kimple seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.
- d. RESOLUTION NO. 04-2023: A RESOLUTION DECLARING A VACANCY ON TOWN COUNCIL AND OUTLINING AN APPOINTMENT PROCESS. Erickson presented Resolution No. 04-2023 as included in the council packet. Councilmember Ramos resigned prior to the regular council meeting; his vacancy was included in resolution 04-2023. LaKind made a motion to modify the resolution language to indicate two vacancies. Romanello moved to approve Resolution No. 04-2023 with modified language. Abbott seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.  
Romanello moved to approve Resolution No. 04-2023 as modified; Resolution No. 04-2023: A Resolution Declaring Vacancies on Town Council and Outlining an Appointment Process. Abbott seconded the motion. Roll call vote was taken and the motion passed 5 to 0.
- e. RESOLUTION NO. 05-2023: A RESOLUTION FOR THE TOWN COUNCIL TO APPROVE A WATER SERVICE SUPPLY OUTSIDE OF OUR CURRENT WATER SERVICE BOUNDARY. Tharnish presented Resolution No. 05-2023 as included in the council packet. A discussion about the cost estimate, maintenance of the line and who would maintain the line and amount of water that would be used. Tharnish stated he didn't anticipate any issues with water demand with the seasons based on their current water usage. King questioned the impact of radium with them connecting to the water service with the town's system. Tharnish stated the well they currently have is a source of issue with radium and the owner would more than likely happily discontinue the use of their well and it would not affect the town's radium water system. LaKind asked the council if they had any issues with Mr. Lynnjack

connecting to the town's water system. connecting to the Abbott questioned if there will be further development on the property. Mr. Lynnjack stated there is potential of 3 acres being used for storage. A citizen asked why the land has not been annexed into the town, LaKind clarified the land needs to be de-annexed from Palmer Lake and it has not been approved by Palmer Lake. Romanello moved to approve Resolution No. 05-2023. King seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.

**8. Public Comments:** The following citizens made comment:

- a. Brandy Turner congratulated the new council, is concerned of Redmond Resigning, encouraged the council to listen to the citizens and to continue the FCPA investigation, reach out to CIRSA to provide an independent investigator with the same 3 questions as prior board proposed, suggested King and Abbot recuse themselves. Praised the community for attending the meeting and continuing committee engagement.
- b. Greg Coopman seconded Turner's statement to reach out to CIRSA for an attorney, requested review of previous council actions.
- c. Matt Brunk reinforced Turner's comment, did not feel Grant Van Der Jagt did well with his investigation and feels it was biased, suggested Pro Tem King and Abbott recuse themselves for a transparent approach. Thanked Ramos for his service to the council.
- d. Janet Ladowski thanked the council, understands why Redmond resigned. Stated her concern for landscaping for the KFC for minimal water to be used.
- e. Joel Lusby asked for the investigation to be cleared up in a timely manner and thanked them for pursuing the investigation.
- f. Patty Foster asked for full disclosure when citizens can ask questions and receive answers, to build trust. Questioned Redmond Ramos's resignation.

**9. Council Authorization Items:** The Council authorized the following:

- a. Presentation on January 17 by Trinity Community Park Regarding Town Support.
- b. Presentation on January 17 Regarding an Energy Performance Contracting & Investment Grade Audit.
- c. Presentation on a date to be determined regarding the Heart of Monument Park Project.
- d. Interviews for councilmember candidates on February 6<sup>th</sup>.

**10. Council Comments**

- a. Romanello appreciates community input with continuing the investigation.
- b. King is in favor of the investigation continuing, recommends the funds paid to the investigator to be refunded to the town since the scope of the investigation was not about the HRCC. Appreciated the community showing up for the meeting to continue their involvement. Would like to see committees being formed for citizen input.
- c. Kimple appreciates the community and staff, would like to see the Town Council Orientation Welcome Packet to be posted for residents to view for transparency. Questioned if Mr. Van Der Jagt is still billing and being paid by the Town. Foreman stated he has been paid as much as he can approve, if any additional bills are received it will be brought to the board.
- d. Romanello clarified direction to the January 17 and February 6 agendas.
- e. Abbott appreciated citizens coming to the meeting and supports the investigation, community involvement and feedback.
- f. LaKind spoke on the need for a town attorney and finding one as soon as possible, Foreman provided the options to the council, explained the process and the difference in having a contracted attorney verses a hired attorney. King expressed his concern with the charter being stress tested and losing the interim attorney. Foreman reached out to attorney with Castle Pines, Linda Meshow's Firm is unable to take on more clients at this time, is going to contact other firms on the list. Foreman expressed the need of a interim Attorney to move forward with CORA requests that need legal advice on. Kimple stated contractual seems to be a quicker method, questioned how quickly a contract attorney could break/step away from the contract. Romanello suggested a long-term solution of a staff attorney, also asked where the town is at with hiring a Human Resource position.



Romero stated there is roughly 35 applicants and will soon conduct interviews, top priority is Chief of Police and Human Resources Director. Direction was given to Foreman to find an Interim Attorney.

- g. LaKind read a statement about the Investigation concerning Grant Van Der Jagt and the investigation, motions followed.
  - 1. LaKind made a motion to set aside the current investigation and resulting report until such time the town has hired an attorney who can properly review the report and consult with the Town Council at a future public meeting as to what actions the town and council should take. Abbott seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.
  - 2. LaKind made a motion to terminate the agreement with Grant Van Der Jagt and his law firm, inform the firm to not perform any more work related to this investigation, and the town staff to withhold payment of any future invoices, until such time as our town attorney has time to review the original engagement letter, fee agreement and invoices already paid. King seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.
  - 3. LaKind made a motion to inform Grant Van Der Jagt and his law firm that they are to turn ALL collected materials, witness statements without any redactions, a complete listing of all persons granted access to the materials and the method in which they were granted access, back to the Town of Monument as it is the property of the town and not Mr. Van Der Jagt or his law firm. All information will be in digital format and provided to the Town Clerk and/or the IT Manager for safe keeping until a town attorney is hired. seconded the motion. Roll call vote was taken, and the motion passed 4 to 1. Romanello Opposed the motion because there is no attorney.
  - 4. King made a motion to remove the attorney client privilege related to the investigation that took place May 2022 about two of our town Staff including former Chief of Police, Sean Hemingway. LaKind seconded the motion. Roll call vote was taken, and the motion passed 5 to 0.
- f. King Appreciated Redmond Ramos for what he has done for the town.

**11. Adjournment:**

- a. LaKind moved to adjourn the meeting. Romanello seconded the motion. The motion passed unanimously, and the meeting was adjourned at 8:35 PM.

Respectfully submitted,

  
Tina Erickson, Deputy Town Clerk





**TOWN OF MONUMENT  
TOWN COUNCIL STUDY SESSION &  
REGULAR MEETING AGENDA  
MONDAY, APRIL 3, 2023 – 5:30 PM**

Monument Town Hall - Council Chambers  
645 Beacon Lite Road - Monument CO 80132

Participate Via Microsoft Teams: <https://www.townofmonument.org/260/Town-Council>

**1. Study Session From 5:30-6:30 PM:**

- a. Northern Delivery System

**2. Call Regular Meeting to Order at 6:30 PM, Pledge of Allegiance, Roll Call:**

**3. Approval of the Consent Agenda:**

- a. Agenda - April 3, 2023
- b. Meeting Minutes - March 20, 2023
- c. Resolution No. 23-2023: A Resolution Supporting and Approving the Submission of the Energy/Mineral Impact Assistance Fund Grant (EIAF) to Supplement Funding of the 2023 Comprehensive Plan Update - *(Jeffrey Liljegren)*

**4. Proclamation(s):**

- a. Arbor Day - *(Madeline VanDenHoek)*

**5. Discussion Item(s):**

- a. Expansion of Enterprise Zone Boundaries in Monument - *(Madeline VanDenHoek)*
- b. Investment Strategy - *(Mona Hirjoi)*
- c. Land Use/Zone Preemption Legislation - *(Town Council)*

**6. Resolution(s):**

- a. Resolution No. 21-2023: A Resolution to Approve a Change Order for the 2MG Tank Pipeline Project With Wagner Construction - *(Thomas Tharnish)*
- b. Resolution No. 22-2023: A Resolution to Approve a Contract With Forsgren Associates for the Design and Engineering Needed for the New Well 11, 12, and 13 Structures - *(Thomas Tharnish)*

**7. Public Comment(s) For Items Not on the Agenda:** *Individuals attending in person may raise their hand to indicate their desire to comment. Individuals attending via Teams may "raise their hand" digitally to comment via connected devices. Please lower your hand when finished with your comments. Comments are limited to 3 minutes.*

**8. Council Authorization Item(s):**

**9. Council Comment(s):**



**10. Executive Session:** *Executive Session Pursuant to Section § 24-6-402(4)(b) C.R.S. for a Conference With the Interim Town Attorney for the Purpose of Receiving Legal Advice on Specific Legal Questions Relating to the Report of Investigation Findings Dated December 28, 2022 - (Bob Cole)*

**11. Discussion/Action Item(s)::**

- a. Sherman & Howard Invoice No. 862015 to Mitchell LaKind for Professional Services, 12/22/22 through 1/31/23

**12. Adjournment:**

# Sherman & Howard<sup>LLC</sup>

675 Fifteenth Street, Suite 2300, Denver, Colorado 80202-3622

Account Inquiries: 303-299-8026

AccountsReceivable@ShermanHoward.com

Federal Taxpayer ID No. 84-0420314

Mitchell LaKind  
106 Night Blue Circle  
Monument, CO 80132

INVOICE NO. 862015

FEBRUARY 10, 2023

RE: Investigation Response

## FOR PROFESSIONAL SERVICES RENDERED

From 12/22/22 through 1/31/23 in  
accordance with the itemized statement  
attached:

OUR FEE:	21,501.00
DISBURSEMENTS:	<u>0.00</u>
INVOICE TOTAL:	21,501.00
BALANCE CARRIED FORWARD:	<u>0.00</u>
TOTAL OUTSTANDING BALANCE:	<u><u>21,501.00</u></u>

<b>DATE</b>	<b>DESCRIPTION OF SERVICES BILLED</b>
12/22/22 William Reed	HOURS: 0.80    RATE: 515    COST: 412.00 Spoke with Mr. Tegtmeier, ran conflicts, and prepared engagement letter (no charge); spoke with Mr. LaKind on case background (.7, reduced to .4); responded to investigator request for information with extension time line (.3); [REDACTED] (.1).
12/23/22 William Reed	HOURS: 3.50    RATE: 515    COST: 1,802.50 Call with Mr. LaKind (.2, no charge); met with Mr. LaKind on strategy (reduced to 1); drafted responses to Van Der Jagt (1.5); analyzed relevant issues and reviewed statutes and code for arguments to stop improper council actions (2.7, reduced to 1).
12/24/22 William Reed	HOURS: 3.00    RATE: 515    COST: 1,545.00 Continued to analyze strategies to stop improper council actions (3.7, reduced to 3).
12/26/22 William Reed	HOURS: 5.00    RATE: 515    COST: 2,575.00 Communications with Mr. LaKind on strategy and developments; continued to analyze strategy approaches; drafted memorandum on elected officials' terms and transition of power; revised responses to Van Der Jagt; drafted news release (7, reduced to 5).
12/27/22 William Reed	HOURS: 3.00    RATE: 515    COST: 1,545.00 Worked with Mr. LaKind on legal requirements to take oaths of office and logistics; prepared written oaths; drafted media FAQ on legal questions; analyzed governmental immunity for Town clerk; sent responses to Van Der Jagt; finalized legal memorandum on transition of power; reviewed Town agenda and analyzed arguments to stop improper actions; researched ability of private attorney to attend executive session (4.6, reduced to 3).
12/28/22 William Reed	HOURS: 3.00    RATE: 515    COST: 1,545.00 Spoke with Mr. LaKind on special meeting strategy; prepared outline of arguments and citations for meeting; participated at meeting until adjourned (6, reduced to 3).
12/29/22 William Reed	HOURS: 0.70    RATE: 515    COST: 360.50 Analyzed Van Der Jagt report (1.7, reduced to .7).
12/30/22 William Reed	HOURS: 0.50    RATE: 515    COST: 257.50 Met with Mr. LaKind on Van Der Jagt report and Town plan of action (1.2, reduced to .5).
01/02/23 William Reed	HOURS: 0.50    RATE: 540    COST: 270.00 Analyzed succession if Council member does not swear in, and provided analysis to Mr. LaKind.
01/04/23 William Reed	HOURS: 0.50    RATE: 540    COST: 270.00 Spoke with Mr. LaKind; reviewed press and public meeting

motions; began analyzing retaliation claim (reduced to .5); prepared points on Van Der Jagt ethics violations (no charge).

01/05/23 HOURS: 0.30 RATE: 540 COST: 162.00  
William Reed [REDACTED] (.1); call with Mr. LaKind (.7, reduced to .2).

01/09/23 HOURS: 0.30 RATE: 395 COST: 118.50  
Carissa Davis [REDACTED]

01/09/23 HOURS: 2.00 RATE: 540 COST: 1,080.00  
William Reed Analyzed possible claims and other approaches regarding Mr. Van Der Jagt, and provided advice to Mr. LaKind (2, reduced to 1); [REDACTED] (.3); [REDACTED] (.7).

01/12/23 HOURS: 0.20 RATE: 540 COST: 108.00  
William Reed Call with Mr. Lakind on ethics investigation (.8, reduced to .2).

01/16/23 HOURS: 0.00 RATE: 0 COST: 0.00  
William Reed Reviewed new social media posts by Schoening (no charge).

01/16/23 HOURS: 1.50 RATE: 540 COST: 810.00  
William Reed Reviewed evidence related to VDJ and outlined key points.

01/18/23 HOURS: 5.30 RATE: 540 COST: 2,862.00  
William Reed Spoke with Mr. Lakind on VDJ complaint and other issues (1, reduced to .3); began drafting the VDJ request for investigation (5.4, reduced to 5).

01/19/23 HOURS: 1.00 RATE: 540 COST: 540.00  
William Reed Continued drafting VDJ request for investigation (1.5, reduced to 1).

01/21/23 HOURS: 2.50 RATE: 540 COST: 1,350.00  
William Reed Completed drafting VDJ request for investigation, prepared index of documents, and provided to Mr. LaKind for review.

01/23/23 HOURS: 1.30 RATE: 540 COST: 702.00  
William Reed Revised VDJ request for investigation with Mr. LaKind's edits.

01/24/23 HOURS: 2.20 RATE: 540 COST: 1,188.00  
William Reed Reviewed new article provided by Mr. LaKind for inclusion (VDJ releases report and makes criminal conduct accusations) and revised the request for investigation, citations, and index of documents (.7); worked on gathering and selecting exhibits for request for investigation, including review of VDJ social media materials (1.5).

01/25/23 HOURS: 3.00 RATE: 540 COST: 1,620.00

Completed selection of all exhibits for request for investigation, including collections of media articles and social media posts; communicated with Mr. LaKind; reviewed letter, index, and final binders; directed delivery to regulation counsel (3.3, reduced to 3).

HOURS: 0.00      RATE: 0      COST: 0.00  
Communicated with Mr. Cole (no charge).

HOURS: 0.70      RATE: 540      COST: 378.00  
Met with Mr. Cole on Town matters (.7); communicated with Mr.  
LaKind (no charge).

**21,501.00**

# Sherman & Howard<sup>LLC</sup>

675 Fifteenth Street, Suite 2300, Denver, Colorado 80202-3622

Account Inquiries: 303-299-8026

AccountsReceivable@ShermanHoward.com

Federal Taxpayer ID No. 84-0420314

Mitchell LaKind  
106 Night Blue Circle  
Monument, CO 80132

INVOICE NO. 862015  
FEBRUARY 10, 2023

RE: Investigation Response

## FOR PROFESSIONAL SERVICES RENDERED

From 12/22/22 through 1/31/23 in  
accordance with the itemized statement  
attached:

OUR FEE:	21,501.00
DISBURSEMENTS:	<u>0.00</u>
INVOICE TOTAL:	21,501.00
BALANCE CARRIED FORWARD:	<u>0.00</u>
TOTAL OUTSTANDING BALANCE:	<u>21,501.00</u>



DATE	DESCRIPTION OF SERVICES BILLED
12/22/22 William Reed	HOURS: 0.80    RATE: 515    COST: 412.00 [REDACTED] [REDACTED] (.7, reduced to .4); [REDACTED] [REDACTED] (.3); [REDACTED] [REDACTED] (.1).
12/23/22 William Reed	HOURS: 3.50    RATE: 515    COST: 1,802.50 [REDACTED] (.2, no charge); [REDACTED] [REDACTED] (reduced to 1); [REDACTED] (1.5); [REDACTED] [REDACTED] (2.7, reduced to 1).
12/24/22 William Reed	HOURS: 3.00    RATE: 515    COST: 1,545.00 [REDACTED] \$ (3.7, reduced to 3).
12/26/22 William Reed	HOURS: 5.00    RATE: 515    COST: 2,575.00 [REDACTED] [REDACTED] (7, reduced to 5).
12/27/22 William Reed	HOURS: 3.00    RATE: 515    COST: 1,545.00 [REDACTED] [REDACTED] (4.6, reduced to 3).
12/28/22 William Reed	HOURS: 3.00    RATE: 515    COST: 1,545.00 [REDACTED] [REDACTED] (6, reduced to 3).
12/29/22 William Reed	HOURS: 0.70    RATE: 515    COST: 360.50 [REDACTED] (1.7, reduced to .7).
12/30/22 William Reed	HOURS: 0.50    RATE: 515    COST: 257.50 [REDACTED] [REDACTED] (1.2, reduced to .5).
01/02/23 William Reed	HOURS: 0.50    RATE: 540    COST: 270.00 [REDACTED]
01/04/23 William Reed	HOURS: 0.50    RATE: 540    COST: 270.00 [REDACTED]



				(reduced to .5); (no charge).
01/05/23	HOURS: 0.30	RATE: 540	COST: 162.00	
William Reed				(.1); (.7, reduced to .2).
01/09/23	HOURS: 2.00	RATE: 540	COST: 1,080.00	
William Reed				(2, 1); (.3); (.7).
01/12/23	HOURS: 0.20	RATE: 540	COST: 108.00	
William Reed				(.8, reduced to .2).
01/16/23	HOURS: 0.00	RATE: 0	COST: 0.00	
William Reed				(no charge).
01/16/23	HOURS: 1.50	RATE: 540	COST: 810.00	
William Reed				
01/18/23	HOURS: 5.30	RATE: 540	COST: 2,862.00	
William Reed				(1, reduced to .3); (5.4, reduced to 5).
01/19/23	HOURS: 1.00	RATE: 540	COST: 540.00	
William Reed				(1.5, reduced to 1).
01/21/23	HOURS: 2.50	RATE: 540	COST: 1,350.00	
William Reed				
01/23/23	HOURS: 1.30	RATE: 540	COST: 702.00	
William Reed				
01/24/23	HOURS: 2.20	RATE: 540	COST: 1,188.00	
William Reed				(.7); (1.5).
01/25/23	HOURS: 3.00	RATE: 540	COST: 1,620.00	



William Reed

[REDACTED]  
[REDACTED] (3.3, reduced to  
3).

01/28/23

William Reed

HOURS: 0.00 RATE: 0 COST: 0.00  
[REDACTED] (no charge).

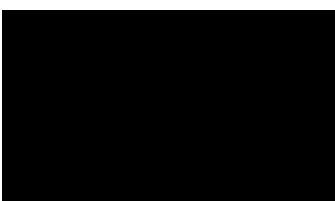
01/31/23

William Reed

HOURS: 0.70 RATE: 540 COST: 378.00  
[REDACTED] (.7); [REDACTED]  
[REDACTED] (no charge).

**FEES:**

**21,501.00**



April 14, 2023

Clerk Kyle Anderson  
Town of Monument  
645 Beacon Lite Road  
Monument, CO 80132  
via email: [kanderson@tomgov.org](mailto:kanderson@tomgov.org)

Dear Clerk Anderson,

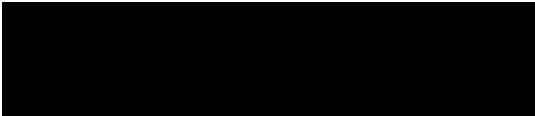
On behalf of Kelly Elliott, I am providing notice of her intent to file an application in the District Court to show cause why you did not permit proper inspection of requested records under the Colorado Open Records Act (“CORA”). This notice is provided pursuant to C.R.S. 24-72-204(5)(a).

Upon the filing of my client’s CORA request, you provided Ms. Elliott a copy of a bill for services from Sherman and Howard to Mitchell LaKind in the amount of \$21,501, but you have redacted all descriptions of the services billed. The Town recently passed a resolution to require the taxpayers to reimburse Mr. LaKind’s attorney services.

There is no authority under CORA to withhold this information. Although Mr. LaKind had an attorney/client privilege with respect to the invoice, he waived that privilege when the invoice was submitted to the Town, a third party that was not a privilege holder.

The Citizens of Monument have a right to know what services were provided using taxpayer funds. Reimbursement of personal expenses with taxpayer funds is not a proper use of public money and implicates ethical rules under the Colorado Constitution.

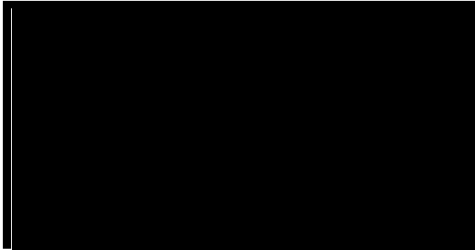
There is a strong public interest in knowing if any of this money was spent for Mr. LaKind’s own personal defense. During the course of the now “disavowed” investigation by Grant Van Der Jagt, Mr. LaKind was accused by then-council member Schoening of sexual harassment, including commenting, while on the dais, he would have changed his vote for her council appointment if he had known that she gave “blow jobs” for appointments. This was overheard and confirmed by my client. Other accusations of abusive behavior were raised regarding Mr. LaKind throughout the investigation. The timing of these accusations coincides with the first date of legal services in December. The taxpayers should know if they are paying private counsel to defend this type of conduct for the personal benefit of Mr. LaKind.



The public also has an interest in knowing if taxpayers paid Sherman and Howard to draft the complaint filed by Mr. LaKind against Mr. Van Der Jagt. The taxpayers can judge whether this use of public funds has any benefit to the Town.

Please contact me if you would like to confer further on this matter.

Thank you,



## **TOWN OF MONUMENT**

### **RESOLUTION NO. 26-2023**

#### **A RESOLUTION ADOPTING THE BALLOT QUESTION 2A DONATION REPORT AND DISAVOWING THE VAN DER JAGT REPORT**

**WHEREAS**, the Town of Monument ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town's Home Rule Charter approved by the electors on November 8, 2022 ("Charter"); and

**WHEREAS**, during a special meeting held December 13, 2022, Town Council of the Town ("Town Council") adopted Resolution No. 94-2022 authorizing an investigation of the Fair Campaign Practices Act requirements regarding an in-kind donation from the Town to the Monument for Home Rule Issue Committee ("Citizens for Home Rule") for signs and doorhangers; and

**WHEREAS**, during a special meeting held December 16, 2022, the Town Council approved Resolution No. 95-2022 to hire special attorney Grant Van Der Jagt to investigate concerns the Council had identified related to the November 2022 election and Ballot Question 2A and to fully execute Mr. Van Der Jagt's letter of engagement ("Starzynski Van Der Jagt Engagement Letter"); and

**WHEREAS**, the Starzynski Van Der Jagt Engagement Letter, which was signed by the Town without the benefit of legal counsel to provide for the Town's interests, described the scope of services to be "to investigate some issues for the board," greatly expanding on the scope of the investigation authorized by Resolution Nos. 94-2022 and 95-2022; and

**WHEREAS**, Mr. Van Der Jagt provided his report ("Van Der Jagt Report") to the Town Council during a contentious special meeting on December 28, 2022, without formal presentation of it and without the Town Council endorsing its findings or conclusions; and

**WHEREAS**, members of the Town Council who were also members of the Town Council on December 28, 2022, committed to continue to investigate the in-kind donation from the Town to the Citizens for Home Rule for signs and doorhangers; and

**WHEREAS**, upon the Town Council's direction the interim Town Attorney has continued the investigation and prepared a report ("Report on Town In-Kind Donations to the Ballot Question 2A Issues Committee" or "Ballot Question 2A Donation Report"); which report has been reviewed by the Town Council and which the Town Council finds to be well supported by recitation and documentation of facts and law; and

**WHEREAS**, the Van Der Jagt report goes well beyond the scope of the investigation authorized by Resolution Nos. 94-2022 and 95-2022, contains erroneous statements of fact and law, and generally fails to provide any reasonable analysis or substantiation for its conclusions and recommendations;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MONUMENT, COLORADO THAT:**

**Section 1. Incorporation.** The recitals set forth above are incorporated and resolved as if set forth in this section in full.

**Section 2. Adoption of Report.** The Town Council endorses and adopts the Report on Town In-Kind Donations to the Ballot Question 2A Issues Committee, attached hereto and incorporated herein as Exhibit A, as the Town's findings and conclusions on the matters contained therein. The Ballot Question 2A Donation Report shall be available to the public and shall be posted on the Town's website.

**Section 3. Implementation of Recommendations.** Town staff and the interim Town Attorney are authorized and directed to take reasonable measures to implement the recommendations contained in the Ballot Question 2A Donation Report.

**Section 4. Disavowal of Van Der Jagt Report.** The Town Council disavows the Van Der Jagt Report and its findings, conclusions, and recommendations.

**Section 5. Effective Date.** This Resolution shall become effective and be in full force and effect immediately upon approval.

**Section 6. Severability.** If any portion of this Resolution or the application thereof shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable.

**PASSED AND RESOLVED** by the Town Council of the Town of Monument, El Paso County, Colorado, this 11<sup>th</sup> day of April, 2023 by a vote of 4 for and 0 against.

TOWN OF MONUMENT, COLORADO

By: \_\_\_\_\_

Mitch LaKind, Mayor

Attest:

Tina Erickson  
Tina Erickson, Deputy Town Clerk

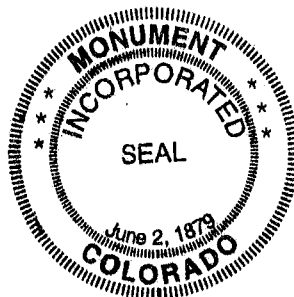




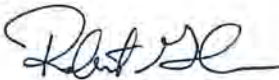
EXHIBIT A

**COLLINS | COLE  
FLYNN | WINN | ULMER**

April 11, 2023

**MEMORANDUM**

TO: Mayor Mitch LaKind  
Town Council  
**Town of Monument**

FROM: Robert G. Cole 

RE: **Report on Town In-Kind Donations to the Ballot Question 2A Issues Committee.**

**SUMMARY**

The Town Council<sup>1</sup> ("Council") has asked me to review and report on<sup>2</sup> the previous investigations of alleged violations of Fair Campaign Practices Act, Article 45, Title 1, Colorado Revised Statutes ("FCPA") associated with the November 8, 2022, Town of Monument ("Town") election on Ballot Question 2A, which asked Town electors whether to approve the proposed Town of Monument Home Rule Charter ("Charter"). The Town's voters approved Ballot Question 2A by a margin of 3,567 in favor and 1,712 votes against.<sup>3</sup> The election also served as the Town's regular municipal election and voters elected the Town Mayor and 4 members to the Town Council.

Prior to the election two complaints were filed with the Town Clerk alleging violations of the FCPA. One complaint involved only an alleged failure to properly file candidate contribution and expenditure reports associated with the Town Council election and thus is not discussed here. The second complaint ("Elliott Complaint") was filed by Kelly W. Elliott ("Elliott") against the Monument Citizens for Home Rule Issues Committee- Steve King ("Citizens for Home Rule" or "Respondent") and alleged a lack of accounting of funds used for campaign signs and door hangers, and improper use of Town funds for campaign materials. The Elliott Complaint was referred to an independent hearing officer who dismissed the complaint after Citizens for Home Rule cured the violations by filing updated reports and reimbursing the

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<sup>1</sup> Prior to the adoption of the Town's Home Rule Charter the governing body of the Town of Monument was known as the Board of Trustees ("BOT"). After adoption of the Home Rule Charter at the November 8, 2022, election the governing body is known as the Town Council ("Council").

<sup>2</sup> Except to the extent of information contained in this report, if this report is released to the public at the direction of the Town Council, the Town has not waived its attorney-client privilege associated with any attorney-client communications referenced in this report. This non-waiver extends to all communications referenced herein whether or not specifically noted with respect to a discussion of the communication.

<sup>3</sup> November 8, 2022, election Certificates of Vote Cast dated December 1, 2022, by Chuck D. Broerman, El Paso County Clerk and Recorder and Certificate of Election dated December 5, 2022, by Laura Hogan, Town Clerk.



Town for funds spent on the signs and door hangers.

Based on the transition to the Charter, questions were raised as to whether the newly elected Mayor and Council members would take office upon certification of election results and their taking oaths of office or be delayed until January of 2023. Because of the uncertainty and the potential for a challenge of any Town Council actions that might be taken prior to January 2023, the Town Attorney, the Colorado Municipal League Executive Director, and general counsel for the Town's insurer, the Colorado Intergovernmental Risk Sharing Authority ("CIRSA") recommended the Town Council take no formal actions following the election until January 2023.

Nonetheless, in December 2022, shortly after the dismissal of the Elliott Complaint the Town Council hired an attorney, Grant Van Der Jagt, to further investigate under the FCPA the in-kind donations from the Town of Monument of the campaign signs and door hangers to Citizens for Home Rule. The Van der Jagt Report determined that use of the Town Seal on the Citizens for Home Rule's election materials and their funding by the Town were violations of the FCPA. The Van Der Jagt Report suggested numerous recommendations of civil liability and criminal violations, which were largely unsupported by a recitation of legal elements and supporting facts or legal analysis. It also recommended numerous disciplinary actions toward Town officials, employees, and the former Town Attorney. To the extent the Town Council and the Van Der Jagt investigation and report purported to investigate the matters for purposes of enforcing the FCPA they lacked jurisdiction, and the investigation was improper, as complaints arising out of municipal campaign finance matters must be exclusively filed with the clerk.

The allegation and Van Der Jagt Report finding that the Town Seal was used on Citizen's for Home Rule's election materials and their attendant legal concerns and conclusion are erroneous; the materials simply did not contain the Town Seal. Town funds were improperly used to initially pay for campaign materials consisting of door hangers and yard signs urging voters to vote in favor of Ballot Question 2A. Upon understanding this violation, Citizens for Home Rule reimbursed the Town. Reimbursement is considered to be a valid cure under both the FCPA and the Monument Municipal Code for improper use of public funds for campaign materials. While there is no evidence of malice, intent to violate the FCPA, conspiracy to coverup the violation, or many of the unsupported findings or conclusions contained in the Van Der Jagt Report, there are important lessons to be learned and recommendations to consider to avoid future violations. The initial use of Town funds for Citizen's for Home Rule's election material has no effect on the validity of the election. Colo. Const. Article XXVIII, § 10; §1-45-117(4)(a), C.R.S.

## **DISCUSSION**

### **Charter Referral Process**

The process for consideration of a home rule charter by a municipality begins with either a petition of the electors or adoption of an ordinance by the governing body followed by an election on the question of forming a charter commission and electing members to frame a charter. §31-2-204, C.R.S. If approved by the voters, the charter commission elects officers, can

adopt rules of procedure, holds meetings that are open to the public, one of which must be a public hearing, and within 180 days after its election prepares and submits a proposed charter to the governing body. Reasonable expenses of the charter commission are paid out of the general funds of the municipality. §31-2-206, C.R.S.

Within 30 days of the charter commission submitting the proposed charter, the governing body calls for an election on the charter and publishes notice. If a majority of the electors vote in favor of the charter it becomes effective at such time as provided in the charter. In terms of setting the ballot title for the charter election “[t]he governing body shall set the ballot title for the proposed charter within sixty days after the date that the proposed charter is submitted pursuant to subsection (1) of this section.” §31-2-207(1.5), C.R.S.; see also Section 31-11-111(1), C.R.S.<sup>4</sup>

In the case of Ballot Question 2A, the Charter Commission submitted the draft Charter to the BOT at its regular meeting on April 18, 2022. That same night the BOT called for the election on the Charter to be held November 8, 2022, and set the ballot title for the Charter election.<sup>5</sup>

### **Campaign Finance Requirements and Limitations**

Campaign contribution and financing limitations, and reporting requirements are found both in Article XXVIII of the Colorado Constitution (“Article XXVIII”) and the Fair Campaign Practices Act, Article 45, Title 1, Colorado Revised Statutes (“FCPA”). The FCPA prohibits, among other things, the Town, as a political subdivision, from expending public money or making contributions to urge electors to vote in favor of or against a referred measure. §1-45-117(1)(a)(I)(C), C.R.S. A referred measure includes any ballot question or ballot issue submitted by the governing body of a political subdivision to the eligible electors of the political subdivision. §1-1-104(34.5), C.R.S. Thus, on April 18, 2022, once the Monument BOT set the ballot title for the Charter election and referred it to the voters for the November 8, 2022, election no public money could be spent to urge electors to vote in favor of or against Ballot Question 2A.

Even after a ballot question has been referred to the voters, the FCPA allows public money to be spent to dispense a factual summary, which shall include arguments both for and against the proposal and may not contain a conclusion or opinion in favor of or against the issue. Elected officials may also express personal opinions on an issue and a resolution taking a position of advocacy can be passed and distributed through established, customary means other than paid advertising. §1-45-117(1)(b), C.R.S.

FCPA violations involving expending Town monies are subject to the provisions of Article XXVIII or any appropriate order or relief. Such relief may include an order directing the person

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<sup>4</sup> “After an election has been ordered pursuant to section 31-11-104 or 31-11-105, the legislative body of the municipality or its designee shall promptly fix a ballot title for each initiative or referendum.” Section 31-11-111(1), C.R.S.

<sup>5</sup> Meeting minutes, of April 18, 2022, BOT; Resolution No. 29-2022.

who made the contribution or expenditure from public money to reimburse the Town for the amount of the contribution or expenditure, injunctive relief, or a restraining order to enjoin continued violations. §1-45-117(4)(a), C.R.S. Individual members of a board, commission, or council who voted in favor of or otherwise authorized an illegal contribution may be ordered to reimburse, in equal amounts, the amount of the illegal contribution. §1-45-117(4)(b), C.R.S.

The FCPA sets forth the procedures for filing campaign finance complaints, curing violations, investigating complaints, and conducting hearings on complaints. §1-45-111.7, C.R.S. While most complaints are filed and processed through the Colorado Secretary of State, “any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the applicable municipality. §1-45-111.7(9)(b), C.R.S. (*emphasis added*). This statute allows for no other alternate process for addressing a municipal campaign finance complaint.

Both Article XXVIII and the FCPA direct the Secretary of State to promulgate rules necessary to administer and enforce campaign finance laws. Colo. Const. Article XVIII, § 9; §1-45-111.5 (1), C.R.S. Though not applicable to violations arising out of a municipal campaign finance matter because of the exclusive jurisdiction of the municipal clerk, the Secretary of State’s rules are instructive as to appropriate measures to take in such circumstances. The Secretary of State’s rules indicate factors to consider in determining settlement and fine amounts for violations. Such factors include specified fine amounts, appropriate actions, and mitigating and aggravating factors. 8 CCR 1505-6-23.3.2. Appropriate actions including registering the committee or candidate, returning the donation or disgorgement of the value of the improper conduct, filing or amending disclosure reports, including or correcting the disclaimer on communications, or other performance or terms that may be warranted. 8 CCR 1505-6-23.3.4. Mitigating and aggravating factors include the nature and extent of the violation, the timing of the violation, the ability or effort to mitigate the violation, evidence of an intentional act or a pattern or practice of misconduct, the extent to which the harm caused by the violation cannot be reasonably calculated, or other aggravating or mitigating factors to be considered to reach a just and equitable outcome. 8 CCR 1505-6-23.3.5.

To implement the municipal clerk’s exclusive jurisdiction of over municipal campaign finance matters, the Town of Monument Municipal Code (“M.M.C.”) sets forth the process for filing, curing, dismissing, conducting a hearing on, and determining written FCPA complaints. § 1.14.010, M.M.C. Upon receipt of a complaint, the Town Clerk must send notice to the respondent, who has thirty days from the date of the notice to either cure the allegations in the complaint or to respond to the complaint. The respondent may request that the hearing officer dismiss the complaint. If the respondent neither cures the allegations nor requests that the complaint be dismissed, the Town Clerk must appoint an independent hearing officer. The hearing officer, in his or her discretion, may dismiss a complaint that does not specifically identify the section of the FCPA that the respondent allegedly violated or a complaint that does not assert facts sufficient to support the alleged violations. If the hearing officer does not dismiss the complaint, the Town Clerk must set a hearing for no later than thirty days from the date the cure period concluded. § 1.14.010(b), M.M.C.

The Monument Municipal Code provides that in the case of an FCPA violation involving the expenditure of public money to urge voters to vote in favor or against a local ballot issue, "appropriate relief shall be an order from the hearing officer directing the person who made or caused to be made the contribution or expenditure in violation of that section to reimburse the fund of the Town from which the moneys were diverted for the amount of the contribution or expenditure and any other such other relief as may be appropriate." § 1.14.010(e), M.M.C. Failure to comply with the Monument Municipal Code, the Fair Campaign Practices Act, or the Colorado Constitution's campaign finance requirements "shall have no effect on the validity of any election." *Colo. Const. Article XXVIII, § 10; §1-45-117(4)(a), C.R.S.*

The hearing officer's decision on an FCPA complaint filed with the Town Clerk is final and subject to review by the district court. § 1.14.010(e), M.M.C. Absent a constitutional basis, a challenge of a decision of the Town Clerk or an independent hearing officer regarding an FCPA complaint filed would most likely have to be brought under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.<sup>6</sup> If no other time is specified by statute, a Rule 106(a)(4) action must be brought no later than 28 days after the final decision of the body or officer. Rule 106(b), C.R.C.P. No other time period is provided for an FCPA violation relating to a municipal ballot issue.

### **The Elliott Complaint**

Two complaints alleging campaign finance violations were filed with the Monument Town Clerk related to the November 2022 election. One complaint was filed by Laura Kronick against the Committee to Elect Darcy Schoening/Darcy Schoening Registered Agent, alleging failure to properly file candidate contribution and expenditure reports associated with the Town Council election. That complaint is not related to Ballot Question 2A and thus is outside the scope of this Memorandum.

The second complaint, the Elliott Complaint, was filed on October 21, 2022, with the Town Clerk by Kelly W. Elliott against Monument Citizens for Home Rule – Steve King. The Elliott Complaint alleges that there was no reporting from March 2022 through October 2022 for funds used by Citizens for Home Rule for signs and door hangers. The Elliott Complaint requests that the signs be removed.<sup>7</sup>

On the same day the Elliott Complaint was filed, the Town Clerk provided notice of it ("Notice of Elliott Complaint") to Steve King, Laura Kronick as Registered Agent, and Joel Lusby as Designated Agent for Citizens for Home Rule. The Notice of Elliott Complaint included a copy of the Elliott Complaint and a copy of Chapter 1.14 of the Monument Municipal Code that outlines the complaint process. The Notice of Elliott Complaint indicated that according to

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<sup>6</sup> "(a) In the following cases relief may be obtained in the district court by appropriate action under the practice prescribed in the Colorado Rules of Civil Procedure:... (4) Where, in any civil matter, any governmental body or officer or any lower judicial body exercising judicial or quasi-judicial functions has exceeded its jurisdiction or abused its discretion, and there is no plain, speedy and adequate remedy otherwise provided by law..." Rule 106(a)(4), C.R.C.P.

<sup>7</sup> Campaign Finance Complaint Cover Sheet dated October 21, 2022.

Section 1.14.010(b) of the Monument Municipal Code Citizens for Home Rule had thirty days to cure the allegations in the Elliott Complaint or respond to it.<sup>8</sup>

On November 18, 2022, within the 30 days required by the Notice of Elliott Complaint, Laura Kronick filed an amended Report of Contributions and Expenditures for Citizens for Home Rule, amending the report filed on October 13, 2022, and covering the reporting period from October 13, 2022, to November 20, 2022. The report indicated total monetary contributions of \$5.00 and total non-monetary contributions of \$2,500.00 from the Town of Monument in the form of yard signs and door hangars.<sup>9</sup>

In a series of emails between November 21, 2022, and November 28, 2022, the Town Clerk provided Elliott a copy of the amended Report of Contributions and Expenditures which Citizens for Home Rule's filed as a cure to the Elliott Complaint and asked if Elliott still wanted to proceed with the Elliott Complaint. Elliott indicated that there would be some questions for Mike Foreman, Town Manager, and asked what her deadline would be for replying. The Town Clerk responded the sooner the better and that if Elliott chose to proceed, the Clerk would appoint an independent hearing officer who could either dismiss the complaint based on criteria outlined in the Municipal Code or set a date for a hearing, and that a hearing would have to take place no later than December 20, 2022.<sup>10</sup>

On December 1, 2022, Suzanne Taheri, attorney for Elliott, asked whether any rules had been adopted by Clerk's Office under the Municipal Code's Municipal Campaign Finance provisions. The Town Clerk indicated on December 2, 2022, that no additional rules had been promulgated. On December 6, 2022, Ms. Taheri responded to the Town Clerk's previous request for a response regarding the cure submitted by Citizens for Home Rule, indicating that "the size of the contribution, the fact that it was from an illegal source and the timing of the disclosure, which deprived the electorate of the information, clearly disqualifies the case for dismissal." Ms. Taheri also noted that the contribution from the Town was an illegal source, the disclosure was not made until after the election, the illegal contribution had still not been returned to the taxpayers, and no other conclusion could be drawn "except that the noncompliance was [sic] intentional effort to mislead the electorate." Because of these reasons Ms. Taheri requested the case be forwarded to a hearing officer to determine an appropriate penalty, citing the Colorado Secretary of State's rules and the FCPA, 8 CCR 1505-6, Rule 23.3.1; §1-45-111.7(6)(b), C.R.S.<sup>11</sup>

On December 12, 2022, Citizens for Home Rule submitted a second amended Report of Contributions and Expenditures amending the December 7, 2022, report and covering the

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<sup>8</sup> Letter dated October 21, 2022, Laura Hogan to Steve King; Email Laura Hogan to Steve King, steve@steveformonument.com, Laura Kronick, and Jol Lusby, Subject: FCPA Complaint, dated December 12, 2022, 2:39:00 PM.

<sup>9</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated November 18, 2022.

<sup>10</sup> Emails to and from Kelly Elliott and Laura Hogan, Subject Campaign Finance Complaint, dated November 21-28, 2022.

<sup>11</sup> Emails to and from Suzanne Taheri and Laura Hogan, Subject Kelly Elliott Campaign finance complaint, dated December 1 and 2, 2022; Email from Suzanne Taheri to Laura Hogan, Subject: Response to campaign finance complaint, dated December 6, 2022.

October 13, 2022, to December 12, 2022, reporting period. The report indicates the total monetary contributions to the Committee were \$5.00 and total non-monetary contributions were \$2,512.50. The report indicated that the non-monetary contribution came from Brandy Turner and that “[t]he in-kind donation previously reported from the Town of Monument was transferred to Brandy Turner. The Town was refunded the money from the printer and Brandy Turner purchased the signs and door hangers.”<sup>12</sup>

Later in the day on December 12, 2022, the Town Clerk emailed to both Elliott and Citizens for Home Rule the Decision of Hearing Officer Geoff Wilson in Elliott v. Monument Citizens for Home Rule, et al, dated December 12, 2022 (“Decision”). The Decision dismissed the Elliott Complaint without a hearing. The Decision indicated that Town Municipal Code “Section [1.14.0] 10(b) plainly intends an economical and remedial process that allows a complaint process to be terminated if a proper “cure” is timely made. Here, I believe that the cure filed by Respondent on November 13, 2022, provided the ‘accounting’ requested by Complainant ... I believe that dismissal now, on that basis, would be appropriate and serve the purpose of the ordinance.” The Decision went on to note that the Elliott Compliant had not identified a specific section of the FCPA alleged to have been violated as “explicitly required in the Town ordinance,” and without a specifically alleged violation it is impossible for the complaint to “assert facts sufficient to support the alleged violation” as required by the Municipal Code Section 1.14.010 and the FCPA. (*emphasis in original*). “A reasonable construction is that, to avoid dismissal, a complaint must include both a citation to the statute allegedly violated and assertion of facts sufficient to show a violation of that section.” The Hearing Officer concluded the Decision with “[b]ecause I believe the Complaint was answered with a sufficient cure by Respondent, and because the Complaint wholly failed to comply [with] the clear and basic requirements for a lawful complaint under the Town’s ordinance, Complainant’s Complaint is hereby DISMISSED.”<sup>13</sup>

No appeal of the Decision was filed and the time for appealing it expired on approximately December 31, 2022. *See Rule 106(b), C.R.C.P.*

### **The Van Der Jagt Report**

At its regular meeting of December 5, 2022, the Town Council held an “executive session pursuant to C.R.S. § 24-6-402(4)(b) to hold a conference with the town attorney to receive legal advice on specific legal questions concerning the Fair Campaign Practices Act.”<sup>14</sup>

<sup>12</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated December 12, 2022; Email Laura KB to Laura Hogan, cc Steve King and Joel Lusby, Subject: Citizens for Home Rule AMENDED Financial Report 221212, dated December 12, 2022, 1:01:37 PM.

<sup>13</sup> Decision of Hearing Officer Geoff Wilson dated December 12, 2022; Email, Laura Hogan to Kelly Elliott and Suzanne Taheri, Subject: FCPA Complaint, dated December 12, 2022, 2:34:00 PM; Email, Laura Hogan to Steve King, steve@steveformonumnet.com, Laura Kronick and Joel Lusby, Subject: FCPA Complaint, dated December 12, 2022, 2:39:00 PM.

<sup>14</sup> Meeting Minutes of December 5, 2022, Monument Town Council.

At a special meeting on December 13, 2022, by a vote of 6 to 0 the Town Council removed item 3.a. from the agenda which read: "Discussion Relating to the Town Personnel and Potential Violations of the FCPA."<sup>15</sup> Following discussion reflecting mixed support, by a vote of 4 to 2 the Town Council approved Resolution No. 94-2022 with modifications to launch an investigation related to the in-kind donation from the Town for signs and door hangers. Resolution No. 94-2022 as approved by the Town Council reads:

A RESOLUTION TO LAUNCH THE INVESTIGATION ON FAIR CAMPAIGN PRACTICES ACT TO INVESTIGATE IN KIND DONATION FROM THE TOWN OF MONUMENT TO THE MONUMENT FOR HOME RULE ISSUE COMMITTEE FOR SIGNS AND DOORHANGERS. THE INVESTIGATION, PAID FOR BY THE TOWN OF MONUMENT, REQUIRES THAT THE TOWN STAFF AND APPLICABLE PERSONNEL AND ELECTED OFFICIALS TO BE INVESTIGATED FULLY COOPERATE WITH THE INVESTIGATIVE ATTORNEY DURING INTERVIEWS, PROVISION OF DOCUMENTS, ACCESS TO EMAILS AND PHONE RECORDS, AND TIMELY RESPONSES TO PHONE CALLS AND EMAIL QUESTIONS AS REQUESTED BY THE ATTORNEY. THE INVESTIGATOR WILL PROVIDE WEEKLY UPDATES TO THE TOWN COUNCIL ON THE APPROXIMATE DATES: DEC 19 AND DEC 27 WITH THE GOAL TO HAVE THE INVESTIGATION COMPLETED BY DECEMBER 30, 2022.<sup>16</sup>

At a special meeting on December 16, 2022, by a vote of 4 to 1 the Town Council approved Resolution No. 95-2022 which reads:

A RESOLUTION TO HIRE SPECIAL ATTORNEY GRANT VAN DER JAGT FOR THE INVESTIGATION OF CONCERNS THE COUNCIL HAS IDENTIFIED RELATED TO THE NOVEMBER 2022 ELECTION AND 2A AND TO FULLY EXECUTE MR. GRANT VAN DER JAGT'S LETTER OF ENGAGEMENT.<sup>17</sup>

An engagement letter ("Starzynski Van Der Jagt Engagement Letter") was signed by Grant Van Der Jagt and Kelly W. Elliott, Mayor Pro Tem, on December 18, 2022.<sup>18</sup> The circumstances associated with the signing of the Starzynski Van Der Jagt Engagement Letter were peculiar and coercive. At approximately 10:30 PM on Wednesday, December 14, 2022, two days before the Town Council had considered and approved Mr. Van Der Jagt's engagement, he emailed the Starzynski Van Der Jagt Engagement Letter to the Town Manager Mike Foreman requesting it be signed.<sup>19</sup> Early the next day, Thursday December 15, 2022, Mr. Foreman emailed the members of Town Council and the Town Attorney indicating his receipt of the Starzynski

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<sup>15</sup> Special Meeting Agenda of December 13, 2022, Monument Town Council.

<sup>16</sup> Special Meeting Minutes of December 13, 2022, Monument Town Council; Resolution No. 94-2022.

<sup>17</sup> Special Meeting Minutes of December 16, 2022, Monument Town Council; Resolution No. 95-2022.

<sup>18</sup> Attorney Engagement Letter between Starzynski Van Der Jagt, P.C. and Town of Monument signed December 18, 2022, by Kelly W. Elliott and Grant Van Der Jagt.

<sup>19</sup> Email Grant Van Der Jagt to Mike Foreman, Subject: Signature requested on "Standard Engagement Agreement," dated December 14, 2022, 10:38 PM.



Van Der Jagt Engagement Letter but having no idea of what it pertained to.<sup>20</sup> Mayor Pro Tem Elliott responded that she would follow-up with a call and that “we would like to hold a special meeting Friday evening.”<sup>21</sup> A reply from Council Member Redmond Ramos opposed the meeting and alleged that the terms of office of the outgoing Council members had expired,<sup>22</sup> to which Elliott disagreed.<sup>23</sup>

Mr. Van Der Jagt again requested on Saturday, December 17, 2022, that Mr. Foreman expedite the signing of the Starzynski Van Der Jagt Engagement Letter.<sup>24</sup> Despite the Starzynski Van Der Jagt Engagement Letter already having been signed by both Mr. Van Der Jagt and Mayor Pro Tem Elliott on Sunday, December 18, 2022, Mr. Van Der Jagt did not disclose this to Mr. Foreman and continued to aggressively pursue his signature on the Engagement Letter. At the beginning of the work day on Monday, December 19, 2022, Mr. Foreman requested the Town Attorney review the Starzynski Van Der Jagt Engagement Letter,<sup>25</sup> and also requested Mr. Van Der Jagt provide a copy instead of just the DocuSign link,<sup>26</sup> which Mr. Van Der Jagt promptly provided.<sup>27</sup> Also on December 19, 2022, the Town Attorney responded to Mr. Foreman that she could not review the Starzynski Van Der Jagt Engagement Letter.<sup>28</sup> The following day, Tuesday, December 20, 2022, the Town Attorney resigned.<sup>29</sup> On that same day Mr. Foreman inquired of the then former Town Attorney whether anyone in her law firm could assist with the review and she indicated that because of the potential conflict the entire firm was unable to assist.<sup>30</sup> Also on Tuesday, December 20, 2022, based on concerns with the security procedures used by Mr. Van Der Jagt associated with documents being provided in the investigation, Mr. Foreman emphasized the need for a Town Attorney to review the process,<sup>31</sup> to which Mr. Van Der Jagt

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<sup>20</sup> Email Mike Foreman to Mitch LaKind; Kelly Elliott; Jim Romanello; Ron Stephens; Darcy Schoening; Redmond Ramos; Kathryn Sellars, Subject: Fwd: Signature requested on "Standard Engagement Agreement," dated December 15, 2022, 6:30 AM.

<sup>21</sup> Email Kelly Elliott to Mike Foreman, Subject: Fwd: Signature requested on "Standard Engagement Agreement," dated December 15, 2022, 9:42 AM.

<sup>22</sup> Email Redmond Ramos to Kelly Elliott, cc Mike Foreman, Subject: Fwd: Signature requested on "Standard Engagement Agreement," dated December 15, 2022, 10:45:41 AM.

<sup>23</sup> Email Kelly Elliott to Redmond Ramos, cc Mike Foreman, Subject: Fwd: Signature requested on "Standard Engagement Agreement," dated December 15, 2022, 10:49:29 AM.

<sup>24</sup> Email Grant Van Der Jagt to Mike Foreman, Subject: Signatures on Engagement agreement, dated December 17, 2022, 11:01 PM.

<sup>25</sup> Email Mike Foreman to Kathryn Sellars, Subject: Signatures on Engagement agreement, dated December 19, 2022, 8:06 AM.

<sup>26</sup> Email Mike Foreman to Grant Van Der Jagt, Subject: Signatures on Engagement agreement, dated December 19, 2022, 8:41 AM.

<sup>27</sup> Email Grant Van Der Jagt to Mike Foreman, Subject: Signatures on Engagement agreement, dated December 19, 2022, 9:12 AM.

<sup>28</sup> Email Kathryn Sellars to Mike Foreman, Subject: Signatures on Engagement agreement, dated December 19, 2022, 11:00 AM.

<sup>29</sup> Email Kathryn Sellars to members of the Town Council, Subject: Legal Services, dated December 20, 2022, 8:22 AM.; Letter, Kathryn M. Sellars to Mayor Pro Tem and Council, Re: Legal Services, dated December 20, 2022.

<sup>30</sup> Emails Mike Foreman to Kathryn Sellars, Subject: Legal Services, dated December 20, 2022, 8:31 AM; Kathryn Sellars to Mike Foreman, Subject: Legal Services, dated December 20, 2022, 3:31 AM.

<sup>31</sup> Email from Mike Foreman, dated December 20, 2022, 4:23 PM.

demanded:

Produce the signed engagement agreement without further delay ... Please be advised that you are required by law to produce the requested data and signature. Further obstruction is actionable both civilly and criminally. I expect both the answers to my questions and the signature received by 5 PM tomorrow. Before you race off to win some kind of social media war with a false narrative about access or fairness, let me remind you that insulting or intimidating witnesses, the investigator or the investigation is also actionable civilly and criminally. Councilman Ramos should also take note, as his social media rant may have already crossed the line. There are limits to free speech, which decisively end at interference with an official government investigation.<sup>32</sup>

Council Member Schoening also responded, criticizing Mr. Foreman:

Your continued obstruction via refusal to sign the document and pay the approved investigator, followed by some outlandish claims that data was “leaked,” is embarrassing for the town and will not change the structure of the investigation nor the outcome. You have already received permission to hire a town attorney. Every single step of this is obstruction is notated and will not look good when the eventual report is released. In fact, it’s bordering on criminal at this juncture. Merry Christmas.<sup>33</sup>

Without having been made aware that the Starzynski Van Der Jagt Engagement Letter had been fully executed on December 18, 2022,<sup>34</sup> and without having had the benefit of its review by legal counsel for the Town, Mr. Foreman relented and signed the Starzynski Van Der Jagt Engagement Letter.<sup>35</sup> The letter of engagement does not define the scope of the engagement consistent with Resolutions Nos. 94-2022 or 95-2022, instead indicating the scope to be “to investigate some issues for the board.”<sup>36</sup>

The Town Council met again in a special meeting on December 28, 2022. The agenda for the December 28<sup>th</sup> meeting listed as items 2. a. and 3. a. the following:

## **2. Executive Session:**

a. Executive Session Pursuant to C.R.S. § 24-6-402 (4)(b) to Hold a Conference with the Town's Special Investigative Attorney to Discuss Town of Monument's Liability, Actions, and Remedy Concerning the Fair Campaign Practices Act, Misappropriation of Funds by the Town of Monument Persons, and Receive Legal Advice on Specific Legal Questions.

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<sup>32</sup> Email, Grant VDJLAW to Mike Foreman; Drew Anderson; Kelly Elliott; Mitch LaKind; Redmond Ramos; Ron Stephens; Darcy Schoening; Jim Romanello, Subject: RE: Access to folders, dated December 20, 2022, 5:28:29 PM.

<sup>33</sup> Email Darcy Schoening to Mike Foreman, cc grant vdjlaw; Drew Anderson; Kelly Elliott; Mitch LaKind; Redmond Ramos; Ron Stephens; Jim Romanello, Subject: RE: Access to folders, dated December 20, 2022, 4:46 PM.

<sup>34</sup> See FN 18.

<sup>35</sup> Attorney Engagement Letter between Starzynski Van Der Jagt, P.C. and Town of Monument signed December 20, 2022, by Mike Foreman.

<sup>36</sup> See FNs 16, 17, and 18.

(Special Investigative Attorney: Grant Van Der Jagt)

### 3. Discussion Items:

a. Council discussion on the Contents of the Investigative Report Pursuant to Resolution No. 22 and Resulting Motions.<sup>37</sup>

The December 28<sup>th</sup> special meeting to confer with special investigative attorney Van Der Jagt and discuss the contents of his report was contentious. Under agenda item 2.a. an initial motion was made to enter executive session but was opposed. A motion to review Mr. Van Der Jagt's report ("Van Der Jagt Report" or "VDJ Report")<sup>38</sup> in public was passed 5 to 0. That was followed by a motion to waive attorney-client privilege in the investigation pursuant to Resolution No. 95-2022 which also passed 5 to 0. After a 15-minute recess to allow Council members to review the report, Mr. Vander Jagt attempted to present the VDJ Report, but upon mentioning the Town Manager a lengthy discussion ensued regarding executive sessions involving personnel matters. A motion to enter executive session was again made but apparently no second was obtained. It was followed by a motion to adjourn the meeting which failed 2 to 3. Council member LaKind then left the meeting, and a motion was again made to adjourn but no second was received. It was stated that the contents of the investigation were now public and another motion to adjourn was made, seconded, and approved 4 to 0 and the meeting was adjourned.<sup>39</sup>

The Van Der Jagt Report goes into a number of subjects that are beyond the scope of Resolution No. 94-2022 regarding alleged violations of the Fair Campaign Practices Act and signs and doorhangers paid for by the Town and related to the November 2022 ballot issue 2A. They are also beyond the scope of this report, which is limited to the Fair Campaign Practices Act issues raised by the Town Council.

The Van Der Jagt Report indicates that the Mr. Vander Jagt focused in part on "lay terms of 'Electioneering,' [and] 'Misappropriation of Funds...'" *VDJ Report at 2*. The VDJ Report does not indicate what specific laws are implicated by these terms, their requirements or the elements that would have to be proven to show a violation of them. In places the VDJ Report references the FCPA, which as discussed above has specific limitations and requirements, though they are not referenced or analyzed in the VDJ Report.<sup>40</sup> The VDJ Report also indicates that the "focus of the investigation was on whether the Home Rule Charter and election were legally fair in procedure and substance ... It is in essence a Constitutional audit of the Charter, the election and the internal workings of the Town of Monument related thereto."<sup>41</sup> No legal

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<sup>37</sup> Special Meeting Agenda of December 28, 2022, Monument Town Council.

<sup>38</sup> Memorandum to Town of Monument, Town Council, from Grant Van Der Jagt, Special Investigator, dated December 28, 2022, RE Report of Investigation Findings.

<sup>39</sup> Special Meeting Minutes of December 28, 2022, Monument Town Council.

<sup>40</sup> VDJ Report at 4.

<sup>41</sup> VDJ Report at 2.

authority is cited indicating that such legal standards apply to the Charter and election. In his report Mr. Van Der Jagt states the following unsupported summary findings:

On the issue of Using Public Funds, I found that the Town Attorney is more likely than not culpable, whether by gross negligence or failure to supervise because she reportedly authorized the payment without knowing the content of the invoice at hand. While she insists she did not have mal intent, the Rules and Statutes dictating how attorneys handle money for others are based on "Strict Liability". That is to say, if the money was improperly applied, culpability follows regardless of intent. The amount of public money spent was substantial enough to impact the election outcome. The money spent by the Town of Monument ("TOM") was the "only" money spent on the Home Rule ballot question. Equally concerning was the manner in which the issue 5 was "cured".<sup>42</sup> One can not embezzle funds from a trust account for one's self-interest and then take funds from another source not available previously to cure the mistake, and then doctor the required Clerk filings to cover up the mistake after the error was caught, and avoid culpability entirely. Although the Town Attorney is culpable, she is not alone. The Town Manager has failed to set up proper accounting procedures to prevent this type of mistake from happening, and thus I find the Town Manager also culpable for failing to properly supervise. Ultimately, the efforts of the 2A Charter, Town Attorney, and others to cure the misappropriation of funds do not satisfy either the FCPA (Fair Campaign Practices Act) or SOS (Secretary of State) rules for curing a reporting or spending transgression. While a fine would potentially be in order for a non-attorney represented organization, the issues in total created by the sequence of capricious errors and omissions ultimately undermined the procedural integrity of the entire 2A election as further demonstrated by the other issues identified. *(footnote omitted)*.<sup>42</sup>

The VDJ Report does not identify any facts to support the allegation that the Town Attorney "reportedly" authorized the payment. Nor does it identify any underlying law or the legal standard for reaching the conclusion that the Town Attorney was culpable. The report notes that \$2,512.50 was spent on the in-kind donation of signs and door-hangers and states that "[t]his illegal contribution undoubtedly had a direct impact on the outcome of the Home Rule Charter ... election."<sup>43</sup> However, no law or facts are cited that the amount of money spent was enough to impact the outcome of the election which approved Ballot Question 2A by a margin of 68% in favor to 32% against,<sup>44</sup> and despite the No on 2A issues committee out-fundraising the Citizens for Home Rule issues committee \$21,900<sup>45</sup> to \$2,512.50,<sup>46</sup> and

<sup>42</sup> VDJ Report at 4 and 5.

<sup>43</sup> VDJ Report at 9.

<sup>44</sup> See FN 3.

<sup>45</sup> Report of Contributions and Expenditures, NO on 2A, dated November 4, 2022; Report of Contribution and Expenditures, NO on 2A, dated December 7, 2022, received December 08, 2022; Report of Contributions and Expenditures, NO on 2A, dated March 3, 2023.

<sup>46</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated October 18, 2022; Report of Contributions and Expenditures, Citizens for Home Rule, dated November 4, 2022; Report of Contributions and Expenditures, Citizens for Home Rule, dated November 18, 2022; Report of Contributions and Expenditures,

outspending on banners, door hangers, and signs \$2,960.04<sup>47</sup> to \$2,512.50.<sup>48</sup> The report does not recognize that even if the amount spent could have influenced the outcome of the election, which is highly speculative, it was ultimately an expense that was paid by Citizens for Home Rule, not by the Town.<sup>49</sup>

No legal authority is cited in the VDJ Report that because a person cannot “cure” a case of criminal “embezzlement,” an FCPA violation cannot be cured by repayment. On the contrary, repayment of improperly spent public funds is specifically recognized as a cure under the FCPA and the Monument Municipal Code.<sup>50</sup> Likewise, no factual or legal support is provided for the conclusory statements that there was criminal culpability on behalf of Town staff members<sup>51</sup> or the many individuals discussed in the report, or that the Town Manager was culpable or that the issues “ultimately undermined the procedural integrity of the entire 2A election.”<sup>52</sup> The Town Manager’s attempts to obtain review and advice of independent legal counsel before executing the Starzynski Van Der Jagt Engagement Letter is in keeping with sound practice and appears to be nothing more than motivated by an intent to protect the Town’s interest.

The VDJ Report places considerable weight on the use of the Town seal on the Citizen’s for Home Rule’s door hanger as an “endorsement” by Colorado Law, which rendered the document void and a materially fraudulent misrepresentation to the public in violation of Section 6, Article XVIII of the Colorado Constitution.<sup>53</sup> Neither the campaign signs nor door hangers,<sup>54</sup> include the Town seal. The Municipal Code sets out the requirements for the Town seal: “A seal, the impression which is as follows: in the center the words ‘SEAL, INCORPORATED JUNE 2, 1879’ and around the outer edge, the words ‘MONUMENT, COLORADO’ is declared to be the seal of the Town of Monument.” §1.08.010, M.M.C. A review of Resolution Nos. 94-2022 and 95-2022, which authorized Mr. Van Der Jagt’s investigation, show the Town seal.<sup>55</sup> What appears on the door hanger can best be described as a Town logo, which has not been copyrighted or registered. As neither the sign nor the door hanger contained the Town seal, the VDJ report’s analysis and conclusion that the campaign materials were fraudulently endorsed by the Citizens for Home Rule and “corrupted the procedural legitimacy of the entire 2A elections and led to one of the most scandalous elections in Monument history,”<sup>56</sup> is without any factual or legal

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Citizens for Home Rule, dated December 7, 2022; Report of Contributions and Expenditures, Citizens for Home Rule, dated December 12, 2022; Report of Contributions and Expenditures, Citizens for Home Rule, dated February 22, 2023.

<sup>47</sup> See FN 45.

<sup>48</sup> See FN 46.

<sup>49</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated December 12, 2022.

<sup>50</sup> §1-45-117(4)(a), C.R.S.; § 1.14.010(e), M.M.C.

<sup>51</sup> VDJ Report at 4 “In Fact in many of the instances of misconduct identified, I do believe there is criminal culpability for certain staff ...”

<sup>52</sup> VDJ Report at 5.

<sup>53</sup> VDJ Report at 5 and 6.

<sup>54</sup> See photographs attached to Campaign Finance Complaint Cover Sheet dated October 21, 2022, (Elliott Complaint).

<sup>55</sup> Resolution No. 94-2022; Resolution No. 95-2022.

<sup>56</sup> VDJ Report at 6.

basis. Further, the Van Der Jagt Report wholly ignores and fails to attribute the same conclusion to the fact that the NO on 2A Issue Committee, Kelly W. Elliott, Registered Agent, used the same Town logo on their campaign signs and banners.<sup>57</sup>

## **CONCLUSIONS**

The Van Der Jagt Report has very little legal or factual basis or analysis for its many conclusory statements and summary findings and recommendations. As to the FCPA violations associated with the Elliott complaint, the Van Der Jagt Report is primarily a disagreement with the Hearing Officer's determination that Citizens for Home Rule's adequately cured the violation by filing amended reports. The VDG Report ignores the FCPA and Monument Municipal Code provisions that indicated reimbursement is an adequate cure for the improper expenditure of Town funds for the door hangers and yard signs. The VDJ Report is at times incorrect as to the facts it recites and the law that it applies to the many matters it discusses. The numerous findings and recommendations, especially those alleging criminal or culpable activity, are not supported by an adequate factual or legal analysis. The Town Council should consider formally disavowing the VDJ Report and reject it as a determination of the Town because of its lack of factual and legal support and numerous, unsubstantiated personal attacks.

As required by the Monument Municipal Code, upon receipt of the Elliott Complaint on October 21, 2002, the Town Clerk sent notice to Citizens for Home Rule and gave them thirty days to cure or respond. Citizens for Home Rule chose to attempt to cure by filing an amended Report of Contributions and Expenditures on November 18, 2022, within the thirty-day deadline. The Town Clerk referred the matter to an independent hearing officer when requested by Elliott's attorney on December 6. The Hearing Officer considered the Elliott Complaint and Citizens for Home Rule's November 18, 2022, amended Report of Contributions and Expenditures and on December 12, 2022, determined that the amended Report of Contributions and Expenditures was an adequate cure of the violation noted in the Elliott Complaint. The Hearing Officer also determined that the Elliott Complaint did "not specifically identify a section of the FCPA section that Citizens for Home Rule is alleged to have violated" or "assert facts sufficient to support the alleged violations" as expressly required by the Municipal Code. The Hearing Officer's Decision to dismiss the Elliott Complaint is based directly on the criteria stated in the Municipal Code and found in the FCPA.

The processing of the Elliott Complaint and the Decision of the Hearing Officer were in compliance with the FCPA and the Municipal Code. As set forth in the Municipal Code the Decision dismissing the Elliott Complaint was a final decision and was subject to review by the district court. Because twenty-eight days following the Decision has long since passed, judicial review the Decision is barred, and the Decision is no longer appealable on the basis that the Hearing Officer exceeded his jurisdiction or abused his discretion.

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<sup>57</sup> Photos of NO on 2A signs and banners.

Though not raised in the Elliott Complaint and not considered by the Hearing Officer, the amended Report of Contributions and Expenditures filed December 12, 2022, indicated that the Town was reimbursed for funds previously reported on November 18 as an in-kind contribution of yard signs and door hangers. This is consistent with the remedies recognized by the Municipal Code and the FCPA in cases involving expenditure of public funds to campaign for a referred measure. Any alleged or potential violations related to Citizens for Home Rule's receipt, expenditure, or reporting of contributions have no effect on the validity of the election approving the Monument Home Rule Charter. See Colo. Const. Article XXVIII, § 10.

Under the FCPA and the Monument Municipal Code the processing of alleged violations of the FCPA related to Ballot Question 2A is the exclusive jurisdiction of the Monument Town Clerk. The processing of the Elliott Complaint was in compliance with these requirements. To the extent the Town Council and the Van Der Jagt investigation and report purported to investigate the matters for purposes of enforcing the FCPA they lacked jurisdiction, and the investigation was improper. Consideration of any failures or violations of the FCPA for the purpose of avoiding future problems is a proper consideration of the Town Council.

The door hangers and yard signs were ordered in advance of the BOT's setting of the ballot title and referral of Ballot Question 2A for the November 8, 2022, election. However, authorization for payment and actual payment for them came after 2A had been referred. This timing coupled with the door hangers and yard signs failure to constitute a factual summary, include arguments both for and against the proposal, and their inclusion of a conclusion or opinion to "vote yes" caused the expenditure of Town funds for them to violate the FCPA. Repayment of those funds to the Town was an adequate cure under the FCPA and Monument Municipal Code, but actions should be taken to prevent future violations by the Town of the FCPA.

In reviewing emails between Town staff, members of the Charter Commission and members of Citizens for Home Rule, and interviewing several of them, it appears that several factors lead to the initial expenditure of Town funds for 2A campaigning materials in violation of the FCPA. There was no clear understanding of the cut-off for expending Town funds. While there was a general understanding that the cutoff related to the Town Council referring the measure to the voters, there was confusion as to whether this deadline applied to ordering or incurring the obligation to pay for the materials, the invoicing for the materials, the approval for payment of the materials, or the actual payment for them. Some of the people spoken to indicated that they knew the materials contained a "vote yes" messages but thought that the timing made its inclusion permissible; others were not aware of the "vote yes" message until months after they were produced and paid for. There is no evidence that Town Manager Mike Foreman was aware the door hangers and yard signs contained the "vote yes" message until late summer or early fall, months after he had approved the payment of Town funds that had been set aside in the Charter Commission's budget for their purchase.

There was a misunderstanding among most people spoken to as to what could constitute permissible Town funded educational materials after Ballot Question 2A had been referred to



the voters. While some understood there should be no advocacy for the measure, few understood that Town funded materials on a referred measure are limited to a factual summary, which shall include arguments both for and against the proposal and may not contain a conclusion or opinion in favor of or against the issue. Even without the inclusion of the “vote yes” language, the door hangers would not have met these FCPA requirements.

There was a significant overlap of people serving on the Charter Commission and the Citizens for Home Rule without a clear understanding and appreciation for their distinct roles and limitations. This led to a confusion of roles when taking actions such as preparing, ordering, and paying for the door hangers and yard signs. Individuals were confused as to whether the Charter Commission budget was limited to only educational materials or could be used for campaign materials, because in part some people spoken to did not identify or recall that the source of the Charter Commission budget was Town funds.

The Charter Commission was initially briefed on the ability and restrictions on spending Town money on public education materials related to the Charter and the Charter election, and at subsequent meetings Town staff provided some information on the limitations on spending public funds. Most of the people involved in the Charter Commission and the Citizens for Home Rule were not experienced with the reporting requirements and expenditure limitations of the FCPA. The Charter Commission members interviewed indicated that they attempted to minimize use of their legal advisor, Kathryn Sellars, to save money for other public uses. There is no evidence that Ms. Sellars was involved in the preparation of the door hangers and yard signs or was consulted on or aware of any of their content until the Elliott Complaint was filed.

While the Town will not likely be involved in another Charter election any time soon, it will likely have an interest in other matters that are put before the voters, whether by the Town or others. To avoid future FCPA violations the Town should consider the following:

1. Have regular training by legal counsel on requirements and limitations of the FCPA, Charter and Municipal Code regarding campaign financing.
2. Encourage separation between Town personnel (employees and officers) and those active with campaign committees on measures affecting the Town. For Town personnel who chose to participate with political campaigns related to Town matters provide education on the separation they must maintain between their roles as Town personnel and their roles related to political campaigns.
3. Ensure thorough review and accounting for all expenditures related to materials written about measures that are or may come before the voters.
4. Fund and distribute any educational materials well in advance of the FCPA cutoff for expenditure of public funds for initiated or referred measures.
5. Have legal counsel review any materials written about a ballot issue or question that has been put before the voters to ensure it meets the FCPA's requirements for neutrality.

The many documents reviewed in this matter also revealed emails in December 2022 among Town Council Members that may have been in violation of the Colorado Open Meetings Law. The Town should consider education and orientation sessions for Town officials and employees on the Open Meetings Law and other legal requirements applicable to their roles and responsibilities.

**Exhibit A**  
**Timeline of Significant Events**

**August 19, 2021.** Ordinance No. 28-2021 approved November 2, 2021, election asking whether to form a Home Rule Charter Commission ("Charter Commission" or "Commission") and electing 9 Commission members.<sup>58</sup>

**November 2.** Election approves establishing the Home Rule Charter Commission by a margin of 61% to 39% and elects Matt Brunk, Steve King, Jennifer Coopman, Brandy Turner, Joel Lusby, Shannon Clark, Ashley Watt, Sana Abbott, and Janet Ladowski as Commission member.<sup>59</sup>

**November 29.** First meeting of the Charter Commission. Cory Hoffmann, attorney with Hoffmann Parker Wilson & Carberry P.C., informs the Commission that once the ballot issue is set the Town cannot spend any money to campaign for or against approving the Charter, but issues committees can be formed to campaign for approval of the Charter. The Town can only put together factual information.<sup>60</sup>

**November 29, 2021, to April 6, 2022.** Charter Commission meets approximately 18 times<sup>61</sup>, drafts the proposed Home Rule Charter, and presents it to the BOT. Kathryn Sellars, attorney for the Commission attends the January 20, February 17 and 24, March 3, 10, and 17 meetings.<sup>62</sup>

**January 20, 2022.** Wayne Laugensen introduced as a new member of the Charter Commission replacing Ashley Watt.<sup>63</sup> Kathryn Sellars introduced as the attorney for the Charter Commission.<sup>64</sup>

**March 3.** Charter Commission meeting includes a discussion of the role of the Town once the Charter is brought to the BOT and that any printing of election materials must be completed by May 18.<sup>65</sup> Mike Foreman indicated that because of the limited role permitted for the Town, an Issues Committee would be needed with someone outside of the Charter Commission to be Chairperson. It was suggested that Laura Kronick might be able to take on this role.<sup>66</sup>

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<sup>58</sup> Ordinance No. 28-2021.

<sup>59</sup> Certification of November 8, 2022, Election Results.

<sup>60</sup> Agenda and Minutes of the November-29, 2021, Home Rule Charter Commission meeting.

<sup>61</sup> Agendas for 18 Charter Commission meetings are available from the Town's online Documents Center but minutes for only 16 meetings are available. For March 28 and April 6, 2022, agendas are available but there are no corresponding minutes.

<sup>62</sup> Minutes of the January 20, February 17 and 24, March 3, 10, and 17, 2022, Home Rule Charter Commission meetings.

<sup>63</sup> Town Manager's Bi-Annual Report for the first half of 2022, page 10: "Shortly after the commission began their work, Ashley Watt became ineligible to serve due to a move out of Monument. The Board of Trustees appointed Wayne Laugesen to fill the vacancy on the home rule charter commission on January 18." *See also*, meeting minutes of the January 18, 2022, BOT regular meetings.

<sup>64</sup> Minutes of the January 20, 2022, Home Rule Charter Commission meeting.

<sup>65</sup> Reference to "May" 18 appears to be a misstatement as the Charter was schedule to be presented and presented to the BOT on April 18.

<sup>66</sup> Meeting Minutes of March 3, 2022, Home Rule Charter Commission.

**March 10.** Charter Commission approves draft Charter with discussed changes.<sup>67</sup>

**March 15.** Charter Commission conducts public meeting to discuss proposed Charter.<sup>68</sup>

**March 19.** Citizens for Home Rule file issues committee registration with Town Clerk. Purpose: Issue Committee for the adoption of the Monument Home Rule Charter created by the Home Rule Commission be on the ballot November 8, 2022. Registered agent – Laura Kronick. Designated Filing Agent – Joel Lusby.<sup>69</sup>

**March 19 – April 15.** Door hanger design developed on Canva website.<sup>70</sup>

**March 19, 3:12PM.** Door hanger Version 1 autosaved by Sana Abbott to Canva website. One page and educational only regarding home rule; no advocacy. Template elements from Canva still present. **3:48 PM,** door hanger Version 2 saved by Sana Abbot. Added information contrasting home rule versus statutory rule and benefits of home rule without arguments against; no voting message either for or against. Still contains template elements form Canva. **4:06 PM,** door hanger Version 3 saved by Sana Abbott with additional discussion of benefits of home rule and next steps, without arguments against; no voting message either for or against. Replaced the last of the Canva template elements.<sup>71</sup>

**March 20 – April 4.** Email thread discussing design of the pamphlet/door hanger.<sup>72</sup>

**March 20, 8:15 AM.** Email from Mike Foreman to the Charter Commission providing link to Canva website for the door hanger design. No message, just the link was provided.

**March 29, 7:56 PM.** Email from Brandy apparently to Ashley Watt, asking “Can you make this look prettier? We are thing *[sic]* a door hanger format?”

**March 29, 11:50 PM.** Email from Ashley Watt to Brandy indicating “I couldn’t open the attachment but I imagine I could get that done.”

**March 30, 6:43 AM.** Email from Brandy “Oops! I attached a screen shot. ...”

**April 3, 10:58.** Email from Ashley Watt to Brandy: “I tried adding some graphics to draw people’s attention. However, there wasn’t a lot of room to add images and so, if you would like more images, then we would have to possibly do front and back of the pamphlet. Another option is simplifying the text, making it short and sweet. We don’t want to overwhelm the people with too many paragraphs ;)”

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<sup>67</sup> Meeting Minutes of March 10, 2022, Home Rule Charter Commission.

<sup>68</sup> Meeting Minutes of March 15, 2022, Home Rule Charter Commission.

<sup>69</sup> New Committee Registration Form.

<sup>70</sup> Canva door hanger Version History.

<https://www.canva.com/design/DAE7dIrUsEQ/wgG8iUgM2Krt0l2DDVmwWA/edit>. The completeness or accuracy of this Version History has not been independently verified.

<sup>71</sup> See FN 70, pages 1-3, Canva Version History.

<sup>72</sup> Email thread March 20-April 4 discussing the design of the door hanger. Two versions of this thread are necessary to capture the full attachment and the April 4 forward of the email from Laura Hogan.



**April 4, 6:54 AM.** Email from Brandy to Mike Foreman and Laura Hogan: “Can you please forward this to the HRCC fir review. I dud [sic] already now [sic] that we need to name and add the name of the Facebook page.”

**April 4, 2022, 8:37 AM.** Laura Hogan forwards the email thread with the attachment to the Charter Commission.<sup>73</sup>

**Attachment to email thread.** Attached to the email thread is a copy of Version 6, *see below*, of the doorhanger.

**April 3, 9:37 PM.** Door hanger Version 4 autosaved – no author identified. Very similar, if not identical to version three. **10:38 PM,** door hanger Version 5 autosaved – no author identified. Graphics and bolding of some text added but text is very similar, if not identical to versions three and four. **10:46 PM,** door hanger Version 6 autosaved – no author identified. Additional graphics added by Next Steps but text is very similar, if not identical to versions three, four and five.<sup>74</sup>

**April 6.** Charter Commission meeting agenda includes items “4. Voting to approve final draft of charter” and “5. Review the graphics for the informational mailer, approve or send back for edits.”<sup>75</sup>

**April 11, 10:32 PM.** Door hanger Version 7 autosaved – no author identified. Appears to be very similar, if not identical to version six. **11:26 PM,** door hanger version 8 autosaved – no author identified. Page 1 text in Overview, Home Rule vs Statutory Rule, and Benefits sections modified. No arguments against included. Page 2 added, which added Town logo, “Vote Yes” graphics, and Facebook QR code.<sup>76</sup>

**April 15, 7:48 AM.** Door hanger Version 9 autosaved – no author identified. Appears to be very similar, if not identical to version eight. **2:47 PM,** door hanger Version 10 autosaved – no author identified. Appears to be very similar, if not identical to version nine. **3:43 PM,** door hanger Version 11 (and last version) autosaved – no author identified. Page 1 previous first section deleted and graphic that says “vote” moved to section on Next Steps and text regarding Charter Commission added to Overview. Page 2 no change. No arguments against included.<sup>77</sup>

**April 15, 4:17 PM.** Kathy at Tri-Lakes Printing informs Sana Abbott “The art looks good.”<sup>78</sup>

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<sup>73</sup>The “To:” line is empty. Laura Hogan indicated to me: “The email was forwarded by me to the entirety of the home rule charter commission. Mike told the members of the commission to use me to relay their messages to each other. I used blind copy because they were not issued town email addresses and I didn’t know if they wanted the other members to see their personal email addresses.”

<sup>74</sup> See FN 70, pages 4-6, *Canva Version History*.

<sup>75</sup> Meeting Agenda of April 6, 2022, Home Rule Charter Commission. Minutes of this meeting have not been located and may not have been kept.

<sup>76</sup> See FN 70, pages 7-9, *Canva Version History*.

<sup>77</sup> See FN 70, pages 10-15, *Canva Version History*.

<sup>78</sup> Email thread Subject Door hangers, dated April 15, 2022, to April 18, 2022; Email from [infor@trilakesprinting.com](mailto:infor@trilakesprinting.com) to Sana dated April 15, 2022, 4:17 PM.

**April 15.** Tri-Lakes Printing Invoice A-82975 to the Town for \$2,512.50 for door hangers, 18 x 24 coroplast signs, and stakes.<sup>79</sup>

**April 18, 10:58:48 AM.** By email Sana Abbott requests Kathy at Tri-Lakes Printing to "send/email the Home Rule invoice to Mike Foreman (dated last Friday)..."<sup>80</sup>

**April 18, 3:06 PM.** By email Kathy at Tri-Lakes Printing provides to Sana Abbott "the invoice for the signs and he [sic] door hangers." Invoice A-82975 is dated April 15, 2022.<sup>81</sup>

**April 18, 3:14:49 PM.** Sana Abbott forwards Invoice A-82975 to Mike Foreman with email thread between Sana and Kathy at Tri-Lakes Printing.<sup>82</sup>

**April 18, 6:30 PM.** BOT meeting at which the Charter Commission presented the proposed Charter, and the BOT approves Resolution No. 29-1011 Referring to the Registered Electors of the Town of Monument a Ballot Question on the Proposed Home Rule Charter and Setting the Ballot Title. Commission members King, Brunk, Coopman and Turner, and Commission attorney Sellars in attendance. Meeting adjourns at 8:12 PM.<sup>83</sup>

**April 18, 9:21 PM.** Mike Foreman approves payment of the Tri-Lakes Printing Invoice for door hangers and signs.<sup>84</sup>

**April 29.** Town Check 89778 issued for \$2,592.50 to Tri-Lakes Printing for Invoice A-82975 (\$2,512.50 for "DOOR HANGERS") and A-83032 (\$80.00 for business cards unrelated to the Charter and FCPA issues).<sup>85</sup>

**May 4.** Tri-Lakes Printing Invoice A-82975 in the amount of \$2,512.50 marked paid.<sup>86</sup>

**May 11.** Sana Abbott emails the HRCC Members through Mike Foreman indicating: "Charter Committee, I have finally picked up the door hangers, as well as the yard signs today from Kathy. I need to know how you want them dispersed, we need to discuss this." Ms. Abbott suggests possible arrangements for passing out the door hangers and signs to the Charter Committee members in May or June. Also proposes dates in August, September, and October to "support the passing of the HRC and speak to the public/answer questions."<sup>87</sup>

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<sup>79</sup> See FN 78, Invoice A-82975.

<sup>80</sup> See FN 78, Email from Sana Abbott to Tri-lakes Printing dated April 18, 2022, 10:58:48 AM.

<sup>81</sup> See FN 78, Email from Kathy at Tri-lakes Printing to Sana Abbott dated April 18, 2022, 3:06 PM.

<sup>82</sup> See FN 78, Email from Sana Abbott to Mike Foreman, dated April 18, 2022, 3:14:49 PM.

<sup>83</sup> Meeting Minutes, April 18, 2022, BOT.

<sup>84</sup> See FN 78, Email from Mike Foreman to Jessica Hullinger and Monica Hirjoi, dated April 18, 2022, 9:21 PM.

<sup>85</sup> See FN 78, Check stub for Town of Monument Check No: 89778.

<sup>86</sup> Tri-Lakes Printing Invoice A-82975 to the Town of Monument dated April 15, 2022, stamped "PAID 05/04/2022."

<sup>87</sup> Email from Sana Abbott to Mike Foreman and Laura Hogan, Subject: HRCC Items to pass on, dated May 11, 2022, 7:18:38 PM; email from Mike Foreman to Home Rule Charter Commissioners, Subject: HRCC Items to pass on, dated May 11, 2022, 8:42 PM.



**October 8 (approximately).** Door hangers and yard signs of Citizens for Home Rule begin appearing.<sup>88</sup>

**October 8.** BOT member Darcy Schoening alerts interim Town Attorney Joe Rivera that the Town's logo, which she seems to alternately be referring to as the Town Seal, has appeared on election materials and suggests a complaint should be filed.<sup>89</sup>

**October 11.** BOT member Darcy Schoening emails interim Town Attorney Joe Rivera stating that the Town seal cannot be used on issue committee registrations; and requests that he send a cease and desist to Citizens for Home Rule.<sup>90</sup>

**October 18.** Regularly scheduled Report of Contributions and Expenditures for reporting period March 19, 2022 – October 13, 2022, filed by Laura Kronick on behalf of Citizens for Home Rule. \$5.00 of contributions and no expenditures reported for reporting period.<sup>91</sup>

**October 20.** NO on 2A Issue Committee, Kelly W. Elliott, Registered Agent, registers with the Town Clerk as a new issue committee.<sup>92</sup>

**October 21.** Elliott Complaint filed with the Town Clerk against Monument Citizens for Home Rule – Steve King alleging “There is no accounting for their funds used for signs and door hangers. They reported \$5.00 March 2022 - October 2022. If they refuse to accurately report their finances then the signs need to be removed as they do not comply with state and town rules.” Includes photos of yard signs and door hangers that indicate “vote yes.”<sup>93</sup>

**October 21.** Notice of Elliott Complaint provided by Town Clerk to Steve King, cc Laura Kronick as Registered Agent for Citizens for Home Rule and Joel Lusby as Designated Agent for Citizens for Home Rule. Indicates 30 days from date of notice to cure the allegations or respond to complaint.<sup>94</sup>

**October 21, 7:35 PM.** Steve King emails Kathryn Sellars and Mike Foreman asking Kathryn for advice regarding the Elliott Complaint and indicates: “When we were writing the charter, we had a budget, and used very little of it. Mike Foreman told us that we could use some of the leftover money to purchase Home Rule signs, as long as we purchased them before it was placed on the ballot, which we did, and he paid the bill. We formed an issue committee but never collected any money as we used social media to promote Home Rule, so our disclosure states zero spent. We have several signs around town and someone filed a complaint that our

<sup>88</sup> VDJ Report at 8 (not independently verified).

<sup>89</sup> Email Darcy Schoening to CW (Joe Rivera) and Mike Foreman, Subject Logo on camping *[sic]* materials, dated October 8, 2022, 4:21:06 PM.

<sup>90</sup> Email Darcy Schoening to CW (Joe Rivera), Subject Town seal, dated October 11, 2022, 21:57.

<sup>91</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated October 18, 2022.

<sup>92</sup> New Committee Registration Form dated October 20, 2022.

<sup>93</sup> Campaign Finance Complaint Cover Sheet dated October 21, 2022.

<sup>94</sup> Letter dated October 21, 2022, Laura Hogan to Steve King; Email Laura Hogan to Steve King, [steve@steveformonument.com](mailto:steve@steveformonument.com), Laura Kronick, and Jol Lusby, Subject: FCPA Complaint, dated December 12, 2022, 2:39:00 PM.



disclosure states no money spent. The signs are for the issue committee, yet came out of the budget we had left over.”<sup>95</sup>

**October 22.** Kathryn Sellars responds to Steve King asking for additional information regarding when and how the signs were purchased, distributed, posted, and when the ballot question was approved by the BOT.<sup>96</sup>

**October 25.** Kathryn Sellars discusses Elliott Complaint with Mike Foreman and Joe Rivera.<sup>97</sup>

**November 3.** Kathryn Sellars provides Mike Foreman and Steve King with a timeline related to the Elliott Complaint. Acknowledges that the signs and door hangers are either a nonmonetary or a monetary contribution from the Town and the complaint has a basis under the law.<sup>98</sup>

**November 4.** Regularly scheduled Report of Contributions and Expenditures for reporting period October 14, 2022 - October 30, 2022, filed by Laura Kronick on behalf of Citizens for Home Rule. \$5.00 of contributions related to the opening of a bank account on March 19, 2022, by Joel Lusby, and no expenditures reported for reporting period.<sup>99</sup>

**November 4.** Regularly scheduled Report of Contributions and Expenditures for reporting period October 14, 2022 - October 30, 2022, filed by Kelly Elliott, Registered Agent for NO on 2A. \$16,800 of Funds on hand at the beginning of reporting period, \$8,941.59 in expenditures including \$271.23 for banners, \$756.85 to Signs on the Cheap, and \$1,931.96 for door hangers, stakes, and signs, and \$7,858.41 on hand at the end of the reporting period.<sup>100</sup>

**November 7.** BOT meeting. Kathryn Sellars and the law firm Hoffman, Parker, Wilson & Carberry, P.C. contracted as special counsel to the Town until appointed by the Board of Trustees.<sup>101</sup>

**November 8.** Election, voters approve Ballot Question 2A and the Charter by a margin of 3,567 (68%) in favor to 1,712 votes (32%) against Ballot Question 2A. Voters also elect four Council members and the Mayor.<sup>102</sup>

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<sup>95</sup> Email Steve King to Kathryn Sellars and Mike Foreman, Subject: Campaign finance disclosure, dated October 21, 2022, 7:35 PM.

<sup>96</sup> Email Kathryn Sellars to Steve King and Mike Foreman, Subject: Campaign finance disclosure, dated October 22, 2022, 1:48 PM.

<sup>97</sup> Email Kathryn Sellars to Mike Foreman and C.W (Joe Rivera), Subject: FCPA Complaint dated October 25, 2022. Although the email suggests that the BOT approved the expenditure on April 18, 2022, this appears to be an erroneous assumption. See Footnotes 73 and 74.

<sup>98</sup> Email Kathryn Sellars to Steve King and Mike Foreman, Subject: FCPA Complaint dated November 3, 2022, 10:35 AM.

<sup>99</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated November 4, 2022.

<sup>100</sup> Report of Contributions and Expenditures, NO on 2A, dated November 4, 2022.

<sup>101</sup> Meeting Minutes of November 7, 2022, Monument BOT; Resolution No. 82-2022; Agreement for Legal Services dated November 9, 2022, between Hoffmann, Parker, Wilson & Carberry P.C. and the Town of Monument.

<sup>102</sup> See FN 3.

**November 13.** Grant Van Der Jagt submits resume to Mike Foreman, Don Wilson, and Darcy Schoening indicating his understanding that “the city *[sic]* of Monument is looking for an attorney” and stated that he is “well versed in all of the major aspect that city attorneys work with ...”<sup>103</sup>

**November 17.** Sana Abbott requests Mike Foreman to clarify use of Charter Commission budget for lawyer and advertising:

There is a LOT of confusion happening between the nine of us that were on the Home Rule Commission.

During our meetings in drafting of the charter, you told us on more than one occasion that there was a budget set aside for a lawyer and advertising.

We did not exceed that budget. Then there was also talk about a complaint against the Issues Committee.

I need a play by play from you in response to this email for the questions below. I realize Kathryn has since been involved but none of this is clear to us.

Laura, Joel and Steve’s names are on the Issue Committee. The rest of us are unclear on what direction we need to go. And we want to move forward properly.

**1. Are there funds to pay back, if so what is that amount and why?**

**2. What were the series of events, in order, including the complaint against the Issues Committee?**

**3. Does the town want any extra signs we collected or have in our possession, if so when and where?**

We need concrete answers from you before we can move forward.*[Emphasis in original]*.

**10:27:51 AM** Mike Foreman responds that he discussed the matter with Kathryn Sellars “yesterday” and she will respond. **7:26 PM** Kathryn Sellars responds to Mike Foreman and Steve King that she does not think it is appropriate for her to respond to the questions from Sana and that if there a dispute between the Town and the issue committee, Kathryn cannot be involved.<sup>104</sup>

**November 18.** Amended Report of Contributions and Expenditures amending previous report filed on October 13, 2022, for reporting period October 13, 2022 - November 20, 2022, filed by Laura Kronick on behalf of Citizens for Home Rule. \$5.00 on hand at the beginning of the

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<sup>103</sup> Email Grant Van Der Jagt to Mike Foreman and Don Wilson, Subject: Resume for Attorney position, dated November 13, 2021.

<sup>104</sup> Email from Sana Abbott to Mike Foreman, cc Steve King, Matt Brunk, Greg Coopman, Jennifer Coopman, Shannon Clark, Joel Lusby, Laura KB, Brandy Turner, Subject: Issues Committee/Home Rule Clarification Needed, dated November 17, 2022, 10:21:38 AM; Email response from Mike Foreman to original recipients and Kathryn Sellars, dated November 17, 2022, 10:27:51 AM; Email response from Kathryn Sellars to only Mike Foreman and Steve King, dated November 17, 2022, 7:26 PM.

reporting period and \$2,500 in non-monetary contributions from the Town of Monument in the form of yard signs and door hangars.<sup>105</sup>

**November 21.** Town Clerk provides Elliott with a copy of the amended Report of Contributions and Expenditures Citizens for Home Rule filed as a cure to the Elliott Complaint and asks if Elliott still wants to proceed with the Elliott Complaint. **November 28,** Elliott indicates that there would be questions for Mike Foreman, Town Manager, and that the information was not adequate. Asks for deadline to reply. **November 28,** the Town Clerk responds the sooner the better, that if Elliott choses to proceed the Clerk would appoint an independent hearing officer who could either dismiss the complaint based on criteria outlined in the Municipal Code or set a date for a hearing, and that a hearing would have to take place no later than December 20, 2022.<sup>106</sup>

**November 21.** BOT meeting. Kathryn Sellars appointed interim Town Attorney.<sup>107</sup>

**December 1.** Suzanne Taheri, attorney for Elliott asks the Town Clerk whether any rules had been adopted by Clerk's Office under the Municipal Code's Municipal Campaign Finance provisions. **December 2.** Town Clerk responds that no additional rules had been promulgated.<sup>108</sup>

**December 5.** Town Council meeting and executive session with the town attorney to receive legal advice on concerning the Fair Campaign Practices Act. During Councilmember Comments Council member LaKind expressed concern about a councilmember providing attorney-client privileged communication to news outlets without proper consent from the rest of the council.<sup>109</sup>

**December 6.** Ms. Taheri requests Elliott Complaint be forwarded to a hearing officer to determine an appropriate penalty. Ms. Taheri responds that "the size of the contribution, the fact that it was from an illegal source and the timing of the disclosure, which deprived the electorate of the information, clearly disqualifies the case for dismissal ... The purpose of the disclosure provision was not substantially achieved despite the noncompliance ... the illegal contribution had still not been returned to the taxpayers ... there is no other conclusion to be drawn except that the noncompliance was [sic] intentional effort to mislead the electorate." <sup>110</sup>

**December 7.** Regularly scheduled Report of Contributions and Expenditures for reporting period October 31, 2022 – December 3, 2022, filed by Laura Kronick on behalf of Citizens for

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<sup>105</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated November 18, 2022.

<sup>106</sup> Emails to and from Kelly Elliott and Laura Hogan, Subject Campaign Finance Complaint, dated November 21-28, 2022.

<sup>107</sup> Meeting Minutes of November 21, 2022, Monument BOT.

<sup>108</sup> Emails to and from Suzanne Taheri and Laura Hogan, Subject Kelly Elliott Campaign finance complaint, dated December 1 and 2, 2022.

<sup>109</sup> See FN 14.

<sup>110</sup> Email from Suzanne Taheri to Laura Hogan, Subject: Response to campaign finance complaint, dated December 6, 2022.

Home Rule. \$5.00 reported on hand at the beginning of and no contributions or expenditures during the reporting period.<sup>111</sup>

**December 8.** Regularly scheduled Report of Contributions and Expenditures for reporting period October 31, 2022 – December 3, 2022, filed by Kelly Elliott, Registered Agent for NO on 2A, reports total contributions of \$12,958.41, total expenditures of \$9437.44, and funds on hand at the end of the reporting period of \$3,520.97.<sup>112</sup>

**December 12.** Amended Report of Contributions and Expenditures for reporting period October 13, 2022 – December 12, 2022, amending previous report filed on December 12, 2022, for reporting period October 13, 2022 – December 12, 2022, filed by Laura Kronick on behalf of Citizens for Home Rule. \$5.00 reported on hand at the beginning of the reporting period. \$2,512.50 in non-monetary contributions received during the reporting period described as “The in-kind donation previously reported from the Town of Monument was transferred to Brandy Turner. The Town was refunded the money from the printer and Brandy Turner purchased the signs and door hangers.”<sup>113</sup> **1:01:37 PM** Report emailed to Town Clerk.<sup>114</sup>

**December 12.** Hearing Officer Geoff Wilson dismisses the Elliott Complaint without a hearing: “Because I believe the Complaint was answered with a sufficient cure by Respondent, and because the Complaint wholly failed to comply [with] the clear and basic requirements for a lawful complaint under the Town’s ordinance, Complainant’s Complaint is hereby DISMISSED.”<sup>115</sup> **2:34 PM**, Hearing Officer’s Decision emailed to Kelly Elliott, Suzanne Taheri.<sup>116</sup> **2:39 PM**, Hearing Officer’s Decision emailed to Steve King, Laura Kronick and Joel Lusby.<sup>117</sup>

**December 13, 2:13:58.** Mike Foreman forwards to BOT members an opinion from Kathryn Sellars regarding the commencement of terms of office for newly elected Town Council members. Kathryn notes that there is no clear answer whether with the conversion to the Charter state statute or the Charter controls when Town Council members elected on November 8 take office. Under state statute newly elected Town Council members would commence their offices in December 2022 following the November 30<sup>th</sup> certification of the election results while under the newly approved Charter provisions they would not take office until January 2022. Kathryn notes that there is no clear answer and suggests that “if the Town wants to avoid legal challenges and risks/costs associated with that, I would recommend one of the two following options: 1) seat the newly elected Council members in December and that Council should refrain from taking any action until January, or 2) have no Council meetings until January (which

<sup>111</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated December 7, 2022.

<sup>112</sup> Report of Contribution and Expenditures, NO on 2A, dated December 7, 2022, received December 08, 2022.

<sup>113</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated December 12, 2022.

<sup>114</sup> Email Laura KB to Laura Hogan, cc Steve King and Joel Lusby, Subject: Citizens for Home Rule AMENDED Financial Report 221212, dated December 12, 2022, 1:01:37 PM.

<sup>115</sup> Decision of Hearing Officer Geoff Wilson dated December 12, 2022.

<sup>116</sup> Email, Laura Hogan to Kelly Elliott and Suzanne Taheri, Subject: FCPA Complaint, dated December 12, 2022, 2:34:00 PM.

<sup>117</sup> Email, Laura Hogan to Steve King, [steve@steveformonumnet.com](mailto:steve@steveformonumnet.com), Laura Kronick and Joel Lusby, Subject: FCPA Complaint, dated December 12, 2022, 2:39:00 PM.

the current Council had already cancelled the meeting on December 19<sup>th</sup> and appeared to be the intent until recently) and seat the new elected Council Members in January.”<sup>118</sup>

**December 13.** Town Council Special Meeting.

Approved 4-2 RESOLUTION NO. 94-2022: A RESOLUTION TO LAUNCH THE INVESTIGATION ON FAIR CAMPAIGN PRACTICES ACT TO INVESTIGATE IN KIND DONATION FROM THE TOWN OF MONUMENT TO THE MONUMENT FOR HOME RULE ISSUE COMMITTEE FOR SIGNS AND DOOR HANGERS. THE INVESTIGATION, PAID FOR BY THE TOWN OF MONUMENT, REQUIRES THAT THE TOWN STAFF AND ANY OTHERS TO BE INVESTIGATED FULLY COOPERATE WITH THE INVESTIGATIVE ATTORNEY DURING INTERVIEWS, PROVISION OF DOCUMENTS, ACCESS TO EMAILS AND PHONE RECORDS, AND TIMELY RESPONSES TO PHONE CALLS AND EMAIL QUESTIONS AS REQUESTED BY THE ATTORNEY. THE INVESTIGATOR WILL PROVIDE WEEKLY UPDATES TO THE TOWN COUNCIL, ON THE APPROXIMATE DATES: DEC 19 AND DEC 27 WITH THE GOAL TO HAVE THE INVESTIGATION COMPLETED BY DECEMBER 30, 2022.

By a vote of 5-1 postponed RESOLUTION NO. 95-2022: A RESOLUTION TO HIRE SPECIAL ATTORNEY SCOTT GESLER FOR THE INVESTIGATION OF THE TOWN OF MONUMENT RELATED TO FAIR CAMPAIGN PRACTICES ACT (FCPA) BY A LEGAL SIGNATORY'S SIGNATURE ON MR. GESLER'S LETTER OF ENGAGEMENT.<sup>119</sup>

**December 14.** Grant Van Der Jagt requests the Town Manager to sign the Starzynski Van Der Jagt Engagement Letter even though the Town Council has not approved the engagement.<sup>120</sup>

**December 15.** Emails among Council members regarding the calling of a special meeting for December 15 and opposition to the same by other Council members on the basis of terms of office of outgoing Council members having expired.<sup>121</sup>

**December 15.** Kelly Elliott requests Laura Hogan and Tina Erickson post a special meeting of the BOT for Friday, December 16, to consider Resolution No. 95-2022 “for the Investigation of concerns the board has identified related to the November 2022 election and 2A and to fully execute Mr. Grant Van Der Jagt's Letter of Engagement.”<sup>122</sup>

**December 16.** Town Council Special Meeting.

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<sup>118</sup> Email Mike Forman to Board of Trustees members, Subject: Fwd: Commencement of New Council Member Terms dated December 13, 2022, forwarding Kathryn Sellars email to Mike Foreman of the same Subject and date.

<sup>119</sup> See FN 16.

<sup>120</sup> See FN 19.

<sup>121</sup> See FNs 20-23.

<sup>122</sup> Email, Kelly Elliott to Laura Hogan and Tina Erickson, cc Mike Foreman, Subject: Special Meeting Friday, Dec 16, 2022, 5:30pm, dated December 15, 2022, 1:55 PM. Email forwarded by Mike Foreman to Kathryn Sellars at 3:17 PM.

Motion to direct the Town Manager to hire a contractual attorney to represent the Town staff during the duration of the investigation passed 4 to 1.

Approved 4-1 RESOLUTION NO. 95-2022: A RESOLUTION TO HIRE SPECIAL ATTORNEY GRANT VAN JAGT FOR THE INVESTIGATION OF CONCERNS THE COUNCIL HAS IDENTIFIED RELATED TO THE NOVEMBER 2022 ELECTION AND 2A AND TO FULLY EXECUTE MR. GRANT VAN DER JEGT'S LETTER OF ENGAGEMENT.<sup>123</sup>

**December 17.** Grant Van Der Jagt again asks the Town Manager Mike Foreman to sign the Starzynski Van Der Jagt Engagement Letter.<sup>124</sup>

**December 18.** Starzynski Van Der Jagt, P.C. engagement letter with the Town signed by Kelly W. Elliott and Grant Van Der Jagt.<sup>125</sup>

**December 19.** Town Manager asks Kathryn Sellars, Town Attorney to review the Starzynski Van Der Jagt Engagement Letter.<sup>126</sup> Town Manager requests Mr. Van Der Jagt provide a copy instead of just the DocuSign link.<sup>127</sup> Mr. Van Der Jagt provides a copy of the Starzynski Van Der Jagt Engagement Letter.<sup>128</sup> Town Attorney Sellars responds that she cannot review the Starzynski Van Der Jagt Engagement Letter.<sup>129</sup>

**December 20.** Kathryn Sellars resigns as Town Attorney.<sup>130</sup> Town Manager asks if someone else in Ms. Sellar's law firm can review the Starzynski Van Der Jagt Engagement Letter and is told no because of a conflict.<sup>131</sup>

**December 20.** Concerns are raised as the security of documents and procedures being used by the Van Der Jagt investigation and the Town Manager emphasizes need to have a Town Attorney review the Starzynski Van Der Jagt, P.C. engagement letter.<sup>132</sup> Grant Van Der Jagt<sup>133</sup> and Council Member Schoening<sup>134</sup> respond suggesting the Town Manager's reluctance to sign the Starzynski

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<sup>123</sup> See FN 17.

<sup>124</sup> See FN 24.

<sup>125</sup> See FN 18.

<sup>126</sup> See FN 25.

<sup>127</sup> See FN 26.

<sup>128</sup> See FN 27.

<sup>129</sup> See FN 28.

<sup>130</sup> Email Kathryn Sellars to members of the Town Council, Subject: Legal Services, dated December 20, 2022, 8:22 AM.; Letter, Kathryn M. Sellars to Mayor Pro Tem and Council, Re: Legal Services, dated December 20, 2022.

<sup>131</sup> See FN 30.

<sup>132</sup> See FN 31.

<sup>133</sup> See FN 32.

<sup>134</sup> See FN 33.



Van Der Jagt Engagement Letter without review by legal counsel representing the Town is a criminal act.<sup>135</sup> The Starzynski Van Der Jagt Engagement Letter is signed by Mike Foreman.<sup>136</sup>

**December 27.** Kelly Elliott requests Laura Hogan and Mike Foreman to post an agenda for a BOT special meeting to be held December 28 at 3:00pm. Mike forwards request to Sam Light, General Counsel for the Town's insurer, CIRSA. Mr. Light responds to Mr. Foreman and their telephone call suggesting the sitting council be provided a copy of a Sherman & Howard memo discussing the transition of BOT/Council members terms of office to consider whether it would like to obtain a legal opinion on the issue prior to proceeding with formal action. Mike Forman forwards Mr. Light's email to the sitting BOT. Kelly Elliott responds to Sam Light, cc to Grant Van Der Jagt that "it is very clear that January 3rd is the transition to the new board per the Home Rule Charter ... I see this as trying to prevent the investigation that the current board voted for. Also, Kathryn Sellars has no say in the matter, even though she has emailed Mike previously with her thoughts on this and Mike forwarded it to the board. She has no say because she is conflicted."<sup>137</sup> Mr. Light acknowledges Ms. Elliott's email. **December 28, 8:24:36 AM** Ms. Elliott forwards the email thread to Mike Foreman and Laura Hogan.<sup>138</sup>

**December 27, 2022, 2:34 PM.** Mike Foreman emails to the BOT a legal analysis from attorney William Reed of the law firm Sherman and Howard regarding the transition of elected officials based on the Council member election and Charter approval. Mr. Foreman also notes that he consulted with Kevin Bommer of the Colorado Municipal league and Sam Light of CIRSA, and they suggest that the Town hold off on further action and board meetings until they consult with a Town Attorney because the governance of the Town is in doubt with the legal ambiguity. Mr. Reed, in his memorandum notes that the transition from Ordinance 29-2020 to the Charter has created a gap in the transition period from outgoing officials to newly elected officials for the November 2022 election cycle only. Mr. Reed suggests that newly elected officials be sworn in

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<sup>135</sup> As between Town Council members, the emails of December 20, 2022, may have violated the Colorado Open Meetings Law; *see* §24-6-402(2)(b), (c) and (d)(II), C.R.S., all meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or any formal action may be taken are public meetings open to the public, may be held only after full and timely notice to the public, and subject to the taking of minutes; "Meeting" means any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication ... If elected officials exchange electronic mail to discuss pending legislation or other public business among themselves, the electronic mail is subject to the requirements of this section. §24-6-402(1)(b) and (2)(d)(III), C.R.S. *see also* FN 140.

<sup>136</sup> *See* FN 35.

<sup>137</sup> Ms. Elliott did not declare her own potential conflict as the Complainant in the Elliott Complaint and having the Council investigate the subject of Complaint even though the Elliott Complaint had already been determined by the Hearing Officer, *see* Monument Home Rule Charter, Section 2.10 Standards of Conduct, 3. Conflicts of Interest; *see also* §24-18-109(3)(a), C.R.S., "A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter."

<sup>138</sup> Email thread Subject: Special Meeting Agenda for Dec 28, 2022, 3:00pm, dated December 27 and 28, 2022.

under state law immediately and in January under the Charter. Mr. Reed also suggests that the elected officials take no official actions until January 2023.<sup>139</sup>

**December 28, 8:41 AM.** Kelly Elliott advises Mike Foreman that she has received opinions from 2 attorneys who indicated that the Charter is clear that the newly elected Council members do not take office until January and to “Please cease any further attempts to stop today’s meeting and stop all attempts to change over the board prematurely ... You obviously are communicating in a biased fashion to the attorneys you have communicated with. The charter is so clear. Secondly, taking an oath of office in private is not acceptable and is to be done in public. An election does not give anyone the right to overturn the law, and no one can take an oath earlier to advance an agenda! Election to a future office does not allow one to steal it early.” Darcy Schoening responds by email to the BOT members,<sup>140</sup> cc to Grant Van Der Jagt, “I am waiving my attorney client privilege for the investigation pursuant to 95-2022. Do any other board members wish to waive?”<sup>141</sup>

**December 28.** Town Council Special Meeting.<sup>142</sup> Upon a motion to move into executive session a point of order was made that the Council couldn’t go into executive session to certain members of the public and media. Van Der Jagt clarified that the executive session information was emailed to the members of Town Council at the start of the meeting. A motion to review the report in public passed 5 to 0. A motion to waive attorney-client privilege in the investigation pursuant to Resolution No. 95-2022 passed 5 to 0. A 15-minute recess was taken to allow Council members to review the report. As Van Der Jagt attempted to present his report and mentioned the Town Manager, the Town Manager stated he was not notified the executive session was about him and a lengthy discussion ensued, another motion was made to go into executive session to discuss a personnel matter, and another discussion took place regarding the differences between executive sessions to receive legal advice and personnel matters. A motion to adjourn the meeting failed 2 to 3. Council member LaKind left the meeting. Another motion to adjourn was made but not seconded. Council member Schoening stated the contents of the investigation are now public and made a motion to adjourn which passed 4 to 0.<sup>143</sup>

**February 22, 2023.** Termination Report of Contributions and Expenditures for reporting period December 12, 2022 – February 21, 2023, filed by Laura Kronick on behalf of Citizens for Home Rule. \$5.00 reported on hand at the beginning of the reporting period and returned to the donor.<sup>144</sup>

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<sup>139</sup> Email Mike Foreman to Board of Trustee members, Subject: FW: Legal Analysis of Board Transition; attachment Memorandum to Mitch LaKind, Mayor-Elect of Town of Monument, from William Reed dated December 26, 2022, RE: Transition of Town Council Under Ordinances and Charter.

<sup>140</sup> Ms. Schoening’s email may have violated the Colorado Open Meetings Law, *see FN 135*.

<sup>141</sup> Email thread, Subject: Board Turnover Per HR Charter is January, dated December 27 and 28, 2022.

<sup>142</sup> *See FN 37*.

<sup>143</sup> *See FN 39*.

<sup>144</sup> Report of Contributions and Expenditures, Citizens for Home Rule, dated February 22, 2023.

**March 3.** Termination Report of Contributions and Expenditures for reporting period December 4, 2022 – February 21, 2023, filed by Kelly W. Elliott on behalf of NO on 2A. \$3,520.97 reported on hand at the beginning of the reporting period and expenditures of \$2,520.97 to the West Law Group and \$1,000 to The Strategy Firm.<sup>145</sup>

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<sup>145</sup> Report of Contributions and Expenditures, NO on 2A, dated March 3, 2023.

## **TOWN OF MONUMENT**

### **RESOLUTION NO. 27-2023**

#### **A RESOLUTION AUTHORIZING ACTIONS RELATED TO THE PREVIOUS ENGAGEMENT BY THE TOWN OF MONUMENT OF GRANT VAN DER JAGT AND THE LAW FIRM STARZYNSKI VAN DER JAGT, P.C.**

**WHEREAS**, the Town of Monument (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town’s Home Rule Charter approved by the electors on November 8, 2022 (“Charter”); and

**WHEREAS**, during a special meeting held December 13, 2022, Town Council of the Town (“Town Council”) adopted Resolution No. 94-2022 authorizing an investigation of the Fair Campaign Practices Act requirements regarding an in-kind donation from the Town to the Monument for Home Rule Issue Committee for signs and doorhangers; and

**WHEREAS**, during a special meeting held December 16, 2022, the Town Council approved Resolution No. 95-2022 to hire special attorney Grant Van Der Jagt of the law firm Starzynski Van Der Jagt, P.C. to investigate concerns the Council had identified related to the November 2022 election and Ballot Question 2A; and

**WHEREAS**, the Starzynski Van Der Jagt Engagement Letter was signed by Town staff without the benefit of legal counsel representing the interests of the Town under undue influence by Mr. Van Der Jagt and without the benefit of legal counsel to provide for the Town’s interests; and

**WHEREAS**, the Starzynski Van Der Jagt Engagement Letter greatly expanded on the scope of the investigation authorized by Town Council Resolution Nos. 94-2022 and 95-2022; and

**WHEREAS**, the Town Counsel has found that the Van Der Jagt Report goes well beyond the scope of the investigation authorized by Town Council Resolution Nos. 94-2022 and 95-2022, contains erroneous statements of fact and law, and generally fails to provide any reasonable analysis or substantiation for its conclusions and recommendations, and therefore the Town Council has disavowed the Van Der Jagt Report; and

**WHEREAS**, the Town paid Starzynski Van Der Jagt P.C. Invoices 20505 and 20507 in the amount total amount of \$24,987.50 for services provided from December 19, 2022, to December 26, 2022, despite the services being well beyond the scope of the authorization provided by Town Council Resolution Nos. 94-2022 and 95-2022; and

**WHEREAS**, Starzynski Van Der Jagt P.C. sent the Town Invoice 20529 for \$5,531.25 for services provided from December 29, 2022, to February 6, 2022, despite not being authorized to provide such services and having been formally terminated by the Town on January 3, 2023; and

**WHEREAS**, Starzynski Van Der Jagt P.C. has failed to provide the Town with an IRS Form W-9 so that the Town can properly report payments to the firm to the Internal Revenue Service; and

**WHEREAS**, Starzynski Van Der Jagt P.C. has failed to provide to the Town or the interim Town Attorney the Town's complete client file as required by Colorado Rules of Professional Conduct, Rule 1.16, despite several requests by the interim Town Attorney;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MONUMENT, COLORADO THAT:**

**Section 1. Incorporation.** The recitals set forth above are incorporated and resolved as if set forth in this section in full.

**Section 2. Authorization.** The interim Town Attorney and Town staff are authorized and directed to take and participate in all actions as necessary:

- A. To obtain the Town's complete client file associated with its engagement of Starzynski Van Der Jagt, P.C.
- B. To oppose the payment of Starzynski Van Der Jagt, P.C. Invoice 20529 to the extent of services outside the scope of Town Council Resolution Nos. 94-2022 and 95-2022 and services subsequent to the law firm's termination by the Town.
- C. To obtain a refund of Town funds paid to Starzynski Van Der Jagt, P.C. Invoices 20505 and 20507 to the extent of services outside the scope of Town Council Resolution Nos. 94-2022 and 95-2022.
- D. To obtain from Starzynski Van Der Jagt, P.C. an IRS W-9 form to allow proper reporting to the IRS of amounts paid to the firm.

E. To evaluate and if determined warranted, address Starzynski Van Der Jagt, P.C.'s and Grant Van Der Jagt's failure of their duties, obligations, and responsibilities to the Town.

**Section 3. Effective Date.** This Resolution shall become effective and be in full force and effect immediately upon approval.

**Section 4. Severability.** If any portion of this Resolution or the application thereof shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable.

**PASSED AND RESOLVED** by the Town Council of the Town of Monument, El Paso County, Colorado, this 11<sup>th</sup> day of April, 2023 by a vote of 4 for and 0 against.

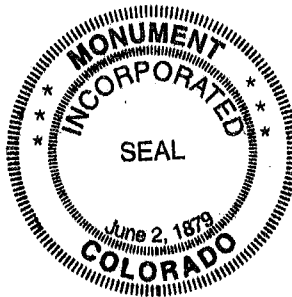
TOWN OF MONUMENT, COLORADO

By: \_\_\_\_\_

Mitch LaKind  
Mitch LaKind, Mayor

Attest:

Tina Erickson  
Tina Erickson, Deputy Town Clerk





## **TOWN OF MONUMENT**

### **RESOLUTION NO. 28- 2023**

#### **A RESOLUTION AUTHORIZING PAYMENT OF SHERMAN & HOWARD LEGAL SERVICE INVOICE**

**WHEREAS**, the Town of Monument (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town’s Home Rule Charter approved by the electors on November 8, 2022 (“Charter”); and

**WHEREAS**, during a special meeting held December 13, 2022, Town Council of the Town (“Town Council”) adopted Resolution No. 94-2022 authorizing an investigation of the Fair Campaign Practices Act requirements regarding an in-kind donation from the Town to the Monument for Home Rule Issue Committee for signs and doorhangers; and

**WHEREAS**, during a special meeting held December 16, 2022, the Town Council approved Resolution No. 95-2022 to hire special attorney Grant Van Der Jagt to investigate concerns the Council had identified related to the November 2022 election and Ballot Question 2A; the Town Council also directed the Town Manager to hire a contractual attorney to represent the Town staff during the investigation; and

**WHEREAS**, the prior Town Attorney resigned on December 20, 2022, and despite reasonable and diligent efforts the Town Manager was unable to hire a contract attorney to review and advise the Town regarding the proposed Starzynski Van Der Jagt Engagement Letter, represent the Town staff during the investigation, or advise the Town generally until the current interim Town Attorney was engaged by the Town on January 17, 2023; and

**WHEREAS**, in the absence of legal counsel to advise the Town and its personnel, in December 2022, then Council Member and Mayor-elect Mitch LaKind engaged the law firm Sherman & Howard LLC to provide advice on matters related to the Van Der Jagt investigation, Town Council meeting and executive session procedures and requirements, Town Council transition under the newly adopted Home Rule Charter, and matters addressed in the Van Der Jagt report; and

**WHEREAS**, the Town Counsel has found that the Van Der Jagt Report goes well beyond the scope of the investigation authorized by Town Council Resolution Nos. 94-

2022 and 95-2022, contains erroneous statements of fact and law, and generally fails to provide any reasonable analysis or substantiation for its conclusions and recommendations, and therefore the Town Council has disavowed the Van Der Jagt Report; and

**WHEREAS**, the Interim Town Attorney has reviewed the services rendered by Sherman & Howard and advised the Town Council that with limited exceptions the services described in Invoice No. 862015 were related to providing for the interests of the Town of Monument and therefore it is both legal and appropriate for the Town to pay the Invoice in the reduced amount of \$20,737.00 and

**WHEREAS**, the Town Council, by motion duly made, second and approved at its regular meeting of April 3, 2023, authorized payment of the Sherman & Howard invoice and wishes to hereby affirm such authorization.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MONUMENT, COLORADO THAT:**

**Section 1. Incorporation.** The recitals set forth above are incorporated and resolved as if set forth in this section in full.

**Section 2. Authorization of Payment.** Invoice No. 862015 from Sherman & Howard, LLC is hereby approved, and Town staff are authorized and directed to pay the Invoice in the reduced amount of \$20,737.00.

**Section 3. Preservation of Attorney-Client Privilege.** If the Town receives a proper request pursuant to the Colorado Open Records Act for inspection or production of Invoice No. 862015 or any related documents such documents shall be properly redacted to protect the confidential and attorney-client privileged information contained in them, it being the intent of the Town Council that approval of Invoice No. 862015 shall not constitute a waiver of such privileges as to the Invoice or any other documents or information.

**Section 4. Effective Date.** This Resolution shall become effective and be in full force and effect immediately upon approval.

**Section 5. Severability.** If any portion of this Resolution or the application thereof shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable.


**PASSED AND RESOLVED** by the Town Council of the Town of Monument, El Paso County, Colorado, this 11<sup>th</sup> day of April, 2023 by a vote of **5** for and **0** against.

TOWN OF MONUMENT, COLORADO

By:

  
Steve King, Mayor Pro Tem

Attest.

  
Tina Erickson, Deputy Town Clerk

