Email from Rodney G. Snow, attorney of record for John Swallow. Thu 3/6/2014 12:04 AM

Mr. Fellows, I write this e-mail to Chairman Dunnigan, through you as legislative counsel. I want to make clear Mr. Swallow's position regarding the crashed hard drive (hereafter "drive") The facts should not really be in dispute. The personal drive of Mr. Swallow (that is the drive that was on his personal computer) crashed over a week or two period in January of 2013. As the drive was crashing he took it to Chris Earl of the AG Tech department to see if he could either save it or down load the data that was on the drive. Mr. Earl has stated the drive's failure was your basic failure and not due, in his opinion, to any external attempt to damage or destroy the drive. As I recall, when we received the drive back from the Committee's counsel the suggestion was made no determination could be made for the cause of the drive failure. Why would John want to restore or repair the drive if it was his desire to destroy it or any data on the drive? Earl was able to save some but not much of the drive, as I understand it. When we as counsel learned of the crashed drive we asked John if he had saved the drive and in fact he had it in his possession. At John's insistence, we took the drive to Orange Legal and ask them to determine if they could recover the drive. They made the attempt and failed to restore the hard drive. They did indicate there was a much more expensive process they could try, but given the expense we had to decline this proposal.

When we first met with Mr. Reich we informed him of the crashed hard drive and lost data issues of which we were aware, again as approved by John Swallow. We told them we had the drive and that we had the drive mirrored. Later when Mr. Reich asked if they could have the drive to make their own attempt to recover the data, we agreed on the condition that if the data was recovered we would first review the data on the drive for documents not responsive to the subpoena (such as church work, family e-mails, pictures, movies, videos and the like) and to review the material for confidential or attorney client privileged material. A written agreement was reached with House Counsel to this end. Ultimately the drive was delivered to them and later the Orange Legal Report prepared for us was delivered to them to assist the Committee in the recovery efforts.

The drive and a mirrored copy of the recovered drive was received back from counsel some several weeks later, in December I think. It was suggested that we might not be able to read the mirrored image. And, we could not read the data on the mirrored image of the recovered drive. At that point we had two choices, send it back to the Committee and ask for it to be produced in a version to which we could obtain access or have Orange in Salt Lake convert the mirrored drive to a drive adaptable to our systems to allow us to read and review the data on the drive. The latter seemed to be the more efficient and practical approach and the least expensive for the Committee. Orange is in Salt Lake, would charge SL prices and they had confirmed they could accomplish this task. And they had worked with our data review systems previously.

Due to the literally thousands of pages of material we were required to review, this project took considerable time. We have now produced the materials located on the drive responsive to the subpoena and indeed other search terms provided by your Counsel. Of course attorney confidential material has been withheld and those documents are being added to the privilege log--a log we offered to allow your counsel to randomly review for a few hours so they could basically view what was being withheld. That offer was made without prejudice to our position as to the privilege in the event we were to litigate the privilege. This offer was refused. Be that as it may, you now have the relevant documents called for by the subpoena and informally by your Counsel.

To suggest there was some nefarious plot a foot to destroy potential evidence for a committee many months before it was established is simply untrue and patently unfair. Had Mr. Swallow wanted to destroy data on this hard drive he had the perfect opportunity. Simply throw it out as most people would have done. John made three separate attempts to have this data recovered--by Chris Earl, Orange Legal and finally by your Counsel who had the money to slowly rebuild the drive. This is not evidence of

someone destroying documents or e-mails. Such allegations seem to be a convenient conclusion to reach, after a multi million dollar investigation.

As to the missing or lost e-mails from the work computer, John thinks that occurred in the spring of 2011. Yes there were e-mails deleted for 2010 and some for 2011 in 2011. That has never been contested. All of us delete e-mails periodically and as a matter of course. In 2011, there was no thought of an investigation by anyone. John had not filed for or been elected to office. When he did he faced formidable opposition in the convention, a primary and general election.

Jeremy Johnson was not suggesting at this time there was a conspiracy to bribe Senator Harry Reid in order to get him to "kill" the FTC investigation. That allegation was laughable from the outset and was made a year later. The Trib ran with it and apparently, out of loyalty to "Utah's Independent Voice", House Leadership bought into it. The great irony here is Johnson as of today has never been convicted of a crime related to the FTC investigation and the FTC has yet to obtain a judgment for fraud against him. Yet, in the process of the political drive to rush to judgment, John as been destroyed and was forced to resign because he had no way of withstanding the on- slot of a 4.5 million $ investigation, used to not only harass him but also the very AG office which was trying diligently to serve the public and represent the state's interests. Please, make no mistake about this, John resigned due to the financial pressure, the disruption of his office and for the benefit of his family. All due to the Committee's investigation. His decision had been made several days before the release of the Lt. Governor's report. We would have gladly contested both the legality of the proposed remedy suggested in the Report and its conclusions, in Court a court of law where John would have had the full opportunity to be heard and present his legal arguments.

Regarding the work e-mails, John believed the State had a backup system and that anything deleted could be retrieved with some effort. That was an incorrect assumption. When John learned this assumption was incorrect, he asked Chris Earl to recover what he could. Earl was able to recover 3300 e-mails by following the sent trail to other computers, as I understand it. It is not at all clear whether those e-mails demonstrated any wrong doing on John's part. To our knowledge, if they do, we are not aware of what they are based on the reports made to the Committee thus far. The point is--you have 3300 of the so called destroyed e-mails.

In summary, the deletion of e-mails in early 2011 for 2010 and 2011 was not accomplished and indeed could not have been accomplished with the view of interfering with an investigation not yet initiated or even discussed. Who knew Johnson would make a crazy allegation regarding the Senate majority leader--and btw, where did that lead--no where. It was blatantly false and was obviously so from the beginning. John thought there was a back up system and when he learned there was not such a system (and many law firms have them), he asked the AG Tech people to try and recover what they could. Hardly the activity of someone who has attempted to destroy documents due to an unforeseen firestorm in 2013. And Earl recovered 3300 e-mails. A very significant number. You could take the cynical view that John, in 2011, was worried about might happen 18 months later if he ran and were elected. Yes, that would be very cynical. And that test could be applied to every politician or elected official. We are not aware of a single witness that can verify under oath testimony such a view. Not one.

We support any legislation that prohibits by making it a felony to deliberately destroy evidence to avoid the production of such evidence in Court or an authorized investigation. That would pattern federal law and it makes good law and good sense. That is not what happened here.

Finally, for now, two more thoughts: The suggestion the AG Office was for sale is absolutely false. It is a play on our political system for raising funds for campaigns that is simply untrue and an unfounded distorting of the facts. As much could be said of Committee members who accept support from various groups and businesses. We would not challenge your integrity because you listened to or communicated

with your contributors on issues of importance to them. That is what we call free speech under the First Amendment of the United States Constitution. We are not aware of s single witness in the AG's office or the Consumer Protection division who will or could say that John Swallow ever attempted to interfer with an on going investigation, either as deputy AG or as the AG. To suggest, for example, that John Swallow, a tea party conservative, former religious leader in his Church and a supportive husband and father, was hoping to legalize poker in Utah is, once again, blatantly false and should raise serious concerns about the credibility and veracity of the conclusions of the investigation of the Committee.

For those investigations that were neutral, that is void of political motives and the hope for some political gain, John Swallow has come out just fine. The Public Integrity Section of the Department of Justice declined to file charges. The State Bar found no violations of the Ethical Rules based on either of the two bar complaints. The Office of the Attorney General, as is normal procedure, represented Mr. Swallow in the Bar matters. We suggest that is where this matter should have been left. It should have been left with and for those investigations that were impartial, and void of political implications, coupled the expenditure of millions of dollars.

Did John Swallow make some mistakes? Of course. But most of those mistakes were made in his effort to document his consulting work for his former employer after the fact; work several witnesses will confirm was performed and approved. There is a huge difference between making the effort to document work you have done and fabricating documents for work you did not do. John did not fabricate. You can argue that it looks that way. But the witnesses all say--"John did the work."

And should John have disclosed P Solutions on the filing form? He sought advice of his business attorney and they concluded John was not required to do so because they concluded it was not his personal income. It was a reasonable and defensible decision--supported counsel. Counsel for the Lt. Governor took exception. In hind sight however, John would simply disclose it on the form. He wishes he had done so. We offered to amend the form when the issue was raised. The statute allows for the form to be amended at the request of the Lt. Governor. At a minimum it was a close question. The form could be more clear on the data it seeks. Perhaps you will fix that. We would fully support clarifying the form and expanding its reach. The more information available to the voters on financial issues for all elected officials, the better for the voters. Thank you.