

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



JOHN E. SWALLOW
ATTORNEY GENERAL

KIRK TORGENSEN
Chief Deputy

BRIAN L. TARBET
General Counsel

June 18, 2013

Dear Members of the Utah Legislature:

I have been the subject of allegations that have now led a number of Legislators to believe it is time to have impeachment discussions. Given my dedication, respect and hard work for this great State and its Legislature over the years, it is difficult for me to understand how I ended up in this perfect storm of media frenzy fueled by desperate people hoping to avoid the consequences of their actions. I have always wanted to serve the people of Utah in an honorable way. That remains my most important commitment.

I respect your right to start an impeachment-related investigation. However, this whole affair has been hyper-politicized by the media, and I trust and hope the Legislature, should it chose to proceed, would use discretion and great care. Just last week, a news station came to my neighborhood and knocked on my door while I was away on official state business, catching one of my children alone at home and scaring her. That is why I appreciated the US Attorney transferring his investigation to the DOJ Public Integrity Division. An investigation like this should not be politicized and played out on the front pages of the newspapers.

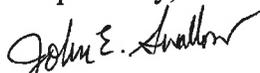
I would be willing to participate in a setting where I can voluntarily answer questions and provide information I have on these matters. The attached memorandum is a starting point in sharing such information. I am also willing to provide access to those who can speak to the fact that this office was never misused on behalf of a donor. With the investigations already in progress and with my willingness to voluntarily provide reasonable answers, we might be able to avoid the cost and the distraction of a more formal process and begin to restore the public trust that should concern us

It is worth noting that there have been NO allegations of wrongdoing during the time I have been Attorney General. All the allegations are related to before I became Attorney General and come from those who have an axe to grind. Upholding the integrity of this office is very important to me, which is why even before I was sworn in, I established a committee to review the procedures and rules of the office and recommend changes. I'm pleased to say that policies have been strengthened and structural changes made to offer more protection against any one individual trying to influence the outcomes from this office.

Members of the Utah Legislature
June 18, 2013
Page Two of Two

The tremendous staff of dedicated professionals are working hard to enforce our laws. With their help I look forward to serving my term with honor. To that end, I apologize for our current situation but would appreciate the opportunity to share accurate information with you and the opportunity for the current investigations to run their course so I have the opportunity to prove my innocence. I have been accused of placing my own interests above those of the state, but I submit in no uncertain terms nothing is further from the truth and that I am dedicated first and foremost to my State and Office.

Respectfully,



John E. Swallow
Attorney General for the State of Utah

MEMORANDUM

To: Members of the Utah Legislature

From: John Swallow

Date: June 18, 2013

As the Attorney General, clothed in the obligation of not only an officer of the Court, but also that of a constitutional officer under a sacred oath of office, I submit the following remarks as a prelude to the discussions I hope we can have before any formal impeachment proceedings are considered:

- Jeremy Johnson told the press that I facilitated a bribe to Senator Harry Reid to squash an FTC investigation of Johnson's companies. Johnson produced a tape recording which the press said supported the allegation. Nothing could be further from the truth – I did not facilitate a bribe, and the tape recording makes that fact clear. Johnson has since recanted. At the time I referred Johnson to Rawle, based on Johnson's representations to me and his reputation in the community, I believed he was an honorable businessman from southern Utah. After the referral, Johnson was sued by the FTC and indicted for fraud. He still has not been convicted of any crime--many people ignore that detail. The allegations that there was a bribe and that I facilitated it were false from the beginning, and yet, the media recklessly printed the allegations and continues to report them. After learning of the allegations, I called for a federal investigation to clear my name. The United States Attorney's Office in Salt Lake City was conducting the investigation, but, I believe to remove all doubt of any political motive one way or the other, the investigation was transferred to the Public Integrity Section of the Justice Department in Washington, D.C. I am cooperating with the investigation and hope it will conclude within two to three months.

- The two matters referred by the Lt. Governor's office for a legal opinion relate to whether monies paid to an LLC called P Solutions were income to me or a family trust (the "Trust") created in 2009. The Trust owns P Solutions. The consulting work was performed for a Nevada project investigating the potential of mining limestone in Nevada and building a cement plant in Nevada. The consulting arrangement did not violate office policy as it then existed under Attorney General Shurtleff. I asked my estate planning attorney, Lee McCullough III, who had created P Solutions and the Trust, for his opinion as to whether or not I should disclose P Solutions or the consulting income from it in my candidate financial disclosures. He informed me that the consulting money was income to the Trust, not my personal income. I asked for and followed his advice in good faith. In hind-site, I now wish I had simply identified the consulting work (Copies of the correspondence from Mr. McCullough are attached to the impeachment opinion of my attorney). Uninformed people have maliciously alleged that I hid the money and tried to shuffle it to other entities. That is false. P Solutions refunded the money and had it repaid in order to clarify both the source and the purpose of the funds as clearly explained by the

declaration of Richard Rawle, which I released to the media right after the story broke in January.

- The stories regarding promises of protection from prosecution for contributors are absolutely false. In this instance, the press is hiding behind anonymous sources. I have never made a promise of protection in return for a donation and I have never once intervened on behalf of a donor. In fact, last year I refused an offer for a contribution in return for a favor, and an attorney, I have never met, recently called me and offered to be a witness to that fact. Senator Osmond, who lawfully helped me raise \$100,000, told the press that I never offered any favors in return for the significant contributions. Many others of my contributors are willing to so testify. One of the themes of my campaign was that I would be business-friendly. I promoted this State as presenting exceptional business opportunities and the Legislature provides on occasion, special tax breaks for an out of state business to encourage them to move to Utah. No reasonable person could interpret our business friendly theme to mean they could break the law. Those charged with enforcing the law must be reasonably patient and willing to listen and understand particular circumstances, but those who intentionally or repeatedly violate our laws are prosecuted. Had my message been anywhere close to what is now being claimed, my opponents would have been all over it. I was elected by the majority of those who voted and not just by my contributors. They helped get our message out and I am grateful for them. And the public understood the message. It is a traditional Republican theme--more important now than ever.

- The Jensen allegations were made by a convicted felon now serving a ten year sentence for securities-related offenses and for violating a plea in abeyance agreement with the Attorney General's office. In a separate case currently being prosecuted by the Attorney General's office, he is charged with four counts of communications fraud, three counts of money laundering and one count of a pattern of unlawful activity. Why does he make these spurious allegations now rather than when the violation of his plea in abeyance agreement landed him in prison for ten years? I met Jensen while I was coaching baseball and met him again later, when introduced by a mutual friend. I was in private practice at the time and it was 18 months before I joined the Attorney General's office. I later explored doing some professional work for him and I traveled to California and stayed at either Jensen's expense or Tim Lawson's expense (an employee of Jensen)--it makes little difference to me since I was then in private practice. When I took my wife to California, it was a vacation and we paid most of our own expenses, including meals and other purchases, and I have proof of that. It appears that some of the receipts posted by the Tribune are not valid--I did not go on a splurge at the pro-shop. Later, when I joined the AG's office and it appeared he would default on the plea in abeyance agreement, I walled myself off from any Jensen matter. This matter is now being investigated by the Public Integrity Section. I welcome the investigation.

- I believe the two Utah State Bar complaints were also politically motivated. Bar complaints are not made public unless there is some discipline or sanction issued by the Bar. These complaints were released by the complaining parties to the press immediately after filing. As to the first complaint, the Bar asked for evidence to support the allegations and to my knowledge, none has been forth coming. I have not been requested to respond. As to the second complaint, which was filed by a former executive for the Consumer Protection Division, the ethics chair for the Attorney General's Office has stated it is without merit, and I believe that to be true.