

DILLON McCANDLESS KING COULTER & GRAHAM L.L.P.  
ATTORNEYS AT LAW

128 WEST CUNNINGHAM STREET  
BUTLER, PENNSYLVANIA 16001

(724) 283-2200  
FACSIMILE (724) 283-2298

CRANBERRY OFFICE:

600 CRANBERRY WOODS DR., STE. 175  
CRANBERRY TWP., PA 16066

(724) 776-6644  
FACSIMILE (724) 776-6608

THOMAS W. KING III  
JAMES P. COULTER  
DONALD P. GRAHAM  
MICHAEL D. HNATH  
MATTHEW F. MARSHALL  
THOMAS E. BRETH  
RONALD T. ELLIOTT

ANDREA C. PARENTI  
PATRICK V. HAMMONDS  
ELIZABETH A. GRIBIK  
JORDAN P. SHUBER  
ROBERT W. GALBRAITH  
DILLON A. MEEDER  
ANTHONY W. COSGROVE  
MICHAEL D. SHAKLEY

THOMAS J. MAY, Of Counsel  
MARY JO DILLON, Of Counsel

August 26, 2021

via e-mail & UPS/Next-Day Delivery

Thomas A. Rust, Esquire  
Chief Counsel and Staff Director  
U.S. House of Representatives  
Committee on Ethics  
1015 Longworth House Office Building  
Washington, D.C. 20515-6328

Re: Review No. 21-9221

Dear Mr. Rust:

I write on behalf our client, The Honorable Mike Kelly of Pennsylvania's 16th Congressional District, who is grateful to the Committee on Ethics for the opportunity to submit this response to the Report and Findings of the Office of Congressional Ethics ("OCE") (hereinafter, the "Report"). On April 20, 2021, we informed OCE that Rep. Kelly respectfully declined to participate in OCE's inquiry. While Rep. Kelly has the utmost respect for the ethics process, we were troubled by the fact that OCE initiated its review ten months after Rep. Kelly timely filed the relevant periodic transaction report, and over five months after media reports of the trade. As we expected, OCE's investigation and subsequent Report found no evidence that Rep. Kelly or his wife Victoria acted improperly.

OCE extensively investigated the allegation for three months, yet its Report is noticeably devoid of any evidence of misconduct. Instead, OCE stretched its extrapolations of circumstantial evidence beyond their breaking points; ultimately revealing that its Report is fatally flawed. For example, the Report repeatedly cites Exhibit 15 in support of its allegation that Cleveland-Cliffs "intended to provide layoff notices to its employees on April 29th."<sup>1</sup> That Exhibit is an April 28, 2020 text message from Rep. Balderson's then Communications Director

<sup>1</sup> See, e.g., *id.* ¶ 37 & n.59.

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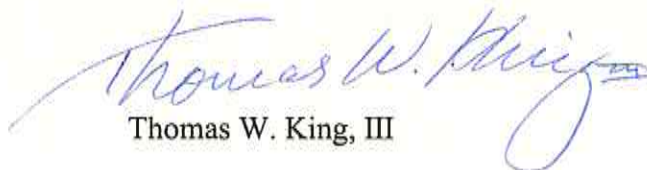
to Witness 1, Rep. Kelly's Director of Communications.<sup>2</sup> Witness 1 does not respond, so the text message offers no insight into what, if anything, Witness 1 knew about the alleged layoffs. OCE also provides no justification for its assumption that potential layoffs at, or the closing of, the Zanesville Plant in Rep. Balderson's district meant that the same would happen at the Butler Plant in Rep. Kelly's district. The Butler facility had 1,400 employees versus the 100 in Zanesville,<sup>3</sup> thus circumstantial evidence at one is of little probative value about the other.

Tellingly, the Report does not contain a single communication where Rep. Kelly or his staff state that there would be layoffs at the Butler Plant on April 29th. The over 600 pages of exhibits include numerous communications between Rep. Kelly's staff and the Department of Commerce, the Minority Leader's Office, and the White House, and it is striking that at no point does anyone from Rep. Kelly's office mention the alleged fact that the largest employer in Rep. Kelly's district intended to lay off its employees or to close within a week. This is just one example of the numerous deficiencies contained in the Report.

In sum, we respectfully disagree with many of the assertions and characterizations in the Report, and we look forward to working with the Staff to resolve the matter quickly. We reserve the right to provide supplemental information and materials as warranted by developments, and we hope to establish a constructive dialogue with you moving forward. As I told the OCE, "[t]here has been no indication that Rep. Kelly provided Mrs. Kelly any material non-public information learned through the performance of his official duties prior to her stock purchase or, in fact, that he had any involvement whatsoever in Mrs. Kelly's decision to purchase the stock."<sup>4</sup> I am confident that after a fair and objective review you will reach the same conclusion.

Very truly yours,

DILLON McCANDLESS KING COULTER & GRAHAM, LLP



Thomas W. King, III

TWK / Attachment

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<sup>2</sup> Exhibit 15.

<sup>3</sup> Report ¶ 32 & n.47.

<sup>4</sup> April 20, 2021 Letter to Omar S. Ashmawy.

**Declaration**

I, Representative Mike Kelly, declare (certify, verify, or state) under penalty of perjury that the response and factual assertions contained in the attached letter dated 8/26, 2021, relating to my response to the July 28, 2021, Committee on Ethics letter, are true and correct.

Signature:

A handwritten signature in blue ink, appearing to read "Mike Kelly", is written over a horizontal line.

Name:

Representative Mike Kelly

Date:

8/26, 2021