

NIXON, RAICHE, VOGELMAN,
BARRY & SLAWSKY

PROFESSIONAL ASSOCIATION

Attorneys at Law

Seventy-seven Central Street

Manchester, New Hampshire 03101

TELEPHONE 603-669-7070
WATS 1-800-207-7000
FAX 603-669-7080

ROBERT E. RAICHE, SR.
CLIFFORD J. ROSS
OF COUNSEL

MARTIN F. LOUGHLIN
1995-2007

DAVID L. NIXON
LESLIE C. NIXON
LAWRENCE A. VOGELMAN*
THOMAS T. BARRY**
DAVID P. SLAWSKY*
KIRK C. SIMONEAU

*Admitted in NH and NY
**Admitted in NH and VA

RECEIVED

November 16, 2010

NOV 17 2010

NEW HAMPSHIRE
SECRETARY OF STATE

Hok William S. McGraw, Clerk
Merrimack Superior Court
163 North Main Street, P.O. Box 2880
Concord, New Hampshire 03302-2880

RE: Peter C. Hildreth, Bank Commissioner v. Governor John H. Lynch
Case No.: 217-2010-CV-00764

Dear Clerk McGraw:

Enclosed for filing with the Court in the above-referenced matter, please find Plaintiff's Motion For Discovery And In-Camera Review Of The Minutes Of Meetings Between Governor John H. Lynch And The Executive Council, And All Meetings Relating To Bank Commissioner Peter C. Hildreth.

Thank you for your assistance.

Very truly yours,



David L. Nixon

DLN/dak
Enc.

cc: Jeffrey A. Meyers, Esq.
Peter Krupp, Esq.
Donald J. Perrault, Esq.
Karen Ladd, Office of the Secretary of State

MERRIMACK, SS

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

Docket No.: Case No.: 217-2010-CV-00764

PETER C. HILDRETH, BANK COMMISSIONER

v.

GOVERNOR JOHN H. LYNCH

PETITIONER/RESPONDENT'S MOTION FOR DISCOVERY AND IN-CAMERA REVIEW OF THE MINUTES OF MEETINGS INVOLVING GOVERNOR JOHN H. LYNCH AND THE EXECUTIVE COUNCIL, RELATING TO BANK COMMISSIONER PETER C. HILDRETH, AND DISCLOSURE OF ANY SUCH MINUTES TO PLAINTIFF/RESPONDENT

NOW COMES Bank Commissioner Peter C. Hildreth, Petitioner/Respondent in the above-captioned matter, and respectfully moves for an in-camera review of the minutes of all meetings involving Governor John H. Lynch and the Executive Council relating to Bank Commissioner Peter C. Hildreth and his tenure as Bank Commissioner, and in support thereof, states as follows:

1. These RSA 4:1 Removal Proceedings so-called, commenced on October 6, 2010 when a Petition for Removal of Bank Commissioner Peter C. Hildreth pursuant to RSA 4:1 and RSA 383:3 was filed by Attorney Peter B. Krupp of Boston, Massachusetts, who had been retained to serve as counsel for the Governor and Council in regard to this matter.

2. Said Petition was accepted at a special meeting of the Executive Council, and Governor held on October 11, 2010.

3. On October 14, 2010, Bank Commissioner Peter C. Hildreth filed a Motion For Discovery, through counsel, with the Governor and Executive Council

requesting various and numerous materials, including copies of all minutes of Governor and Executive Council Meetings during which Bank Commissioner Peter C. Hildreth or his tenure was discussed.

3. These same requests had previously been made by counsel for Bank Commissioner Peter C. Hildreth well in advance of said October dates, in fact by letter dated June 8, 2010 addressed to the Governor and the Council.

4. All such requests for discovery were denied, most recently in an October 29, 2010 "Provisional Order" of the Governor and Council regarding the "Motion for Discovery".

5. Inasmuch as Bank Commissioner Peter C. Hildreth has been unable through counsel or otherwise, to access said minutes of the Governor and Council, which, on information and belief, involved substantial discussions as to him, the performance by him of his duties, and his tenure in office, and, further, that he believes, again on information and belief, that said minutes contain derogatory and inaccurate statements as to his performance of his duties and tenure, particularly by Governor John H. Lynch, supporting his assertion that the Governor does not, and cannot, meet the high standards of impartiality required by the New Hampshire Constitution and cases decided thereunder (See *John A. King v. Meldrim Thomson, Jr.*, 166 NH 838 (1976) and *NH Milk Dealers Assoc. v. Milk Control Board*, 107 NH 335 (1966), it is essential to a proper decision as to the impartiality or otherwise of the Governor that said minutes be reviewed by the court, in-camera; and then disclosed to Bank Commissioner Peter C. Hildreth if, as believed, they do reveal bias and prejudice against the Commissioner by Governor John H. Lynch.

6. It is, and will be, impossible for Bank Commissioner Peter C. Hildreth to

otherwise gain access to this information, again the disclosure of which is essential and fundamental to establishing whether or not the Governor has manifested or stated a bias against Bank Commissioner Hildreth prior to requesting his resignation so definite and clear that it makes it impossible that he receive a fair and impartial hearing, again as called for by the Constitution of the State of New Hampshire, Pt. 1 Art. 35.

WHEREFORE, Petitioner/Respondent respectfully requests that this Honorable Court:

A. Order that the Governor and Council immediately produce said described minutes for in-camera review by the Court;

B. Order that those minutes that relate to Bank Commissioner Peter C. Hildreth be disclosed and divulged to him so that he may further support his Petition for recusal of the Governor relative to his right to a fair and impartial hearing, as called for by the Constitution and laws of the State of New Hampshire; and

C. Order such other and further relief as may be deemed just.

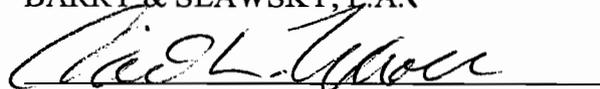
Respectfully submitted,

PETER C. HILDRETH,

BY NIXON, RAICHE, VOGELMAN,
BARRY & SLAWSKY, P.A.

DATE: November 16, 2010

BY



David L. Nixon (NHB# 1879),
Kirk C. Simoneau (NHB# 19291), and
Lawrence A. Vogelmann (NHB #10280)
77 Central Street
Manchester, NH 03101
Attorneys for Peter C. Hildreth

CERTIFICATION

I hereby certify that copies of the foregoing Motion For Discovery, etc. were mailed on November 16, 2010 (and/or hand-delivered on November 17, 2010) to Donald J. Perrault, Esq., Wadleigh, Starr & Peters, PLLC, 95 Market Street, Manchester, New Hampshire 03101, Special Counsel to the Governor and Council, Jeffrey A. Meyers, Esq., Personal/Private Counsel to the Governor, State House, 107 North Main Street, Concord, New Hampshire 03301-4990, Peter B. Krupp, Esq., Laurie & Krupp LLP, One McKinley Square, Boston, Massachusetts 02109, Prosecuting Attorney for Governor John H. Lynch, et als, and Karen Ladd, Office of the Secretary of State, 107 North Main Street, Concord, New Hampshire 03301.


Kirk C. Simoneau