

Edward Dowd
Dowd Bennett LLP

Edward Greim
Graves Garrett LLC

Ross Garber
Shipman Goodwin LLP

May 23, 2018

Speaker Todd Richardson
Chairman Jay Barnes
Missouri House of Representatives

Re: Proceedings before the House Special Investigative Committee on Oversight

Dear Chairman Barnes and Speaker Richardson:

Today, Scott Faughn testified before the Committee for several hours. We appreciate that several members of the Committee pressed for an answer to the key question before the Committee: where did Scott Faughn get the money, and what was the true purpose of the cash payment? However, hours of questioning failed to yield an answer. The reason is that the Committee's current rules do not work. They make the Missouri House alone among all of its sister states in failing to allow the governor to issue subpoenas or examine witnesses.

We still call for a fix to the rules, but for now, we ask at the very least that Faughn be served with his weeks-old subpoena, brought back, served with document subpoenas, and subject to examination—controlled by the Chair—by counsel who are fully conversant with the facts. Additional subpoenas should also be issued. Only through this process—not through continued “voluntary” appearances without documents—can the Committee answer the questions it tried to ask so many times today.

Faughn’s refusal to answer was made possible by concessions made to his attorney last week. We were surprised to learn that his appearance was allowed to be voluntary, and therefore not pursuant to the subpoena issued to him some time ago. This is astounding, given that a subpoena was actually issued. Once Faughn made clear within the first few minutes that he would not answer questions about the source of the \$120,000, it would have been a simple matter to serve Faughn with the outstanding

subpoena and compel his response to this question—the answer to which is not privileged or protected under any principle of law.

Further, we understand that the Speaker yesterday approved the request to subpoena Faughn's bank records made by the Governor and Representative Trent. Earlier today, Mr. Dowd wrote to request a copy of that subpoena and the return date. There has been no response, and in the meantime Faughn has entered and left the Capitol. It is apparent that no one can reliably question Faughn without those records, and now it is time to issue not only the subpoena promised yesterday, but also to issue new requests.

For all of these reasons, Governor Greitens requests that the Speaker issue subpoenas for the following:

- 1) All of Mr. Faughn's:
 - a. phone records from November 2017 to present;
 - b. bank records from November 2017 to present;
 - c. communications with Mr. Tisaby from December 2017 to present, including those in written or electronic form
 - d. communications with Ms. Gardner from December 2017 to present, including those in written or electronic form;
 - e. communications with any employee of Enterra, LLC from December 2017 to present, including those in written or electronic form;
 - f. communications with any employee with the St. Louis Circuit Attorney's Office from December 2017 to present, including those in written or electronic form
 - g. communications with Al Watkins, including any engagement letter, nondisclosure agreement, or other electronic or written communication;
 - h. communications with any elected official, including Chairman Barnes, from December 2017 to present, regarding (i) the "tapes" or "recordings" referenced in the May 23, 2018 testimony, (ii) the payments made to Mr. Watkins, or (iii) the allegations contained on the recordings obtained by Mr. Faughn;
- 2) Subpoena for testimony of Ben Striker (Faughn employee who Faughn said may have delivered money)
- 3) Subpoena for testimony of Brian Robbins (Faughn employee who Faughn said may have delivered money)
- 4) Subpoena for testimony of Jeff Smith
- 5) Subpoena for testimony of Ken Poteet

- 6) Subpoena for testimony of a Sterling Bank corporate representative
- 7) Subpoena for the testimony of Thomas Robbins.

Finally, the failure to simply have Mr. Hatfield accept service of Faughn's long-ago issued subpoena raises questions about whether any of the other promised process has actually been issued and/or is in the process of being served. Please provide copies of those executed subpoenas and confirm that active attempts are being made to serve them. Along these same lines, please confirm that Mr. Watkins is appearing under subpoena, or that if he is not, he will be served and then compelled to respond. The Governor continues to request subpoenas for Mr. Hatfield and Rep. Newman.

Respectfully Submitted,

s/Edward Dowd

Counsel for Gov. Eric Greitens
in his personal capacity

s/Edward D. Greim

Counsel for the Office of the Governor and
Gov. Eric Greitens in his official capacity

s/Ross Garber

cc: Chip Robertson, Esq.
 Mark Kempton, Esq.