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**THE IMPEACHMENT INVESTIGATION
OF GOVERNOR ROBERT BENTLEY**

PRE-HEARING SUBMISSION OF SPECIAL COUNSEL

April 7, 2017

Jack Sharman
Special Counsel
Lightfoot, Franklin & White LLC
400 20th Street North
Birmingham, Alabama 35203

EXECUTIVE SUMMARY

On April 28, 2016, twenty-three Members of the Alabama House of Representatives introduced HR367, which proposed two articles of impeachment against Governor Robert Bentley: (1) “Willful Neglect of Duty” and (2) “Corruption in Office.” By operation of House Rule 79.1, those proposed articles of impeachment were referred to the House Judiciary Committee (“the Committee”), which has been directed to investigate those allegations and to make a recommendation to the House of Representatives as to whether cause exists to impeach Governor Bentley.

The Committee then retained Jack Sharman of Lightfoot, Franklin & White, LLC to serve as Special Counsel. According to this Committee’s Amended Rule 13(b), Special Counsel and his staff “shall conduct the investigation, shall assist the Chair in the conducting of hearings as required, and shall draft the report required from the Committee pursuant to House Rule 79.1.” This submission contains the results of Special Counsel’s investigation. As a guide to the reader, we have prepared this Executive Summary, which highlights portions of the submission but is not a substitute for the entire document.

Despite Governor Bentley’s obstructive tactics, the investigation has been objective and thorough. This Committee directed Special Counsel to gather *any* evidence relevant to the articles of impeachment – not just evidence tending to establish cause to impeach. Operating under that directive, Special Counsel approached this investigation with neutrality. To that end, Special Counsel and his staff have interviewed more than 20 witnesses – many of whom are current and former law enforcement officers and public servants – and have reviewed more than 10,000 pages of documents.

Although many witnesses have been candid and forthcoming, Governor Bentley and his associates, including Rebekah Mason, refused to cooperate in any meaningful sense and, indeed, obstructed this investigation. When confronted with official demands for documents from the Committee, Governor Bentley refused to recognize the Legislature’s prerogative to investigate official misconduct. The Office of the Governor selectively produced just a few thousand pages of documents and improperly limited the scope of the requests. Governor Bentley personally and his campaign committee, Bentley for Governor, Inc., produced nothing. To the extent that there remain investigative uncertainties, those uncertainties are the result of Governor Bentley’s refusal to produce copies of documents that belong, not to him, but to the State of Alabama and its citizens. This Committee is under no obligation – constitutional, political, or otherwise – to reward Governor Bentley’s efforts to hold responsive information hostage or to rebuff questions regarding his activities in office. The Committee may consider the Governor’s non-cooperation as an independent ground for impeachment.

Perry out of the office. Governor Bentley shut the door and locked it. Kelly later voiced concerns to DPU Chief Ray Lewis due to the security implications.

Days later, Governor Bentley called Linda Adams at home on a Saturday morning and said he was going to “fire Wanda.” He referenced Mason, saying that Kelly did not understand that Mason was “like a daughter” to him. Adams pleaded with him and suggested that he instead move Kelly, whose desk was in the anteroom outside his office, to a desk in the larger reception area off the main hallway. Governor Bentley relented and had Kelly moved. Soon thereafter, Governor Bentley instructed Ray Lewis to address Kelly, Adams, and another woman in his office suite, Julie Lindsey, about what he described as their gossiping. This event is described further below concerning Governor Bentley’s use of law enforcement in connection with his relationship with Mason.

The import of all of these events for Kelly, Adams, Lewis, and others was that Governor Bentley’s relationship with Mason was taking center stage in his Administration and that he intended to suppress speculation and discussion about the relationship. Many of them felt uneasy during this time period and describe a difficult work environment. The common refrain was that they would just “keep their head down.” Ultimately, Kelly determined she could no longer work for Governor Bentley and voluntarily resigned in July 2014. Around the same time, Adams was asked to move upstairs, out of the Governor’s suite of offices where she had been for more than three years. And, as discussed further below, Lewis was forced to give up his role as head of Governor Bentley’s security detail and later decided to retire.

3. The effect of the Bentley-Mason Relationship on the operations of Governor Bentley’s Office.

Multiple witnesses reported that the growth in intimacy of the Bentley-Mason relationship coincided with her increasing influence upon, and at times control over, Governor Bentley’s decision-making. Seth Hammett related that this dynamic made his job of managing the Office difficult. Although Hammett had implemented changes to tighten the chain of command, he complained that Mason’s individual access to Governor Bentley frequently upended his efforts to impose discipline on the Office’s operations. Hammett stated that Governor Bentley tended to make decisions in the morning, and those decisions often changed overnight from where the discussion had ended the previous day. The only person in the Administration with regular access to Governor Bentley after hours was Mason. Similarly, Jennifer Ardis, who had succeeded Mason as Governor Bentley’s press secretary, stated that the Bentley-Mason relationship evolved to the point that nothing could be done in the Office without Mason’s sign-off. She stated that Governor Bentley’s typical reaction to any advice given without Mason present was, “What does Rebekah think about it?”

A stark example of Mason's control was her role in State budget negotiations in 2015. Spencer Collier told us that in years past, the budget process was initiated by a meeting with State Finance Director Bill Newton and his staff. At the conclusion of that meeting, Collier would meet with Governor Bentley to discuss strategies for addressing any potential cuts. However, in 2015, ALEA was required to meet with Mason and Jennifer Ardis to set budget priorities.

As instructed, Collier and the senior leadership at ALEA subsequently met with Mason and Ardis. Collier reported that Mason proposed closing multiple driver's license offices throughout the State and asked ALEA to put together a plan. It was Collier's understanding that Mason intended the plan to be rolled out in a way that had limited impact on Governor Bentley's political allies. Collier claims he reported this to the Attorney General's office because he was concerned about a Voting Rights Act violation.

Collier ultimately assented to the closure plan, but through the use of an objective metric based on processed transactions per year to determine which offices to close. Collier estimated the ultimate savings to have been just \$200,000, which is consistent with media reports. We were told that Governor Bentley approved this approach except that he wanted the office in Senator Gerald Dial's district to be removed from the closure list. Ultimately, the decision to close the offices was reversed, in part, after the state litigated the issue with the U.S. Department of Transportation, which had claimed that the closures had a disproportionate impact on minority communities.

4. The Second Inauguration: Contingency plans.

Planning for Governor Bentley's second inauguration began months in advance of the November 2014 election. Mason was the liaison between Bentley for Governor, Inc. and the Governor Bentley Inaugural Foundation. After Governor Bentley was re-elected and details of the second inauguration were being finalized, however, Mason removed herself from the process. During this time, Governor Bentley was in negotiations with Ms. Bentley and his family about whether they would attend the event at all. Ms. Bentley had essentially moved out of the Governor's Mansion months earlier. She threatened not to attend. Governor Bentley pleaded with her to attend and assured her that Mason would not be involved in his second term.

In light of these uncertainties, the inauguration planning team developed contingency plans based on whether Ms. Bentley and the family would attend – which was not known with certainty until the day of the event. These included details such as seating arrangements and who would hold the Alabama State Bible. The DPU team also developed alternate plans, including a plan to extricate Ms.

Bentley and her family in the midst of the festivities if they decided to leave. On the morning of the inauguration, Ms. Bentley confirmed that she and the family would attend.

IV. THE BENTLEY-MASON RECORDINGS

A. The Creation of the Recordings.

While the Bentley-Mason relationship was causing problems within the Bentley Administration, the public was largely unaware that anything was amiss. Yet, there was another secret that even those witnessing the daily dissolution of the Bentleys' marriage and the upheaval in the Office of the Governor did not know. As of March 2014, Ms. Bentley had made recordings that captured her husband, Governor Bentley, expressing both his passionate love for Mason and describing in detail the pleasure he drew from fondling her breasts.

The recording came about through Ms. Bentley's collaboration with her chief of staff Heather Hannah. Ms. Bentley had asked Hannah to help her make a recording that she could use to "catch" her husband and Mason in their affair. They had discussed various options, including ordering a miniature recording device over the Internet. That thought was dismissed, primarily due to concerns with having the device securely delivered to Ms. Bentley. Ultimately, Ms. Bentley came up with the idea to use her cell phone's recording feature but asked Hannah to show her how to operate it.

Ms. Bentley made several efforts to capture Governor Bentley on the phone with Mason at the Mansion, but those efforts failed. The successful recordings were made during the Bentleys' trip to their beach house in March 2014.²²⁴ Ms. Bentley captured the first of two recordings by turning on the phone's recording device, placing it in her purse on the sofa, and then announcing to her husband that she was taking a long walk on the beach. Promptly upon her departure—within approximately 59 seconds—Governor Bentley was on the phone with Mason.²²⁵

The conversation begins with discussions of the weather but quickly moves to capturing Governor Bentley agreeing to extended commentary by Mason. Of particular note, prior to the conversation becoming more intimate in nature, is an extensive discussion about moving Wanda Kelly's desk and rearranging the office. About halfway through the conversation, Governor Bentley engages in the now-infamous monologue about how much he enjoys feeling Mason's breasts and their need to lock the door to his office when engaging in certain activities.

²²⁴ Where the second of the two recordings was made is not known, exactly. The first recording, which received the most attention, was clearly recorded during the March 2014 beach trip. The content of the second recording indicates it may have been made during the same trip, but some of the media reports indicate it was recorded shortly after the Bentleys returned from the beach.

²²⁵ Transcripts of the two recordings are at Exhibits 9-A at Exhibit 4.