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November 5, 2007

***VIA HAND DELIVERY***

Senator Martin M. Looney  
Senator Andrew W. Roraback  
Bipartisan Committee of Review  
C/O Attorney Sandra Norman-Eady  
Room 5100  
Legislative Office Building  
Hartford, CT 06106

Dear Chairmen Looney and Roraback:

This letter is to present Senator DeLuca's position on the potential resolution of this matter. Senator DeLuca understands the seriousness of this undertaking and he understands that these proceedings are not just about him. As Senator DeFronzo and others have stated repeatedly in the Committee meetings, this process is creating a precedent and it is vital that the precedent be fair and just.

Senator DeLuca's task of presenting his position is complicated by the fact that there are no enumerated standards for discipline or enumerated claims that the Committee is going to address. The process is also made difficult by the absence of precedent for these proceedings in Connecticut. Through this letter, Senator DeLuca has tried to discern the important issues from the prior Committee meetings and address them comprehensively.

Although this process has been difficult, throughout the process Senator DeLuca has been encouraged by the strong support of his constituents. While many of those constituents did not approve of the way in which Senator DeLuca tried to protect his granddaughter from physical, domestic abuse, they understand his personal motivation and value his dedication and long career of public service. After having been served by Senator DeLuca for seventeen years, those constituents respect his character, his honor and his continuing ability to serve effectively. Those constituents want Senator DeLuca to be judged not by this incident, but by his lifetime of integrity and his years of dedicated service. Senator DeLuca also believes that he has much more to contribute to the people of his district and to the citizens of Connecticut. Buoyed by his constituents, Senator DeLuca has taken the more difficult path, but the right path, to go through these proceedings in order to continue serving.



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### **THE RIGHT OF THE ELECTORS**

One of the fundamental tenets of our constitutional form of government is that the power of government rests with the people. Article First, Section 2 of the Connecticut Constitution provides that “[a]ll political power is inherent in the people” and Article Third, Section 3 and Article Sixth establish our Senate and the ability and right of the citizens to elect our senators. It is axiomatic that the foundation for our constitutional form of government, and a major reason for our revolution, is the right of the citizens, not the government itself, to select our leaders. It is for that reason that the power of expulsion set forth in Article Third, Section 13 is reserved for the most serious of offenses.

It also is important to be mindful that the citizens of this state, through our statutory scheme, have set criteria under which a person is disqualified from serving as a Senator. The disqualifying factors to run for and hold office are a felony conviction and imprisonment. *See* Conn. Gen. Stat. § 9-46(b). Senator DeLuca has not committed a felony nor has he been imprisoned and thus he remains qualified to hold his Senate seat.

### **THE STANDARDS FOR DISCIPLINE**

Reading all of the constitutional and statutory provisions together, it is evident that the people did cede some authority to the Senate to discipline its members, although the parameters of discipline and the range of potential punishments are not delineated. *See* Article Third, Section 13. Through its Resolution in this matter, the Senate provided for four possible disciplinary consequences: (1) no discipline, (2) reprimand, (3) censure or (4) expulsion. It appears to Senator DeLuca from the proceedings to date that the option of no discipline is not under serious consideration. Neither should expulsion be considered seriously.

The expulsion provision of Article Third, Section 13 is to some degree at odds with Article First, Section 2, Article Third, Section 3 and Article Sixth. To place the power to elect Senators with the people, but to permit the Senate itself to remove a member creates a certain tension. While there does not appear to be Connecticut precedent upon which to resolve the tension and to assess the ambiguous language of Article Third, Section 13, the federal government and other states have balanced the power of the people with the self-policing authority of legislative bodies by limiting the power of expulsion to the most serious of offenses that relate to the elected office.

The Committee, through the impressive research of its staff, has looked to federal and other state proceedings in an attempt to bring definition to the ambiguity of Article



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Third, Section 13. What is evident from the researched proceedings is that expulsion generally has been imposed or considered in those cases involving felony conduct and wrongdoing directly related to elective office. Additionally, in jurisdictions that have written standards for expulsion, the standards are exceptionally high. For instance, the United States House of Representative reserves expulsion for the “most serious” offenses. Rule 24, House Rules of the Committee on Standards of Official Conduct (“House Rule 24”). Additionally, in New Mexico’s House Rules, there is an explicit requirement that conduct supporting expulsion must “directly relate” to the individual’s official office. *See* New Mexico House Rule 9-13-6.1.

Accordingly, reading the precedent from other jurisdictions together with Conn. Gen. Stat. 9-46(b), the parameters for expulsion in Connecticut appear to be limited to circumstances in which an elected official is convicted of a felony in connection with conduct that relates directly to his or her office, but who is not sentenced to a term of incarceration. Senator DeLuca’s conduct does not meet the standard for expulsion.

Senator DeLuca was not charged with or convicted of a felony. His conduct was not of the “most serious” nature. *See* House Rule 24. There are many offenses far more serious than Senator DeLuca’s. The “most serious” offenses that have led to expulsion in other jurisdiction include offenses like extortion, treason, vote selling, bribery and misuse of government property. Senator DeLuca did not engage in any such activity. Indeed, when the undercover agent zealously attempted to bribe Senator DeLuca, Senator DeLuca *immediately* rejected the bribe saying, with surprise, “No, I don’t want it!”—an important quote that the government did not include in the arrest warrant affidavit, although the government saw fit to include other quotes that painted Senator DeLuca in a less favorable light. *See* Sentencing Transcript, p. 11; Arrest Warrant Affidavit.

Additionally, as discussed more fully below, Senator DeLuca’s conduct did not relate directly to his elective office. There is no information before the Committee that Senator DeLuca did any favors for Mr. Galante and, interestingly, Mr. Galante never, in fact, had anyone actually “visit” Mr. Collela as he had offered. Senator DeLuca has provided the Committee with his sworn statements about the minimal interaction that he had with Mr. Galante. The senator’s sworn statements, coupled with Mr. Galante’s false tale to Senator DeLuca that there had been a “visit” and that there just had been “a lot of yelling,” reveals that there is no support for the assertion in the arrest warrant affidavit that Senator DeLuca and Mr. Galante had a “close and confidential” relationship, let alone a corrupt relationship.



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While calls for expulsion might make for sensational editorials and interesting political drama, expulsion does not make for sound government. It is ironic that at the same time some editorial boards decry the “clubby” nature of the Senate, they are calling for the same body to decide through expulsion who is a member of the “club,” all in contradiction to the stated wishes of the electors. The electors of the 32nd Senatorial District have elected Senator DeLuca and they have the right to have Senator DeLuca finish his term. Senator DeLuca has not violated any Connecticut Senate standard for expulsion (because there is none), he has not engaged in the type of conduct that has resulted in expulsion in other jurisdictions and he is qualified to serve under Conn. Gen. Stat. § 9-46(b). Under these circumstances, for the Senate to substitute its vote for the vote of the people and remove their duly elected Senator would create a constitutional conflict.

As set forth below, the conduct that Senator DeLuca engaged in, to which he has admitted and for which he has accepted responsibility, is the type of conduct that when punished, has been punished through reprimand or censure—not expulsion.

**THE CONDUCT AT ISSUE**

In the November 1 Committee meeting, Senators Nickerson and Stillman framed six issues for consideration. Senator DeLuca candidly addressed the facts related to each issue in his sworn statement and in his sworn answers to questions.

**a. The misdemeanor plea**

It is undisputed that Senator DeLuca pled guilty to the misdemeanor of conspiracy to threaten. Importantly, his criminal conduct did not amount to felony conduct, did not involve a sentence of incarceration and was not one of the types of offenses that relate to elective office and that has led to expulsion in other jurisdictions, such as bribery, extortion, vote-selling, etc. Indeed, based on the Committee’s review of discipline in other jurisdictions, misdemeanor offenses and threatening conduct have led only to no action (*see, e.g.*, Sen. Chmielewski—Minn.), reprimand (*see, e.g.*, Rep. Infanger—Idaho) or censure (*see, e.g.*, Rep. Johnson—Minn.). Senator DeLuca’s misdemeanor plea does not support expulsion.

**b. The statement to the FBI**

There also is no doubt that Senator DeLuca repeated to the FBI a false story about his meeting with Mr. Galante when he first was interviewed. The circumstances of this incident are important.



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When the FBI learned, presumably through its search warrant and cooperating witnesses, that Senator DeLuca had met with Mr. Galante to try to stop the abuse of the senator's granddaughter, it had two options: (1) agents could meet with Senator DeLuca, identify themselves and interview him about the meeting, as they do in many other investigations or (2) they could conduct an undercover sting operation and attempt to entice Senator DeLuca into committing a crime. The federal investigators chose the latter course, but for those who know Senator DeLuca and who have worked with him for so many years and understand his reputation for candor, it is fair to ask: Would Senator DeLuca have told a false story if the FBI had identified themselves and simply discussed his meeting with Mr. Galante, rather than suggesting through an undercover agent that Senator DeLuca tell the FBI that he met Mr. Galante to get someone a job?

Senator DeLuca appeared before the Committee and acknowledged that he bought into the undercover agent's false story because he was embarrassed by his conduct and he did not want to get in trouble. He also acknowledged that he corrected the story with the FBI two weeks later and he has taken responsibility for his conduct. The federal government concluded that under all of these circumstances, the fair and just disposition was a state court, misdemeanor charge.

Senator DeLuca knows and has acknowledged that it was wrong to repeat the undercover agent's false story, but because he corrected it and because that the federal and state prosecutors did not believe that he should be charged with a crime in relation to that statement, it is not conduct that would support expulsion. Senator DeLuca's conduct is more akin to the conduct that has led to no action, reprimands or censure in the state and federal precedents that the Committee staff has compiled. *See, e.g.*, October 30, 2007 Non-Partisan Committee Staff Report (referencing reprimands and censures for false statements); October 30, 2007 OLR Report (Sen. Adams—Alaska—forged documents—no action; Rep. Reddick—Florida—false disclosures—reprimand; Rep. Staten—Minn.—false disclosure report/bad checks—censure).

**c. The undercover bribe attempt**

Senator DeLuca has also discussed this issue with the Committee and the fact that when he was offered a bribe by the undercover agent, he immediately rejected it. Importantly, before trying to entice Senator DeLuca into taking a bribe, the federal investigators had no reason to suspect that he would accept a bribe. The bribe attempt is evidence of an overeager agent trying to ensnare a high-ranking politician in the



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racketeering investigation of Mr. Galante. There was no basis to do so, which is illustrated by the fact that Senator DeLuca immediately said, “No, I don’t want it!”

Senator DeLuca has also acknowledged, however, that he should have reported the bribe attempt. While there was no legal obligation to do so, he has acknowledged that as a matter of good government, he should have reported the attempt. At that point, Senator DeLuca knew that he had made a bad decision to meet with Mr. Galante in the first place and that he had compounded the bad decision by his interaction with the undercover agent. At the time of the undercover agent’s bribe attempt, Senator DeLuca believed that the person who offered the money was an undercover agent because the fictional relationship that the agent portrayed was nothing like the real, and infrequent, relationship that Senator DeLuca had with Mr. Galante. Out of his embarrassment and concern for what he had gotten himself into, he did not report the attempt. Senator DeLuca has acknowledged that his failure to report the bribe was wrong. Again, however, this conduct falls into the “omission” class of conduct (i.e., failures to report/incomplete reports) that in many other cases has led to no discipline or a reprimand—not expulsion.

**d. The relation to his office**

The best and most objective evidence that Senator DeLuca’s conduct did not relate to his office comes from the prosecutors and the judge who handled the senator’s matter in court. At the press conference following Senator DeLuca’s surrender, Chief State’s Attorney Kevin Kane, who had access to all of the undercover recordings and FBI reports, specifically discussed Senator DeLuca’s motive. He said, “[T]he motive for the conspiracy is a private matter [and] did not relate to his official position or his official office.” Press Statement reported in the Hartford Courant, June 2, 2007, p. 13; *see also* Sentencing Transcript, p. 10. It was for that very reason that neither the federal nor state prosecutors charged Senator DeLuca with any corruption related offenses. Similarly, Superior Court Judge Joan Alexander, a former Part A prosecutor, noted in her sentencing remarks the difficulty and troubling aspects of domestic abuse and her understanding, based on her review of the case, that it was Senator DeLuca’s desire to stop physical, domestic abuse that motivated his conduct.

Everyone on the Committee surely knows of the federal government’s successful history of investigating and prosecuting public corruption in Connecticut. With the power of grand jury testimony, witness and document subpoenas, search warrants and the enormous resources of the FBI, the government brought its power to bear and thoroughly investigated Senator DeLuca in this matter. As a result of that thorough investigation, it decided not to charge public corruption. The federal government’s



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objective decision, coupled with Attorney Kane's unequivocal, objective comments, compel the conclusion that Senator DeLuca's conduct did not relate to his public office. In short, Senator DeLuca's conduct is not analogous to the conduct that has directly related to an elective office in other cases and thereby supported expulsion. Because there was no direct relation between Senator DeLuca's conduct and his public office, expulsion is unwarranted.

Senator DeLuca understands, however, that his conduct was embarrassing and improper and that the negative attention he has drawn to himself has impacted the Senate in that connection. That issue is discussed in Section (f) below.

**e. The senator's cooperation**

There has been discussion that Senator DeLuca has not been cooperative. Senator DeLuca disputes this notion. On the Committee's invitation, Senator DeLuca appeared before the Committee and he gave heartfelt answers to every question put to him with the exception of those questions that would identify innocent third parties and drag them into this affair. He has sworn to the truth of his verbal answers and to his answers to the 30 written questions that the Committee posed to him. Other than as to the identity of third parties, Senator DeLuca did not restrict the subject areas of inquiry and the Committee had two opportunities—at the October 15 meeting and in written questions—to inquire on any topic.

If the Committee cares to draw an inference of non-cooperative behavior in relation to the side-issue of Senator DeLuca's decision not to subject innocent third parties to the media frenzy and innuendo that has surrounded this matter, so be it. However, any suggestion that Senator DeLuca has not been cooperative within the defined scope of the Committee's charge and with respect to his interaction with Mr. Galante and the substance of his decisions, his motivation and his conduct would be baseless. Respectfully, those are the issues that should be the focus of this Committee's inquiry.

Additionally, and as I mentioned in my November 2 letter to the Committee, any conclusion that Senator DeLuca has not been cooperative because he has not agreed to waive his privacy rights to some of the non-public information to which the Committee is not entitled under its enabling Resolution would be incongruous and improper. It is important to note that while under no obligation to do so, Senator DeLuca, unlike Waterbury Police Chief Neil O'Leary, did waive his Privacy Act rights with regard to his debriefing FBI 302 Report. Senator DeLuca waived those rights in a spirit of cooperation and in an effort to balance the work of this Committee with his personal liberties. The information in the 302 Report was humiliating for



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Senator DeLuca, but he agreed to release the report and it formed the basis for many of the Committee members' questions that he answered. In further credit to his cooperation, it should not be overlooked that Senator DeLuca is the only person in the history of this state to be put in the position by the United States Attorney's Office to waive Privacy Act rights to non-public, investigatory materials that did not support a federal prosecution. Senator DeLuca's willingness to waive his rights under such circumstances is evidence of his cooperation.

**f. Violation of the public trust**

The final issue that Senator Stillman and others raised is the notion of a violation of the public trust. Respectfully, under the circumstances of this matter, the public trust notion is distinct from the concept of misconduct in direct relation to one's office. The latter is more concrete and provable (and not present here), while the notion of a breach of trust is more amorphous, but no doubt important.

As Senator DeLuca stated on October 15, his conduct brought embarrassment and humiliation to himself, his family and to the Senate. Any time that an elected official engages in improper conduct, it reflects poorly on government. Senator DeLuca deeply regrets that his behavior has contributed to criticism of the political process to which he has positively contributed for seventeen years.

It is important to be mindful, however, that the impact from Senator DeLuca's conduct is indirect. His conduct did not compromise government processes, as would be the case with vote-selling, extortion, bribery or treason. In this matter, it was Senator DeLuca's poor decision-making in a private matter that has impacted the public trust. Once again, that type of conduct in other cases has been resolved though no action, reprimand or censure—not expulsion.

**SENATOR DELUCA'S MOTIVATION**

As a final matter, Senator DeLuca respectfully suggests that the Committee should consider his motivation for his bad decision to seek Mr. Galante's assistance. His motivation of protecting his granddaughter from physical, domestic abuse was a serious mitigating factor in the judicial process and it should be a serious mitigating factor here. While the motivation does not excuse Senator DeLuca's decision to seek Mr. Galante's assistance, as Senator Nickerson stated on September 6, 2007, it offers a "plausible rationale" for Senator DeLuca's conduct. Transcript, September 6, 2007, p. 21-23.



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There can be no doubt that Senator DeLuca was motivated out a fear for the safety of his granddaughter. He has testified under oath that his granddaughter acknowledged to him that she had been abused and he authenticated, under oath, photographs of the injuries that she suffered and that he personally witnessed. She now bears the scar from the injury shown in one of the photographs. He also has submitted sworn statements of others who have first-hand knowledge of physical injuries to and admissions of abuse from Senator DeLuca's granddaughter. The unfortunate media-driven debate over whether there was, in fact, abuse is troubling not just for this matter, but for other individuals who are being abused, who are stuck in the emotional quagmire of an abusive relationship and who have observed these proceedings and now must wonder whether sworn statements and sworn authentication of photographs of abuse injuries are sufficient to establish abuse.

While first motivated to take action by the abuse of his granddaughter, Senator DeLuca's motivation to seek Mr. Galante's assistance was not driven by a corrupt relationship, but by desperation—desperation that was caused, in part, by the fact that Waterbury Police Chief O'Leary told Senator DeLuca that he could not assist without cooperation from the senator's granddaughter. To be clear, Senator DeLuca has acknowledged that he should not have taken Chief O'Leary at his word, but with the emotion of a distressed grandfather, he did take Chief O'Leary's word and he then made the bad decision to reach out to Mr. Galante.

As this Committee is well aware, Chief O'Leary's has now denied under oath that Senator DeLuca advised him of his granddaughter's abuse and asked for assistance. He also has denied that he told Senator DeLuca that he could not help without cooperation from Senator DeLuca's granddaughter. The Committee, however, can and should reject the chief's denials. The Committee logically can conclude that Chief O'Leary knows that his description to the FBI of his interaction with Senator DeLuca that is memorialized in his FBI 302 Report is completely inconsistent with his public and sworn statements, which is why he has refused to release the report.

In addition to the fact that the Committee can and should infer that the Chief's sworn statement is unreliable because, unlike Senator DeLuca, he has refused to release his debriefing 302 Report on this issue, the Committee can read the FBI 302 Report that Senator DeLuca released and see that the senator explained his motivation and rationale to the FBI. Assuredly, the FBI confirmed the senator's account of his interaction with Chief O'Leary because if Senator DeLuca's account were not true, he had no "plausible rationale" to seek Mr. Galante's assistance and the federal government could have charged Senator DeLuca with making a material false statement. Common sense, coupled with the chief's refusal to release his 302 Report,



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screams out that Senator DeLuca's statement on this important issue is the accurate statement. While Senator DeLuca's motivation does not excuse his bad decision, it provides a "plausible rationale" in mitigation of his conduct.

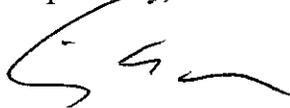
**CONCLUSION**

This entire incident has been very stressful for the DeLuca family. Senator DeLuca also understands that the incident has distracted state government from other important business and he regrets that distraction. As Senator DeLuca stated on October 15, he had hoped to spare everyone from the stress and distraction by taking responsibility and pleading guilty to the misdemeanor offense last June. However, Chief O'Leary's inaccurate public statements, and the media frenzy that followed, gave the story renewed life over issues such as whether the abuse occurred and whether Senator DeLuca had sought the Chief's assistance. *See, e.g.*, Hartford Courant front page headline, June 7, 2007 ("Police Chief Contradicts DeLuca"). It also appears that the continuing media coverage contributed to the creation of this Committee, because so many people who commented on the matter before Chief O'Leary's statements referred to the matter for what it was—poor judgment regarding a family tragedy.

In the end, however, as Chief State's Attorney Kevin Kane stated, this matter remains rooted in a personal matter, not a matter of public corruption. It no doubt has brought negative attention to Senator DeLuca and to the Senate. It was for that reason that Senator DeLuca resigned from his leadership post and must suffer the consequence of this Committee process. That consequence cannot, however, include the usurpation of the fundamental power of the people to elect their leaders and to have them serve their terms. To expel Senator DeLuca would be unwarranted under our constitutional and statutory scheme and it would not be supported in the precedent of other jurisdictions. Expulsion under these circumstances would not only be unfair to Senator DeLuca and to his electors, but it would create an unfair and unjust precedent.

Thank you for your consideration.

Respectfully,



Craig A. Raabe

Copy to: Senator Louis DeLuca

