

Attorney Regulation Counsel  
Jessica E. Yates

Chief Deputy Regulation Counsel  
Margaret B. Funk

Deputy Regulation Counsel  
April M. McMurrey

Deputy Regulation Counsel  
Dawn M. McKnight

Deputy Regulation Counsel  
Gregory G. Sapakoff

**COLORADO SUPREME COURT  
ATTORNEY REGULATION COUNSEL**



Attorneys' Fund for Client Protection  
Unauthorized Practice of Law

Assistant Regulation Counsel

Jane Cox  
Jill Perry Fernandez  
Erin Robson Kristofco  
Michele Melnick  
Justin P. Moore  
Alan C. Obye  
Lisa E. Pearce  
Matt Ratterman  
David B. Shaw  
Catherine S. Shea  
Jacob M. Vos  
Rhonda White-Mitchell  
E. James Wilder

Professional Development Counsel  
Jonathan P. White

---

---

November 25, 2020

Via Email Only

Ms. Ellen Ryan  
2600 Netherland Avenue, Suite 203  
Bronx, NY 10463

Re: Your request for investigation of Representative Kenneth R. Buck  
#20-1231

Dear Ms. Ryan:

We completed our review of your request for investigation on the above-referenced attorney. As you know, I wrote to Representative Buck about your concerns. Representative Buck filed a response with this office and sent a copy of his response to you. You filed a reply to Representative Buck's response. I have considered the information provided by both of you.

The Office of Attorney Regulation Counsel ("OARC") investigates allegations of professional misconduct and, in appropriate cases, prosecutes attorneys for violations of the Colorado Rules of Professional Conduct (the "Rules"). These Rules govern the ethical conduct of attorneys licensed to practice law in Colorado. If a tribunal finds, or the attorney acknowledges, that the attorney violated the Rules, an appropriate sanction will be imposed by the Presiding Disciplinary Judge or the Colorado Supreme Court pursuant to the Colorado Rules of Procedure Regarding Attorney Discipline and Disability Proceedings. The OARC has authority to enter into an alternative to discipline if the facts and circumstances indicate that such a resolution is appropriate, but we do not have authority to impose discipline upon an attorney.

In order to pursue discipline against an attorney, the OARC must be able to prove that the attorney violated the Rules by clear and convincing evidence. The available information does not amount to clear and convincing evidence that Representative Buck acted unethically in the matter you reported.

You assert Representative Buck was captured on a recording suborning perjury. You assert the other person on the call is very clear that he

Ellen Ryan

Re: Request for investigation of Representative Kenneth R. Buck, #20-1231

November 25, 2020

Page 2

understands Representative Buck wants him to sign a false affidavit and Representative Buck does not dispute it. You assert Representative Buck violated Colo. RPC 8.4(a), (b), (c), (d) and (h).

Your allegations relate to a recorded conversation between Representative Buck and Eli Bremer regarding a controversy that arose out of the assembly primary designation election in Senate District 10. Mr. Bremer was the Chairman of the Republican State Senate District 10 Committee and the presiding officer at the Republican State Senate District 10 Assembly.

Representative Buck states it was in his role as Chairman of the Party and in the context of communicating the Party's legal position to Mr. Bremer that the conversation took place. Representative Buck notes that David Stiver and a group of delegates from Senate District 10 lodged a controversy with the State Executive Committee, alleging irregularity in Mr. Bremer's conduct of the Senate District 10 primary designation election. After receiving written submissions from all interested parties, and following argument and evidence presented on April 14, 2020, Representative Buck states the Executive Committee found that Mr. Stiver should be designated to the primary election ballot along with Representative Larry Liston. Thereafter, Representative Buck notes that the State Central Committee voted to adopt the Executive Committee's Report by a vote of 98-88.

Representative Buck states it was after that vote by the members of the State Central Committee that he asked Mr. Bremer if he understood what the State Central Committee had ordered him to do – specifically to file an amended certificate of designation naming Mr. Stiver to the Republican primary ballot for Senate District 10. Representative Buck states he was speaking in his capacity as the presiding officer of the State Central Committee and attempting to be sure that Mr. Bremer understood the State Central Committee's ruling on the controversy. Representative Buck states he was attempting to be especially clear because he thought it possible that Mr. Bremer may challenge the State Central Committee's ruling in court and he did not want there to be any confusion as to the State Central Committee's decision, Mr. Bremer's understanding of it and Mr. Bremer's position on whether he would comply with it.

Representative Buck states that it was his belief at the time – supported by over 100 years of party practice – that the State Central Committee had the authority to rule on controversies like the one in Senate District 10 and had, pursuant to C.R.S. section 1-3-106(1), the power to order the equitable remedy of the designation of a candidate to a ballot.

Representative Buck denies asking Mr. Bremer to execute a false affidavit or false certification. Rather, Representative Buck asserts he simply asked Mr.

Ellen Ryan

Re: Request for investigation of Representative Kenneth R. Buck, #20-1231

November 25, 2020

Page 3

Bremer to file an amended certificate of designation implementing the finding of the State Central Committee that Mr. Stiver be designated to the ballot. He asserts he forthrightly explained to Mr. Bremer the State Central Committee's decision. Representative Buck states he defended that decision and the State Central Committee's right to make it in subsequent legal proceedings. Representative Buck states the Party and Mr. Bremer had a good-faith disagreement as to the Party's jurisdiction to rule on the Senate District 10 controversy and Mr. Bremer's view prevailed. Representative Buck asserts this does not render his communication of the State Central Committee's decision dishonest, fraudulent, deceitful or misrepresentative.

Even though the Denver District Court ultimately decided that the State Central Committee did not have authority to decide the controversy arising out of Senate District 10, the available information does not amount to clear and convincing evidence that Representative Buck knew the State Central Committee did not have that authority when he had the conversation with Mr. Bremer. The available information also does not amount to clear and convincing evidence that Representative Buck asked Mr. Bremer to engage in dishonest conduct, as opposed to asking him to follow the order of the State Central Committee to include both Mr. Stiver and Mr. Liston on the ballot.

Further, this office is not a substitute for the criminal court system. If you believe Representative Buck committed a crime, then you may report your concerns to the appropriate law enforcement authorities. If Representative Buck is convicted of or pleads guilty to any crime, then you may resubmit your complaint to our office for further consideration by providing us a copy of the conviction against or guilty plea by Representative Buck. We will then review the conviction or guilty plea to determine whether Representative Buck should be subject to additional sanctions through attorney disciplinary proceedings.

For the above reasons, this office has determined that the available information does not amount to clear and convincing evidence of a violation of the Rules by Representative Buck. Therefore, we are closing this matter and will take no further action on your request. Please be advised that I conferred about this decision with my colleagues in the intake division, including Regulation Counsel Jessica E. Yates, Deputy Regulation Counsel April M. McMurrey and Deputy Regulation Counsel Gregory G. Sapakoff. They agree with the conclusion in this case.

Ellen Ryan

Re: Request for investigation of Representative Kenneth R. Buck, #20-1231

November 25, 2020

Page 4

Thank you for taking the time to report your concerns. Your involvement in the attorney disciplinary process is a vital part of the Colorado Supreme Court's efforts to ensure that attorneys comply with the Rules.

Sincerely,

*/s/ Lisa E. Pearce*

Assistant Regulation Counsel

cc: Representative Kenneth R. Buck, Esq. (via Email only)