

February 5, 2016

Zachary Chen  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001

Re: Annette Smith

Dear Assistant Attorney General Chen,

We represent Annette Smith in connection with the Attorney General's criminal investigation into her political work as Executive Director of Vermonters for a Clean Environment. On Annette's behalf, we request that the Attorney General cease forthwith the investigation referenced in your January 19, 2016 letter and provide assurance that Annette may continue her work with VCE free from the threat of prosecution. We request that the Attorney General confirm in writing that it is no longer investigating Annette and her work with VCE and will not do so in the future because it recognizes as lawful Annette's activities on behalf of individual Vermonters and in support VCE's vision of the public interest.

Even when her work is viewed most expansively, Annette does not practice law. Annette promotes VCE's economic and environmental positions involving Vermont's energy policy. Annette's work is classic political speech.

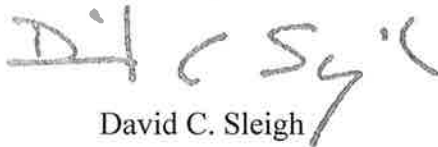
Annette may help people without lawyers protect their legal interests before Vermont's Public Service Board against opposition well-represented by counsel. That she gives such assistance does not mean that Annette practices law. Annette does not file pleadings with the PSB. Annette does not appear before the PSB or in any court proceedings. Because Annette has done nothing wrong, the Attorney General must end its investigation and forswear the threat of her prosecution.

If the Attorney General refuses to do so, Annette will have no choice but to seek declaratory and injunctive relief in the United States District Court against further efforts to inhibit her lawful advocacy for Vermont's economic growth and environmental health. Annette's prosecution for the unauthorized practice of law would violate her freedom of speech under the First Amendment to the United States Constitution. The very investigation into Annette's work violates her First Amendment rights since the specter of prosecution acts to exclude her from engaging in what Justice Holmes called the "free trade in ideas." *Abrams v. United States*, 250 U.S. 616, 630 (1919).

Annette's prosecution under the Administrative Order prohibiting the unauthorized practice of law would also violate her due-process rights under the Fourteenth Amendment to the United States Constitution. This Order identifies a criminal act but no punishment. The United States Supreme Court has said that a penal law without an adequately defined penalty is void-for-vagueness.

The Attorney General's Office is not the surrogate of the politically frustrated.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. C. Sleight". The signature is stylized, with the first name "D." and last name "Sleight" clearly visible, and a middle initial "C." in between. The ink is dark and the handwriting is cursive.

David C. Sleight