

IN THE SUPREME COURT OF OHIO

IN THE MATTER OF: :
ALEXANDER SITTENFELD, :
a/k/a “P.G. Sittenfeld,” : CASE NO:
COUNCIL MEMBER, :
CITY OF CINCINNATI, OHIO : CHIEF JUSTICE MAUREEN
: O’CONNOR

REQUEST TO COMMENCE SUSPENSION PROCEEDINGS
AGAINST ALEXANDER SITTENFELD, MEMBER OF THE CINCINNATI CITY
COUNCIL.

The Ohio Attorney General Dave Yost hereby requests Chief Justice O’Connor and this Court to commence suspension proceedings against Alexander Sittenfeld (a/k/a “P.G. Sittenfeld”), member of the Cincinnati City Council in accordance with R.C. 3.16.

I. INTRODUCTION

On November 18, 2020, Alexander Sittenfeld, a member of the Cincinnati City Council, was indicted by a federal grand jury for engaging in a scheme to solicit and accept \$40,000 in donations to a political action committee (“PAC”) that Sittenfeld secretly controlled. In return, Sittenfeld promised to “deliver the votes” to advance the donors’ real estate project that required City Council approval. A copy of the indictment is attached at Exhibit A.

This alleged scheme was uncovered during a law enforcement investigation that involved a cooperating witness and two undercover law enforcement agents. Exh. A, ¶¶ 4-5. Sittenfeld conducted his alleged criminal activity by telephone and during in-person conversations, which law enforcement recorded and which are detailed in Indictment. *Id.*, ¶ 40.

Alexander Sittenfeld was first elected to the City Council in 2011 and is serving his third term in office. “About Council Member Sittenfeld,” City of Cincinnati, *available at* <https://www.cincinnati-oh.gov/sittenfeld/about-council-member-sittenfeld/>, last accessed Nov.

22, 2020. According to the Indictment, in 2018 Sittenfeld solicited payment from a city developer whose prior attempts to obtain City Council approval to develop a real estate project had been unsuccessful. Exh. A, ¶¶ 9-10. During a lunch meeting in a Cincinnati restaurant on November 7, 2018, Sittenfeld indicated to federal undercover agents posing as real estate investors that he would marshal the necessary City Council votes for project approval. *Id.* ¶ 15. Sittenfeld also presented the undercover agents with voting data that showed he was politically popular in Cincinnati, and that he was likely to be the next mayor. *Id.*

“I can move more votes than any other single person,” Sittenfeld said, according to the Indictment. *Id.* Sittenfeld requested contributions to his PAC before passage of local campaign finance reform laws capped the number of limited liability companies authorized to make campaign contributions to a single candidate. *Id.*, ¶¶ 11-14. When these donations did not materialize before passage of the local issue, Sittenfeld explained how contributions could be made to his PAC so as to not be traced back to him or the donors. *Id.*, ¶¶ 16-18, 21.

In December 2018, Sittenfeld said, “Don’t let these be my famous last words, but I can always get a vote to my left or a vote to my right.” *Id.*, ¶ 22. Over the next several months, Sittenfeld told undercover agents that he was continuing to pressure city officials to support the real estate project. *Id.*, ¶ 35.

From late 2018 and into the fall of 2019, Mr. Sittenfeld accepted ten checks, with two later replaced, totaling \$40,000 paid to the order of the PAC. *Id.*, ¶¶ 20-22, 28, 32-34.

On November 18, Sittenfeld was indicted on six felony counts in the U.S. District Court for the Southern District of Ohio: (Counts 1-2) Honest Services Wire Fraud in violation of 18 U.S.C. §§ 1343 and 1346; (Count 3) Bribery Concerning Programs Receiving Federal Funds in violation of 18 U.S.C. § 666(a)(1)(B); (Count 4) Attempted Extortion Under Color of Official

Right in violation of 18 U.S.C. § 1951(a), (b)(2); (Count 5) Bribery Concerning Programs Receiving Federal Funds in violation of 18 U.S.C. § 666(a)(1)(B); (Count 6) Attempted Extortion Under Color of Official Right in violation of 18 U.S.C. §§ 1951(a), (b)(2). *Id.*, ¶¶ 36-48.

As set forth below, the Ohio Attorney General asserts that the indicted felonies relate to Sittenfeld's administration of, or conduct in the performance of his City Council duties, and that his alleged criminal conduct adversely affects the functioning of his office and the rights and interests of the public under R.C. 3.16(B)(1). Therefore, the Ohio Attorney General respectfully requests that the Chief Justice commence suspension proceedings against Sittenfeld and that he be provisionally suspended from his public office pending the resolution of the felony charges in federal court. *See* R.C. 3.16(C).

II. LAW AND ARGUMENT

A. Statutory Suspension Procedures

R.C. 3.16 authorizes the suspension of a public official who, like Alexander Sittenfeld, has been charged with a felony in a state or federal court when the felony relates to the performance of the official's duties, and which adversely affects the functioning of that office or adversely affects the rights and interests of the public. R.C. 3.16(A)(2) defines "public official" as "any elected officer of a political subdivision as defined in section 2744.01 of the Revised Code." Alexander Sittenfeld, as an elected Cincinnati City Council Member is a "public official" as defined by R.C. 3.16(A)(2). The City of Cincinnati is a municipal corporation and therefore a political subdivision as defined in R.C. 2744.01.

R.C. 3.16(B)(1) states in pertinent part, "If a public official is charged with a felony in a state or federal court and if the attorney general, if the attorney general is prosecuting the case, or

prosecuting attorney with responsibility to prosecute the case determines that the felony relates to the public official's administration of, or conduct in the performance of the duties of, the office of the public official, the attorney general, if the attorney general is prosecuting the case, or prosecuting attorney with responsibility to prosecute the case shall transmit a copy of the charging document to the chief justice of the supreme court with a request that the chief justice proceed as provided in division (C) of [R.C. 3.16].”

R.C. 3.16(C) provides a detailed procedure for the suspension of a public official in circumstances identical to those presented in Sittenfeld's case. R.C. 3.16(C)(1) states, “Not sooner than fourteen days after the chief justice's receipt of the attorney general's or prosecuting attorney's request ...the chief justice shall establish a special commission composed of three retired justices or judges of a court of record.” Once established, the special commission “shall review the document that charges the public official with the felony, all other documents and materials pertaining to the matter that were provided to the chief justice...and the facts and circumstances related to the offense charged.” R.C. 3.16(C)(2). Then, within fourteen days, “the special commission shall make a preliminary determination as to whether the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of that office or adversely affects the rights and interests of the public and, as a result, whether the public official should be suspended from office.” *Id.*

A public official may challenge the special commission's preliminary determination that he or she should be suspended from office by submitting written objections and may also attend a meeting to contest the finding. *Id.* At the conclusion of the challenge, the special commission shall issue a final determination by written report. R.C. 3.16(C)(3). Finally, the public official

may appeal the special commission's final determination to the Supreme Court. R.C. 3.16(D). The Supreme Court shall uphold the special commission's final determination if the findings are "reasonable and lawful." *Id.*

B. Sittenfeld's alleged criminal conduct directly relates to the performance of his duties as a member of the Cincinnati City Council, and adversely affects the functioning of this office and the rights and interests of the public.

Without question, the criminal acts alleged in the federal indictment are directly tied to Sittenfeld's position as a member of the Cincinnati City Council. The indictment alleges violations of the very laws that guard against the misuse of public office and criminalize the use of public office for personal gain. Sittenfeld allegedly misused his influence and position as a sitting City Council member to obtain campaign donations in return for securing City Council approval of a real estate project. It is also alleged that Sittenfeld used his position to unlawfully influence other sitting City Council members to vote in lockstep with him in favor of this project. This alleged abuse of authority would not have been possible but for Sittenfeld's position as an elected member of the Cincinnati City Council.

Moreover, Sittenfeld's criminal acts as alleged in the indictment adversely affect not only the functioning of his office, but also the entire City Council. When the citizens of Cincinnati elect members to City Council, they vest those members with significant authority to make decisions that affect their lives and communities in critical ways. Cincinnati voters are entitled to have those decisions made in a fair and ethical manner. The facts alleged in the Indictment destroy any expectation that Sittenfeld will exercise independent judgment to benefit the community in acting on any official matters before the City Council. Sittenfeld cannot be left to continue to exercise the rights and privileges as a member of the Cincinnati City Council while under indictment for misusing the authority of that very office. Further, Sittenfeld's alleged

efforts to unlawfully influence other members of the City Council erodes trust and confidence in the Cincinnati City Council as a whole.

To be sure, Sittenfeld's alleged criminal conduct adversely affects the interests of the public. Elected officials hold offices of trust and confidence. The allegations leveled against Sittenfeld lay waste to the public's expectation that elected leaders are committed to serving their constituents' interests, and not lining their campaign chests. Sittenfeld allegedly betrayed the trust and confidence placed in him by the public when he used his position to further his own personal and political interests. Considering the seriousness of the allegations and their direct connection with Sittenfeld's public office, Sittenfeld should be suspended from his position pending resolution of the charges.

III. CONCLUSION

For the forgoing reasons, the Ohio Attorney General respectfully requests that the Chief Justice establish a special commission for the purposes of suspending Sittenfeld from office. Alexander Sittenfeld's performance of his duties, as alleged in the Indictment, adversely affects the functioning of his office and it adversely affects the rights and interests of the public. Accordingly, Sittenfeld should be suspended from his position as Cincinnati City Council Member under R.C. 3.16.

Respectfully submitted,

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Ohio Attorney General



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Request to Commence Suspension Proceedings Against Alexander Sittenfeld (“P.G. Sittenfeld”), Member of the Cincinnati City Council was sent on this the **23rd** day of **November, 2020** via the following:

- (1) *Overnight Certified Mail and Regular U.S. Mail to:*

Mr. Alexander Sittenfeld, Council Member
Cincinnati City Hall
801 Plum St., Suite 354
Cincinnati, OH 45202

AND

Attorney Charles H. Rittgers
Attorney Charles M. Rittgers
Rittgers & Rittgers
12 E. Warren Street
Lebanon, Ohio 45036

- (2) *Email to:* pg.sittenfeld@cincinnati-oh.gov; rittgerscm@rittgers.com; kathy@rittgers.com; charlie@rittgers.com



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