

April 26, 2022

Belknap County Board of Commissioners
24 County Drive
Laconia, NH 03246

Dear Board of County Commissioners;

Enclosed please find a Petition for Removal signed by resident taxpayers of Belknap County pursuant to RSA 24:16. The Petition seeks the removal of 2 members of the County Convention, namely Rep. Norman Silber and Rep. Michael Sylvia.

We request that you review the Petition and the attached Exhibits and forward same, with your recommendation, to the County Convention, for action under RSA 661:9 IV.

Thank you very much for your cooperation in this matter.

Very truly yours,



Steven Grant, on behalf of the Petitioners
289 Morrill Street
Gilford NH 03249

CC:

Rep. Norman Silber
243 Mountain Drive
Gilford, NH 03249

Rep. Michael Sylvia
219 Farrarville Road
Belmont, NH 03220



JAMIE L. ELLSWORTH, Notary Public
My Commission Expires September 11, 2025

Belknap County, New Hampshire

Petition for Removal under RSA 24:16

Introduction:

This action is brought by 5 or more Petitioners, pursuant to RSA 24:16, all of whom are Belknap County taxpayers, for removal of 2 members of the Belknap County delegation, also referred to as the county convention, for violation of RSA 24:15 (I) entitled Exceeding Appropriations. The respondents are Representative Norman Silber and Representative Michael Sylvia.

Jurisdiction and Venue:

RSA 24:15 (I) prohibits elected county officers from paying or agreeing to pay or incurring liability for payment of money in excess of any appropriation by the county convention. RSA 24:16 (Penalty) provides that violation of RSA 24:15 shall subject the violators to the provisions of RSA 661:9, providing for removal from office. RSA 24:16 further states that a petition of 5 resident taxpayers of the county may be made to the superior court for such removal.

Parties:

The Petitioners, signatories below, are all resident taxpayers of Belknap County. The Respondents are Representative Norman Silber of Gilford (Belknap District 2) and Representative Michael Sylvia of Belmont (Belknap District 6). Rep. Sylvia is Chair of the Belknap County convention, and is on the Executive Committee. Rep. Norman Silber is also on the Executive Committee.

Facts:

In October 2021, a majority of the Gunstock Area Commission (GAC) sought to remove a GAC member (Ness) for conflict of interest and improper behavior. When this came before the county convention, it denied the removal request on a 11-5 vote. Chair Sylvia suggested that the removal attempt against Ness might be cause for removal of the 3 GAC Commissioners who participated, and suggested further that there might be criminal ramifications.

In response to these perceived threats of removal and criminal prosecution, the GAC hired counsel and filed a request for an injunction. Various legal actions followed from this, culminating in the Belknap County convention vote at its November 16, 2021, to retain counsel to defend against the injunctive action. Rep. Norman Silber made the motion to retain counsel, ostensibly for the sole purpose of defense against the GAC action, and with a maximum expenditure of \$20,000. The delegation then voted Yes on the motion.

In actuality, the law firm in question (Cleveland, Waters and Bass, PA) had already started working with Reps Silber and Sylvia, with over \$1,000 in billable time even before the delegation vote approving the hiring of the firm. Moreover, the work included research

regarding removal of a GAC Commissioner, which was apparently of interest to Silber and Sylvia even though outside the scope of any defense against the GAC action.

The retainer agreement of the law firm was prepared for signature by Norman Silber, who was apparently the primary contact with the firm. On November 16, however, immediately following the delegation vote to retain counsel, the Silber name was crossed out as the signatory and replaced by Chair Sylvia, who then signed it.

The retainer agreement, which is attached as Exhibit A, contained no reference to the \$20,000 maximum voted on in the appropriation. On the contrary, the agreement was a completely open-ended one, with no specification of any cap or even any need for periodic accounting. By negotiating it and signing it, Reps Silber and Sylvia incurred liability on the part of the taxpayers for an unknown and apparently unlimited amount of money, well beyond the actual appropriation containing the \$20,000 cap.

The actual legal bills, which are attached as Exhibit B (Invoices dated December 7, 2021 and February 28, 2022), show that the current amount is over double what was appropriated by the delegation. There is no indication that the increasing amount was ever discussed, and there appears to be no concern about the ever-increasing and unlimited obligation incurred at the behest of Silber and Sylvia.

The bill also shows, parenthetically, that a large proportion of the legal work performed was unrelated to the defense of the GAC action. This is apparent even without seeing the actual emails referred to in the invoices. Many of the communications instead involved the personal vendetta of Silber and Sylvia against individual members of the GAC, most particularly Gary Kiedaisch, and their plan to remove him.

Count I:

1. RSA 661:9 (IV) provides for removal of a county officer for official misconduct. Removal under this provision shall be initiated by petition of a majority of the county commissioners, of the county attorney, or of a superior court judge. In their capacity as members of the county convention, both Rep Silber and Rep Sylvia are elected county officers.
2. RSA 24:15 (I) provides that no elected county officer "shall pay, or agree to pay, or incur any liability for the payment of, any sum of money for which the county convention has made no appropriation, or in excess of any appropriation ..."
3. RSA 24:14 (I) (a) states that "an appropriation means an amount of money authorized for a specified purpose by the legislative body".
4. RSA 24:16 provides that a violation of RSA 24:15 "shall subject the person or persons so violating to the provisions of RSA 661:9, providing for removal from office."
5. RSA 24:16 further provides that "a petition of 5 resident taxpayers of the county may be made to the county commissioners, the county attorney, or a superior court judge for such removal".

6. The Petitioners elect to Petition the Belknap County Board of Commissioners pursuant to RSA 24:16.

7. Reps Silber and Sylvia knowingly and purposely violated RSA 24:15, by agreeing to a retainer with no monetary cap in contradiction to the voted-on appropriation, by apparently not even informing the law firm of the cap voted on by the convention, by not having any accounting of accumulating hours of legal work to insure the cap was not exceeded, by having the firm do legal work unrelated to the limited purpose voted on by the convention, and additionally, by seeking to keep all of these arrangements and violations secret, not only from the public, but also from the rest of the delegation.

WHEREFORE,

The Petitioners request the following Relief:

(1) Removal of Representative Norman Silber and Representative Michael Sylvia from their positions as members of the county convention

(2) Granting of such other relief as is deemed just and equitable.

Respectfully submitted;

Petitioners:

- | | |
|---|--|
| 1. <u>STEVEN GRANT</u>
Print Name | <u></u>
Signature |
| 2. <u>G. Ayden McLaughlin</u>
Print Name | <u></u>
Signature |
| 3. <u>CHARLES E ROSS</u>
Print Name | <u></u>
Signature |
| 4. <u>Jonathan W. Pike</u>
Print Name | <u></u>
Signature |
| 5. <u>Donald Knowlton</u>
Print Name | <u></u>
Signature |

By signing this Petition, all of the Petitioners represent that they are resident taxpayers of Belknap County, New Hampshire

April , 2022

Additional Petitioners:

Edward J Hamilton
Print Name

[Signature]
Signature

Donnis MARCOUX
Print Name

[Signature]
Signature

Kevin M. Higan
Print Name

[Signature]
Signature

Phil Bedard
Print Name

[Signature]
Signature

Print Name

Signature

Print Name

Signature

Print Name

Signature

Additional Petitioners:

Marie D. Giunta

Print Name (Sanborn-ton)

Signature

Guy J. Giunta Jr.

Print Name SANBORN-TON

Signature

Sheila Kufert

Print Name Sanborn-ton

Signature

Simone D. Cushing

Print Name Meredith

Signature

Arthur J. Cushing

Print Name MEREDITH

Signature

KEVIN SMITH

Print Name MEREDITH

Signature

CAROL SMITH

Print Name MEREDITH

Signature

ALMA ROCKMORE

Print Name SANBORN-TON

Signature

Robert Raelinore
Print Name SANBORN TON

Rult Rh
Signature