

MINNESOTA SENATE
SUBCOMMITTEE ON ETHICAL CONDUCT

CONDUCT OF SENATOR SAM G. SOLON

REPORT
TO THE
COMMITTEE ON RULES AND ADMINISTRATION

January 16, 1996

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EMBER REICHGOTT JUNGE
ASSISTANT MAJORITY LEADER

Senator 46th District
Room 205 State Capitol
75 Constitution Avenue
St. Paul, MN 55155-1606
Phone: 296-2889
and
7701 48th Avenue North
New Hope, Minnesota 55428



Senate

State of Minnesota

January 11, 1996

Senator Roger D. Moe, Chair
Committee on Rules and Administration
Room 208 Capitol
St. Paul, MN 55155

Subj: Conduct of Senator Sam G. Solon

Dear Senator Moe:

The Subcommittee on Ethical Conduct has completed its consideration of this matter and forwards to the Committee on Rules and Administration the enclosed resolution, which the Subcommittee recommends to pass.

The Subcommittee held its first meeting January 3, 1996, at which it afforded the parties an opportunity to present any evidence they might have relevant to the complaint. Senator Solon appeared with his attorney, Paul Rogosheske. Senator Solon made a statement and then responded to all the questions the Subcommittee asked. Senator Neuville asked a number of questions concerning the written record, but did not submit any oral testimony.

Before its second meeting, January 9, 1996, the Subcommittee provided to Senator Solon, through Mr. Rogosheske, and to Senator Neuville draft findings of fact. At the meeting, Mr. Rogosheske accepted the draft findings. Senator Neuville accepted the draft findings and submitted his proposals on sanctions.

After due deliberation, the Subcommittee adopted the resolution by a unanimous vote of all four members.

The Subcommittee wishes to express its appreciation for the assistance provided by its outside counsel, former chief justices of the Minnesota Supreme Court Douglas K. Amdahl and Robert J. Sheran.

Sincerely,

Ember Reichgott Junge, Chair
Subcommittee on Ethical Conduct

Dennis R. Frederickson
Steven G. Novak
Roy W. Terwilliger

COMMITTEES: Vice Chair, Ethics & Campaign Reform • Vice Chair, Rules & Administration •
Taxes & Tax Laws • Education • Education Funding Division • Judiciary • Chair, Special Subcommittee
on Ethical Conduct • Legislative Audit Commission • Legislative Commission on Planning & Fiscal Policy •
Legislative Coordinating Commission

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A Senate resolution relating to ethical conduct; conduct of Senator Sam G. Solon.

WHEREAS, the Subcommittee on Ethical Conduct of the Committee on Rules and Administration, based on clear and convincing evidence, has made the following findings:

- (1) Sam G. Solon was first elected to the Minnesota House of Representatives in 1970 and was first elected to the Minnesota Senate in 1972. He was reelected in 1976, 1980, 1982, 1986, 1990, and 1992. He currently represents District 7.
- (2) The marriage of Sam G. Solon and Paula Solon was dissolved in 1988.
- (3) Senator Solon provided the Senate's long-distance telephone access code to his ex-wife, Paula Solon, after their marriage was dissolved.
- (4) During the years 1992 and 1993, Paula Solon did not perform any legislative business for the Minnesota State Senate. Senator Solon knew that she was not performing any legislative business for the Senate.
- (5) Paula Solon says that Senator Solon authorized her to provide the Senate's access code to her mother, Ann Tool. Ann Tool did not perform any legislative business for the Minnesota State Senate. Senator Solon does not recall granting that authorization.
- (6) The Senate's access code was changed in August 1992 and January 1993. Senator Solon provided Paula Solon with the new access code each time it was changed.
- (7) During the years 1992 and 1993, telephone calls traced to Paula Solon's use of the Senate's access code totaled \$2,431.
- (8) Paula Solon's use of the Senate's access code terminated in March 1993.
- (9) In March 1993, in response to reports about abuses of the House telephone system by Representative Allan Welle, the Secretary of the Senate began reviewing the Senate's telephone records to determine whether there might be similar problems in the Senate.
- (10) With the aid of information provided by Senator Solon's long-time friend and roommate, Charles Westin, including the home and business telephone numbers of the persons to whom Senator Solon and Mr. Westin had given the Senate's access code, the Secretary of the Senate was able to determine the cost of the long-distance telephone calls made from those numbers and charged to the Senate. The cost was approximately \$3,000.
- (11) Senator Solon did not disclose to the Secretary of the Senate, who he knew was investigating his unauthorized calls, that he had given the Senate's access code to Paula Solon.
- (12) By his personal checks dated April 13, 1993, and May 4, 1993, Senator Solon made full restitution to the Senate of amounts paid by the Senate for the long-distance calls of Charles Westin, Don Johnson, Ronald Limoseth, Constance Limoseth, and Tom Bergh.
- (13) On May 12, 1993, Senator Solon publicly apologized to the Senate for the embarrassment, notoriety, and public ridicule that his indiscretion in giving out the Senate's long-distance telephone access code had inflicted upon the Senate.
- (14) On March 24, 1994, by Senate Resolution No. 68, 1994 JOURNAL OF THE SENATE 6871, Senator Solon was formally reprimanded by the Senate for his conduct in providing the Senate's long-distance telephone access code to others and for allowing others to use his Senate office and telephone to make calls on their own personal and private business.

- (15) The Ramsey County Attorney began an investigation of the long-distance telephone system of the Minnesota House of Representatives and Minnesota Senate in March 1993. The investigation was intended to determine whether there were unauthorized calls made on the House or Senate telephone systems that had been paid with public funds.
- (16) The investigation revealed, through a computer analysis of telephone numbers that frequently charged calls to the Senate, that Paula Solon had made numerous calls from her home telephone number that were charged to the Senate.
- (17) On December 5, 1995, before the Honorable Kenneth J. Fitzpatrick, Judge of Ramsey County District Court, Senator Solon pleaded guilty to a violation of Minn. Stat. § 609.893, subd. 1, Telecommunications and Information Services Fraud, a misdemeanor, and Minn. Stat. § 609.05, Liability for Crimes of Another.
- (18) Senator Solon was fined \$500 and sentenced to 90 days in jail. The jail sentence was suspended on the following conditions:
 - a. That he remain law-abiding for a period of one year.
 - b. That he pay the fine within one year.
 - c. That he make complete restitution to the Senate within one year for all calls charged to the Senate that were not for Senate business.
- (19) On December 12, 1995, Senator Solon relinquished his duties as chair of the Committee on Commerce and Consumer Protection, pending resolution of the proceedings of the Subcommittee on Ethical Conduct.

NOW, THEREFORE,

BE IT RESOLVED, by the Senate of the State of Minnesota:

- (1) That the conduct of Senator Sam G. Solon, in providing the Senate's long-distance telephone access code to his ex-wife, who made calls that were not on Senate business, was criminal.
- (2) That Senator Sam G. Solon's decision voluntarily to resign as chair of the Committee on Commerce and Consumer Protection was an appropriate disciplinary action that should continue for the remainder of his term.
- (3) That Senator Sam G. Solon be removed from membership on the Committee on Rules and Administration for the remainder of his term.
- (4) That Senator Sam G. Solon make restitution to the Senate for the cost of calls made by his ex-wife and not reimbursed to the Senate by her.
- (5) That Senator Sam G. Solon be required to apologize to the Senate in open session.

**ROGER D. MOE
MAJORITY LEADER**

Senator 2nd District
Route #3, Box 86A
Erskine, Minnesota 56535
Phone: (218) 574-2216

Room 208, State Capitol
75 Constitution Avenue
St. Paul, MN 55155-1606
Phone: (612) 296-2577



Senate

State of Minnesota

December 12, 1995

Senator Ember Reichgott Junge, Chair
Subcommittee on Ethical Conduct
205 Capitol
St. Paul, MN 55155

Subj: Discipline of Senator Sam Solon

Dear Senator Reichgott Junge:

On December 5, 1995, Senator Sam Solon pleaded guilty in Ramsey County District Court to a violation of Minn. Stat. § 609.893, Telecommunications Fraud, a misdemeanor, for misusing the Senate long-distance telephone system. He was fined \$500 and ordered to make restitution to the Senate in the amount of \$2,431 for personal calls made by his ex-wife and charged to the Senate.

As of today, Senator Solon has resigned his position as Chair of the Committee on Commerce and Consumer Protection.

Senate Rule 75 authorizes your Subcommittee to "serve in an advisory capacity to a member or employee upon written request and . . . issue recommendations to the member or employee."

As Chair of the Committee on Rules and Administration, I request that the Subcommittee on Ethical Conduct determine what disciplinary action, if any, is appropriate for the Senate to take against Senator Solon, considering the crime of which he has been convicted, the punishment imposed by the District Court, and the action he has already taken to resign his leadership position.

Sincerely,

A handwritten signature in cursive script that reads "Roger D. Moe".

Roger D. Moe
Senate Majority Leader

cc: Senator Sam Solon

Senate Counsel & Research

G-17 STATE CAPITOL
ST. PAUL, MN 55155
5121 296-4791
FAX 5121 296-7747

JO ANNE ZOFF SELLNER
DIRECTOR

Senate
State of Minnesota

December 21, 1995

COUNSEL

PETER S. WATTS
JOHN C. FULLER
BONNIE L. BEREZOVSKY
DANIEL P. MCGOWAN
KATHLEEN E. PONTIUS
GEORGE M. MCCORMICK
HANS I. E. BJORNSON
KATHERINE T. CAVANOR
CHRISTOPHER B. STANG
KENNETH P. BACKHUS
MELISSA JOHNSON
TOMAS L. STAFFORD
JOAN E. WHITE

**LEGISLATIVE
ANALYSTS**

WILLIAM RIEMERMAN
DAVID GIEL
MARK L. FERMANICH
RANDAL S. HOVE
GREGORY C. KNOPFF
PATRICK J. MCCORMACK
DANIEL L. MUELLER
JACK PAULSON
CHRIS L. TURNER
AMY M. VENNEWITZ
MAJA WEIDMANN

To: Senator Ember Reichgott Junge
Senator Dennis R. Frederickson
Senator Steven G. Novak
Senator Roy W. Terwilliger
Judge Douglas K. Amdahl
Judge Robert J. Sheran

From: Peter S. Wattson, Senate Counsel *PSW*
296-3812

Subj: Complaint Against Senator Solon

Enclosed is a complaint filed by Senators Dean Elton Johnson and Thomas M. Neuville against Senator Solon relating to the incident on which Senator Moe has already asked the Subcommittee for advice.

PSW:mjr
Enclosure

cc: Senator Sam G. Solon



Senate

State of Minnesota

Senator Ember Reichgott Junge, Chair
Senate Special Subcommittee on Ethical Conduct
205 State Capitol
St. Paul, MN 55155

STATE OF MINNESOTA
COUNTY OF RAMSEY

FORMAL COMPLAINT TO THE ETHICS SUBCOMMITTEE OF THE SENATE RULES COMMITTEE

Affiants Senators Dean Elton Johnson and Thomas M. Neuville, each first being duly sworn under oath, state and allege on information and belief as follows:

1. Affiant Dean Elton Johnson is a duly elected member of the Minnesota State Senate from District 15.
2. Affiant Thomas M. Neuville is a duly elected member of the Minnesota State Senate from District 25.
3. The Minnesota State Senate has a phone system in which access can be gained to the system by means of a code number. Persons accessing the Senate phone system in this manner can make telephone calls with the charges for those phone calls being paid by the Minnesota State Senate.
4. State Senator Sam Solon has admitted giving the access code number to the Senate's long-distance phone system to his ex-wife. Senator Solon's ex-wife utilized this access code to make numerous long distance personal phone charges which were billed to the State Senate.
5. Senator Solon has engaged in other similar conduct and had previously apologized to the Senate and been sanctioned by the Senate for this conduct. In that instance, Senator Solon gave the Senate telephone access code to a registered lobbyist who utilized it to make personal phone calls which were billed to the Senate.



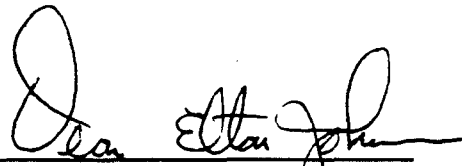
6. Involving this most recent conduct regarding the misuse of the Senate telephone system by his ex-wife, Senator Solon has pled guilty on December 5, 1995 to a misdemeanor in Ramsey County District Court.

7. As such, it is your affiants' belief that Senator Solon has breached his ethical duty to the Minnesota State Senate and the people of Minnesota by misuse of public property and misuse of his position as a State Senator, thereby violating an administrative policy of the Senate, violating accepted norms of Senate behavior, betraying the public trust, and bringing the Senate into dishonor or disrepute.

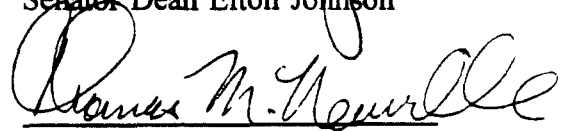
8. Affiants hereby formally complain of the conduct of Senator Sam Solon in this matter and respectfully request the Minnesota State Senate Special Subcommittee on Ethical Conduct to investigate this matter pursuant to Rule 75 of the Permanent Rules of the Minnesota State Senate and to recommend to the Senate appropriate discipline and sanctions.

Further your affiants sayeth not.

Date: December 20, 1995

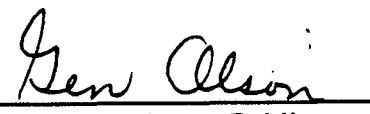


Senator Dean Elton Johnson



Senator Thomas M. Neuville

Subscribed and sworn to by Senator Dean Elton Johnson and Senator Thomas M. Neuville this 20th day of December, 1995, before Gen Olson, Senator, 34th District, Minnesota, ex officio notary public. My term expires January 1, 1997.



Ex-officio Notary Public

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE OF MINNESOTA,

Plaintiff,

vs

SAM G. SOLON

Defendant.

DISTRICT COURT

SECOND JUDICIAL DISTRICT

XX SUMMONS
WARRANT

Citation # 6-305482

PROBABLE CAUSE STATEMENT

Your complainant is Gerald F. McNiff, an investigator with the Ramsey County Attorney's Office, who has reviewed the reports prepared by Investigators of that same agency and now believes the following to be true:

An investigation of the Long Distance Telephone System for the Minnesota State Legislature was begun in March 1993. The investigation was made to determine if there were unauthorized calls made on the Minnesota State House of Representative and Senate telephone system which had been paid with public funds.

The investigation revealed that numerous long distance telephone calls were placed from telephone number (612)489-7958 and charged to the Minnesota State Senate. Paula Solon stated that her home telephone number was (612)489-7958 and that she had made long distance telephone calls from this number, which were charged to the Minnesota State Senate.

Ms. Solon stated that she had obtained the Minnesota State Senate long distance telephone access code from her ex-husband Sam Solon. Ms. Solon stated that she and Sam Solon were divorced in 1988. Ms. Solon stated that she did not perform any legislative business for the Minnesota State Senate. Ms. Solon stated that she had provided the Minnesota State Senate access code to her mother, Ann Tool. Ms. Solon said that Sam Solon had said she could give the Minnesota State Senate access code to her mother.

The telephone calls traced to Paula Solon's use of the Minnesota State Senate access code totaled \$2,431.00 for 1992 and 1993. The last call determined to have been made by Paula Solon was in March 1993. The barrier code for the Minnesota State Senate had been changed in August 1992 and January 1993.

Senator Sam Solon stated that he had given the Minnesota State Senate access code to Paula Solon, his ex-wife after they were divorced.

WHEREFORE, Complainant prays that said offender may be summoned to court or arrested and dealt with according to law.

special Assistant City Attorney

Complainant's Signature

Sworn to and subscribed and complained of before me this _____
of December 1993.

CITY OF St. Paul , Div 1 BRANCH

STATE OF MINNESOTA - RAMSEY COUNTY DISTRICT COURT
The undersigned, being duly sworn, upon his oath deposes and says:

Between 12/5/92 & 3/31/93

COMPLAINT

6-505482

T1-95-57954

TCIS #

Parent's name,
if juvenile

Phone #

Name Sam G. Solon

Address

Birth Date 6/25/31

D.L. No.

D.L. State

Ht.

Wt.

Race

Sex

State

Apt. #

Zip Code 55806

DID. IN THE CITY OF: {

unlawfully (Operate) (Park) License No.

19

State

Make

Color

City of Violation

Location of offense St. Paul, Ramsey County

located in the County and State aforesaid, and did then and there commit the following offense:

CN #

Stat./Ord. No.	Description	GM
<u>/ s/ 609.893 Subd. 1</u>	<u>Telecommunications and</u>	<input type="checkbox"/>
<u>/ /</u>	<u>Information Services Fraud</u>	
<u>/ s/ 609.05</u>	<u>Liability for Crimes of Another</u>	
<u>/ /</u>	<u>SPEED 169.14</u> mph in a <u>Zone</u>	<u>/ /</u> Fail to wear seatbelt

PARKING VIOLATIONS:	EXPIRED METER	OVERTIME	NO PARK ZONE	RUSH HOUR ZONE	TRUCK ZONE	EXPIRED PLATES	HANDICAP ZONE	FIRE HYDRANT	SNOW EMERG. ORD.	FIRE LANE	OTHER ILLEGAL PARKING
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

In Accident	Endanger Life or property
<input type="checkbox"/> PI: Personal Injury	<input type="checkbox"/> Hazardous Materials
<input type="checkbox"/> PD: Property Damage	<input type="checkbox"/> Placarded
<input type="checkbox"/> Pedestrian	<input type="checkbox"/> Commercial Vehicle
<input type="checkbox"/> Fatal	<input type="checkbox"/> Motorcycle

Unsafe Conditions: _____ Specify _____

I PROMISE TO RESPOND TO THIS CITATION WITHIN 14 DAYS
AND I UNDERSTAND THAT, IF I FAIL, A WARRANT FOR MY
ARREST WILL BE ISSUED AND NOTICE WILL BE SENT TO THE
STATE DRIVER'S LICENSE DIVISION.

Citing
Officer

Officer
Number

Citing
Dept.

PROBABLE CAUSE STATEMENT

The COMPLAINANT being duly sworn, makes complaint to the above named Court that the facts stated below establish probable cause to believe that the Defendant committed the offense described above.

COMPLAINANT

APPROVAL TO PROSECUTE

DATE

JUDICIAL OFFICER

1 STATE OF MINNESOTA

DISTRICT COURT

2 COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

3 -----

4 State of Minnesota,

File No. T1-95-57954

5 Plaintiff,

6 vs.

TRANSCRIPT OF PLEA

7 Sam G. Solon,

AND SENTENCE

8 Defendant.

9 -----

10

11 The above-entitled matter came on for hearing before
12 the Honorable Kenneth J. Fitzpatrick, Judge of District
13 Court, on the 5th day of December, 1995.

14

15

16 A P P E A R A N C E S

17 Charles M. Balck, Assistant Ramsey County Attorney,
18 and Susan Gaertner, Ramsey County Attorney, appeared on
19 behalf of Plaintiff.

20 Paul M. Rogosheske, Esq., appeared on behalf of
21 Defendant.

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P R O C E E D I N G S

THE COURT: Read the charge, please.

MR. BALK: Your Honor, the defendant, Sam G. Solon is charged by way of citation and probable cause statement with the misdemeanor offense of telecommunications and information services fraud pursuant to Minnesota Statute 609 point 893, together with the provision of Minnesota Statute 609 point 05, detailing liability for crimes of another.

THE COURT: Mr. Solon, do you understand the nature of the charges placed against you here today?

THE DEFENDANT: Yes, I do, Your Honor.

THE COURT: Have you had a chance to communicate with your attorney with regard to this matter?

THE DEFENDANT: Yes, I have.

THE COURT: And how do you wish to plead to that charge?

THE DEFENDANT: Guilty.

THE COURT: Would you take the witness stand, please, and be sworn in.

1 A. Yes, I do.

2 Q. Do you understand specifically with regard to your jury
3 trial rights if we went forward you could force the State
4 to prove you guilty beyond a reasonable doubt? Do you
5 understand that?

6 A. Yes, I do.

7 Q. You understand that the jury, all six people comprising the
8 jury, would have to be unanimous in their verdict?

9 A. Yes.

10 Q. You understand prior to the jury trial case we could have a
11 preliminary hearing to challenge your rights, whether or
12 not they have been violated, and we could challenge the
13 jurisdiction, we could challenge probable cause? Do you
14 understand that by pleading guilty today you're waiving
15 your right to have that pre-trial hearing?

16 A. Yes, I do.

17 Q. Basically, Senator, what you're doing is giving up every
18 conceivable right?

19 A. Yes.

20 Q. Is that what you want to do?

21 A. Yes.

22 Q. The complaint alleges that during 1992 through March of
23 1993 in the city of St. Paul and throughout -- through the
24 state of Minnesota that you gave your senate access code
25 number to your ex-wife Paula Solon. Is that a fair

1 statement?

2 A. That's true.

3 Q. You knew that Paula Solon did not have anything to do with
4 senate business; is that correct?

5 A. That's correct.

6 Q. And you knew that that was -- that's wrong and against the
7 law, correct?

8 A. I do now.

9 Q. You're not making a claim that you are innocent of the
10 charge, are you?

11 A. No, I'm not.

12 Q. And you have been represented by myself. Have you had
13 enough time to go over the facts and circumstances with me?

14 A. Yes, I have.

15 Q. Do you have any questions of either myself or Mr. Balck or
16 the judge at this time?

17 A. No, I don't.

18 MR. ROGOSHESKE: I don't have any further
19 questions.

20 THE COURT: Mr. Balck, do you wish to make an
21 inquiry?

22 MR. BALCK: No, it believe that's sufficient for
23 the charge.

24 THE COURT: You may step down from the witness
25 stand.

1 Having entered a plea of guilty to the misdemeanor
2 offense, at this time the Court will proceed with
3 sentencing. Counsel, do you wish to make any statement
4 before that sentence is imposed?

5 MR. ROGOSHESKE: Your Honor, just to indicate
6 that my client is deeply sorry for this. He regrets it
7 terribly. And as he indicated to you, makes no claim that
8 he's innocent of the charge, he's truly guilty of the
9 charge. He accepts your sentence.

10 THE COURT: Do you wish to make any further
11 statement yourself?

12 THE DEFENDANT: Just that I'm very sorry what
13 has transpired, Your Honor.

14 THE COURT: The State have anything further?

15 MR. BALCK: Nothing, Your Honor.

16 THE COURT: All right, the Court will impose a
17 sentence here of a fine of \$500 and a sentence of 90 days.
18 The 90 days will be suspended upon the following
19 conditions: Number one, that you remain lawabiding for the
20 period of one year. Number two, that you pay that fine.
21 And Number three, that you make complete restitution for
22 all phone calls used under your number, given to either --
23 made by yourself or given to other individuals that were
24 not a result of senate business. Do you understand those
25 conditions?

1 THE DEFENDANT: Yes, I do.

2 THE COURT: Do you agree to comply with them?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: Those conditions will have to be

5 accomplished within that year's period of time. Do you

6 understand that?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: All right, you see the clerk here

9 and make arrangements for the payment of the fine.

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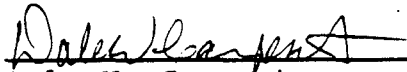
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STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CERTIFICATE

I, DALE W. CARPENTER, an Official Court Reporter for
the County of Ramsey, State of Minnesota, do hereby certify
that the foregoing is a true and accurate transcript of the
proceedings as taken by me on the dates and times stated,
in the matter of State of Minnesota vs. Sam G. Solon.


Dale W. Carpenter
Official Court Reporter

DATED: Dec. 22 1995.

609.893 Telecommunications and information services fraud; crime defined.

Subdivision 1. Obtaining services by fraud. A person commits telecommunications and information services fraud and may be sentenced as provided in subdivision 3 if the person, with intent to evade a lawful charge, obtains telecommunications service for the person's own use by any fraudulent means.

Subd. 2. Facilitation of telecommunications fraud. A person commits a felony and may be sentenced as provided in subdivision 4 who:

(1) makes available to another, or offers or advertises to make available, a telecommunications device or information in order to facilitate violation of subdivision 1 by another; or

(2) makes, assembles, or possesses a telecommunications device that is designed or adapted to violate subdivision 1 or to conceal from a provider of telecommunications service or from a lawful authority, the existence or place of origin or destination of telecommunications service.

Subd. 3. Fraud. (a) Whoever commit telecommunications and information services fraud in violation of subdivision 1 may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the services is in excess of \$2,500;

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the services is more than \$500 but not more than \$2,500; or

(3) in all other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

(b) Amounts involved in a violation of paragraph (a) under one scheme or course of conduct, whether from the same credit card number or several credit card numbers, may be aggregated in determining the classification of the offense.

Subd. 4. Facilitation of fraud. Whoever violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

HIST: 1990 c 494 s 6

609.05 Liability for crimes of another.

Subdivision 1. A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.

Subd. 2. A person liable under subdivision 1 is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended.

Subd. 3. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

Subd. 4. A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act.

Subd. 5. For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

HIST: 1963 c 753 art 1 s 609.05; 1986 c 444; 1991 c 279 s 22,23

FILE NO. 71-95-57954
STATE OF MINNESOTA
COUNTY OF RAMSEY, CITY ST. PAUL
CONV JUDICIAL DISTRICT

SJIS NO. _____
CA NO. _____
CN NO. _____

PROBATION REFERRAL PAGE 1 OF _____
JUDGMENT UPON CONVICTION/WARRANT OF COMMITMENT

DEFENDANT INFORMATION

NAME: SOLOMON SAM 6 A/K/A _____
Last First Middle
ADDRESS: 616-3RD ST. WEST DULUTH, MN 55806
SEX: ☒ M ☐ F RACE: ☒ White ☐ Hispanic ☐ African-American ☐ Asian ☐ American Indian ☐ Other
CUSTODY STATUS: (Circle One) CUS CR CR BAIL BOND

CONVICTION INFORMATION

Level of Conviction: F GM (M) On 12/5/95 the defendant:
☒ Entered a Plea of Guilty ☐ Was Found Guilty by Court
☐ Was Found Guilty by Jury ☐ Was Before the Crt on PV _____ (date)
Supervising P.O.: _____
Investigation Assigned to: _____
If prob. P.O. assigned: _____

the offense(s) of TELECOMM INFO SERV FRAUD, LIABILITY DOO: 12/5/92
Guilty Ct(s) _____ Ct 1 MS 609.893 UOC _____ GOC _____
Ct 2 MS 609.05 UOC _____ GOC _____
Dism _____ Ct _____ MS _____ UOC _____ GOC _____

Referral Type: ☐ PSI ☐ Update PSI ☐ CD Eval ☐ Memo/MSG Worksheet ☐ Psychological Eval ☐ Psychiatric Eval ☐ Other _____

Sentencing Date: _____ Judge: _____ Time: _____ Room: _____

Defendant: _____ Pros: MR. CHUCK BALCK
Deft. Atty: PAUL ROGOSHESKI

FELONY LEVEL SENTENCE

MISDEMEANOR / GROSS MISDEMEANOR LEVEL SENTENCE

Term of Sentence _____ Judge _____
Committed to Commissioner of Corrections for:
_____ Years, _____ Months, _____ Days and \$ _____ Fine
Minimum Incarceration _____, Maximum Supervised Release _____
Sex Offender Conditional Release Purs. to MS 609.346(5) _____ 5 yrs (1st offense)
_____ 10 yrs (2nd/subsequent)
Stay of Execution: _____ Years to: ☐ Court ☐ Probation
Stay of Imposition: _____ Years to: ☐ Court ☐ Probation
Stay of Adjudication M.S.152.18 _____ Years to Probation
Sentence is: ☐ Concurrent ☐ Consecutive with Case # _____
☐ Stillwater ☐ St. Cloud ☐ Shakopee ☐ Committed from Court

Count _____
Date of Sentence 12-5-95 Judge FITZPATRICK
☒ Sentence of 90 Days/Mos/Year and/or \$ 500.00 Fine
☒ Stay of Execution: 1 Years _____ Months to: NA ☒ Probation
☐ Stay of Imposition: _____ Years _____ Months to: ☐ Court ☐ Probation
☐ Sentence is: ☐ Concurrent ☐ Consecutive
with Case # _____
☐ Committed from Court

CONDITIONS

To serve _____ Days / Mos / Year _____ RCCF _____ VOA _____ ADC ☒ Pay \$ 500.00 Fine ☐ Pay fine/restitution from prison wages
Credit for _____ Days ☒ Fees W or D ☐ Chem Fee W or I \$ _____
Self in on _____ / _____ at _____ A.M. / P.M. ☐ Complete _____ hours Community Service by _____ / _____
Sentencing to Service if eligible ☐ Home Confinement if eligible ☒ Pay Restitution of \$ _____ or _____ amt to be determined by probation and
Usual conditions of probation ☐ Cont. prob. same terms cond's to be paid through probation by 12/5/96
Remain Law Abiding ☐ No same or similar viol's ☐ Attend Sex Offender Treatment ☐ Treatment and aftercare
Remain chemically free ☐ No Non-presc drugs ☐ Two day Anoka Program ☐ CA ☐ NA ☐ AA meetings
Then and recs ☐ No alcohol related offenses ☐ You must contact probation at 266-2300 after 3 (three) days.
Obtain from _____ ☐ Rule 25 and follow rec's ☐ Go Immediately to Courthouse Room 86 for interview by Probation
Random UA's per PO ☐ You must go immediately to Room 410, Maplewood Courthouse
No direct/indirect contact with _____ ☒ Other RESTITUTION OF PHONE CALLS
Domestic abuse cnslg & recs ☐ Psych eval and rec's

SAM SOLON
Senator 7th District
616 West Third Street
Duluth, Minnesota 55806
Phone: (218) 727-3997
and
Room 303 State Capitol
75 Constitution Avenue
St. Paul, MN 55155-1606
Phone: (612) 296-4188



Senate

State of Minnesota

December 12, 1995

Senator Roger D. Moe
Rules and Administration Committee
208 State Capitol
St. Paul, MN 55155

Dear Senator Moe:

The purpose of this letter is to advise you that, pending resolution of the Senate Ethics investigation, I am relinquishing my duties as Chair of the Commerce and Consumer Protection Committee of the Minnesota State Senate. Once the Rules and Administration Special Subcommittee on Ethical Conduct completes its work, I will abide by its recommendation.

It is with regret that I take this action now. My personal situation should not reflect on my colleagues nor detract from the work of the Senate.

Please accept this letter of resignation, effective immediately.

Sincerely,

Sam G. Solon
State Senator

SGS:bf



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COMMITTEES: Chairman, Commerce and Consumer Protection • Education • Family Services • Rules •
Health Care and Family Services Finance Division • Higher Education Finance Division

chapters and other review organizations; providing confidentiality protection and protection from discovery process for the transfer of the information; clarifying the scope of confidentiality of review organization records; exempting medical societies from reporting obligations when performing peer review functions; amending Minnesota Statutes 1992, sections 145.61, subdivision 5, and by adding a subdivision: 145.64, subdivision 1; and 147.111, subdivision 3.

And when so amended the bill do pass. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 1823, 1700, 1784, 1759, 1802, 2013, 2415, 1807, 2006, 2035, 1968, 2178, 1816 and 2510 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 1496 was read the second time.

MOTIONS AND RESOLUTIONS

Ms. Johnston moved that the name of Mr. Price be added as a co-author to S.F. No. 1951. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Murphy be added as a co-author to S.F. No. 2716. The motion prevailed.

Mr. Stumpf moved that the name of Mr. Vickerman be added as a co-author to S.F. No. 2724. The motion prevailed.

Ms. Pappas moved that the name of Mr. Marty be added as a co-author to S.F. No. 2790. The motion prevailed.

Mr. Moe, R.D., for the Committee on Rules and Administration, introduced—

Senate Resolution No. 68: A Senate resolution relating to ethical conduct; reprimanding Senator Sam G. Solon.

WHEREAS, the Special Committee on Ethical Conduct has made the following findings:

1. Sam G. Solon was first elected to the Minnesota House of Representatives in 1970 and was first elected to the Minnesota Senate in 1972.

2. Senator Solon has served well and faithfully the residents of Duluth and Northeast Minnesota since that time.

3. Senator Solon's office has for 20 years been the center of operations for residents of Duluth who are here lobbying the legislature.

4. Senator Solon has allowed the visitors in his office to use the Senate's telephone system to make calls to Duluth.

5. Senator Solon provided the Senate's long-distance telephone access code to his long-time friend and roommate Charles Westin, so that Mr. Westin could call Senator Solon in Duluth when Mr. Westin was in St. Paul.

6. Mr. Westin used the Senate's long-distance telephone access code not only to make calls to Senator Solon but also to make calls from his business office in St. Paul to the offices of the Northeast Minnesota Economic Development Association (NEMDA) in Duluth and to make personal calls from his residence in St. Paul to his family in Duluth, at a combined cost to the Senate of approximately \$320.

7. Mr. Westin provided the Senate's long-distance telephone access code to Mr. Don Johnson, a St. Paul resident who was engaged in setting up a business importing products from South Africa and the Virgin Islands.

8. Mr. Westin also escorted Mr. Johnson to Senator Solon's office and told Senator Solon's secretary that Mr. Johnson was authorized to use the Senate telephone system to make calls to South Africa as part of an economic development project.

9. Mr. Johnson, without Senator Solon's actual knowledge or approval, did use the Senate's telephones to make business calls to South Africa and used both the Senate's telephones and the Senate's long-distance telephone access code to make business calls to the Virgin Islands at Senate expense of approximately \$1,600.

10. Senator Solon also provided the Senate's long-distance telephone access code to Mr. Ronald Limoseth, his volunteer aide and confidante for more than 20 years, so that Mr. Limoseth could call him at Senate expense to report on legislative matters he was handling for Senator Solon.

11. Mr. Limoseth used the Senate's access code to call Senator Solon not only from Duluth and Northeast Minnesota but also from his winter residence in Pompano Beach, Florida.

12. Mr. Limoseth, without Senator Solon's actual knowledge or approval, gave the Senate's long-distance telephone access code to his wife, Mrs. Constance Limoseth, who used it to make numerous personal calls from their winter home in Pompano Beach, Florida, to her relatives in Maine and California.

13. The calls placed by the Limoseths from Pompano Beach were paid for by the Senate in the approximate amount of \$630.

14. Senator Solon also provided the Senate's long-distance telephone access code to Mr. Tom Bergh, Executive Director of the Northeast Minnesota Economic Development Association (NEMDA), a nonprofit organization involved in promoting economic development in Northeast Minnesota, to be used to call Senator Solon at the capitol on legislative business.

15. Calls made by Mr. Bergh were paid for by the Senate in the approximate amount of \$450.

16. Senator Solon also provided the Senate's long-distance telephone access code to his son, Chris Solon. Chris Solon did not use the access code.

17. For many years the state telephone directory has contained a warning that "State telephones shall not be used for personal long distance calls."

18. For many years the Senate Administrative Services Directory has contained a warning that "Long distance calls on state telephones are for business only. State telephones are not to be used for personal long distance calls."

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19. The calls made by Mr. Westin from St. Paul to his family in Duluth were clearly personal and in no way related to Senate business.

20. The calls made by Mrs. Limoseth from Florida to her relatives in Maine and California were clearly personal and in no way related to Senate business.

21. The calls made by Mr. Johnson to South Africa and the Virgin Islands were for his personal business and in no way related to the business of the Senate.

22. The personal calls made by Charles Westin, Constance Limoseth, and Don Johnson violated the Senate's administrative policy prohibiting the use of Senate telephones for personal long-distance calls.

23. Although the business engaged in by Charles Westin and Tom Bergh to promote economic development in Northeast Minnesota was a proper business, it was not Senate business.

24. The cost of calls made by Charles Westin and Tom Bergh to conduct the business of the Northeast Minnesota Economic Development Association should not have been billed to the Senate.

25. The public disclosure, on and after April 12, 1993, of the uses made of the Senate's long-distance telephone service by Charles Westin, Don Johnson, Ronald Limoseth, Constance Limoseth, and Tom Bergh has brought upon the Senate dishonor and disrepute.

26. A member of the Senate is responsible not only for the member's own conduct but also for the conduct of others to whom the member entrusts the use of Senate property.

27. Senator Solon has accepted full responsibility for the cost of calls made by those to whom he entrusted the Senate long-distance telephone system and long-distance access code. By his personal checks dated April 13, 1993, and May 4, 1993, Senator Solon has made full restitution to the Senate of amounts paid by the Senate for the long-distance calls of Charles Westin, Don Johnson, Ronald Limoseth, Constance Limoseth, and Tom Bergh.

28. On May 12, 1993, Senator Solon publicly apologized to the Senate for the embarrassment, notoriety, and public ridicule that his indiscretion in giving out the Senate's long-distance telephone access number had inflicted upon the Senate.

29. Senator Solon cooperated fully with the investigation of his conduct carried out by the Attorney General, the Ramsey County Attorney, and the Olmsted County Attorney.

30. The Olmsted County Attorney found that there was not evidence to charge Senator Solon with the commission of a crime.

31. None of the calls in question were made by Senator Solon himself or for his personal gain.

32. Following the completion of the criminal investigation, Senator Solon voluntarily submitted himself to the disciplinary authority of the Special Committee on Ethical Conduct.

33. Senator Solon has ceased to allow visitors to his office to use the Senate's long-distance telephone system.

34. Senator Solon has not given his new Senate long-distance telephone access number to anyone, and has pledged not to do so in the future.

35. Senator Solon has ceased to live with Charles Westin.

36. Senator Solon has admitted to the Special Committee on Ethical Conduct that his conduct was inappropriate.

NOW, THEREFORE.

BE IT RESOLVED, by the Senate of the State of Minnesota:

1. That the conduct of Senator Sam G. Solon in providing the Senate's long-distance telephone access code to others was inappropriate.

2. That the conduct of Senator Sam G. Solon in allowing others to use his Senate office and telephone to make calls on their own personal and private business was inappropriate.

3. That Senator Sam G. Solon be required to make restitution and apologize to the Senate, which he has done.

4. That Senator Sam G. Solon be, and hereby is, reprimanded.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Ms. Runbeck moved that S.F. No. 2748 be withdrawn from the Committee on Health Care and re-referred to the Committee on Crime Prevention. The motion prevailed.

Ms. Pappas moved that S.F. No. 2178, on General Orders, be stricken and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Mr. Chmielewski moved that S.F. No. 2006, on General Orders, be stricken and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1910 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1910: A bill for an act relating to motor vehicles; emission control inspections; requiring contractors operating public inspection stations to make available the opportunity to renew motor vehicle registrations and obtain plates or tabs at inspection stations; amending Minnesota Statutes 1992, section 116.62, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 168.

Mr. Frederickson moved to amend S.F. No. 1910 as follows:

Page 2, line 34, after the comma, insert "subdivisions 1 to 6."

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Ms. Wiener imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

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THUET, PUGH & ROGOSHESKE, LTD.

ATTORNEYS & COUNSELORS
833 SOUTHVIEW BOULEVARD
SOUTH SAINT PAUL, MINNESOTA 55075

TELEPHONE: (612) 451-6411

FAX #451-9956

THOMAS W. PUGH
PAUL W. ROGOSHESKE*
HARRY E. ELIASON
JOE C. DALAGER

*ALSO ADMITTED TO
PRACTICE IN WISCONSIN

PAUL A. THUET, JR.
1916 - 1987
WILBUR L. GOYER
(OF COUNSEL)

December 29, 1995

Senator Ember Reichgott Junge, Chair
Senate Special Subcommittee and Ethical Conduct
205 State Capitol
St. Paul, MN 55155

Re: Senator Sam Solon

Dear Senator Reichgott Junge:

As you know, I represent Senator Solon with respect to the ethical complaint that has been filed against him by Senators Johnson and Neuville on December 20, 1995. Even though Rule 75 calls for a complaint to be received under oath *during* the legislative session, Senator Solon and I will gladly appear before your subcommittee on Wednesday, January 3, 1996, at 12:00 p.m. In that regard, I have spoken with Senate counsel, Peter Watson. He has informed me that, based on Senator Solon's plea of guilty, it is the consideration of the committee that probable cause has been found. If this is the case, I would request that we revert to a closed executive session so we might be able to address the committee regarding the facts negating probable cause.

If you do not concur with my request for a closed executive session, I would ask that we adhere to Rule 75 and require that television coverage be provided by Senate Media Services. It would seem to me that to do otherwise would create a media circus.

Possibly, after reviewing this letter, either yourself or Senate counsel, Peter Watson, could contact me to get some type of agreement on procedure. As we are the focus of the committee's investigation an agreement with us might ease the proceedings and make them more palpable to the committee.

I await any consideration you might give my request. Thanks very much.

Very truly yours,

THUET, PUGH & ROGOSHESKE, LTD.


By: Paul W. Rogosheske

PWR/pja
cc: Peter Watson
Senator Solon

EMBER REICHGOTT JUNGE
ASSISTANT MAJORITY LEADER

Senator 46th District
Room 205 State Capitol
75 Constitution Avenue
St. Paul, MN 55155-1606
Phone: 296-2889
and
7701 48th Avenue North
New Hope, Minnesota 55428



Senate

State of Minnesota

January 2, 1996

Senator Sam Solon
Room 303 Capitol
St. Paul, MN 55155

Dear Sen. Solon:

On December 12, 1995, you were given notice of the request for disciplinary action against you filed by Senator Moe. On December 21, you were given notice of the complaint against you filed by Senator Dean Johnson and Senator Neuville.

A hearing on those matters is scheduled for Wednesday, January 3, 1996, in Room 112 of the Capitol, beginning at 3:00 p.m..

Enclosed are copies of Senate Rule 75, under which the Subcommittee on Ethical Conduct is now operating, the rules of procedure adopted by the Subcommittee in 1994, and Minn. Stat. § 3.153, setting forth the subpoena power of the Subcommittee.

You may appear at the hearing to present evidence and argument on your behalf. All testimony will be taken under oath. You may present witnesses whose testimony is competent, relevant, and material to the subject of the hearing. For any witnesses you intend to call, please inform the Subcommittee at least 24 hours before the hearing of the witness' name, address, and phone number, and a brief summary of the testimony you expect the witness to give.

You may appear with counsel, and may cross-examine any witnesses that may testify against you.

The hearing will be recorded on magnetic tape, and Subcommittee will also have a court reporter present to make a stenographic record. You may request a copy of the tape or a transcript at your expense.

The hearing will be a public proceeding.

If you have any questions about how the Subcommittee intends to proceed, please contact one of us or Senate Counsel.

Sincerely,

Ember Reichgott Junge, Chair
Subcommittee on Ethical Conduct

Dennis R. Frederickson
Ranking Member

COMMITTEES: Vice Chair, Ethics & Campaign Reform • Vice Chair, Rules & Administration •
Taxes & Tax Laws • Education • Education Funding Division • Judiciary • Chair, Special Subcommittee
on Ethical Conduct • Legislative Audit Commission • Legislative Commission on Planning & Fiscal Policy •
Legislative Coordinating Commission

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It is important that you know the facts with respect to the use of my state credit card and my former wife, Paula Solon, in 1992 and 1993. I married Paula Korhonen in 1973. Shortly after we were married, I gave my wife, Paula, my state telephone credit card so that she could call me when I was in the Legislature. I was divorced from Paula Solon in 1988. At the time of our divorce, I continued to permit Paula to have my state credit card, and she continued to have the card during 1992 and 1993.

During the summer of 1995, I received a call from Paula telling me that investigators had contacted her about long distance calls that she had made using my state credit card. It had been several months since I had spoken with Paula. At that point, she informed me that she had used the credit card for making personal long distance telephone calls to persons other than me. Before this conversation, she had not informed me that she was using my credit card for this purpose. Moreover, during their 1993 and 1994 investigations, I had not been informed by the Senate Rules Committee or the State Auditor that these telephone calls were being made during 1992 and 1993. Therefore, this was the first time I became aware that Paula used my credit card for making personal long distance calls. Shortly thereafter, she informed me that she would reimburse the state for all of the calls made. She immediately reimbursed the state.

In October of 1995, a story appeared in the state media that the Ramsey County Attorney would ask the grand jury to investigate these same telephone calls. By this time, Paula had already repaid the State of Minnesota for the calls. Thereafter, the Ramsey County Attorney referred the matter to the St. Louis County Attorney, Alan Mitchell, for appropriate investigation. Mr. Mitchell carefully reviewed the file and concluded that no criminal prosecution was warranted because of lack of intent on my part to permit Paula to use the state credit card to make personal calls. Despite this

determination by the St. Louis County Attorney, the Ramsey County Attorney decided to proceed with criminal charges against me.

Before the matter was presented to a grand jury, my attorney, Paul Rogosheske, contacted the Ramsey County Attorney staff. The County Attorney proposed that I plead guilty to a simple misdemeanor of aiding and abetting Paula Solon in using my credit card to make personal calls. To put the matter simply, the agreement was that if I pled guilty to giving Paula my state credit card, the County Attorney's office would recommend that no further legal action be taken. I accepted the negotiated agreement and pled guilty to the charge. I did so because I wanted to accept responsibility for the fact that I had given the credit card to Paula Solon. Subsequently, in a further effort to accept responsibility for having permitted Paula Solon to keep possession of the credit card, I stepped down from my position as Chairman of the Senate Committee on Commerce and Consumer Protection.

I strongly believe that my actions have completely satisfied whatever public concerns there may be as a result of these incidents. I have accepted responsibility for my actions, but, I must repeat, I was not aware ^{at that} ~~that~~ the Paula Solon had used my credit care for personal calls in 1992 and 1993 until she called me and informed me of this fact in 1995.

I intend to run for re-election in 1996. It is my hope that this Committee will recognize that I have acted responsibly in this matter. It is also my hope that the people of my senatorial district, with full knowledge of these facts I have stated above, will again support me in my bid for re-election. Meanwhile, in the 1996 session of the Legislature, I will continue to work for the best interests of the people of my district and the State of Minnesota.

Senator Neville's

January 3, 1996

Questions Regarding:
Senator Sam Solon

1. What was the amount of phone calls made by Paula Solon?
2. Over what period of time were illegal phone calls made.
3. Why did Senator Solon give her the phone card and access number.
 - A) What did Solon tell Paula, if anything, about the legality of using the phone card?
 - B) What conversations, if any, occurred between Senator Solon and Paula Solon regarding her use of phone code after investigation began regarding phone use by lobbyist in 1993-94.
4. Did Senator Solon cover-up his knowledge of Paula Solon's use of phone code when he apologized to Senate in 1994 regarding phone use by lobbyist.
5. What charges could Senator Solon have been charged with arising out of Paula Solon phone use? Could he have been charged with a felony?
 - A) Why was pleas to misdemeanor considered fair by prosecutor?
 - B) Why was case never submitted to grand jury?
 - C) Was Senator Solon's sentence fair?
6. Did Solon promptly admit responsibility?
 - A) What statement has Senator Solon given to law enforcement regarding his knowledge of this incident.
 - B) Did Senator Solon attempt to plead innocence or lack of knowledge of any time prior to his plea?
7. To what extent does Senator Solon's present and past conduct bring the Senate into disrepute or betray the public trust?

MINNESOTA SENATE
SUBCOMMITTEE ON ETHICAL CONDUCT

CONDUCT OF SENATOR SAM G. SOLON

TESTIMONY OF JANUARY 3, 1996

Transcribed on January 7, 1996

1 Proceedings held on the 3rd day of January, 1996, before the Minnesota Senate
2 Subcommittee on Ethical Conduct, Room 15, State Capitol.

3
4 Members of the Committee include:

5
6 Senator Ember Reichgott Junge, Chair

7 Senator Dennis R. Frederickson

8 Senator Steven G. Novak

9 Senator Roy W. Terwilliger

10
11 Peter S. Wattson, Senate Counsel

12
13 Chief Justice Douglas K. Amdahl, Outside Counsel

14 Chief Justice Robert J. Sheran, Outside Counsel

15
16 **A P P E A R A N C E**

17
18 Paul Rogosheske, Thuet, Pugh & Rogosheske, Ltd., Attorneys & Counselors, 833
19 Southview Boulevard, South St. Paul, Minnesota 55075, appeared on behalf of Senator Sam
20 Solon.

21
22 **W I T N E S S E S**

23
24 Senator Sam Solon

25 Patrick Flahaven, Secretary of the Senate
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1 continued to have the card during 1992 and 1993. During the summer of 1995, I received a call
2 from Paula telling me that investigators had contacted her about long distance calls that she had
3 been - she had made using my state credit card. It had been several months since I had spoken
4 with Paula. At that point, she informed me that she had used the credit card for making personal
5 long distance telephone calls to persons other than me. Before this conversation, she had not
6 informed me that she was using my credit card for this purpose. Moreover, during their 1993
7 and '94 investigations, I had not been informed by the Senate Rules Committee or the State
8 Auditor that these telephone calls were being made during 1992 and '93. Therefore, this was the
9 first time I became aware that Paula used my credit card for making personal long distance calls.
10 Shortly thereafter, she informed me that she would reimburse the state for all the calls made and
11 she immediately reimbursed the state. In October of 1995, a story appeared in the state media
12 that the Ramsey County Attorney would ask the grand jury to investigate these same telephone
13 calls. By this time, Paula had already repaid the State of Minnesota for the calls. Thereafter, the
14 Ramsey County Attorney referred the matter to the St. Louis County Attorney, Alan Mitchell, for
15 appropriate investigation. Mr. Mitchell carefully reviewed the file and concluded that no
16 criminal prosecution was warranted because of lack of intent on my part to permit Paula to use
17 the state credit card to make personal calls. Despite this determination by the St. Louis County
18 Attorney, the Ramsey County Attorney decided to proceed with criminal charges against me.
19 Before the matter was presented to a grand jury, my attorney, Paul Rogosheske, contacted the
20 Ramsey County Attorney staff. The County Attorney proposed that I plead guilty to a simple
21 misdemeanor of aiding and abetting Paula Solon in using my credit card to make personal calls.
22 To put the matter simply, the agreement was that if I pled guilty to giving Paula my state credit
23 card, the County Attorney's office would recommend that no further legal action be taken. I
24 accepted the negotiated agreement and pled guilty to the charge. I did so because I wanted to
25 accept responsibility for the fact that I had given the credit card to Paula Solon. Subsequently, in
26 a further effort to accept responsibility for having permitted Paula Solon to keep possession of
27 the credit card, I stepped down from my position as Chairman of the Senate Commerce
28 Committee or Committee on Commerce and Consumer Protection. I strongly believe that my

1 actions have completely satisfied whatever public concerns there may be as a result of these
2 incidents. I have accepted responsibility for my actions, but I repeat, I was not aware that Paula
3 Solon had used my credit card for personal calls in 1992 and '93 until she informed me of this
4 fact in 1995. I intend to run for re-election in 1996. It is my hope that this committee will
5 recognize that I have acted responsibly in this matter. It is also my hope that the people of my
6 senatorial district, with full knowledge of these facts I have stated above, will again support me
7 in my bid for re-election. Meanwhile, in the 1996 Session of the Legislature, I will continue to
8 work for the best interests of the people of my district and the State of Minnesota. Thank you.

9 SENATOR REICHGOTT JUNGE: Thank you Senator Solon. Mr. Rogosheske, did you
10 want to make some concluding remarks?

11 MR. ROGOSHESKE: If I could make those comments after the committee is through
12 asking questions, I'd appreciate it or if you want me to, whatever you prefer Madame Chair, I
13 can do.

14 SENATOR REICHGOTT JUNGE: You may wait, that's fine.

15 MR. ROGOSHESKE: Thank you.

16 SENATOR REICHGOTT JUNGE: All right. Thank you then Senator Solon. Are there
17 questions for Senator Solon?

18 SENATOR TERWILLIGER: Madame Chair, Senator Solon, in the material in the
19 probable cause statement, it states, "Ms. Solon stated that she had provided the Minnesota State
20 Senate access code to her mother, Ann Tool. Ms. Solon said that Sam Solon had said she could
21 give the Minnesota State Senate access code to her mother." What was the role of her mother in
22 this? Was she relaying information or --

23 SENATOR SOLON: Madame Chair.

24 SENATOR REICHGOTT JUNGE: Senator Solon.

25 SENATOR SOLON: Senator Terwilliger, I don't remember having done that, given my
26 wife, ex-wife permission to give her mother the phone. I don't recall doing that, but you're
27 talking 1992 and '93, I believe.

28 SENATOR TERWILLIGER: Madame Chair.

1 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

2 SENATOR TERWILLIGER: Senator Solon, the reason I raise this question is that a
3 statement that was signed and subscribed to in December of 1995 and it seems to me that in your
4 statement you're talking about giving the card to your, to your wife, but here we're talking about
5 her giving it to her mother and I guess I'm just trying to find out what's the role of her mother in
6 this situation.

7 MR. ROGOSHESKE: Madame Chair, Senator Terwilliger, maybe I might help --

8 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

9 MR. ROGOSHESKE: Maybe I might help you out on that. This investigation
10 encompasses '92 and '93. If you will recall, you can remember your access code was changed in
11 January of 1993. Shortly after the Welle incident, March of '93, April of '93, the code was
12 changed again. There are absolutely no calls, improper calls, made using Senator Solon's access
13 code or his telephones in his office after March of 1993. What Paula Solon did and what her
14 mother did in '92 and '93, they made calls not only to each other but Mrs. Tool made very little
15 calls. It was primarily Paula Solon's calls to her sisters. That's what Paula Solon did and those
16 are the only people she called. So, that's what the facts are. This has nothing to do with into the
17 '93, '94, and '95. There were absolutely no calls made by Paula Solon or anyone connected
18 with Paula Solon after March of 1993.

19 SENATOR TERWILLIGER: Madame Chair.

20 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

21 SENATOR TERWILLIGER: Mr. Rogosheske, Ms. Solon said that, "Sam Solon had
22 said she could give the Senate access code to her mother" and I guess --

23 MR. ROGOSHESKE: That was back in '92 and '93, Senator.

24 SENATOR TERWILLIGER: I understand that, but why would Senator Solon tell her to
25 give the access code to her mother when even if it was 1992 or 1994, or whenever, I assume that
26 the reason the card was originally given to Mrs. Solon was to relay information, with the
27 understanding that it was Senate business that was being conducted and I can understand that, I
28 guess, but I'm understanding, I don't understand why, unless Mrs. Tool was somehow involved

1 here, why even at that point, or regardless of whatever, why Senator Solon would tell her that she
2 should give that access code to her mother.

3 MR. ROGOSHESKE: Two points, Madame Chair.

4 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

5 MR. ROGOSHESKE: Senator Terwilliger, if you read the final report of telephone
6 controls, an extensive hearing in the House, chaired by Representative Pugh, and even members
7 of your committee, and if you read the voluminous Attorney General's report on the
8 unauthorized use of calls, and you go back to October of 1993, you will recall that the perception
9 in '92 and '93 were that we were on a flat rate and it didn't matter how many calls you made, it
10 was the same fee and that was the perception back in '92 and '93. Now that perception was
11 wrong, it turned out to be. It probably wasn't looked at very closely, but if you say, "Why could
12 something like that happen," I suppose these reports, along with County Attorney Foley, who
13 gave amnesty to many members of this body and many members of the House, because of that
14 particular perception, and I will quote in October 8, 1993, a press release issued by your Senate
15 Minority Leader and Senator Majority Leader Roger Moe, Senate leaders noted "That the Senate
16 telephone system has not been routinely abused. The widespread analysis of telephone records
17 reveal that there were staff members and Senators who misunderstood the Senate telephone
18 policy, but whose persons are now aware of the Senate guidelines and Senator Moe and Johnson
19 believe most, if not all, have made or will make reimbursement payments to the state" so I
20 believe it was a misperception and that was certainly my client's understanding and you can talk
21 to him about it but he thought it was on a flat rate back in '92 and '93.

22 SENATOR SOLON: Madame Chair.

23 SENATOR REICHGOTT JUNGE: Senator Solon.

24 SENATOR SOLON: If I may add, Senator Terwilliger, as I said earlier, I don't remember
25 making that recommendation or responding to my ex-wife in that fashion, but I believe I also
26 told the investigators that if I did, if my ex-wife had requested the use of the phone for her
27 mother, I probably would have said "yes" at that time based on the testimony of my counsel that
28 we thought it was a flat rate and looking in hindsight, if I did do that it was a mistake.

1 SENATOR REICHGOTT JUNGE: Senator Solon, why would Mrs. Solon have had the
2 access code after 1988? Why would you have given it to her at all?

3 SENATOR SOLON: Madame Chair, even though we were divorced in 1988, our
4 relationship continued for several years after that. We were communicating, we were seeing
5 each other, we were contacting each other through phone and through the mail. When I was in
6 session down here I would be – I would see her 'cause she lives here in St. Paul, so the – we just
7 communicated with each other even though we were legally divorced there was a lot of – 14
8 years of relationship there, our families together and it was a very painful divorce to go through
9 and for a long time after we were both hoping that it – that there was some way we could resolve
10 this, but you know, which we didn't, but that was why she had the phone, the numbers.

11 SENATOR REICHGOTT JUNGE: Senator Frederickson.

12 SENATOR FREDERICKSON: Madame Chair, Senator Solon, I've had an opportunity to
13 read through your statement a second time and at the beginning of the statement you made the
14 statement, at the time of your divorce, you continued to allow Paula to have the state credit card,
15 and as I recall back then, I think it was more a matter of calling into a state operator and by voice
16 they would place the call, I believe that was the system then but then between that and 1993
17 when Paula continued to make calls, we went to a different system where we had access numbers
18 or access codes. You apparently gave Paula those access codes so she could continue to make
19 calls, and I was curious if you gave her instructions to what they could be used for or what that
20 discussion was.

21 SENATOR SOLON: Madame Chair.

22 SENATOR REICHGOTT JUNGE: Senator Solon.

23 SENATOR SOLON: Senator Frederickson, yes, as I said here, I did give her the access
24 code number and I don't know how – I can't recall how clear I made – I made it when we did
25 give – we did connect with the numbers, but I had presumed and thought that the calls would be
26 made to me. Now whether – if she were to make a call or two to somebody else, I don't think
27 that I would've objected or screamed about it because we all thought it was a flat rate whether it
28 was one call or a thousand calls, the price was the same. But believe me, I was the most shocked

1 person around when I was informed in 1995 that the accumulation of calls was to a total of
2 \$2,400. I was totally shocked by that.

3 SENATOR REICHGOTT JUNGE: Senator Frederickson.

4 SENATOR FREDERICKSON: Madame Chair, Senator Solon, what I'm struggling with
5 in trying to understand this is I did listen to the tapes in my office last night of our first
6 proceeding and I think there we ended up, the explanation was well, number 1, it was inadequate
7 office management, number 2, it was your desire to help individuals with economic development
8 in Duluth, northeast Minnesota area and so you allowed some people to use your telephone,
9 which, you know, we can understand, we all want to help our districts and third, some members
10 of your family, I believe you mentioned your son had access code to call information back here
11 to St. Paul using the state lines, which is understandable, but I have a difficult time understanding
12 what state business Paula would be relaying to you, particularly several years after the divorce.

13 MR. ROGOSHESKE: Madame Chair.

14 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

15 MR. ROGOSHESKE: Senator Terwilliger, if this goes partly to the plea negotiations
16 deciding what to do. Back in 1992 and '93, what is Senate business? Is Senate business the
17 ability to repair your marriage? Is Senate business the ability to keep in touch with your wife?
18 Senate business in 1992 and '93 might be different from Senate business in 1996 or December of
19 1995. Based on those discussions, the Senator and myself thought it would be best to say that
20 was wrong. That's our decision. When you're talking about family matters, that is definitely
21 different than actual promoting economic development. But the whole legislative issue of "what
22 is Senate business" has never been defined and I know various corporations allow people to call
23 their spouses and their children to keep in touch when they're away. Is it Senate business to
24 allow you to repair a marriage? I don't know. To be on the safe side, Senator Solon said,
25 "That's wrong, I shouldn't have given it to my ex-wife. That was wrong in '92 and '93."
26 Hindsight is 20-20. I'll defer to Senator Solon to expand.

27 SENATOR SOLON: Madame Chair and Senator Frederickson.

28 SENATOR REICHGOTT JUNGE: Senator Solon.

1 SENATOR SOLON: I admit that, if I were to be asked the same question today with the
2 same experience or if the opportunity were there, I would have certainly said "no," but in – I've
3 been. I've been in office here since 1971. We never got a bill. We never were issued a statement
4 in all those years. I was never told, ya know, what's right, what's wrong, what you can do, what
5 you can't do and I'm sure we all abused the system and I admit that I made mistakes and I admit
6 that giving my ex-wife the number was a mistake and that's why I pleaded guilty in court. I
7 would not do it again, but I was – I was in a system that I thought was in place since the 70's and
8 didn't realize it was changed and if I may add further, Madame Chair, when we first discovered
9 that, you mentioned Senator, the economic development calls that in – I, I had asked our – the
10 people at this capitol to let me know if there was anybody else on the list that I had given the
11 number to that I may have inadvertently could not recall and unfortunately the system was
12 unable to detect any more calls or I would have been – I would have come forth several years ago
13 instead of having to go through this painful experience today.

14 SENATOR REICHGOTT JUNGE: Senator Solon, I was not a part of this panel in the
15 1993 session when I believe you came before it for the first time. Were you – were you ever
16 asked – you said no one told you that there were other calls that might need to be reimbursed, but
17 were you ever asked during those proceedings whether or not you had given the code to someone
18 else?

19 SENATOR SOLON: I believe, if I recall from the proceedings, that I was asked by
20 investigators and I can't recall which time, if I had given my phone, access phone number to
21 anybody else besides those people who were listed and my comment was, "No, I don't think so."
22 That was – and ya know – people say, ya know, "How could you not remember?" but I'm
23 rushing from the Capitol, from floor sessions, running down to investigators, you know, they're
24 asking me a lot of questions, I'm not normally involved in that kind of a process. I did the best I
25 could, I answered honestly and believe me, I wish I had remembered back in that first
26 investigation that my ex-wife had the number. It just completely slipped my mind.

27 MR. ROGOSHESKE: Madame Chair.

28 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

1 MR. ROGOSHESKE: Maybe I can tell you the nature of those investigations it was – it's
2 an analogous to a gunshot wound to the stomach as opposed to a hangnail. The investigation
3 was centered on Senator Solon giving his access code to lobbyists for special interest, for special
4 privilege, for aiding businesses to have a special advantage so that he could reap economic
5 rewards. That's a pretty mind boggling investigation and an allegation that is extremely
6 disheartening when you know it's not true, and that was the thrust of the investigation that you
7 did something wrong here with lobbyists, you did something illegal, you did something with
8 businesses to take advantage of things. It's awful hard to talk about family matters, about
9 divorces, about what you talked about with your ex-wife. Those things just didn't come to front.
10 Some substance he forgot, that's why we're here.

11 SENATOR REICHGOTT JUNG: Senator Solon, when was the next time that you told
12 somebody, like an investigator or the Secretary of the Senate or whatever, that you had given this
13 access code to Mrs. Solon?

14 SENATOR SOLON: It was after we had – I was informed by my ex-wife this past
15 summer that she was being investigated by Ramsey County and I asked her what for and she said
16 I had made ya know, phone calls with the number you had given me and then I asked her, "Well,
17 how much, what did you do," and that's when she told me that she had made in that period of
18 time \$2,400 in phone calls.

19 MR. ROGOSHESKE: That was June of '95, Senator.

20 SENATOR SOLON: And so that was the – that was what I realized, ya know, I was first
21 informed that – and then after – then after – so, and she was – she was, I think she went before
22 the Ramsey County Attorney's office and went before investigators and I found out after that.

23 MR. ROGOSHESKE: And we did too. We agreed to cooperate fully, and we did. We
24 sat down with them and spent two hours with them.

25 SENATOR REICHGOTT JUNG: I guess the question I have, Senator Solon, is that
26 there's a gap there, a fairly lengthy period of time, and if it might have slipped your mind at the
27 time of the ethics hearing in 1993, I'm sure that it probably – you – let me understand – are you
28 testifying that you felt it wasn't, at the time, it wasn't a problem for her to have the code or are

1 you testifying that it just simply slipped your mind for that period of time that you weren't – and
2 for that reason you didn't give the – or you didn't tell anyone –

3 SENATOR SOLON: Madame Chair –

4 SENATOR REICHGOTT JUNGE: – that she was using the phone.

5 SENATOR SOLON: Well, it slipped my mind or I totally overlooked it during that
6 investigation when we were discussing the use of my phones and because of the fact that she
7 stopped using the – that number, I believe in March of 1993, when the Welle thing broke, I just
8 after that forgot about it.

9 MR. ROGOSHESKE: The code was changed in March of '93.

10 SENATOR SOLON: And so she didn't use it after 1993, so I just thought, you know,
11 there was nothing there.

12 SENATOR REICHGOTT JUNGE: Senator Neuville.

13 SENATOR NEUVILLE: Madame Chair, are other members – I won't ask questions until
14 the members are done.

15 SENATOR REICHGOTT JUNGE: I'm not sure I'm finished, but I'm just wanting to
16 yield the floor to others as well.

17 SENATOR NEUVILLE: Thank you Madame Chair. Senator Solon, I have a couple of
18 questions. Do you have any independent knowledge as to why Paula Solon stopped using the
19 telephone with the access code in March of '93?

20 SENATOR SOLON: Madame Chair.

21 SENATOR NEUVILLE: Has she told you why she stopped?

22 SENATOR SOLON: I can't recall a – any specific conversation, but I believe that that
23 was when the Welle incident exploded in the media and we were all taken by surprise as to what
24 was going on and that was the end of her use of that phone.

25 SENATOR NEUVILLE: Do you know that that's – I mean, did she tell you that that's
26 why she stopped or are you just surmising that?

27 MR. ROGOSHESKE: She's told us that now, it's in the statement, in the police
28 statement.

1 SENATOR NEUVILLE: Okay.

2 MR. ROGOSHESKE: And the code changed in March of '93.

3 SENATOR NEUVILLE: Well, Madame Chair, the code changed –

4 SENATOR REICHGOTT JUNGE: Senator Neuville.

5 SENATOR NEUVILLE: – January '93. Is the information I think that's in the
6 complaint. The next question I have is –

7 MR. ROGOSHESKE: The code also changed in March of '93.

8 SENATOR NEUVILLE: – okay. So it changed in August of '92, January of '93, and
9 then March of '93.

10 MR. ROGOSHESKE: Correct.

11 SENATOR NEUVILLE: I'd like to ask you, Senator Solon, when the codes were
12 changed in August of '92 and January of '93, obviously you had to give her the new code for her
13 to use it again. How did that come about? Did she call you and say, "I can't use the phone
14 anymore, can I have the new code," or did you call her and say the code's changed and a – or just
15 tell me how that came about that you passed on the new code number to her.

16 SENATOR SOLON: Madame Chair and Senator Neuville –

17 SENATOR REICHGOTT JUNGE: Senator Solon.

18 SENATOR SOLON: – I – I can't be absolutely sure, but I believe she called me and
19 asked that, ya know, that she wasn't probably getting through on the phone so, "what's
20 happened," and usually we weren't notified about it – we weren't notified either for awhile and
21 we – I remember we were still dialing under the old number and we couldn't get through and
22 then we'd have to ask and say, "what happened" and we'd be informed that it changed, but I
23 would – I would – I would – surmise that she would – would've called me.

24 SENATOR NEUVILLE: Okay. Senator Solon.

25 SENATOR REICHGOTT JUNGE: Senator Neuville.

26 SENATOR NEUVILLE: The – I think it's the complaint or maybe it's some materials
27 that Mr. Wattson put together indicates that you reimbursed for some telephone calls with the
28 lobbyist on that situation in April of 1993, so it would've been sometime before that that you

1 became aware of some improper use with your telephone access card with the lobbyist. Do you
2 remember exactly when you would've first become aware of that, with these other individuals?

3 SENATOR SOLON: It was a -

4 SENATOR REICHGOTT JUNGE: Senator Solon.

5 SENATOR SOLON: Madame Chair, it was, I think it was just a matter of days or a
6 week-

7 SENATOR NEUVILLE: Okay.

8 SENATOR SOLON: - after the Welle investigation -

9 SENATOR NEUVILLE: Okay.

10 SENATOR SOLON: - that the Senate starting checking and -

11 SENATOR NEUVILLE: Okay.

12 SENATOR SOLON: - I was informed.

13 MR. ROGOSHESKE: Madame Chair.

14 SENATOR REICHGOTT JUNGE: Senator or excuse me, Mr. Rogosheske.

15 MR. ROGOSHESKE: Senator Neuville, Madame Chair, the - Mr. Weston and Senator
16 Solon contacted the Secretary of the Senate on St. Patty's Day, I believe that's what the record
17 reflects, it was shortly around that period of time -

18 SENATOR NEUVILLE: Okay.

19 MR. ROGOSHESKE: - that they went and said, "We've got some calls here."

20 SENATOR NEUVILLE: Okay.

21 MR. ROGOSHESKE: That was the investigation that we appeared before and - before
22 this committee in February of '94.

23 SENATOR NEUVILLE: Okay. So, Madame Chair and -

24 SENATOR REICHGOTT JUNGE: Senator Neuville.

25 SENATOR NEUVILLE: - Senator Solon, so you gave Paula Solon the new code
26 sometime after January of '93 because that's when it was changed and between that time and
27 May 12th when you publicly apologized to the Senate, you're saying that you, just in that a
28 roughly three- to four-month time period that you forgot that you had given her the code?

1 SENATOR SOLON: Madame Chair.

2 SENATOR REICHGOTT JUNGE: Senator Solon.

3 SENATOR SOLON: At the time when the investigators had asked me the question, and I
4 can't recall the specific dates of the investigation, as I said earlier, I'm at the capitol, I'm rushing
5 down to a meeting, where I'm under a lot of stress, the focus was on economic development as
6 Mr. Rogosheske has said, it was completely almost foreign to my mind and I just, as I've said
7 several times and I've said it - I'll say it again that I totally missed it. I just - I wish I had - I've
8 said it many times also, that if I had remembered it and had told the investigators at that time,
9 and that would have been part of that early investigation, I wouldn't be under this scrutiny today.
10 I wouldn't, ya know, I wish I had.

11 SENATOR NEUVILLE: Okay. Madame Chair.

12 SENATOR REICHGOTT JUNGE: Senator Neuville.

13 SENATOR NEUVILLE: Senator Solon, you've pled guilty in Ramsey Court of
14 telecommunications services fraud, I guess aiding and abetting Paula Solon in committing that
15 fraud, is that correct?

16 SENATOR SOLON: Madame Chair, that's correct.

17 SENATOR NEUVILLE: Okay. Do you believe you're guilty of that crime, is that what
18 you pled guilty?

19 SENATOR SOLON: Madame Chair -

20 SENATOR REICHGOTT JUNGE: Senator Solon.

21 SENATOR SOLON: - Senator Neuville, I pleaded guilty to the misdemeanor of aiding
22 and abetting and at the - at the time in the 1992, '93, or if 1975, I would've not thought it was a
23 crime, but as I look back, it was a - it was an error in my judgment, and I - and I - and I -
24 believed though I was guilty.

25 SENATOR NEUVILLE: Madame Chair and Senator Solon.

26 SENATOR REICHGOTT JUNGE: Senator Neuville.

27 SENATOR NEUVILLE: In order for you to plead guilty to that crime, do you believe
28 that Paula Solon, with the intent to evade a lawful charge, obtained telecommunication services

1 for her own use by fraudulent means?

2 SENATOR REICHGOTT JUNGE: I think I'm going to object to that question. Aren't
3 we asking something about what Paula -

4 SENATOR NEUVILLE: Well, Madame Chair -

5 SENATOR REICHGOTT JUNGE: - thought.

6 SENATOR NEUVILLE: - he - he pled guilty to aiding and abetting that. That's what
7 he pled guilty to in, in court. He's - I'm trying to clarify if - if he's asserting that it was an
8 innocent use or whether he really believed that Paula Solon's use of the card was fraudulent.

9 SENATOR REICHGOTT JUNGE: What you can ask Senator Solon is his belief based
10 on his experience and his knowledge. I heard your question as something as to what you
11 thought she thought, I don't think that's appropriate.

12 SENATOR NEUVILLE: Well, Madame Chair and Senator Solon, let me try to rephrase
13 it.

14 SENATOR REICHGOTT JUNGE: Senator Neuville.

15 SENATOR NEUVILLE: You pled - you pled guilty to aiding and abetting Paula Solon
16 to commit telecommunications fraud, correct?

17 SENATOR SOLON: Madame Chair, that's correct.

18 SENATOR NEUVILLE: So I'm asking you -

19 SENATOR REICHGOTT JUNGE: The record is clear on that.

20 SENATOR NEUVILLE: So I'm asking you, do you believe, I don't care what Paula
21 Solon believes, do you believe that she committed telecommunications fraud when she used your
22 card?

23 SENATOR REICHGOTT JUNGE: Well that again, I'm going to object. That is a
24 different person whose case is not yet closed. I don't think we should be talking about whether
25 she committed a crime. We have here before us a record of Senator Solon pleading guilty to a
26 crime. I'm going to restrict the questions only to the actions by Senator Solon relating to the
27 criminal plea that he made.

28 MR. ROGOSHESKE: Madame Chair.

1 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

2 MR. ROGOSHESKE: Madame Chair, Senator Neuville, possibly you could take – I
3 know you're an attorney, but I don't think you practice any criminal law, possibly could take
4 advantage of the two – those two gentlemen to your right, they will tell you that a misdemeanor
5 crime, if you look at it, he's pled guilty to 609.893, telecommunications and information services
6 fraud, in addition, you add on 609.05, liability for crimes of another. What you are saying is, "I
7 gave the card," and this is the factual basis and maybe the judges can help you out on this. "I
8 gave the card to my ex-wife, that was wrong. She should not have had the card, it was not
9 Senate business." If you look at the guilty plea petition and the answers, if you have the
10 transcript from the court hearing, that's what you have.

11 SENATOR NEUVILLE: Madame Chair, I'd like to appeal the chair's ruling because it's
12 my understanding that in order to aid and abet somebody to commit a crime so that you yourself
13 have committed a crime, there at least has to be knowledge that the other person is committing
14 the crime.

15 MR. ROGOSHESKE: Madame Chair –

16 SENATOR REICHGOTT JUNGE: Senator Neuville.

17 MR. ROGOSHESKE: – that's not the law.

18 SENATOR REICHGOTT JUNGE: Senator Neuville, can you give me an offer of proof
19 as to why you think it's important that he believe that particular –

20 SENATOR NEUVILLE: Well, Madame Chair, because, with all due respect, Senator
21 Solon is -- is asserting that here, that he believed it was an unintentional and innocent mistake
22 that he made, but he pled guilty to a criminal offense in court. Well, where's the crime? I'm
23 wanting to know why did you plead guilty to a crime?

24 MR. ROGOSHESKE: Madame Chair.

25 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

26 MR. ROGOSHESKE: Senator Neuville, that is a total misstatement of what we just said
27 and that's a total misstatement of what was in the record. If you review the record, my client
28 indicated that he pled guilty to giving a card to a person that was not authorized to have a card.

1 She engaged in making calls. That doesn't mean that she's guilty, it means he's guilty. He's
2 guilty of helping somebody else commit a crime. Now she might've done it unknowingly, and
3 that's how you can plead guilty. I ask you to defer to somebody who knows about the law and
4 maybe you can get your answer that way.

5 SENATOR REICHGOTT JUNGE: Well, let's clarify that Senator Neuville does know
6 about the law, he is a lawyer, but we have other lawyers here that perhaps we can get advice from
7 I would either ask our Senate Counsel, Mr. Wattson, to comment, or if the outside counsel wish
8 to comment, that would be appropriate.

9 SENATOR REICHGOTT JUNGE: Justice Sheran.

10 CHIEF JUSTICE ROBERT J. SHERAN: My impression is that we should not respond
11 unless the chair refers a matter to us and I take it that you are.

12 SENATOR REICHGOTT JUNGE: I am referring it to you both and to Mr. Wattson. So,
13 yes, I am, unless you're uncomfortable sir, yes, I am asking for advice.

14 CHIEF JUSTICE ROBERT J. SHERAN: I'm not, I have a clear mind on this. It's
15 immaterial when you plead guilty to aiding and abetting whether you think that the person aided
16 and abetted did in fact commit the offense. The question is whether, as a matter of legal
17 judgment, aided by counsel, do you think it likely or possible that the person aided or abetted
18 might be found guilty of having committed the offense. So that's an entirely different question
19 and calls for an entirely different judgment. You don't sit in judgment on the person aided and
20 abetted. You make an evaluation of whether there is a reasonable probability that the courts
21 would find that person guilty of the offense and if you conclude that there is such a probability,
22 that motivates one to move towards the – towards the plea. That's the reasoning and if I were the
23 chair under the circumstances, I would hold this inquiry as irrelevant to anything that's
24 significant in this case.

25 SENATOR REICHGOTT JUNGE: That has been my ruling but I have – have request to
26 appeal the ruling of the chair, did you wish to pursue that Senator Neuville?

27 SENATOR NEUVILLE: No, Madame Chair, I will defer to that explanation. May I
28 rephrase the question?

1 SENATOR REICHGOTT JUNGE: Certainly. Senator Neuville.

2 SENATOR NEUVILLE: Madame Chair, Senator Solon, in light of that explanation,
3 when you pled guilty did you believe that there was a possibility that Paula Solon could be guilty
4 of fraudulently using telephone lines?

5 SENATOR REICHGOTT JUNGE: Once again, I'm not --

6 SENATOR NEUVILLE: Was that the basis --

7 SENATOR REICHGOTT JUNGE: I'm not comfortable with this line of questioning. I
8 would ask that you move on Senator Neuville. Senator Terwilliger.

9 SENATOR TERWILLIGER: Madame Chair, could I bring this down to a level that a --
10 more lay-term. We referred to the misdemeanor. At what point does a misdemeanor become a
11 felony, what dollar level are we talking about?

12 SENATOR REICHGOTT JUNGE: Mr. Wattson.

13 PETER WATTSON: Madame Chair, the statute on telecommunications fraud, which I
14 think you have in your book, sets a misdemeanor level of \$700. Anything \$700 and below is a
15 misdemeanor, above that it becomes a felony.

16 MR. ROGOSHESKE: Madame Chair, I hate to differ but --

17 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

18 MR. ROGOSHESKE: -- I think it's 500 bucks, and see that's why my client could plead
19 guilty because he gave the call -- he gave the card to his ex-wife to talk about family matter,
20 divorce matters, trying to repair the marriage. Those calls back and forth with he and wife were
21 under \$500. That's how he can plead guilty and I understand where Senator Neuville is going
22 because of his first comments that he had at the beginning. There is no felony conduct here, and
23 if Senator Neuville wants to ask us about felony conduct, we'd be happy to respond to that.

24 SENATOR TERWILLIGER: Madame Chair.

25 SENATOR REICHGOTT JUNGE: Mr. Wattson.

26 PETER WATTSON: Madame Chair, Mr. Rogosheske is right, it is 500.

27 SENATOR REICHGOTT JUNGE: Senator.

28 SENATOR TERWILLIGER: I wasn't trying to pursue that line of questioning. What I

1 was simply doing is the math of approximately \$3,000 in the first instance, now here's \$2,400 in
2 the second instance, yet we're still in the misdemeanor situation. To me, that totals 5,400 plus
3 dollars regardless if it's one individual or two individuals or a former wife and several lobbyists.

4 SENATOR SOLON: Madame Chair.

5 SENATOR TERWILLIGER: I'm curious, and this is why, again, not being learned in the
6 law, it's curious to me that -- are these -- these are not -- because they're separate and apart,
7 they're not totaled together, but at what point in the plea bargain does the original \$3,000 get
8 added to the \$2,400 here? I mean, you know, you get to the next one, if there's another one that
9 comes up, do we just continue to have misdemeanors when in fact \$5,400 starts to sound like a
10 fairly large amount of money.

11 MR. ROGOSHESKE: Madame Chair.

12 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

13 MR. ROGOSHESKE: Madame Chair, Senator Terwilliger, there was no finding of
14 criminal intent. If you recall back in our previous time when Senator Solon appeared before this
15 committee, all those calls where Senator Solon paid back, were determined not only by Hubert
16 Humphrey's office, but by Ray Schmitz, that there was no criminal intent. You have to have
17 criminal intent to commit a crime. All those calls that were made with the -- under the title of
18 economic development, were considered Senate business and so there were never ever criminal
19 charges brought. The reprimand, as you recall, was for indiscriminately giving that card out to
20 people where it has the appearance of impropriety and it had the appearance of impropriety with
21 respect to there was no gain. These were nonprofit corporations. This was a nonprofit
22 corporation trying to help the downtrodden African-Americans in South America transmit
23 shampoo up to the African-American churches here in the Twin Cities and the Duluth area to
24 distribute and make a profit for their nonprofit church. That was what those calls to South Africa
25 and the Virgin Islands were. So that was Senate business of helping a nonprofit, minority
26 business try to go forward. Here, we're talking about something totally different and those are
27 some of the discussions that come into what you do in a plea bargain and some of the discussions
28 are is today in 1996 when you go in front of a jury, will they believe that calls in 1992 and '93

1 were Senate business to an ex-wife trying to repair a family? I don't know. So, you at least
2 know that you made calls to the ex-wife and you at least know that those calls are under the level
3 for – they're within the range of a misdemeanor. So that is the thing, that is the issue that we're
4 here before – that's the center of Senator Neuville's complaint. That's what we pled guilty to.
5 We were wrong in doing that. We did nothing wrong with respect to the other investigation and
6 I defer, but I think this committee so found that. They found the conduct improper because you
7 shouldn't be handin' out your card, but again, go back to that era when it was a flat rate and
8 everybody was coming into everybody else's office and picking up the phone and dialing out.
9 Hopefully, that answers your question.

10 SENATOR NEUVILLE: Madame Chair.

11 SENATOR REICHGOTT JUNGE: Senator Neuville.

12 SENATOR NEUVILLE: Madame Chair and either Senator Solon or Mr. Rogosheske, is
13 there anything in the record that you're aware of, either in the transcript of your guilty plea or the
14 charge, that the basis for your plea was for telephone calls under \$500 that would've been made
15 just between Senator Solon and Paula Solon?

16 MR. ROGOSHESKE: Madame Chair.

17 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

18 MR. ROGOSHESKE: Senator Neuville. That's in the police reports and the going back
19 and forth. If you take a look at the attorney general's report and Representative Pugh's report,
20 and then you also refer back to the investigation and the letter to Mr. Foley by Ray Schmitz, the
21 Olmstead County Attorney, it is extremely difficult, extremely difficult to track calls in '92 and
22 up to March of '93 in the Senate system that we had back then. Not now, but back then. If you
23 made a call outside of your office phone, all Senators had the same access code, and then you
24 switched carriers, and so to the best of our ability, that's what we can do. That's why the
25 amnesty was offered to both Houses because it is so difficult, extremely difficult to track, and as
26 you heard Mr. Wattson in his preliminary remarks indicate, that it was only through the
27 miraculous discovery of a computer program that we could program all this information in a
28 computer and the computer would kick out a number that was called more than 50 times, and

1 then we would get that. Now that number happened to be related to Paula calling one of her
2 relatives, not Senator Solon calling Paula.

3 SENATOR NEUVILLE: Madame Chair.

4 SENATOR REICHGOTT JUNGE: Senator Neuville.

5 SENATOR NEUVILLE: Mr. Rogosheske, the probable cause statement that was in court
6 had the number 2400 something in it that was allegedly used fraudulently.

7 MR. ROGOSHESKE: That's Paula's calls to her relatives.

8 SENATOR NEUVILLE: All right. And I guess I'm trying to understand, because I've
9 reviewed the transcript and I see no reference here to which phone calls were the phone calls that
10 Senator Solon based his guilty plea upon, and I'm -- so I'm trying to understand why \$2,400
11 worth of phone calls were pled to a misdemeanor offense, which would be a \$500 threshold
12 instead of -- instead of a higher offense.

13 MR. ROGOSHESKE: Madame Chair.

14 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

15 MR. ROGOSHESKE: Senator Neuville, the reason for the \$2,400 figure is that's no.
16 That's easy to find out because in the system, back in '92 and '93, you can look at the destination
17 calls and you know exactly who's the destination calls are. Those are easy to figure out. It's
18 extremely difficult if Senator Solon was in his home making a call or he was in his office making
19 a call, and so what we did is we did the best we could. Now, in that guilty plea petition, and I
20 don't have it before me, but I can tell you because I remember putting in the plea, and that is,
21 "You gave your card to your ex-wife? Yes. That was wrong? Yes. Why? Because that wasn't
22 for Senate business." All right? Senator Solon is saying that by giving his wife the card, and she
23 used the card to call him, that was wrong because Senate business isn't to deal with your ex-wife
24 on family business in 1996. Whether or not he had absolutely no knowledge of her making calls
25 to somebody else. The question becomes should he've been more dutiful. Should he've been
26 more objective, should he've been more watchful. Well, when you don't get a bill in 1992 and
27 1993 because of this complicated system, that has been changed now since all these reports, it's
28 an easier question to answer, but back then you couldn't do it, and that's why sometimes when

1 you plead guilty, as you've heard, there are different elements that you are trying to establish and
2 just because there was \$2,400 outside of somewhere else, that doesn't necessarily mean that my
3 client made fraudulently \$2,400 worth of calls.

4 SENATOR REICHGOTT JUNGE: Senator Neuville.

5 SENATOR NEUVILLE: Madame Chair, I do understand your position. I'd like to ask –
6 since we can't call the prosecutors, I'd like to ask you, at any time – I remember the prosecutors
7 making a public statement that at one time there was going to be a grand jury investigation and
8 that never occurred apparently in this case. In your discussions, at some point, were they
9 indicating that they would have intended to pursue a felony but for your plea?

10 SENATOR REICHGOTT JUNGE: Again, I'm going to object to that question. I don't
11 think Mr. Rogosheske can answer that. I think that is a question that is more accurately directed
12 to the prosecutors and they have already declined to appear.

13 MR. ROGOSHESKE: Madame Chair, Senator Neuville, within the bounds of my
14 profession, I can tell you that plea bargains are a multitude of things. Possibly, you have entered
15 into some negotiations in civil cases, but plea bargains in criminal cases have a multiple element
16 to it, and one of the elements that I think that you can see from this particular situation is what is
17 that distinction between the executive branch and the legislative branch. What is Senate
18 business? What is not Senate business? Has that ever been defined? How much would it cost to
19 go through the district court level and the appellate level? What would be the cost politically?
20 All these kind of questions enter in and that's why I think it's appropriate that the Chair is
21 prohibiting these type of questions, and that's why her profession doesn't allow for the
22 considerations that go into that, but generally speaking, I think you can see some of the reasoning
23 behind that.

24 SENATOR REICHGOTT JUNGE: I have a different line of questioning, if I might
25 pursue. Senator Solon, with all of the publicity that surrounded the Welle investigation and the
26 Welle situation, and with the ethics proceeding that you did participate in, did it not raise an issue
27 in your mind that the code that you had given to Mrs. Solon might be in violation of the law?

28 SENATOR SOLON: Madame Chair, she stopped using the, ya know, the phone in 1993,

1 March I believe, and as I've said earlier, that -- I just thought it was over, and I had no idea that
2 she had made these calls. I thought the only calls she really had made were to me. So, it never
3 occurred to me that it was an incident to be, ya know, continuing in my mind.

4 SENATOR REICHGOTT JUNGE: But Senator Solon, and we've had some discussion
5 today about what constitutes Senate business and we have an instance here where we've got a
6 great deal of focus on the use of the telephone access code and all of the issues surrounding
7 Senate business and what isn't. Would it not have raised that issue in your mind that it might not
8 have been Senate business, that this is something that you might want to have revealed to that
9 subcommittee or to others in the process? That's, that's the part that I'm having difficulty with.

10 SENATOR SOLON: Well, Madame Chair, I did, as I said earlier, ask the Secretary of the
11 Senate's office and others if there were any other calls that were made that could be attributed to,
12 ya know, my giving somebody the number and nothing appeared. So I didn't think that I had
13 done anything wrong, ya know, because nothing, nothing had surfaced.

14 SENATOR REICHGOTT JUNGE: What kind of inquiries did you make, Senator Solon?

15 SENATOR SOLON: Well, we asked Mr. Flahaven, Mr. Lindquist, and others who were
16 checking the computer list. I never looked at them myself and I asked the people that had
17 discovered the economic development calls, the NEMBA calls, and my son's, and so I said,
18 "Please, let me know if there's anything else that is there."

19 SENATOR REICHGOTT JUNGE: Senator, did you ever specifically discuss the issue of
20 your giving the telephone code to Mrs. Solon with the Senate Secretary and try to get advice as
21 to whether or not that was Senate business?

22 SENATOR SOLON: Madame Chair, the only time I brought that up was this summer
23 with Mr. Flahaven and he did say that he thought that that was appropriate Senate business to
24 me. That was a conversation between the two of us.

25 SENATOR REICHGOTT JUNGE: And that was this summer?

26 SENATOR SOLON: Yes.

27 SENATOR REICHGOTT JUNGE: That he thought it was appropriate Senate business?

28 SENATOR SOLON: Right.

1 SENATOR REICHGOTT JUNGE: Were you under the impression, at the time, in March
2 of 1993, given the fact that the code had changed and all, were you under the impression at that
3 time that it was appropriate Senate business or did you know or did you know that it was in
4 violation of the law?

5 SENATOR SOLON: Madame Chair, I don't think it occurred to me. I don't think I
6 thought of that at that time.

7 SENATOR REICHGOTT JUNGE: So you're saying neither.

8 SENATOR SOLON: I just -- I do know that she stopped using the, ya know -- using it
9 after the investigation 'cuz I think everybody just got kind of scared and panicky and cautious
10 and says let's not do anything.

11 SENATOR REICHGOTT JUNGE: Did you ever ask Mrs. Solon after all of this became
12 public, the phone situation, did you ever call her and ask her to please discontinue the use of the
13 telephone code and -- to discontinue the use of the telephone code completely?

14 SENATOR SOLON: Madame Chair, after 1993, she didn't get it. I mean, I believe that
15 was the date that it changed and I don't know if she asked for it or didn't ask for it, but she never
16 received it. So there was no way she could do it after that, and I'm sure that if she had asked I'd
17 of said "no."

18 SENATOR REICHGOTT JUNGE: But you never affirmatively called her to inform her
19 that she should not use it.

20 SENATOR SOLON: Madame Chair, I really don't remember if I did.

21 SENATOR REICHGOTT JUNGE: Senator Solon, you indicated that Mrs. Solon has
22 repaid the calls that were made, is that correct?

23 SENATOR SOLON: Madame Chair, that's correct.

24 SENATOR REICHGOTT JUNGE: Has the money been turned into the Minnesota
25 Senate?

26 MR. ROGOSHESKE: Madame Chair.

27 SENATOR REICHGOTT JUNGE: Mr. Rogosheske.

28 MR. ROGOSHESKE: That money was paid to the Ramsey County Attorney's Office and

1 what they did with it. I assume, they sent it to the Senate.

2 SENATOR SOLON: I don't know.

3 SENATOR REICHGOTT JUNG: I guess I can ask Mr. Flahaven that. Senator Solon.
4 did you pay any part of the bill that Mrs. Solon incurred?

5 SENATOR SOLON: Madame Chair, no, I didn't.

6 SENATOR REICHGOTT JUNG: You paid for the calls that the lobbyists made. is that
7 right or did they pay you or --

8 SENATOR SOLON: I paid, I can't recall, but I believe I paid either most of -- or all of
9 the amount back in 1993, '94. I don't remember if it was all paid by me.

10 SENATOR REICHGOTT JUNG: So you paid some of that out of your personal pocket
11 then?

12 SENATOR SOLON: Yes. Mr. Rogosheske says I paid it all.

13 MR. ROGOSHESKE: Madame Chair.

14 SENATOR REICHGOTT JUNG: Mr. Rogosheske.

15 MR. ROGOSHESKE: He paid it all. He paid his fine, it's, it's -- so it's about a \$650
16 some odd dollar fine he paid. He paid -- and he's paid my legal bills. It hasn't been a
17 inexpensive proposition for him and I can tell that my fees are well over \$25,000.

18 SENATOR SOLON: Madame Chair, I did pay back the entire amount myself back in
19 1994, I believe, and as Mr. Rogosheske's said the fine was \$500 this year, but with the sur -- with
20 the sur -- last year with surtax, it ended up being, we passed some bills here to add a couple
21 dollars more to that. So it was \$600 and some dollars, and, if I may, I don't know if it's
22 appropriate that Mr. Rogosheske reminds me that I do have to pay legal fees. I paid \$15,000 the
23 last time and it's approaching that number again this time.

24 SENATOR REICHGOTT JUNG: Senator Solon, that I am sympathetic to.

25 SENATOR SOLON: Thank you, Senator.

26 SENATOR REICHGOTT JUNG: Are there further questions by any members of this
27 panel for Senator Solon?

28 MR. ROGOSHESKE: Senator Reichgott, Madame Chair, if I could just make one or two

1 quick comments.

2 SENATOR REICHGOTT JUNG: Yes, and I'd ask you to just hold on that one moment
3 Mr. Rogosheske. Justice Sheran said earlier that they would respond to requests by the chair and
4 at this time I would like to formally request if there are any questions that you would like to ask
5 that you believe have not been touched on by members of the committee, I would appreciate
6 your advice as to what those questions would be.

7 CHIEF JUSTICE ROBERT J. SHERAN: In my mind, there are none.

8 CHIEF JUSTICE DOUGLAS AMDAHL: I have the same feeling.

9 SENATOR REICHGOTT JUNG: Thank you. Mr. Rogosheske.

10 MR. ROGOSHESKE: Thank you, Madame Chair. Members of the committee, I'll keep
11 my remarks brief. I just want to point out and when you are in your deliberations I want you to
12 remember the era that you're in. You're in 1992, and the first part of 1993, the code was
13 changed in January of '93, and when the Welle matter broke, they were changed again, I believe
14 the end of March or first part of April of '93. If you look at Ray Schmitz's letter to Tom Foley
15 and it's page 26 in the old record, that's your State of Minnesota Special Committee on Ethical
16 Conduct, it's on page 26, the paragraph details the difficulty with tracing out-of-office calls, and
17 it is extensively documented in Hubert Humphrey's report and it's extensively documented in
18 Representative Pugh's report, but I call particular attention to the following page, page 27, which
19 is page 3 of the letter and I quote from the investigation, the joint investigation between the
20 Attorney General's Office and Ray Schmitz's Office, "Senator Solon, as well as most of the
21 other individuals interviewed in the course of this investigation were of the opinion that the state
22 paid a flat rate fee for long distance charges and that there were no individual charges for each
23 call. While this was not the case, the general belief existed that as long as calls were for
24 legitimate Senate or legislative business, there would be no additional cost to the state for long
25 distance calls utilizing the Senate watts line or barrier access code." And then again, I want to
26 call your attention to the Joint Senate Resolution by Senator Moe and Senator Johnson, which
27 came on the heels of the Attorney General and Ramsey County Attorney, Tom Foley's,
28 considered opinion of amnesty and that whole philosophy came from the principle that there was

1 a flat rate fee syndrome for want of better words, I call it a syndrome. Everybody believed that it
2 didn't matter how many calls you made, it was a flat fee and you got charged anywhere. And
3 under that aura, or under that belief in '92 and '93, where you have this complicated phone
4 system with multiple vendors, you have complicated billings, you have billings that you,
5 Senators, never even saw. You didn't start to see those bills till September of 1993, after these
6 reports and much tinkering. There's no accountability, couple that with the flat rate syndrome,
7 what my client has done is he's admitted wrongdoing. He's publicly apologized to the Senate on
8 May 12. He got up on the Senate floor and apologized. He pled guilty. He received a public
9 reprimand on March 24 by Senate Resolution No. 68. I'd ask you to review that. He was
10 formally reprimanded by the Senate for his conduct in providing the Senate's long distance
11 telephone access code to others and for allowing others to use his Senate office and telephone to
12 make calls on their own personal and private business. He pled guilty in December. He paid a
13 fine and he agreed to step down as chairman of his committee. He's been in the Senate an awful
14 long time. I think that he has taken the appropriate steps to realize his indiscretion and I'd ask
15 the committee to consider all the actions that he's taken in light of the atmosphere that you find
16 yourself in 1992 and 1993. Thank you very much.

17 SENATOR REICHGOTT JUNGE: Thank you Mr. Rogosheske. Did either of you wish
18 to bring any other witnesses before the committee?

19 MR. ROGOSHESKE: No, Madame Chair, members of the committee, we have no other
20 witnesses to present.

21 SENATOR REICHGOTT JUNGE: Senator Solon, on behalf of the committee I want to
22 thank you for the tremendous cooperation you have provided in our investigation. There has
23 never been a request that has been denied by you. You have always been fully cooperative in
24 everything we have tried to in the first hearing and in the second, today, and I thank you for that,
25 you have worked with us to every extent that we have asked and we thank you for that. We as a
26 subcommittee will take the matter under advisement and will come together again on the ninth of
27 January to make a recommendation as to the type of action that is appropriate in this matter. You
28 and your counsel are invited to attend on that day. I expect it would be around one or so in the

1 afternoon on the ninth, but I can't give you a definite time. Need not be there, but you're
2 certainly invited to be there. Is there anything more that either of you wish to say to the
3 committee before we recess at this time?

4 MR. ROGOSHESKE: No, Madame Chair.

5 SENATOR REICHGOTT JUNGE: Well, again, I want to thank you for your
6 cooperation. Senator Solon, this has not been an easy proceeding for any of us. Please know
7 that we're only asking the questions that we have to ask, but I appreciate your cooperation in
8 giving the answers and with that we will excuse the witnesses, appreciate your time. I would like
9 to ask Mr. Flahaven one question regarding the payment of the funds is all, if I could just ask him
10 to come forward and then we'll recess for a short time.

11 SENATOR SOLON: Thank you.

12 SENATOR FREDERICKSON: Madame Chair, could I also ask him one question about
13 the telephone system?

14 SENATOR REICHGOTT JUNGE: Sure. Senator Frederickson, that would be
15 appropriate. Mr. Flahaven, why don't you come forward. Counsel, do I have to swear our
16 Secretary in? All right.

17 **PATRICK FLAHAVEN**

18 having been first duly sworn, was examined and testified as follows:

19 SENATOR REICHGOTT JUNGE: Please identify yourself for the record.

20 PATRICK FLAHAVEN: I'm Patrick Flahaven, the Secretary of the Minnesota Senate.

21 SENATOR REICHGOTT JUNGE: Mr. Flahaven, have you received the dollars that have
22 been paid by Mrs. Solon to reimburse the Senate for its phone costs?

23 PATRICK FLAHAVEN: Madame Chairman, I have not. Although, at one point, not too
24 long ago, I did talk to Mr. Balck from the Ramsey County Attorney's Office and he told me that
25 such a payment was expected and I reminded him that they should also collect the three percent
26 federal excise tax, which we would have to forward to the IRS on any amount which they
27 collected.

28 SENATOR REICHGOTT JUNGE: So he's received the money?

1 PATRICK FLAHAVEN: Well, I can't say, Madame Chair. I'm assuming that it will be
2 transmitted to us. I don't – I'm sure the Ramsey County Attorney's Office won't keep it, but I
3 don't believe we've received it yet.

4 SENATOR REICHGOTT JUNG: Are there other questions for Mr. Flahaven? Senator
5 Frederickson.

6 SENATOR FREDERICKSON: Madame Chair, Mr. Flahaven, when did the Senate
7 change from a system of when we made calls from outside – made calls from outside the capitol.
8 when did we change from the system where we were – where our contact was an operator and we
9 verbally said who we were and they placed the call, when did we switch from that system to one
10 of access code?

11 PATRICK FLAHAVEN: Madame Chair, Senator Frederickson, I believe that was in
12 1991.

13 SENATOR FREDERICKSON: Thank you.

14 SENATOR NOVAK: Madame Chair.

15 SENATOR REICHGOTT JUNG: Further questions. Senator Novak.

16 SENATOR NOVAK: On that point, just to make sure I understand. When – was that the
17 same time then that we switched from the system that we all, I think, mentally thought was still
18 in place for a period of time which was sort of a bulk rate system so much a month like a WATS
19 line concept, is that when that changed too in terms of individual billings and –

20 PATRICK FLAHAVEN: Madame Chair, Senator Novak, no, I don't believe so. We
21 have been receiving billings for a long, long time, and I'm sure we were receiving them even
22 under the system where people actually contacted a state operator.

23 SENATOR NOVAK: Madame Chair.

24 SENATOR REICHGOTT JUNG: Senator Novak.

25 SENATOR NOVAK: When would've been the time then that individual members
26 would've received some sort of a – either an annualized or a monthly billing statement from the
27 Senate clerk's office making us aware of what our actual charges had been?

28 PATRICK FLAHAVEN: Well, Senator, I've – I think that would have been in September

1 of 1994.

2 SENATOR REICHGOTT JUNGE: Senator Frederickson.

3 SENATOR FREDERICKSON: Madame Chair, just a question for clarification either
4 from Mr. Wattson or Mr. Flahaven, it's my recollection that our telephone records were at one
5 point classified nonpublic. So we're not open to scrutiny. I don't know what would've
6 happened if a member would've gone down and requested to see them, I don't know if that
7 would – we'd have been prevented from doing so under the data privacy?

8 SENATOR REICHGOTT JUNGE: Mr. Wattson.

9 MR. WATTSON: Madame Chair, Senator Frederickson, I believe the classification was
10 private so that the records were open to the individual member but not to the public generally,
11 and back on your previous question, I think the date of the changeover was May 1 of '95.

12 SENATOR NOVAK: Madame Chair.

13 SENATOR REICHGOTT JUNGE: Senator Novak.

14 SENATOR NOVAK: I'm trying to recall from some previous rules committee meetings.
15 Wasn't it also true that – kind of going back in time – I'm not sure when, maybe you can tell us,
16 that either you as the Senate clerk or in conjunction with Senator Moe as majority leader, did at
17 least review sort of monthly billings of the Senate and sort of tracked trend lines and so that –
18 what you might say the bulk Senate telephone bill followed a certain pattern and you did over
19 some period of time watched that even before all of these things were exposed and, as I recall the
20 testimony, those trend lines never showed any exaggerations to speak of or you watched it for
21 that reason to see if there were any, is that an accurate statement or not, and could you give me
22 some time lines on that?

23 SENATOR REICHGOTT JUNGE: Mr. Flahaven.

24 PATRICK FLAHAVEN: Madame Chair, Senator Novak, yes, that's true. The billings
25 that we had for our total long distance usage had remained relatively stable for a long, long
26 period of time and the way this issue came up was when the Welle situation happened in the
27 House, one of the things that had happened was that their WATS billings had increased
28 dramatically in a relatively short period of time, and so the question was addressed to me did

1 anything like that happen in the Senate on the Senate phone billings and my answer was that
2 while rates changed and certainly the usage went up gradually, that we had no significant
3 increases in WATS usage that would have triggered suspicion that there were large numbers of
4 inappropriate calls being made.

5 SENATOR NOVAK: Madame Chair.

6 SENATOR REICHGOTT JUNGE: Senator Novak.

7 SENATOR NOVAK: Again, if memory serves me correctly, in previous Rules
8 Committee meetings over the years, isn't it also true that long before any of these things became
9 controversial that the Senate, as a whole, made a really larger administrative decision to go to the
10 outside and have audited budget statements for the Senate as a whole?

11 PATRICK FLAHAVEN: Madame Chair, Senator Novak, we've had an outside
12 contracted audit firm since, I believe, 1984.

13 SENATOR NOVAK: The only point I'm trying to make Madame Chair, just as sort of a
14 general commentary, I don't think the Senate overall in context very much in a bipartisan fashion
15 I think has picked up the pace and responded to some of these budgetary concerns only as a
16 matter of crisis management. I think quite a bit ahead of the curve, I think, we've tried to employ
17 in a bipartisan way over a long period of time, some basic tenets of fiscal management. That
18 does not mean, as we've seen, that individual circumstances of a various nature can't take place,
19 but I think it is important to get that on the record.

20 SENATOR REICHGOTT JUNGE: Further questions for Mr. Flahaven. Mr. Wattson has
21 a question.

22 PETER WATTSON: Madame Chair, Mr. Flahaven, you heard Senator Solon say that he
23 had a conversation with you in the summer of '95 about Paula Solon's use of the telephone
24 system. Do you recall that conversation?

25 PATRICK FLAHAVEN: No, I do not. If I had conversation about that, you know I've
26 had many, many conversations with many Senators about the telephone system in the last, almost
27 three years, I don't recall that particular conversation, although as Senator Solon had indicated he
28 was unaware of these large volume of inappropriate calls being made until Paula Solon told him

1 about it, but my standard response to every Senator and staff that I've talked to about the use of
2 the telephone system by families and spouses has been that for outstate senators we have always
3 allowed calls back and forth between the senator here in St. Paul and their home in their district
4 because as we've all recognized, the home and the district becomes, in effect, a district office for
5 the Senate and constituents in that area calls their home and leaves messages and there has
6 always been calls back and forth between a senator's office here in St. Paul and their home,
7 because obviously that's where they get a lot of their messages and information, but I've
8 stressed, and all of us have stressed that that has to be related to Senate business, not external or
9 other things that are not Senate business, so that's been my standard response and I don't recall a
10 conversation, but as I say, I've talked to a lot of Senators and that's been the tone and the
11 discussion of my talking about this system consistently for a number of years.

12 SENATOR REICHGOTT JUNGE: Would that be the same response with regard to an
13 ex-wife?

14 PATRICK FLAHAVEN: Yes, I mean, you know, I don't know the personal
15 circumstances and relationships of senators in what has obviously been a difficult and on-going
16 relationship but, you know, if the spouse or former spouse calls back and forth, if it's related to
17 Senate business or has something to do with the senator's activities as a senator, that same thing
18 would follow.

19 SENATOR REICHGOTT JUNGE: Further questions for Mr. Flahaven. If not, you are
20 excused. Thank you for -

21 PATRICK FLAHAVEN: Thank you, Madame Chair.

22 SENATOR REICHGOTT JUNGE: - your time and testimony. Members, I would
23 suggest that we take a little bit over a 15 minute recess and come back at 3:30.

24 (The committee recessed.)
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3 STATE OF MINNESOTA)

4) ss.

5 COUNTY OF RAMSEY)
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7

8 **CERTIFICATE**
9

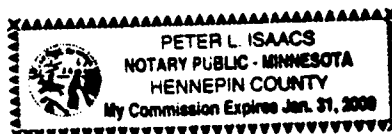
10 I, Christine A. Grover, an employee of the Minnesota Senate, do hereby certify that the
11 foregoing is a true and accurate transcript of the proceedings as taken by me on the dates and
12 times stated, in the matter of Senator Sam G. Solon.
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16
17

18 *Christine A. Grover*
19 Christine A. Grover
20
21

22 DATED: 1996.
23

24 Subscribed and sworn to before me this 8 day of January, 1996.
25

26 *Peter L. Isaacs*
27
28



Peter S. Wattson
Senate Counsel
17 Capitol
St. Paul, Minnesota 55155

(612) 296-3812
(612) 296-7747 Fax

FAX COVER PAGE

January 8, 1996

To: Paul Rogosheske
Fax Number: 451-9956

Number of Pages Sent:3
(Including this page)

Following are draft of findings of fact to be considered by the Subcommittee on Ethical Conduct tomorrow morning, Tuesday, January 9, 1996, at 10:00 a.m. in Room 15 of the Capitol.

Senator Neuville will be given an opportunity to address the subcommittee regarding the findings and appropriate disciplinary action.

You and Senator Solon may, if you choose to do so, address the subcommittee regarding the proposed findings and appropriate disciplinary action.

After it has heard from Senator Neuville and you, the subcommittee will consider appropriate disciplinary action.

Fax copy to: Senator Thomas M. Neuville
507/645-7233

If you have a problem with this transmission, please call (612) 296-3812

DRAFT 1/8/96

A Senate resolution relating to ethical conduct; conduct of Senator Sam G. Solon.

WHEREAS, the Subcommittee on Ethical Conduct of the Committee on Rules and Administration, based on clear and convincing evidence, has made the following findings:

1. Sam G. Solon was first elected to the Minnesota House of Representatives in 1970 and was first elected to the Minnesota Senate in 1972. He was reelected in 1976, 1980, 1982, 1986, 1990, and 1992. He currently represents District 7.
2. The marriage of Sam G. Solon and Paula Solon was dissolved in 1988.
3. Senator Solon provided the Senate's long-distance telephone access code to his ex-wife, Paula Solon, after their marriage was dissolved.
4. During the years 1992 and 1993, Paula Solon did not perform any legislative business for the Minnesota State Senate. Senator Solon knew that she was not performing any legislative business for the Senate.
5. Paula Solon says that Senator Solon authorized her to provide the Senate's access code to her mother, Ann Tool. Ann Tool did not perform any legislative business for the Minnesota State Senate. Senator Solon does not recall granting that authorization.
6. The Senate's access code was changed in August 1992 and January 1993. Senator Solon provided Paula Solon with the new access code each time it was changed.
7. During the years 1992 and 1993, telephone calls traced to Paula Solon's use of the Senate's access code totaled \$2,431.
8. Paula Solon's use of the Senate's access code terminated in March 1993.
9. In March 1993, in response to reports about abuses of the House telephone system by Representative Allan Welle, the Secretary of the Senate began reviewing the Senate's telephone records to determine whether there might be similar problems in the Senate.
10. With the aid of information provided by Senator Solon's long-time friend and roommate, Charles Westin, including the home and business telephone numbers of the persons to whom Senator Solon and Mr. Westin had given the Senate's access code, the Secretary of the Senate was able to determine the cost of the long-distance telephone calls made from those numbers and charged to the Senate. The cost was approximately \$3,000.
11. Senator Solon did not disclose to the Secretary of the Senate, who he knew was investigating his unauthorized calls, that he had given the Senate's access code to Paula Solon.
12. By his personal checks dated April 13, 1993, and May 4, 1993, Senator Solon made full restitution to the Senate of amounts paid by the Senate for the long-distance calls of Charles Westin, Don Johnson, Ronald Limoseth, Constance Limoseth, and Tom Bergh.
13. On May 12, 1993, Senator Solon publicly apologized to the Senate for the embarrassment, notoriety, and public ridicule that his indiscretion in giving out the Senate's long-distance telephone access code had inflicted upon the Senate.
14. On March 24, 1994, by Senate Resolution No. 68, 1994 JOURNAL OF THE SENATE 6871, Senator Solon was formally reprimanded by the Senate for his conduct in providing the Senate's long-distance telephone access code to others and for allowing others to use his Senate office and telephone to make calls on their own personal and private business.

DRAFT 1/8/96

15. The Ramsey County Attorney began an investigation of the long-distance telephone system of the Minnesota House of Representatives and Minnesota Senate in March 1993. The investigation was intended to determine whether there were unauthorized calls made on the House or Senate telephone systems that had been paid with public funds.
16. The investigation revealed, though a computer analysis of telephone numbers that frequently charged calls to the Senate, that Paula Solon had made numerous calls from her home telephone number that were charged to the Senate.
17. On December 5, 1995, before the Honorable Kenneth J. Fitzpatrick, Judge of Ramsey County District Court, Senator Solon pleaded guilty to a violation of Minn. Stat. § 609.893, subd. 1, Telecommunications and Information Services Fraud, a misdemeanor, and Minn. Stat. § 609.05, Liability for Crimes of Another.
18. Senator Solon was fined \$500 and sentenced to 90 days in jail. The jail sentence was suspended on the following conditions:
 - a. That he remain law-abiding for a period of one year.
 - b. That he pay the fine within one year.
 - c. That he make complete restitution to the Senate within one year for all calls charged to the Senate that were not for Senate business.
19. On December 12, 1995, Senator Solon relinquished his duties as chair of the Committee on Commerce and Consumer Protection, pending resolution of the proceedings of the Subcommittee on Ethical Conduct.

Senate Ethics Subcommittee Recommended Sanction

From Complainants

Regarding Senator Sam Solon

January 9, 1996

KEY FACTS RELATIVE TO ETHICS COMPLAINT:

1. Senator Solon pled guilty to aiding telephone fraud for calls made by Paula Solon during the period from 1992 to March of 1993. The value of the fraudulent phone calls was \$2431. Senator Solon pled guilty to fraudulent calls made during the period from December 5, 1992 to March 31, 1993 because of the 3 year statute of limitation. (See MSA 628-26)
2. The committee does not know the specific basis for the plea because the Ramsey County prosecutor refused to testify and Senator Solon would not answer questions about why he accepted the plea for misdemeanor telecommunications fraud.
3. The committee does not know if:
 - a. The statute of limitations expired on felony charge before December 5, 1995.
 - b. The extent of Paula Solon's cooperation with law enforcement.
 - c. The prosecutor's evidence was strong or weak.
 - d. Special treatment was given to Senator Solon.
3. Generally -
 - a. Courts cannot convict anyone for the crime of another unless a crime is committed. (See Crim. JIG 4.01 - attached)
 - b. Pleading guilty for crime of another (MSA 609.05) required intentional aid or counsel to procure another to commit crime.
 - c. A court cannot accept a plea from any person unless the defendant believes that he committed the offense. [Rules of Criminal Procedure 15.02 (7) see attached].
 - d. In some cases a person can deny guilt and still plead guilty if the court, after interrogation, concludes that evidence would support a guilty verdict (i.e. that the principal might be convicted) and that the plea was knowing and voluntary. See State vs. Goulette 258 NW2d 758 (1977). Here, the trial court does not reflect a factual basis for the Goulette plea. Senator Solon did not claim innocence to the court on December 5, 1995 while under oath, when he entered his guilty plea. [See transcript, pg. 5, lines 9-11].
4. Senator Solon gave the access code to Paula Solon at least three (3) times between January 1992 and March 1993. While Senator Solon argues that he thought Paula Solon could call him to restore "family relationships" or his marriage:

- a. There is no evidence offered that Senator Solon and Paula Solon were trying to restore their relationship in 1992-93.
 - b. Senator Solon told the court that he knew Paula's calls had nothing to do with Senate business. [See transcript, pg.5, lines 3-5.]
 - c. The probable cause statement of Investigator McNiff contains no reference by Paula Solon as to purpose of her calls. But also states that Senator Solon gave permission for use by Paula's mother.
5. There is no testimony establishing exactly why Paula Solon discontinued her use of the access code in March 1993.
6. On April 8, 1993 Senator Solon met with the Secretary of Senate concerning unauthorized use of Senate telephones by Charles Westin and others. On April 13, 1993 Senator Solon first paid reimbursement to Senate for unauthorized calls. On May 12, 1993 Senator Solon apologized to Senate for his indiscretion in giving Senate telephone access codes to unauthorized persons.
7. On March 24, 1994 Senator Solon was reprimanded by the Senate for giving access codes to Westin.
8. At no time from March 1993 to March 1994 did Senator Solon ever disclose to the Senate that he had also given the access code to Paula Solon. He attributes this to forgetfulness due to hectic schedule of the legislative session. However, this is inconsistent with his assertion that he and Paula Solon were trying to restore a family relationship since they would then have been in regular contact. Senator Solon did not sign the "amnesty agreement" with the Ramsey County Attorney.
9. Senator Solon asserts that he will run for re-election in 1996 and does not believe that he should be punished any further by the Ethics Subcommittee because:
 - a. He has already incurred public ridicule and embarrassment.
 - b. He has incurred \$500 fine and has a misdemeanor criminal record.
 - c. He has incurred more than \$15,000 in attorney fees.

RECOMMENDATION:

Complainants urge this subcommittee to request Senator Sam Solon's resignation by January 31, 1996 for these reasons:

1. Senator Solon's punishment to date has been the result of his criminal conduct - NOT his ethical conduct.
2. Senator Solon's criminal punishment does not adequately restore the dignity and reputation of the Senate. It is our action which purges the stain on the Senate's reputation and integrity.
3. Senator Solon was not candid and forthright in:
 - a. April 1993 - when he reimbursed \$3000 for Mr. Westin and did not recall Paula's phone usage.

- b. May 1993 - When he apologized to Senate without referring to Paula Solon.
 - c. Period thru March 1994 - when he failed to reference Paula Solon to Secretary of Senate.
 - d. Failing to disclose reference to Paula Solon to Ramsey County Attorney when "amnesty" was offered.
4. If Senator Solon refuses to resign, honorably, then the subcommittee should recommend:
- a. That, effective February 1, 1996 Senator Solon's salary and benefits be terminated.
 - b. That Senator Solon's seniority status be removed and that he not be allowed to serve as Chair or Vice-Chair of any legislative committee or commission.
 - c. That Senator Solon be removed as a member of the Rules and Finance Committees.

The public knows that Senator Solon has plead guilty to a crime. They know that restitution is \$2431. They don't know how the plea was negotiated or agreed upon - but normally we presume that persons do not plead guilty to a crime unless they are guilty.

The public is offended that Senator Solon went into court and admitted guilt - then comes to this ethics subcommittee and argues, somehow, that he thought it was acceptable to give Paula Solon the telephone access code because they were trying to restore a relationship.

Personal integrity and honesty matter more than party or political advantage. Minnesota citizens have the right to expect that elected officials are honest and adhere to the highest standards of personal conduct.

Not holding errant legislators accountable diminishes the confidence that citizens have in this institution. It makes people believe that all elected officials are dishonest and lack the courage and integrity to judge our own misbehavior.

I look at the conduct which has been admitted to by Senator Solon, under oath, in court - and I ask if other citizens, not as prominent as Senator Solon, would have been treated the same. I have defended people charged with felony welfare fraud and check forgery involving much less than \$2400. Former Senator Don Anderson lost his job with the Minnesota Department of Transportation as a result of his criminal plea for misuse of the Senate's telephone access code.

Just as this committee was prevented from knowing why the criminal plea was entered by Senator Solon because he and the Ramsey County Attorney believe that is a separation of power issue: Senator Solon should not be allowed to collaterally offer excuses or explanations mitigating his criminal conviction which vary from the judicial record.

Our stock in trade is our honesty and character. Without it- none of use would have been elected in the first place. Once lost - none of us can easily restore the public's trust. If you do not vote to strongly sanction Senator Solon - the public will rightly ask - Why?

1. Why do you accept a member who has admitted to criminal dishonesty?

- C
2. Why do you lack the courage to discipline your own institution?
 3. Why should we believe that the rest of you are any better?

B. GENERAL PRINCIPLES OF CRIMINAL LAW

CHAPTER 4

LIABILITY FOR CRIMES OF ANOTHER

Table of Instructions

	CRIMJIG
Liability for Crimes of Another	4.01
Effect of Withdrawal	4.02
Effect of Nonconviction of Other Person	4.03
Liability for Crime of a Co-Conspirator	4.04

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide preceding the Summary of Contents.

CRIMJIG 4.01

LIABILITY FOR CRIMES OF ANOTHER

Defendant is guilty of a crime committed by another person when defendant has intentionally aided the other person in committing it, or has intentionally advised, hired, counseled, conspired with or otherwise procured the other person to commit it.

(If defendant intentionally aided another person in committing a crime, or intentionally advised, hired, counseled, conspired with or otherwise procured the other person to commit it, defendant is also guilty of any other crime which that person commits while trying to commit the intended crime, if that other crime was reasonably foreseeable as a probable consequence of trying to commit the intended crime.)

Ch. 4 LIABILITY FOR CRIMES CRIMJIG 4.01

Defendant is guilty of a crime, however, only if the other person commits a crime. Defendant is not liable criminally for aiding, advising, hiring, counseling, conspiring or otherwise procuring the commission of a crime, unless some crime (including an attempt) is actually committed.

COMMENT

M.S.A. § 609.05, subds. 1, 2.

See also comment to CRIMJIG 4.04.

Language in *State v. Ulvinen*, 313 N.W.2d 425 (Minn.1981), citing *State v. Parker*, 282 Minn. 343, 164 N.W.2d 633 (1969), indicates that in some instances an additional instruction requiring more than mere inaction or passive approval may be required.

In *State v. Peirce*, 364 N.W.2d 801 (Minn.1985) the Minnesota Supreme Court expressly approved the second paragraph of this instruction.

In *State v. Hayes*, 431 N.W.2d 533 (Minn.1988), the Minnesota Supreme Court recognized that prior cases state that it is proper for the jury to consider the defendant's passive conduct in connection with other circumstances in determining whether the defendant by his presence intended to aid and abet, and thereby did aid the others in committing the offense. However, the court held mere inaction is not of itself enough to sustain a conviction. Therefore, it was improper for the trial court to, in effect, instruct the jury that mere acquiescence was enough to justify a conviction. However, such instruction was cured by the trial court's statement that the defendant must actually intend to acquiesce in order for there to be acquiescence.

Library References:

C.J.S. Criminal Law §§ 79-85 et seq., 1287, 1324 et seq., 1333.

West's Key No. Digests, Criminal Law ¶69 et seq., 792, 824, 829.

Law Review Commentaries

Double jeopardy, prosecutions by more than one jurisdiction. 24 Minn.L.Rev. 521, 540 (1940).

Double jeopardy, acts violating both statutes and ordinances. 36 Minn.L.Rev. 143, 149 (1952).

Library References

Criminal Law ¶201.
C.J.S. Criminal Law § 296.

Notes of Decisions

Test or standard, generally 1
Transferring stolen property 2

2. Transferring stolen property

This section did not prevent prosecutions for transferring stolen property, based on defendant's role in selling property on different dates to undercover officers, although defendant was subsequently charged in federal court for engaging in dealing in firearms without a license and conspiring with others to engage in dealing in firearms without a license for the same sales. *State v. Aune*, 1985, 363 N.W.2d 741.

1. Test or standard, generally

This section, barring prosecution for crimes after conviction or acquittal in other jurisdiction, envisions a *Blockburger*-type standard protecting a defendant only if second prosecution was for the same act and the state and federal crime were the same in both law and in fact. *State v. Aune*, 1985, 363 N.W.2d 741.

609.05. Liability for crimes of another

Subdivision 1. A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.

Subd. 2. A person liable under subdivision 1 is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended.

Subd. 3. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

Subd. 4. A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted or has been convicted of some other degree of the crime or of some other crime based on the same act.

Laws 1963, c. 753. Amended by Laws 1986, c. 444.

Advisory Committee Comment

This will supersede Minn.St. § 610.12 which makes one who is guilty of similar conduct liable as a "principal." Minn.St. § 610.12 was intended to abolish the distinction existing at common law between the several categories of parties to criminal offenses; namely, principals in the first degree, principals in the second degree, and accessories before the fact.

Minn.St. § 610.12 makes all of these parties liable as principals without distinction.

The recommended section does not use the term "principal" but states the rule in terms of criminal liability. This makes no change in substance.

Subd. 7. Telephone company. "Telephone company" means a telecommunications provider that provides local exchange telecommunications service.

Laws 1990, c. 494, § 5. Amended by Laws 1991, c. 199, art. 1, § 86.

Historical and Statutory Notes

1990 Legislation

Laws 1990, c. 494, § 8, provides in part that § 5, enacting this section, is effective August 1, 1990, and applies to crimes committed on or after that date.

1991 Legislation

Laws 1991, c. 199, was a revisor's instruction correcting erroneous, ambiguous, omitted and obsolete references and text.

609.893. Telecommunications and information services fraud; crime defined

Subdivision 1. Obtaining services by fraud. A person commits telecommunications and information services fraud and may be sentenced as provided in subdivision 3 if the person, with intent to evade a lawful charge, obtains telecommunications service for the person's own use by any fraudulent means.

Subd. 2. Facilitation of telecommunications fraud. A person commits a felony and may be sentenced as provided in subdivision 4 who:

(1) makes available to another, or offers or advertises to make available, a telecommunications device or information in order to facilitate violation of subdivision 1 by another; or

(2) makes, assembles, or possesses a telecommunications device that is designed or adapted to violate subdivision 1 or to conceal from a provider of telecommunications service or from a lawful authority, the existence or place of origin or destination of telecommunications service.

Subd. 3. Fraud. (a) Whoever commits telecommunications and information services fraud in violation of subdivision 1 may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the services is in excess of \$2,500;

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the services is more than \$500 but not more than \$2,500; or

(3) in all other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

(b) Amounts involved in a violation of paragraph (a) under one scheme or course of conduct, whether from the same credit card number or several credit card numbers, may be aggregated in determining the classification of the offense.

Subd. 4. Facilitation of fraud. Whoever violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Laws 1990, c. 494, § 6.

Historical and Statutory Notes

1990 Legislation

Laws 1990, c. 494, § 8, provides in part that § 6, enacting this section, is effective August 1, 1990,

and applies to crimes committed on or after that date.

RICO

609.901. Construction of racketeering provisions

Sections 609.902 to 609.912 shall be liberally construed to achieve their remedial purposes of curtailing racketeering activity and controlled substance crime and lessening their economic and political power in Minnesota.

Laws 1989, c. 286, § 5, eff. Aug. 1, 1989.

1989 Legislation

Laws 1989, c. 286, of such act are effective crimes committed on

RICO, racketeer see National Org. Scheidler, 1994, 11.

609.902. Definitio

Subdivision 1. have the meaning

Subd. 2. Criminal under sec

Subd. 3. En trust, or other les associated in fac enterprises.

Subd. 4. Criminal attempt to commu 299F.79; 299F.80 609.223; 609.223; 609.343; 609.344. 609.52, subdivision 3(d)(v) or (vi); see subdivision 1 or 2 624.713; or 624.7 attempt to commu (16), if the violatio a nonprofit health nance organization under chapter

Subd. 5. Pattern pattern of criminal ing at least three felonies other tha

Subd. 6. Pattern constituting three

(1) were comm

(2) are neither circumstance of

(3) were either criminal purpose persons acting w and associated w

Subd. 7. Per in personal prop copyright. Pers located where th is.

Rule 15.01

Note 32

han, 1967, 276 Minn. 349, 150 N.W.2d 203, appeal after remand 282 Minn. 254, 161 N.W.2d 616; State v. Hayes, 1967, 276 Minn. 384, 150 N.W.2d 552; State ex rel. Cobb v. Rigg, 87 N.W.2d 363.

33. Effect of guilty plea

Motorist who had been represented by counsel at time he pled guilty to prior D.W.I. charge could not collaterally attack D.W.I. conviction as lacking any basis in fact when state attempted to use conviction to enhance sentence for subsequent offense; unless defendant was unrepresented by counsel at time of plea, prior conviction on which state relies to enhance sentence may not be collaterally attacked on constitutional claim of no "factual basis" for guilty plea. State v. Lang, App.1988, 432 N.W.2d 478.

Defendant, by his plea of guilty while represented by counsel, admitted all facts well pleaded. State v. Roy, 1963, 266 Minn. 6, 122 N.W.2d 615, certiorari denied 84 S.Ct. 445, 375 U.S. 956, 11 L.Ed.2d 315.

Where defendant, on advice of counsel, enters a plea of guilty, he is in the same position with respect to matters reviewable by appeal as if he had been found guilty by a jury. State ex rel. Savage v. Rigg, 1957, 250 Minn. 370, 84 N.W.2d 640.

34. Finality of judgments

Once a plea of guilty is accepted and judgment of conviction entered thereon the policy favoring finality of judgment applies. Chapman v. State, 1968, 282 Minn. 13, 162 N.W.2d 698.

35. Estoppel

Jury's finding of mental deficiency on defendant's second charge of sports bookmaking did not have collateral estoppel effect on issue of

RULES OF CRIMINAL PROCEDURE

defendant's competency to plead to earlier charge of sports bookmaking since jury considered only defendant's competency to commit sports bookmaking at time of second offense, and its verdict was not dispositive of defendant's capacity at earlier point in time. State v. Weisberg, App.1991, 473 N.W.2d 381, review denied.

36. Sentence exceeding plea agreement

Plea agreement did not fail for lack of consideration, even though maximum sentence was imposed; agreement provided for dismissal of three other counts against defendant, which could have been used to delay his parole eligibility date, and plea agreement did not specifically require that defendant be given maximum sentences on each count. Bailey v. State of Minn., C.A.8 (Minn.)1992, 966 F.2d 372, certiorari denied 113 S.Ct. 665, 121 L.Ed.2d 589.

37. Remedies

When plea agreement has been broken through no fault of parties, remedies available to court are specific performance and withdrawal of plea; in considering whether to grant specific performance, court must consider prejudice to defendant, conduct of government, and public interest. Bailey v. State of Minn., C.A.8 (Minn.)1992, 966 F.2d 372, certiorari denied 113 S.Ct. 665, 121 L.Ed.2d 589.

38. Postconviction review

Postconviction consideration of defendant's claim that his plea was unintelligent and involuntary was not foreclosed where, although defendant raised claim in his initial motion to withdraw his plea, issue was not resolved on direct appeal. State v. Weisberg, App.1991, 473 N.W.2d 381, review denied.

Rule 15.02. Acceptance of Plea; Questioning Defendant; Misdemeanor Cases

Before the court accepts a plea of guilty to any offense punishable upon conviction by incarceration, any plea agreement shall be explained in open court. The defendant shall then be questioned by the court or counsel in substance as follows:

1. Specifically whether the defendant understands that the crime charged is (name the offense) committed on or about (Month) (Day) (Year) in _____ County, Minnesota (and that the defendant is pleading guilty to the crime of (name of offense)).

2. Whether the defendant realizes that the maximum possible sentence is 90 days imprisonment and a fine in the amount allowed by applicable law. (Under the applicable law, if the maximum sentence is less, it should be so stated.)

RULES OF CRIMINAL PROCEDURE

Rule 15.02

3. Whether the defendant knows there is a right to the assistance of counsel at every stage of the proceedings and that counsel will be appointed for a defendant unable to afford counsel.

4. Whether the defendant knows of the right:

(a) to trial by the court or a jury and that a finding of guilty is not possible in a jury trial unless all jurors agree;

(b) to confront and cross-examine all prosecution witnesses;

(c) to subpoena and present defense witnesses;

(d) to testify or remain silent at trial or at any other time;

(e) to be presumed innocent and that the State must prove its case beyond a reasonable doubt; and

(f) to a pretrial hearing to contest the admissibility at trial of any confessions or admissions or of any evidence obtained from a search and seizure.

5. Whether the defendant waives these rights.

6. Whether the defendant understands the nature of the offense charged.

7. Whether the defendant believes that what the defendant did constitutes the offense to which the defendant is pleading guilty.

The court with the assistance of counsel, if any, shall then elicit sufficient facts from the defendant to determine whether there is a factual basis for all elements of the offense to which the defendant is pleading guilty.

Where the guilty plea is being entered at the defendant's first appearance in court, the statement as to the defendant's rights required by Rule 5.01 may be combined with the questioning required above prior to entry of a guilty plea.

Adopted Feb. 26, 1975, eff. July 1, 1975. Revised Dec. 13, 1989.

Comment—Rule 15

See comment and appendix following Rule 15.11.

Historical Notes

The order of the Minnesota Supreme Court [C1-84-2137] dated December 13, 1989, provides in part that "(t)hese amended Rules of Criminal Procedure shall govern all criminal actions commenced or arrests made after 12

o'clock midnight January 1, 1990, except amendments to 8.04, 11.07, and 19.04, subd. 5, shall govern all criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1991."

Constitutional Provisions

Article 1, § 4, provides:

"The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict. The legislature may provide for the

number of jurors in a civil action or proceeding, provided that a jury have at least six members."

Article 1, § 5, provides:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted."

Article 1, § 6, provides:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial

of guilty to reduced charge of second-degree murder although he denied his guilt, record established that there was enough evidence to support finding that defendant was guilty of at least second-degree murder, and that defendant's decision to make plea rather than face trial on first-degree murder charge was intelligent and voluntary choice based upon advice of counsel and full understanding of options.

3. Criminal Law § 273(1)

Judgment of conviction based on guilty plea is normally justified by defendant's admission of guilt and by defendant's knowing and voluntary waiver of trial.

4. Criminal Law § 273(4)

There are situations where defendant's decision to plead guilty is rational decision even though defendant for some reason cannot bring himself to admit his guilt.

5. Criminal Law § 273(4)

When plea of guilty is offered by defendant who denies his guilt, trial court should not cavalierly accept plea but should assume its responsibility to determine whether plea is voluntarily, knowingly, and understandingly made, and whether there is sufficient factual basis to support it.

6. Criminal Law § 273(4)

Key consideration as to acceptance of plea of guilty by defendant who denies his guilt is whether plea is voluntary and represents knowing and intelligent choice of alternative courses of action available; thus, requirement that there be a sufficient factual basis to support plea would appear to be essential to determination of this issue.

7. Criminal Law § 273(4)

Requirement that there be a sufficient factual basis to support plea of guilty entered by defendant who denies his guilt provides means by which trial court can test whether plea is being intelligently entered, since *Alford* type plea could hardly be accepted as intelligent, rational plea if there were insufficient factual basis offered to support it.

8. Criminal Law § 273(4)

Better practice for providing sufficient factual basis to support plea of guilty entered by defendant who denies his guilt, especially in cases involving major felonies, would be introduction by prosecutor of statement of witnesses or other items from his file which would aid court in its determination; prosecutor might even consider calling some of State's witnesses for purpose of giving shortened version of what their testimony would be were case to go to trial.

9. Criminal Law § 273(4)

In proceedings on plea of guilty entered by defendant who denies his guilt, once trial court is satisfied that record contains showing that there is evidence which would support jury verdict that defendant is guilty of at least as great a crime as that to which he is pleading guilty, court may proceed to determine whether under all circumstances plea is voluntarily, knowingly, and understandingly entered.

10. Criminal Law § 273(2)

Although entry of plea of guilty by defendant who denies his guilt is constitutionally valid, there may be cases where court nonetheless may decide against accepting plea agreement on which plea is based; neither constitution nor rules of criminal procedure give criminal defendant absolute right to have his plea of guilty accepted. Rules Crim.Proc., rule 15.04, subd. 3(2), 27A M.S.A.

Syllabus by the Court

A trial court may accept a plea of guilty by an accused even though the accused denies his guilt if the court, on the basis of its interrogation of the accused and its analysis of the factual basis offered in support of the plea, reasonably concludes that the evidence would support a jury verdict of guilty and that the plea is voluntarily, knowingly, and understandingly entered.

C. Paul Jones, Public Defender, Robert E. Oliphant, Asst. Public Defender, Minneapolis, for appellant.

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Warren Spannaus, Atty. Gen., St. Paul, John O. Sonsteng, County Atty., H. Richard Hopper, Asst. County Atty., Hastings, for respondent.

Heard before SHERAN, C. J., and ROGOSHESKE, PETERSON, KELLY, SCOTT and PLUNKETT, JJ., and considered and decided by the court en banc.

ROGOSHESKE, Justice.

[1, 2] Defendant, under indictment for first-degree murder, entered a negotiated plea of guilty to a reduced charge of second-degree murder and was sentenced by the trial court to a maximum term of 25 years in prison. The central issue on this appeal by defendant from judgment of conviction is under what circumstances a trial court properly may accept a guilty plea when the plea is accompanied by a claim of innocence. Relying upon *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970), we hold that a trial court may accept a plea of guilty by an accused even though the accused claims he is innocent of the crime, on the basis of its interrogation of the accused and its analysis of the factual basis offered in support of the plea, reasonably concludes that there is evidence which would support a jury verdict of guilty and that the plea is voluntarily, knowingly, and understandingly entered. In this case, we believe that the record shows there was enough evidence to support a finding that defendant was guilty of at least second-degree murder, and that defendant's decision to make that plea rather than face trial on the first-degree murder charge was an intelligent and voluntary choice based upon the advice of counsel and a full understanding of the options. Accordingly, we affirm.

This case had its genesis on July 28, 1974, when Michael Riskin, while in defendant's presence, shot and killed a mutual acquaintance of theirs, Glyn Hobbs, in Apple Valley, Dakota County. Following the arrest of Riskin and defendant, the grand jury of Dakota County indicted Riskin for first-degree murder and defendant as an accessory to first-degree murder. The precise issue

with which we are concerned arose when defendant entered a negotiated guilty plea to a reduced charge of second-degree murder. At the hearing on the acceptance of that plea, defendant denied any foreknowledge of the shooting and denied any intent to assist Riskin in it, but nonetheless expressed a desire to plead guilty to second-degree murder because of the strength of the prosecution's case and the possibility that if he went to trial he might be convicted of first-degree murder and receive a mandatory sentence of life imprisonment. The factual basis offered in support of defendant's plea consisted of a recitation by defense counsel, in summary form, of some of the key evidence which the prosecutor would have offered in an attempt to prove first-degree murder if the case had gone to trial.

In rejecting defendant's contention that the acceptance of his plea was inappropriate under the circumstances, we rely primarily on *North Carolina v. Alford*, supra, in which the Supreme Court held that a trial court did not commit Federal constitutional error in accepting a guilty plea to second-degree murder by a state criminal defendant indicted for the capital crime of first-degree murder. Even though defendant in that case professed his innocence when he entered his plea, there was a strong factual basis for the plea, and the defendant's plea was intelligent and voluntary and made with understanding of his rights and of the nature and elements of the charge.

[3] As the court pointed out in *Alford*, a judgment of conviction based on a guilty plea is normally justified by the defendant's admission of guilt and by the defendant's knowing and voluntary waiver of a trial. Since an admission of guilt is central to the plea of guilty, the argument can be made that a trial court should not be permitted to accept a guilty plea when the accused accompanies his plea with a denial of guilt or with statements inconsistent with guilt. Perhaps the key consideration for a trial court faced with a decision whether to accept a guilty plea is whether the plea is

~~intelligently, knowingly, and voluntarily made.~~ When a defendant pleads guilty but at the same time denies that he is in fact guilty, the rationality of the defendant's decision is immediately called into question, ~~for we must assume that normally persons who believe they are innocent of criminal charges do not plead guilty to those charges.~~

[4] Nevertheless, as the *Alford* case demonstrates, there are situations where an accused's decision to plead guilty is a rational decision even though the accused for some reason cannot bring himself to admit his guilt. Thus, in *Alford* the accused was faced with trial on a charge of first-degree murder, and the evidence was such that there was a strong probability that he would be convicted of that charge, a result which would subject the defendant to the possibility of receiving the death penalty. As the court in *Alford* put it, "[w]hether he realized or disbelieved his guilt, he insisted on his plea because in his view he had absolutely nothing to gain by a trial and much to gain by pleading." 400 U.S. 37, 91 S.Ct. 167, 27 L.Ed.2d 171.

In *Alford*, the court specifically said that states may bar their courts from accepting pleas from any defendants who assert their innocence. 400 U.S. 38, note 11, 91 S.Ct. 168, 27 L.Ed.2d 172. Until this case, we have not been faced directly with the issue of whether to follow the reasoning of the *Alford* case—that there are situations where *Alford*-type pleas make sense and should be accepted. We have cited *Alford* in a number of cases, but those were cases in which the defendants, while not maintaining their innocence, did not unequivocally admit guilt. See, e. g., *Pearson v. State*, Minn., 241 N.W.2d 490 (1976).

Facing the issue directly for the first time, ~~we now hold that a trial court may accept a plea of guilty by an accused even though the accused protests that he is innocent if the court, on the basis of its interrogations of the accused and its analysis of~~

~~the factual basis offered in support of the plea, concludes that the evidence would support a jury verdict of guilty, and that the plea is voluntarily, knowingly, and understandingly entered.~~

[5-7] Elaborating on this decision, we wish to emphasize that it is absolutely crucial that when an *Alford*-type plea is offered the trial court should not cavalierly accept the plea but should assume its responsibility to determine whether the plea is voluntarily, knowingly, and understandingly made, and whether there is a sufficient factual basis to support it. See *State v. Hoaglund*, 307 Minn. 322, 240 N.W.2d 4 (1976). The key consideration is whether the plea is voluntary and represents a knowing and intelligent choice of the alternative courses of action available. Thus, the factual-basis requirement would appear to be essential to a determination of this issue. As the court stated in *Alford*, the factual-basis requirement provides a means by which the trial court can test whether the plea is being intelligently entered, since an *Alford*-type plea could hardly be accepted as an intelligent, rational plea if there were an insufficient factual basis offered to support it.¹

[8] In this case, the factual basis supporting defendant's plea was provided by the public defender, who recited in summary form some of the key evidence which the prosecution would have offered in evidence to prove first-degree murder if the case had gone to trial. In future similar cases, especially those involving major felonies, a better practice would be the introduction, by the prosecutor, of statements of witnesses or other items from his file which would aid the court in its determination. In appropriate cases, the prosecutor might even consider calling some of the state's witnesses for the purpose of giving a shortened version of what their testimony would be were the case to go to trial.

1. Our decisions in *State v. Hoaglund*, 307 Minn. 322, 240 N.W.2d 4 (1976), and *Beaman v. State*, 301 Minn. 180, 221 N.W.2d 698 (1974), illus-

trate the importance of the factual-basis requirement in all guilty-plea cases, not just those involving *Alford*-type pleas.

[9] Once the trial court is satisfied that the record contains a showing that there is evidence which would support a jury verdict that the defendant is guilty of at least as great a crime as that to which he is pleading guilty, then the court may proceed to determine whether under all the circumstances the plea is voluntarily, knowingly, and understandingly entered.

[10] Having said this, we believe we should add the caveat that, even though it has been determined that a defendant's *Alford*-type plea is constitutionally valid, there may be cases where the court nonetheless may decide against accepting the plea agreement on which the plea is based. Neither the constitution nor our Rules of Criminal Procedure give to a criminal defendant an absolute right to have his plea of guilty accepted. Indeed, Rule 15.04, subd. 3(2), Rules of Criminal Procedure, relating to the acceptance of plea agreements, specifically provides that one of the several factors to be considered by a court is whether the defendant "has acknowledged his guilt and shown a willingness to assume responsibility for his conduct."

In this case, we hold, upon a detailed examination of both the plea and postconviction proceedings, that the record supports the trial court's determination that the plea was voluntarily, knowingly, and understandingly entered, and that there was a sufficient factual basis for the plea.

Affirmed.

TODD, J., took no part in the consideration or decision of this case.



PACIFIC INDEMNITY COMPANY,
et al., Appellants.

v.

THOMPSON-YAEGER, INC.,
Respondent.

Frerichs Our Own Hardware,
Inc., Appellant.

Tjernlund Manufacturing Company,
Defendant.

Yale Engineering, Inc., Respondent (and
Thirteen other cases).

No. 47087.

Supreme Court of Minnesota.

Sept. 16, 1977.

Actions commenced by shopping center tenants or their insurers following shopping center's partial destruction by fire were consolidated. The District Court, Olmsted County, O. Russell Olson, J., adopted report of referee, who had been appointed to consider issue of damages in each individual case, and set interest on award from date of orders adopting report, and appeal was taken. The Supreme Court, Todd, J., held that: (1) interest on referee's award of damages was to be computed from date of referee's report and (2) defendants which were not parties to loan-receipt agreement between plaintiffs and other defendants were not entitled to a pro tanto reduction of total damage award.

Affirmed in part; reversed in part.

1. Interest — 39(1)

In cases in which a general verdict is returned, interest on money award accrues from time of rendition of verdict.

2. Interest — 39(1)

Interest on referee's award of damages was to be computed from date of referee's report rather than from trial court's adoption thereof. Rules Civ.Proc., Dist.Ct., rule 53.05(2), 27A M.S.A.; M.S.A. § 549.09.

MINNESOTA SENATE
SUBCOMMITTEE ON ETHICAL CONDUCT

CONDUCT OF SENATOR SAM G. SOLON

SUBCOMMITTEE DELIBERATIONS
JANUARY 9, 1996

Transcribed January 15, 1996

1 Proceedings held on the 9th day of January, 1996, before the Minnesota Senate
2 Subcommittee on Ethical Conduct, Room 15, State Capitol.

3
4 Members of the Committee include:

5
6 Senator Ember Reichgott Junge, Chair

7 Senator Dennis R. Frederickson

8 Senator Steven G. Novak

9 Senator Roy W. Terwilliger

10
11 Peter S. Wattson, Senate Counsel

12
13 Chief Justice Douglas K. Amdahl, Outside Counsel

14 Chief Justice Robert J. Sheran, Outside Counsel

15
16 **A P P E A R A N C E**

17
18 Senator Thomas M. Neuville, Complainant

19 Paul Rogosheske, Thuet, Pugh & Rogosheske, Ltd., Attorneys & Counselors, 833
20 Southview Boulevard, South St. Paul, Minnesota 55075, appeared on behalf of Senator Sam
21 Solon.

1 Senator Neuville's remarks concerning Senator Solon.

2
3 SENATOR REICHGOTT JUNGE: Members, question on the comments. We will be
4 deliberating later, but questions? Okay, if not, Senator Neuville did you want to proceed then
5 with your comments regarding Senator Solon?

6 SENATOR NEUVILLE: I do, Madame Chair, and my remarks concerning Senator Solon
7 are also joined in by Senator Johnson, and they're more detailed. The case of Senator Solon has
8 caused us difficulty in trying to determine what is an appropriate sanction, but as we look at the
9 evidence, the key facts relative to this complaint are as follows: first of all, Senator Solon pled
10 guilty to aiding telephone fraud for calls made by Paula Solon during the period from 1992 to
11 March of '93. The value of the fraudulent phone calls was \$2,431. Senator Solon pled guilty to
12 fraudulent calls made during the period from December 5th, '92 to March 31st, '93, because of
13 the three-year statute of limitations.

14 SENATOR REICHGOTT JUNGE: Senator Neuville, let me just ask a question here
15 before you get into this. It appears you've got about a number of pages here that you are
16 submitting for our consideration and that's certainly is appropriate and we will look at that. I'm
17 not sure you need to read it all. Is there a way that you can just kind of summarize your
18 conclusions on this and then we will have it before us and we can review it as we get into the
19 deliberations?

20 SENATOR NEUVILLE: Well, Madame Chair, I don't know if it's possible to condense
21 it. I've tried to set it out logically so that one statement will lead to the next. If that's the way
22 that you want me to do it, I will try my best to condense it.

23 SENATOR TERWILLIGER: Madame Chair.

24 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

25 SENATOR TERWILLIGER: Madame Chair, in view of the fact that this is, while it is
26 rather voluminous, it is a matter, I think, for -- to make certain that all the facts are out and the
27 feelings, would it not be appropriate, we have time it seems to me to listen, I would appreciate,
28 frankly, listening to it orally, to the oral presentation, without synopsis.

1 SENATOR REICHGOTT JUNG: Senator Novak.

2 SENATOR NOVAK: Madame Chair, I was struck by the thickness of the packet myself,
3 but as I page through it, I do notice that over half of it is statutory citations, which I truly hope
4 you're not gonna read.

5 SENATOR NEUVILLE: I'm not going to read that.

6 SENATOR NOVAK: So -

7 SENATOR REICHGOTT JUNG: All right. If you can, sometimes it's easier if we
8 know what the conclusion is or where you're leading to, but go ahead and take -

9 SENATOR NEUVILLE: If you'd like, Madame Chair, I'll jump to the conclusion and
10 then back up, but as I said, I was trying to logically progress to that point.

11 SENATOR REICHGOTT JUNG: I thought, Senator Neuville, you were going to say
12 brief comments about the penalties, I believe that's what the record said on Wednesday, so, all
13 right, go ahead.

14 SENATOR NEUVILLE: Madame Chair, I wish I could be brief, but this case does give
15 me difficulty. Number 2, the committee doesn't really know the specific basis for the plea in this
16 case because the Ramsey County prosecutor refused to testify and Senator Solon would not
17 answer questions about why he accepted the plea for misdemeanor telecommunications fraud.
18 The committee doesn't know for sure if the statute of limitations expired on possible felony
19 charges. It doesn't know if the extent - it doesn't know the extent of Paula Solon's cooperation
20 with law enforcement officials, it doesn't know if the prosecutor's case was weak or strong, and
21 it doesn't know for sure if special treatment was given to Senator Solon. I'll summarize
22 paragraph 3, but generally speaking, the way that the general public looks at a plea of guilty is
23 that if you plead guilty to a crime in court, you are guilty, and when I look at the record of the
24 transcript, when Senator Solon pled guilty, he was specifically asked the question, "Do you make
25 any claim that you are innocent" and he said, "No" in court, under oath, and yet what we seemed
26 to hear in his testimony when he came before this committee was an offering of excuses that he
27 didn't think it was improper for him to give his telephone access code to his ex-wife if it was for
28 the purpose of restoring a family relationship or a marriage, and I have attached - most of the

1 attachments relate to paragraph 3, what I've included here is the standard jury instruction that's
2 given to the charge of aiding and abetting someone else in committing a crime, the standard that
3 a court must follow under the rules of criminal procedure when they accept a plea of guilty from
4 someone, and the case of *State v. Goulette*, which sets forth the standard by which a court can
5 even accept a guilty plea from someone who claims that they are not guilty. That is possible in
6 Minnesota, but under *State v. Goulette*, which former Chief Justice Sheran helped to decide, the
7 court has a duty to make a factual finding on the record of facts that would at least lead to a
8 conclusion that conviction would be possible, and when you look at the record of Senator Solon,
9 there is no such factual finding on that record. It was a straight-up plea of guilty where he denied
10 he was innocent and so I think that the members of the public will look at his plea of guilty to
11 aiding and abetting telecommunications fraud as a straight-up guilty plea to criminal conduct and
12 that's the way that this committee should look at. Number 4, we know that Senator Solon gave
13 his access code to Paula Solon at least three times between January of '92 and March of '93.
14 While he argues that Paula Solon could call him to restore family relationships or his marriage,
15 there really is no evidence offered by Senator Solon that Senator Solon and Paula Solon were
16 trying to restore their relationship except his own testimony to that. We don't know if Senator
17 Solon told the court that he knew that Paula's calls had anything to do with Senate business. In
18 fact, on the record, he admitted in the transcript that he knew that her calls were not Senate
19 business and the only reference that we do have from Paula Solon was investigator McNiff in the
20 complaint and Paula Solon made no explanation as to why the calls were made or that her calls
21 were made to Senator Solon. We don't know for sure why Paula Solon discontinued the use of
22 the access code in March of '93, we have to speculate about that. We know that in April of '93,
23 Senator Solon met with the Secretary of the Senate concerning the unauthorized use of the
24 Senate telephones by Charles Weston and others. We know that he reimbursed for the telephone
25 use by Senator or by Mr. Weston. We know that the Ramsey County Attorney offered an
26 opportunity for amnesty to all senators who had possibly made personal calls for at least a period
27 of one year. Senator Solon knew, or should have known, and had the opportunity to make
28 known to the Senate and to the Secretary of the Senate the fact that he had given his access code

1 to Paula Solon, and he did not disclose that. When he made his apology to the Senate in, I
2 believe it was April of '93, there was no apology for conduct relating to Paula Solon. We think
3 that this bears on the degree to which he has accepted responsibility and made full disclosure to
4 the Senate. Let me jump down to the recommendations. The complainants urge the
5 subcommittee to request that Senator Solon resign from the Senate, effective January 31, 1996,
6 for the following reasons: Number 1, Senator Solon's punishment to date has been a result of his
7 criminal conduct, not his ethical conduct. Number 2, Senator Solon's criminal punishment does
8 not adequately restore the dignity and reputation of the Minnesota Senate. It is our action which
9 purges the stain on the Senate's reputation and integrity. Number 3, Senator Solon was not
10 candid and forthright when he had plenty of opportunities to disclose the giving of the access
11 code to Paula Solon and did not disclose that fact to all of the persons that I mentioned before.
12 Number 4, if Senator Solon refuses to resign honorably, then the subcommittee should
13 recommend the following: First of all, that effective February 1st, 1996, that Senator Solon's
14 salary and benefits be terminated. Secondly, that Senator Solon's seniority status be removed
15 and that he not be allowed to serve as chair or vice-chair of any legislative committee or
16 commission and third, that Senator Solon be removed as a member of the Rules and Finance
17 Committee in the Minnesota Senate. The public knows that Senator Solon has pled guilty to a
18 crime. They know that the restitution is about \$2,431. They don't know how the plea was
19 negotiated or agreed upon, but normally we presume that people who plead guilty to crimes are
20 guilty. The public is offended that Senator Solon went into court and admitted guilt and then
21 comes to this ethics committee and argues that somehow he's not responsible. Personal integrity
22 and honesty matter more than party or political advantage. Minnesota citizens have the right to
23 expect that elected officials are honest and adhere to the highest standards of personal conduct.
24 Not holding errant legislators accountable diminishes the confidence that citizens have in this
25 institution. It makes people believe that all elected officials are dishonest and lack the courage
26 and integrity to judge our own misconduct. I look at the conduct which has been admitted by
27 Senator Solon and I ask if other citizens not as prominent as Senator Solon would have been
28 treated the same. I've defended people of welfare fraud and check forgery for much less than

1 \$2,400 who have been charged with felony offenses. Just as this, and I might add, that former
2 Senator Don Anderson lost his job for similar conduct. Just as this committee was prevented
3 from knowing why the criminal plea was entered by Senator Solon, he should not be allowed to
4 come in and now collaterally offer explanation and excuses with respect to his criminal plea.
5 Our stock and trade is our honesty and character, without it, none of us would've been elected in
6 the first place, and once lost, none of us can easily restore the public's trust. If you don't vote to
7 strongly sanction Senator Solon, the public will rightly ask "Why? Why do you accept a
8 member who has admitted to criminal dishonesty? Why do you lack the courage to discipline
9 your own institution and why should we believe that the rest of you are any better? Thank you,
10 Madame Chair.

11 SENATOR REICHGOTT JUNG: Thank you Senator Neuville. And so the attachments
12 here.

13 SENATOR NEUVILLE: The attachments relate to paragraph 3, just to provide some
14 corroboration for my statements.

15 SENATOR REICHGOTT JUNG: Okay. I see. Very good. Questions for Senator
16 Neuville. Senator Novak.

17 SENATOR NOVAK: One question for now, Senator Neuville. On your statement about
18 former Senator Don Anderson losing his job at the Minnesota DOT, was that a personal decision
19 or was that a decision from Governor Carlson?

20 SENATOR NEUVILLE: That was a decision by the Governor, by the administration.

21 SENATOR NOVAK: Is that public?

22 SENATOR NEUVILLE: I don't know.

23 SENATOR NOVAK: The reason I ask Madame Chair -

24 SENATOR REICHGOTT JUNG: Senator Novak.

25 SENATOR NOVAK: - that's not what I heard when I heard the press announcement on
26 it and the reason I'm concerned about it is you're implying a mandatory standard here and using
27 his action as evidence that that is somehow something that automatically occurs and therefore
28 should occur here, and I do not believe that's the case based on my knowledge of the incident,

1 although I could be wrong.

2 SENATOR NEUVILLE: Madame Chair, my reference to former Senator Anderson is
3 just to show, I don't think that the cases are obviously the same. I mean, he is not an elected
4 official and so they're obviously different. But just to show that it did cost him his job.

5 SENATOR NOVAK: And again, Madame Chair.

6 SENATOR REICHGOTT JUNGE: Senator Novak.

7 SENATOR NOVAK: The reason I raised the issue was – I don't think it's necessarily a
8 small point either because of the implication in the statement is, I think it does make a difference
9 whether that was a personal choice or it was a mandated decision by the chief executive as a
10 result of the action that was well –

11 SENATOR REICHGOTT JUNGE: Are there further questions for Senator Neuville on
12 his comments? If none, thank you, I appreciate your getting them ready for us. At this time
13 then, I would ask for final comments from the Senators who are coming before the committee or
14 their representatives. I see Mr. Rogosheske is here, I assume you are here on behalf of Senator
15 Solon. Did you wish to make some comments?

16 MR. ROGOSHESKE: Just briefly Madame Chair, members of the committee –

17
18 (Subcommittee discussion regarding Senator Chandler omitted.)

19
20 SENATOR REICHGOTT JUNGE: So with that then, we'll move to Mr. Rogosheske
21 who has made an appearance in these proceedings already as the attorney for Senator Sam Solon.
22 Mr. Rogosheske is recognized.

23 MR. ROGOSHESKE: Thank you Madame Chair, members of the commission. Senator
24 Solon couldn't be here today. As you know, the weather is very bad up in Duluth and he had
25 some personal matters to take care of. He wanted to be here. He sends his apology for not being
26 here. He wanted me to specifically thank the committee for all the work they've done and he
27 sincerely apologizes for having to put the Senators through this kind of proceeding. He knows
28 its been very difficult for them. I will try to brief in my comments. The facts that I received with

1 respect to Mr. Wattson and Senator Neuville spoke about with the respect of the draft finding, we
2 have no objection to those facts and ask that the committee adopt those. Unlike our agreement
3 with the proposed finds of facts, we do have a lot of disagreement with Senator Neuville's
4 recitation of the facts and his ideas of what the facts were. Particularly, we talk about whether or
5 not Senator Solon admitted guilt. He not only admitted guilt before this committee, but he
6 admitted guilt in the guilty plea transcript. Senator Solon admitted that he gave his credit card to
7 his ex-wife and that was not for Senate business and that was wrong. That is specifically on the
8 plea transcript. That is specific grounds for why a judge accepts a plea. And I again ask the
9 committee to defer to the chief justices and their explanation with respect to liability of crimes
10 for other, other than Senator Neuville's interpretation of that law and his interpretation of
11 *Goulette*, and if the committee will look at the *State v. Goulette*, we did not enter a *State v.*
12 *Goulette* plea, and I am very familiar with *State v. Goulette*, as my father is the author of that
13 opinion and he was on the court with Justice Sheran. We did not offer a *Goulette* plea. We
14 indicated we were guilty, we said we were guilty, Senator Solon said he was guilty here. Its just
15 a different knowledge of the law about liability of crimes for others and I want to reiterate
16 Senator Solon did not know that his ex-wife was using the card to call other people. He knew
17 that he was calling her and that's all he knew. Specifically, I just want to touch base on a couple
18 of issues of Senator Neuville's recitation and that has to do with former Senator Anderson. I
19 don't want to compare apples to oranges. That case is entirely different. Senator Anderson used
20 the credit card when he was clearly out of office. He was not in office and he kept using the
21 Senate credit card. There is absolutely no authority to use that Senate credit card when you have
22 left the office and that's why I don't want to get into comparing these cases on a different case-
23 by-case basis. It's not appropriate. With respect to his other comment about special treatment.
24 As a member of the bar I'm appalled. We are officers of the court. We are not people that tell
25 people to commit crimes. We cannot, as a legal obligation, tell people to commit crimes or do
26 something unethical, and Susan Gaertner, the Ramsey County Attorney I have the utmost respect
27 for and she's a high quality attorney, and I believe Charles Balck is a high quality attorney, and I
28 can tell you as the attorney representing Senator Solon, there was no special treatment given

1 Senator Solon by the Ramsey County Attorney's office. That's why I think we're missing the
2 point here when we don't look at when this situation took place. It took place back in 1992 and
3 '93, and the situation at that time was extremely different. There was a complicated phone bill
4 system where the senators never received a phone bill. There was a belief of a flat fee that was
5 alluded to before by Senator Moe and Senator Johnson, and in January of '92 and January of '93,
6 there was no defined rules for what is Senate business. When this investigation broke, my client
7 cooperated extensively. The investigation was more of a direction toward lobbying influence,
8 preferential treatment. Senator Solon's records, campaign records, campaign contributions were
9 thoroughly digested. Those were cross-correlated with everybody that had a bill in front of his
10 committee. It was cross-correlated with everybody that gave him a campaign contribution. The
11 allegations were unfavorable influence or preferential influence for other people. That was not
12 found. And in that dilemma of that investigation Senator Solon forgot to tell them about his ex-
13 wife. Why he didn't disclose it, I can't tell you why he didn't, he forgot. He had amnesty, he
14 had it available to him. It would have been taken care of. Back at that time in March of '93, I
15 don't know if Senate business wouldn't have included calling an ex-wife, I don't know. Today,
16 it's wrong. Senator Solon admitted he's wrong, he publicly apologized, he submitted to every
17 interrogation that has been asked of him and so has his ex-wife, contrary to what Senator
18 Neuville said. Both of them cooperated fully at every turn with every investigator, with every
19 committee. He publicly apologized. He was publicly reprimanded and he stepped down as
20 chair, and I can tell you he's deeply sorry. I know him personally and I can tell you that this
21 deeply affects him. Both Senator Solon and I would defer to your committee's judgment for the
22 proper discipline for the Senator. Thank you for my comments and I apologize for taking too
23 long.

24 SENATOR REICHGOTT JUNGE: Thank you Mr. Rogosheske and I again, I believe
25 I've stated this on the record, there's no question that Senator Solon has been fully cooperative in
26 the proceedings of this committee both several years ago and now, and has done everything that
27 we have requested of him and so I wanted to underscore that for the record. Are there questions
28 for Mr. Rogosheske? If not, thank you for your appearance today. All right then members then

1 at this point we have no other business to come before us from outside participants and we will
2 close the public aspects of our proceedings and begin on the deliberations of the subcommittee.
3 At this time then the only members that will participate will be the subcommittee members and
4 our two justices.

5
6 (Subcommittee discussions regarding the sanctions to be imposed on Senator Chandler
7 omitted.)

8
9 Comments of Chief Justice Sheran and Chief Justice Amdahl on discipline for Senator
10 Solon

11
12 SENATOR REICHGOTT JUNG: Chief Justice Sheran did you want to have us call you
13 back then when we get to Senator Solon's situation, or did you want to -

14 CHIEF JUSTICE SHERAN: Why, I don't think it's necessary to call me back because
15 I've thought about that and I've also discussed that with Judge Amdahl and my impression was
16 that we both felt that nothing was developed at the hearing that would call for any significant
17 increase or addition to what has already been done. So -

18 SENATOR REICHGOTT JUNG: So you're saying then that you don't think that
19 further punishment is warranted at this time?

20 CHIEF JUSTICE SHERAN: I think not. I think something in the nature of a repetition of
21 the censure for what was done in the past would be appropriate and maybe some comment to the
22 effect that had he been more alert, he would have been aware of the fact that his former wife had
23 that access number and I think he should be criticized for not having been more alert as he
24 criticized himself at the time of the hearing when he said in hindsight that he would have
25 checked into that more carefully. But, except for that, I didn't think anything further was needed.
26 I felt he was very open and forthright in his presentation and I felt that his handling of the
27 situation from the beginning was the way it should have been. So, I don't see any need to punish
28 him further although a repetition of the previous censure would probably be okay.

1 SENATOR REICHGOTT JUNGE: He made a public apology also, would you believe
2 that a public apology would be needed or sufficient or are you saying that you need to go as far
3 as a reprimand?

4 CHIEF JUSTICE SHERAN: No, I don't think you have to go that far. I think an apology
5 would serve the same purpose.

6 SENATOR REICHGOTT JUNGE: Okay. We -

7 CHIEF JUSTICE SHERAN: Some act to remind the public that the situation is not being
8 glossed over without adding to the sanctions that already have been imposed. That would be my
9 idea of it.

10 SENATOR REICHGOTT JUNGE: Thank you Justice Sheran. At this time then, I think
11 I'll just also seek comments from Justice Amdahl on that while you're on the line. We will be
12 returning to discussion of the Senator Solon situation after we finish with Senator Chandler but
13 because I don't want to inconvenience you any further this afternoon, I will ask for Senator or
14 excuse me Justice Amdahl's comments now.

15 CHIEF JUSTICE SHERAN: Let me make the point that Justice Amdahl and I discussed
16 this situation last evening and I heard his views on it and I agreed with him and I'm sure that his
17 advice to you and mine would be the same.

18 SENATOR REICHGOTT JUNGE: Justice Amdahl.

19 CHIEF JUSTICE AMDAHL: Yes, my advice is substantially the same. Although, I
20 believe, that there should be an added requirement that if Paula, his former wife, does not make
21 restitution that the restitution should be a part of his responsibility to the Senate.

22 SENATOR REICHGOTT JUNGE: All right. But otherwise then, are you - what would
23 be your recommendation Justice Amdahl for the other sanctions then so the record can reflect
24 that.

25 CHIEF JUSTICE AMDAHL: His resignation has been accepted by Senator Moe, by the
26 Senate.

27 SENATOR REICHGOTT JUNGE: For his committee position.

28 CHIEF JUSTICE AMDAHL: For his committee responsibilities. I still would prefer an

1 additional apology to go beyond the one that was previously made. Now, it could well be, and I
2 think it is, that he did not know that Paula, his former wife, has been using the phone for personal
3 business except to call to him, but nonetheless, he has entered a plea of guilty. It is something
4 that brings censure, really, upon the Senate, it's an action which the Senate must recognize as
5 wrong and I think that an additional apology should be required.

6 SENATOR REICHGOTT JUNGE: Chief Justice Sheran, do you have any further
7 comments?

8 CHIEF JUSTICE SHERAN: No, I think not. Not on either of those two cases.
9

10 Subcommittee discussions regarding the sanctions to be imposed on Senator Solon.
11

12 SENATOR REICHGOTT JUNGE: Members, we have one more situation then to deal
13 with today, and that is the complaint against Senator Sam Solon. I think he's on his way in.
14 When you're a small subcommittee, boy, we need everybody here. Thank you. Now we're all
15 present. What I'd like to do now in the remaining proceedings today is to go over the findings of
16 fact on Senator Solon and that has been passed out to the committee and as we've indicated
17 earlier, Senator Solon, Mr. Rogosheske, and Senator Neuville have all seen this, is that correct
18 counsel?

19 MR. WATTSON: That's correct.

20 SENATOR REICHGOTT JUNGE: And Mr. Rogosheske, have you seen these findings
21 of fact?

22 MR. ROGOSHESKE: Yes, I have.

23 SENATOR REICHGOTT JUNGE: All right. Senator Frederickson.

24 SENATOR FREDERICKSON: Madame Chair, to get this matter before us, I move the
25 adoption of the resolution of findings regarding the conduct of Senator Solon.

26 SENATOR REICHGOTT JUNGE: Mr. Rogosheske, if I recall, you did not have any
27 changes, suggested changes to these?

28 MR. ROGOSHESKE: No, Madame Chair.

1 SENATOR REICHGOTT JUNG: All right. The record will reflect he did not. So then
2 members, this would be the opportunity to ask questions or make any changes to the findings if
3 you believe that's appropriate.

4 SENATOR FREDERICKSON: Madame Chair.

5 SENATOR REICHGOTT JUNG: Senator Frederickson.

6 SENATOR FREDERICKSON: Madame Chair, I believe the findings have all been
7 agreed upon. I have not heard any disagreements with the findings that are here.

8 SENATOR REICHGOTT JUNG: All right. Seeing no discussion then on the findings
9 and again, I thank Mr. Wattson for his work in doing all of this with the parties, I will move to
10 vote on the findings. The motion is that we adopt these findings of fact based on clear and
11 convincing evidence. On that motion, all those in favor signify by saying "Aye."

12 MEMBERS OF THE SUBCOMMITTEE: "Aye."

13 SENATOR REICHGOTT JUNG: Those opposed, say "No." The motion does prevail
14 unanimously. All right. Then, at this point members, we will open it up for discussion regarding
15 the sanctions for Senator Solon and once again, Senator Frederickson and I have just prepared a
16 draft for the members of the subcommittee to review as to possible sanctions again, this is for
17 discussion. And at this point I would just open up the committee discussion on your thoughts
18 about Senator Solon. Senator Novak.

19 SENATOR NOVAK: I'm just curious. Am I reading this right that this draft, Madame
20 Chair?

21 SENATOR REICHGOTT JUNG: Yes, Senator Novak.

22 SENATOR NOVAK: Am I reading this right that this suggestion is different than the
23 draft suggestion on.

24 SENATOR REICHGOTT JUNG: We will be working off this one, yes. It's a separate
25 - its just simply separated, we just separated the findings from the conclusion.

26 SENATOR NOVAK: That's not my question Madame Chair. My question is, am I
27 reading it right that this suggestion for disciplinary action is different than the draft?

28 SENATOR REICHGOTT JUNG: Mr. Counsel?

1 MR. WATTSON: Madame Chair, Senator Novak, yes, that is correct.

2 SENATOR NOVAK: Well, Madame Chair, the reason it caught my eye is that that was
3 not the case with Senator Chandler, so I was just curious.

4 SENATOR FREDERICKSON: Madame Chair, you're looking for some discussion on --

5 SENATOR REICHGOTT JUNGE: Just a moment, I see Senator Novak's point. I would
6 like to just confer with counsel.

7 SENATOR NOVAK: Madame Chair, the reason I inquired --

8 SENATOR REICHGOTT JUNGE: Yes, Senator Novak.

9 SENATOR NOVAK: My understanding that what was being proposed was a joint
10 proposal and I --

11 SENATOR REICHGOTT JUNGE: Yes, and you're right. Senator Novak, I appreciate it.
12 I just now looked closely at what was just passed out and it was not what I had in mind either. I
13 think what we'll do though, however, so I guess I would like to correct the record in that while
14 we have had discussions, Senator Frederickson and I have agreed on most of this proposal, but
15 we will just indicate where we differ in that as we go through, so this is not a joint proposal but is
16 a discussion or draft document for us to work from.

17 SENATOR NOVAK: On that point, Madame Chair.

18 SENATOR REICHGOTT JUNGE: Senator Novak.

19 SENATOR NOVAK: What is the document that we have before us that we're actually
20 working from?

21 SENATOR FREDERICKSON: Madame Chair.

22 SENATOR REICHGOTT JUNGE: Senator Frederickson.

23 SENATOR FREDERICKSON: Madame Chair, at the moment we do not have a
24 document before us. I believe we're at the stage of discussing amongst ourselves about the
25 Solon case, what our thought were.

26 SENATOR NOVAK: The only reason I ask, Madame Chair and Senator Frederickson is
27 my understanding that we were going to proceed as we had with the Chandler case where what
28 we had before us was both a statement of facts and then a recommendation of findings or

1 penalties that came off our draft document, and what we've just done is we've approved the
2 statement of facts, but then the sheet that we just handed out that we have in front of us in terms
3 of suggested sanctions are different than the document from which the statement of facts came -

4 SENATOR REICHGOTT JUNGE: Senator Novak, we can just make a motion as to what
5 you want. All that we're trying to do is get some things on the table for draft discussion, that is
6 it, and when a motion is made, you can move whatever it is that you wish to be considered.
7 Senator Frederickson.

8 SENATOR FREDERICKSON: Madame Chair, members, the Solon case is significantly
9 more complicated than the first one we had before us today with Senator Chandler. It actually
10 goes back three years ago to the first set of ethical conduct hearings we had. In that case, we did
11 not find that Senator Solon knew about the other people who were making telephone calls on his
12 telephones. Did not know the amount of telephone calls, and we arrived at appropriate discipline
13 in that situation. Now, we have Senator Solon back before us again with another individual, in
14 this case his ex-wife, Paula Solon, with a significant number of telephone calls again, \$2,400
15 worth. Senator Solon told us that he permitted his wife to continue making telephone calls after
16 their divorce in '88 then gave her the access code probably on three different occasions between
17 '91 and '93. I think the question comes down to, "Did Senator Solon give his ex-wife adequate
18 instructions on how she could appropriately use that card or that privilege of access to the
19 telephones and did he have any way of knowing that she was using that card for calling her
20 mother and apparently other relatives?" In my mind, in reading through the testimony and
21 listening to the tapes, I don't find anywhere where we have evidence that Senator Solon knew
22 that she was using the card in that matter. Although certainly with over \$5,000 worth of
23 telephone expenditures, as a result of the activities from his office and family members, it is a big
24 concern, a great concern. In my mind, what did Senator Solon know was happening with his
25 access code and his telephones and did he have any reason to know that people were using them
26 for illegal activities or fraudulently obtaining telephone service? That's kind of what I'm
27 thinking about and weighing, but on the other side of the severity of it, totally, cumulatively, it is
28 over \$5,000 worth of telephone calls, which is a lot of telephone expense.

1 SENATOR REICHGOTT JUNGE: Further discussions? Senator Terwilliger.

2 SENATOR TERWILLIGER: Madame Chair, I would agree with that and I – the
3 previous situation where we were talking about the domestic and the criminal act – it was
4 different than this particular criminal act, this is actually in the minds of the public, going from
5 \$3,000 adding another \$2,400 onto it, an act of dishonesty in their mind, and to not do something
6 more than what is being talked about here in this draft, I think, gives the impression of that's fine
7 and I guess then the question is well, if we have another person that turns up with the access code
8 in a year from now then do we go back into it again? It seems to me that one of the real things
9 that we have in elected office is our reputation and our character and our integrity and our
10 honesty. Frankly, this occurring again after the initial time starts to raise in my mind is this the
11 appropriate type of response from this committee, because it's almost the same response again.
12 Agreed, he did resign from his committee chairmanship, but he, is not in the case of Senator
13 Chandler, stated he was not going to run for re-election. He is going to be back again, but it just
14 seems to me that we have to do something more than what we asked the last time, which was the
15 apology, which was given by Senator Solon and now to come back and not ask for something in
16 addition and not to make demands is going to give clearly the impression to the public that
17 integrity and honesty are not uppermost in our mind and that we cannot police or own
18 organization.

19 SENATOR NOVAK: Madame Chair.

20 SENATOR REICHGOTT JUNGE: Senator Novak.

21 SENATOR NOVAK: First of all, I'm not sure we should presume what the public is
22 going to think. I would hope that what they would think is that we would decide each case on
23 the facts and then apply appropriate penalties based on what we have discovered and we've
24 agreed on what we've discovered so now the question is, "What's the appropriate penalty?" I
25 also sat through the hearings on Senator Solon the first time around and of course, that was a
26 different situation than what we have now in front of us. I happen to accept Senator Solon's
27 explanation that he wasn't aware of the variety and types of calls that the former Mrs. Solon may
28 have made. Clearly, it should not have been done and he's acknowledged that. At the time, the

1 penalty was an apology and a sanction by the Senate. Since that point in time, with this
2 occurrence, Senator Solon has resigned his chairmanships subject to the decision of the
3 committee. I think he would agree with me, and I think this is an area that we probably have
4 more knowledge than the public in terms of the processes, that we have here in the Senate that is
5 not insignificant, resignation from a committee chairmanship in this process. That is a
6 significant thing. And also to re-apologize to the Senate is a significant thing. I don't think it
7 should be presumed that simply because Senator Solon has said that in spite of this he may run
8 for re-election, that he's automatically going to be re-elected to the Senate. I think the ultimate
9 jury on these cases, if we do anything other than expel, are the constituents to which each elected
10 official goes back and has to restate and make their case in the election process. I don't think we
11 should presume by any means that it's automatic, that because someone runs, they get re-elected.
12 Every year, we have all sorts of instances where that, in fact, is not the case, so number 1, I am
13 still a little concerned about exactly what draft we have in front of us, but apparently we're going
14 to resolve amongst ourselves each item separately as we build the total, but I do not accept your
15 view, I do not agree with your view that some of the sanctions that are recommended here are
16 insignificant. I believe they are significant and the best judge of that personally and between
17 ourselves is to ask ourselves the question whether or not we would enjoy the prospect of having
18 any of these sanctions that I think you're viewing to be insignificant apply to yourself or myself.
19 I would not view them to be insignificant and I don't think Senator Solon does either. So, I think
20 we have to be a little careful about prejudging what the public may or may not view to be the
21 appropriate penalty. I think what our responsibilities are is to weigh the facts, which we now
22 have agreed to, and then work our way through a discussion that will lead, hopefully, to a
23 consensus on what the appropriate penalties should be. So, in that light, I'm hoping we can go
24 forward and maybe what we should do just as a possible way to resolve this is, since we did have
25 a unanimous agreement on the first case, it would be nice if we could on this one too. Maybe we
26 could discuss some of the items that are before us in this suggested list of penalties as compared
27 to the draft resolution where they're similar and agree on those that are similar and then work our
28 discussion down to those points where we may still have some differences and see if we can

1 come to an accommodation or a process that would lead us to the unanimous decision, if that's
2 possible.

3 SENATOR REICHGOTT JUNG: We'll do that Senator Novak, and I think part of this
4 process comes from just airing out the issues and concerns that each of us have and I think what
5 I'm going to do is give a couple of thoughts that were important to me in this process and then go
6 from there as well. The issue on this one that was of most concern to me was, and perhaps
7 because I didn't serve on this subcommittee before during the first proceeding, I was perhaps
8 with the least information, but the most concern to me was whether or not there had been any
9 intention on Senator Solon's part not to give this information to the subcommittee and to the
10 prosecutors and all that were dealing with him back in 1993. In other words, did he withhold the
11 information that he gave the number to Mrs. Solon intentionally, or was it inadvertent, was it
12 something he simply forgot about in the context of all the other investigation that was going on
13 at the time, and I wasn't there in 1993 when this subcommittee met to hear his testimony at that
14 time, but I was here on Wednesday and you'll recall that I questioned him fairly extensively on
15 that point, because that, to me, was the most critical point in all of this as to what I would want to
16 do, and I asked him several times why he didn't give the number to the subcommittee, or excuse
17 me, why he didn't give that information about Mrs. Solon to the subcommittee. Why, when he
18 was talking to the Secretary of the Senate, he didn't tell them that he had also given the number
19 to Mrs. Solon, and in all honesty, I believe he handled those questions very well, and what I
20 heard from him, not only in words, but in just believability, is what I heard was that here was a
21 man who was under investigation for other phone calls that were made by lobbyists and a whole
22 different issue that he had indicated that he had told them that he had given the number to family
23 members and that it was very easy in all of that context to either overlook or just somehow miss
24 that this was the information that he should have given. So, to be short about it, I listened to
25 Senator Solon, I questioned him extensively on that issue, and I believed him. I just believed
26 him. I believe he did not withhold information intentionally. I believe this was inadvertent
27 omission and so therefore, I believe that that will affect my thoughts regarding discipline. The
28 other point that I would make that as I look at the findings or the reprimand that was passed by

1 the Senate on March 24 of 1994, and I read that I think, ya know, much of the conduct that we're
2 investigating is covered by that reprimand, and in that reprimand it said that number 1 that the
3 conduct of Senator Sam Solon in providing the Senate's long distance telephone access code to
4 others was inappropriate and it says very broadly there "to others" and so he's been reprimanded
5 for that. Number 2, that the conduct of Senator Solon in allowing others to use his Senate office
6 and telephone to make calls on their own personal and private business was inappropriate.
7 Again, I think this comes in to - may come into that, I don't know if she ever made a call on the
8 office telephone, but nevertheless, this is all inclusive and then number 3 that Senator Sam Solon
9 be required to make restitution and apologize to the Senate, which he has done. And I think
10 Justice Amdahl advised us, and I think it's a good suggestion, that in the event that the restitution
11 isn't made by Mrs. Solon in this case, that Senator Solon be responsible for doing that and that
12 he bear the ultimate responsibility if it is not otherwise paid. But, if you look at this reprimand
13 and you look at the conduct we're investigating, I think it's very much tied to the previous
14 proceeding of this committee which has been dealt with in, I think, a significant way, and I don't
15 want to underestimate the significance of a reprimand because I think in the time that I have
16 served here which has been since 1983, I don't personally recall any other reprimand on the
17 Senate floor, is that right counsel.

18 MR. WATTSON: Madame Chair, that's correct.

19 SENATOR REICHGOTT JUNGE: So, we can't underscore the significance of what has
20 already happened and how the Senate has tried to deal with this and I think in a forthright way
21 and in a way that's been responsive to the public, so those would be my comments and all of
22 those factors I would be considering in my decision today. Senator Frederickson.

23 SENATOR FREDERICKSON: Madame Chair, I think additional discipline is
24 appropriate and I would like to explain my - why I'm arriving at that. During the first hearing,
25 there was, excuse me, let me clarify that. During the hearings in '93, and the first set of Solon
26 telephone charges, there was a lot of discussion about economic development and there was a lot
27 of discussion about many of the - some of the people who had the telephone access codes were
28 working on economic development. Now there's some question about whether or not that

1 related directly to the work of the Senate, but that was generally the thrust. It was economic
2 development and jobs, and also there was a lot of discussion about Senator Solon providing the
3 access code to somebody in Duluth who did what we would term constituent work for him in
4 Duluth and also family members so that they could call in here in St. Paul. That was the general
5 thrust. Plus, there were some additional charges made, telephone charges made, because
6 basically of lax management in the Senate office. It allowed people to come in, pick up the
7 phone and make the calls. I listened to the tapes, in fact I listened to them a couple of times from
8 '93, and if I could paraphrase, Senator Solon said four people who were listed, one was my son
9 Chris, and of course my family at home. Now, if he were to have named his ex-wife Paula
10 Solon, I think that's when he should have done it, would have done it. Now there's no evidence
11 that he deliberately avoided telling the committee, it just wasn't there. It was an omission.

12 SENATOR REICHGOTT JUNGE: Senator Frederickson, on that phrase, as you read it,
13 you know, I'm wondering, and I wasn't there and so I need to ask you, but when you say "my
14 family at home" you know, and I'm not from rural Minnesota, but if I were talking about my
15 family at home, would that mean like back in Duluth, and she may well have been at home in
16 Duluth too, ya know.

17 SENATOR FREDERICKSON: Madame Chair, that's a good question, to which I do not
18 have answer. But, it would seem to me, that she was not at home in the sense that they were no
19 longer married. She was living apart. The other point that troubles me on all of this testimony is
20 that Senator Solon had other people going to look at the telephone records and in our testimony
21 this time, one of his comments was well we asked Mr. Flahaven, Mr. Lindquist, and others who
22 were checking the computer list. I never looked at them myself. Now, as soon as I became
23 aware and I think as soon as most other members became aware that those records were available
24 for us to look at, most of us went and looked at those records ourselves to see who might have
25 been coming in after hours perhaps and using our telephones to see what calls were being made.
26 But yet Senator Solon said that he never looked at them himself and I find that a little puzzling.
27 I'm questioning in my mind if he was deliberately avoiding going to look at the records himself
28 to evade some possibility, I don't know.

1 SENATOR NOVAK: Madame Chair.

2 SENATOR REICHGOTT JUNGE: Senator Novak.

3 SENATOR NOVAK: I'd like to speak to that point directly because I think of the four of
4 us on the committee, I may be the only one who was a committee chair at that time, and let me
5 just tell you one of the frustrations about that process because I agree with you that I think it
6 would be natural to want to look at those records yourself and I did, and I think maybe Senator
7 Solon did too, but not literally as the statement is read. What first had to get these records and
8 have them delivered was kind of volumes of calls and I'll tell you why. I think the public when
9 they hear this discussion think that while this means that each Senator had a telephone and there
10 ought to be some logical order to all these calls and it ought to be really simple to decipher, but if
11 you're a committee chairman, as Senator Solon was at the time and as I was at the time, what
12 instead I had brought back to my memory real quick is that I technically had responsibility for
13 about five different phones. I had my own personal phone in my office, I had the phone in my
14 committee administrator's office, I had the phone at my secretary's office and there's another
15 committee phone, and at least two of those committee phones, the one by the secretary's office
16 and another one had sort of a shared phone, sits out in the public hallway and what you might
17 recall and we had graphic testimony to this regard during the '93 hearings on Senator Solon is
18 that Senator Solon's office at that time and I used to office over in that wing of the building in
19 the early '80's and it was true then and was true in '93 was sort of like the community center for
20 northeastern Minnesota, and it was – and a lot of it was economic development. Now, that's
21 not excusing anything, it's just a statement of fact. But what I was stunned by when I started
22 digging through these things and had other staff people do it for me first as a preliminary is just
23 the hundreds and hundreds of telephone calls, many of them coming in registered at 37 cents, 42
24 cents, 15 cents, in searching through that so, you know, and I also recall those '93 hearings
25 because I like you spent hours on them and the focus of those hearings were clearly on one of the
26 two issues that historically all of these ethics laws have been designed in the past to defend
27 ourselves and the public against, which is the overt distortion or manipulation of facts related to
28 campaign materials under which we campaign on to get here and have the privilege of serving or,

1 and this was the point related to the Sam Solon hearings in '93 and is one of the two major
2 points, I just mentioned one and this is the second one, that I think the public and many other
3 people historically have felt these ethics proceedings are really geared to defend the public
4 against, which is the overt manipulation use, whatever you want to say, that could affect our
5 vote. And, of course, neither of those things apply to this situation, and I'm not in any way
6 trying to say that it was right, I'm just trying to put a little bit of a perspective on it for the
7 purposes of this discussion, so with the tremendous exposure that was on Senator Solon at the
8 time around whether or not any way lobbyists, other economic – were benefitting or whatever
9 – I think that his arguments are plausible, but that does not say that I am not coming down on
10 the subject of some additional penalties here because actually I am and I'm hoping that soon
11 we'll get to that point and I'm going to re-suggest an idea which is that maybe we could build
12 towards that as a group if we first start with those penalty provisions that I think we agree on and
13 then work our way through the categories and figure out exactly where it is we might differ,
14 because I think there may be some areas that will lead us to agreement.

15 SENATOR FREDERICKSON: Madame Chair, could I make one –

16 SENATOR REICHGOTT JUNGE: Senator Frederickson.

17 SENATOR FREDERICKSON: – one comment too because I did want to wind up what
18 I had started before and –

19 SENATOR NOVAK: I apologize.

20 SENATOR FREDERICKSON: – the comment that Senator Solon made or the
21 testimony was, "I never looked at them myself" my thought was well, maybe if he had gone and
22 looked at them himself he would not have noticed anything that the others didn't, but it's very
23 possible too he might have recognized some telephone numbers as being his ex-wife's that a
24 lobbyist or staff would not, that was the only point I was raising.

25 SENATOR NOVAK: Well, Madame Chair, Senator Frederickson –

26 SENATOR REICHGOTT JUNGE: Senator Novak.

27 SENATOR NOVAK: – I mean I accept that as being a reasonable conclusion to come
28 to. All I'm saying is, is that when I hear the same thing, I'm not sure I take it totally, literally,

1 because I'm sure that he has seen a lot of these telephone records and so on and so forth, but I
2 just wanted, I don't need to point it out to you, but for those who are listening or observing, I can
3 tell you from personal experience as a committee chair, you're not tracking one phone, you're
4 tracking five phones, we're talking a couple years worth of records. Volumes of line items,
5 almost all of which seemed ludicrous when you got into it because you're talking 15 cents, 17
6 cents, 37, in most cases, and of course it was being done in almost a circus atmosphere at the
7 time too, so, I just wanted to add that to put a little perspective on it.

8 SENATOR REICHGOTT JUNGE: Thank you. I think your suggestion though Senator
9 Novak of now moving to the specific penalties is a good one and so, I think we can probably all
10 agree on the first one which is be it resolved by the Senate of the State of Minnesota: one, that
11 the conduct of Senator Sam G. Solon, in providing the Senate's long distance telephone access
12 code to his ex-wife who made calls that were not on Senate business was criminal conduct. That
13 clearly is undisputed on the record. Anybody have any question about that? Okay. Then,
14 number 2 -

15 SENATOR NOVAK: I'm wondering if we should move those and agree to them as we
16 go. Would that be helpful?

17 SENATOR REICHGOTT JUNGE: Well, that's certainly a motion would be in order.
18 Senator Frederickson.

19 SENATOR FREDERICKSON: Madame Chair, I would as soon we go through them all
20 and see if we can arrive at one statement or one set.

21 SENATOR REICHGOTT JUNGE: All right then the second -

22 SENATOR FREDERICKSON: Although Madame Chair, I would also like to add I do
23 not object to number 1 as it's written, it's just the procedure that I -

24 SENATOR REICHGOTT JUNGE: Yes, that's -

25 SENATOR TERWILLIGER: Madame Chair.

26 SENATOR NOVAK: Go ahead, I'm sorry.

27 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

28 SENATOR TERWILLIGER: Senator Frederickson said as written, you added conduct at

1 the end, I don't know if that makes any difference and that was criminal and the way it says in
2 my draft you added was criminal conduct and I don't know, Mr. Counselor, if that makes any
3 difference or not.

4 SENATOR REICHGOTT JUNGE: I don't think it does. I think it's probably just
5 repetitious.

6 SENATOR TERWILLIGER: But your read conduct into it, is that what we have -

7 SENATOR REICHGOTT JUNGE: I'd prefer that. Criminal conduct.

8 SENATOR NOVAK: Madame Chair.

9 SENATOR REICHGOTT JUNGE: Senator Novak.

10 SENATOR NOVAK: I'm wondering if - taking in light Senator Frederickson's
11 comment to try to work towards one complete resolution, I'm wondering if he would consider
12 working off the draft instead of his statement because I think inside the draft statement it may be
13 easier to add in a provision or two that he's suggesting that isn't in the draft, but make certain
14 changes to a couple of the statements that are in the draft that may make it easier to get to a
15 complete -

16 SENATOR FREDERICKSON: Madame Chair, a point of clarification. I'm not certain
17 which document Senator Novak is -

18 SENATOR NOVAK: I'm referring to the draft document, three pages in length, dated 1-
19 8-96, that had as its first two pages the statements of findings that we previously agreed to and
20 then on the third page it had the now therefore be it resolved and a listing of five proposed
21 sanctions.

22 SENATOR TERWILLIGER: Madame Chair, I don't have that.

23 SENATOR FREDERICKSON: Do we have that as a separate page?

24 SENATOR NOVAK: I might have just had exceptionally good staff work. Let me
25 withdraw that suggestion, Madame Chair.

26 SENATOR REICHGOTT JUNGE: If you have, Senator Novak, any wording that you
27 would like to propose, it doesn't matter what sheet of paper it's on, just propose it, and then we'll
28 be able to proceed.

1 SENATOR NOVAK: Okay. Well, how are we going to proceed then? Are we going to
2 continue to work off this sheet?

3 SENATOR REICHGOTT JUNGE: Well, the second issue before us, Senator Novak, has
4 to do with the chairmanship and Senator Solon, I think it is agreed, we have a letter in our packet
5 that said that he voluntarily decided to resign as chair of the committee on Commerce and
6 Consumer Protection and, if I recall, that letter did say pending the action of the subcommittee
7 on ethical conduct and so the question now before the subcommittee has to do with the
8 chairmanship. Now there are probably three or four options for the subcommittee and maybe the
9 best thing for me to do is to outline what those are and then the various members can debate and
10 discuss which they prefer.

11 SENATOR NOVAK: Madame Chair. As a result of the fact that I think there are a
12 number of options to pick from, I would suggest instead that we move to accept as part of our
13 resolution statement number 5.

14 SENATOR REICHGOTT JUNGE: All right.

15 SENATOR NOVAK: Because I think there's agreement on statement number 5.

16 SENATOR REICHGOTT JUNGE: All right. So we would move instead to the statement
17 that Senator Sam Solon be required to apologize to the Senate in open session.

18 SENATOR FREDERICKSON: Madame Chair, again -

19 SENATOR REICHGOTT JUNGE: Senator Frederickson.

20 SENATOR FREDERICKSON: - I would prefer that we go through all of them to see if
21 we can arrive at a consensus on each of them and then handle it with one motion.

22 SENATOR REICHGOTT JUNGE: Yes, I would like Senator Novak, to at least discuss
23 them as we go through and have the debate and the discussion and get the issues out and then
24 yes, I think it's better if we can come to consensus, that's what we're here for and -

25 SENATOR NOVAK: I agree with that.

26 SENATOR REICHGOTT JUNGE: - the hope is that we can all do that.

27 SENATOR NOVAK: I'm happy to do that. I just thought that the process I was
28 suggesting might get us there faster, but -

1 SENATOR REICHGOTT JUNGE: Well, I think I'm just going to -- somebody called
2 me deliberate -- and I'm going to be my old deliberate self here and just go through it step by
3 step and I think that might be the best way to do that. So, I'm going to outline the options here
4 and the first would be -- the first option would be to reinstate Senator Solon to his position as
5 chair, that is an option. Number 2 would be that Senator Solon not keep his -- that his
6 resignation of his chairmanship be effective through the end of the legislative session. Number
7 3, is that the resignation of Senator Solon be effective until the end of his term, which would be
8 the end of 1996, and I guess Number 4, would be, I suppose you could even say that we could
9 make that permanent, but I honestly don't think that we can do that. I mean if he's re-elected,
10 I'm not sure, so I guess that's probably not an option. So I guess the three options are to
11 reinstate his chairmanship now, continue his resignation until the end of session, or continue it
12 until the end of the term. Are there any other options that I'm missing in that regard? Okay. So
13 lets open the debate on those options as to what members think would be appropriate. Senator
14 Novak.

15 SENATOR NOVAK: I'm not quite sure why you threw it back to me but since you did,
16 I'll -- I'll take it since you threw it back to me. I would suggest as a committee chair myself and
17 having a pretty good understanding of the process as all of you do too, that the significant
18 sanction here in the context of the time line that we're talking about in relationship to the
19 circumstances that we're talking about would be that the resignation would continue through the
20 session. I think we should keep in some perspective 24 years of distinguished service to the
21 legislature and to northeastern Minnesota and the State of Minnesota in the context of a 24-year
22 career and to be taken out of that action for the legislative session I think is significant to have
23 that resignation last through the session, and that, in my mind, would be a significant sanction.

24 SENATOR TERWILLIGER: Madame Chair.

25 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

26 SENATOR TERWILLIGER: I had -- I had not contemplated this as even a possibility
27 that he would be reinstated during this legislative session or this particular term.

28 SENATOR NOVAK: Well, Madame Chair, I'm not suggesting that he be reinstated

1 during -

2 SENATOR TERWILLIGER: - to make this apply only to the legislative session seems
3 to me to be kind of a half way of doing it. If he's resigned from the committee chairmanship,
4 he's resigned from the committee chairmanship for this particular session and this particular year
5 in this particular term. It seems to me that to do otherwise merely puts someone else into a
6 position of a caretaker and is - since he's still on the committee, I presume, makes it difficult
7 and I just - I would find it very hard to accept. That reinstatement back in following the
8 session.

9 SENATOR REICHGOTT JUNGE: Senator Frederickson.

10 SENATOR FREDERICKSON: Madame Chair. I think the removal as chair or the
11 resignation as chair should continue through the end of this term. I think to do otherwise would
12 essentially put whoever chairs that committee in the place of being a caretaker, servant for
13 Senator Solon. He's still on the committee. I think there would always be the speculation well
14 he doesn't have the title of chair anymore but he's still controlling the committee because he's
15 there and he's gonna resume his position as chair when the session is over. I think that is
16 inappropriate. I think it should be to the end of the term and I think to do otherwise would also
17 undermine the authority of whoever the interim chair is in that situation because there would be
18 some question about who really is the chair. Is it the Senator who is the newly appointed chair or
19 is it Senator Solon who continues on the committee and at the end of the session is going to
20 resume his position as chair? I think it is much clearer and much more appropriate to have this
21 sanction continue until the end of the term and if Senator Solon is re-elected he can once again
22 vie for chair of that committee. That's where I'm coming down on this.

23 SENATOR REICHGOTT JUNGE: Senator Frederickson, the only response I would have
24 to that is that I believe that if the Rules Committee replaces Senator Solon as chair, I believe that
25 person would assume all of the responsibilities of the chairmanship and that would be something
26 that would be worked through the normal selection process in chair. So, I guess I would hope
27 that members would accord the proper respect to the new chair and that that person would have
28 the chair in all of its obligations. Senator, excuse me, Mr. Justice Amdahl, do you have any

1 thoughts about this at all?

2 CHIEF JUSTICE AMDAHL: I noticed in his letter, which was sent to Roger Moe, the
3 Senator decided to leave his position. He first used the word "relinquished" and then his last
4 sentence said that he was resigning, and in his statement to us, his written statement, he said, "I
5 step down, subsequently in a further effort to accept responsibility for having permitted Paula
6 Solon to keep possession of the credit card, I step down from my position as chairman of the
7 Senate Committee on Commerce and Consumer Protection." I understood, reading those things,
8 that he had resigned that chairmanship, not that he was stepping down until this committee thing
9 was over, but he resigned it for whatever term he had left.

10 SENATOR REICHGOTT JUNGE: And that wasn't the understanding that I had as chair
11 of the subcommittee. My understanding was that in fact that we were going to have some effect
12 on that. At least that's the assumption I'm working on at this time. Although we can make
13 whatever decision we want in that regard, I guess.

14 SENATOR NOVAK: Madame Chair.

15 SENATOR REICHGOTT JUNGE: Senator Novak.

16 SENATOR NOVAK: I need to state in justification on my position that that was my
17 understanding also.

18 SENATOR REICHGOTT JUNGE: All right. Well, I --

19 SENATOR NOVAK: So for now, I think it's fair that we haven't concluded that one yet.

20 SENATOR REICHGOTT JUNGE: No, no, but I would also state though that for my
21 purposes, and I gave some of my comments before, you know, I believe that he had a significant
22 reprimand and so, but I do believe it is appropriate for him to step down as chair of that
23 committee at least through the end of the session, but I'm okay with just through the end of the
24 session because that's where the committee chair has most of his or her responsibility and to me
25 that's 95 percent of the sanction and so I'm fine with the reinstatement at the end of the session.
26 So that would just be my view at this time. So maybe what we need to do is go on to some of
27 these others and maybe come back to that as we think this through. Well, the third issue that is
28 related to this is whether or not Senator Solon should be removed from membership on the

1 committee on Rules and Administration. Now, the committee on rules is the committee that
2 oversees the rules of the Senate, including the phone use, so to me there is a logical connection to
3 that. It also is a committee on which committee chairs serve in the structure of our Senate and so
4 it does seem to me to be tied to whether or not he serves as chair. If he doesn't serve as chair, he
5 should not serve on the Rules Committee. So I think whatever resolution we do in the one
6 regarding his chairmanship that the rules committee should kind of go along with that. Is there
7 any discussion or objections? Senator Frederickson.

8 SENATOR FREDERICKSON: Madame Chair, I'm not sure I understood your last
9 statement. I think he should be removed from the Senate Rules Committee until the end of his
10 term.

11 SENATOR REICHGOTT JUNGE: All right. But you're also thinking that he would not
12 be serving in his chairmanship through the end of the term, is that right? And I'm basically
13 saying wherever he doesn't serve as chair, he shouldn't serve on the Rules Committee. That they
14 would be in sync.

15 SENATOR FREDERICKSON: Madame Chair, I do not see them tied together.

16 SENATOR REICHGOTT JUNGE: Okay. All right.

17 SENATOR FREDERICKSON: Partly because of the statement you made, it is the Rules
18 and Administration Committee, it does oversee the use of telephones, we are a subcommittee of
19 rules, I think it would be appropriate to not have him serve on the Rules Committee. I think
20 that's an appropriate sanction.

21 SENATOR REICHGOTT JUNGE: Until the end of the term.

22 SENATOR NOVAK: Madame Chair.

23 SENATOR REICHGOTT JUNGE: Senator Novak.

24 SENATOR NOVAK: I hadn't thought of the context of the telephones, that's an
25 interesting point.

26 SENATOR REICHGOTT JUNGE: Well, there might be an opportunity here for
27 compromise, that maybe we would suggest we -

28 SENATOR NOVAK: Why don't -

1 SENATOR REICHGOTT JUNGE: Senator Novak.

2 SENATOR NOVAK: I was just going to suggest that why don't we leave that open for
3 the moment and go to the last point that I think is -- to be discussed.

4 SENATOR REICHGOTT JUNGE: All right. Well, the -- another issue that we had
5 talked about is that if Senator Solon that if Mrs. Solon doesn't make restitution to the Senate for
6 the dollars, for the cost incurred, that Senator Solon make restitution. Is there any thought,
7 objection to that one?

8 SENATOR NOVAK: Well, Madame Chair, I think in the spirit of --

9 SENATOR REICHGOTT JUNGE: Senator Novak.

10 SENATOR NOVAK: -- Senator Frederickson's suggestion, that that's an interesting
11 point to be considered and should be taken in the context of one comprehensive motion, which
12 I'm prepared to offer now that we've completed our discussion.

13 SENATOR REICHGOTT JUNGE: No, we've got one more, but I'm just trying to get
14 input as we go along here Senator and ideas. Then the last one is a very important one I think
15 and that is that Senator Solon be required to apologize to the Senate in open session. Now this
16 would be a second apology, not a reprimand, but a second apology, and I guess I believe that is
17 appropriate because he needs to explain the situation to the Senate and he needs to tell why he
18 didn't reveal that information or why that information wasn't disclosed to the subcommittee. So
19 I do think an apology is appropriate and an explanation to the Senate in a public forum. So, let
20 me just open discussion on number 5. Is there any other discussion or objection or --

21 SENATOR TERWILLIGER: Madame Chair.

22 SENATOR REICHGOTT JUNGE: -- Senator Terwilliger.

23 SENATOR TERWILLIGER: I do not feel that that is a sufficient sanction, and I do not
24 feel so because we've been there, we've done that, we've had that and I don't think it sends the
25 correct signal. I think that there has to be a stiffer sanction than that.

26 SENATOR REICHGOTT JUNGE: And that's not precluded by that. I'm just trying to
27 get a sense that people are -- think that's part of the package here --

28 SENATOR TERWILLIGER: I am not comfortable with that, Madame Chair. I believe

1 that stronger sanctions are –

2 SENATOR REICHGOTT JUNGE: So, are you saying that you don't think a public
3 apology at all is in order or that plus something else?

4 SENATOR TERWILLIGER: That in addition to something else, Madame Chair.

5 SENATOR REICHGOTT JUNGE: And that's not precluded by this discussion. Any
6 other thoughts. Okay. Then Senator Novak, I think it is appropriate at this time to make a
7 suggestion as to the total sanction.

8 SENATOR NOVAK: Okay, Madame Chair, taking into account Senator Frederickson's
9 suggestions, some suggestions of my own, and trying to keep this in the context and spirit of the
10 discussion that we've had, and also trying to make an attempt to bring us to a conclusion, I
11 would suggest the following: That we would be resolved by the Senate of the State of Minnesota
12 to do the following: that we would agree that the conduct of Senator Sam G. Solon in providing
13 the Senate's long distance telephone access code to his ex-wife, who made the calls that were not
14 on Senate business, was criminal. Secondly, that Senator Solon's decision to voluntarily resign
15 as chair of the Committee on Commerce and Consumer Protection was an appropriate
16 disciplinary action and ought to continue through the end of the 1996 regular session. Also, that
17 Senator Sam G. Solon be removed from membership on the Committee of Rules and
18 Administration through the end of his term. In addition, that Senator Sam G. Solon make
19 restitution to the Senate for the cost of calls made by his ex-wife and not reimbursed to the
20 Senate by her. I'm sure I stated that right, but I think we know what I mean there, and then
21 lastly, that Senator Sam G. Solon be required to apologize to the Senate in open session. So,
22 what I'm saying is on the points that we all agree on that there should be an apology, that the
23 conduct of the senator in this specific case was criminal, that he has resigned his chairmanship
24 and that that resignation should last through the end of the 1996 regular session, but that his
25 resignation from the Rules Committee, in the context of Senator Frederickson's explanation,
26 would continue through the end of his term 1996, and that also that the Senator would make
27 restitution to the Senate for calls made by his ex-wife and not reimbursed to the Senate by her. I
28 think that that represents a balanced approach of the discussion that we've all had that creates a

1 penalty proportionate to the actions of the Senator that we've discussed.

2 SENATOR REICHGOTT JUNGE: Senator Frederickson.

3 SENATOR FREDERICKSON: Madame Chair, I'm in general agreement with what you
4 have stated, but I do have, at this point, one change that I would make and that's on the second
5 item, number 2, the committee on Commerce and Consumer Protection, I believe as you've
6 stated and continue through the end of the 96 session, I would delete everything after through
7 and insert "through the remainder of this term."

8 SENATOR NOVAK: Madame Chair.

9 SENATOR REICHGOTT JUNGE: Senator Novak.

10 SENATOR NOVAK: Senator Frederickson, I – you know – I respectfully disagree
11 with that. I think that we have to keep this in some reasonable context. Thankfully none of these
12 discussions about Senator Solon's conduct have had anything at all to do with his voting. We all
13 know and understand the legislative process as well as anybody and understand the fact that
14 being chairman of a committee is a powerful thing, but in an overwhelming sense, that power is
15 related to your ability to set agendas, bring bills up, and determine the flow of debate and activity
16 in the subject area that you have been given jurisdiction over during the regular session of the
17 legislature, and we're saying by our action here that we're going to take that authority away. But
18 I think that the ability for him to be restored as chairman of the committee during the interim of
19 1996, is reasonable too, and puts this whole thing in context and perspective. When you
20 particularly consider the additional penalties that we're applying here, that I would agree are
21 appropriate, and also taking into account your suggestion, which I frankly had not thought of,
22 which is the context of the phone issue itself, and its relationship to the decisions that we make
23 on the Rules Committee, and so this would make Senator Solon the only chairman of a standing
24 committee who had not served on the Rules Committee for the remainder of the 1996 term and I
25 think that that's distinctive in it's nature. I think that it fits the circumstances that have been
26 aptly described and yet it provides some balance that I think is totally defensible.

27 SENATOR REICHGOTT JUNGE: Senator Frederickson.

28 SENATOR FREDERICKSON: Madame Chair, Senator Novak, I would respectfully

1 disagree. I think Senator Solon's letter of resignation – his letter where he stepped down as
2 chair of the Commerce Committee was dated December 12. I fully anticipate that we will be
3 adjourned sine die by say April 12th of this year, so that would mean his sanction of removal as
4 committee chair would've only been for four months. If we go to the end of term, he would have
5 relinquished his chairmanship for a full year and considering the volume of telephone calls that
6 have been made, considering everything that has been brought before us, I think a year is
7 appropriate.

8 SENATOR NOVAK: Well Madame Chair –

9 SENATOR REICHGOTT JUNGE: Senator Novak.

10 SENATOR NOVAK: Senator Frederickson, it may just be that we disagree on this point
11 and I don't want to get into an extended discussion on semantics, but I don't really think it is a
12 discussion of semantics and I think you and I and the people on this committee understand the
13 legislative process and while you make a very effective argument based on calendar time lines, I
14 think we all know and understand the relationship of power to this position and its
15 overwhelmingly related to the time that's spent chairing a committee during the legislative
16 session where you have control over the agenda, you have control over the legislation that's
17 heard or not heard, and you have a major effect on public policy in the area that you've been
18 given jurisdiction over, and so to take away that right and privilege and authority for the
19 legislative session I think is a far more severe sanction than you've characterized it as in terms of
20 just being a time line issue. I think it is a significant sanction that I'm suggesting.

21 SENATOR REICHGOTT JUNGE: Well, I was just going to ask before we take a vote on
22 this issue – I was just going to ask if Chief Justice Amdahl had any additional thoughts on this?

23 CHIEF JUSTICE AMDAHL: No, I have none.

24 SENATOR REICHGOTT JUNGE: Well, what we have –

25 SENATOR TERWILLIGER: Madame Chair, I just wish – I guess I couldn't seem to
26 find a copy of the letter, I'm sure I have it someplace, but I have not read it specifically, but I
27 would just restate my position. I feel that by implication by understanding, by whatever you
28 might – I think the publicity that has surrounded this has implied that he would be resigning for

1 the remainder of his term and I would still feel that this is appropriate that he not be reinstated
2 following the term that that resignation remain in effect.

3 SENATOR REICHGOTT JUNGE: Well, it's clear to me, Senator Novak, that the
4 support on the subcommittee doesn't exist since we need three votes for your proposal at least
5 through the end of the '96 regular session at this point. I guess I would throw out a compromise,
6 if you will, and that would be that we just be silent on the time and that that then becomes a
7 function of the Rules Committee in the Senate if they wish to reinstate him by the end of the
8 session. The problem with that and the reason I don't like it is because I mean I'm the one who's
9 been saying I want to put this to rest, and take whatever action is to be dealt with but I also want
10 to come to a consensus here so, it's clear we're not going to come to a consensus. I'm leaning
11 towards Senator Novak's view on this so, I just - I'm trying to find another compromise in the
12 middle, are there any other thoughts or discussions about how we get to where we're going here?

13 SENATOR TERWILLIGER: Madame Chair.

14 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

15 SENATOR TERWILLIGER: I again would like to restate my previously stated position
16 that I believe that there was an apology once and to simply ask again for an apology is not
17 sufficient and I believe that there should be, I'm not certain which one of the particular levels
18 we're talking about here, but as I look at the June 13, 1994, memo from Mr. Wattson to Senator
19 Carol Flynn, it calls for some additional considerations that could be - apply in this instance
20 and I realize we're perhaps splitting hairs on wording here, because it's difficult to know if
21 you're talking - if you talk censure, you're talking condemnation, censure, denunciation, as I
22 read your memo that all of which are a part of censure and if you're talking reprimand, that
23 included - that by itself was different than apology and then the other was loss of privileges,
24 restitution, payments of fine, etc. So if - if going up the line from apology to reprimand to
25 censure is how you are interpreting that Mr. Counsel, then I assume that the next step up is from
26 apology is reprimand and the next step up being censure, and I feel it appropriate that additional
27 action be taken here so that it does not appear that apologize, okay, happened again, apologize,
28 okay, I mean that doesn't seem to me to be the appropriate treatment.

1 SENATOR NOVAK: Well, Madame Chair.

2 SENATOR REICHGOTT JUNGE: Senator Novak.

3 SENATOR NOVAK: Can I ask Senator Terwilliger a question?

4 SENATOR REICHGOTT JUNGE: Certainly.

5 SENATOR NOVAK: I understand what you're saying, but just so that I make sure I fully
6 understand your thinking on your motion, which may be different than mine for a specific
7 reason, I'll ask you the question that'll give you the answer. In my mind, I believe Senator Solon
8 when he said that he did not know or have knowledge of the many ways that the former Mrs.
9 Solon utilized that card. That he understood she was basically using it to communicate between
10 the two of them. My question to you is whether you believe that also. I have a reason for asking
11 the question, I'm not just trying to put you on the spot, but it is a subject that we've all discussed,
12 but I don't believe I've heard your view on that.

13 SENATOR TERWILLIGER: No, you haven't, and I have not stated it here before and
14 quite -- I find it somewhat remarkable that when you're thinking about the various family
15 members and stating those various other people who perhaps could've known about the card, that
16 he somehow would have forgotten about Mrs. Solon when -- then the discussion, if you look at
17 the transcript states that this was an endeavor to make certain that there was communication and
18 that the relationship could be kept and maintained or rebuilt or whatever the exact wording was.
19 But it seems a little difficult for me to believe that in fact he would or could have forgotten that,
20 just as a slip of the mind.

21 SENATOR NOVAK: Well, Madame Chair, Senator Terwilliger.

22 SENATOR REICHGOTT JUNGE: Senator Novak.

23 SENATOR NOVAK: I'm not sure you've answered my question because I understand
24 your frustration on that point, but actually it becomes an irrelevant point if we both agree that we
25 don't believe Senator Solon had knowledge of the extracurricular use of the card. In other
26 words, if they were married, divorced, possibly, based on the testimony, thinking about
27 reconciliation, and they were just simply communicating between themselves, which is what
28 Senator Solon thought the card was being used for. Obviously, the card would've never reached

1 the levels of dollars that it did. Obviously, it wasn't Senator Solon making the calls. It strikes
2 me that there's a differentiation there related to possible penalties or severity of penalties and
3 that's why I'm asking the question. If you honestly believe that there was knowledge of that
4 kind of use, then I think a call for a more extreme penalty fits that context. If not, I'm not so sure
5 that it does, and of course, that's the point of view that I'm coming from, that's the defense of my
6 position related to this point. I just wanted to get -- see if I could get that understanding from
7 you based on your suggestions for the stronger penalty, whether you were tying those two things
8 together.

9 SENATOR TERWILLIGER: Well, I believe, Madame Chair.

10 SENATOR REICHGOTT JUNGE: Senator Solon. Excuse me

11 SENATOR TERWILLIGER: I understand.

12 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

13 SENATOR TERWILLIGER: Threw me off. I believe that while he -- without going
14 back and reviewing it, I guess I believe that he had reason to believe there was use of his card
15 and because I believe that there had to be changes of access codes and had to be given to
16 different people.

17 SENATOR NOVAK: Well again, I'll only say this one more time, but again, just to try to
18 make my position as clear as I can. Madame Chair, Senator Terwilliger.

19 SENATOR REICHGOTT JUNGE: Senator Novak.

20 SENATOR NOVAK: That's not the issue I'm speaking to. I'm not speaking to the issue
21 of whether or not he had knowledge that she had the card. I'm speaking to the issue of whether
22 he had knowledge of the -- what turned out to be the extreme use of the card versus what he
23 thought the card was being used, which was the communication between the two of them, but --

24 SENATOR REICHGOTT JUNGE: All right. We have before us, just one moment
25 please.

26 SENATOR NOVAK: The other thing, while you're reflecting Madame Chair, the other
27 point that I just want to throw out to the group --

28 SENATOR REICHGOTT JUNGE: Senator Novak.

1 SENATOR NOVAK: – because I get frankly concerned about the idea that some of the
2 things that are being suggested are not significant, and again, the only way I can put this in a
3 context is for anyone or everyone who's been in this position to seriously read the things that
4 we're suggesting doing here then ask yourself the question whether or not you would like them
5 applied to you. I think that if they were being applied to you, I know if they were being applied
6 to me, I would view them to be significant. That is not to say that they cannot be more
7 significant, and that of course is the discussion we're having, but I think that we should not view
8 any of these things to be insignificant because they clearly are not and they will last on the record
9 forever, and that is not insignificant to the Senate or to the people involved and I mean, I know
10 we all really know that, but I think sometimes all these outside factors get involved and there's
11 an impression that could be left that somehow these are not significant. They are significant.

12 SENATOR TERWILLIGER: Madame Chair.

13 SENATOR REICHGOTT JUNG: Members, well let me – all right, Senator
14 Terwilliger, I want to get our process right here and –

15 SENATOR TERWILLIGER: Well, I would like to make a motion.

16 SENATOR REICHGOTT JUNG: All right, well that will help the process.

17 SENATOR TERWILLIGER: I would like to make a motion to amend the discussion, the
18 proposed resolution. As I understand it, I have.

19 SENATOR REICHGOTT JUNG: To get the process right though Senator Terwilliger,
20 we don't actually, to my knowledge, have a motion on the floor, for the original –

21 SENATOR NOVAK: I made one.

22 SENATOR REICHGOTT JUNG: All right. Senator Novak's motion was the five
23 things he outlined and then but that the session that the chairmanship last through or the
24 resignation lasts through the end of the '96 regular session.

25 SENATOR NOVAK: Actually, the simplest way to describe this, Madame Chair, is that
26 my motion involved all of Senator Frederickson's point, with a slight modification of one of his
27 points.

28 SENATOR REICHGOTT JUNG: Okay. Just for process, just for process only, we have

1 that motion. Now, any motions would be to amend that. Senator Frederickson.

2 SENATOR FREDERICKSON: I did not hear Senator Novak put that as a motion,
3 perhaps if he would like to do that, perhaps if he'd put it now, there would no longer be any
4 question about what –

5 SENATOR REICHGOTT JUNGE: That's why I came back to it.

6 SENATOR NOVAK: Madame Chair, just to be clear to the group. I thought I had made
7 a motion. But, I'm happy to make it again.

8 SENATOR REICHGOTT JUNGE: All right. So now Senator Novak makes that as a
9 motion and now we can work off it. I had the same –

10 SENATOR NOVAK: Do you want me to restate it or –

11 SENATOR FREDERICKSON: I believe other than what's in writing, the only thing you
12 added was "and continue through the regular '96 session."

13 SENATOR NOVAK: Well, basically, the only difference is – because I was accepting
14 your major change, which was to have the removal of the Rules Committee membership last
15 through the end of the term, I accepted that. I also accepted your idea that I think was shared by
16 Justice Amdahl about the restitution to the Senate if in fact she hasn't paid it that he would be
17 responsible for it. I think there was agreement in the conversation about the fact that this was
18 criminal, and also that – where there may not be agreement, but my motion said that he would
19 re-apologize. I think frankly he would do that anyway even if added to that was some other
20 provision, but that was in my motion to have him apologize. And then the only real difference,
21 after acceding to your provisions on several fronts, was to say that the resignation as chairman of
22 the Committee would last through the 1996 regular session of the legislature.

23 SENATOR REICHGOTT JUNGE: All right. So the motion is before us. Now we have
24 Senator Terwilliger's amendment and forgive me for taking time to set the record straight, but
25 Senator Terwilliger you are recognized for purposes of making an amendment.

26 SENATOR TERWILLIGER: Madame Chair, thank you. I would further move to amend
27 Senator Novak's motion following the word "open session" – the words "open session," add the
28 words "and that Senator Sam G. Solon be denounced by the Senate for this particular conduct."

1 SENATOR REICHGOTT JUNGE: So what you're saying is that you're agreeing with
2 Senator Novak's, does that mean you're accepting the rest of Senator Novak's package or not?

3 SENATOR TERWILLIGER: Madame Chair, could I just ask for a moment here just to
4 confer with Chief Justice Amdahl?

5 SENATOR REICHGOTT JUNGE: Certainly.

6 SENATOR TERWILLIGER: Madame Chair, madame chair.

7 SENATOR REICHGOTT JUNGE: Senator Terwilliger.

8 SENATOR TERWILLIGER: It has been pointed out to me that that is not the correct
9 word, that it should be "reprimanded." That - and so I would substitute, "and that Sam G.
10 Solon be reprimanded by the Senate for this conduct."

11 SENATOR REICHGOTT JUNGE: All right. Now Senator Terwilliger, if, let's say, if
12 that amendment was approved, do you then, would you then feel comfortable with the rest of the
13 sanctions as Senator Novak has proposed them?

14 SENATOR TERWILLIGER: Madame Chair, I still do not feel comfortable with the
15 reinstatement of the chairmanship following the 1996 session.

16 SENATOR REICHGOTT JUNGE: Okay, that was what I wanted to ask.

17 SENATOR NOVAK: Madame Chair.

18 SENATOR REICHGOTT JUNGE: Senator Novak.

19 SENATOR NOVAK: Senator Terwilliger's comfort aside, would he accept it?

20 SENATOR REICHGOTT JUNGE: I think that was inherent in his statement.

21 SENATOR TERWILLIGER: Madame Chair, I believe -

22 SENATOR NOVAK: Madame Chair, you haven't negotiated with Senator Terwilliger
23 like I have. I don't assume anything.

24 SENATOR TERWILLIGER: Senator Novak, what part of "no" do you not understand?

25 SENATOR NOVAK: The part that says maybe.

26 SENATOR REICHGOTT JUNGE: All right. Now - and I'm going to speak again for
27 this amendment, Senator Terwilliger, and I spoke to this at some length before. You know I
28 believe that, I mean, ya know, a reprimand is a reprimand is a reprimand, and as I look at this

1 document that was passed by the Senate that you and I and all of us supported in March 24, '94,
2 we have reprimanded Senator Solon for the very conduct that we are talking about right now.
3 The conduct in providing the Senate's long distance telephone access code to others was
4 inappropriate, it's very clear that he's going to have to make restitution and apologize to the
5 Senate. So, that's why I feel that, you know, that it's just inappropriate. The conduct all arose
6 out of one set of issues, one set of facts, and as you know, I restated my belief that I feel that he
7 didn't intentionally mislead anyone in not disclosing that information, so I'm uncomfortable with
8 that amendment. Is there further discussion on that amendment by Senator Terwilliger? Hearing
9 none, we'll call for the vote. All those in favor signify by saying "Aye." Those opposed say
10 "No." The chair votes "no." The motion does not prevail.

11 SENATOR NOVAK: Madame Chair.

12 SENATOR REICHGOTT JUNGE: Further discussion? Senator Novak.

13 SENATOR NOVAK: I wanted to just verbally contact my good friend Senator
14 Terwilliger again and suggest that if upon reflection he were to say "yes" instead of "no," that I
15 think we would have a good reasoned judgment based on the facts we agreed to and appropriate
16 penalties that fit the occasion. I think that Senator Frederickson, in combination on one point
17 with Judge Amdahl, have given us two additional penalties that apply appropriately to the
18 situation, and I'm just suggesting that a slight modification of one is appropriate also.
19 Particularly in light of all of our clear understanding of the proportion of application of a
20 committee chairmanship to a Senate term being overwhelmingly weighted in the area of the
21 power that that position brings while we're in legislative session.

22 SENATOR FREDERICKSON: Madame Chair.

23 SENATOR REICHGOTT JUNGE: Senator Frederickson.

24 SENATOR FREDERICKSON: Madame Chair, Senator Novak, if that being the case
25 where the power of a committee and the power of a committee chair is during a session, and
26 where most of that, almost all that occurs then in the session, then by reference from the end of
27 session to the end of the year that is much diminished, so why not allow that to continue as a
28 sanction? You know -

1 SENATOR NOVAK: Madame Chair.

2 SENATOR FREDERICKSON: – that's a very small issue from the end of session until
3 the end of the year.

4 SENATOR NOVAK: Madame Chair.

5 SENATOR FREDERICKSON: Why not let that continue out?

6 SENATOR NOVAK: Madame Chair, Senator Frederickson, thank you for making that
7 point and I'll tell you exactly why. If I was persuaded that Senator Solon had preknowledge of
8 the variety of uses of the card by his ex-wife or if he had actually improperly made those calls
9 himself, then I would agree with, but I'm not persuaded by that and so I view this to be slightly
10 punitive in the context of what otherwise has been a distinguished legislative career over two
11 decades in the context of how we normally view our work inside the legislative process and how
12 we deal fairly with the issues and policies and so forth and I just – I just think it's appropriate.

13 SENATOR REICHGOTT JUNGE: Members –

14 SENATOR FREDERICKSON: Madame Chair, could I –

15 SENATOR REICHGOTT JUNGE: Senator Frederickson.

16 SENATOR FREDERICKSON: Madame Chair, Senator Novak, I do not disagree with
17 you on what you said about the facts, but I too do not believe that Senator Solon had knowledge
18 that his ex-wife was making the large number of calls that she did, and I don't believe that he
19 instructed her that she could use the telephone like that. We're not disagreeing with that. I find
20 myself in general agreement with you on that. Where we disagree, you know, taking that set of
21 facts,, what is the appropriate sanction and I'm saying I think the appropriate sanction is that he
22 not be a committee chair for the remainder of this term, which is the remainder of this year.

23 SENATOR REICHGOTT JUNGE: Senator Novak, I'm trying to find some compromise
24 here, some resolution. I am going ask the two members to my left here –

25 SENATOR NOVAK: Madame Chair, you shouldn't say that because it might make two
26 good Republicans feel a little uncomfortable.

27 SENATOR REICHGOTT JUNGE: We have somebody from the sensible center here.

28 SENATOR FREDERICKSON: Well, Senator Novak, the thing is, you're on here right,

1 so -

2 SENATOR NOVAK: But you are kind enough not to state that.

3 SENATOR REICHGOTT JUNGE: Try and keep politics out this process. I'm going to
4 suggest something. Senators Frederickson and Terwilliger, as I listen to you, I hear that you feel
5 very strongly about this and I disagree to the extent, but I hear that you feel strongly, and I am
6 most - I am trying mostly to get some sort of a consensus. So, I'm going to ask you a question.
7 If I should agree with you to go with a sanction of resignation of the committee chair until the
8 end of the term, till the end of the term, would you then be willing to accept the rest of Senator
9 Novak's motion?

10 SENATOR FREDERICKSON: Madame Chair.

11 SENATOR REICHGOTT JUNGE: Senator Frederickson.

12 SENATOR FREDERICKSON: I would.

13 SENATOR REICHGOTT JUNGE: Senator Terwilliger? I truly think Senator Sam Solon
14 has paid a large price; personally and financially on all the proceedings that he has endured here
15 and I personally believe that he has done everything to come before us and to cooperate with
16 both the prosecuting authorities and our subcommittee, and I believe that goes just as far as I
17 could possibly could go in good conscience.

18 SENATOR NOVAK: Madame Chair?

19 SENATOR REICHGOTT JUNGE: Senator Novak.

20 SENATOR NOVAK: Before you get too persuasive with that end of the table, check in
21 with me and see if I still support my own motion.

22 SENATOR REICHGOTT JUNGE: Well, I was going to do that, but I wanted to -

23 SENATOR NOVAK: Because I'm not sure -

24 SENATOR REICHGOTT JUNGE: - start with Terwilliger first -

25 SENATOR NOVAK: - I'm not sure that I will. I think maybe what might help,
26 Madame Chair, if I might make a suggestion, is maybe we could take a five-minute recess.

27 SENATOR REICHGOTT JUNGE: Okay. All right. I think we're kind of at an impasse
28 right now. Now, we do want to adjourn by dinner, so, by four o'clock.

1 SENATOR FREDERICKSON: Chair, what's the dinner hour?

2 SENATOR NOVAK: I think, Madame Chair, I -

3 SENATOR REICHGOTT JUNGE: Senator Novak.

4 SENATOR NOVAK: Having negotiated with the three of you before and knowing my
5 own - well, let me just say that I can resolve this quickly.

6 SENATOR REICHGOTT JUNGE: I do too. I'm going to suggest that we take a recess
7 until 1:30, and that will be a little over ten minutes. Committee will be in recess.

8
9 (A ten-minute recess was taken.)

10 SENATOR REICHGOTT JUNGE: The committee will be back in order, again. I did
11 that. All right. Members, I'm trying to bring some kind of resolution to this and at the break, I
12 indicated where I was going and I'm going to just restate that and just see if I can get people to
13 tell me why this isn't a good idea at this point. I am going to suggest that we adopt Senator
14 Novak's motion in its entirety with the exception of one item and that would be that Senator
15 Solon's decision to resign as chair would be effective through the end of the current term. I am
16 comfortable with that. I am not comfortable with anything more because I think he has already
17 done a great deal in this regard. Now, that's where I'm at, I'm wondering if I can get other
18 members to either tell me why that's not a good idea or if they can accept that. Senator
19 Terwilliger.

20 SENATOR TERWILLIGER: Madame Chair, I will accept that.

21 SENATOR FREDERICKSON: Madame Chair, I would accept that.

22 SENATOR REICHGOTT JUNGE: Senator Novak?

23 SENATOR NOVAK: I almost always vote for my own motions, Madame Chair.

24 SENATOR REICHGOTT JUNGE: Counsel, oh. Okay. Then it sounds like we have -
25 we have agreement on that motion and so the proper - the motion has been made by Senator
26 Novak then, there being no further discussion, we will come to a vote. All those in favor signify
27 be -

28 SENATOR FREDERICKSON: Roll call.

1 SENATOR REICHGOTT JUNG: - I knew I was forgetting something, thank you
2 Senator. Yes, on the sanctions, Ms. Seelhoff, if you could call the roll on the motion by Senator
3 Novak, the chair votes "Aye."

4 MS. SEELHOFF: Frederickson?

5 SENATOR FREDERICKSON: "Aye."

6 MS. SEELHOFF: Novak?

7 SENATOR NOVAK: "Aye."

8 MS. SEELHOFF: Terwilliger?

9 SENATOR TERWILLIGER: "Aye."

10 SENATOR REICHGOTT JUNG: The motion does prevail on a unanimous vote.

11 SENATOR FREDERICKSON: Madame Chair.

12 SENATOR REICHGOTT JUNG: Senator Frederickson.

13 SENATOR FREDERICKSON: Madame Chair, are you ready for another motion?

14 SENATOR REICHGOTT JUNG: Yes.

15 SENATOR FREDERICKSON: If so, Madame Chair, I would move that the two
16 resolutions as adopted by the subcommittee be referred to the Committee on Rules and
17 Administration with a recommendation that they be adopted.

18 SENATOR REICHGOTT JUNG: Counsel, is that sufficient now for what we have to
19 do at this point?

20 MR. WATTSON: Madame Chair, I think it is.

21 SENATOR REICHGOTT JUNG: All right. Is there further discussion on those two
22 motions? Hearing none, all those in favor signify by saying "Aye." Opposed say "No." Motion
23 does prevail. Now I would like to just ask Chief Justice Amdahl - he has listened to our
24 discussion today and he has heard the sanctions that we have approved, and I'm wondering if
25 you would give us your comments if you feel that those sanctions are appropriate in light of the
26 testimony and record?

27 CHIEF JUSTICE AMDAHL: When four people who have worked as hard as you have
28 on these things, studied as hard, discussed as long, and come to the conclusion, I certainly am not

1 going to oppose any of it, I commend you for doing what you did. You've done a very, very
2 good job.

3 SENATOR REICHGOTT JUNG: Justice Amdahl, if you're not comfortable, that's all
4 right, but I'm -- do you, do you believe that they are appropriate for the conduct that has
5 occurred?

6 CHIEF JUSTICE AMDAHL: Yes.

7 SENATOR REICHGOTT JUNG: Thank you. Members, are there any further questions
8 regarding matters before the subcommittee? Okay, if not, let me just make a couple of closing
9 comments here. You know that Senator Chmielewski's hearing will be postponed until after the
10 first day -- after his sentencing and so we'll come back and I will notify you of that time when
11 we know more. Members, I just want to take a few moments. if I can, to talk about this a little
12 bit and you may have some similar thoughts. I really -- I just want to say that I feel that as
13 difficult as this process has been and as painful as it has been for all of us, that we worked well
14 together and we've had a good process, and we have done it by not taking the politics -- we have
15 done this by keeping the politics out of the process, and I believe that we have come to some fair
16 and just resolutions of the issues before us, and that we have appropriately sanctioned the
17 senators who have come before us, and I believe we did that with a process that was fair and
18 thorough and thoughtful and I just want to say that I want to compliment the members of the
19 committee for the work that you have done, in working together in a cooperative mode. For
20 keeping the politics out of the process. I would like to make a request to our colleagues that they
21 respect the time and the effort that we have put into this. We have managed to keep the politics
22 out of the process and I am going to ask that our colleagues do the same as they consider our
23 recommendations on the Senate floor and in the Rules Committee. Every vote that we took, as I
24 had hoped, is unanimous on a bipartisan basis. I hope that our colleagues respect that and
25 understand the work and the time that all of us have put into this. I again want to thank the
26 subcommittee members for a very good, strong process. A difficult one, and a painful one. I
27 want to thank our Senate Counsel, Peter Wattson, who has done an outstanding job in helping us
28 through this, and I again want to offer my appreciation to Justice Amdahl and Justice Sheran. So

1 members, I didn't feel right leaving our subcommittee meeting without saying that and without
2 saying a big thank you to all of the members. So if there's no further discussion. Questions?
3 Comments? Then the meeting is adjourned.

1
2
3 STATE OF MINNESOTA)

4) ss.

5 COUNTY OF RAMSEY)
6
7

8 **CERTIFICATE**
9

10 I, Christine A. Grover, an employee of the Minnesota Senate, do hereby certify that the
11 foregoing is a true and accurate transcript of the proceedings as taken by me on the dates and
12 times stated, in the matter of Senator Sam G. Solon.
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14
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17

18 Christine A. Grover
19 Christine A. Grover
20
21

22 DATED: January 16, 1996.
23

24 Subscribed and sworn to before me this 16th day of January, 1996.
25

26 Patrick E. Flahaven
27

