

September 22, 2014

Senator Larry Tidemann, Chair  
Government Operations and Audit Committee  
State Capitol  
500 East Capitol Avenue  
Pierre, SD 57501

Dear Senator Tidemann,

Thank you for the additional questions. As a former state senator, I deeply respect your leadership and the stated responsibilities of the Government Operations and Audit Committee (GOAC). However, it is unfortunate that the democrats have resorted to using GOAC for political purposes.

Regardless, I appreciate the additional venue to provide the following information because I believe that it's extremely important.

As you can see from the attached letter dated June 16, 2008, Mr. Bollen was an employee of the Board of Regents. Northern State University President Patrick Schloss specifically states; *"Management, personnel and fiscal oversight reside with the Dean of the Business School in collaboration with the Human Resources Office; Purchasing Office; Finance Office; and subject to the above chain of command. All members of Northern State University are responsible to the South Dakota Board of Regents."*

This information is highly relevant because it clearly states that the Board of Regents claim full responsibility for SDIBI six months after the contract in question was executed. Given the chronology – there is no way that a governor would have or be led to believe that anything other than what was reported by the BOR to GOAC on June 16, 2008 was true and correct. The same questions could be asked of GOAC. GOAC received the letter, the governor's office did not. If anyone was misled, it started with GOAC.

**Below is a statement that my campaign provided the Argus Leader on September 8, 2014 in response to Representative Tyler's press conference on this same matter. The Argus Leader did not include this information in their story**

*"Attached is a document that confirms the SDIBI reporting structure, including fiscal, personnel and overall management as of June 16, 2008 ; it also shows that Bollen was still an employee of the BOR at that time. NSU Pres James Smith has reported that Bollen was employed by BOR until December 21, 2009.*

*Governor Rounds had no knowledge of the contract Rep. Tyler, shared with the media today. At the time of the contract (which Rep. Tyler is unwilling to divulge the source of), Joop Bollen was an employee of the Board of Regents, and the BOR, does not fall under the purview of the Governor's office and therefore, not be expected to report it's day to day operations to the Governor's office. Any contract between SDIBI (which was a Board of Regents office) and a third party would fall under the purview of the Board of Regents and be reviewed by their regular chain of command. An employee of the board of regents executing a contract on behalf of an office of the BOR would also fall under the purview of the BOR and therefore be expected to gain approval through their normal operating procedures. Again, the BOR does not fall under the purview of the Governor's office."*

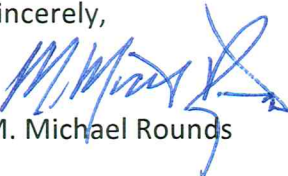
Based on the facts, if there was a breakdown and if we're to believe the democrat conspiracy theory, GOAC was the first to be misled in this scenario. GOAC had investigatory authority over the Board of Regents, which you were obviously pursuing.

Now, if the democrats are going to pursue their conspiracy theory further, they should be willing to add GOAC to the list of eight separate local, state and federal law enforcement and investigatory agencies that have reviewed various aspects of this case. As I've stated, that conspiracy would require that all of these organizations, and all of the elected and appointed democrats and republicans, were either all-together conspiring or all-together negligent.

If there is information being withheld, I continue to agree, it should be released immediately. The attorney general, who has from the beginning coordinated with federal officials, has clearly stated that I was not a target of the investigation. I suggest the democrats expect the same transparency from the U.S. Attorney.

If there is additional evidence, bring it forward. Innuendo, political defamation and lies do not help South Dakota.

Sincerely,



M. Michael Rounds

June 16, 2008

Senator Jason M. Gant, Chair  
Government Operations and Audit Committee  
South Dakota Legislature  
State Capitol  
500 East Capitol Avenue  
Pierre, SD 57501-5070

Dear Senator Gant:

In response to the information request by Gary Hoscheid, Department of Legislative Audit, the following data is provided:

**1. The nature and purpose of the International Business Institute at NSU.**

The South Dakota International Business Institute is a part of the international business academic experience at Northern as well as an engine for economic development in South Dakota. Developed as a cooperative effort between the state of South Dakota and Northern State University, the South Dakota International Business Institute (SDIBI) supports the Governor's Office of Economic Development (GOED) in facilitating and enhancing international trade for South Dakota. International trade creates jobs which corresponds with GOED's mission of creating quality job opportunities for South Dakotans. SDIBI is also available as a learning laboratory for international business students at NSU and plays a significant role in the annual international business conference at Rapid City/Mount Rushmore.

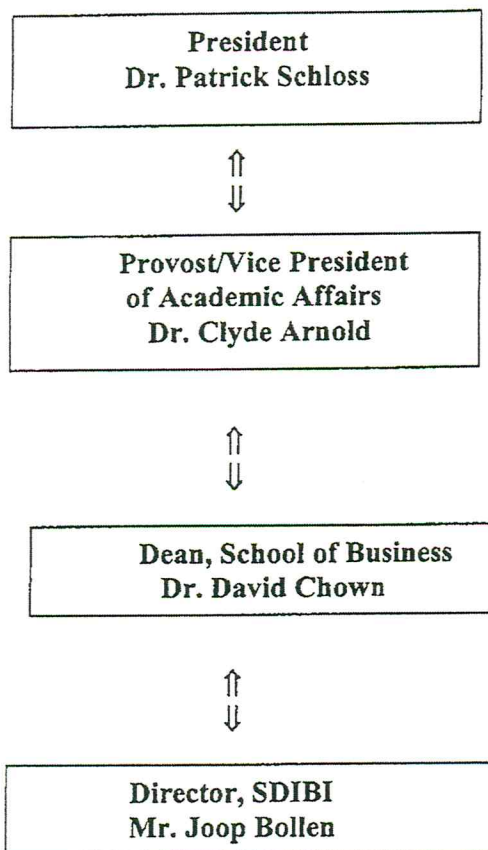
**2. The actual work being performed at this institute.**

SDIBI conduct export promotion services such as educational sessions for companies, conducts export consulting sessions, disseminates trade leads, maintains an exporter's directory, publishes South Dakota export statistics and provides access to export finance and international credit reports. SDIBI also developed and implemented a foreign direct investment program, which mainly revolves around the regional center status obtained initially in April 2004 and which was amended in June 2005. For more details on SDIBI please visit <http://www.sd-exports.org/> SDIBI is staffed by a director, secretary and student labor.



**3. Who Mr. Joop Bollen actually works for; reports to; and has management and fiscal oversight responsibility over his activity.**

Mr. Joop Bollen is the Director of SDIBI and works for Northern State University. He reports to the Dean of the Business School, who in turn reports to the Provost/V.P. for Academic Affairs, who in turn reports to the President of Northern State University:



Management, personnel and fiscal oversight reside with the Dean of the Business School in collaboration with the Human Resources Office; Purchasing Office; Finance Office; and subject to the above chain of command. All members of Northern State University are responsible to the South Dakota Board of Regents.

If you have additional questions please contact me at your convenience.

Respectfully,

Patrick J. Schloss  
President



# SOUTH DAKOTA LEGISLATURE

State Capitol, 500 East Capitol Ave., Pierre, South Dakota 57501-5070

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September 16, 2014

Mr. Michael Rounds  
P.O. Box 250  
Pierre, SD 57501

Dear Mr. Rounds:

The Government Operations and Audit Committee has scheduled a meeting for September 24, 2014 in room 414 in the State Capitol Building to review various issues involving state government.

As the Chair of the Committee, I would like to request that you respond to the following questions, asked in a September 5, 2014 press release by Democratic leader Representative Bernie Hunhoff.

1. As a state employee, Joop Bollen granted SDRC Inc, a private company he owned, the contract to administer the EB5 program on January 15, 2008.
  - a. When did you approve this contract?
  - b. Why did Bollen sign the contract on behalf of the State when he incorporated and owned SDRC, Inc.?
  - c. Have you requested or reviewed a copy of Bollen's deposition transcript in the Darley arbitration where Bollen discusses the transactions between the State, his own company, Darley International LLC and Hanul Law Corporation?
  - d. Did you know Bollen was asked at deposition "why didn't you sign on behalf of SDRC, Inc." and he responded "it would look silly"?
  - e. Was this transaction (the contract signed on January 15, 2008) between the State and SDRC, Inc. reviewed by an attorney acting on behalf of the State? Who?
  - f. Do you know if anyone else had an ownership interest in SDRC, Inc. besides Bollen when he signed this agreement on behalf of the State 5 days after forming his company in January 2008?
  - g. Did you know Bollen did not resign from the State until December 21, 2009?
  - h. Did you know Bollen took all the EB5 records with him on December 21, 2009 without permission from NSU? Do you know if anyone from the State gave him permission? Do you know whether the State has copies of those EB 5 files now?
  - i. Did you know that Bollen, on behalf of South Dakota, was requesting recognition of SDRC, Inc. (his own company) by U.S. Immigration Services while he was a state employee?
  - j. Did you know that the foreign investors must invest the proper amount of capital in a business, called a new commercial enterprise, which will create or preserve at least 10 full-time jobs, for qualifying U.S. workers, within 2 years of receiving conditional permanent residency? Do you know if there is a listing of jobs created with each project in the state that received EB5 funds?



- k. Do you know how much in fees has been received by the State under the Agreement with SDRC, Inc.? How much SDRC, Inc. received?
  - l. When did you first learn about this contract? Did you read it? Ask an attorney to review? Distribute?
2. Clause 6 of the same contract signed between SDIBI and SDRC, Inc. on January 15, 2008, states "SDRC, Inc. shall indemnify, defend, and hold harmless SDIBI, SDIBI/SDRC, the state of South Dakota and its officers and employees from liability and any claims, suits, judgments, and damages arising as a result of SDRC, Inc. acts and/or omissions performed under this agreement." South Dakota had multiple opportunities to protect taxpayers:
- a. Who selected the attorneys to represent the States' interests in these matters?
  - b. Who are the primary State contacts with the attorneys representing the State's interests in the Darley arbitration?
  - c. Didn't some of the attorneys representing the State in the above-described matters have an affiliation with Hanul Law Corporation who is a defendant in the Darley arbitration?
  - d. When did you first learn about potential issues with the administration of EB5 issues? Didn't Attorney Rich Williams in the SD AG's office receive notice of EB5 issues several years before the contract with SDRC, Inc. was finally terminated?
  - e. What was your participation in EB5 investor recruiting? Trips? Discussions? Correspondence?

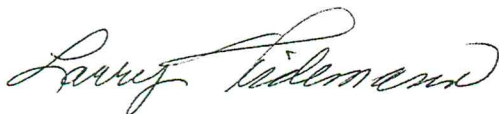
The following additional questions were presented by Senator Larry Lucas:

- 3. Once you, Attorney General Larry Long, and the South Dakota Board of Regents were made aware of the Darley International lawsuit, did you fully brief state legislative leadership or members of the joint appropriations committee of this ongoing legal matter?
- 4. Did you provide the authority for Joop Bollen to sign the contract granting SDRS, Inc. the right to administer the EB5 program on January 15, 2008, since the South Dakota Board of Regents did not grant such authority?
- 5. When you were served legal matters of the Darley petition in July of 2009 to force South Dakota into arbitration because of Joop Bollen's actions, why didn't you fire Joop Bollen and why didn't you initiate legal action against SDRC, Inc. which had pledged to hold harmless and indemnify the state of South Dakota?

Please submit this information to Tim Flannery, Department of Legislative Audit, 427 South Chapelle, Pierre, SD, 57501.

If you have any questions, please contact Tim Flannery with the Department of Legislative Audit at 773-3595.

Sincerely,



Senator Larry Tidemann, Chair  
Government Operations and Audit Committee

1a. I did not approve this contract. This contract was under the supervision of Northern State University and the Board of Regents (BOR). See previous comments and organizational chart provided to GOAC on June 16, 2008.

1b. I had no knowledge of the contract. Did GOAC?

1c. No

1d. No

1e. This contract was under the supervision of Northern State University and the Board of Regents. See previous comments and organizational chart provided to GOAC on June 16, 2008.

1f. No. I had no knowledge of the contract. Did GOAC?

1g. I was generally aware of the transition to privatize the program. I was not aware of any personnel activities within the BOR. This contract was under the supervision of Northern State University and the Board of Regents. See previous comments and organizational chart provided to GOAC on June 16, 2008.

1h. No. No. No.

1i. I was generally aware of the transition to privatize the program. I was not aware of personnel actions within the BOR.

1j. Yes, I am aware of the general parameters of this federal program. I am aware that the federal government reports jobs created.

1k. No. No.

1l. If you are referring to the January 2008 contract, I read about it in recent press reports. See 1a.

2a. This contract was under the supervision of Northern State University and the Board of Regents. See previous comments and organizational chart provided to GOAC on June 16, 2008 – six months after the contract you are questioning.

2b. I am not aware. As the attorney general has publically stated, this question should be directed to the BOR.

2c. I am not aware.

2d. October, 2013. I am not aware. This question should be directed to the SD Attorney General's Office.

2e. I was not directly involved in recruiting. See question #6 on separate questionnaire for additional information.

3. The South Dakota Board of Regents is the party that is handling the matter on behalf of the State. The Department of Legislative Audit and Bureau of Finance and Management publically disclosed this arbitration action in the annual financial reports of the State for 2010 and 2011. If GOAC read the reports, there are numerous items that are publically reported. Each agency would normally handle these specific legal details – not unlike the hundreds of legal issues state agencies engage in every year.

4. No. Did GOAC entertain the same question, when you received the June 16, 2008 management and organization structure explanation from the BOR?

5. The governor's office "was not served". The BOR was. See #3 and the letter to GOAC dated June 16, 2008 regarding your personnel questions.