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July 8, 2011

VIA EMAIL AND REGULAR MAIL

H. Sawin Millett, Jr., Commissioner
Department of Administrative & Financial Services
State House Station #78
Augusta, ME 04333-0078

VIA EMAIL AND OVERNIGHT MAIL

Ms. Patricia M. Barnhart
22 Ship Street
Thomaston, ME 04861

RE: Thomaston Property

Dear Commissioner Millett and Ms. Barnhart:

This morning, Commissioner Millett brought a matter involving the State of Maine ("State") and Ms. Patricia Barnhart to our attention. The matter involves the purported sale of real estate and a subsequent lease back to the State of a building located on the property. The documents effectuating this transaction that we have reviewed include:

1. Contract for the Sale of Real Estate ("Contract") signed on April 4, 2011 between the State of Maine, through the Department of Administrative and Financial Services ("DAFS") and its Bureau of General Service ("BGS"), and Ms. Barnhart for property located at 22, 26 and 30 Ship Circle in Thomaston, Maine;
2. A Release Deed signed on May 9, 2011 on behalf of the State (through DAFS and BGS) purporting to transfer title of the property to Ms. Barnhart and Sheehan D. Gallagher; and
3. A Lease and Memorandum of Lease signed on or about June 9, 2011 by Ms. Barnhart and Ms. Gallagher regarding the building located at 30 Ship Circle in Thomaston, Maine.

Because Ms. Barnhart is employed by the State as the Warden of the Maine State Prison, and was so employed during the time period in which this transaction took place, it is my opinion that the Contract, Release Deed and Lease and Memorandum of Lease are void under the terms of Title 17, section 3104 of the Maine Revised Statutes.

That statute provides in pertinent part:

No trustee, superintendent, treasurer or other person holding a place of trust in any state office or public institution of the State shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the State or of the institution in which he holds such place of trust, and any contract made in violation hereof is void.

We suggest that the parties and their counsel meet as soon as possible to discuss the process for unwinding this matter. Assistant Attorney General William Laubenstein (626-8570) represents the interests of the State and its agencies in this matter, and thus serves as the contact person for them and for this Office should Ms. Barnhart's counsel wish to speak with us concerning this issue.

Sincerely,



WILLIAM J. SCHNEIDER
Attorney General

cc: Sheehan D. Gallagher
James Elliot, Esq.
Daniel Billings, Counsel to the Governor
David Emory, Deputy Commissioner, DAFS
Betty M. Lamoreau, Acting Director, BGS
Surran Pyne, Esq.