

February 22, 2023

Disciplinary Board
The State Bar of South Dakota
111 W Capitol Ave #1
Pierre, SD 57501

To Whom it May Concern;

Please find enclosed 50 formal written complaints against Lee Schoenbeck, 1200 Mickelson Drive, Suite 310, Watertown, SD 57201, Codington County. These formal written complaints are from all across the state, written by tax paying citizens, registered voters, precinct committee persons, GOP party leadership, and former military servicemen. These complaints stem from a recent incident that occurred at the South Dakota Senate State Affairs Committee Hearing which occurred on Wednesday, February 15th, 2023 at 10:00AM in Room 414 at the South Dakota State Capitol Building. Please review the audio recording of the hearing available on sd.net or follow the links given in the attached complaints to video footage.

Mr. Schoenbeck, a member of the State Bar Association of South Dakota, a practicing lawyer, and a State Senator, partook in actions unbecoming of a State Senator, unprofessional as an attorney, and violated State Law and the South Dakota Constitution and rules governing behavior of members of the State Bar and members of the legislature.

The violations here listed but not limited to are:

1. South Dakota Constitution Article VI § 4. Right of petition and peaceable assembly. *The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.*
2. South Dakota Constitution Article VI § 27. Maintenance of free government--Fundamental principles. *The blessings of a free government can only be maintained by a firm adherence to **justice, moderation, temperance, frugality and virtue** and by frequent recurrence to fundamental principles.*
3. From the State Bar of South Dakota, Rules of Professional Conduct:
https://sdlegislature.gov/Statutes/Codified_Laws/2044876 Preamble: A Lawyer's Responsibilities:
[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business *and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others.* A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.
4. [6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. *In addition, a lawyer should further the public's understanding of and confidence*

in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

5. [7] Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.
6. [9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.
7. SDCL 16-18 Rule 4.4. Respect for Rights of Third Persons
In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.
8. SDCL **16-18-1.1. Sexual harassment prevention training for attorneys.**
Each active member of the State Bar of South Dakota shall complete sexual harassment prevention training offered or approved by the State Bar of South Dakota within two years following admission to the practice of law or within two years after the enactment of this rule, and once every three years thereafter. Failure to complete such required training will result in the member being placed on inactive status and may be grounds for disciplinary action.
10. SDCL **16-18-14. Attorney's duty to respect reputation of parties and witnesses.**
It is the duty of an attorney and counselor at law to abstain from all offensive personalities and to advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which he is charged.

SDCL **16-17-2. Purposes of State Bar.**

The aims and objects of the State Bar shall continue to be to obtain the cooperation of all the practicing lawyers in the state in the better administration of justice, and in maintaining a high standard of professional conduct at the bar, to furnish a legal entity through which the considered

judgment of its members on matters affecting the judicial system of the state may be ascertained and made available to the courts and the Legislature, ***to uphold the honor of the profession of the law***, to encourage adequate preparation for its practice, and to promote cordial intercourse among the members of the South Dakota Bar.

SDCL 16-18. **Maintaining the Integrity of the Profession.**

Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

- (a) ***violate or attempt to violate the rules of professional conduct***, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) ***engage in conduct involving dishonesty, fraud, deceit or misrepresentation***;
- (d) ***engage in conduct that is prejudicial to the administration of justice***;
- (e) ***state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law***; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

Rule 8.5. Disciplinary Authority; Choice of Law

- (a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.
- (b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, ***the rules of professional conduct to be applied shall be as follows:***
 - (1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and
 - (2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

Upon receipt of this formal complaint, We the People of South Dakota demand there be an inquiry and investigation into Sen. Lee Schoenbeck's violations of state law and rules of the code of conduct of the State Bar Association, along with conduct unbecoming of a practicing lawyer in the State of South Dakota. We all, individually, expect to be notified of your receipt of our complaints, and your plans of action into this investigation.

We the People of South Dakota

