

BRIEF TO STATE RECORDS COMMITTEE

From: Brady Eames

Re: Vexatious Petition against Brady Eames by State Treasurer

Date: November 16, 2023

I remind everyone here that Utah Constitution provides for and guarantees that:
“All persons have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.”

No Article or Section of the United States Constitution or Utah Constitutions denies me protesting, petitioning and freely communicating my thoughts and opinions daily, weekly, monthly or yearly regarding any elected or appointed public officer or bureaucrat employed by the primary governments or any component unit of the State of Utah government. Neither do such Constitutions deny me requesting on a daily, weekly or monthly basis any public government records which reveal and enable me to learn the conduct of the public's business.

Everyone here should also be reminded that Utah Code 63G-2-102(1)(a) of the Government Records and Access Management Act as amended (GRAMA) provides for and guarantees the ***“public's right of access to information concerning the conduct of the public's business”***.

No provision of the GRAMA or of any other law of the State Utah denies me protesting, petitioning and freely communicating my thoughts and opinions daily, weekly, monthly or yearly regarding any elected or appointed public officer or bureaucrat employed by the primary government or any component unit of the State of Utah government. Neither do such statutory authorities deny me requesting on a daily, weekly or monthly basis any public government records which reveal and enable me to learn the conduct of the public's business.

Just as importantly, the State Treasurer, the Office of the State Treasurer (OST) and the State Money Management Council (SMMC) have never proposed to the public, adopted and codified any administrative rules which deny me protesting, petitioning and communicating my thoughts and opinions daily, weekly or monthly regarding the State Treasurer or any appointed officer or bureaucrat employed by the OST and the SMMC or deny me requesting on a daily, weekly or monthly basis any public government records which reveal and enable me to learn their respective conduct of the public's business.

Collectively, the State Treasurer, the OST and the SMMC have adjudged that I'm abusing my Constitutional rights to protest, petition and freely communicate my thoughts and opinions about them. In other words, they seek a gag order to shut me up.

Collectively, the State Treasurer, the OST and the SMMC have adjudged that I'm abusing my Constitutional and statutory rights to learn about their respective conduct of the people's

business and that I should be denied access to their respective public records housed and maintained in their records office at 350 N. State Street, Suite 180, Salt Lake City, Utah. In other words, they want to deny me requesting and inspecting the following fundamental public records which reveal their respective conduct of the public's business and which are required to or should be open for public inspection:

(1) Public Official Oath Forms which prove a person may lawfully exercise the functions of the State Treasurer, including those pertaining to the Public Treasurers Investment Fund (PTIF), but which are not duly filed with the Division of Archives and Records Service,

(2) Fidelity surety bonds or government crime insurance which the State Treasurer is required to secure before she/he accepts, pools and invests the public funds transferred to her/him by external and internal participants in the PTIF,

(3) Semiannual Deposit and Investment Reports which reveal how much in public funds have been transferred to the State Treasurer by external and internal participants in the PTIF and where exactly they are pooled and held,

(4) Monthly Statements of Account which the State Treasurer is required to make and provide to each external and internal participant in the PTIF not less often than quarterly and which reveal the following regarding the public funds transferred to the State Treasurer:

(A) account period,

(B) beginning balance,

(C) average daily balance,

(D) ending balance,

(E) activity dates,

(F) deposits,

(G) withdrawals,

(H) interest earned,

(I) 360 day rate of interest,

and

(J) 365 day rate of interest.

(5) Lists of qualified depository institutions which are authorized to hold the external and/or internal public funds transferred to and pooled by the State Treasurer for investment purposes,

(6) Public Entities Resolutions which reveal the two persons of each external or internal PTIF participant who may transfer or withdraw public funds to the State Treasurer for pooling in the PTIF so they State Treasurer may invest them and which should be open for public inspection.

and

(7) Comprehensive and Annual Financial Reports which reveal vital information regarding the public funds transferred to the State Treasurer by external and internal participants in the PTIF.

Surely we all agree that as a citizen of Utah *I* have the right to learn the conduct of *my*

business by the State Treasurer, the OST and the SMMC on a daily, weekly and monthly basis.

Long, long ago since the establishment of the office of the State Treasurer and the enactment of the State Money Management Act as amended (SMMA) and in respect of and accordance with the Administrative Rule Making Act as amended (ARA) and the Government Operations Code as amended (GOC), the State Treasurer could and should have duly proposed to the public, duly adopted and had duly codified some kind of administrative rules to govern the *public's/my* records which are created, retained and maintained by him and the staff of his office, the OST and of the SMMC. Such rules should reveal a fee schedule revealing the hourly charge for processing and providing their respective public records. Such rules could have included some kind of limitation on daily, weekly, monthly or yearly records requests and some kind of limitation of daily, weekly, monthly or yearly protests, petitions and communications of thoughts and opinions.

Manifesting an egregious and a perpetual dereliction of executive duty to respect and obey the ARA and the GOC by refusing to make active and continuing records management rules for the economical and efficient management of all the public financial records which reveal the conduct of the public's business by the State Treasurer, the OST and the SMMC, the State Treasurer has opened the door to nonuniform, arbitrary, noncoherent and secret rules which they collectively want me to obey.

Manifesting an egregious and a perpetual dereliction of executive duty to respect and obey the ARA and the GOC by refusing to make and maintain adequate and proper documentation of the policies and procedures designed to furnish the public information regarding requests, decisions, fees and appeals pertaining to all the public financial records which reveal the conduct of the public's business by the State Treasurer, the OST and the SMMC, the State Treasurer has opened the door to nonuniform, arbitrary, noncoherent and secret rules which they collectively want me to obey .

Manifesting an egregious and a perpetual dereliction of executive duty to respect and obey the ARA and the GOC by proposing to the public, adopting and codifying administrative rules , the State Treasurer has refused to provide and clarify to me the days and times, locations where and manner in which I may exercise my rights to access and inspect free of charge and take copies of the public financial records which reveal the conduct of the public's business by the State Treasurer, the OST and the SMMC.

As per a certain Retention and Classification Report filed with the Division of Archives and Records Services by the State Treasurer, he and the OST and SMMC have classified 40 categories of their records as public. As far as the total pages of records which have been created by them under these categories, I've never been told. So far, I've only requested to inspect 5 categories of such records. Out of such 40 categories of records, only 2, unbelievably and unacceptably, are made available for online public inspection in the website of the SMMC.

Upon my confronting Christopher Pieper with the fact that the State Treasurer has manifested contempt for and violation of ARA and the GOC by never having duly proposed to

the public, never duly adopted and never duly codified any administrative rules to govern the respective records of the State Treasurer, the OST and the SMMC, I was told adamantly by him that the State Treasurer is a Constitutional officer who is not subject to respect and obey such statutory authorities. I believe I responded that the Attorney General has made such administrative rules to govern his records. I certainly don't believe that the State Treasurer is above the same law that the top law enforcement officer of Utah respects and obeys.

Brittany Griffin has declared the following: *"Mr. Slaugh and I have on several separate occasions asked for clarification or to understand what functions of the office Mr. Eames is trying to apprehend, he has responded that it is none of our business and to just respond to his requests. This has caused difficulty in filing his requests and has also caused us to believe that Mr. Eames is not interested in using the information provided to benefit the public."*

The only occasion I can recall that Ms. Griffin and Mr. Slaugh engaged in such joint action was on October 12, 2023 during the mediation meeting I agreed to and drove down from Logan to Salt Lake City to participate in the office of the Government Records Ombudsman. The asking she refers to was actually an 3-way act of intimidating and interrogating me so I would be forced to explain why I was requesting records. That is when I responded it's none of your business, but also expressed my concern about the secrecy within the OST. Under the GRAMA, I'm not obligated to explain why I want to inspect the public financial records of the State Treasurer, the OST and the SMMC and I'm not under any duty to use them to "benefit the public". I'm perfectly within my Constitutional rights to benefit myself from such records by learning how the State Treasurer, the OST and the SMMC are conducting *my* business. The comments, attitude and responses of Ms. Griffin, Mr. Slaugh and Mr. Pieper that day left me with the impression that because I had paid the \$42.50 fee and had agree to mediation they expected me to withdraw all my requests sitting in their request queue and then get lost.

Brittany Griffin has declared the following:

"Mr. Eames has a practice of submitting requests, appealing a fee waiver or request, and then withdrawing his request after significant resources have been expended by the OST and counsel. This includes requests that have been appealed to the SRC."

As per the Utah Court of Appeals and Brian Swan, she is obligated to quote me a fee charge before she compiles and provides me records and to allow me to modify my request if I so choose. Certainly, I have the right to withdraw my request if I cannot afford to pay the quoted fee before and after I may modify my request.

(see Graham v. Davis County Solid Waste Management and Energy Recovery Special Service District, et al., 1999 UT App 136 at <https://legacy.utcourts.gov/opinions/appopin/graham.htm>)

and
Legal statement of attorney Brian Swan during State Records Committee hearing on August 17, 2023 at <https://www.utah.gov/pmn/files/1012383.m4a>)

Sincerely, I hope today that you are not going to penalize and shame me because I happen to be a concerned Utah citizen and an inquisitive government watchdog who has, since 2015, been actively, zealously and tenaciously exercising my Constitutional rights to inspect and learn all the conduct of the people's business regarding the billions of dollars of public funds which are entrusted to the State Treasurer and pooled in the PTIF actually held by the Bank of New York,

Dreyfus Govt. Cash Management and Morgan Stanley Govt Portfolio which are all not insured or otherwise guaranteed by the State of Utah. Such financial conduct has been documented in certain public records which the State Treasurer, the staff of the OST and the State Money Management Council SMMC have created and are retaining and maintaining in their respective records offices. I also sincerely hope you won't so label, penalize and shame me for exercising my Constitutional rights to utilize my electronic mail to protest daily, monthly or weekly regarding their respective wrongs, petition for redress of my grievances against them and freely communicate my thoughts and opinions about them.

In order to exercise my Constitutional rights to protest, petition and communicate, I have to be able to inspect the public records of the State Treasurer, the OST and the SMMC on a daily, monthly or weekly basis in order to learn whether or not Marlo Oaks, Kirt Slauch and Christopher Pieper are, or are not, supporting, obeying and defending the Constitutions and are or are not discharging the duties of their respective office with fidelity. How Constitutionally unjust it would be if I was banned from their respective records office and thereby denied learning if they have or have not been or are or are not engaged in malfeasance or misreporting certain information regarding the PTIF.

If I want to learn about the conduct of the people's business regarding the PTIF on a daily, weekly or monthly basis, I'm perfectly within my Constitutional rights to submit an inquiry to or request a revealing public record from the State Treasurer, the OST or the SMMC.

If I want to bring to light that certain persons elected or appointed as public officers of the OST and the SMMC have not duly filed their respective Public Official Oath Form with the Division of Archives and Records Services that I may discover on a daily, weekly or monthly basis, I'm perfectly within my Constitutional rights to protest, petition and freely communicating my thoughts and opinions about such malfeasance on a daily, weekly or monthly basis.

If I want to bring to light misreporting of certain information contained in certain PTIF records that I may discover on a daily, weekly or monthly basis, I'm perfectly within my Constitutional rights to protest, petition and freely communicating my thoughts and opinions about such administrative fraud a daily, weekly or monthly basis.

Finally on October 12, 2023, it was admitted to me by certain agents of the State Treasurer, the OST and SMMC that Brittany Griffin cannot work at least 40 hours per week as their records officer because the Legislature does not appropriate them enough public funds to compensate her for doing so. Since 2015, I've been lead to believe that if she was appointed as their records officer, she has been obligated and actually has been discharging the duties of such vital public officer at least 40 hours per week. Apparently, that has never been so. Referring to the web page of Marlo Oaks titled "Contact Information", such Brittany Griffin is not even titled a records officer but is titled "Policy & Communications Deputy". As per the State Auditor, such Brittany Griffin is compensated as "Public Information Officer Ii, Career Service Exempt" or "Public Information Officer Ii, Appointed". In other words, she's not compensated one penny to perform the duties of a records officer. God only knows how many hours she works per business day and business week making initial decisions regarding and/or providing me the respective

public records of the State Treasurer, the OST and the SMMC in response to my requests. Surely, it's a mystery to me which of their respective public records she can find and provide me in 15 minutes or less.

If Brittany Griffin has not been working at least 40 hours per week but has only spent 1 hour of each day or of each week handling my requests, how can I possibly be accused of interfering with the record management operations of the State Treasurer, the OST and the SMMC, labeled vexatious and denied present and future inspection of their respective public records?

Essentially, I'm being discriminated against because I want to learn too much about the conduct's of the people's business by the State Treasurer, the OST and the SMMC. Together, Kirt Slauch, Brittany Griffin and Christopher Pieper have acknowledge I'm the only Utah citizen that wants to do so yet Brittany Griffin can't handle the workload that I cause. It's certainly not my fault that the Legislature and the Governor have neglected or refused to prudently use public funds to ensure that Brittany Griffin can be compensated to work full time as a records officer for the State Treasurer, the OST and the SMMC.

Respectfully,

A handwritten signature in blue ink that reads "Brady Carnes". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.