

**IN THE COUNCIL COURT
OF LOUISVILLE METRO COUNCIL**

**IN RE REMOVAL HEARING)
OF COUNCILMAN ANTHONY)
PIAGENTINI)**

**APPLICATION OF THE CHARGING
COMMITTEE FOR THE ISSUANCE OF SUBPOENAS**

The Charging Committee of the Council Court of the Louisville Metro Council (the “Committee”) hereby moves pursuant to KRS 67C.143 and Rule 15 of the Louisville Metro Council Removal Hearing Rules and Procedures (“Removal Rules”) that the Chair of the Council Court issue subpoenas to the following:

1. Verizon Wireless, Bedminster, New Jersey.
2. Louisville Healthcare CEO Council, Louisville, Kentucky.
3. Anthony Piagentini, Louisville, Kentucky.

The subpoenas requested are attached as Exhibits 1, 2, and 3 to this Application, and the reasons for the request are set forth below.

Background

On August 21-24, 2023, the bipartisan Louisville/Jefferson County Metro Ethics Commission (“Ethics Commission”) held an evidentiary hearing to consider charges against Respondent Councilman Anthony Piagentini of violations of the Louisville Ethics Code. The charges alleged that the Respondent pursued and solicited a consulting contract with the

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Louisville Healthcare CEO Council (“CEO Council”) at the same time he was considering, then advocating, that the CEO Council and its fellow grantees receive a \$40 million grant from the Metro Council. He advocated for this grant despite the fact that it had scored 29th out of 30 eligible applications. The day after the grant was approved, he accepted a \$240,000 consulting contract with the CEO Council. Piagentini then participated in meetings with the Louisville Metro administration, advocating on the CEO Council’s behalf about the grant, while simultaneously serving as a member of the Metro Council.

The Complainant, the Investigating Officer, and the Respondent all presented evidence at the hearing. On October 19, 2023, the Ethics Commission issued a 53-page written opinion, unanimously concluding that the Respondent had violated six provisions of the Louisville Metro Ethics Code. It assessed a fine against him and stated that it

STRONGLY RECOMMENDS, pursuant to Louisville Metro Ordinance 21.99(A)(1)(d) and 21.99(3)(b), that the Louisville Metro Council take the swiftest action consistent with its existing procedures and KRS 67C.143, to REMOVE Respondent Anthony Piagentini from the office of Metro Councilperson.

(Opinion, emphasis in original).

Accordingly, the Charging Committee was formed pursuant to KRS 67C.143 and, after due consideration, issued a Complaint for Removal against the Respondent on November 28, 2023. The Complaint was presented to the President of the Metro Council on November 30, 2023. Under KRS 67C.143, the members of the Metro Council other than the Respondent make up the Council Court.

Request for Subpoenas

Rule 15 of the Removal Rules provides:

RULE 15. Subpoenas. Upon a showing of proper need at the request of the Charging Committee or the Respondent, the Council Court shall issue subpoenas over

the signature of the Chair to compel the attendance of witnesses or the production of documents or other documentary evidence in conjunction with the Council Court's hearing on the removal charges. Applications for subpoenas shall be filed with the Clerk. Any application for the issuance of subpoenas shall set forth the substance of the anticipated proof or relevance of the documentary evidence or testimony to be obtained and the need therefore in support of the application.

Under Rule 4, the Chair of the Council Court decides matters of procedure. Notably, the rule provides that the subpoenas *shall* issue once the showing is made. It is not a matter of discretion.

Accordingly, the Committee has a proper need for three subpoenas to be issued to produce documents as set forth below.

1. Subpoena to Verizon Wireless. The Committee seeks records of calls and texts made and received by the Respondent and Tammy York Day, the President of the CEO Council, during the period the Respondent is charged with soliciting a consulting contract from the CEO Council. The evidence at the Ethics Commission hearing established that Day sent the Respondent a Non-Disclosure Agreement (“NDA”) on November 17, 2023, the day of the Budget Committee meeting where the grant would be approved. The Respondent testified that he did not speak to Day on November 17 before the hearing and did not know the reason for the NDA until he spoke to her on November 18, after the Budget Committee approval of the grant. The Ethics Commission did not find this testimony credible.

The Respondent did not present any telephone records at the hearing. The Ethics Commission subpoenaed telephone records from Day, but they were so highly redacted that they were useless – they did not show calls between the two on either November 17 or 18, although both witnesses testified they had such a call. The subpoena to Verizon Wireless is necessary to establish the extent and timing of contacts between Day and the Respondent over the time period in question.

2. Subpoena to CEO Council. Day testified at the Ethics Commission hearing that

the suggestion to hire or enter a consulting arrangement with the Respondent was not proposed to the CEO Council Board of Directors until its November 2023 meeting. The subpoena seeks minutes of CEO Council board and committee meetings to determine whether that testimony was accurate.

3. Subpoena to the Respondent. The content of text messages is not available from wireless carriers. Therefore, the Committee requests a subpoena to the Respondent for any cellular telephone he has used to communicate with Day. To avoid an undue intrusion into the privacy of the Respondent or his communications with his attorney, the subpoena directs him to provide the telephones to a forensic examiner, who will inspect the phone to provide (1) the content of text messages with Day; (2) a record of calls and texts with Day; (3) metadata for a November 17, 2023, email from Day to determine when it was first opened, and (4) evidence that any records in categories 1, 2, and 3 were deleted from the telephone.

Obviously, the content of text messages between the Respondent and Day would be highly relevant to the charge that he advocated for a grant to the CEO Council while seeking a job from that organization. They would show what they talked about and when. The metadata from the email will show when the Respondent was aware he had received the NDA. Evidence of the destruction of this evidence would be highly relevant as well, and Kentucky law permits a fact finder to conclude that a party who destroyed evidence did so because it was unfavorable to him. *University Medical Center, Inc. v. Beglin*, 375 S.W.3d 783 (Ky. 2011).

WHEREFORE, the Committee requests that the three subpoenas requested above be issued for service as shown in the subpoenas.

Respectfully submitted,

/s/ Kent Wicker

Kent Wicker

WICKER / BRAMMELL PLLC

323 West Main Street, 11th Floor

Louisville, Kentucky 40202

Telephone: (502) 780-6185

Counsel for the Charging Committee

Certificate of Service

This is to certify that a true copy of the foregoing has been served on December 13, 2023, upon the Clerk of the Metro Council Court.

/s/ Kent Wicker

Kent Wicker

LOUISVILLE METRO COUNCIL

**COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY**

**IN THE MATTER OF CHARGES AGAINST
DISTRICT 19 COUNCILMAN ANTHONY PIAGENTINI**

SUBPOENA

The Council Court of the Louisville Metro Council to:

Name: Custodian of Records, Verizon Wireless

Address: 180 Washington Valley Road
Bedminster, NJ 07921
FAX: (888) 667-0028

You are commanded to appear before Louisville Metro Council, on the ____ day of _____, 202__ at ____ a.m. Eastern Time

To testify in behalf of _____

To produce all records of calls and texts for numbers (502) 548-5094 and (502) 909-4415, for the period November 1, 2021, to December 2, 2022. The documents shall be delivered to the requesting attorney no later than December 27, 2023.

To give depositions

_____ Issuing Officer By: _____

Requesting Attorney: Kent Wicker Wicker / Brammell PLLC 323 West Main Street, 11 th Floor Louisville, Kentucky 40202 Kent@WickerBrammell.com (502) 541-5533

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: _____ _____ This ____ day of _____, 202__ By: _____ _____ _____ Title

LOUISVILLE METRO COUNCIL

**COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY**

**IN THE MATTER OF CHARGES AGAINST
DISTRICT 19 COUNCILMAN ANTHONY PIAGENTINI**

SUBPOENA

The Council Court of the Louisville Metro Council to:

Name: Custodian of Records, Louisville CEO Council

Address: 300 E. Market Steet, Suite 300
Louisville, KY 40202

You are commanded to appear before Louisville Metro Council, on the ____ day of _____, 202__ at ____ a.m. Eastern Time

To testify in behalf of _____

To produce all minutes of the Board of Directors and any board committees for the period November 1, 2021, to December 2, 2022. The documents shall be produced to the requesting attorney no later than December 27, 2023.

To give depositions

_____ Issuing Officer By: _____

Requesting Attorney: Kent Wicker Wicker / Brammell PLLC 323 West Main Street, 11 th Floor Louisville, Kentucky 40202 Kent@WickerBrammell.com (502) 541-5533

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: _____ _____ This ____ day of _____, 202__ By: _____ _____ _____ Title

LOUISVILLE METRO COUNCIL

**COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY**

**IN THE MATTER OF CHARGES AGAINST
DISTRICT 19 COUNCILMAN ANTHONY PIAGENTINI**

SUBPOENA

The Council Court of the Louisville Metro Council to:

Name: Anthony Piagentini

Address: 601 W. Jefferson Street
Louisville, KY 40202

You are commanded to appear before Louisville Metro Council, on the ____ day of _____, 202__ at ____ a.m. Eastern Time

To testify in behalf of _____

To produce all cellular telephones used to communicate with Tammy York Day during the period of November 1, 2021, to December 2, 2022. The telephones shall be presented to Mobile Forensic Solutions, no later than December 27, 2023, which shall extract and produce to the requesting attorney (1) all content of text messages sent to and received from Tammy York Day – (502) 548-5094, (2) a record of all texts and phone calls with that number, and (3) metadata for an email received from Tammy York Day at 11:52 a.m. on November 17, 2023, showing the time that email was first opened, and (4) evidence showing that any items of categories 1, 2, and 3 have been deleted.

To give depositions

 <hr/> <p>Issuing Officer</p> <p>By: _____</p>
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Requesting Attorney: Kent Wicker Wicker / Brammell PLLC 323 West Main Street, 11 th Floor Louisville, Kentucky 40202 Kent@WickerBrammell.com (502) 541-5533

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: _____

This ____ day of _____, 202__ By: _____

_____ Title