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June 13, 2011

Senator Michelle L. Fischbach
Chair, Minnesota Senate Subcommittee on Ethical Conduct
226 State Capitol Building
75 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155-1606

RE: The Matter of Senator Gretchen Hoffman
Probable Cause Hearing.

Dear Senator Fischbach:

I have been retained to assist and represent, as necessary, your colleague, Senator Gretchen Hoffman, in the complaint brought against her by Senator Ann Rest.

Senator Rest has complained that, in her view, Senator Hoffman violated the provisions of Senate Rule 56.2 by publishing or distributing material "the member knows or has reason to know" is "false or clearly misleading, concerning a public policy issue or concerning the member's voting record or position on a public policy issue."

The complaint is centered around remarks made by Senator Barb Goodwin on the floor of the Senate on the evening of May 18, 2011, and Senator Hoffman's response to those remarks.

In particular, it is undisputed that, in opposing a bill being considered by the Senate, Senator Goodwin said:

"We might not have the ten state hospitals for the idiots and the insane and the imbeciles like we used to, but that's because a lot of people put a lot of hard work and logic into how to develop the absolute basic service that we need in our communities."

Senator Hoffman, whose background is as a nurse who trained in the State mental hospital system, took considerable offense to those comments. She did two things: first, she asked to speak on the floor to address the remarks and was placed "in the queue". Secondly, she tweeted the following:

"Sen Goodwin just called people with mental illness – idiots and imbeciles- while debating HHS bill ..."

Shortly after Senator Goodwin's remarks, debate was closed on the bill and it was voted on. Senator Hoffman's remarks, and those of others, "in the queue", were effectively cut off by that decision and the matter effectively unaddressed on the floor.

After Senator Rest made her first complaint, Senator Hoffman restated her position on the matter when she said:

"On Wednesday, May 18, Senator Barb Goodwin referred to people with mental illness as idiots and imbeciles on the Minnesota Senate floor. As a registered nurse who has worked with patients with mental illness for many years I was offended by her remarks. I shared Senator Goodwin's remarks with my Twitter followers."

This subsequent statement of opinion by Senator Hoffman has now also been added to Senator Rest's original complaint.

Respectfully, I would argue that there is no probable cause to pursue this matter further. The proper forum for issues arising during a debate on the floor of the Senate of this sort is found in Rule 123 of Mason's Manual of Legislative Procedure. That Rule would require an objection to be made by the offended member, in this case, Senator Hoffman, to language by another member, in this case, Senator Goodwin.

Opportunity is given, under the Rule, for explanation by Senator Goodwin if, in fact, she disagrees with the objection and wants to provide, as in this case, an argument for context. The Senate, under that Rule, can then decide whether to pursue the issue of the objectionable language any further.

That this didn't happen has to do with what occurred on the floor that evening when debate on the bill in question ended. That left the matter of the comments unresolved.

What did not end was the offense taken by Senator Hoffman and the apparent insistence by Senator Goodwin that her comments were misunderstood and were being taken out of context.

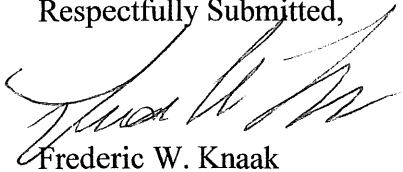
Disagreements of this sort are not new. Nor are they unethical. It should be, however, of concern to the Senate when this kind of disagreement results in a quick ethics complaint alleging improper motive on the part of a member.

Senator Hoffman has stated her sincere belief and position that Senator Goodwin's comments were inherently offensive. Senator Goodwin has taken the clear position that her comments should not have been construed the way they were by Senator Hoffman.

Invocation of ethical rules should be used in instances where a serious issue of misconduct has occurred, NOT a disagreement about what was said on the floor of the Senate. Both parties in this case have had ample opportunity to state their respective positions. Nothing more, in a deliberative body like the Minnesota Senate, is required or, frankly, appropriate.

We would ask, therefore, that this matter be dismissed by the Subcommittee.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Frederic W. Knaak', written in a cursive style.

Frederic W. Knaak

Attorney for Senator Gretchen Hoffman