

April 13, 2014

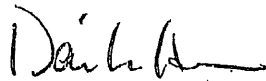
Senator Sandra L. Pappas, Chair
Senate Rules Subcommittee on Ethical Conduct
120 State Capitol Building
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN. 55155

Dear Madam Chair,

Attached to this letter please find a new complaint regarding the conduct of Senator Jeff Hayden. The complaint is prepared pursuant to the provisions of Senate Permanent Rule 55. By the delivery of this letter and the attached complaint, it is hereby filed pursuant to Rule 55. We ask for the Subcommittee on Ethical Conduct to investigate this matter and take action in accordance with this Rule.

We look forward to the Subcommittee acting on this complaint.

Sincerely,



Senator David Hann



Senator Dave Thompson



Senator Michelle Benson

COMPLAINT TO THE SUBCOMMITTEE ON ETHICAL CONDUCT REGARDING THE ACTIONS OF SENATOR JEFF HAYDEN

Senators David Hann, Michelle Benson and David Thompson, each being first duly sworn, state and allege under oath the following:

1. Sen. Jeff Hayden served as a board member for Community Action Minneapolis (hereinafter, "CAM"). According to Minnesota Public Radio (hereinafter, "MPR"), his involvement with CAM began in 2008 (*Sen. Hayden in the loop on Community Action's woes*, December 30, 2014). Sen. Hayden later appointed his wife, Terri Hayden, to be his representative to the board.
2. The Minnesota Department of Human Services (hereinafter, "DHS") performed an audit of CAM and released findings on August 7, 2014, that board members and their spouses received undocumented or unallowable reimbursements for lodging, food, spa treatments, and golf. [See Exhibit A.]
3. Auditors included a 2012 trip to New York City in a paragraph titled "No business purpose." They specifically questioned the expenditure for "airfare for the spouse of a board member to New York," because it did not meet the criteria under state and federal guidelines, did not have "a valid business purpose," and further, was not considered ordinary, necessary, or reasonable by those same standards. Expenses related to spouses would not be allowable. [See Exhibit A.]
4. Sen. Hayden's written statement to the press on September 23, 2014, declared, "To be clear, neither Terri nor I accepted compensation for any cruises, spas, vacations to the Bahamas, or **any other inappropriate, non-board activities.**" [Emphasis added, see Exhibit B.]
5. Sen. Hayden testified under oath to the Subcommittee on Ethical Conduct on October 23, 2014,

"I wasn't aware of a lot of those things. I certainly wasn't aware of personal travel - if that's true, most certainly wasn't aware. You know, the organization has the annual Board meeting and retreat, but what I wasn't aware of - and still anxious to find out [was] how those things were paid for, what the costs were. So I wasn't aware of any improprieties as now starting to come out, as they start to go through this report and do a very thorough audit of the organization."
6. Exhibit B of Sen. Hayden's documents presented to the Subcommittee on Ethical Conduct on October 23, 2014, states: "No personal gain. No per diem or cash payments. Volunteer time." [See Exhibit C.]

7. Documents that DHS used in the audit show that Sen. Hayden accompanied his wife and others on an improper trip to New York City. The cost of airfare for Sen. Hayden was \$374.60 and was paid by CAM. [See Exhibit D.]
8. There is no record that Sen. Hayden paid his own way for the trip to New York City. Sen. Hayden specifically stated in his testimony before the Subcommittee on Ethical Conduct on October 23, 2014, that he paid his own way, he didn't reimburse the organization or make "reparations" to CAM, and there is no record of any reimbursements from him to CAM.
9. The Star Tribune reported (*NYC trip is trouble for DFL senator: NYC fares for DFL senator, wife paid for by state-funded group*, October 31, 2014) that this "revelation appears to contradict Hayden's earlier statements that he paid for all of his own expenses relating to the group."
10. The audit by DHS also showed that board members received per diem payments, which were never established as authorized or allowable payments in the board by-laws. The only allowable per diem should have been for reimbursement of expenses for low-income board and committee members. [See Exhibit A.]
11. Per statement 6 above, Sen. Hayden made written statements and provided documents to the Subcommittee on Ethical Conduct on October 23, 2014, that he had "no personal gain," and he and his attorney further testified to that effect to the Subcommittee on Ethical Conduct on October 23, 2014.
12. According to records obtained from DHS, per diem payments were made to all board members, including Terri Hayden, in 2012 and 2013. CAM made per diem payments of \$152.85 for each board member on May 16, 2012, and \$155.61 for each board member on May 16, 2013. These documented payments to Mrs. Hayden appear to be "personal gain," as Mrs. Hayden is a member of Sen. Hayden's household. [See Exhibit E.]
13. In their audit findings released on August 7, 2014, DHS also found that board members provided inadequate oversight of CAM operations. [See Exhibit A.]
14. Sen. Hayden testified under oath to the Subcommittee on Ethical Conduct on October 23, 2014,

"I was not involved in the financial management of the organization – it was handled by the executive committee and the finance committee. We were provided with monthly financial reports and budgets, annual audits by the Wipfli firm, and there was no reason that I suspected there were financial mismanagement of the organization. That is something that I'm extremely concerned about. My sense would be that the organization, and when I was serving with the organization, and I think my wife would say the same, is that things were going well, people were being served appropriately, and that these allegations were new and foreign to us. I don't want to go with my gut,

because everything that I knew at the time was that things were going well with the organization and that people were being served. What I want to know now as these review and forensic audits and others are happening is what actually happened to those dollars, were they appropriately disbursed, was the job of weatherizing being done, were the programs being adequately...services given. I'm deeply concerned."

15. In fact, Sen. Hayden had, at a minimum, constructive knowledge of the financial and management troubles of CAM while he was under oath on October 23, 2014.
16. MPR reported (*Sen. Hayden in the loop on Community Action's woes*, December 30, 2014) that, as a member of the board of CAM, Sen. Hayden was well positioned to know about the financial and management problems the agency was having months before the issue became public.
17. Additionally, in his capacity as a state senator, Sen. Hayden was copied on correspondence between CAM and the Minnesota Department of Commerce regarding compliance issues with state and federal grants, including energy assistance and weatherization spending at CAM, as far back as May 2013. [See Exhibit F.]
18. Sen. Hayden participated in meetings as early as January 2014 regarding Department of Commerce concerns about spending irregularities at CAM. MPR reported (*Sen. Hayden in the loop on Community Action's woes December 30, 2014*) that Sen. Hayden was present at a January 2014 meeting with CAM officials and the DHS auditors to discuss the preliminary findings of their audit. Sen. Hayden participated by "trying to get Bill Davis to engage with the auditors." Bill Davis is reported as confirming Sen. Hayden's attendance, and further stating, "He realized that we were starting to talk about I guess, some of those issues that he felt it would be a potential conflict so he left." This, at a minimum, points to constructive knowledge of the issues, if not actual knowledge.
19. Sen. Barb Goodwin (DFL-Columbia Heights) told the Star Tribune (*Leaders intensify criticism of Community Action of Minneapolis*, September 23, 2014) that Sen. Hayden "had a fiduciary responsibility and he wasn't watching the money. That's a bad thing." Sen. Goodwin stated her concerns go back as far as 1997, and she "noted that [DHS] audit looked at just two recent grants, 'but if somebody took the time to go back further, they'd see millions of dollars that were misspent.'"
20. MPR reported (*Sen. Hayden in the loop on Community Action's woes*, December 30, 2014) that former long-time employee Feleshia Warner said, "The board didn't ask the right questions and quit when controversy surfaced." Further, she stated, "We felt that they were our saving grace. We thought the board – we had these strong political DFLers on our board and they would speak...They could have brought in new management, new board members and the organization could have continued to serve the public."

21. Robert Benes, Chairman of the Minnesota Community Action Partnership, and Arnie Anderson, the Executive Director of the Minnesota Community Action Partnership, stated, "We believe that one result of the DHS audit is such **widespread public belief** that your collective judgment has **betrayed the public trust...**" [Emphasis added, see Exhibit G.]
22. The Ramsey County District Court appointed Michael Knight of Alliance Management as limited receiver over the assets of CAM to, among other things, review expenditures for their appropriateness under the parameters of the DHS and Department of Commerce grants.
23. Mr. Knight recently informed the court there are ten allegations he deems worthy of additional investigation based upon statements of one or more CAM employees. One of the ten allegations is "excessive gift-giving to board members," including from vendors. [See Exhibit H.]
24. Mr. Knight also reported to the court that the Federal Bureau of Investigation and the Internal Revenue Service are currently investigating CAM.
25. Senate Rule 56.1 states that members shall adhere to the highest standard of ethical conduct.
26. Senate Rule 56.2 forbids a member from publishing or distributing written material if the member knows or has reason to know that the material includes any statement that is false or clearly misleading," concerning a public policy issue.
27. It is your complainants' argument that Sen. Hayden's written material referenced in statements 4 and 6 above included statements that were misleading to the public and the Subcommittee on Ethical Conduct in violation of Senate Rule 56.2.
28. Senate Rule 56.3 further provides, "Improper conduct includes conduct that violates a rule of the Senate, violates accepted norms of Senate behavior, that betrays the public trust, or that tends to bring the Senate into dishonor or disrepute."
29. It is your complainants' argument that Sen. Hayden's acceptance of perks, as a board member of CAM himself or through his spouse whom he sent to represent him, violates accepted norms of Senate behavior, betrays the public trust, and brings the Senate into dishonor or disrepute in violation of Senate Rule 56.3.
30. It is your complainants' argument that Sen. Hayden's verbal testimony to the Subcommittee on Ethical Conduct on October 23, 2014, pertaining to his knowledge of problems at CAM was evasive and intentionally misleading and violated accepted norms

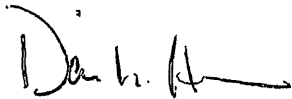
of Senate behavior, betrayed the public trust, and brought the Senate into dishonor or disrepute.

31. It is your complainants' argument that Sen. Hayden lied in his verbal testimony to the Subcommittee on Ethical Conduct on October 23, 2014, pertaining to his personal trip to New York City, which violated accepted norms of Senate behavior, betrayed the public trust, and brought the Senate into dishonor or disrepute.

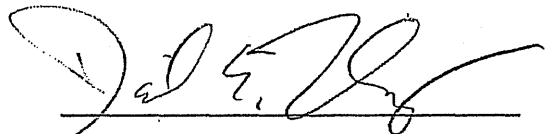
It is your complainants' belief that, based on the above information, Sen. Jeff Hayden violated Senate Rules 56.1, 56.2, and 56.3. Senate Rule 55.3 states that the subcommittee "shall investigate" a complaint, and Senate Rule 55.6 allows the Subcommittee on Ethical Conduct to "appoint a suitable person to conduct the investigation and report findings of fact and recommendations for action to the subcommittee." Additionally, Senate Rule 55.3 and Minnesota Statute 3.153 allow the Subcommittee to issue subpoenas as necessary, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records, and the giving of relevant testimony.

Your complainants respectfully ask that the Subcommittee investigates these allegations further, conducts a public hearing, finds that Sen. Jeff Hayden violated these Rules, and recommends appropriate disciplinary action to the Committee on Rules and Administration.

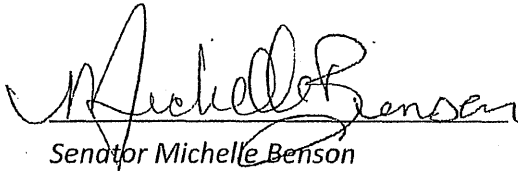
Date: April 13, 2015



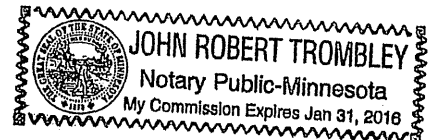
Senator David Hann



Senator Dave Thompson



Senator Michelle Benson



Subscribed to, and sworn before me, a notary public, on April 13, 2015.

