

# Alaska State Legislature

## Select Committee on Legislative Ethics

716 W. 4th, Suite 230  
Anchorage AK  
(907) 269-0150  
FAX: 269-0152

Mailing Address:  
P.O. Box 101468  
Anchorage, AK.  
99510 - 1468

### SENATE SUBCOMMITTEE COMPLAINT S 12-03

#### FINDING OF PROBABLE CAUSE

The Senate Subcommittee (committee) investigated allegations contained in complaint S 12-03 and determined the following:

1. The Senate Subcommittee received a properly filed complaint against Senator Lyman Hoffman dated November 20, 2012.
2. The complaint alleged the following:

Did Senator Hoffman violate AS 24.60.260(a) of the Act:

*A person required to make a disclosure under this chapter may not knowingly make a false or deliberately misleading or incomplete disclosure to the committee or to the Alaska Public Offices Commission.*

in that he failed to provide all the required information on his 2008, 2009 and 2010 LFD's pursuant to the requirements of AS 24.60.200, Financial Disclosure by Legislators.

#### ADDITIONAL RELEVANT STATUTE

*AS 24.60.990 Definitions.*

*(a)(8) "knowingly" has the meaning given in AS 11.81.990.*

*AS 11.81.900(2) a person acts knowingly with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its*

*existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance.*

*AS 24.60.200. Financial Disclosures by Legislators*

*A legislator, a public member of the committee, and a legislative director shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska Public Offices Commission giving the following information about the income received or deferred income, earned or otherwise, to be received by the discloser, the discloser's spouse or domestic partner, the discloser's dependent children, and the discloser's nondependent children who are living with the discloser:*

- (1) the information that a public official is required to report under AS 39.50.030 , other than information about
  - (A) income received as compensation for personal services;*
  - (B) a loan or loan guarantee;*
  - (C) gifts;**
- (2) as to income or deferred income in excess of \$1,000 earned or received as compensation for personal services, and as to dividend income or deferred compensation in excess of \$1,000 received from limited liability company as compensation or deferred compensation for personal services, a statement describing
  - (A) the names and addresses of the source and the recipient;*
  - (B) the amount;*
  - (C) whether it was or will be earned by commission, by the job, by the hour, or by some other method;*
  - (D) the dates and approximate number of hours worked or to be worked to earn it; and*
  - (E) unless required by law to be kept confidential, a description sufficient to make clear to a person of ordinary understanding the nature of each service performed or to be performed and the date the service was performed or will be performed;**
- (3) as to each loan or loan guarantee over \$1,000 from a source with a substantial interest in legislative, administrative, or political action, the name and address of the person making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists.*

**SCOPE OF INVESTIGATION:**

The Senate Subcommittee met on the following dates: November 20, 2012; February 26, 2013; and October 28, 2013.

On November 20, 2012, the committee adopted a Scope of Investigation focusing on the allegation. On October 28, 2013, the committee reviewed the investigative material. Senator Hoffman appeared before the committee on October 28, 2013, to explain the allegations. He was accompanied by legal counsel. AS 24.60.170(r).

**The committee's investigation included:**

- Ten interviews.
- Alaska Public Offices Commission 2012 investigation of Senator Hoffman for filing incomplete Legislative Financial Disclosures in 2009, 2010, and 2011.
- Senator Hoffman's Legislative Financial Disclosures filed in March 2009 (reporting year 2008), March 2010 (reporting year 2009), March 2011 (reporting year 2010), March 2012 (reporting year 2011), and March 2013 (reporting year 2012) on file with the Alaska Public Offices Commission.
- Senator Hoffman's federal tax returns for the years 2009, 2010, 2011, and 2012,
- Senator Hoffman's legislative ethics disclosures for the years 2009, 2010, 2011, 2012, and 2013.
- Golden Eagle Unlimited, LLC, school bus transportation contract for the Lower Kuskokwim School District (LKSD) for the 2008-09 school year with extensions through 2011-12 and the contract for 2012-13 with possible extensions through 2015-16.
- LKSD March 7, 2008 board minutes and audio of the meeting.
- LKSD May 20, 2013 board minutes.
- Alaska Division of Corporations, Business and Professional Licensing information on the following businesses: Bethel Drilling and Welding Service, Inc.; Blue Sky Estates, Inc.; Golden Eagle Unlimited, Inc.; Kisarelik Unlimited, Inc.; New York Creed Associates, Inc.; Bethel Solutions Incorporated; BNC International, Inc.; and Venes Properties LLC.
- Various emails between Senator Hoffman and the Ethics Office from 2009 to 2013.
- Another legislator's corresponding documents regarding ethics disclosures and legislative financial disclosures.

**FINDING OF PROBABLE CAUSE**

On October 28, 2013, the committee found probable cause that Senator Hoffman was in violation of AS 24.60.260(a) of the Legislative Ethics Act in that he knowingly filed incomplete Legislative Financial Disclosure (LFD) statements covering the calendar years 2008, 2009, and 2010.

The committee relied not only on the 2012 investigation conducted by APOC of Senator Hoffman's LFD's but also interviews and other documentation in reaching this decision.

To issue a finding of probable cause under AS 24.60.260(a), the committee was charged with evaluating two interconnected components:

- Was Senator Hoffman's LFD disclosure "incomplete"?
- Did Senator Hoffman "knowingly" make an incomplete disclosure?

The committee determined that Senator Hoffman's LFD disclosures were incomplete in multiple areas within each document. Based on APOC's investigation, Senator Hoffman failed to disclose substantial amounts of income for the years 2008, 2009, and 2010. The ascertainable amount of income missing from the statements was between \$311,000 to \$690,000. Income missing was related to Senator Hoffman's partnership in Golden Eagle Unlimited, Inc. (on contract with the Lower Kuskokwim School District to provide pupil transportation), rental income, dividends and interest from various sources either not disclosed or not listed, and income from one listed entity and several other sources not listed. APOC also determined that Senator Hoffman failed to include portions of the required information that did not have an ascertainable value. He failed to list the joint business ventures he shared with another legislator even though he did list that he had a "close economic association" with the legislator. Under real property interests, Senator Hoffman failed to disclose the details about the nature of the business and his role in the business. He also failed to disclose ownership percentages for State of Alaska retirement accounts and deferred compensation accounts.

The committee further determined that Senator Hoffman "knowingly" prepared and filed an incomplete LFD disclosure with APOC for the calendar years 2008, 2009, and 2010. The Legislative Ethics Act defines "knowingly" with the meaning given in AS 11.81.900(2). To make a determination of "knowingly" the committee relied on the following facts. The LFD is a financial disclosure and the name itself translates into disclosing a person's financial status which includes income, a major reporting component of the disclosure. The committee noted that Senator Hoffman was consistent in not including dollar amounts over the years and determined that he knowingly knew the income amounts were not included year after year. The committee pointed out that Senator Hoffman included dollar amounts under the gift section of his 2008 calendar year LFD which the committee concluded indicates that Senator Hoffman knew monetary amounts were required. Further, the committee noted that the LFD form clearly states "Total Income" or "Amount" in areas asking for income information. The committee concluded that the fact the amounts were missing would be obvious to someone required to complete a financial disclosure statement. Further, annual financial disclosures, as currently known, have been required since 1992. Senator Hoffman has served as a legislator during that time period and well before that time.

Senator Hoffman stated he had not compared his LFD disclosure statements to his tax records to ascertain that all relevant information was submitted. He did not bring his previous year tax records to Juneau to help in completing the LFD. The committee

equated the annual filing of the LFD to APOC similar to filing the yearly tax return with the IRS.

AS 24.60.010(4) states, "The legislature finds that a part-time citizen legislature implies that legislators are expected and permitted to earn outside income and that the rules governing legislators' conduct during and after leaving public service must be clear, fair, and complete as possible; ..."

The committee echoes the statement in Advisory Opinion 09-08 regarding disclosure, "Ethics disclosure requirements are based in part on the principle that certain potential conflicts of interest, once in the open, pose less of a threat to the public's confidence in government than they might if they were not revealed."

When Senator Hoffman appeared before the committee he agreed that more detail should have been provided on the disclosures. He stated he will make sure sufficient information is provided in the future and will bring his previous year tax records with him to Juneau to make sure information is not missing or incomplete.

#### **CORRECTIVE ACTION**

The committee supports the Alaska Public Offices Commission's 2012 decision in which Senator Hoffman received a civil penalty of \$7,446 for incomplete Legislative Financial Disclosures for the calendar years 2008, 2009, and 2010. Senator Hoffman paid the fine.

The committee suspends any fine that could have been imposed under AS 24.60.178 taking into consideration the fact Senator Hoffman was already fined \$7,446 by the Alaska Public Offices Commission. No further action will be taken by the committee regarding this matter.

Adopted this 28<sup>th</sup> day of October 2013  
by a majority of the Senate Subcommittee



H. Conner Thomas, Chair

#### **Members Participating**

H. Conner Thomas, Chair  
Dennis "Skip" Cook  
Janie Leask  
Gary J. Turner  
Senator Anna Fairclough (alternate member)  
Senator Berta Gardner

#### **Member Absent**

Herman G. Walker, Jr.