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ANNETTE GILLIS, DEPUTY STAFF DIRECTOR

TELEPHONE: (202) 224-2981
FACSIMILE: (202) 224-7416
TDD: (202) 228-3752

United States Senate

SELECT COMMITTEE ON ETHICS
HART SENATE OFFICE BUILDING, ROOM 220
SECOND AND CONSTITUTION AVENUE, NE
WASHINGTON, DC 20510-6425

May 25, 2012

The Honorable Tom Coburn
United States Senate
Washington, DC 20510

Public Letter of Qualified Admonition

Dear Senator Coburn:

After an investigation, the Select Committee on Ethics found that your communications with and actions on behalf of Doug Hampton were improper conduct which reflects on the Senate, and it is therefore issuing you this Public Letter of Qualified Admonition. Further, in order to assure that the Senate community fully understands the law and rules that prohibit such conduct, the Committee is issuing guidance later today.

The Committee found that you had a personal friendship with Mr. Hampton, the former Administrative Assistant to Senator John Ensign, that you were aware that Mr. Hampton had left his Senate employment, and that when he later contacted you on official business less than one year later you agreed to a meeting that involved a discussion of legislative matters, which is not permitted by law. Your relationship with Mr. Hampton provided you with a basis to have known that he was engaging in prohibited post-employment communications when he contacted you and scheduled the March 11, 2009 meeting on behalf of his employer, Allegiant Air ("Allegiant").

In reaching its determination to issue a qualified admonition, the Committee took into consideration that your prohibited conduct was confined to one meeting only, and that you candidly acknowledged that you should have exercised a higher degree of care. While the Committee did not find that your conduct constituted actionable violations of criminal law, the Committee believes that Senators are obligated to meet a higher standard, and it has the authority and responsibility to investigate Members who may engage in improper conduct which reflects on the Senate.

Scope of the Committee's Inquiry

The Committee initiated its investigation following the conclusion of the Preliminary Inquiry of Senator John Ensign ("Ensign Inquiry") to determine whether your conduct in communicating with and meeting with Mr. Hampton violated any law, rule, or standard of conduct within the Committee's jurisdiction. To reach its conclusions, the Committee conducted interviews of Mr. Hampton, Allegiant representatives, and members of your staff who were

involved in setting up or attending the meeting with Mr. Hampton. It also reviewed the information and testimony developed during the Ensign Inquiry, including your testimony in that matter, and your responses to the Committee's Request for Information.

Federal criminal law (18 U.S.C. § 207(e)) prohibits former "senior" staff, like Mr. Hampton, for one year from knowingly communicating or appearing before their former Senate colleagues if their intent is to influence official actions and they are acting on behalf of any other person. The statutory ban, or "cooling off period," applies to any matter on which the former employee seeks official action on behalf of someone else, regardless of whether the former employee is a registered lobbyist or works for those who lobby. Senate rules prohibit lobbying contacts by all former staff during the one year cooling off period. The Committee also considered whether you knowingly associated with, participated in, and furthered Mr. Hampton's impermissible contacts, in violation of the general aiding and abetting and conspiracy statutes (18 U.S.C. §§ 2 and 371).

Your Communications with Mr. Hampton During His Cooling Off Period

The Committee found that you met with Mr. Hampton on official business even though you had reason to know that he was legally prohibited from requesting or participating in such a meeting. You acknowledged that Mr. Hampton was a personal friend whom you counseled and supported after learning of Senator Ensign's affair with his wife, Cindy Hampton. You were made aware of plans to help the Hamptons transition into a new life, and you recommended that Senator Ensign assist Mr. Hampton with recommendations to find another job, as you would "normally give someone who had been your chief of staff." During his cooling off period, Mr. Hampton thanked you for helping him after learning of the affair and informed you that he had an "excellent job" with Allegiant. Prior to the March 11, 2009 meeting, you knew that Mr. Hampton represented the airline.

Mr. Hampton's email with your scheduler indicated the March 11 meeting would be "both personal and business." You said you saw "no harm in meeting with him to discuss personal matters and his efforts to re-establish himself in the business world." During the meeting, you discussed substantive matters of legislative concern to Allegiant, including the FAA reauthorization and the need for regulation regarding speculation in energy markets. You also discussed Allegiant's reinstitution of air service to Oklahoma. Allegiant, however, did not make any request for official action, nor did your office take any official action on Allegiant's behalf.

Following the meeting, and after Mr. Hampton's cooling off period was over, you were intimately involved in trying to help the Ensigns and Hamptons reach a financial settlement that would stave off any public disclosure of, by then, the past affair. This lends further credence to your awareness that Mr. Hampton was in his cooling off period in March 2009.

During this entire period, there is no dispute that Mr. Hampton was a former senior employee subject to the statutory post-employment restrictions, for which he is now charged with violating. Throughout Mr. Hampton's cooling off period, which ran from May 2, 2008 to May 1, 2009, he successfully arranged a meeting with you on behalf of Allegiant in order to

further its business interests. Mr. Hampton is currently under indictment for improper contacts that he had with Senator Ensign and his office during his cooling off period.

Your Actions Were Improper and Reflect Upon the Senate

Although the post-employment statute and corresponding Senate Rule (Rule 37.9) apply to contacts by former Members and employees of the Senate, and do not address conduct by current Members and employees who receive the contacts, current Members and employees have an obligation to refrain from knowingly participating in conduct that is prohibited under either the law or Senate rule. Consistent with Committee guidance that Senators must meet a higher standard of conduct, ¶ 2 of the Code of Ethics for Government Service admonishes government employees to "[u]phold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion." Other provisions of the Code state that government employees must "[p]ut loyalty to the highest moral principles and the country" above loyalty to others, and to uphold all of these principles, "ever conscious that public office is a public trust."

While the Committee did not find that your conduct constituted actionable violations of criminal law, it determined that you did not meet the aforementioned higher standards expected of a U.S Senator. However, in deciding to issue a qualified admonition, the Committee took note that it was one meeting that you have since candidly acknowledged was wrong and taken full responsibility for arranging. You said that you were "in a better position to evaluate the potential risks of this meeting than [your] staff, so that [your] behavior demands that [you] apologize for not supervising [your] staff more carefully in vetting this meeting request." The Committee recognizes and appreciates your contrition.

The Committee issues this Public Letter of Qualified Admonition, and hereby considers this matter closed.

Sincerely,

Barbara Boxer
Chairman

Johnny Isakson
Vice Chairman

Sherrod Brown, Member

Pat Roberts, Member

Benjamin L. Cardin, Member

James E. Risch, Member