



Arizona House of Representatives
Phoenix, Arizona 85007

May 1, 2023

Via email

The Honorable Joseph Chaplik
Arizona House of Representatives Ethics Committee

Dear Chairman Chaplik and Members of the Ethics Committee,

This letter constitutes a formal ethics complaint against Arizona House Representative Stephanie Stahl Hamilton for at least one, but potentially several, infractions that may have violated state criminal law and brought disrepute to the Arizona House of Representatives.

Upon information and belief, Representative Stahl Hamilton removed and concealed House property—specifically, Holy Bibles that have long been on display in the House Members' Lounge—without apparent authority to do so. After removing the Bibles, she placed them under seat cushions, potentially causing Christian Members of the House, staff, and guests to unknowingly sit on their own holy text, and also placed one of them in a refrigerator, which is disrespectful in the extreme. It was only after her actions were captured on a video recording that Representative Stahl Hamilton made public statements on the Floor, alluding to her intent, her apparent objections to the presence of the Bibles in the House, and her apology for failing to raise her previously unknown objections with House leadership.

Significantly, however, Representative Stahl Hamilton's public statements did not provide sufficient justification or excuse for her conduct. Serious legal and factual questions remain for the Ethics Committee to investigate. Representative Stahl Hamilton's actions are not only disorderly; they display a profound lack of judgment and a flagrant disrespect for the beliefs of her fellow members and the Arizona population at large, making her conduct unethical and unacceptable.

We respect the separation of powers enshrined in article III of the Arizona Constitution and recognize the inherent limits of the Ethics Committee's jurisdiction. To be clear, we are not requesting the Ethics Committee to investigate or make any determination of any criminal allegations that belong in a court of law. Instead, we submit legal authorities for your consideration because they are relevant for the Committee to determine whether Representative Stahl Hamilton violated House Rule 1.

Statement of Facts

1. On March 23, 2023, Capitol Security received a report that a pair of Holy Bibles, which had been proudly displayed in the House Members Lounge for decades, were missing. The next day, House security staff initiated a comprehensive search for the

missing Bibles. Subsequently, it was discovered that the Bibles had been taken from their display tables, concealed underneath the cushions of two chairs where House members, guests, and staff commonly sit while not engaged in Floor activity.

2. The Members Lounge, a restricted area situated behind the House Floor, is typically utilized by members of the House, guests, and staff to take calls, conduct meetings with fellow legislators and stakeholders in between votes, and conduct other House business. Access to this area is strictly limited to House members and senior staff, and any guests must be escorted.

3. One week later, on March 29, 2023, one of the Bibles went missing again, this time discovered inside a shared kitchen's refrigerator, having been removed from the Members Lounge by an unknown individual.

4. Consequently, the House Chief of Staff authorized the House Sergeant at Arms to install a security camera in the Members Lounge to monitor the area after the second incident. Although security cameras are commonly found throughout many areas of the House building, the Lounge had not previously been deemed to require such measures.

5. A third and final incident occurred on April 10, 2023, when both Bibles were once again discovered missing from their display tables in the Members Lounge during a floor session. However, this time, security camera footage revealed that Democratic Representative Stephanie Stahl Hamilton had removed the Bibles and concealed them beneath two sofas in the Lounge.

6. Before Representative Stahl Hamilton took office, in a Twitter post dated June 2, 2020,¹ she stated:

I'm an ordained minister.

I got into politics because I was so angered by the number of Bibles on desks at the Arizona State House.

Holding a Bible – or any religious text – doesn't make you a good person.

Violations

The Ethics Committee is empowered to investigate complaints and charges against members, A.R.S. § 38-519, as well as claims of disorderly behavior, Ariz. Const. art. 4, pt. 2, § 11, House Rule 1, violations of state or federal laws, conduct violating the public trust or adversely reflecting upon the House, and unethical or professional conduct.

Disorderly Behavior

Because what constitutes disorderly behavior is a non-justiciable political question, there are no cases, law review articles, or books that discuss the “original public

¹ It appears that this June 2, 2020 Twitter post is no longer available. A screenshot of this post is attached as Exhibit A.

meaning” of the term under the Arizona Constitution. However, the 1910 version of Black’s Law Dictionary, published the same year of the Arizona Constitutional Convention, indicates that our Framers would have understood the term as including behavior which:

- i. is contrary to the rules of good order and decorum,
- ii. scandalizes the community and is offensive to the public sense of morality, or
- iii. is contrary to law

See Disorderly, BLACK’S LAW DICTIONARY (2d. ed. 1910). Representative Stahl Hamilton’s conduct was all three of these things.

It goes without saying that requiring her colleagues, their visitors, and staff to unknowingly desecrate their own sacred texts by sitting upon them is obviously contrary to the rules of good order and decorum and deeply offensive to the public sense of morality. Indeed, “maintaining respect for the religious observances of others is a fundamental civic virtue that government ... can and should cultivate[.]” *Skoros v. City of N.Y.*, 437 F.3d 1, 19 (2d Cir. 2006) (citing *Lee v. Weisman*, 505 U.S. 577, 638 (1992) (Scalia, J. dissenting)). Accordingly, disrespect of the religious beliefs of others is “conduct unbecoming” a public employee. *Haynes v. Smith*, No. 03-3080 (RBK), 2006 U.S. Dist. LEXIS 9022, at *9 (D.N.J. Mar. 2, 2006).

Further, Representative Stahl Hamilton’s conduct may have violated federal and state laws against both theft and creating a hostile work environment.

Theft

Under Arizona Revised Statutes (A.R.S.) § 13-1802(A)(1), theft occurs when a person knowingly controls another person’s property without lawful authority and with the intent to deprive the other person of such property. The actions taken by Representative Stahl Hamilton in her removal, concealment, and relocation of the Bibles kept in the Members Lounge appear to meet every element required to establish a theft under the Arizona Criminal Statutes.

Under Arizona law, Bibles owned by the House of Representatives indisputably qualify as House property as a matter of law. In fact, A.R.S. § 13-1801(A)(12) broadly defines property as “any thing of value, tangible or intangible[.]” Since Bibles are tangible articles of value, they constitute property under this definition, even without reference to their intangible spiritual value as a sacred document to individual Members of the House or visitors in the House Lounge.

The term “person” is not limited to individuals. A.R.S. § 13-105(30) defines “person” as “a human being and, as the context requires ... a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property.” This definition is broad enough to include government bodies such as the Arizona House of Representatives, which is a legal entity created under state law and under Article III of the Arizona Constitution.

Arizona Courts have clarified further, "The essence of theft under our code is the obtaining of unlawful control over property of another with the intent to deprive." Arizona Criminal Code Commission, Arizona Revised Criminal Code, at xv (1975) (emphasis added). "Control" or "to exercise control" means to act so as to exclude others from using their property except on the defendant's terms. A.R.S. § 13-1801(2) (Supp.1984); *State v. Coleman*, 147 Ariz. 578 (1985). By removing the Holy Bibles from their display tables Representative Stahl Hamilton exercised control over the Bibles, and by concealing them under couches, cushions, and a refrigerator she intended to deprive other Members of their use, or at very least she to only allow their use on her own terms, when she deemed it acceptable for them to remain in the Lounge.

It is unnecessary for the Ethics Committee to make a determination as to whether Representative Stahl Hamilton's intended to "permanently" or only "temporarily" deprive the House and fellow Members of the use of the property to determine if her actions constitute a theft. Arizona courts have held that "[t]he wrongful taking of another's property without an apparent purpose to return it and without [satisfactory] explanation evidences an intent to permanently deprive." *State v. Ramirez*, 115 Ariz. 70, 75 (App. 1977). A Member removing property clandestinely and not disclosing its location establishes an intention to permanently deprive the House and Members of use. If the Bibles hadn't been located, Representative Stahl Hamilton would likely have been pleased. The repetition of the theft after the Bibles were replaced further supports this assumption.

The distance the property was moved is irrelevant to establishing theft under A.R.S. § 13-1802 or A.R.S. § 13-1802(A)(1), so the Ethics Committee need not consider it.

Therefore, if a member of the Arizona House of Representatives takes property belonging to the House without permission or lawful authority and has the intent to deprive the House of such property, it would still be considered theft under Arizona law.

Hostile Work Environment

Additionally, both federal and state law prohibit religious harassment in the workplace. A hostile work environment is created "[w]hen the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993) (internal quotation marks and citation omitted); see also *Section 12: Religious Discrimination, EEOC, available at: https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination#h_38310739926071610748897838*). By requiring co-workers and staff to unwittingly desecrate their sacred texts, Representative Stahl Hamilton appears to have violated these laws as well.

* * *

Finally, the Ethics Committee should evaluate whether Representative Stahl Hamilton committed single or multiple infractions. House Bibles went missing on three separate occasions: March 23, 2023, March 29, 2023, and finally on April 10, 2023. Only the final incident on April 10th was documented on camera. Representative Stahl Hamilton appears to have admitted to removing the Bibles on at least one occasion, but it remains unclear to us if she is responsible for all three incidents, and if so, why she would repeatedly engage in such conduct.²

Although an Ethics Hearing is not a criminal court, it may be helpful for the Committee to consider the applicability of a common doctrine in the criminal law known as the doctrine of chances. The doctrine of chances “posits that the more often an accidental or infrequent incident occurs, the more likely it is that its subsequent reoccurrence is not accidental or fortuitous.” *Westfield Ins. Co. v. Harris*, 134 F.3d 608, 615 (4th Cir. 1998).

Here, in light of the nearly identical circumstances surrounding all three incidents, it is reasonable for the Committee to determine whether all three thefts were part of a common plan or scheme and whether Representative Stahl Hamilton or some other individual is the culprit responsible for the incidents that led to the House’s internal investigation.

Representative Stahl Hamilton’s June 2, 2020, comments on Twitter are also particularly troubling. Her comments demonstrate a strong disdain for Bibles placed by individual Members of the House on their own personal desks, and suggest the presence of Bibles in the House angered her so much that she chose to enter public service. Consistent with their constitutional rights, many members keep a Bible on their desk as a reminder of their faith, commitment to personal integrity, or for other reasons.

Based on these legal authorities, disciplinary action may be warranted to address this behavior and protect the integrity of the House.

Conclusion

Representative Stahl Hamilton engaged in disorderly behavior, potentially committed repeated acts of theft, and created a hostile work environment, which demonstrate a lack of respect for other members of the Legislature, staff, visitors, and their property, and the rule of law. Her actions, as a legislator in a position of public trust, may have caused offense to the practicing Christians in Arizona, who hold the Bible as a sacred text and expect their elected officials to uphold basic principles of respect and civility.

Representative Stahl Hamilton has dismissed her unlawful actions as: “a playful commentary,” “a peaceful protest,” or an attempt to “start a conversation on the

² She may have admitted publicly that she committed all three acts, but it remains unclear. See Ray Stern, Arizona Democrat Apologizes for hiding Bibles at state Capitol after she was caught on video (April 26, 2023), *available at*: <https://www.azcentral.com/story/news/politics/legislature/2023/04/26/arizona-rep-stahl-hamilton-apologizes-for-hiding-bibles-at-capitol/70154932007/> (last visited May 1, 2023).

separation of Church & State.” These public comments came only *after* the Representative was aware that her actions had been caught on camera and the incident became a matter of national concern. Had a camera not been installed, these deeply inappropriate actions could have continued indefinitely to the detriment of other Members. The people of Arizona deserve a higher standard of decorum and respect from their elected representatives.

We, and other Members of the Arizona House who cherish our faith and hold the Bible in reverence, do not see Representative Stahl Hamilton’s disrespect of scripture as playful in any regard. *And see Harassment – FAQs*, EEOC (Available at: <https://www.eeoc.gov/youth/harassment-faqs>) (“Examples of [religious] harassment include offensive or derogatory jokes[.]”). In addition, given that her actions appear to have been carried out entirely in secret, lacking any communication of her actions to other Members or individuals, we are at a loss to see how her behavior could be characterized as a “commentary” or a “protest” of any kind. Even those individuals who publicly protest by disturbing property that does not belong to them—for example, those who threw soup at famous works of art in the name of climate change—cannot ignore the rule of law merely because they deem their beliefs or opinions more righteous than those of others.

We urge the Ethics Committee to thoroughly investigate this matter and take appropriate action to ensure that such conduct is not repeated by any member of the Arizona Legislature. We trust that you will act in the best interest of the people of Arizona, investigate this Complaint, and hold Representative Stahl Hamilton accountable for any actions that violated the laws or House Rules.

Thank you for your attention to this important matter.

Respectfully Submitted by,



Rep. Justin Heap
District 10



Rep. David Marshall
District 7



Rep. Lupe Diaz
District 19

Exhibit A



Rep. Stephanie Stahl Hamilton
@stahlhamilton

I'm an ordained minister.
I got into politics because I was so
angered by the number of Bibles on
desks at the Arizona State House.
Holding a Bible - or any religious text
- doesn't make you a good person.
Nor should you use this a political
photo op.
This is disgusting.



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