

Scott McKay
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April 2, 2021

Confidential

Via email to sdixon@house.idaho.gov

Rep. Sage G. Dixon
Chairman, Ethics and House Policy Committee
House of Representatives
State of Idaho
P.O. Box 206
Ponderay, Idaho 83852

Re: Rep. Aaron von Ehlinger
Response to Ethics Complaint

Dear Chairman Dixon:

I represent Rep. Aaron von Ehlinger and write on his behalf to respond to the ethics complaint referenced in your letter to him dated March 19, 2021. As more fully described herein, Rep. von Ehlinger categorically denies he violated any House Rules Regarding Ethics including engaging in conduct unbecoming of a Representative which would be detrimental to the integrity of the House as a legislative body under House Rule 45(2)(b)(i).

The complainant in this matter has not been truthful regarding allegations she made against Rep. von Ehlinger, and he has passed a polygraph examination administered by a respected polygraph examiner conclusively proving this. Rep. von Ehlinger has not engaged in misconduct as described in the House Rules Regarding Ethics and accordingly, the ethics complaint should be dismissed and remain confidential as required by House Rule 45(3).

1. The Allegations

Your letter to Rep. von Ehlinger was delivered to him on March 19, 2021, along with copies of: (1) a letter to you dated March 17, 2021 signed by Reps. Scott Bedke, Mike Moyle, Jason Monks and Megan Blanksma (“March 17 letter”); and (2) a letter dated March 11, 2021 from Kim Blackburn, Asst. Sergeant at Arms to Detective Iverson, Boise Police Department

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(“March 11 letter”). The March 17 letter references allegations of “inappropriate sexual conduct” made by an adult ██████████, that are more fully described in the March 11 letter.

According to the March 11 letter, ██████████ claims that Rep. von Ehlinger was nice to her at work and that “[h]e gave her \$40 to go get him lunch and when she came back with the lunch, he told her to keep the change.” She said it was nice because it helped her pay her Les Schwab bill. On other occasions, he would bring her lunch and paid to fill up her car with gas.

The March 11 letter also indicates that on the night of March 10, ██████████ met Rep. von Ehlinger downtown, got in his car and accompanied him to dinner at Barbacoa, and that after dinner, they went back to his apartment. ██████████ claims “she froze when sexual contact started and she didn’t know what to do.” According to this letter, “[h]e started taking her clothes off and then she said he had his penis in her mouth and ejaculated on her. [Ms. Blackburn] asked ██████████. ██████████ if she told him ‘No’ at any time and she said she did.”

Although not set forth in the March 11 letter, the March 17 letter also asserts that within the complaint made to the Assistant Sergeant at Arms (described in her March 11 letter), Rep. von Ehlinger took ██████████ to his apartment saying he had to stop by for something that he had forgotten. The March 17 letter confirms ██████████ claim that she said no to the sexual encounter. The March 17 letter also somewhat inconsistently notes ██████████ felt she could not refuse because of the power differential between Rep. von Ehlinger and ██████████. Both letters note that ██████████ believes Rep. von Ehlinger carries a gun although she does not claim to have even seen a gun, or that a gun was ever mentioned by Rep. von Ehlinger.

2. The Truth

Rep. von Ehlinger is a committed public servant honored to serve his district in the Idaho House of Representatives. He previously served our country in the U.S. Military and is a decorated veteran of the war in Afghanistan. He takes very seriously his legislative responsibilities including the need to preserve the integrity of the House.

Rep. von Ehlinger first met ██████████ in the statehouse and their interactions thereafter were casual and friendly. They did not work together and in fact, Rep. von Ehlinger has never supervised ██████████ or directed her to perform any tasks for him at the legislature. She has never served as an ██████████ for him and most certainly, at no point did any “power differential” play a role in their interactions.

Instead, ██████████ actively pursued building a personal relationship with Rep. von Ehlinger and sharing with him details of her life including her jobs, career goals ██████████. On one occasion, ██████████ texted Rep. von Ehlinger late in the afternoon while he was at the statehouse inquiring what he was doing and concluding the text with a smiley face emoji. Rep. von Ehlinger agreed to meet ██████████ outside the statehouse grounds which he did and

during which time they casually chatted and agreed to have dinner together the next week on Tuesday, March 9. Rep. von Ehlinger is not married nor is [REDACTED].

On the evening of March 9, Rep. von Ehlinger met [REDACTED] in downtown Boise, outside of state property, and together they drove to the Barbacoa restaurant. The two visited throughout their dinner and neither had any alcohol to drink over the course of the evening. I am attaching as Exhibit "A" to this letter a copy of the receipt from Barbacoa for that evening confirming the same and also confirming the date of the dinner was March 9. It is unknown why [REDACTED] reported to Ms. Blackburn on the morning of March 11 that this dinner occurred on the evening of March 10. *See* March 11 letter. This is not true – the dinner was on March 9.

During their dinner, [REDACTED] shared with Rep. von Ehlinger stories about work and her life. During the course of the evening, she also told Rep. von Ehlinger how nice and helpful [REDACTED] had been to her during her time at the statehouse. She informed Rep. von Ehlinger that her nickname for [REDACTED] is [REDACTED], and that [REDACTED] gave her money for gas for her car on multiple occasions, and also that [REDACTED] gave her forty dollars one time to go get him lunch, and when she got back, he told her to keep the change. She indicated this was nice because it helped her pay her Les Schwab bill. [REDACTED] also told him that [REDACTED] bought her lunch on multiple occasions. The foregoing concerning [REDACTED] is significant because this is the exact behavior she now attributes to Rep. von Ehlinger. *See* March 11 letter. In short, [REDACTED] told Ms. Blackburn that Rep. von Ehlinger did the exact same things that [REDACTED] told Rep. von Ehlinger that [REDACTED] had done. This is not true insofar as Rep. von Ehlinger is concerned – he never gave [REDACTED] any money. He did not buy her gas, he did not tell her to keep the change after giving her \$40 for lunch and he did not ever buy her lunch.

Following dinner, Rep. von Ehlinger and [REDACTED] agreed to return to his apartment, and not under the pretense that he forgot something. During the drive, [REDACTED] grabbed Rep. von Ehlinger's hand to hold it, and also placed his hand on her leg. She accompanied him to his apartment without any reservation or hesitation. They spoke for about ten minutes after reaching the apartment, before sitting on the couch and kissing one another. At some point, they decided to move to his bedroom and they held hands on the way to the bedroom. While in the bedroom, they willingly removed portions of each other's clothing and engaged in consensual sexual contact which included continued kissing, fondling and kissing of her breasts, her touching of his penis and her performing oral sex on him. They did not have intercourse and Rep. von Ehlinger never pursued having intercourse with her. Notwithstanding, at one point during their sexual interactions, [REDACTED] said she was not on birth control, had not shaved in a while and that intercourse wasn't a good option for them that night, to which Rep. von Ehlinger indicated that he was absolutely fine with that.

While Rep von Ehlinger does not relish now sharing the details of his intimate evening with [REDACTED], these details demonstrate [REDACTED] was a willing participant in all of the sexual contact that occurred, and at no point did [REDACTED] express otherwise by her words or by her actions. It is not known why [REDACTED] later claimed she was not a willing participant in the

sexual contact which occurred and that she told Rep. von Ehlinger “No.” This is not true – she most certainly was a willing participant in their consensual and mutual sexual encounter and she did not express through her words or her actions that night anything to the contrary.

Following their consensual sexual encounter, the two laid on the bed, exchanged small kisses and talked. At some point, ██████ stated words to the effect “I hope you know that I’m a little crazy,” and laughed, and then said “actually, I’m really crazy.” She followed this by saying ██████” and then proceeded to describe the fact that she uses illegal drugs. She indicated to Rep. von Ehlinger “I smoke weed. I smoke a lot of weed. I have two ounces in my house right now. I vape weed in the Capital building all the time when I’m working.” Caught off guard by these sudden revelations and change in the nature of their conversation, Rep. von Ehlinger responded by simply stating he does not use drugs. Finally, ██████ said something like “I could make your life a living hell if I wanted to,” and then she laughed again and said “But I won’t. You’re just a big cuddly teddy bear.”

At that point, ██████ looked at her watch and said it was time for her to go home. They left the apartment together and Rep. von Ehlinger drove ██████ to her car. They kissed goodnight as she exited his car, and while ██████ was leaving, she said goodbye and “See you on ██████.” At this point and given the bizarre statements by ██████ at the end of the night, including her admissions to drug use, Rep. von Ehlinger knew he would not pursue a relationship with ██████.

Rep. von Ehlinger’s next contact with ██████ occurred two days later when she initiated a text message exchange with him on March 11 late in the day. In this exchange, ██████ claimed he had taken advantage of her and he responded that he had not, and in an attempt to mollify her, indicated his interest in seeing her again. Rep. von Ehlinger then called ██████ and proceeded to have a conversation in which ██████ accused him of forcing her to have sexual contact with him and claimed that she had told him no or to stop. Rep. von Ehlinger denied all of the foregoing and was absolutely incredulous she had created this false narrative and was now attempting to get him to admit to her lies. In retrospect, it sounded to Rep von Ehlinger that ██████ was being coached throughout this call and she or another person may have recorded the call. The call concluded when ██████ said to someone words to the effect – “How do I get out of this?” and the line was disconnected shortly after this.

The next morning, on March 12, Rep von Ehlinger confided in a senate colleague, Sen. Todd Lakey, a former military JAG officer, that he had been falsely accused the evening prior by an adult ██████ at the statehouse. Sen. Lakey advised Rep. von Ehlinger to seek legal advice which he did, and based on that advice, Rep. von Ehlinger took no further action in response to the false allegations made by ██████ during their phone call. The next event that occurred with Rep. von Ehlinger concerning this matter was on Friday, March 19 when you delivered to him your letter of that same date and the other letters described above.

Rep. von Ehlinger has had no further contact with ██████. He intends to steadfastly avoid her and have no further contact with her in the future. Since this occurred, he has been

informed that the House Speaker, Rep. Bedke, in the past stated to other legislators to “watch out” or “steer clear” of [REDACTED] because she is “trouble.” Unfortunately, Rep. von Ehlinger was not aware of this admonition until after she made this false accusation against him.

3. The Polygraph Examination

Rep. von Ehlinger has undergone a polygraph administered by a respected and experienced former law enforcement officer which confirms [REDACTED] allegations are not true. The polygraph was administered by Clifford “Chip” Morgan, an internationally recognized polygraph instructor who regularly trains law enforcement and lectures on polygraphs. Mr. Morgan has trained others and conducted polygraphs around the world over the last few decades. He frequently works with law enforcement and was a detective and criminal polygraph examiner himself with the Boise Police Department from 1975 to 2006. I have enclosed as Exhibit “B” Mr. Morgan’s resume for your review.

After receiving your ethics complaint and at my first meeting with Rep. von Ehlinger, I suggested he may wish to undergo a polygraph examination to address these allegations. Without hesitation, he agreed to undergo this examination and was anxious to schedule such an examination at the first opportunity. Unfortunately, Mr. Morgan was teaching on polygraphs out of state and the first opportunity to undergo this examination was the afternoon of Monday, March 29. I provided Mr. Morgan the documentation regarding this ethics complaint and the examination was conducted by him utilizing scientifically accepted and valid forensic practices for polygraph examinations.

During this examination, Rep. von Ehlinger was asked the following three questions and answered them as indicated:

- R1 Have you ever given [REDACTED] money? Answered: No
- R2 During your sexual encounter with [REDACTED] - did she ever indicate verbally or non-verbally that she did not want to participate? Answered: No
- R3 Have you ever supervised [REDACTED] or directed her to perform any official duties as [REDACTED] for the legislature? Answered: No

To say Rep von Ehlinger simply passed this polygraph examination would be a gross understatement. According to Mr. Morgan and based on his polygraph examination, there is simply no question Rep. von Ehlinger told the truth when he answered the above questions as indicated.

I am enclosing for your review as Exhibit “C” the Polygraph Report prepared by Mr. Morgan, including attachments to this report. This report conclusively establishes the truthfulness of Rep. von Ehlinger concerning these matters.

4. No House Rules Regarding Ethics Have Been Violated

Rep. von Ehlinger did not violate any House Rules Regarding Ethics including engaging in conduct unbecoming of a Representative which would be detrimental to the integrity of the

House as a legislative body under House Rule 45(2)(b)(i). The ethics complaint which indicates he “may” have violated this rule is premised on allegations of ██████████ which are not true.

The reality is that anyone can accuse another person of anything. Our American system of justice recognizes this and does not require a person accused to prove their innocence. Instead, the burden of proving guilt rests with the body making the accusation. This principle is embodied in the House Rules which require at this stage a specific finding of probable cause based upon credible evidence. There is no credible evidence that justifies such a finding here, and Rep. von Ehlinger has conclusively demonstrated this through the evidence submitted herewith.

He has proven through a receipt that ██████████ was not truthful when she reported to the House Asst. Sergeant at Arms, Ms. Blackburn, she had dinner with him the night prior to the morning she made these allegations. He has proven through a conclusive and reliable polygraph examination that she was not truthful when she claimed he gave her money on different occasions and that he engaged in non-consensual sexual contact with her.

It further is undeniable that ██████████ did not work for Rep. von Ehlinger and he had no supervisory authority over her. The evidence establishes that ██████████ actively pursued a personal relationship with Rep. von Ehlinger and engaged in consensual sexual contact with him outside of the statehouse and outside their respective roles at the statehouse. Put another way, there is no credible evidence that Rep. von Ehlinger utilized his position in any way in connection with the relationship aside from the mere fact that he worked at the statehouse – as did she.

There is no prohibition in the House Rules against fraternization between consenting adults irrespective of their positions in the House. At all times, Rep. von Ehlinger treated ██████████ with respect at the statehouse, and away from statehouse property. He at no point did anything which violates the Respectful Workplace Policy of the Idaho Legislative Branch. On the other hand, this same policy at Section K requires Complaints be made in good faith and to the extent ██████████ statement to Ms. Blackburn constitutes a complaint that Rep. von Ehlinger violated the Respectful Workplace Policy, her false allegations are in violation of Section K of this Policy.

Finally, Rep. von Ehlinger understands that having a relationship with ██████████ made him vulnerable and allowed her to falsely accuse him of conduct which did not occur. It is both sobering and embarrassing for him now to have to account for his actions that night even in the context of a confidential ethics proceeding. All can be assured that Rep. von Ehlinger will not allow such a situation to be repeated.

5. The Ethics Complaint Should Be Dismissed

Rep. von Ehlinger has not engaged in misconduct as described in the House Rules Regarding Ethics and accordingly, the ethics complaint should be dismissed and remain confidential as required by House Rule 45(3). Thank you on behalf of Rep. von Ehlinger for

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your consideration of this letter and the materials submitted herewith. I am available to speak with you regarding this submission if you wish.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott McKay", written in a cursive style.

Scott McKay

SM/dp
Enclosures