

October 30, 2010

The Honorable Lawrence Denney
Speaker, Idaho House of Representatives
Capitol Building
PO Box 83720
Boise, Idaho 83720

Mr. Speaker,

I write to you today to invoke House Rule 76 Committee on Ethics—(1) The Speaker shall receive written, signed complaints from any person concerning misconduct involving legislative duties by a member of the House including, but not limited to, the alleged violation of the Rules of the House of Representatives and the provisions of applicable law.

My complaint of misconduct is in regard to Representative Phil Hart. I am fully aware of the previous ethics hearings held over the summer, and of their recommendations, regarding rule 38. My complaint and the violations that I present are in three parts.

First, Based on information revealed recently in news accounts, private citizens, the Attorney General and by his personal admission of guilt in the theft of logs from State of Idaho Endowment Land, Representative Hart has demonstrated a continuing disregard for the rule of law and disrespect for the Oath of Office he has taken as a member of the Idaho House of Representatives. This willful taking of a public asset places a huge stain upon the reputation on the Idaho House of Representatives and those who serve in that body.

Second, Representative Hart has repeatedly claimed immunity to civil action in his appeals of the approximate \$53,000 owing to the state of Idaho based upon his membership in the Idaho House of Representatives. His claim of immunity has been denied by the Idaho Board of Tax Appeals but he refuses to pay his debt and thereby further violates his Oath of Office.

Third, Representative Hart persists in his refusal to pay an approximate \$300,000 he owes in federal taxes. Here, again, his appeal was denied in court action but he has not paid the amount owing. His refusal to pay his obligations as a citizen of this country claiming “unconstitutional taxation” while accepting his legislator’s salary which comes, largely, from the

sources he claims to be unconstitutional is ridiculed by the general public and regarded as a clever means of tax avoidance aided by his position as an elected official.

My complaint of misconduct and call for corrective action is based upon each of these actions individually and all of them collectively. If he is judged innocent on one, a decision on corrective action should be based on the others.

It is my opinion that Representative Hart is in violation of the Mission Statement of the Idaho State Legislature.

Mission Statement of the Idaho State Legislature

The mission of the Idaho Legislature is to preserve the checks and balances of state government by the independent exercise of legislative powers, to adopt a system of laws that promote the health, education and well-being of Idaho's citizens, to preserve the state's environment and to ensure wise, productive use of the state's natural resources, to carry out oversight responsibilities to enhance government accountability, and to raise revenues and appropriate monies that support necessary government services, **all in a manner so as to inspire public trust and confidence in elected government and the rule of law**

I have underlined the portion of greatest concern, however the section stating "to preserve the state's environment and to ensure wise, productive use of the state's natural resources" is just as applicable. Business corporations, as well as units of government, have mission statements for a purpose and persons who fail to honor company standards in the private sector are often removed from their positions..

In reference to Article III, Section 25 of the Constitution of the State of Idaho.

CONSTITUTION OF THE STATE OF IDAHO

ARTICLE III LEGISLATIVE DEPARTMENT

Section 25. OATH OF OFFICE. The members of the legislature shall, before they enter upon the duties of their respective offices, take or subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the state of Idaho, and that I will faithfully discharge the duties of senator (or representative, as the case may be) according to the best of my ability." And such oath may be administered by the governor, secretary of state, or judge of the Supreme Court, or presiding officer of either house.

In his oath of office, Representative Hart has sworn to uphold the Constitution of the United States and the Idaho State Constitution for each of his three terms of office. If re-elected I presume he will swear it again. However, his repeated claims of “unconstitutional taxation” are inconsistent with his oath to “Uphold the Constitution of the United States and the Constitution of the State of Idaho”. The 16th Amendment of the United States Constitution was ratified by Congress and the State of Idaho. Therefore, since both Federal and State Income taxes are unquestionably constitutional and have been upheld by decades of case law, the oath Representative Hart swore is a deception and a hollow promise to those with whom he serves and the citizens of Idaho.

Mr. Speaker, serving in the Idaho House of Representatives is one of the greatest privileges and honors I have ever been given. As legislators, we hold a highly important trust and must remember that our personal and private actions are pledged to enhance, not harm, the integrity and public respect for this body of the Idaho legislature. Our laws were made for all of us. Equally!

This has been a difficult letter for me to prepare, but I have done it with the conviction we have a duty to restore faith in government and all its institutions. This responsibility is shared by all House members but misconduct by Representative Hart asks you to deal with this issue now.

Sincerely,

Representative Eric Anderson