



February 7, 2024

Chairman Christopher A. Coons
Vice Chairman James Lankford
U.S. Senate Select Committee on Ethics
220 Hart Building
Washington, D.C. 20510

Sent via email (mailbox_office@ethics.senate.gov)

Dear Chairman Coons and Vice Chairman Lankford:

Campaign Legal Center (“CLC”) respectfully requests that the U.S. Senate Select Committee on Ethics (“Ethics Committee”) investigate whether Michigan Senate candidate Hill Harper has knowingly and willfully failed to file an accurate personal financial disclosure report in violation of the Ethics in Government Act (“EIGA”). Specifically, Mr. Harper filed a financial disclosure report that did not include any earned income despite both: (1) public records of paid employment during the reporting period;¹ and (2) loans² and contributions³ made by Mr. Harper himself to his campaign totaling more than \$460,000. He also failed to include sources of unearned income that appear in the public record. Mr. Harper has admitted through a campaign spokesperson that his financial disclosure report

¹ Resume of Hill Harper, https://drive.google.com/file/d/1_Zd81v1CrmTNcTeXjqQs3V1rbxv4A5Z_/view; IMDb page for *Hill Harper*, <https://www.imdb.com/name/nm0004991/> (last visited Feb. 5, 2024).

² Hill Harper for Michigan (candidate committee for Hill Harper), Loans Received by the Candidate, https://www.fec.gov/data/receipts/?committee_id=C00844985&two_year_transaction_period=2024&two_year_transaction_period=2022&two_year_transaction_period=2020&line_number=F3-13A&data_type=processed.

³ Hill Harper for Michigan (candidate committee for Hill Harper), Contributions from the Candidate, https://www.fec.gov/data/receipts/?committee_id=C00844985&two_year_transaction_period=2024&two_year_transaction_period=2022&two_year_transaction_period=2020&line_number=F3-11D&data_type=processed.

does not reflect certain “revenue streams,”⁴ but that he would not provide an amended report until February 28, 2024—well after any allowable 90-day extension.

When candidates fail to accurately and timely file their financial disclosure reports, they deprive voters of crucial information about the financial interests of those who hope to represent them. In some cases, the failure to accurately and timely file these reports puts even more at stake than the voters’ informational interests. The missing or inaccurate reports can conceal critical details from the Ethics Committee or law enforcement, including facts about how a campaign for Senate is ultimately funded.

In the past, the Ethics Committee enforced the requirement for candidates to file financial disclosure reports and referred knowing and willful violations to the Justice Department, even when the candidate lost the election.⁵ Now, in the wake of the expulsion of a Member of Congress partially based on fraudulent candidate financial disclosure reports,⁶ it is more important than ever for the Ethics Committee to transparently enforce the existing rules that govern late and inaccurate filings; reform internal processes to ensure timely filing; and provide updated, detailed guidance on requirements for filing financial disclosure reports. If the Ethics Committee finds that Mr. Harper knowingly and willfully omitted information from his financial disclosure report, the matter must be referred to the Attorney General for investigation.

I. Senate Candidates Are Required by Law to File Timely and Accurate Financial Disclosure Reports with the Senate Ethics Committee

EIGA requires Senate candidates to file personal financial disclosure reports with the Ethics Committee “within 30 days of becoming a candidate” as defined in the Federal Campaign Act of 1971,⁷ or on or before May 15, whichever is later. A candidate is an individual who “seeks nomination for election, or election, to Federal office, and . . . has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000.”⁸

EIGA allows for “reasonable extensions of time for filing any report” by the supervising ethics authority, but the extensions cannot exceed 90 days.⁹ The Senate may

⁴ Melissa Nann Burke, *Harper to revise report saying he has no income, bank accounts*, THE DETROIT NEWS (Nov. 16, 2023), <https://www.detroitnews.com/story/news/politics/2023/11/16/harper-will-revise-disclosure-report-but-not-for-3-months-campaign-says/71604962007/>.

⁵ See, e.g., *United States v. Tarver*, 642 F. Supp. 1109 (D. Wyo. 1986) (issuing civil penalties against a losing Senate candidate who failed to file a financial disclosure report in a matter the Senate Ethics Committee referred to the Attorney General).

⁶ Michael Gold and Grace Ashford, *George Santos Is Kicked Out of Congress in a Historic Vote*, N.Y. TIMES (Dec. 1, 2023), <https://www.nytimes.com/2023/12/01/nyregion/santos-expulsion-vote-congress.html>.

⁷ 5 U.S.C. § 13103(c).

⁸ 52 U.S.C. § 30101(2).

⁹ 5 U.S.C. § 13103(g)(1).

not grant an extension after 30 days following a report's due date.¹⁰ A report filed more than 30 days after it is due must pay a \$200 penalty unless waived by the Ethics Committee; a waiver is granted only in extraordinary circumstances.¹¹

Further, candidates are required to file accurate financial disclosure reports. "It shall be unlawful for any person to knowingly and willfully falsify any information that such person is required to report under section 13104; and fail to file or report information that such person is required to report under section 13104."¹²

Required disclosures "include a full and complete statement with respect to the following: [t]he source, type, and amount or value of income . . . from *any* source (other than from current employment by the United States Government)."¹³ The Senate Financial Disclosure Guide provides a non-exhaustive list of examples of reportable earned income, including: "all earned income and non-investment income, including, but not limited to, fees, commissions, salaries, income from personal services, retirement income, pension payments, royalty payments, and gambling or lottery winnings."¹⁴ Unearned income, like rents from investment properties or income from passive investments, also must be reported.¹⁵ The reporting period for candidates' income is "the year of filing and the preceding calendar year."¹⁶

Within 60 days of receiving a financial disclosure report, the Senate Ethics Committee reviews it for timeliness and accuracy and to determine whether it has been filed "in compliance with the law."¹⁷ The Ethics Committee may initiate action on their own or refer the matter to the Attorney General if the reports show reasonable cause to believe knowing and willful violations of EIGA occurred.¹⁸ Anyone who knowingly and willfully "makes any materially false, fictitious, or fraudulent statement or representation" on their financial disclosure reports may face fines or imprisonment.¹⁹ "A statutory violation is knowing and willful when an individual intentionally disregards the statute or is indifferent to its requirements."²⁰

¹⁰ U.S. Select Committee on Ethics, 108th Cong., Senate Ethics Manual, 126 (2003), <https://www.ethics.senate.gov/public/cache/files/f2eb14e3-1123-48eb-9334-8c4717102a6e/2003-senate-ethics-manual.pdf#page=135>.

¹¹ *Id.*

¹² 5 U.S.C. § 13106(a)(2).

¹³ 5 U.S.C. § 13104(a)(1)(A) (emphasis added).

¹⁴ U.S. Senate Select Committee on Ethics, Financial Disclosure Instructions and Report for Calendar Year 2022, 18 (2023), <https://www.ethics.senate.gov/public/cache/files/02ccce18-df8d-48cb-bea4-ed14b155cba6/2023-financial-disclosure-report-booklet-for-cy2022.pdf>.

¹⁵ 5 U.S.C. § 13104(a)(1)(B); see Financial Disclosure Instructions, *supra* note 14, at 20.

¹⁶ *Id.* at (b)(1)(A).

¹⁷ Senate Ethics Manual, *supra* note 10, at 126.

¹⁸ *Id.*; 5 U.S.C. § 13106.

¹⁹ 18 U.S.C. § 1001(a).

²⁰ *United States v. Tarver*, *supra* note 5, at 1111 (internal citations omitted).

II. Senate Candidate Hill Harper Failed to Timely and Accurately File Required Personal Financial Disclosure Reports

Mr. Harper became a candidate for Senate on July 10, 2023.²¹ He registered his candidate campaign committee,²² and filed his FEC Form 2 Statement of Candidacy,²³ on that same day. At the time of these filings, Mr. Harper had raised,²⁴ and spent,²⁵ significantly more than the \$5,000 threshold amount that officially designates an individual as a Senate candidate required to file personal financial disclosure reports.²⁶ Financial disclosure reports are due within 30 days of becoming a Senate candidate; the original due date for his financial disclosure report was August 9, 2023. He requested and was granted an extension, making the due date for the financial disclosure report no later than November 7, 2023.²⁷

Mr. Harper then timely filed his report on November 7, 2023, covering calendar years 2022 and 2023.²⁸ While Mr. Harper's original filing was timely, it appears to have been inaccurate. Harper did not disclose any earned income or compensation under sections 2 and 10, respectively.²⁹ He also lists very few assets and unearned income under Section 3, which would include rental properties or other income-producing assets.³⁰ Mr. Harper said through a campaign spokesperson: "In an effort to ensure full transparency and public trust, the campaign will file an updated disclosure with the Senate Ethics Committee reflecting revenue streams not included in the questionnaire . . . the campaign will fill[sic]

²¹ Kierra Frazier, *Actor Hill Harper enters Michigan's 2024 Senate race*, POLITICO (July 10, 2023), <https://www.politico.com/news/2023/07/10/hill-harper-michigan-senate-00105397>.

²² Hill Harper for Michigan, Statement of Organization (July 10, 2023), <https://docquery.fec.gov/pdf/958/202307109582469958/202307109582469958.pdf>.

²³ Hill Harper FEC Form 2, Statement of Candidacy (July 10, 2023), <https://docquery.fec.gov/cgi-bin/forms/S4MI00553/1710574/>.

²⁴ Hill Harper for Michigan (candidate committee for Hill Harper), Contributions from the Candidate before July 10, 2023, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00844985&two_year_transaction_period=2020&two_year_transaction_period=2022&two_year_transaction_period=2024&max_date=07%2F10%2F2023&line_number=F3-11D.

²⁵ Hill Harper for Michigan (candidate committee for Hill Harper), Disbursements made before July 10, 2023, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00844985&two_year_transaction_period=2024&max_date=07%2F10%2F2023.

²⁶ The purposes designated on entries for monies raised and spent prior to the July 10 filings and announcement of candidacy appear consistent with activity associated with "testing the waters." See *Testing the waters for possible candidacy*, FEC, <https://www.fec.gov/help-candidates-and-committees/registering-candidate/testing-the-waters-possible-candidacy/> (last visited Feb. 5, 2024). While monies raised and spent while testing the waters do not themselves trigger candidacy, they do count toward the threshold once an individual decides to become a candidate.

²⁷ 2023 Filing Extension for Hill Harper's Candidate Financial Disclosure Report, <https://efdsearch.senate.gov/search/view/extension-notice/regular/6522d4ac-e63a-4470-8d8d-439a9026b42b/>.

²⁸ 2023 Candidate Financial Disclosure Report for Hill Harper, <https://efdsearch.senate.gov/search/view/annual/99936b67-a9f8-441a-8aae-f1a399809c72/>.

²⁹ *Id.*

³⁰ *Id.*

the update by February 28, 2024.”³¹ Given that the Senate financial disclosure guidelines are designed to account for any possible sources of income and to provide for reasonable exceptions, it is unclear what the spokesperson meant by “revenue streams not included in the questionnaire.”

Filing an amendment by February 28, 2024, which will include information that Mr. Harper knows was already required to be included in the original report, means voters will not have access to an accurate financial disclosure report until more than three months after the report was due. EIGA’s deadlines “were intended to implement [EIGA’s] goal of making candidate’s financial data available to the public in a timely fashion. The deadlines do not, however, permit a candidate to avoid [EIGA’s requirements] merely by failing to file.”³²

III. Mr. Harper’s Omissions Appear to be Knowing and Willful

Mr. Harper’s failure to report both any earned income and complete unearned income information in his personal financial disclosure report appears to reflect a knowing omission. It seems unlikely that Mr. Harper did not have full knowledge of EIGA’s income reporting requirements and that those requirements applied to him. Yet Mr. Harper did not report *any* earned income, even though he had a public role as a working actor and advertised multiple likely sources of income on his campaign website. Four factors suggest that Mr. Harper knowingly and willfully failed to include required information on his financial disclosure report.

First, Mr. Harper had a public role as a working actor until recently stepping away to run for Senate, and it seems impossible that he did not accrue any reportable income from this job during the reporting period. He was a series regular on an ABC network drama called “The Good Doctor” for six seasons.³³ He was one of the highest billed actors on the show, credited for 116 episodes.³⁴ His last two seasons of the show would have filmed and aired in 2022 and 2023.³⁵ It therefore seems likely he was paid for his work on this show during the reporting period. Any income totaling \$200 or more that was derived from his work as an actor during the reporting period would have clearly needed to be reported as earned income under section 2 of his candidate personal financial disclosure report. The omission of such an obvious and publicly known source of income appears to reflect an intentional disregard of or indifference to EIGA’s requirements.³⁶

³¹ Nann Burke, *supra* note 4.

³² *United States v. Tarver*, *supra* note 5, at 1111.

³³ IMDb page for *Hill Harper*, *supra* note 1.

³⁴ IMDb, Full Cast and Crew of *The Good Doctor*, https://www.imdb.com/title/tt6470478/fullcredits?ref=tt_ov_st_sm.

³⁵ See *The Good Doctor* Season 5 episode list and air dates, <https://www.imdb.com/title/tt6470478/episodes/?season=5>, and Season 6 episode list and air dates, <https://www.imdb.com/title/tt6470478/episodes/?season=6>.

³⁶ See *Tarver*, *supra* note 5, at 1111.

Second, Mr. Harper provides his resume for public view on his campaign website,³⁷ and the resume lists numerous probable earned *and* unearned income sources that are not included on his financial disclosure report. These include:

- Roasting Plant in Detroit, of which he claims to be an owner.
- International House Hotel in New Orleans, which he claims to co-own.
- Commercial and residential rental properties in Los Angeles, Detroit and Newark, New Jersey which he claims to own.
- Crypto-trading platform Black Wall Street Holdings Inc., of which he claims to be founder and chairman.

All these entities and their resulting income would have been apparently reportable in his original report as earned or unearned income. Omitting the rental properties from his financial disclosure report seems especially peculiar because these are among the most common reportable income-producing assets.³⁸ The inclusion of his various assets and income on his resume and public campaign website, but their omission on a financial disclosure report when the details of the assets and income are subject to scrutiny by the Ethics Committee and federal law enforcement, suggests that the omissions may have been knowing and willful.

Third, Mr. Harper donated \$212,916.01 and loaned \$250,000 to his campaign in 2023.³⁹ If these loans and contributions are from Mr. Harper, it seems likely that he had reportable income, either earned through employment or in an interest-bearing account, during the reporting period to provide those funds. Mr. Harper knew he had to report the loans and contributions to the FEC, but he seems to have failed to disclose the source of those funds to voters on his personal financial disclosure report. The missing income information therefore also raises questions about the source of personal contributions and loans made by Mr. Harper to his campaign. If Mr. Harper actually had no reportable income or sources of compensation, which given the evidence to the contrary seems highly unlikely, then the true source of the campaign loan would be unclear and require further investigation by the FEC or other law enforcement authorities.

Finally, Mr. Harper's statement through a campaign spokesperson suggests attempts to delay his accurate filing well beyond the period for any allowable extension, despite having had ample time to collect the reportable information. Mr. Harper is aware at this very moment of the "revenue streams" he had during the reporting period, which began more than two years ago—but the voters are not. Mr. Harper's desire to delay the full and accurate reporting of his personal finances until the day after the Michigan presidential primary election, when voters' attention perhaps will be elsewhere, reflects a likely knowing and willful violation of EIGA.

³⁷ Resume of Hill Harper, *supra* note 1.

³⁸ See Financial Disclosure Instructions, *supra* note 14, at 24.

³⁹ Hill Harper for Michigan FEC Form 3, Report of Receipts and Disbursements (Dec. 21, 2023) <https://docquery.fec.gov/cgi-bin/forms/C00844985/1740519/>.

The Ethics Committee must investigate to determine whether Mr. Harper's omissions are knowing and willful. An abdication of enforcement of such blatant disregard for the Senate's transparency requirements would incentivize others to ignore the law.

IV. Conclusion

Mr. Harper appears to have knowingly and willfully failed to file an accurate candidate financial disclosure report with the U.S. Senate. The Ethics Committee should investigate this possible violation and refer any findings to the Attorney General if warranted. The Ethics Committee should also provide updated guidance making the filing requirements and the penalties for not filing timely and accurate disclosure reports clear.

Sincerely,

_____/s/_____
Kedric L. Payne Vice President, General Counsel and
Senior Director, Ethics

_____/s/_____
Delaney Marsco
Senior Legal Counsel, Ethics