



## Arizona House of Representatives Phoenix, Arizona 85007

### ARIZONA HOUSE OF REPRESENTATIVES

#### REPORT OF COMMITTEE ON ETHICS – APRIL 11, 2023

MR. SPEAKER,

Your Committee on Ethics (“Committee”) has considered the Ethics Complaint (“Complaint”) filed on March 6, 2023, by Representative Stephanie Stahl Hamilton against Representative Liz Harris, which is premised on Representative Harris’s conduct relating to Jacqueline Breger’s testimony before the House and Senate Special Joint Elections Committee on February 23, 2023.

This Report summarizes the Committee’s investigation and factual findings. The Committee unanimously concludes that Representative Harris committed disorderly behavior, thereby violating Rule 1 of the Rules of the Arizona House of Representatives and damaging the institutional integrity of the House.

Consistent with the text of the Arizona Constitution, *see* Ariz. Const. art. 4, part 2, § 11 (empowering the House to “punish its members for disorderly behavior”), and because Representative Harris’s violation of Rule 1 occurred in connection with the legislative process and procedures, the Committee refers this Report to the House to determine what disciplinary measures should be taken.

### **I. BACKGROUND**

On February 23, 2023, some members of the Senate Elections Committee and of the House Municipal Oversight & Elections Committee held a Special Joint Hearing (“Joint Hearing”) in the Senate building, consisting of presentations related to election integrity by pre-selected individuals. *See Ethics Hearing Exhibit 4*. The Joint Hearing was conducted at the request and organization of Representative Harris, who had submitted her proposal for the five-hour hearing to House and Senate Leadership. *See Ethics Hearing Exhibit 3*. The purpose of the Joint Hearing, in Representative Harris’s own words, was “to ensure that the voters of Arizona are confident for all future elections.” *Joint Hearing Video* at 02:05:14.

During the hearing, Representative Harris asked for, and received, permission to deviate from the order of the set agenda to better accommodate her guests’ travel schedules and introduced witnesses. *See, e.g., Joint Hearing Video* at 52:35, 04:03:30. Representative Harris herself also gave a presentation during that hearing entitled, “‘The People Speak’ & Testimonial Highlights.” *Id.* at 02:04:20.

The final presentation scheduled for the day was entitled, “Preliminary Findings of Activities Impacting Arizona’s Election Integrity” (with specific focus on the 2020 & 2022 General Elections).” Unlike the other presentations given that day, this one was given by a constituent from Scottsdale, Jacqueline Breger, who purported to present findings of an investigation conducted by the Harris/Thaler Law Firm, at which she is a principal investigator. *Id.* at 04:04:50. Before Breger began her presentation, Representative Harris secured permission from Senator Wendy Rogers, the Chair of the Joint Hearing, to “sub[stitute] as Vice-Chair” for Representative Alexander Kolodin, who briefly stepped out of the hearing room. *Id.* at 04:03:25.

Breger’s presentation alleged the existence of numerous schemes that encompass money laundering, drug trafficking and sales, public corruption, bribing of public officials, and election fraud. *See Presentation Handout; Joint Hearing Video* at 04:07:45. Throughout her presentation, Breger repeatedly referred to a large, unnumbered handout that was distributed to the Joint Committee members, which included a table entitled, “Elected and Appointed Officials with Falsified Deeds.” The table named several private citizens, government employees, and public officials, including the House Speaker, alleging that they had falsified deeds. Breger unequivocally and repeatedly accused many government officials of criminal conduct, stating, for example:

- “Bribes and infiltration have been used to affect the outcome of the races” in the November 2020 and 2022 General Elections, and “public officials who have received bribes include multi state office holders, state House and state Senate, local office holders, county supervisors, judges in the Maricopa Supreme Court [sic], judges of some city courts including two presiding judges, judges’ assistants, prosecutors within certain cities within Maricopa County, prosecutors for Maricopa County, peripheral legal specialists including attorneys, approved mental health care providers as in court-appointed advisors, and related specialists.” *Joint Hearing Video* at 04:16:30-04:17:22.
- “In Arizona, public officials accepting bribes include members of the Legislature...” *Joint Hearing Video* at 04:38:40.

Breger repeatedly directed the committee members to review the table. Breger’s handout asserted that the Speaker was “just one of many state legislators with documents evidencing the acceptance of bribes through the phony mortgage scheme.” *See Presentation Handout*. Among other claims, Breger also asserted that the Church of Jesus Christ of Latter-Day Saints “control[s]” government agencies and has been “integral to the laundering activities.” *Id.*

About 30 minutes into Breger’s presentation, Senator Ken Bennett made a point of order, stating that the legislative committee hearing was not the appropriate place to make the sort of allegations that Breger’s presentation made. *Joint Hearing Video* at 04:38:55. Representative Kolodin added that the House Rules prohibited impugning Members’ motives. *Id.* at 04:39:10. Breger continued her presentation, after which Senator Bennett asked how she was invited to speak at the hearing. *Id.* at 04:45:09. Breger replied that Representative Harris had invited her, and then Representative Harris made a gesture moving her hand across her neck and mouthed something to Breger. *Id.* at 04:45:23. Representative Harris subsequently stated that she hoped that the hearing was being presented by all national networks. *Id.* at 04:46:10.



A few days after the hearing, Senator Rogers issued a press release stating, “[a]ny claims as serious as those presented [at the hearing] should have been immediately turned in to Arizona law enforcement officials and not brought before the Legislature.” *See* Ariz. Senate Press Release, “Statement on Presentation Given by House Representative Liz Harris During Last Week’s Election Meeting” (Feb. 26, 2023).

## **II. ETHICS COMMITTEE PROCEEDINGS**

### **Complaint and Response**

On March 6, 2023, Representative Stahl Hamilton filed the Complaint against Representative Harris in connection with the Joint Hearing and specifically the presentation by Breger, whom the Complaint alleged was “personally invited” by Representative Harris. *Complaint* at p. 1. The Complaint further alleged that Representative Harris’s invitation of Breger and her presentation brought “disrepute and embarrassment to the House of Representatives” and “allowed the impugning of other members,” therefore constituting a violation of House Rule 1. *Id.* Accordingly, the Complaint requested that this Committee investigate Representative Harris’s actions and decision to invite Breger to present at the Joint Hearing. *Id.* at pp. 2-3.

Pursuant to the House Ethics Committee Rule of Procedure 13, the Committee provided Representative Harris with an opportunity to respond to the complaint in writing. She did so, submitting the amended and operative version on March 17, 2023. In it, Representative Harris notably did not state that she was unaware that Breger would present what she did at the hearing. Instead, Representative Harris wrote that she “set forth to allow for anyone with information regarding our elections to present said information,” “brought forth witnesses who had testimony to share, without endorsing, confirming, or denying the allegations presented,” and that it was “not [her] duty to endorse or negate/confirm” the claims. *See Updated Response* at pp. 1, 2. Representative Harris also denied that she had engaged in disorderly conduct in violation of House Rule 1, citing to a federal regulation definition of “disorderly conduct.” *Id.* at p. 1.

### **Rule 15 Evidentiary Hearing**

On March 23, 2023, the Committee convened and formally adopted Rules of Procedure. On March 30, 2023, the Committee held an evidentiary hearing open to the public and press pursuant to Rule 15 of the Committee’s Rules of Procedure. In anticipation of that hearing, Representative Harris submitted a list of 14 exhibits for the Committee’s consideration. Of those 14 exhibits, which included links to videos about election integrity, the Chairman concluded that four of Representative Harris’s exhibits were relevant and would be considered by the members at the evidentiary hearing:

1. The Constitution of Arizona
2. Joint Hearing Proposal
3. Handwritten Agenda
4. Special Joint Meeting Agenda of the Senate Committee on Elections and the House Committee on Municipal Oversight & Elections

The Chairman also provided the Committee members with links to three additional exhibits that Representative Harris submitted—all to legislative videos—but did not play them during the evidentiary hearing in the interest of time and to avoid unnecessary repetition:

1. A video of Representative Stahl Hamilton making statements on the House Floor about Representative Harris
2. A video of the House members' vote explanations on HB 2754 in a committee hearing
3. A 28-minute video containing clips of "testimony highlights," which appeared to be a collection of video clips from legislative hearings

Additionally, the Committee considered a series of screenshots of an apparent text-message conversation between Representative Harris, Breger, and another individual, John Thaler, and marked these messages as Exhibit 5. Although the screenshots were left anonymously on the House Majority General Counsel's desk in an envelope, the Chairman determined that the messages were relevant and could be considered by the Committee, despite the unusual circumstances under which the Committee received the evidence.

At the evidentiary hearing, Representative Harris confirmed that the screenshots in Exhibit 5 were her text messages. *See House Ethics Hearing Video* at 12:30. Critically, the text conversation among Representative Harris, Breger, and Thaler spans the days immediately before and after the Joint Hearing, relating to the planning of Breger's presentation and subsequent reactions to it.

Finally, the Committee carefully considered Representative Harris's testimony during the evidentiary hearing, including her responses to Committee members' questions, her presentation of evidence, and her closing statement.

### **III. COMMITTEE'S FINDINGS OF FACT**

As the Chairman emphasized at the evidentiary hearing, the sole issue for the Committee's consideration is whether Representative Harris violated House Rule 1, which prohibits members from engaging in disorderly behavior. In undertaking that inquiry, the Committee makes the following factual findings, accompanied by the Committee's reasoning to support each finding.

- 1. THE COMMITTEE FINDS that Breger made criminal allegations during the Joint Hearing and REJECTS Representative Harris's testimony that no direct criminal allegations were made during the Joint Hearing.**

Representative Harris's testimony (*see House Ethics Hearing Video* at 44:49) is contradicted by the legislative record. *See supra*, Section I.



**2. THE COMMITTEE FINDS that, prior to the Joint Hearing, Representative Harris knew or was at least aware that Breger would present criminal allegations at the Joint Hearing and REJECTS Representative Harris's testimony to the contrary.**

In response to a question asking Representative Harris whether she knew that Breger would “present the information that she presented in that special elections hearing,” Representative Harris responded, “absolutely, positively, one-hundred percent, no.” *House Ethics Hearing Video* at 13:14.

Exhibit 5 (the text messages) is particularly insightful on this point and significantly undermines Representative Harris's testimony that she was unaware of the information that would be presented or that she was “surprised” by it at the time of the Joint Meeting as she claimed that she was. *See, e.g., House Ethics Hearing Video* at 32:10. To be sure, when Representative Harris asked Breger for a title for the presentation, Breger responded, “We are trying to think of something that won't raise a red flag.” *Ethics Hearing Exhibit 5* at p. 2. Although Representative Harris testified that she had “no idea” what that meant (*see House Ethics Hearing Video* at 15:15), her alleged confusion—or any concern about what in the presentation might raise such a flag that they would want to avoid—was not reflected in her reply to Breger. Instead, Representative Harris expressed concern only that Breger's suggestion was not as vague as she believed it was and would “draw the wrong press.” *Ethics Hearing Exhibit 5* at p. 2.

Notably, the subsequent text messages indicate that Representative Harris believed that this particular presentation would be the subject of multiple interviews after the Joint Hearing; stated differently, the text suggests that Representative Harris knew the presentation's contents would pique heightened interests. *Ethics Hearing Exhibit 5* at p. 5.

Additionally, Representative Harris testified that she had become aware of Breger from a press release about Thaler's forthcoming book—the same book that Breger had testified was the culmination of their investigation's findings on the alleged “deed scheme” and alleged bribes that she was presenting about. *Joint Hearing Video* at 04:10:00.

Representative Harris also testified that she had spent more than two hours with Breger just four days before the special meeting, looking at her “eyeball to eyeball,” listening to her story, and even crying together over the circumstances. *House Ethics Hearing Video* at 01:20:50. Over the next four days, the evidence shows that Representative Harris had at least one phone call (*see House Ethics Hearing Video* at 31:25), two online virtual meetings (*see Ethics Hearing Exhibit 5* at p. 1), and an on-going group text with Breger and Thaler (*see generally, Ethics Hearing Exhibit 5*).

The Committee also questioned Representative Harris about a lunch that Representative Harris attended in January—weeks before the Joint Hearing—with a former employee of the Arizona Attorney General's Office. *House Ethics Hearing Video* at 36:23, 38:00. Representative Harris admitted that the lunch occurred, although she appeared to dispute some of the particulars that occurred at the lunch. *Id.* at 38:35-39:08. Significantly, Representative Harris did not dispute that discussion of an alleged “deed scheme” occurred at the lunch. *Id.* This indicates that

Representative Harris was aware of the criminal allegations relating to an alleged “deed scheme”—the precise subject of Breger’s testimony at the Joint Hearing—at least several weeks before it.

Representative Harris appeared careful to state that she did not know that the bribery claims would be in the handout, but her testimony otherwise supports an inference that she was aware of the findings of the Harris/Thaler investigation, including allegations of bribery of elected officials, and that they would be mentioned during Breger’s presentation. Indeed, despite maintaining that she was prepared for Breger to present information on only boxes of ballots and backdoor portal access, Representative Harris later testified, inconsistently, that she knew that Breger would talk about the deed scheme during the Joint Meeting. *House Ethics Hearing Video* at 35:38.

Representative Harris also testified that she instructed Breger to not “impugn any member of the House [or Senate]” or to bring up “any religious institution.” *House Ethics Hearing Video* at 31:20. The fact that Representative Harris knew to make that admonition, specifically about those two items, further supports an inference that she knew of their inclusion in Breger’s presentation. In other words, that Representative Harris believed it necessary to make those requests of Breger suggests that she—at the very least—had reason to believe that they could be included in the presentation.

**3. THE COMMITTEE FINDS that Representative Harris took steps to avoid compliance with internal House deadlines, which required disclosure of Breger’s presentation in advance of the Joint Hearing.**

The text messages regarding the provision of the presentation materials further support an inference that Representative Harris took steps to prevent disclosure as required by internal House deadlines. Specifically, Representative Harris communicated to Breger that all “electronically formatted presentations” needed to be sent to Speaker Toma by the following day—Wednesday, February 22—and “[f]or that reason,” Representative Harris suggested that Breger pass out physical handouts at the Joint Hearing on Thursday instead. *Ethics Hearing Exhibit 5* at p. 5.

Representative Harris testified that she had told each of the presenters, not just Breger, to bring paper handouts if they could not submit electronic presentations to her by noon the following day. *House Ethics Hearing Video* at 16:50, 17:13. But the noon deadline was not mentioned in the text messages. Moreover, Representative Harris testified—inconsistently—that she had expected Breger’s materials to consist of a short affidavit instead of the lengthy, unnumbered handout that Breger brought to the Joint Hearing. *Id.* at 30:30-31:12; 01:23:25. Representative Harris’s inconsistent testimony leads the Committee to believe that she had a more detailed understanding of Breger’s presentation than she led the Joint Elections Committee to believe, *and* that Representative Harris had hoped to avoid providing the presentation to House leadership before the hearing.



**4. THE COMMITTEE FINDS that Representative Harris was not surprised or upset by Breger's testimony and REJECTS Representative Harris's testimony to the contrary.**

Representative Harris testified that she had believed that Breger's presentation would relate to only two narrow topics related to Arizona's recent election. But the text messages exchanged soon after Breger's presentation show no surprise at the fact that the presentation actually related to a wholly different topic. *See Ethics Hearing Exhibit 5* at pp. 14-15. Representative Harris wrote that she knew that the Joint Elections Committee would shut down the presentation, and that doing so took the committee "longer than [she] thought" it would. *Id.* These messages show that not only was Representative Harris *not* taken by surprise by the presentation or "shocked" by the inclusion of the table naming persons alleged to have accepted bribes (*see House Ethics Hearing Video* at 31:10), but that she *expected* the precise reception that it received.

Representative Harris testified that her texts referred to her belief that the two subjects she understood would be presented alone would have caused great upset. *House Ethics Hearing Video* at 23:40. However, she testified that by this, she meant that she believed those subjects would have prompted more questioning and engagement from the Joint Elections Committee for clarification purposes, *not* a "shut down." *Id.* at 23:44.

Additionally, Representative Harris did not express surprise, either during the Joint Hearing or afterward in her text messages with Breger, about the verbal accusation that "members of the Legislature" were accepting bribes. Nor did she express surprise during the Joint Hearing or afterward in the text messages, about the naming of a sitting member of the House of Representatives and the entire Church of Jesus Christ of Latter-Day Saints in the handout that was distributed to the Joint Elections Committee members.

**5. THE COMMITTEE FINDS that, as the primary organizer of the Joint Hearing and the acting Vice Chair during Breger's presentation, Representative Harris violated the inherent obligation to protect the integrity of the House.**

Finally, the Committee notes that even if the Committee were to take at face value Representative Harris's testimony that she was unaware of the contents of Breger's presentation *and* that she had specifically instructed Breger to *not* impugn any legislator, Representative Harris did nothing during the Joint Hearing to address her statements.

By her own admission, Representative Harris had obvious influence and significant control over the Joint Hearing as its organizer and facilitator. With Senator Rogers's approval, Representative Harris also acted as Vice Chair during Breger's presentation. Representative Harris did not interrupt Breger while Representative Harris's colleagues were trying to follow Breger's testimony and reviewing the large, unnumbered handout. Senator Bennett, who was the first to call a point of order regarding the propriety of Breger's presentation, was neither the Chair nor Vice Chair. The absence of any action or reaction by Representative Harris further undermines her testimony that she was oblivious of what Breger would present.

Although Representative Harris disputed that Breger's presentation contained criminal allegations against any specific person, she also conceded that a legislative hearing is not the proper forum to make such serious allegations. Yet the totality of the evidence shows that Representative Harris used her elected position to provide Breger with a legislative platform as a substitute for a criminal court.

As Representative Harris stated in a text message reply to Breger about the hearing: "It was all how it was intended to be." *Ethics Hearing Exhibit 5* at p. 16.

#### **IV. CONCLUSION AND SUMMARY OF FINDINGS**

The Arizona Constitution empowers the House to establish its own rules of procedure. *See* Ariz. Const. art. 4, part 2, § 8. The House Rules, which the House adopted at the beginning of the first regular session of the 56<sup>th</sup> Legislature, expressly confirm that House Rules are subject only to constitutional rules and take precedence over statutory rules or provisions, customs and usages, or other parliamentary authority. *See* House Rule 29. Accordingly, it is incumbent on the Ethics Committee to thoroughly review any Complaint by any member to determine whether a member has violated a House Rule.

The Committee's investigation required significant time and legislative resources. The Committee does not lightly issue this Report, but the findings herein are necessary to protect the integrity of the House and House Rules.

This Report should not be construed as any comment on individuals' constitutional rights, including the right to freely speak guaranteed by the Arizona Constitution. House Rules have long required members, the public, and the press to maintain proper decorum. Although the Committee has held meetings open to the public and press, the Complaint at issue ultimately presents an internal House matter for the Committee alone to investigate. What the House Rules cannot tolerate is a member engaging in the conduct described above, which erodes public trust in the legislative process.

Pursuant to its investigation and its factual findings above, the Committee finds that the evidence sufficiently supports a conclusion that Representative Harris engaged in disorderly behavior in violation of Rule 1 of the Arizona House of Representatives.

The Committee notes that its findings are uniquely fact-intensive and require a subjective assessment of Representative Harris's credibility. Accordingly, the Committee recommends that all members of the House fully examine this Report and the legislative material cited herein. The Committee agrees, unanimously, that Representative Harris did violate Rule 1. Based on this finding, and because Representative Harris's violation of Rule 1 occurred in connection with the legislative process and procedures, the Committee deems it appropriate for the House as a whole to decide what disciplinary measures should be taken.



Respectfully submitted this 11th day of April, 2023.



Rep. Joseph Chaplik, Chairman



Rep. Travis Grantham, Vice Chair



Rep. Gail Griffin



Rep. Christopher Mathis



Rep. Jennifer Longdon