

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA)
)
v.) 18 U.S.C. § 666
) Bribery Concerning Federal
PHILLIP A. HAMILTON,) Programs Funds (Count One)
)
Defendant.) 18 U.S.C. § 1951
) Extortion Under Color of
) Official Right (Count Two)
)
) 18 U.S.C. § 981(a)(1)(C)
) 28 U.S.C. § 2641(c)
) Forfeiture

INDICTMENT

January 2011 Term - at Richmond, Virginia

The Grand Jury charges:

Introduction

Except as otherwise indicated, at all times relevant to this Indictment:

1. PHILLIP A. HAMILTON, the defendant, served as a public official as a Member of the Virginia House of Delegates, which met in Richmond. As such, HAMILTON was an agent of the government of the Commonwealth of Virginia. HAMILTON represented the 93rd District, which encompassed areas of James City County and the City of Newport News. HAMILTON sat on the Elementary & Secondary Education Subcommittee of the House Appropriations Committee.

2. As a Member of the Virginia House of Delegates, defendant PHILLIP A. HAMILTON's official duties included, but were not limited to:

- a. Proposing, drafting, and voting on legislation, including budget appropriations and other initiatives related to state spending;
- b. Conducting and participating in committee hearings;
- c. Exercising legislative oversight with regard to state agencies and departments; and
- d. Making recommendations to, and negotiating with, state agencies and departments.

3. From in or about 2002 through at least in or about 2009, HAMILTON was also employed part-time by the Newport News Public School System in Newport News, Virginia ("NNPS").

4. Old Dominion University ("ODU" or "University") was a public university, the main campus of which was located in Norfolk, Virginia. ODU offered bachelor's, master's and doctoral degree programs. The University was involved in and its activities affected interstate commerce.

5. During each one year period from January 1, 2006, continuing through December 31, 2009, the government of the Commonwealth of Virginia received benefits in excess of \$10,000

under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

6. Official-1 was Dean of the Darden College of Education at ODU. Official-2 also worked in the Darden College of Education and reported to Official-1. From in or about 2004 through in or about 2007, one of the projects Official-1 and Official-2 sought to develop was a Center for Teacher Quality and Educational Leadership ("Center" or "CTQEL"), the primary objective of which was to train teachers for success in urban school environments.

HAMILTON's Offer to Help Fund the Center
and Solicitation of Employment

7. In or about August 2006, PHILLIP A. HAMILTON, the defendant, met with the President of ODU, Official-1, and Official-2 to discuss the creation of the Center and HAMILTON's role in obtaining state funding for it.

8. On or about August 17, 2006, HAMILTON indicated to Official-1 and Official-2 that he (HAMILTON) would initiate legislation or a budget amendment to create the Center, but counseled Official-1 not to discuss the initiative with any other legislators.

9. From in or about August 2006 through in or about February 2007, HAMILTON repeatedly solicited a job at the Center from the President of ODU, Official-1, and Official-2, on several occasions specifying the salary he desired.

10. On or about December 21, 2006, approximately three weeks before the 2007 session of the Virginia General Assembly was set to convene, HAMILTON sent an e-mail to the President of ODU, stating:

When we spoke about the Center last August, I expressed an interest in being associated with the initiative from a professional perspective. Since then, I haven't heard anything more about an employment possibility. If possible, I would like to discuss this possibility with you prior to my leaving for the GA on January 8, 2007. Thank you for considering this request.

Minutes later, HAMILTON forwarded this e-mail to Official-2. Official-2 replied that HAMILTON's message to the President of ODU was the "right thing to do now." HAMILTON replied to Official-2's e-mail approximately fourteen minutes later, stating that the Governor's budget did not include any funding for the Center, and attaching a copy of information HAMILTON claimed to have sent to the House Appropriations Committee for the budget amendment for the Center. In that same e-mail, HAMILTON also wrote, "My City retirement is reduced in May 2007. I will need to supplement my current NNPS income (\$38,000) by at least an equal amount or separate from NNPS for \$75,000 per year. Thanks."

11. In or about December 2006 and January 2007, Official-2 assured HAMILTON that if ODU obtained funding from the

Virginia General Assembly for creation of the Center, then HAMILTON would have a job at the Center.

HAMILTON's Official Acts

12. In or about January 2007, HAMILTON introduced a budget amendment in the House of Delegates to appropriate \$1,000,000 in fiscal year 2007-2008 for a "Center for Teacher Quality and Educational Leadership." HAMILTON purposely kept ODU's name out of the amendment so that it would be assigned to the Elementary & Secondary Education Subcommittee, on which HAMILTON served. Had HAMILTON's amendment mentioned a university or specified matters dealing with higher education, it would have been assigned to the Higher Education Subcommittee, on which HAMILTON did not serve.

13. On or about February 4, 2007, HAMILTON's amendment (the amount of which had been reduced from \$1,000,000 to \$500,000) passed the Elementary & Secondary Education Subcommittee and the full House Appropriations Committee unanimously. Hamilton voted "yea."

14. On or about February 8, 2007, the House unanimously passed the budget bill, as amended by HAMILTON's amendment. HAMILTON voted "yea."

15. On or about February 24, 2007, conferees from the House and Senate, one of whom was HAMILTON, proposed an amendment to appropriate \$500,000 to ODU for the Center. HAMILTON signed

the amendment as a conferee. The House then unanimously agreed to the conferees' report and passed the budget bill. HAMILTON voted "yea."

HAMILTON Receives a Job at the Center

16. On or about February 25, 2007, the day after the General Assembly had adjourned, Official-2 e-mailed HAMILTON and asked, "Are congratulations in order? Are you our new director? Fingers crossed." HAMILTON replied that ODU received \$500,000 in the budget for the Center. Official-2 promptly e-mailed HAMILTON and indicated that he would post a job announcement for the Director of the Center as soon as possible. Nine minutes later, HAMILTON replied: "Currently, my part-time salary with NNPS is around \$37,000. I need at least that amount from the ODU Foundation to have a part-time salary of \$75,000 per year. Of course, more than that is always appreciated."

17. In or about March 2007, Official-2 arranged for a job announcement to be posted for the Director of the Center, but Official-1 and Official-2 had already predetermined to hire HAMILTON. Approximately three people applied in response to the posting, but none of them was interviewed. HAMILTON, who got the job, never submitted an application.

18. In or about March and April 2007, HAMILTON continued to inquire of Official-1 and Official-2 about the status of his employment at the Center. Official-1 and Official-

2 each assured HAMILTON that it was simply a matter of working out scheduling and payroll matters with HAMILTON's other employer, NNPS.

19. In or about June 2007, Official-2 and HAMILTON signed a contract of employment indicating, among other things, that HAMILTON would direct the Center and "seek continual funding for CTQEL." The contract also stated that HAMILTON would be paid \$40,000 per year.

20. In or about July 2007, funds appropriated by HAMILTON's budget amendment began flowing to ODU. HAMILTON collected his first paycheck on or about July 17, 2007, in the amount of \$3,333.33. From in or about July 2007 through in or about July 2009, HAMILTON collected approximately \$80,000 from ODU.

HAMILTON's Concealment

21. In order to attempt to conceal the corrupt purpose of the arrangement that he had made with Official-1 and Official-2, PHILLIP A. HAMILTON, the defendant, among other things:

a. on or about August 17, 2006, discouraged Official-1 from contacting any other legislators about obtaining funding for the Center;

b. kept ODU's name out of the amendment he proposed in or about January 2007, even though his intention was to obtain funding for ODU;

c. in or about July 2007, attempted (unsuccessfully) to have his salary payments from ODU funneled through NNPS;

d. on or about July 10, 2008, after being notified by Official-2 that members of the Senate Finance Committee were coming to ODU to discuss the Center, advised Official-2 to "never mention" HAMILTON's name unless the Senators brought it up;

e. on or about July 16, 2008, after being notified that a member of the Senate staff had inquired of Official-2 about who the Director of the Center was, advised Official-2 to state that Official-2 was Director of the Center, which HAMILTON knew to be false;

f. on or about August 18, 2009, attempted (unsuccessfully) to persuade ODU leadership not to release incriminating e-mails in response to a Freedom of Information Act request that ODU had received; and

g. in or about August 2009, falsely claimed in e-mails to his supporters that the amendment he had sponsored had nothing to do with ODU.

COUNT ONE

Bribery

The Grand Jury further charges:

22. Paragraphs 1 through 21 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

23. From in or about August 2006 through in or about July 2007, in the Eastern District of Virginia, PHILLIP A. HAMILTON, the defendant, being an agent of the government of the Commonwealth of Virginia, did corruptly solicit, demand, accept, and agree to accept for himself a thing of value, to-wit: a salaried position at the ODU Center for Teacher Quality and Educational Leadership, intending to be influenced and rewarded in connection with business, a transaction, and a series of transactions of the Commonwealth of Virginia involving \$5,000 or more, to-wit: sponsorship of a budget amendment in the House of Delegates and voting on the state budget.

(In violation of Title 18, United States Code, Section 666 (a) (1) (B)).

COUNT TWO

Extortion Under Color of Official Right

The Grand Jury further charges:

24. Paragraphs 1 through 21 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

25. From in or about August 2006 through in or about July 2007, in the Eastern District of Virginia, PHILLIP A. HAMILTON, the defendant, did knowingly and unlawfully obstruct, delay and affect and attempt to obstruct, delay and affect in any way and degree, commerce and the movement of any article or commodity in commerce, by extortion, as that term is defined in Title 18, United States Code, Section 1951; that is, HAMILTON obtained property, to wit, salaried employment for himself, not due him or his office, and to which he was not entitled, from Old Dominion University, with the consent of Old Dominion University and its agents, under color of official right.

(In violation of Title 18, United States Code, Sections 1951 and 2).

FORFEITURE

26. PHILLIP A. HAMILTON, the defendant, if convicted of any offense set forth in this Indictment, shall, as part of the sentencing of the defendant pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, forfeit to the United States any property, real or personal, which constitutes, or is derived from, proceeds traceable to said violation, including but not limited to the sum of at least \$80,000.

27. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), the defendant shall forfeit substitute property, up to the value of the property subject to forfeiture as described above, if, as a result of any act or omission of the defendant, any such property to forfeiture cannot be located upon the exercise of due diligence; has been transferred, sold to or deposited with a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty.

(In accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2641(c)).

United States v. Phillip A. Hamilton


Criminal No. 3:11 Cr. _____

A TRUE BILL:

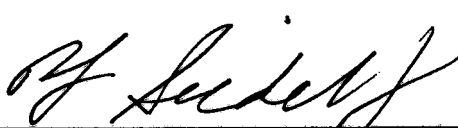
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