

C A M P A I G N F O R

ACCOUNTABILITY

February 13, 2018

VIA EMAIL

AnnaLou Tirol
Acting Chief
Public Integrity Section
U.S. Department of Justice
10th and Constitution Avenue, NW
Washington, DC 20530

Re: Investigation of Former Federal Railroad Acting Administrator Heath Hall

Dear Ms. Tirol:

Campaign for Accountability (“CfA”), a nonprofit government watchdog organization, respectfully requests that the Department of Justice immediately initiate an investigation into whether Heath Hall, former Acting Administrator of the Federal Railroad Administration (“FRA”) violated federal criminal law by willfully filing a public financial disclosure report in which he falsely claimed he would not be receiving outside income.

Factual Background

On Saturday February 10, 2018, Heath Hall, Acting Administrator of the FRA, resigned following allegations he engaged in improper “outside work.”¹ Initially appointed deputy administrator in June, with no administrator in place, Mr. Hall took over the top position.

Prior to his appointment, Mr. Hall ran a public relations and political consulting firm, Strategic Marketing Group, located in Mississippi. On the Public Financial Disclosure Report he filed on July 3, 2017, Mr. Hall described the firm as an “[i]ndividually owned consulting business that will remain dormant during Federal Service.”²

Nevertheless, despite his federal appointment, Mr. Hall continued his public relations work in Mississippi. Albeit briefly, Mr. Hall was re-engaged by Madison County, Mississippi to serve as a spokesperson with a \$30,000/year contract after a contentious discussion and vote by the board of supervisors.³ During the hearing on the matter, one board member noted that Mr.

¹ Michael Lari and Luz Lazo, Senior Federal Rail Official Resigns Over Questions About ‘Outside Work,’ Transportation Department Says, *Washington Post*, February 10, 2018, available at https://www.washingtonpost.com/local/trafficandcommuting/top-federal-rail-official-resigns-over-questions-about-outside-work-department-of-transportation-says/2018/02/10/e4aab002-0ea7-11e8-8890-372e2047c935_story.html.

² Heath Hall, Public Financial Disclosure Report (OGE Form 278e), filed July 3, 2017, available at <https://www.documentcloud.org/documents/4377129-Hall-Heath-2017-New-Entrant-OGE-278e.html>.

³ PR Firm Re-hired Despite Concerns, *Madison County Journal*, June 7, 2017, available at <http://onlinemadison.com/Content/Default/News/Article/PR-firm-re-hired-despite-concerns/-/3/592/39713>.

Hall also worked for the Madison County Sheriff and the Madison County District Attorney and argued Mr. Hall had conflicts of interest, as he had worked on the campaign of the supervisor who had made the motion to hire him.⁴ A week later, Mr. Hall withdrew, stating “now is not the right time to add the County to our portfolio of clients.”⁵ Mr. Hall did, however, maintain a contract with the sheriff’s office as in an August news story, he was quoted as sheriff’s spokesperson in a Mississippi television piece about a police dispatcher charged with driving under the influence.⁶ Further, a former FRA public affairs official reported she had “fielded at least three requests from a Mississippi television journalist seeking to speak with Hall” last summer.⁷

Mr. Hall’s firm, Strategic Marketing Group, LLC is registered as an active business with the Mississippi Secretary of State.⁸ Madison County’s Docket of Claims show a \$2,000 payment to Strategic Marketing Group LLC on June 19, 2017,⁹ a \$4,000 payment on August 15, 2017,¹⁰ a \$2,000 payment on September 22, 2017,¹¹ a \$2,000 payment on October 22, 2017,¹² and a \$2,000 payment on November 22, 2017.¹³ Mr. Hall also may have received payments from other clients that do not publicly report their expenditures.

No employee appointed by the president to a full-time noncareer position in the executive branch is permitted to receive earned income for outside employment.¹⁴ If, however, Mr. Hall was part of the senior executive service, there are some circumstances under which he would have been permitted to receive some income from outside employment.¹⁵ In an effort to definitively ascertain whether Mr. Hall’s continued outside employment violated federal law, CfA made repeated efforts to determine Mr. Hall’s salary at the FRA. Despite our numerous requests – and eventually those of journalists – the FRA and the Department of Transportation (“DOT”) repeatedly refused to provide this public information.

Following CfA’s requests for information, in late January, it was reported that Mr. Hall would be “taking an extended leave to deal with a family situation that will leave him unable to discharge his duties as would be required on a day-to-day basis.”¹⁶ Finally, as members of the

⁴ *Id.*

⁵ Michael Simmons, *PR Firm Declines County Contract*, *Madison County Journal*, June 14, 2017, available at <http://www.onlinemadison.com/Content/Default/News/Article/PR-firm-declines-county-contract/-3/592/39745>.

⁶ Donesha Aldridge, *Canton Dispatcher Charged with DUI in Madison County*, *WJTV*, August 2, 2017, available at <http://www.wjtv.com/news/canton-dispatcher-charged-with-dui-in-madison-county/872163573>.

⁷ Lauren Gardner, *Top Official Departs ‘Rudderless’ Railroad Safety Agency*, *Politico*, February 10, 2018.

⁸ See <https://corp.sos.ms.gov/corp/portal/c/page/corpBusinessIdSearch/portal.aspx?#clear=1>.

⁹ http://madison-co.com/images/agenda_files/130/General%20Claims%20Docket%20July%205,%202017%201.pdf.

¹⁰ http://www.madison-co.com/images/agenda_files/133/General%20Claims%20Docket%20August%2021,2017.pdf.

¹¹ http://www.madison-co.com/images/agenda_files/137/General%20Claims%209-29-17.pdf.

¹² http://www.madison-co.com/images/agenda_files/140/1%20General%20Claims%20Docket%2011-1-17.pdf.

¹³ http://www.madison-co.com/images/agenda_files/142/1%20General%20Claims%2012-4-17.pdf.

¹⁴ Executive Order 12674, Sec. 102(a), “Principles of Ethical Conduct for Government Officers and Employees,” April 12, 1989.

¹⁵ See 5 U.S.C. app. 4 §501.

¹⁶ Tanya Snyder, *Reyes Takes the Reins at FRA*, *Politico*, January 26, 2018, available at <https://www.politico.com/newsletters/morning-transportation/2018/01/26/reyes-takes-the-reins-at-fra-084079>.

media began demanding more information, on February 7, a spokesperson for DOT Secretary Elaine Chao stated that Mr. Hall “has exceeded legal requirements,”¹⁷ without explaining what those requirements were or how Mr. Hall exceeded them. On February 10th, Mr. Hall resigned, and DOT said that “if true”, the allegations of Mr. Hall’s outside work were “troubling.”¹⁸

Potential Legal Violations

In its Public Financial Disclosure Guide, the Office of Government Ethics has explained that the Department of Justice may take action against individuals who file a false report.¹⁹ Under section 18 U.S.C. § 1001, it is a crime to knowingly and willfully make “any materially false, fictitious, or fraudulent statement or representation;” or make or use “any false writing or document” knowing it to “contain any materially false, fictitious, or fraudulent statement or entry.”

The Attorney General also may bring a civil action against any individual who knowingly and willfully falsifies any report that individual is required to submit. Further, any person who violates this prohibition is subject to fines and imprisonment.²⁰

Here, Mr. Hall signed and submitted his financial disclosure form on July 3, 2017, indicating his firm would be dormant. Yet, as the Madison County claims records demonstrate, Mr. Hall’s firm was paid by the county continually, without any break, throughout his short term as deputy administrator. He also may have received payments from other clients that are not publicly reported. Therefore, the allegation of outside work, indeed, are true and are more than merely “troubling”; they may be criminal. A comparison of the Madison County records and Mr. Hall’s personal financial disclosure report indicates Mr. Hall knowingly filed a false report.

Conclusion

Americans have the right to expect high level government officials will be working for our interests, rather than their own personal financial interests, while paid with taxpayer funds. Yet, at a time when Mr. Hall should have been spending his time worrying about the safety of our nation’s railways, he was fielding requests for comment from the Madison County Sheriff’s office and potentially other private clients as well. A review of his financial disclosure report indicates Mr. Hall understood he was prohibited from engaging in outside employment, but nevertheless continued to do so. As a result, a criminal investigation by DOJ is clearly warranted.

¹⁷ Laris and Lazo, *Washington Post*, Feb. 11, 2018.

¹⁸ *Id.*

¹⁹ Public Financial Disclosure Guide, Section 1.06, available at <https://www.oge.gov/Web/278eGuide.nsf/Content/For+Ethics+Officials+Document~1.06:+Failure+to+File+and+Falsification+Penalties>.

²⁰ 5 U.S.C. app. §104(a).

Ms. AnnaLou Tirol
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Thank you for your prompt attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan E Stevens", with a long horizontal flourish extending to the right.

Daniel E. Stevens
Executive Director

cc: David J. Apol, Acting Director
Office of Government Ethics