

First lady hires criminal defense attorney

By **HILLARY BORRUD**
Capital Bureau

SALEM — Oregon first lady Sylvia Hayes has retained criminal defense lawyers to handle questions about her taxes, after media reports suggested she failed to report as much as \$118,000 in income during Gov. John Kitzhaber’s third term.

Hayes has not responded to questions about the discrepancy. Meanwhile, the governor has referred all questions on the matter to Hayes who has recently been traveling in Sweden and Germany to visit friends and attend events related to her consulting business.

The first lady’s decision to hire criminal attorneys was confirmed Monday by one of the civil attorneys who repre-

sented Kitzhaber and Hayes since early November. The decision also means Hayes and Kitzhaber are now represented by separate legal teams that can focus on their clients’ potentially opposing interests.

“In light of Ms. Hayes’s recent tax situation, Whitney Boise (who is copied on this email) will be taking over the representation of Ms. Hayes,” Jim McDermott of the firm Ball Janik LLP wrote in an email Monday. “My firm will no longer be representing Ms. Hayes. My firm will continue representing Gov. Kitzhaber.”

The email was originally sent to the *Willamette Week*



Hayes

newspaper, and later forwarded to other news organizations.

The “recent tax situation” McDermott referenced became apparent after the EO Media Group/Pamplin Media Group Capital Bureau reported on Jan. 27 that Hayes was paid \$118,000 early in Kitzhaber’s third term to serve as a fellow for a Washington, D.C.-based nonprofit that has done political work in Oregon. Hayes had not included that income on tax returns she provided to other news organizations last fall, *Willamette Week* reported. Kitzhaber and Hayes originally hired Ball Janik LLP around the time

of the November election to represent the couple during a preliminary inquiry by the Oregon Government Ethics Commission.

Hayes’ new defense team could ultimately handle more than her tax issues. News reports have also revealed Hayes used state resources to benefit her private consulting business, such as by tasking an employee in the governor’s office with arranging travel related to her business. Attorney General Ellen Rosenblum informed Kitzhaber in a letter on Monday that her office had opened an investigation into Hayes’ activities.

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KITZHABER: The governor or any other official must be in office for six months before anyone can launch a recall effort

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adopt an economic indicator called the Genuine Progress Indicator, at the same time she was paid by a New York-based group to advocate for governments to adopt that specific indicator.

Kitzhaber said he and Hayes are already cooperating with the Oregon Government Ethics Commission, which is conducting a preliminary civil investigation of complaints against the governor and Hayes.

“Nonetheless, it is increasingly clear that the statutory process established to

review questions of this nature, to determine the facts and to arrive at conclusions concerning whether laws have been violated has in no way stemmed the rush to judgment currently underway in the Oregon media,” Kitzhaber wrote in the letter to Rosenblum.

Kitzhaber also wrote, “I deeply regret that this situation has become a distraction from the important work of our state and look forward to your review and its conclusion.”

In related news on Monday, Oregon City resident Arin Marcus filed a petition

with the Oregon Supreme Court seeking a review of Secretary of State Kate Brown’s decision to reject prospective petitions to recall Kitzhaber.

Tony Green, a spokesman for the Secretary of State, said she has sought legal advice on how to respond. Brown’s office said on Friday evening that two prospective recall petitions filed against the governor — one by Marus, and the other by members of Republican Dennis Richardson’s 2014 gubernatorial campaign — could not move forward because they were filed too early.

Under the Oregon Constitution, the governor or any other official must be in office for six months before anyone can launch a recall effort. In addition, the Secretary of State’s office referred to a 1966 Oregon attorney general’s opinion that the constitution refers to the first six months of the official’s current term, so a Kitzhaber recall could not proceed at this point despite his previous term.

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HERMISTON: The city manager is now required to reside in the city

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charter using the League of Oregon Cities model charter as a template. Some of the changes include:

1) The charter’s language was modernized, replacing male pronouns with gender-neutral ones and outdated terms with more current vocabulary (i.e. “minutes” instead of “journal of proceedings”).

2) Absence from 50 percent of council meetings in a calendar year, moving out of the ward the councilor was elected to represent and unauthorized release of executive

session material were added to the list of reasons the council can remove a city councilor or mayor from their seat. The council also replaced the words “conviction of a felony” with “conviction of a public offense punishable by loss of liberty” so as to include serious misdemeanors like assault.

3) The city manager is now required to reside in the city.

4) A largely ignored clause requiring city councilors to be a “freeholder upon land” (property owner) was taken out.

5) The new charter states

city indebtedness “may not exceed debt limits imposed by state law,” replacing a clause that states that the city may not be in debt more than \$10,000 without voters’ consent. The last amendment to the charter authorizing approval of \$3 million in bonds in 1977 for a new wastewater treatment plant.

6) The council removed a provision requiring any work by a private contractor worth more than \$500 go through a public bid process.

7) The new city charter adds a line specifying that the city attorney is appointed by

the city council and can be removed by the council.

8) The new charter specifies that the municipal judge must be licensed to practice law in the state of Oregon.

A copy of the updated charter can be found in the agenda packet for Monday’s meeting at hermiston.or.us/meetings/2015feb05/city-council-agenda. Hermiston residents will vote on the charter and proposed amendment during the May 19 election.

Contact Jade McDowell at jmcowell@eastoregonian.com or 541-564-4536.

MILLER: A memorial service is scheduled for 7 p.m. Thursday

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tube down a snowy hill and slammed into an ice bank. Jeremy, who was a senior at Pendleton High School, hit face-first. Head trauma affected his hearing, so Jeremy started wearing a hearing aid, though his pitch didn’t seem to suffer.

In college, Jeremy was the quiet yet fun-loving guy who got more than one shouted marriage proposal during Absolutely Nobody concerts. The group disbanded in the early 2000s as the members pursued careers and families. Miller and Pullen sang with Second Chance and The Vchords, which both vied for national a cappella championships.

In recent days, Miller and his wife, Hope, lived in Oregon City, where he worked as a plumber. He helped lead music at church and loved singing and beatboxing with his two sons, Ryan, 8, and Tyler, 4.

In fall of 2013, Miller

started experiencing severe cramps in his side. Doctors diagnosed inoperable cancer and predicted three to six months to live. Enduring chemo cocktails every two weeks to keep his cancer on pause, he outlived the dire forecasts.

“It’s been tough on my family financially,” admitted Jeremy a few days before the benefit concert this fall. “It’s been a hard road.”

Family and friends watched as Jeremy embraced life.

“He faced everything that happened with joy,” said Lindsey, a Heppner farmer. “He showed tremendous strength — he knew what he was called to do.”

As they prepared for the benefit concert, the members of Absolutely Nobody rehearsed with exuberance, the wisecracks flying. Despite the high spirits, everyone knew Jeremy might not be up to the performance. When the night arrived, however, Jeremy took center stage,

looking undaunted.

“The overwhelming support he got made the pain go away,” said Phelan, a Pendleton insurance agent who sang tenor with Absolutely Nobody.

In recent days, as Jeremy’s condition worsened, each of the members of the group traveled to OHSU to bolster their friend. Last week, Pullen and Phelan sat on Jeremy’s bed, talking softly and singing Absolutely Nobody favorites such as “Dream.”

“I started to sing. Tommy joined in. Then Jer,” Pullen said. “He was trying to sing the melody he’d sung for so many years.”

“We sang ‘Dream’ with him one last time,” Phelan said. “He was right in tune. He’s going to be a big singer up there in heaven with perfect pitch.”

Pullen, the group’s bass, said he won’t forget Jeremy. “He was the music man. He loved music,” Pullen said. “Singing was breath.”

Jeremy’s parents Dave

and Nancy and his siblings are struggling with the loss. Dave’s voice is rough with heartbreak as he thinks of the son who sang so beautifully and faced his cancer with such bravery.

“I’ll miss him being here with me,” Dave said. “He was my best friend.”

A memorial service is scheduled for 7 p.m. Thursday at the Portland Christian Center at 5700 S.W. Dosch Road in Portland. A gathering for out-of-town friends will take place the next morning with details to be given at the service.

Contact Kathy Aney at kane@eastoregonian.com or call 541-966-0810.

DATA: More than 10 million people were affected by health care data breaches last year

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“There is no such mechanism with Social Security numbers and our identity,” said Avivah Litan, a cybersecurity analyst at the research firm Gartner. “You can’t just call the bank and say, ‘Give me all the money they stole from my identity.’ There’s no one to call.”

So being that the data is so vital to protect, health care companies are taking every precaution to defend against hackers, right?

Not necessarily. The FBI warned health care companies a year ago that their industry was not doing enough to resist cyberattacks, especially compared with companies in the financial and retail sectors, according to Christopher Budd of security software company Trend Micro. The warning came in a government bulletin to U.S. companies that cited research by a nonprofit security institute, he said.

David Damato, managing director at FireEye, the security company hired by Anthem to investigate the breach.

But the stolen data was not encrypted. An Anthem spokeswoman said encryption wouldn’t have helped, because the intruder used high-level security credentials to get into the company’s system.

Still, several experts say encryption does help.

Encryption programs can be tuned so that even authorized users can view only one person’s account, or a portion of an account record, at a time, said Martin Walter, senior director at cybersecurity firm RedSeal Networks. That makes it harder for an outsider to view or copy a whole stockpile of records.

Even if Anthem’s security had proved invulnerable, the health care system offers several other inviting targets with varying levels of security. Hospitals, labs, clinics and doctor’s offices all can be attacked. Cybersecurity experts say they expect even more health care hacking problems in the future as those layers of the health care system shift their paper files to electronic medical records, a push that has been boosted by federal funding in recent years.

Last year, more than 10 million people in the U.S. were affected by health care data breaches — including hacking or accidents that exposed personal information, such as lost laptops — according to a government database that tracks incidents affecting at least 500 people. That was the worst year for health care hacking since 2011.

Litan estimates that the health care industry is generally about 10 years behind the financial services sector in terms of protecting consumer information. She figures that it may be twice as easy for hackers to get sensitive financial information out of a health care company compared with a bank. Banks, for instance, are more likely to encrypt personal data, which can garble the information if a hacker gets ahold of it. They also are much more likely to use advanced statistical models and behavior analytics programs that can spot when someone’s credit card use suddenly spikes, says Litan, who studies fraud-detection technology. That’s a sign of possible fraud that may be worth investigating.

“There’s a need for that everywhere now,” she said.

Health care companies do have security to protect sensitive patient information. Anthem, the nation’s second-largest health insurer, said last week that hackers broke into a database storing information on 80 million people, including Social Security numbers. The company had “multiple layers of security” in place before the attack, said

“A lot of businesses that didn’t place a premium on security are now placing this incredibly valuable information online,” noted Al Pascual, director of fraud and security at the consulting firm Javelin Strategy & Research.

The experience of a big company like Anthem does not bode well for the broader health care industry, said Budd at Trend Micro.

“They have resources to throw at cyber security,” he said. “And if someone with nearly unlimited resources can be breached like this, then it raises serious questions as to what’s at risk.”

Beth Knutsen still worries about someone using her Social Security number more than a year after she was told that some old patient files of hers had been taken from a doctor’s office in Chicago. The 39-year-old New York resident visited that doctor nearly 20 years ago.

She’s seen no signs of fraud yet, and she still provides her Social Security number when a doctor’s office asks for it — but only because it seems to be required for insurance and billing.

“It’s so scary,” she said. “Who knows what can happen with that information?”

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