

IRS Form 13909:

4) Mr. Michael Hershock, the former Chief Executive Officer (“CEO”) of the nonprofit Pennsylvania Higher Education (“PHEAA”) Foundation (“Foundation”), was fired on March 2, 2009. The dismissal came after Foundation board members became aware of Hershock’s travel expenses when they reviewed records the Patriot News requested.

Mr. Hershock was PHEAA's CEO from 1994 to 2002. PHEAA was set up in 1963 to make student loans more accessible to college students.

A special meeting was convened to discuss Mr. Hershock’s travel expenses. The Board voted unanimously to oust Mr. Hershock from his part-time post that paid \$150,000 a year.

Rep. William Adolph (R-Delaware), a foundation board member and chairman of the Pennsylvania Higher Education Foundation’s board, said he was disappointed by Hershock’s explanations for the travel expenses.

Among the expenses that board members questioned were:

- A \$1,032 hotel bill in 2007 from the Four Seasons Hotel in New York City to meet with potential donors.
- A \$936 flight to Florida in 2007 to meet with foundation board chairwoman Elinor Taylor.
- \$1,360 for a 2005 presentation to the Pennsylvania Community Bankers Association in Alberta, Canada.

In addition to his salary of \$147,000, Mr. Hershock, received \$25,000 in benefits to work 20 to 40 hours a week.

When Hershock retired in 2002 from his position as president and CEO of PHEAA, he received a \$374,850 separation payment for unused sick and vacation leave. (PHEAA, January 6, 2003)

Mr. Hershock was not covered under the American Federation of State, County, and Municipal Employees (“AFSCME”) contract dealing with leave pay, yet he received remuneration for an ineligible benefit. Union employees are only eligible to collect leave-pay up to a maximum number of days, but Mr. Hershock, who was not a union employee, was able to collect well beyond the maximum limit allotted to union employees. According to the Patriot News, “Based on the AFSCME contract, a union employee is eligible for payment for a maximum of 163 unused sick days and allowed to accumulate a maximum of 45 vacation days when they leave state employment.

Based on the maximum number of unused leave days for which the contract allows, Hershock was paid \$1,802 a day for unused leave. That is nearly twice the amount he was paid per day based on his \$245,000 base salary last year." (*Patriot News*, January 8, 2003)

PHEAA spokesman Keith New said, "Hershock 's separation pay was calculated based on the same formula used to determine unused leave pay for state employees covered under the AFSCME contract. However, New "Hershock is not part of that contract and technically did not earn annual sick days or vacation days."

Mr. Hershock also began collecting a state pension of \$222,173 a year, even though a state retiree generally cannot receive a pension nor collect a full-time state salary, said Robert Gentzel a spokesman for the State Employees' Retirement System.

Mr. Hershock's job was to run the foundation created in 2001 by the board of PHEAA, but Foundation board meeting minutes demonstrate that there was no Request for Proposal issued when he was appointed:

"Auditors also found concerns with the performance of the Pennsylvania Higher Education Foundation – PHEAA’s fundraising arm for soliciting private donations. Only 11.4 percent of total contributions to the foundation through June 2007 were from private donors. Wagner said the foundation might have had better fundraising success and saved on costs by substituting an experienced development director for its fundraising consultant, which cost the foundation \$280,000.” (Pennsylvania Department of Auditor General, August 19, 2008)

Mr. Hershock has threatened to sue the Board that fired him on March 2, 2009, and said in a letter from his attorney that he "remains willing to discuss and negotiate a severance package" as allowed by his contract. The letter from his attorney, Walter Cohen of Harrisburg, threatened a lawsuit *if a response isn't received by March 27, 2009.* (Patriot News, March 20, 2009)

I, Eric Joseph Epstein, coordinator of the ***RocktheCapital.org***, respectfully request that the Internal Revenue Service determine:

1) If Mr. Hershock’s \$374,850 separation payment for unused sick and vacation leave was excessive and violated IRS Guidelines.

1b) If the answer to 1a is “yes,” please request Mr. Hershock to return all (or the portion of his separation payment) deemed excessive, with interest.

2a) If Mr. Hershock's state pension of \$222,173 a year is excessive.

2b) If the answer to 2a is “yes,” please request Mr. Hershock to return all (or the portion of his pension) deemed excessive, with interest.

3a) If Mr. Hershock's salary was excessive between the years 2003 and 2009.

3b) If the answer to 3a is "yes," please request that Mr. Hershock return all (or the portion of his separation salary) deemed excessive, with interest.

4a) If Mr. Hershock's travel were expenses excessive between the years 2003 and 2009.

4b) If the answer to 4a is "yes," please request Mr. Hershock return all (or the portion of his separation salary) deemed excessive, with interest.