



September 2, 2014

**To: Austin Kaplan
Chairman
Austin Ethics Review Commission
301 W 2nd Street
Austin, Texas 78701**

**C: Peter Einhorn
Vice Chairman
Austin Ethics Review Commission
301 W 2nd Street
Austin, Texas 78701**

Marc Ott
City Manager
301 W 2nd Street
Austin, Texas 78701

Jannette Goodall
City Clerk
P.O. Box 1088
Austin, TX 78767

**C: Karen Kennard
City Attorney
301 W 2nd Street
Austin, Texas 78701**

**C: Steven Rivas
Principal Consultant
P.O. Box 40973
Austin, Texas 78704**

*VIA EMAIL bc-Austin.Kaplan@austintexas.gov [Kaplan]
VIA EMAIL bc-Peter.Einhorn@austintexas.gov [Einhorn]
VIA FACSIMILE 512-974-2833 [Ott]
VIA EMAIL jannette.goodall@austintexas.gov [Goodall]
VIA FACSIMILE 512-974-2894 [Kennard]
VIA EMAIL steven@rivasgroup.com [Rivas]*

Dear Chairman Kaplan,

This letter includes my sworn Austin City Ethics Review Commission complaint form, with an attached and incorporated Sworn Statement, alleging the respondent, Dr. Fred L. McGhee, a candidate for Austin City Council District 3, has violated City of Austin Ordinance 20080925-79 by printing and mailing a postcard for the purpose of political advertising, without a required disclosure notice. The advertisement includes a sales offer for a book authored by Dr. McGhee whereupon he receives a personal profit from book sales.

Sincerely,


Shaun D. Ireland

(512) 569-9282 ♦ P.O. Box 41064 ♦ Austin, Texas 78704 ♦ ShaunIreland.com

Sworn Complaint to the Austin Ethics Review Commission

To The Honorable Austin Ethics Review Commission:

Comes now, the complainant, Shaun Ireland, an Austin resident, and files this sworn complaint with the Austin Ethics Review Commission ("Commission"). Complainant Shaun Ireland alleges and avers that Respondent, Dr. Fred L. McGhee, a current candidate for Austin City Council District 3, has violated the City of Austin Code of Ordinances by printing and mailing a postcard for the purpose of political advertising, without a required disclosure notice. The Respondent's advertisement included a campaign logo, campaign social media accounts, and a campaign web address. The Respondent's strategic communication also included, on both sides, an advertisement for a book whereupon McGhee would receive a personal monetary profit from book sales. As a result, Complainant maintains that McGhee has violated both City of Austin Code of Ordinances and state law. Complainant respectfully requests that the Commission investigate, hold preliminary and final hearings, recommend a judgment against the respondent, and/or refer this matter to the Public Integrity Unit of the Travis County Office of District Attorney for further action.

I. Jurisdiction. The Ethics Review Commission has duties and responsibilities established by Austin City Code Chapter 2-2 (Campaign Finance) and Chapter 2-7 (Ethics And Financial Disclosure).

A. Relevant Law. The Austin City Code ("Code") provides that candidates must include a notice on all political advertising to comply with city ordinance and state law. In particular, Section 2-2-14 states:

(A) A candidate who signs a campaign contract shall include the following notice in all political advertising: "This campaign has agreed to comply with the contribution and expenditure limits of the Austin Fair Campaign Chapter."

(B) Except to the extent prohibited by the Federal Communications Act, a candidate who chooses not to sign a campaign contract shall include the following notice in all political advertising: "This campaign has not agreed to comply with the contribution and expenditure limits of the Austin Fair Campaign Chapter."

(C) The disclosures required by this section shall be clear and conspicuous:

(1) On printed political advertising, the disclosure shall be printed in sufficient type and size to be clearly readable, in two highly contrasting colors such as dark text on a light background, but in no case smaller than eight point font;

(2) On other forms of political advertising, including internet advertisement, television, and radio, the disclosure shall provide the reader, viewer, or listener with actual notice of the disclosure; and

(3) A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if the placement is easily overlooked.

(D) The requirements of subsections (A) through (C) do not apply to bumper stickers, pins, buttons, pens, apparel, and similar small or impractical items upon which the notice cannot be conveniently printed.

(E) A candidate or other campaign representative who authorizes the publication of political advertising without the notice required by this section commits an offense.

The Commission may find the Respondent has disregarded Austin City Code and state law. Further, the Commission's judgment may include the following penalty as allowed by Chapter 2-2-5 Offenses and Penalty:

(A) Except as provided in Subsection (B), a person who knowingly violates this chapter or a provision of City Charter Article III, Section 8 (Limits on Campaign Contributions and Expenditures) commits a Class C misdemeanor punishable in accordance with Section 1-1-99 (Offenses; General Penalty) by a fine not to exceed \$500. Each expenditure, contribution, or other action in violation of this chapter constitutes a separate offense.

(B) This section does not apply to Article 2 (Voluntary Limitations on Contributions and Expenditures), except as otherwise specifically provided in that article.

(C) The remedies authorized under this chapter are cumulative of other remedies available under state and federal law.

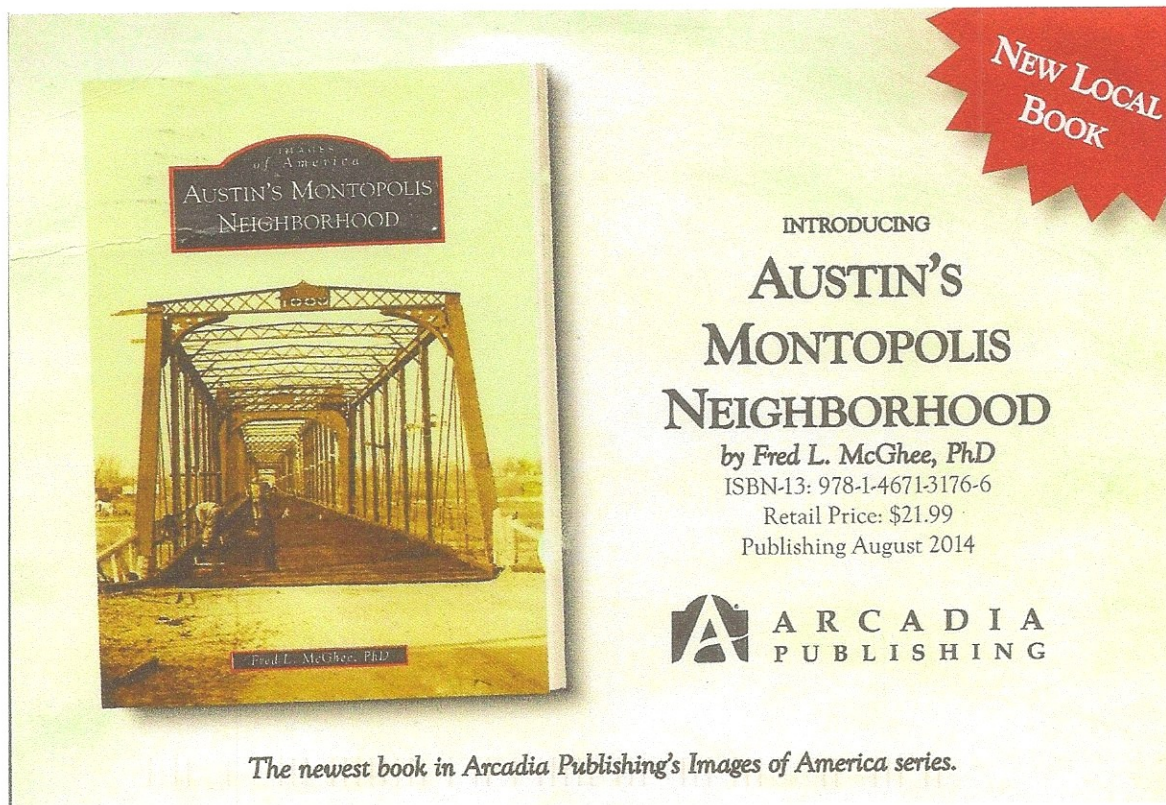
1. Definition of Political Advertising. State law defines "Political Advertising" as a "means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that...", as per the Title 15 § 251.001 of the Texas Elections Code

2. Definition of Strategic Communication. The Code defines "strategic communication" as meaning a communication regarding advertising, campaign strategies, and voter groups between the candidate, candidate's campaign committee, or their agents or employees and any of the persons, agents, or employees of the entity making expenditures.

B. Evidence.

The Respondent's political campaign mailed a postcard for the use of political advertising and strategic communication to voters in District 3. The Commission may review the following two exhibits for evidentiary purposes:

Exhibit A.



As seen on Exhibit I., the political advertising for depicts the Respondent's book titled, "Austin's Montopolis Neighborhood", author's name, ISBN identifier, retail price, date of publishing, and identification of the books publisher.

Further, Exhibit II. does not include the required political disclosure notice as required by Code and state law.

Exhibit II.

Dr. Fred L.
McGHEE
for Austin City Council District 3

Join our city council campaign!

www.fredmcghee.com



www.facebook.com/mcgheefordistrict3



@fred_mcghee

ORDER TODAY!

Retailers contact 888-313-2665 or
sales@arcadiapublishing.com

Individuals shop online at
www.arcadiapublishing.com



Dear Neighbor,

I wrote this book as more than just a trip down memory lane, I also wrote it to help city planners and newcomers to the neighborhood educate themselves about our city's rich legacy. Even neighborhoods known as "Poverty Island" have a patrimony worth protecting.

A people without history is easier to erase from maps and to gentrify out of existence. As your city councilman I will fight to ensure that our priceless heritage will be respected.

Warm Regards,

flm



As seen on Exhibit II., the political advertising includes a postmark date of August 19, 2014, the Respondent's campaign logo, campaign slogan, campaign web address, campaign Facebook account, campaign Twitter account, book sales information, a written acknowledgement from McGhee including his signature.

Further, Exhibit II. does not include the required political disclosure notice as required by Code and state law.

III. Conclusion and Prayer. Complainant Shaun Ireland requests that the Commission review this sworn complaint matter as expeditiously as possible. A city council candidate that is mailing postcards for the dual purpose of political advertising and personal profit is both unethical and unlawful.

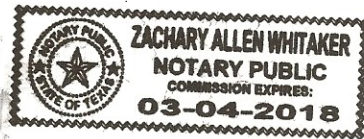
Respectfully submitted,

Shaun Ireland

Shaun Ireland, Affiant
Austin, Texas

STATE OF TEXAS
COUNTY OF TRAVIS

SWORN TO AND SUBSCRIBED before me, a notary public, on this day personally appeared Shaun Dylan Ireland, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.



Zachary Allen Whitaker
Signature of Notary

ZACHARY ALLEN WHITAKER

Printed Name of Notary

3/4/18

My Commission Expires

9-2-14

Date

AUSTIN ETHICS REVIEW COMMISSION
CHAPTER 2-7 CITY CODE

COMPLAINT

NAME OF PERSON(S) FILING COMPLAINT: Shaun Ireland

ADDRESS: P.O. Box 41064, Austin, Texas 78704

PHONE NUMBER: 512-569-9282

[PLEASE FILE A SEPARATE COMPLAINT FOR EACH PERSON COMPLAINED AGAINST]

NAME OF PERSON COMPLAINED AGAINST: Dr. Fred L. McGhee

CITY OFFICE, DEPARTMENT, COMMISSION: Candidate for Austin City Council District 3

ADDRESS: 2316 Thrasher Lane, Austin, Texas 78741

PHONE NUMBER [IF KNOWN]:

[PLEASE LIST EACH VIOLATION SEPARATELY]

I.

SECTION OF ETHICS CODE VIOLATED: City of Austin Code, Campaign Finance §2-2-14

DATE OF ALLEGED VIOLATION: August 19, 2014

ALLEGATIONS ALLEGED TO BE A VIOLATION: McGhee mailed political advertising without disclosure notice.

WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED: See sworn statement with Exhibit I. and II.

II.

ALL THE STATEMENTS AND INFORMATION IN THIS COMPLAINT ARE TRUE AND FACTUAL TO THE BEST OF MY KNOWLEDGE.

DATE: 9/2/2014

Shaun Ireland

COMPLAINANTS SIGNATURE

Shaun Ireland

PRINT NAME

STATE OF TEXAS
COUNTY OF TRAVIS

This instrument was acknowledged, sworn to and subscribed before me by Shaun Dylan Ireland
on the 2nd day of September 2014, to certify which witness my hand and official seal.

Zachary Allen Whitaker
Notary Public in and for the State of Texas

ZACHARY ALLEN WHITAKER

Typed or Printed Name of Notary

