

CITY OF AUSTIN ETHICS REVIEW COMMISSION

JERMAINE A. HOPKINS

Complainant

v.

HUBERT “ART” ACEVEDO

Respondent.

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**Complaint No. 20141212
(Amended)**

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On December 12, 2014, Jermaine A. Hopkins (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) a Sworn Complaint (“the Original Complaint”) against Hubert “Art” Acevedo (“Respondent”). On that date, the City Clerk sent a copy of the Original Complaint and a notice of filing to the City Attorney, the Ethics Review Commission (“the Commission”), the Complainant, and the Respondent.

On December 15, 2014, Commission Staff Liaison and City of Austin Assistant City Attorney Cynthia Tom (“Tom”) issued a Notice of Preliminary Hearing, setting a Preliminary Hearing of the Commission for December 18, 2014, and advising the Respondent and Complainant of procedures for the Preliminary Hearing.

On December 22, 2014, Complainant filed an Amended Sworn Complaint (“the Amended Complaint”), which the City Clerk on that date sent to the City Attorney, the Commission, the Complainant and the Respondent.



On December 29, 2014, Tom issued a Revised Notice of Preliminary Hearing setting a Preliminary Hearing of the Commission for January 5, 2015, on the Amended Complaint and advising the Respondent and the Complainant of procedures for the Preliminary Hearing.

On December 31, 2014, Respondent submitted to Tom a signed statement responding to the Amended Complaint and a statement by Janet De La Rosa (“De La Rosa”), Administrative Supervisor to the Chief of Police. Both statements assert that Respondent and De La Rosa attempted to submit Respondent’s statement of financial information for 2012 electronically but encountered technical difficulties.

II. FINDINGS OF FACT

1. Respondent is the Chief of Police for the City of Austin and held the same position in 2012 and 2013 and at all times since the date of the alleged violation.
2. Complainant alleges that Respondent violated Section 2-7-72, Austin City Code (“Section 2-7-72”) on April 26, 2013, because Respondent failed to file a statement of financial information for 2012 on or before that date.
3. Complainant attached to the Amended Complaint a media report asserting that Respondent had failed to file a statement of financial information for 2012.
4. Complainant also attached to the Amended Complaint copies of Texas Public Information Act requests he submitted to the City of Austin seeking Respondent’s 2012 statement of financial information and the City’s response to that request.
5. Complainant and Respondent were each afforded an opportunity to appear at the Preliminary Hearing in accordance with Chapter 2-7 of the City Code and the



Rules of the Commission. Complainant appeared in person. Respondent did not appear.

III. CONCLUSIONS OF LAW

1. The January 5, 2015, Meeting of the Commission and the Preliminary Hearing were properly noticed in accordance with Chapter 2-7 of the City Code, the Ethics and Financial Disclosure Ordinance (“Chapter 2-7”), and the Texas Open Meetings Act.
2. The Commission has jurisdiction over complaints alleging violations of Chapter 2-2 of the City Code (The Austin Fair Campaign Chapter), Chapter 4-8 of the City Code (Regulation of Lobbyists), Article III, Section 8 of the City Charter, (Limits on Campaign Contributions and Expenditures), Chapter 2-7 of the City Code (Ethics and Financial Disclosure), and Section 2-1-24 of the City Code (Conflict of Interest and Recusal).
3. The Amended Complaint was filed with the City Clerk, was sworn to by Complainant, and identifies the section of the City Code alleged to have been violated, as required by Section 2-7-41 of the City Code.
4. Under Section 2-7-72, certain defined “City Officials,” including the Chief of Police, are required to file a public statement of financial information with the City Clerk for a calendar year in which the official holds a City office. The statement of financial information must be filed by the last Friday in April of the succeeding year.



5. Under Section 2-7-75 of the City Code, a statement of financial information may be filed electronically with the City Clerk “under procedures to be determined by the City Clerk.”
6. Under Section 2-7-44 of the City Code (“Section 2-7-44”), the issue to be considered by the Commission at a Preliminary Hearing is the existence of reasonable grounds to believe that a violation of a provision within the jurisdiction of the Commission has occurred.

IV. DETERMINATION OF THE ETHICS REVIEW COMMISSION

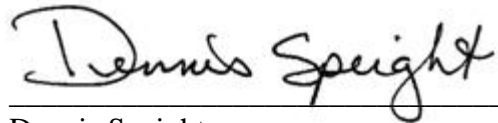
1. The Commission determines that reasonable grounds exist to believe that a violation of Section 2-7-72, a provision within the jurisdiction of the Commission, has occurred as a result of the actions or omissions alleged in the Complaint with respect to filing or non-filing of Respondent’s statement of financial information for calendar year 2012.



V. FINAL HEARING

1. The Commission sets the Amended Complaint for Final Hearing on January 27, 2015, at the time of the Commission's regularly scheduled meeting.
2. The Commission directs its legal counsel to request additional information and the presence of witnesses at the Final Hearing consistent with the Commission's direction from the dais at the Preliminary Hearing.

ORDERED as of this 5th day of January, 2015.

A handwritten signature in black ink that reads "Dennis Speight". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Dennis Speight
Commissioner, Ethics Review Commission

