

CITY OF AUSTIN ETHICS REVIEW COMMISSION

Pinaki Ghosh,

Complainant,

v.

Lemuel Williams,

Respondent.

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COMPLAINT NO. 20160425

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On May 23, 2016 Pinaki Ghosh (“Complainant”) submitted to the Austin City Clerk a Sworn Complaint (“the Complaint”) against Lemuel Williams (“Respondent”), a non-salaried City official. The City Clerk sent a copy of the Complaint and a notice of filing to the City Attorney, the Ethics Review Commission (“the Commission”), the Complainant, and the Respondent.

On June 13, 2016, Commission Executive Staff Liaison and City of Austin Assistant City Attorney Cynthia Tom (“Tom”) issued a Second Revised Notice of Preliminary Hearing, setting a Preliminary before the Commission for June 22, 2016, and advising the Respondent and Complainant of procedures for the Preliminary Hearing.

II. FINDINGS OF FACT

- Currently and at the times stated in the Complaint, Respondent has been a non-salaried official of the City, serving as Chair of the City’s Community Technology and Telecommunications Commission (“CTTC”).
- Complainant alleges that Respondent violated Section 2-1-24 of the City Code (Conflict of Interest, Recusal) (“Section 2-1-24”) and Chapter 2-7

(Ethics and Financial Disclosure) (“Chapter 2-7”). Complainant did not identify the specific sections of Chapter 2-7 he believes Respondent has violated.

- Complainant attached to the Complaint as Exhibits a series of e-mails between Respondent and Mr. Hugh Forrest of South by Southwest Interactive (“SXSW”) involving complimentary badges to the 2016 SXSW event for Respondent and other members of CTTC Board.
- In accordance with Chapter 2-7 and the Rules of the Commission, Complainant and Respondent were each afforded an opportunity to appear at the Preliminary Hearing. Complainant appeared in person. Respondent appeared in person.
- The Complainant addressed the Commission. Respondent also addressed the Commission. Complainant provided the Commission with additional documentation for its review.

III. CONCLUSIONS OF LAW

- The June 22, 2016, meeting of the Commission and the Preliminary Hearing were properly noticed in accordance with Chapter 2-7 and the Texas Open Meetings Act.
- 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 (Ethics and Financial Disclosure), and

Section 2-1-24 (Conflict of Interest and Recusal).

- The Complaint was filed with the City Clerk, was sworn to by Complainant, and it identified one section of the City Code (Sec. 2-1-24) that Respondent is alleged to have violated, as required by Section 2-7-41 of the City Code. The Complaint identified a chapter of the Code (Chapter 2-7) that Respondent is alleged to have been violated, but did not identify sections of the Code within that chapter that Respondent is alleged to have violated.
- Because Respondent is a member of a City Board subject to Chapter 2-1, Respondent is subject to the Conflict of Interest and Recusal provisions of Section 2-1-24. However, Complainant did not identify any agenda item before the CTTC from which he asserts Respondent should have recused himself.
- Because Respondent is a non-salaried City official, he is subject to certain “Standards of Conduct” set out in Section 2-7-62, including subsection 2-7-62 (G):

“No City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official employee knows or should know has been offered with the intent to influence or reward official conduct.”

- When a Complaint refers to a provision of the City Code within the Commission’s jurisdiction but fails to identify the specific Section alleged to have been violated, the Commission at a Preliminary Hearing may elect to review the assertions in the Complaint and a respondent’s statement at

the Preliminary Hearing to assess which Section(s) of the Code, if any, Complaint invokes.

- 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

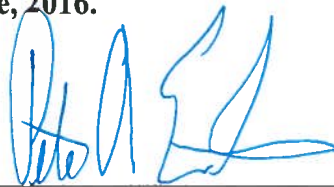
- The Commission determines that reasonable grounds do not exist to believe that a violation of Section 2-1-24, a provision within the jurisdiction of the Commission, has occurred as a result of the actions or omissions alleged in the Complaint.
- The Commission determines that reasonable grounds do not exist to believe that a violation of a Chapter 2-7 provision within the jurisdiction of the Commission has occurred as a result of the actions or omissions alleged in the Complaint. Specifically, reasonable grounds do not exist to believe that a violation of Section 2-7-62 (G) has occurred.

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V. NON-REFERRAL TO FORMAL HEARING

- The Commission will not set the Complaint for a final hearing with respect to the alleged violations.
- The Complaint is DISMISSED.

ORDERED as of this 22nd day of June, 2016.



Peter Einhorn
Chair, Ethics Review Commission

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