

CITY OF AUSTIN ETHICS REVIEW COMMISSION

Nathan Wiebe
Complainant

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Complaint No. 20170217

v.

Ashley Buchanan
Respondent.

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On February 17, 2017, Mr. Nathan Wiebe (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) a Sworn Complaint (“the Complaint”) against Ms. Ashley Buchanan (“Respondent”). On February 17, 2017, the City Clerk sent a copy of the Complaint and a notice of filing to the City Attorney, the Ethics Review Commission (“the Commission”), Complainant, and Respondent.

On March 24, 2017, Commission Executive 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 April 12, 2017, and advising Complainant, Respondent, and Mr. Don Pitts (“Identified Person”) of the procedures for the Preliminary Hearing.

The agenda for the April 12, 2017, meeting of the Commission and Preliminary Hearing in this matter was timely posted.

II. FINDINGS OF FACT

- Respondent is the former Music Program Coordinator in the City of Austin's Economic Development Department (EDD).
- Complainant is Chief of Investigations, Office of the City Auditor. The Complaint alleges that the Respondent violated Austin City Code, Chapter 2-7, which deals

with ethics and financial disclosure, section 2-7-62 (Standards of Conduct), subsection (I), by submitting a fraudulent purchase authorization to pay her boyfriend for work that was not authorized by the City and that was never performed. The Complaint alleges that the Respondent took this action in order to ultimately reimburse herself for expenses she incurred while traveling on City business. The Complaint alleges that none of the expenses at issue were authorized by the City.

- The Complaint alleges that the date of any violation was between May 4, 2015, and June 30, 2015.
- 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 also appeared at the hearing.
- Complainant provided evidence to support the allegation. Respondent acknowledged that she took certain actions to secure reimbursement, but stated that she did so based upon the advice and encouragement of Identified Person, who was her supervisor. She stated she had no intent to violate the ordinance at issue.

III. CONCLUSIONS OF LAW

- The April 12, 2017, 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, 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 of the City Code (Ethics and Financial Disclosure), and Section 2-1-24 of the City Code (Conflict of Interest and Recusal).

- The 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.
- The Complaint alleges a violation of Chapter 2-7 of the City Code (Ethics and Financial Disclosure), specifically Section 2-7-62 (I), which at the time of the allegation read:

(I) No salaried City official or employee shall use his official position to secure a special privilege or exemption for himself or others, or to secure confidential information for any purpose other than official responsibilities.

- Under Section 2-7-44 of the City Code, 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 exist to believe that a violation of Section 2-7-62 (I) of the Austin City Code, a provision within the jurisdiction of the Commission, has occurred as a result of the actions or omissions alleged in the Complaint.

V. FINAL HEARING

- The Commission sets the Complaint for Final Hearing on May 10, 2017.

ORDERED as of the 12th day of April 2017.



Peter Einhorn
Chair, Ethics Review Commission