

CITY OF AUSTIN ETHICS REVIEW COMMISSION

MICHAEL J. GAUDINI,
FOR THE KATHIE TOVO CAMPAIGN
Complainant

v.

JEFFREY L. HAHN, CAMPAIGN
TREASURER OF CENTER FOR
AUSTIN'S FUTURE PAC
Respondent

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Complaint No. 20181105

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On November 5, 2018, Michael J. Gaudini, for the Kathie Tovo Campaign, (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) a Sworn Complaint (“the Complaint”) against Center for Austin’s Future PAC, Jeffrey L. Hahn, Campaign Treasurer (“Respondent”). On November 5, 2018, the City Clerk sent a copy of the Complaint and a notice of filing to the City Attorney, the Chair of the Ethics Review Commission (“the Commission”), Complainant, and Respondent.

The Complaint alleged that the Respondent violated Section 2-2-23(C) of Austin City Code, Chapter 2-2 (Campaign Finance). The Complaint alleged a violation occurred on approximately October 30, 2018 and subsequent days, and that Respondent failed to file an appointment of campaign treasurer 60 days prior to making an expenditure exceeding \$2,500. The Complaint alleged a campaign treasurer appointment was filed by Respondent on October 3, 2018.

On November 28, 2018, a Notice of Preliminary Hearing was issued, which set the preliminary hearing regarding this complaint on December 12, 2018. The notice also advised Complainant and Respondent of the procedures for the Preliminary Hearing. On December 4,

2018, Complainant Gaudini requested a postponement of the preliminary hearing to the next available meeting, which request was granted.

On December 20, 2018, Respondent's counsel requested postponement from the January 9, 2019 meeting, which request was granted.

On January 28, 2019, a Notice of Preliminary Hearing was issued, which set the preliminary hearing regarding this complaint on February 13, 2019.

The agenda for the February 13, 2019 meeting of the Commission and Preliminary Hearing in this matter was timely posted by February 8, 2019. Complainant and Respondent were each afforded an opportunity to appear and present evidence and argument at the Preliminary Hearing in accordance with Chapter 2-7 of the City Code and the rules of the Commission.

II. FINDINGS OF FACT

1. Complainant is Michael J. Gaudini, who appeared at the preliminary hearing.
2. Campaign Treasurer, Jeffrey Hahn, and attorney, Andrew Cates, appeared at the preliminary hearing.

III. CONCLUSIONS OF LAW

1. Under City Code Section 2-7-26, the Commission has jurisdiction over complaints alleging violations of Chapter 2-2 of the City Code (Campaign Finance).
2. 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.
3. City Code Section 2-2-23(c) states:

A general purpose political committee that makes more than 50 percent of its expenditures in a reporting period in connection with a City election, or makes an expenditure of \$2,500 or more in connection with a City election, or intends to do so, shall file with the city clerk as a notice of intent an original or a copy of its current "Appointment of a Campaign Treasurer" not

later than the 60th day before making a contribution or expenditure in connection with a City election. At the written request of the general purpose political committee, the original filing with the city clerk of the "Appointment of a Campaign Treasurer" may serve as a notice of intent to participate in future City elections.

5. 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.


6. The U.S. Fifth Circuit Court of Appeals held that a similar 60-day waiting period in state law was unconstitutional in *Catholic Leadership Coalition of Texas v. Reisman*, 764 F.3d 409, 428-432 (5th Cir. 2014).

IV. DETERMINATION OF THE ETHICS REVIEW COMMISSION

At the conclusion of the preliminary hearing, a motion was made and seconded to dismiss the complaint based on the U.S. Fifth Circuit Court of Appeals decision in *Catholic Leadership Coalition of Texas v. Reisman*. The motion passed on a vote of eight members in favor and one member abstaining. One commissioner recused herself from the hearing.

Therefore, the Commission orders that the complaint be dismissed.

ORDERED as of the 13th day of February, 2019.


Dennis Speight
Vice Chair, Ethics Review Commission

