

CITY OF AUSTIN ETHICS REVIEW COMMISSION

Fred I. Lewis
Complainant

v.

No on Prop J PAC
Respondent

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Complaint No. 20181102

ORDER ON FINAL HEARING

I. PROCEDURAL HISTORY

On November 2, 2018, Mr. Fred I. Lewis ("Complainant") submitted to the Austin City Clerk ("City Clerk") a Sworn Complaint ("the Complaint") against No on Prop J PAC ("Respondent"). On November 2, 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's campaign treasurer.

The Complaint alleged that Respondent violated the Campaign Finance disclosure requirements of City Code Section 2-2-32 (Reporting of Direct Campaign Expenditures) of City Code Chapter 2-2 (Campaign Finance). Specifically, the complaint alleged Respondent failed to timely disclose a \$10,000 contribution from the Real Estate Council of Austin (RECA) to No on Prop J PAC. The Complaint alleged the violation occurred no later than October 25, 2018.

On November 28, 2018, a Notice of Preliminary Hearing was issued, setting a preliminary hearing before the Commission for December 12, 2018. The notice also advised Complainant and Respondent of the procedures for the preliminary hearing. Based on the request of one or more of the parties or an identified person in the complaint, the preliminary hearing was postponed until March 13, 2019.

On March 13, 2019, the Commission conducted a preliminary hearing and determined that reasonable grounds existed to believe a violation within the Commission's jurisdiction had occurred as a result of actions or omissions of Respondent. Following the preliminary hearing, the Commission voted to request witnesses and documentary evidence for the final hearing.

On April 24, 2019, a Notice of Final Hearing was issued setting a final hearing for May 8, 2019; the notice advised Complainant and Respondent of the procedures for the final hearing and for disclosing witnesses and exhibits.

The agenda for the May 8, 2019 meeting of the Commission and the final hearing in this matter was timely posted on May 3, 2019.

II. FINDINGS OF FACT

1. Complainant is Fred I. Lewis.
2. Respondent is No on Prop J PAC.
3. Complainant and Respondent each appeared at the preliminary hearing during the Commission's March 13, 2019 meeting and at the final hearing held during the Commission's May 8, 2019 meeting.
4. At the preliminary hearing and final hearing, Respondent admitted violation of City Code Section 2-2-32.
5. At the final hearing, the parties submitted evidence to support their position on potential sanctions or other action within the Commission's discretion.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over City Code Chapter 2-2 (Campaign Finance).
2. The Complaint was filed with the City Clerk, was sworn to by Complainant, and identified the section of the City Code alleged to have been violated, as required by Section 2-7-41 of the City Code.

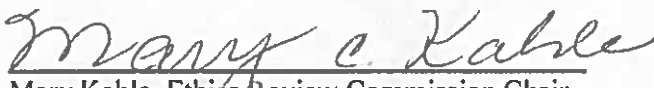
3. Under City Code Section 2-7-45(D), the issue to be considered by the Commission at a Final Hearing is whether a violation within the jurisdiction of the commission has occurred.
4. The Commission must make its final determination based on a preponderance of the credible evidence in the record.

IV. DETERMINATION OF THE ETHICS REVIEW COMMISSION

At the conclusion of the presentation of evidence at the final hearing and after discussion of potential sanctions by the commission, a motion was made and seconded to find that Respondent No on Prop J PAC violated Austin City Code Section 2-2-32 (Reporting of Direct Campaign Expenditures). The motion was approved by unanimous vote of the eight members present. A second motion was approved to: (a) issue a letter of reprimand to the respondent and (b) to not recommend the City Attorney prosecute the violation. The second motion was approved by a vote of 6-2 (with two members opposed and three members absent).

Accordingly, the Commission orders that a letter of reprimand be issued to No on Prop J PAC.

ORDERED as of the 8th day of May, 2019.


Mary Kahle, Ethics Review Commission Chair