

CITY OF AUSTIN ETHICS REVIEW COMMISSION

MONTSERRAT GARIBAY
Complainant

v.

LAURA PRESSLEY
Respondent.

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Complaint No. 20141205

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On December 5, 2014, Montserrat Garibay (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) a Sworn Complaint (“the Complaint”) against Laura Pressley (“Respondent”). On that date, 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 December 10, 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 15, 2014, Tom posted a Notice of Special Called Meeting and Agenda for the Commission for a December 18 Preliminary Hearing.



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II. FINDINGS OF FACT

1. Respondent was a candidate for Austin City Council, District 4, in the City of Austin municipal runoff election of December 16, 2014.
2. Complainant alleges that Respondent violated § 255.006(a), TEX. ELECT. CODE, by entering into a contract with unknown printers to produce campaign materials that “misrepresent Respondent as currently being a City Council Person” by not including the word “for” in a type size required under § 255.006(c)(2), TEX. ELECT. CODE.
3. Complainant alleges that Respondent violated § 255.006(b), TEX. ELECT. CODE, by making campaign communications on Facebook and on her campaign website that are misrepresentations because they do not include the word “for” in a type size required under § 255.006(c)(2), TEX. ELECT. CODE.
4. Complainant provided documents in support of her allegations.
5. Complainant and Respondent were each afforded an opportunity to appear at the Preliminary Hearing in accordance with Chapter 2-7 and each appeared in person.

III. CONCLUSIONS OF LAW

1. The December 18 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 (Campaign Finance), 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 Commission does not have jurisdiction over allegations of violations of the Texas Election Code.
4. Under 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.
5. Under Section 2-7-44, at any time during a Preliminary Hearing, the Commission may dismiss a complaint if it does not allege conduct which would be a violation of a provision within the jurisdiction of the Commission.
6. If the allegations in the complaint concern acts or omissions which are wholly outside the jurisdiction of the Commission, the complaint may be dismissed without affording an opportunity that it be revised and resubmitted.



**IV. DETERMINATION OF
THE ETHICS REVIEW COMMISSION**

1. The Commission determines that reasonable grounds do not exist to believe that a violation of 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 the Respondent's campaign materials, website, and Facebook Page because the provisions of law that Complainant cites are part of the Texas Election Code, which is outside the Commission's jurisdiction.

**V. REFERRAL/NON-REFERRAL TO
FINAL HEARING**

1. The Commission will not set the Complaint for final hearing.
2. The Complaint is DISMISSED without an opportunity for refiling.

ORDERED as of this 18th day of December, 2014.



Peter Einhorn
Vice Chair, Ethics Review Commission



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