

**CITY OF AUSTIN ETHICS REVIEW COMMISSION**

**Nathan Wiebe,  
Complainant**

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**Complaint No. 20170217**

v.

**Ashley Buchanan,  
Respondent**

**ORDER ON FINAL 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.

On April 12, 2017, the Commission conducted a Preliminary Hearing and determined that reasonable grounds existed to believe that a violation of Section 2-7-62 (I) of the Austin City Code had occurred as alleged in the Complaint as a result of actions or omissions of Respondent. The Commission set this matter for a Final Hearing to be held on May 10, 2017.

On April 24, 2017, Tom issued a Notice of Final Hearing for May 10, 2017. The May 10, 2017, Notice advised Complainant and Respondent of the procedures for the Final Hearing. Pursuant to Section 2-7-45 of the Austin City Code, the April 24, 2017, Notice directed both the Complainant and Respondent to appear at the Final Hearing. The April 24, 2017, Notice directed that any evidence to be submitted by Complainant and Respondent be submitted no later than 5:00 p.m. on Monday, May 1, 2017. On April 24, 2017, Tom issued a letter to Identified Person requesting his attendance to testify as a witness at the Final Hearing. A subpoena was also served on Identified Person directing him to appear and testify as a witness at the Final Hearing.

On May 4, 2017, Respondent submitted documentary evidence and requested that it be allowed into evidence at the Final Hearing, even though it was submitted past the deadline. At the discretion of the Chair, the request was granted and the documents were provided to the members of the Commission.

The agenda for the May 10, 2017, meeting of the Commission and Final Hearing in this matter was timely posted on May 5, 2017.

## **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 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 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 Final Hearing in accordance with Chapter 2-7 of the Austin 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 provided documentary evidence as well as the testimony of witnesses in support of her defense.
- The Commission asked questions of Complainant, Respondent, and the witnesses present.
- Although served with a subpoena directing him to appear at the hearing, Identified Person did not appear.

### III. CONCLUSIONS OF LAW

- The May 10, 2017, meeting of the Commission and the Final Hearing were properly noticed in accordance with Chapter 2-7 of the Austin 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 Austin City Code (The Austin Fair Campaign Chapter), Chapter 4-8 of the Austin City Code (Regulation of Lobbyists), Article III, Section 8 of the Austin City Charter, (Limits on Campaign Contributions and Expenditures), Chapter 2-7 of the Austin City Code (Ethics and Financial Disclosure), and Section 2-1-24 of the Austin City Code (Conflict of Interest and Recusal).
- The Complaint was filed with the City Clerk, was sworn to by Complainant, and identified the provisions of the Austin City Code alleged to have been violated, as required by Section 2-7-41 of the Austin City Code.
- The Complaint alleges a violation of Chapter 2-7 of the Austin 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 2-7-45 of the Austin City Code, the issue to be considered by the Commission at a Final Hearing is whether a violation of the cited section of the

Austin City Code has occurred. The Commission shall make its final determination based on a preponderance of the credible evidence in the record.

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

- A motion was made and seconded to find that the Respondent did not violate Section 2-7-62 (I), Austin City Code, as alleged in the complaint. However, there was not an affirmative vote by six members of the Commission to find that the Respondent did not commit the alleged violation.
- A motion was made and seconded to find that the Respondent violated Section 2-7-62 (I), Austin City Code, as alleged in the complaint. However, there was not an affirmative vote by six members of the Commission to find that the Respondent committed the alleged violation.
- The Commission orders that the complaint be dismissed.

**ORDERED as of the 10th day of May, 2017.**



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Peter Einhorn  
Chair, Ethics Review Commission