

**CITY OF AUSTIN ETHICS REVIEW COMMISSION**

<b>Nathan Wiebe/Jason Hadavi</b>	§	
Complainant	§	
	§	<b>Complaint No. 20170425</b>
v.	§	
	§	
<b>Margo Frasier</b>	§	
Respondent	§	

**ORDER ON FINAL HEARING**

**I. PROCEDURAL HISTORY**

On April 25, 2017, Mr. Nathan Wiebe (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) a Sworn Complaint (“the Complaint”) against Ms. Margo Frasier (“Respondent”). On April 25, 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 June 14, 2017, Commission Executive Liaison and City of Austin Assistant City Attorney Cynthia Tom issued a Notice of Preliminary Hearing, setting a Preliminary Hearing of the Commission for August 9, 2017, and advising Complainant and Respondent of the procedures for the Preliminary Hearing.

On August 9, 2017, the Commission conducted a Preliminary Hearing and determined that reasonable grounds existed to believe that a violation of Section 2-7-62(J) of the Austin City Code (“City Code”) had occurred as a result of actions or omissions of Respondent, as alleged in the Complaint. The Commission ordered that this matter be set for a Final Hearing on November 8, 2017.



Due to witness and evidentiary issues, the Final Hearing was postponed and the Commission met on November 8, 2017, to discuss those issues.

The Final Hearing was ultimately re-scheduled for March 21, 2018.

On February 7, 2018, the Commission met to discuss witness and evidentiary issues related to the Complaint.

On February 23, 2018, Commission Staff Liaison Sue Palmer issued a Notice of Final Hearing, setting a Final Hearing for March 21, 2018, and advising Complainant and Respondent of the procedures for the Final Hearing.

The agenda for the March 21, 2018, meeting of the Commission and Final Hearing in the matter was timely posted on March 16, 2018.

## **II. FINDINGS OF FACT**

1. Respondent is the former City of Austin Police Monitor.
2. Complainant was Chief of Investigations, Office of the City Auditor. The Complaint alleges that the Respondent violated City Code, Chapter 2-7, which deals with ethics and financial disclosure, section 2-7-62 (Standards of Conduct), subsection (J), by using City facilities, personnel, equipment or supplies for private purposes related to her secondary employment as a consultant.
3. The Complaint alleges that the violations occurred between July 2014 and April 25, 2017.



4. Complainant and Respondent each appeared in accordance with Chapter 2-7 of the City Code and the Rules of the Commission. Respondent was represented by counsel.
5. Complainant provided evidence in support of the allegations. Respondent provided evidence in defense of her activities, and asserted that such activities did not constitute a violation of the code provision that formed the basis of the Complaint.

### **III. CONCLUSIONS OF LAW**

1. The March 21, 2018, meeting of the Commission and the Final 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.
2. 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).
3. 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.
4. The Complaint alleges a violation of Chapter 2-7 of the City Code (Ethics and Financial Disclosure), specifically Section 2-7-62 (J), which reads:



No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

5. Under Section 2-7-45 of the City Code, the issue to be considered by the Commission at a Final Hearing is whether a violation of the cited section of the City Code has occurred. The Commission shall make its final determination based on a preponderance of the credible evidence in the record.

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

The Commission determines that based on a preponderance of the credible evidence in the record no violation of Section 2-7-62 (J) of the Austin City Code has occurred as a result of the actions or omissions of the Respondent as alleged in the Complaint, and that no further action be taken with respect to the Complaint.

**ORDERED as of the 21st day of March, 2018.**



Peter Einhorn  
Chair, Ethics Review Commission

