

CITY OF AUSTIN ETHICS REVIEW COMMISSION

Mark Littlefield

Complainant

v.

A. Jo Baylor,

Our Mobility Our Future PAC

Respondent

§

§

§

§

§

§

§

§

Complaint No. 20201007-AJB

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On October 7, 2020, Mark Littlefield (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) twelve sworn complaints (“the Complaints”) against A. Jo Baylor, Our Mobility Our Future PAC (“Respondent”). On October 7, 2020, the City Clerk’s Office sent a copy of the complaints 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 Respondent A. Jo Baylor, Our Mobility Our Future PAC committed the following violations of City Code Chapter 2-2 (Campaign Finance): (1) on September 25, 2020, a violation of City Code Section 2-2-32 (Reporting of Direct Campaign Expenditures) by failure to report a campaign expenditure regarding a \$650 advertising expense paid to PinPoint Action LLC; (2) on September 25, 2020, a violation of City Code Section 2-2-32 by failure to report a campaign expenditure regarding a \$4,400 advertising expense paid to Peel Inc.; (3) on September 26, 2020, a violation of Code Section 2-2-33 (Disclosure Statement required) in regard to a paid automated phone call to voters; (4) on September 27, 2020, a violation of City Code Section 2-2-33 by payment for a website, <https://ourmobilityourfuture.com> and failing to include a disclosure statement of Our Mobility Our Future PAC’s five largest contributors.

On November 2, 2020, a Notice of Preliminary Hearing was issued to the parties that set the preliminary hearing before the Commission for November 18, 2020 and advised Complainant and Respondent of the procedures for the hearing.

The agenda for the November 18, 2020 meeting of the Commission and preliminary hearing in this matter was timely posted on November 13, 2020. The preliminary hearing was properly noticed in accordance with Chapter 2-7 of the City Code and the Texas Open Meetings Act. The Commission has jurisdiction over City Code Chapters 2-2 (Campaign Finance) and 2-7 (Ethics and Financial Disclosure).

On November 18, 2020, the Commission held a preliminary hearing and determined that the Respondent acknowledged violating City Code Section 2-2-32 (Reporting of Direct Campaign Expenditures) and Section 2-2-33 (Disclosure Statement Required) of Chapter 2-2 (Campaign Finance).

II. FINDINGS OF FACT

1. Complainant appeared at the hearing held virtually via Cisco Webex.
2. Respondent A. Jo Baylor, Our Mobility Our Future PAC, provided an affidavit prior to the preliminary hearing. Counsel of record and representative of Our Mobility Our Future PAC, Roger Borgelt, appeared at the preliminary hearing and advised the Commission that Ms. Baylor and Our Mobility Our Future PAC admitted the violations alleged in the complaint.

III. CONCLUSIONS OF LAW

1. Under City Code Section 2-7-44(B), “[i]f the respondent agrees that a violation has occurred, the respondent may so state and the commission may consider the appropriate sanction or prosecution.”
2. Under Code Section 2-7-26, the Commission has jurisdiction of alleged violations of City Code Chapter 2-2 (Campaign Finance).
3. Under Code Section 2-7-49, the Commission may consider the violation’s severity, frequency, or intentional nature, and may draft and publish (as a sanctions option) a letter of reprimand to a respondent found to have violated a provision of Chapter 2-2 (Campaign Finance). Under Code Section 2-7-48(C)(3), a reprimand is the appropriate sanction when the Commission finds a violation has been committed intentionally or through disregard of the chapter.

4. City Code Section 2-2-32 (Reporting of Direct Campaign Expenditures) addresses the reporting requirements for an expenditure in the aggregate of \$500 or more during the current election reporting cycle and describes the deadline for reporting.

5. City Code Section 2-2-33 (Disclosure Statement Required) states in part:

“(A) Except as provided by subsections (C) and (D), in addition to any other disclosure statement required by law, a person making the expenditure for a political advertisement, electioneering communication, or express advocacy, paid for in whole or in part by a direct campaign expenditure, using funds other than funds in a segregated bank account must conspicuously disclose on the communication the names of the five largest contributors who have each made contributions in an aggregate amount of \$500 or more to the person making the direct campaign expenditure during the current election reporting cycle.

(B) Except as provided by subsections (C) and (D), in addition to any other disclosure statement required by law, a person making the expenditure for a political advertisement, electioneering communication, or express advocacy, paid for in whole or in part by a direct campaign expenditure, using exclusively funds in a segregated bank account must conspicuously disclose on the communication the names of the five largest contributors to the account who have each made contributions in an aggregate amount of \$500 or more to the person making the direct campaign expenditure during the current election reporting cycle.”

“(E) The disclosure required by this section shall be clear and conspicuous:

- (1) on printed material, the disclosure shall be printed in sufficient type and size to be clearly readable, in two highly contrasting colors such as dark text on a light background, but in no case smaller than eight point font; and
- (2) on other forms of communication, including internet advertisement, television, and radio, the disclosure shall provide the reader, viewer, or listener with actual notice of the disclosure.

(F) A disclosure is not clear and conspicuous if it is difficult to read, view, or hear, or if the placement is easily overlooked.”

IV. DETERMINATION OF THE ETHICS REVIEW COMMISSION

At the conclusion of the presentations of the parties, a motion was made and seconded to find that a violation within the jurisdiction of the Commission has occurred based admission of counsel of record of unintentional violations of both Code provisions. The motion passed on a unanimous vote of the ten members present.

The Commission determined that the appropriate sanction for Respondent’s violation is a Letter of Reprimand under Section 2-7-48(C)(3) of the Austin City Code. A motion in support of a letter of reprimand was made and seconded and passed by a vote of ten in favor and none opposed (of the ten members present).

Accordingly, the Commission orders that a letter of reprimand be issued to Respondent, A. Jo Baylor, Our Mobility Our Future PAC.

ORDERED as of the 18th day of November 2020



Luis Soberon
Chair, Ethics Review Commission