

ARKANSAS ETHICS COMMISSION

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July 22, 2016

Hon. Asa Hutchinson
Governor
State Capitol, Suite 250
Little Rock, Arkansas 72201

Re: Case No. 2016-CO-032

Dear Governor Hutchinson:

On April 14, 2016, the Ethics Commission mailed you a certified letter containing a copy of the citizen complaint filed against you in the above-referenced case. In that letter, you were notified that an investigation was being commenced regarding the issue of whether or not you violated Ark. Code Ann. § 7-1-103(a)(2)(A)(i) in your capacity as Governor by devoting any time or labor during usual office hours toward the campaign of any other candidate for office in connection with appearing at two campaign events in support of State Senator Eddie Joe Williams on or about Monday, February 29, 2016.

The statutory provision in question, Ark. Code Ann. § 7-1-103(a)(2)(A)(i), provides as follows:

It shall be unlawful for any public servant, as defined in § 21-8-402, to devote any time or labor during usual office hours toward the campaign of any other candidate for office or for the nomination to any office.

The meaning of this particular provision was addressed in Advisory Opinion No. 2002-EC-005, which was issued by the Ethics Commission on May 17, 2002. Therein, the Commission noted that “[o]n its face, Ark. Code Ann. § 7-1-103 (a)(2)(A) prohibits a public servant from devoting time or labor to someone else’s campaign during usual office hours.” The Commission went on to conclude, however, that “the prohibition does not apply to situations in which a public servant has taken vacation or other personal leave to devote time or labor to campaign activities.” Finally, it is noted that, over time, the Commission’s staff has advised public servants, including elected officials, that they should take vacation or other personal leave when they intend to devote time or labor to campaign activities during usual office hours.

Please be advised that the results of staff's investigation were presented to the Commission for a determination concerning probable cause at its regular monthly meeting held on today's date. After duly considering both the results of the investigation and the applicable law, the Commission decided, by a vote of 3-0, with Commissioner Hampton abstaining and Commissioner Trusty not present, that the complaint should be **DISMISSED**.

Evidence gathered during the course of the investigation reflected that elected officials are not required to keep records of the time they work and that they do not actually accrue leave time. However, the evidence reflected that you notified your staff in advance that you would be out of the office on the day that you attended the campaign events for the re-election of State Senator Eddie Joe Williams. In addition, those events were placed on your office calendar as personal meetings.

Based upon the foregoing and in keeping with Advisory Opinion No. 2002-EC-005, the Commission concluded that there was insufficient evidence to support a finding of probable cause that you committed a violation of Ark. Code Ann. § 7-1-103(a)(2)(A)(i) by devoting any time or labor during usual office hours toward the campaign of any other candidate for office in connection with appearing at the two campaign events in question.

In accordance with Ark. Code Ann. § 7-6-218(b)(1)(C), this letter serves as notice of the Commission's final action together with the reason for such action. This letter is a public document and a copy is being sent to the Complainant, Matthew Campbell, and to your attorney, Kevin Crass, to notify them of the outcome of the proceedings.

If you should have any questions or comments regarding this matter, please do not hesitate to contact us.

Sincerely,



Graham F. Sloan
Director

- cc: Matthew Campbell, Complainant
Post Office Box 7469
Little Rock, Arkansas 72217
- cc: Kevin Crass, Attorney for the Respondent
400 W Capitol Ave
Little Rock, AR 72201