

defeat of a legislative question shall file with the Arkansas Ethics Commission financial reports as required by §§ 7-9-407 – 7-9-409.”

4. With regard to expenditures made by a legislative question committee, Ark. Code Ann. § 7-9-407(2)(ii) provides for the disclosure of the “total amount of expenditures made during the period covered by the financial report”. In addition, Ark. Code Ann. 7-9-407(3) provides for the disclosure of the “name and street address of each person to whom expenditures totaling one hundred dollars (\$100) or more were made, together with the date and amount of each separate expenditure to each person during the period covered by the financial report and the purpose of the expenditure.”

5. On September 13, 2011, the Commission received a complaint against the Respondent. The essential allegation of the complaint was that the Respondent “did not identify specific campaign expenses as the law intends – only payment to a conduit organization to defeat disclosure.”

6. On September 15, 2011, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify it that an investigation was being commenced concerning the allegation of the complaint. The letter was sent to the Respondent through its Treasurer, Buckley O’Mell, and went on to state that the focus of the investigation would be whether or not the Respondent violated the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters (Ark. Code Ann. § 7-9-401 *et seq.*) by failing to properly disclose expenditures in connection with its campaign to expressly advocate the passage of a three-eighths cent City of Little Rock temporary sales tax and five-eighths cent City of Little Rock permanent sales tax presented to voters

in the form of a legislative question at an election which was to be held on September 13, 2011.

7. On September 16, 2011, staff presented the preliminary results of its investigation to the Commission and was instructed to complete the investigation. On that same date, the Commission sent the Respondent a letter, via first class mail, notifying it of the Commission's decision.

8. On October 21, 2011, the Commission considered the results of staff's investigation and determined, by a vote of 4-0, with Commissioner Minix not present, that probable cause existed for finding that the Respondent violated Ark. Code Ann. § 7-9-407(3). The finding of probable cause was supported by evidence gathered during the course of the investigation which reflected that the Respondent hired a consulting firm to expressly advocate the passage of the ballot measures in question but did not disclose expenditures which the consulting firm made on behalf of the Respondent. At this preliminary stage of the proceedings, the Commission read the phrase "each person to whom expenditures totaling one hundred dollars (\$100) or more were made" to require not only disclosure of expenditures made by the Respondent, but also disclosure of expenditures made by the consulting firm retained by the Respondent to expressly advocate the passage of a ballot measure.

9. October 24, 2011, the Commission sent the Respondent a letter, via first class mail, notifying the Respondent of the Commission's finding of probable cause. In accordance with the Commission's Rules of Practice and Procedure, said letter contained a written Offer of Settlement proposing that the Respondent be issued a Public Letter of Caution for committing an unintentional violation of Ark. Code Ann. § 7-9-407(3) by

failing to list each person to whom expenditures totaling one hundred dollars (\$100) or more were made on its behalf by the consulting firm. The Respondent was given ten (10) days to either accept the written Offer of Settlement or request a public hearing before the Commission.

10. By letter dated November 3, 2011, the Respondent's attorney, Kevin A. Crass, notified the Commission that the Respondent was requesting that the matter be set for a public hearing. At that point, the Commission was no longer bound by the terms of the Offer of Settlement.

11. On November 4, 2011, the Commission sent the Respondent's attorney a letter, via first class mail, confirming receipt of the Respondent's request for a public hearing. On December 5, 2011, the Commission sent the Respondent a letter, with a courtesy copy to the Respondent's attorney, via first class mail, which gave notice that a public hearing would be held on December 16, 2011. Said letter contained a separate written notice providing the information required in Ark. Code Ann. § 25-15-208(a)(2).

12. Buckley O'Mell, Treasurer for the Respondent, appeared with the Respondent's attorney, at the public hearing which was held on December 16, 2011. Said hearing was conducted in accordance with Ark. Code Ann. § 25-15-213.


13. Testimony and other evidence presented at the public hearing reflected that the Respondent did report the payments it made to the consulting firm which it hired to advocate the passage of the ballot measures in question but that it did not report the expenditures which the consulting firm made in connection with such advocacy.

14. Based upon the facts and the law, the Commission found, by a vote of 4-0, with Commissioner Johnson recusing, that the complaint should be dismissed. The

Commission's decision was based upon a finding that Ark. Code Ann. § 7-9-407(3), as currently written, did not require the Committee for Little Rock's Future to report expenditures which were made by the consulting firm it hired to advocate the passage of the ballot measures in question.

IT IS, THEREFORE, CONSIDERED, DECIDED and ORDERED by the Commission that the complaint against the Respondent, Committee for Little Rock's Future, should be and is hereby dismissed.

IT IS SO ORDERED this 9th day of January, 2012



PAUL F. DUMAS, Vice Chairman
Arkansas Ethics Commission