

ARKANSAS ETHICS COMMISSION

Robert McCormack
Chairman

Sharon K. Trusty
Vice Chairman

Sybil Jordan Hampton
Tony Juneau
Ashley Driver Younger

501 Woodlane, Suite 301N
Post Office Box 1917
Little Rock, Arkansas 72203-1917
(501) 324-9600 Fax (501) 324-9606
Toll Free (800) 422-7773

Graham F. Sloan
Director

Jill Rogers Barham
Drew Blankenship
Raymond Boyles
Staff Attorneys

Teresa Keathley
Teresa J. Jones
Directors of Compliance



March 18, 2016

Hon. Dennis Milligan
Treasurer of State
6523 Caribbean Drive West
Benton, Arkansas 72019

Re: Case No. 2016-CO-008

Dear Mr. Milligan:

On February 16, 2016, the Ethics Commission mailed you a certified letter containing a copy of the citizen complaint filed against you in the above-referenced case. The essential allegation of the complaint was that you "traveled to Iowa on January 27 or 28, 2016, to assist with...the Mike Huckabee presidential campaign in Iowa. In doing so, [you] devot[ed] time during normal business hours to [Mr.] Huckabee's campaign on January 28 and 29, as well as February 1...."

In the February 16th letter, you were notified that an investigation was being commenced regarding the issue of whether or not, in your official capacity as Treasurer of State, you violated 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 traveling to and from Iowa on January 27, 28, and/or February 1, 2016, to assist with the Mike Huckabee presidential campaign in Iowa. That statute 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.

Hon. Dennis Milligan
Treasurer of State
March 18, 2016
Page 2

Please be advised that the preliminary results of staff's investigation were presented to the Ethics Commission at its regular monthly meeting on today's date. At that time, the Ethics Commission decided, by a vote of 3-0, with Commissioners Juneau and Younger having recused, to **DISMISS** this complaint. The Ethics Commission's decision was based upon a finding that, although the term "candidate" is not specifically defined in Ark. Code Ann. § 7-1-103(a)(2)(A)(i), it is defined in both Ark. Code Ann. § 7-6-201(2) and § 200(b) of the Ethics Commission's Rules on Campaign Finance & Disclosure ("RCF&D") to mean "any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office[.]" In turn, the term "public office" is defined in Ark. Code Ann. § 7-6-201(16) and § 200(v) RCF&D to mean "any office created by or under authority of the laws of the State of Arkansas or of a subdivision thereof that is filled by voters, *except a federal office[.]*" (emphasis added)

By rule, the Ethics Commission has previously adopted a definition of the term "candidate" which excludes an individual who is seeking nomination for or election to a federal office. Upon enacting regulations, an agency is bound by them. Service v. Dulles, 354 U.S. 363, 388 (1957). See also Flynn v. Board of Certified Court Reporter Examiners, 279 S.W.3d 75, 77 (2008) (A governmental entity must strictly comply with its own rules and regulations); Stueart v. Arkansas State Police Comm'n, 329 Ark. 46, 50-51 (1997) (It has become axiomatic that an agency is bound by its own regulations).

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

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

Sincerely,



Graham F. Sloan
Director

cc: Matthew Campbell

ARKANSAS ETHICS COMMISSION

Robert McCormack
Chairman

Sharon K. Trusty
Vice Chairman

Sybil Jordan Hampton
Tony Juneau
Ashley Driver Younger

501 Woodlane, Suite 301N
Post Office Box 1917
Little Rock, Arkansas 72203-1917
(501) 324-9600 Fax (501) 324-9606
Toll Free (800) 422-7773



Graham F. Sloan
Director

Jill Rogers Barham
Drew Blankenship
Raymond Boyles
Staff Attorneys

Teresa Keathley
Teresa J. Jones
Directors of Compliance

March 18, 2016

Hon. Leslie Rutledge
Attorney General
Post Office Box 144
Little Rock, Arkansas 72203

Re: Case No. 2016-CO-009

Dear Attorney General Rutledge:

On February 16, 2016, the Ethics Commission mailed you a certified letter containing a copy of the citizen complaint filed against you in the above-referenced case. The essential allegation of the complaint was that you “traveled to Iowa on January 27 or 28, 2016, to assist with...the Mike Huckabee presidential campaign in Iowa. In doing so, [you] devot[ed] time during normal business hours to [Mr.] Huckabee’s campaign on January 28 and 29, as well as February 1....”

In the February 16th letter, you were notified that an investigation was being commenced regarding the issue of whether or not, in your official capacity as Attorney General, you violated 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 traveling to and from Iowa on January 27, 28, and/or February 1, 2016, to assist with the Mike Huckabee presidential campaign in Iowa. That statute 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.

Hon. Leslie Rutledge
Attorney General
March 18, 2016
Page 2

Please be advised that the preliminary results of staff's investigation were presented to the Ethics Commission at its regular monthly meeting on today's date. At that time, the Ethics Commission decided, by a vote of 3-0, with Commissioners Juneau and Younger having recused, to **DISMISS** this complaint. The Ethics Commission's decision was based upon a finding that, although the term "candidate" is not specifically defined in Ark. Code Ann. § 7-1-103(a)(2)(A)(i), it is defined in both Ark. Code Ann. § 7-6-201(2) and § 200(b) of the Ethics Commission's Rules on Campaign Finance & Disclosure ("RCF&D") to mean "any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office[.]" In turn, the term "public office" is defined in Ark. Code Ann. § 7-6-201(16) and § 200(v) RCF&D to mean "any office created by or under authority of the laws of the State of Arkansas or of a subdivision thereof that is filled by voters, *except a federal office[.]*" (emphasis added)

By rule, the Ethics Commission has previously adopted a definition of the term "candidate" which excludes an individual who is seeking nomination for or election to a federal office. Upon enacting regulations, an agency is bound by them. Service v. Dulles, 354 U.S. 363, 388 (1957). See also Flynn v. Board of Certified Court Reporter Examiners, 279 S.W.3d 75, 77 (2008) (A governmental entity must strictly comply with its own rules and regulations); Stueart v. Arkansas State Police Comm'n, 329 Ark. 46, 50-51 (1997) (It has become axiomatic that an agency is bound by its own regulations).

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

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

Sincerely,



Graham F. Sloan
Director

cc: Matthew Campbell