

CHALMERS PAK & BURCH, LLC
ATTORNEYS AT LAW

1300 PENNSYLVANIA AVE NW #190-612
WASHINGTON, DC 20004

5805 STATE BRIDGE RD - #G77
JOHNS CREEK, GEORGIA 30097

PHONE: 770-630-5927

FAX: 866-716-6089

EMAIL: dchalmers@cpblawgroup.com

RECEIVED
Campaign Finance Commission

FEB 01 2016

Post Marked Date
Jan 29 2016

January 29, 2016

VIA EMAIL and U.S. MAIL

Robert Lane
Staff Attorney
Government Transparency and Campaign Finance Commission
200 Piedmont Ave. Se
Suite 1402 - West Tower
Atlanta, GA 30334

Re: In the Matter of William "Chip" Rogers
Case No. 2015-0069

Dear Mr. Lane:

This law firm represents former Senator Chip Rogers ("Respondent"). This letter responds to the complaint filed against Respondent by William Perry in the above-referenced matter (the "Complaint"). Respondent denies the allegations in the Complaint, and submits that there are not reasonable grounds to believe that the Government Transparency and Campaign Finance Act, O.C.G.A. § 21-5-1 *et seq.* (the "Act") has been violated.

(1) The Complaint Fails to Comply with the Commission's Rules. As an initial matter, the Complaint should be dismissed because it fails to satisfy Rule 189-2-.03(1)(d). That rule states that a complaint must contain "[a] clear and concise statement of the facts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the Commission." *Id.* The Complaint does not contain a clear and concise statement of facts. In particular, it fails to identify any of the expenses that were allegedly disclosed improperly. While there is a reference in the Complaint to "\$21,000 in expenses," none of the expenses at issue is identified. As such, the Complaint fails to comply with the Commission's rules, and it should be dismissed for that reason.

(2) Certain of the Allegations May be Time-Barred. It also appears that a number of the allegations in the Complaint are time-barred. The Complaint cites certain alleged violations on disclosure reports that Respondent filed on December 2, 2012. Pursuant to O.C.G.A. § 21-5-13, any action related to those reports would have to be commenced within three years after

January 29, 2016

Page 2

that date. The Act provides that, in the case of a third party complaint, an action is commenced when a complaint is “accepted by the Commission in compliance with Code Section 21-5-7.”

In this case, while it appears that the Complaint was signed on December 2, 2015, the Commission’s time stamp on the top of the Complaint Form suggests that it was “postmarked” and mailed to the Commission on that date. If it was postmarked on December 2, 2015, it presumably was not received and accepted by the Commission on that same date. Given that the Act requires that the Commission “accept” a complaint by the deadline, and given that the Act must be strictly construed in favor of Respondent,¹ in order to be timely a complaint must actually be delivered to the Commission and accepted by that date. In this case, if the Complaint was actually received by the Commission after December 2, 2015, it was untimely as to the allegations involving the reports filed on December 2, 2012. Respondent respectfully requests that the Commission clarify whether the Complaint was mailed or hand-delivered and when it was actually received in the Commission’s office. Respondent also respectfully requests to be provided with a copy of the mailing envelope if it was mailed to the Commission.

(3) The Allegations Related to Improper Disclosure of Deferred Payments and Indebtedness Must be Dismissed. The Complaint also contends that three amended disclosure reports filed by Respondent on December 2, 2012, in particular, the amended reports for the reporting periods ending December 31, 2009, March 31, 2010 and June 30, 2010, violated O.C.G.A. §§ 21-5-34(b)(1)(B) and (b)(1)(C) because Respondent supposedly failed to provide required information concerning various deferred payments and campaign debt. This allegation fails for two reasons.

The first reason is that, in filing the Complaint, Mr. Perry apparently overlooked the addendum that was filed with each report. In each such addenda, the report clearly states that the campaign’s debt is owed to the candidate, and it also explains the basis for each deferred payment referenced on each report. As a factual matter, each report clearly provides all of the information required by the Act. It appears that Mr. Perry simply did not see it.

The second reason is that, as to the indebtedness allegation, the Complaint misstates the law. The Complaint contends that Respondent violated O.C.G.A. § 21-5-34(b)(1)(C) because the report did not identify Respondent as a person providing an “extension of credit.” Section 21-5-34(b)(1)(C), however, spells out the requirements for reporting a contribution that consists of an advance of credit. In particular, it states this:

When a contribution consists of a loan, advance, or other extension of credit, the report shall also contain the name of the lending institution or party making the advance or extension of credit and the names, mailing addresses, occupations, and

¹ State Ethics Comm’n v. Moore, 214 Ga. App. 236, 237-38, 447 S.E.2d 687, 689 (1994).

January 29, 2016

Page 3

places of employment of all persons having any liability for repayment of the loan, advance, or extension of credit; and, if any such persons shall have a fiduciary relationship to the lending institution or party making the advance or extension of credit, the report shall specify such relationship.

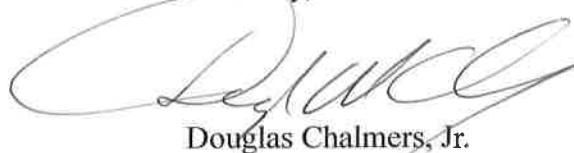
O.C.G.A. § 21-5-34(b)(1)(C).

In this case, Respondent did not make any contributions to his campaign in the relevant reporting periods. To the contrary, the campaign simply owed Respondent significant amounts of money, a debt which was properly disclosed in the indebtedness section of the reports. As such, the allegation must be dismissed for this additional reason as well.

(4) Respondent is Planning on Giving Remaining Funds to Charity, and Then Filing Disclosure Reports to Close Out Both of His Campaign Committees. The Complaint also alleges that Respondent has not filed disclosure reports in recent years since leaving public office. On this issue, Respondent has requested that a review of his campaign financial records be conducted, that remaining funds be donated to charity - notwithstanding the fact that Respondent himself continues to be owed a significant amount of money - and that final reports and termination statements be filed for each campaign committee (one for the House of Representatives and one for the Senate). We anticipate having this completed in the near future.

(5) Conclusion. For the foregoing reasons, Respondent denies that there are reasonable grounds to believe that he has violated the Act with respect to the bulk of the allegations in the Complaint. Respondent also expressly reserves all defenses available under applicable law. If you have any questions, please let me know.

Sincerely,



Douglas Chalmers, Jr.

5805 State Bridge Rd #577
Johns Creek GA 30097

Robert Lane

Staff Attorney

Government Transparency + Campaigns

Finance Commission

200 Piedmont Ave SE

Sto. 1402 - West Tower

Atlanta, GA 30334



FP US POSTAGE
\$01.20[®]
Mailed From 30097
01/29/2016
031A 0004182084