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MAR 25 2022

ARKANSAS ETHICS  
COMMISSION

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**BEFORE THE ARKANSAS ETHICS COMMISSION**

**In Re: Katherine Fry  
Respondent**

**Case Nos. 2021-CO-012, 2021-CO-015,  
and 2021-CO-025 (Consolidated)**

**FINAL ORDER**

Came for a final adjudication hearing on March 18, 2022, the complaints filed in these consolidated cases against the Respondent, Katherine Fry, and based upon due consideration of both the evidence presented at that hearing and the applicable law, the Arkansas Ethics Commission (hereinafter the "Commission") hereby makes the following findings of fact and conclusions of law:

1. The Commission has jurisdiction over this matter pursuant to Ark. Code Ann. § 7-6-218.
2. The Respondent is a citizen of the State of Arkansas who, at all times relevant to this case, was a Dyer City Council member and a City of Dyer employee.
3. The Commission is charged with enforcing Ark. Code Ann. § 21-8-304(a) which provides as follows:
  - (a) No public servant shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that are not available to others except as may be otherwise provided by law.

**CASE NO. 2021-CO-012**

4. On August 5, 2021, the Commission received a complaint against the Respondent in her capacity as a Dyer City Council member and a City of Dyer employee (Case No. 2021-CO-012). Briefly restated, the pertinent allegations of that complaint were as follows:

(a) The Respondent abstained on the reading of an Ordinance 2020-11-24-02 brought to the Council by then council member Robert Porter to rescind an ordinance.

(b) When a motion was made to adopt the Ordinance 2020-11-24-02, the Respondent voted “no”.

(c) In late June, 2021, the Respondent, city employee Tammy Coombes, Recorder/Treasurer Lynn Hubbard, and council member Rhonda Rowell conducted a meeting in regard to updating the city’s employee handbook.

(d) Marilyn S. Kiser [the complainant herein] emailed a FOIA request to Mayor Brown, Recorder/Treasurer Lynn Hubbard, and the Respondent as a city employee and council member for a copy of the camera footage for Monday, June 21, 2021 from 4:00 p.m. to 6:00 p.m.

(e) The footage reveals the Respondent being very involved in that meeting.

5. On August 13, 2021, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify her that an investigation was being commenced concerning the allegations set forth above. The letter went on to state that the focus of the investigation with regard to those allegations would be whether or not she violated Ark. Code Ann. § 21-8-304(a).

6. On August 20, 2021, staff presented the preliminary results of its investigation to the Commission at its regular monthly meeting and was instructed to complete the investigation. The Respondent was notified of the Commission's decision by letter dated August 20, 2021.

7. On February 8, 2022, the Commission sent the Respondent a letter, via first-class mail, to notify her that the results of the investigation would be presented to the Commission at its regular monthly meeting on February 18, 2022, for purposes of determining whether or not probable cause existed for the finding of a violation.

**CASE NO. 2021-CO-015**

8. On August 12, 2021, the Commission received a complaint against the Respondent in her capacity as a Dyer City Council member and Dyer City Clerk (Case No. 2021-CO-015). Briefly restated, the pertinent allegations of that complaint were as follows:

(a) On November 24, 2020, former Alderman Robert Porter brought an ordinance before the council to rescind Ordinance No. 2016-09-27-01 that was passed to allow the Respondent to serve on the council and be an hourly employee for the city.

(b) The Respondent abstained on the reading of the rule.

(c) When the Respondent realized it was going to pass, she then voted on the motion to put into action which resulted in a tie that the former Mayor Bill Morse had to break.

(d) This action was brought before the council and City Attorney Sean Brister by citizen Marilyn Kiser in the meeting on May 25, 2021, at which time the council denied any wrongdoing by the Respondent and stated that it was not a conflict of interest.

9. On August 24, 2021, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify her that an investigation was being commenced concerning the allegations set forth above. The letter went on to state that the focus of the investigation with regard to those allegations would be whether or not she violated Ark. Code Ann. § 21-8-304(a).

10. On September 17, 2021, staff presented the preliminary results of its investigation to the Commission at its regular monthly meeting and was instructed to complete the investigation. The Respondent was notified of the Commission's decision by letter dated September 17, 2021.

11. On February 8, 2022, the Commission sent the Respondent a letter, via first-class mail, to notify her that the results of the investigation would be presented to the Commission at its regular monthly meeting on February 18, 2022, for purposes of determining whether or not probable cause existed for the finding of a violation.

#### **CASE NO. 2021-CO-025**

12. On September 30, 2021, the Commission received a complaint against the Respondent in her capacity as a Dyer City Council member and Dyer City Clerk (Case No. 2021-CO-025). Briefly restated, the pertinent allegations of that complaint were as follows:

(a) On November 24, 2020, the Respondent voted on Ordinance No. 2020-11-24-02 which was presented by then council member Robert Porter.

(b) The Respondent processes city payments and processes her own payroll to deposit in her own account early.

(c) The Respondent participated in a study session of the employee handbook committee made up of council member Rhonda Rowell, Clerk Tammy

Coombs, and Recorder/Treasurer Lynn Hubbard. This meeting constituted a legal meeting that was not posted.

(d) The Respondent then lied to the council along with Rhonda Rowell in the July 2021 meeting, saying she left the minutes from the meeting on November 24, 2020, the CD of the late office visit, and the thumb drive of the employee handbook meeting she attended.

(e) The Respondent also has met with Recorder/Treasurer Lynn Hubbard late evenings to meet in the dark in an unauthorized meeting to work on computer.

(f) The Respondent's campaign was run by Mike Morrell and Brenda Morrell. Police officer Chris Martin saw the Morrells putting her signs out and she voted on a lawsuit pertaining to the Morrells.

13. On October 8, 2021, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify her that an investigation was being commenced concerning the allegations set forth above. The letter went on to state that the focus of the investigation with regard to those allegations would be whether or not she violated Ark. Code Ann. § 21-8-304(a).

14. On October 15, 2021, staff presented the preliminary results of its investigation to the Commission at its regular monthly meeting and was instructed to complete the investigation. The Respondent was notified of the Commission's decision by letter dated October 22, 2021.

15. The October 22, 2021, letter also notified the Respondent that during the preliminary course of the investigation, the Complainant clarified to the Commission that

allegation number four (4) was stated incorrectly, and that allegation number four (4) would now read:

The Respondent then lied to the council along with Rhonda Rowell in the July 2021 meeting, with both of them saying that the Respondent left shortly after the meeting started. A recording of the handbook meeting places the Respondent at the meeting for nearly its whole duration.

16. On February 8, 2022, the Commission sent the Respondent a letter, via first-class mail, to notify her that the results of the investigation would be presented to the Commission at its regular monthly meeting on February 18, 2022, for purposes of determining whether or not probable cause existed for the finding of a violation.

#### **CONSOLIDATED CASE**

17. On February 18, 2022, the results of the investigations in Case Nos. 2021-CO-012, 2021-CO-015, and 2021-CO-025 were presented to the Commission for probable cause determinations. Having considered the issues presented in all three (3) of these cases, the Commission found that the consolidation of the cases was appropriate for case management purposes, the issues in each being sufficiently related and the facts to be determined being the same or similar in each case. The Order of Consolidation was entered on February 18, 2022.

18. On February 18, 2022, the Commission also considered the results of staff's investigations in the now consolidated cases and decided by a vote of 3-0, with Commissioners Fletcher and Eastwood not present, that probable cause existed for finding that the Respondent violated Ark. Code Ann. § 21-8-304(a) in her capacity as a Dyer City Council member and Dyer City Clerk by participating in the vote on Ordinance 2020-11-24-02, an ordinance that would have

directly impacted her ability to serve as both a Dyer City Council member and a City of Dyer employee.

19. On February 23, 2022, the Commission sent a letter to the Respondent, via first-class mail, notifying her of the Commission's decision that probable cause existed for finding that the Respondent violated Ark. Code Ann. § 21-8-304(a) in her capacity as a Dyer City Council member and Dyer City Clerk by participating in the vote on Ordinance 2020-11-24-02, an ordinance that would have directly impacted her ability to serve as both a Dyer City Council member and a City of Dyer employee.

20. In accordance with the Commission's Rules of Practice and Procedure, the February 23, 2022, letter contained a written Offer of Settlement with the proposed outcome being the issuance of a Public Letter of Caution and the imposition of a Two Hundred Fifty Dollar (\$250.00) fine.

21. Pursuant to the terms of the written Offer of Settlement, the Respondent had ten (10) days to either sign and return the offer or request a public hearing. The written Offer of Settlement went on to state in the event that she did neither of those things, this matter would proceed to a final adjudication hearing.

22. The Respondent did not respond to the written Offer of Settlement in a timely fashion and, on March 8, 2022, the Commission sent the Respondent a letter, via first-class mail, notifying her that a final adjudication hearing would be held on March 18, 2022. Said letter contained a separate written notice of final adjudication hearing providing the information required in Ark. Code Ann. § 25-15-208(a)(2).

23. The Respondent did not appear at the final adjudication hearing which was held during confidential session at the Commission meeting held on March 18, 2022. Said hearing was conducted in accordance with Ark. Code Ann. § 25-15-213.

24. At the hearing, the following exhibits were introduced into evidence:

- Exhibit “1” - Probable Cause Reports
- Exhibit “2” - Order of Consolidation
- Exhibit “3” - Consolidation letters sent to Respondent and to the Complainants, enclosing a copy of the Order of Consolidation
- Exhibit “4” - Written Offer of Settlement
- Exhibit “5” - Notice of Final Adjudication Hearing
- Exhibit “6” - Letters transmitting Notice of Final Adjudication Hearing to the Respondent and to the Complainants
- Exhibit “7” - City of Dyer City Council Meeting Minutes for November 24, 2020, which includes the the proposed Ordinance 2020-11-24-02
- Exhibit “8” - Ordinance 2016-09-27-01
- Exhibit “9” - The Respondent’s August 23, 2021, response to the Commission concerning the complaint filed by the Complainant Marilyn S. Kiser
- Exhibit “10” - The Respondent’s August 30, 2021, response to the Commission concerning the complaint filed by the Complainant Evie Goff
- Exhibit “11” - The Respondent’s November 4, 2021, response to the Commission concerning the complaint filed by the Complainant Veronica Robins
- Exhibit “12” - Recording of the Respondent’s sworn statement taken on September 16, 2021



25. At the conclusion of the final adjudication hearing, the Commission conducted its deliberations and then returned to public session. When it returned to public session, the Commission voted on the following matter:

A motion was made by Commissioner Eastwood and seconded by Commissioner Fletcher to find that the Respondent violated Ark. Code Ann. § 21-8-304(a) in her capacity as a Dyer City Council member and Dyer City Clerk by participating in the vote on Ordinance 2020-11-24-02, an ordinance that would have directly impacted her ability to serve as both a Dyer City Council member and a City of Dyer employee, and shall be issued a Public Letter of Caution and fined Three Hundred Dollars (\$300.00). The motion passed by a vote of 4-0, with Commissioner Johnson not present.

26. The Respondent committed a violation of Ark. Code Ann. § 21-8-304(a) in her capacity as a Dyer City Council member and Dyer City Clerk by participating in the vote on Ordinance 2020-11-24-02, an ordinance that would have directly impacted her ability to serve as both a Dyer City Council member and a City of Dyer employee.

27. With respect to the Respondent's violation of Ark. Code Ann. § 21-8-304(a), the Commission found that a Public Letter of Caution shall be issued and that a fine of Three Hundred Dollars (\$300.00) shall be imposed and be due and payable within thirty (30) days from the entry of this Order.

**IT IS, THEREFORE, CONSIDERED, DECIDED and ORDERED** by the Commission that the Respondent, Katherine Fry, shall be found to have violated Ark. Code Ann. § 21-8-304(a) in her capacity as a Dyer City Council member and Dyer City Clerk; that the Respondent shall be issued a Public Letter of Caution; and that the Respondent shall be fined Three Hundred Dollars (\$300.00), with that amount due and payable within thirty (30) days from the entry of this Order.

**IT IS SO ORDERED** this 25<sup>th</sup> day of March, 2022.



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LORI KLEIN, Chairman  
Arkansas Ethics Commission