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910 West Second Street, Suite 100
Post Office Box 1917
Little Rock, Arkansas 72203-1917
(501) 324-9600 Fax (501) 324-6606
Toll Free (800) 422-7773

Graham F. Sloan
Director

Todd Elder
Senior Staff Attorney

Jill Rogers Barham
Staff Attorney

Terena Kesthley
Director of Compliance



December 19, 2013

Hon. Mark A. Darr
Lieutenant Governor
State Capitol – Suite 270
Little Rock, Arkansas 72201

Re: Case Nos. 2013-CO-025 and 2013-CO-026

Dear Lt. Governor Darr:

On September 4 and 6, 2013, the Ethics Commission mailed you two letters containing copies of the citizen complaints filed against you in the above-referenced cases. In those letters, the Commission notified you that an investigation was being commenced regarding the issues of whether or not you violated Ark. Code Ann. §§ 7-6-203(g) and/or 7-6-207(b)(1)(A) – (I) in both cases and whether or not you also violated Ark. Code Ann. §§ 7-1-103(a)(3)(A), 7-6-203(f), 7-6-203(h)(5), 7-6-206, 7-6-219, 21-1-404 and/or 21-8-304(a) in Case No. 2013-CO-026, all in your capacity as Lieutenant Governor and as a candidate for that office during the 2010 election cycle. Those particular statutory provisions and the allegations with which they correspond were set forth in the notice letters.

By letter dated November 22, 2013, you were notified that the scope of the investigation had been expanded to also include the issues of whether or not you violated (i) Ark. Code Ann. § 21-8-304(a) by using your position to obtain mileage reimbursements from the State of Arkansas for travel to and from your home in Springdale and your office at the State Capitol in Little Rock and/or by using your position to have an employee in your office drive you from Fayetteville to Little Rock on or about March 23, 2012; and (ii) Ark. Code Ann. §§ 7-6-203(a)(2)(A) and 7-6-219(a)(2) by accepting campaign contributions in excess of the two thousand dollars (\$2,000) campaign contribution limit from certain contributors for purposes of retiring your campaign debt from the 2010 election cycle. The names of those contributors are Matt Keil, Wesley Hana Goodson, and John Goodson.

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Please be advised that the results of staff's investigation were presented to the Commission for a determination concerning probable cause at the Commission meeting held on December 18, 2013. After considering both the results of the investigation and the applicable law, the Commission decided, by a vote of 4-0, with Commissioner Bird having recused, that probable cause exists for finding that you committed violations of the following statutory provisions:

- (i) Ark. Code Ann. § 7-6-203(g) by making personal use of \$31,572.74 of your campaign funds;
- (ii) Ark. Code Ann. § 7-6-203(a)(2)(A) and Ark. Code Ann. § 7-6-219(a)(2) by exceeding the \$2,000.00 campaign contribution limit for debt retirement by accepting \$6,000.00 with respect to the contributions made by Matt Keil, Wesley Hana Goodson, and John Goodson in equal amounts of \$2,000.00 each;
- (iii) Ark. Code Ann. § 7-6-203(f) by accepting \$5,720.91 in campaign contributions after the amount needed to retire your 2010 campaign debt had been raised;
- (iv) Ark. Code Ann. § 7-6-203(h)(5) by accepting \$5,720.91 in campaign contributions after the November 2nd election for purposes other than retiring your 2010 campaign debt;
- (v) Ark. Code Ann. § 7-6-206 by failing to maintain sufficient records of all of the expenditures he made during the 2010 debt retirement campaign and make those records available to the Commission;
- (vi) Ark. Code Ann. § 7-6-207(b)(1)(E) and (H) by failing to itemize 6 loan repayments (totaling \$9,200.00), 18 itemized expenditures (totaling \$15,267.29), \$3,098.40 in nonitemized expenditures and provide a complete address for each payee and to disclose \$16,215.26 as the correct total of all nonitemized expenditures on your debt retirement Campaign Contribution and Expenditure ("C&E") reports;
- (vii) Ark. Code Ann. § 7-6-207(b)(1)(D) by failing to report the receipt of a nonmoney contribution from Strong Arkansas PAC in the amount of \$185.61 on his debt retirement C&E report filed for the 4th quarter of 2012;

- (viii) Ark. Code Ann. § 7-6-207(b)(1)(C) by failing to disclose on your debt retirement C&E reports the principal place of business, employer, or occupation for all of the itemized contributors;
- (iv) Ark. Code Ann. § 7-6-219(c) by failing to file a debt retirement C&E report for the 3rd quarter of 2013 disclosing a loan repayment in the amount of \$1,500.00;
- (x) Ark. Code Ann. § 21-3-304(a) by making personal use of at least \$3,532.60 for expenses charged to your state-issued credit card;
- (xi) Ark. Code Ann. § 21-3-304(a) by receiving at least \$3,577.56 in compensation from the State of Arkansas for the TR-1s you submitted for travel between Springdale – Little Rock for which you were not entitled to receive and by receiving special treatment from a member of your staff for driving you from Fayetteville – Little Rock on March 27, 2012.

Evidence gathered during the course of the investigation reflected that at the time your final C&E report was filed, your 2010 campaign for Lieutenant Governor still owed you \$114,751.83 of the \$170,310.10 you made to it in personal loans. During your debt retirement campaign, you made loan repayments to yourself totaling \$88,900.00 and made an additional \$31,572.74 in personal expenditures. Together, those amounts caused you to exceed the amount you were entitled to receive from your campaign by \$5,720.91. To the contrary, your debt retirement C&E report for the 2nd quarter of 2013 reflected that you were still owed a balance of \$18,494.93.

There was also evidence that you failed to maintain sufficient records of all of the expenditures you made during the 2010 debt retirement campaign and had several deficiencies on your debt retirement C&E reports. Those deficiencies include not itemizing 6 loan repayments totaling \$9,200.00, not itemizing 18 expenditures of \$100 or more totaling \$15,267.29, not disclosing \$3,098.40 in nonitemized expenditures, and not disclosing \$16,215.26 as the correct cumulative total of all nonitemized expenditures.

The evidence also showed that you used your state-issued credit card to make certain purchases totaling \$3,532.60. It is noted that evidence gathered during the course of the investigation reflected that you had already reimbursed the State of Arkansas all but \$1,136.62 using your personal funds. The \$1,136.62 amount represents one of the checks you had written, but it was never presented to the bank for payment.

With respect to the allegations that you violated the statutory provisions of Ark. Code Ann. §§ 7-1-103(a)(3)(A) and 21-1-404(b), the Commission decided, by the same vote of 4-0, that the evidence did not support a finding of probable cause that you committed

violations of those provisions. With respect to § 7-1-103(a)(3)(A), the evidence did not reflect that you used your state-issued credit card for campaign purposes. Turning to § 21-1-404(b), the Commission read that penalty of perjury provision as being intended for disclosure statements required to be furnished by constitutional officers in accordance with rules, regulations, or policies promulgated by the Director of the Department of Finance and Administration.

In accordance with Section VI (15) of the Commission's Rules of Practice and Procedure, the Commission is hereby issuing you this written Offer of Settlement. The proposed sanctions are the issuance of a Public Letter of Reprimand and the imposition of fines totaling \$11,000.00 (consisting of \$1,000.00 for each one of the eleven (11) issues outlined above). In addition, you will be required to file a debt retirement C&E report for the 3rd quarter of 2013 to reflect a loan repayment in the amount of \$1,500.00 and to file amendments to your debt retirement C&E reports to correct any and all reporting deficiencies identified in issues (vi), (vii), (viii), and (iv).

By signing this Offer of Settlement, you will be agreeing to a finding by the Commission that you violated the statutory provisions outlined in paragraphs (i) -- (xi) in your capacity as Lieutenant Governor and as a candidate for that office during the 2010 election cycle.

Pursuant to Section VI (16) of the Commission's Rules of Practice and Procedure, you have ten (10) days from the date of this letter to accept this Offer of Settlement in writing. To do so, you will need to sign this letter in the space provided below and return it to the Commission either in person or by United States mail. A faxed copy of this Offer of Settlement will not suffice. Payment of the \$11,000.00 fine will be due within thirty (30) days after your signing the Offer of Settlement. You will also be given ten (10) business days after your signing the Offer of Settlement to make the required filings with the Secretary of State's office.

As expressly recognized in the Commission's Rules of Practice and Procedure, the issuance of this Offer of Settlement does not mean that the Commission has found that you committed a violation but rather that probable cause has been found to exist. Please be advised that acceptance of this Offer of Settlement shall be the equivalent of a final adjudication in which the Commission made a finding of a violation and shall constitute final action for purposes of appeal under the Administrative Procedure Act. Moreover, pursuant to Ark. Code Ann. § 25-19-105(h), an accepted Offer of Settlement is a public document.

You are not required to accept this Offer of Settlement. In lieu of accepting this Offer of Settlement, you have the right to request a public hearing before the Ethics Commission. The request must be in writing and received by the Commission no later than ten (10) days from the date of this letter. If sent by United States mail, the postmark of the request shall be used as the effective date.

Hon. Mark A. Darr
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If you neither accept this Offer of Settlement nor request a public hearing before the Commission, then this matter will proceed to a final adjudication hearing. In such event, you will be sent formal notice of the place, date, and time of said hearing. If a public hearing or final adjudication hearing is conducted and a violation is found, the Commission will not be bound by the terms of this offer.

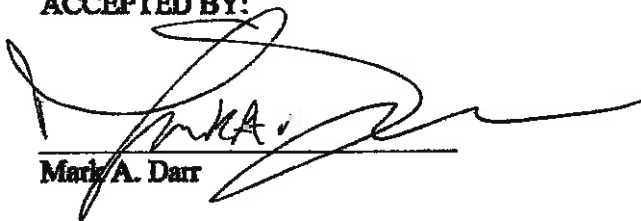
A copy of this settlement offer is being sent to your attorney, Mr. Dan Greenberg. If you or Mr. Greenberg should have any questions or comments, please do not hesitate to contact us.

Sincerely,



Graham F. Sloan
Director

ACCEPTED BY:



Mark A. Darr

12-30-2013
Date

cc: Dan Greenberg
Commissioners