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September 2, 2015

Mr. Matthew Campbell
1202 Main Street - #210
Little Rock, Arkansas 72202

Re: Case No. 2015-CO-016

Dear Mr. Campbell:

This letter serves to confirm receipt of a copy of your citizen complaint against Dennis Milligan. That complaint was filed against Mr. Milligan in his capacity as Treasurer of State and as a candidate for that office during the 2014 election cycle, and in his former capacity as Saline County Circuit Clerk.

It has been determined that said complaint meets the requirements set forth in subparagraph A(3) of Section V of the Ethics Commission's Rules of Practice and Procedure. Accordingly, an investigation is being commenced.

Briefly restated, the essential allegations of your complaint are as follows:

1. Mr. Milligan "hired the spouses of two State Representatives without required approvals...." With regard to this allegation and in connection with Exhibit 1-1, "[o]n [or about] January 14, 2015, [Mr.] Milligan hired Benny Speaks, spouse of District 100 State Representative Nelda Speaks and, on [or about] February 11, 2015, [he] hired Jana Clark, spouse of District 13 State Senator Allan Clark. Both were hired as Treasurer's Assistant IV, [with] Ms. Clark at \$63,239.90 per year and Mr. Speaks at \$52,000 per year.... Mr. Milligan was required [to] obtain approvals from the Joint Budget Committee and Governor before hiring these individuals....Both Ms. Clark's and Mr. Speaks' salaries...exceed th[e] limit" of the salary for "Level 4 of Grade 13 of the state pay plan...."

2. Mr. Milligan “made promises of employment in exchange for campaign work to more than seven individuals, one of which was promised in an effort to avoid a perceived sexual harassment complaint against his chief of staff before the [2014 general] election. After becoming Treasurer, Mr. Milligan wrongfully obtained a waiver from the State Finance Board to keep his [aforementioned] pre-election employment promises.” With regard to this allegation:
 - (a) in connection with Exhibit 2-1, Mr. Milligan “offered to employ James ‘Jim’ Harris, Gary Underwood, Thomas Burchfield, Tony Wittenburg, Holly Beaver[,] Jason Brady, Grant Wallace, and Allison Johnson [to work] in the State Treasurer’s Office in consideration for their ‘volunteer’ work on his campaign”;
 - (b) in connection with Exhibit 2-3, Mr. Milligan hired Lana Davis because “there was significant concern about keeping Ms. Davis happy to preclude [her from] filing...a [sexual harassment] complaint [against Mr. Milligan’s chief of staff] before the election” and, when she was hired, “Ms. Davis...received a \$25,000 annual pay increase”;
 - (c) in connection with Exhibit 2-2, Mr. Milligan obtained “a waiver from the State Board of Finance...on [or about] January 14, 2015, because [Messrs. Harris, Underwood, Brady, and Wallace did not] possess[] required degrees in finance”;
 - (d) in connection with Exhibit 2-4, Mr. Milligan hired Mr. Burchfield as “transition-team employment under the guise of [him] being a Secretary of State employee.” In addition, Mr. Milligan previously “hired Mr. Burchfield as a [Saline County] Deputy Circuit Clerk at \$10.00 per hour, then increased [his] salary to \$12.50 on [or about] February 27, 2014, and to \$15.00 on [on or about] June 1, 2014... [in order to] permit Mr. Burchfield to work fewer hours [as a Saline County employee] and spend the remaining time performing campaign work [for Mr. Milligan’s campaign] without a loss in income”;
 - (e) in connection with Exhibit 2-5, Mr. Milligan allowed Mr. Brady to “handl[e] Mr. Milligan’s campaign schedule from the [Saline County Circuit] Clerk’s office”; and
 - (f) in connection with Exhibit 2-6, Mr. Milligan “increased the hourly wage of Mr. Wittenburg to \$15.00 on [or about] June 1, 2014...so that Mr. Wittenburg could...work fewer hours [as a

Saline County employee] and put up campaign signs” for Mr. Milligan’s campaign;

3. As “Saline County Circuit Clerk [Mr. Milligan used his] publicly furnished office and on-duty public servants for his primary- and general-election campaigns, in some cases permitting abuse of the Saline County sick-leave ordinance to do so...[and by] increas[ing] the pay of two part-time employees to permit them to spend more time putting up campaign signs.” With regard to this allegation:
 - (a) “Saline County Circuit Clerk employees James Harris, Gary Underwood, Thomas Burchfield, and Lana Davis performed campaign duties from the Clerk’s Office during ‘usual business hours,’ and were absent from work for extended periods far exceeding normal lunch period so that they could attend campaign meetings called by Mr. Brady...[and at which] Mr. Milligan was present at most of these meetings”;
 - (b) in connection with Exhibits 3-1 and 3-2, “[o]n [or about] January 22, 2013, Mr. Milligan had on-duty Saline County Clerk employee Lana Davis notarize[] a personal political document for him”;
 - (c) in connection with Exhibit 3-3, on or about “July 23, 2014 [at] 1:26 PM [an] email from Jim Harris was sent during work hours”;
 - (d) in connection with Exhibit 3-4.1, “Mr. Underwood order[ed] a campaign item to be delivered to the Clerk’s office”;
 - (e) in connection with Exhibit 3-4.2, “two e-mails [were] sent during ‘usual business hours’”;
 - (f) in connection with Exhibits 3-4.3 and 3-7, “Mr. Underwood [attended] a campaign meeting in Little Rock on [or about] August 19, 2013; however, according to his time sheet, [he] used 8 hours of sick leave that day...[in] violation of Saline County Ordinance 2013-30”;
 - (g) “Gary Underwood isolate[ed] himself at a desk at the rear of the [Saline County Circuit Clerk’s] office and worked during business hours on a personal lap top computer while wearing a head set and editing a campaign video”;

- (h) in connection with Exhibit 3-5, on or about October 4, 2013, “two conference calls [were held which] involve[ed] Mr. Harris and Mr. Underwood during ‘usual office hours’” of the Saline County Circuit Clerk’s office;
 - (i) in connection with Exhibit 3-6, on or about August 29, 2013, “an email from Mr. Brady [was sent to call] a meeting involving Saline Circuit Clerk employees Jim Harris, Gary Underwood, and Thomas Burchfield at 4:30, ostensibly at the Water Treatment Services...provided campaign office...[and] [a]ll attending the 4:30 meeting would have had to leave work early to attend”;
 - (j) in connection with Exhibit 3-7, “Mr. Harris had a combination of 4 hours annual leave and 28 hours of sick leave...[and] [i]f the sick leave used aligns with dates and times cited for campaign business being conducted, then it constitutes fraudulent use of sick leave”; and
 - (k) in connection with Exhibits 3-8 and 3-9, Mr. Milligan’s “November 2014 campaign report shows two checks written to Impact Management Group...” On or about “October 6, 2014, Mr. Brady wanted a check delivered to Impact Management Group in Little Rock...[and such checks] were given to Mr. Burchfield to deliver...[however,] [t]he time sheets for...Mr. Burchfield [indicate that he] was on duty all day on October 6 through October 8, but was paid for 9 hours on October 7...” It is noted that “[t]he trip from the Clerk’s Office in Benton to Impact Management in Little Rock is a distance of 26 miles and 30 minutes driving time each way traffic permitting.”
4. Mr. Milligan “filed amended campaign finance reports in an effort to conceal the date and purpose of a \$2000 donation from a...donor, yet still reported those funds as being contributed post-election.” With regard to this allegation and in connection with Exhibit 4-1, you perceived that Mr. Milligan either (i) “accepted a maximum \$2,000 campaign contribution check on November 5, 2014, [which was] a day after the General Election, then held the check for a December 23, 2014 deposit[,] and in a January 8, 2015 filing reported the contribution for debt retirement,” or (ii) “actually did receive the check on December 23, 2014, but [in order to] avoid a maximum contribution from a controversial donor being conspicuous as the single donor in the original report, changed the date [of receipt] to November 5, 2014 in the amended campaign report for the period 10/26/2014 through 12/31/2014, which he filed on May 28, 2015. In addition to the

amended entry [reflecting a November 5, 2014] receipt date, it reports the December 23, 2014 contribution as being for the General Election [held on November 4, 2015] and not for debt retirement” as previously disclosed.

5. Mr. Milligan “understated fair market value for using his own business office space for a campaign office, and [he] paid excessive wages to one campaign worker to compensate for a Saline County Clerk employee father’s gratuitous campaign work....” With regard to this allegation and in connection with Exhibits 6-1, 6-2, and 6-3, Mr. Milligan “paid unreasonable and excessive wages to Kurt Underwood, son of Gary Underwood, a Saline County Circuit Clerk employee.... Mr. Gary Underwood provided video and media services to [Mr. Milligan’s] campaign, much of it during ‘usual business hours’ of the Circuit Clerk’s Office, where he was employed.... Primary campaign reports show a total of \$1,900 in-kind services contributed by Mr. Underwood; however, although his campaign work continued, nothing was reported in [Mr. Milligan’s] General Election campaign reports.”
6. Mr. Milligan “knowingly accepted[,] and did not report receiving[,] in-kind campaign management services and office space use, the fair market value of which...exceeded campaign limits” in connection with “permit[ing] his campaign manager, Jason Brady, and campaign worker, Grant Wallace, to use American Cancer Society Cancer Action Network (‘ACSCAN’)...office space, electronic and telephonic communications for his...campaign...from July 2013 continuously through November 2014.” With regard to this allegation and in connection with Exhibits 7-1, 7-2, 7-3, and 7-4, “Mr. Brady...directed a campaign vendor and [Mr. Milligan’s] campaign treasurer to violate state campaign expenditure reporting requirements.” In addition, “[t]here are over 100 business-day e-mail exchanges on campaign business between Mr. Brady, Mr. Milligan, and key campaign staff containing [Mr.] Brady’s ACSCAN e-mail address...signature block, and a confidentiality clause.”
7. Mr. Milligan “intentionally misstated [applicable campaign financial disclosure] in original filings to hide the individuals’ identities, because those individuals were not legally permitted to do the campaign work while on their...employer’s time.” With regard to this allegation:
 - (a) Mr. Milligan “intentionally filed false and misleading Preferential Primary and General Election Campaign Contribution and Expenditure Reports, then [subsequently filed] amendments thereto, in which he failed to report in-kind labor [provided] by Jason Brady, Grant Wallace, Gary Underwood, and Chad Brown”;

- (b) in connection with Exhibit 7-4, Mr. Milligan “did not report \$50,000 ([which is the] estimated fair market value) of in-kind campaign labor performed by Jason Brady during the period July 2013 through November 2014 in his Primary and General Election reports...[and such] in-kind contributions of labor exceeded the \$2,000 [contribution] limit per election per contributor...for both [Mr. Milligan’s] primary and general election campaigns”;
 - (c) in connection with Exhibits 3-5 and 8-1, Mr. Milligan “did not report in-kind [contributions] of ACSCAN office space, electronic mail, office and conference call telephones [used] by campaign workers Mr. Brady and Mr. Wallace during [Mr. Milligan’s] primary and general election campaigns”;
 - (d) Mr. Milligan “did not report in-kind labor contributions by Grant J. Wallace for the period January through November 2014 in Primary and General Election reports. Mr. Wallace provided his services during the usual business hours of his employer and assisted Mr. Brady in managing Mr. Milligan’s Preferential Primary and General Election campaigns for Treasurer of State during business hours from his office, while being paid (approximately) \$50,000 annually by ACSCAN as Grassroots Manager for Arkansas.... Mr. Wallace accessed [his] personal e-mail account using his ACSCAN office computer...during his employer’s usual business hours”;
 - (e) Mr. Milligan “did not report in-kind campaign labor contributions for his primary campaign by Chad Brown, an employee of Water Treatment Systems...where [Mr. Milligan’s] campaign office was located. Mr. Brown provided campaign graphics design during ‘usual business hours’ while being paid by Mr. Milligan as owner of [Water Treatment Systems]”; and
 - (f) Mr. Milligan “intentionally understated the fair market value of office space provided by Water Treatment Systems to avoid exceeding the \$2,000 per campaign maximum”.
8. Mr. Milligan filed “amended filings in a conspiracy to cover-up...violations [concerning]...Facebook advertising, which [campaign expenditures] were personally made by Campaign Manager Brady...with [Mr.] Brady’s personal credit card.” With regard to this allegation:

- (a) in connection with Exhibits 6-1, 7-4, and 9-1, “Mr. Brady instructed Shaun McFarland, owner of Your Ad Team...to submit the invoice to the campaign treasurer, and Mr. Brady was then reimbursed for [the Facebook advertising]. Mr. Brady also instructed [Mr. Milligan’s] campaign treasurer not to show any entry with [Mr.] Brady’s name on it.... Mr. Milligan initially instruct[ed] [his] campaign treasurer not to question Mr. Brady’s instructions...[and] Mr. Milligan reaffirm[ed] that Mr. Brady makes all the financial decisions” concerning his campaign;
- (b) in connection with Exhibit 9-2, 9-3, 9-4, 9-5, 9-6, 9-7, and 9-8, “Mr Brady...in late April [of 2015]...directed [Shaun] McFarland to destroy all campaign e-mails.... Then, in mid-May [of 2015, Mr. Milligan] filed amended campaign reports falsely stating that the...reimbursements to Mr. Brady [for Facebook advertising] [which were] improperly channeled through [Your Ad Team] had been made directly to Mr. Brady.” With regard to such reimbursements, the following is noted;
- “\$308.96 campaign expenditure and reimbursement to Mr. Brady under the guise of a campaign expense incurred by [Your Ad Team]”
 - “invoice MIL 14241 for \$1,752.96...reported in the original campaign report for March 2014...[payment to Your Ad Team] with check # 1276”
 - “amended campaign report for March 2014 filed on May 22, 2015, reported two payments made with check [#] 1276 – one to [Your Ad Team], and one to Mr. Brady [which] incorrect[ly] list[ed] the amount as \$300.80”
 - “unreported campaign expenditure made by Mr. Brady, invoiced, and reported as a [Your Ad Team] expenditure [which] occurred in April 2014. The original April 2014 Campaign report correctly lists a \$2,705.26 payment to [Your Ad Team] with check # 1277. However, the amended April report filed on May 22, 2015...list[ed] two separate payments with the same check payable to [Your Ad Team]”
 - “Facebook receipt [appears to show that] Mr. Brady used a personal credit card to pay \$751.40 for campaign advertising. However, the expenditure is...reported in the original and amended May 2014 report as being made with a debit card”
 - “Facebook credit card purchase by Mr. Brady for \$402.26...[h]owever, there is nothing in the May

2014 campaign report[,] original or amended[,] reporting it”

- (c) in connection with Exhibit 9-7, the following expenditure was disclosed as “being made with a debit card”; however, such expenditure appears to be in excess of the \$50 cash threshold for the payment of a campaign expenditure: “5/19/14 – W/D DBT Card – Facebook Advertisements \$751.40”.
9. With regard to Mr. Milligan’s campaign, “[c]ampaign assets were taken for personal use by campaign workers after the election, and other campaign assets have not been accounted for.” With regard to this allegation and in connection with Exhibits 10-1 and 10-2, “[t]here is no record of disposal of [certain campaign] assets in the final campaign report or a subsequent report.” Such assets include: “Printer Purchase at Best Buy 8/28/13 \$182.47[;] Campaign iPad/Bluetooth Keyboard for Media & Communications Director 8/5/13 \$1043.08[;] Guitar – for Raffle 10/23/13 \$333.50[; and]...another printer, a hard drive, and other related items whose source and disposal are not reported in any campaign report.”
10. “Once Mr. Milligan became an Arkansas Constitutional Officer and campaign e-mails about the violations became public knowledge, [he] conspired to cover them up with the filing of 14...amended campaign finance reports after he had his campaign manager direct a vendor to destroy evidence of campaign reporting violations and payments to him. These amended reports also intentionally omitted the name of Mr. Milligan’s campaign treasurer and also of [his] honorary campaign chairman Mike Huckabee[.]” With regard to this allegation:
- (a) Mr. Milligan filed “fourteen Campaign Contribution and Expenditure Report amendments...intentionally providing false, misleading, or incorrect information”; and
- (b) in connection with Exhibit 3-1, Mr. Milligan’s “exploratory campaign was established on February 25, 2013 and ended on April 30, 2013[; however,] [t]he amended report filed on May 22, 2015 as a ‘first quarter’ regular campaign report for the period 1/1/2014 through 3/31/2013 incorrectly replaced three previously filed exploratory campaign reports for January, February, and March 2013.”
11. Mr. Milligan “used the office fax machine for his personal horse racing business.” With regard to this allegation and in connection with Exhibits 12-1 and 12-2, “[a]s Saline Circuit Clerk, Mr. Milligan used the

county-provided office facsimile machine to send a copy of a racing form...to a business partner.”

12. Mr. Milligan “falsely reported the partial payment of an unpaid invoice for services as a loan repayment so that he would not have to amend several previous filings, despite the fact that the loan[,] if it existed[,] would be illegal on its face.” With regard to this allegation and in connection with Exhibit 13-1, Mr. Milligan “reported a \$1,500 loan repayment to [Your Ad Team] in his July 14, 2015 Campaign Carryover Report.... However, none of [his] Primary or General Election campaign reports reported receiving a loan from [Your Ad Team] or [its owner, Shaun] McFarland.”
13. Mr. Milligan “made color copies of a public relations document prepared by ‘State Treasurer staff’ for distribution at a political party meeting.” With regard to this allegation and in connection with Exhibits 14-1, 14-2, and 14-3, “[o]n [or about] July 17, 2015, Treasurer Chief of Staff James ‘Jim’ Harris placed a copy of [a public relations document entitled *A change maker*] at each of approximately 200 seats at the Republican Party of Arkansas State Committee Meeting at the Hot Springs Convention Center.”

The focus of the investigation with regard to allegation number 1 will be whether or not, in his capacity as Treasurer of State, Mr. Milligan violated Ark. Code Ann. §§ 21-1-402(b) and/or 21-1-407 by hiring the spouses of two constitutional officers without the prior approval of the Joint Budget Committee, the Legislative Council, and the Governor and/or at a salary level that exceeded the amount prescribed by Level 4 of Grade 13 of the state compensation plan, all in connection with Benny Speaks, who is the spouse of Nelda Speaks, State Representative – District 100, and was employed at a salary of \$52,000.00 per year, and Jana Clark, who is the spouse of Alan Clark, State Senator – District 13, and was employed at a salary of \$63,239.90 per year, both of whom were hired as Treasurer’s Assistant IV.

The focus of the investigation with regard to allegation numbers 2(a), (b), (c), (d), and (f) will be whether or not, (i) in his capacity as a candidate for State Treasurer during the 2014 election cycle, Mr. Milligan violated Ark. Code Ann. § 7-1-103(a)(1) by appointing or offering to appoint certain persons to any office or position of trust in consideration of the support or assistance of the person for his candidacy, and/or (ii) in his capacity as Saline County Circuit Clerk, Mr. Milligan violated Ark. Code Ann. § 21-8-304(a) by using or attempting to use his official position to secure special privileges and/or exemptions for himself by increasing the salaries of certain Saline County employees so that they could work fewer hours for Saline County and spend the remaining time performing campaign work for Mr. Milligan’s campaign without a loss in income, all in connection with James “Jim” Harris, Gary Underwood, Thomas Burchfield, Tony

Wittenburg, Holly Beaver, Jason Brady, Grant Wallace, Allison Johnson, and Lana Davis.

The focus of the investigation with regard to allegation number 2(e) will be whether or not, in his capacity as Saline County Circuit Clerk, Mr. Milligan violated (i) Ark. Code Ann. § 7-1-103(a)(3) by using any office or room furnished at public expense to distribute any letters, circulars, or other campaign materials and/or using for campaign purposes any item of personal property provided with public funds, and/or (ii) Ark. Code Ann. § 21-8-304(a) by using or attempting to use his official position to secure special privileges and/or exemptions for himself, all in connection with Jason Brady handling Mr. Milligan's Treasurer of State campaign schedule from the Saline County Circuit Clerk's office.

The focus of the investigation with regard to allegation numbers 3(b), (c), (d), (e), (g), and (h) will be whether or not, in his capacity as Saline County Circuit Clerk, Mr. Milligan violated Ark. Code Ann. § 7-1-103(a)(3) by using for campaign purposes any item of personal property provided with public funds, in connection with James Harris, Gary Underwood, Thomas Burchfield, Lana Davis, and/or Jason Brady concerning the following activities which occurred at the Saline County Circuit Clerk's office: notarization of a personal political document; sending and/or receiving of campaign emails; delivery of a campaign item; work performed concerning a campaign video; and/or conference calls.

The focus of the investigation with regard to allegation numbers 3(a), (f), (i), (j), and (k) will be whether or not, in his capacity as Saline County Circuit Clerk, Mr. Milligan violated Ark. Code Ann. § 21-8-304(a) by using or attempting to use his official position to secure special privileges and/or exemptions for himself, in connection with (i) James Harris, Gary Underwood, Thomas Burchfield, and Lana Davis performing campaign duties from the Saline County Circuit Clerk's office during usual business hours and being absent from work so that they could attend campaign meetings, (ii) Gary Underwood attending a campaign meeting in Little Rock on or about August 19, 2013 in which he used sick leave in order to attend, (iii) James Harris, Gary Underwood, and Thomas Burchfield attending a campaign meeting scheduled for 4:30 p.m. on or about August 29, 2013, which would have required them to leave work early to attend, (iv) James Harris using 28 hours of sick leave for campaign business, and/or (v) Thomas Burchfield being paid for 9 hours of work as a Saline County employee which included a trip to and from Impact Management Group in Little Rock for the purpose of delivering campaign checks.

The focus of the investigation with regard to allegation number 4 will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated Ark. Code Ann. § 7-6-207(b)(1) by failing to provide statutorily-required information in connection with the disclosure of a \$2,000 campaign contribution which appears to reflect a bank receipt deposit date of "12/23/14".

With regard to this allegation, it is noted that Mr. Milligan filed a Campaign Contribution and Expenditure (“C&E”) Report for the period covered “10/1/14 through 12/31/14” on January 8, 2015, which lists the following sole itemized contribution:

<u>Date</u>	<u>Full Name and Mailing Address...</u>	<u>Place of Business/ Employer/Occupation</u>	<u>Amount of Contribution</u>
“12.23.14	Michael Morton 415 Rogers Ave Ft. Smith, AR 72901	Self Employed – Nursing Facilities Owner	Debt \$2,000.00”

This C&E report also discloses that the cumulative total from the contributor in question is “\$2,000.00”.

In addition, it is noted that Mr. Milligan filed an Amended Final C&E Report for the period covered “10/26/14 through 12/31/14” on May 28, 2015, which includes the following itemized contribution:

<u>Date</u>	<u>Full Name and Mailing Address...</u>	<u>Place of Business/ Employer/Occupation</u>	<u>Amount of Contribution</u>
“11/5/14	Michael Morton 415 Rogers Ave Fort Smith, AR 72901	Businessman	General \$2000.00”

The aforementioned Amended Final C&E Report also discloses that the cumulative total from the contributor in question was “\$2000.00”.

The focus of the investigation with regard to allegation number 5 will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated Ark. Code Ann. § 7-6-207(b)(1) by failing to provide statutorily-required information in connection with the fair market value of (i) his campaign office space, (ii) wages paid to Kurt Underwood, and/or (iii) the receipt of in-kind contributions for services concerning video and media provided by Gary Underwood.

The focus of the investigation with regard to allegation numbers 6 and 7(a) through (f) will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated (i) Ark. Code Ann. § 7-6-203(a)(2)(A) by accepting campaign contributions in excess of \$2,000 per election from any person in connection with in-kind contributions for campaign management services provided by Jason Brady and Grant Wallace concerning their use of American Cancer Society Cancer Action Network office space and/or in-kind contributions for graphic design provided by Chad Brown concerning his use of Water Treatment Systems office space, and/or Ark. Code Ann. § 7-6-207(b)(1) by failing to provide statutorily-required information in connection with the receipt of in-kind contributions for campaign management services provided by Jason Brady, Grant

Wallace, Gary Underwood, and Chad Brown, including the use of office space, electronic and telephonic communications, electronic mail, office and conference call equipment, and/or office computers.

The focus of the investigation with regard to allegation numbers 8(a) and (b) will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated Ark. Code Ann. § 7-6-207(b)(1) by failing to provide statutorily-required information in connection with expenditures made by Jason Brady for Facebook advertising.

With regard to this allegation, it is noted that Mr. Milligan filed a C&E report for the period “3/1/14 through 3/31/14” on April 15, 2014, which included the following itemized expenditures:

<u>Name and Address of Supplier/Payee</u>	<u>Description of Expenditure</u>	<u>Date of Expenditure</u>	<u>Amount of Expenditure</u>
“YAT...	Multi Media Services (Feb – balance)	3/10/14	\$1203.51
“YAT...	Multi Media Services (Mar)	3/17/14	\$1752.96”

It is noted that the aforementioned C&E Report included the following categorization of the expenditures in question: “3/10/14 – Media / Facebook services – WD Ck#1270 \$1,203.51” and “3/17/14 – Media / Facebook services – WD Ck#1276 \$1,752.96”.

In addition, it is noted that Mr. Milligan filed an amended C&E Report for the period “3/1/14 through 3/30/14” on May 22, 2015, which included the following additional itemized expenditures:

<u>Name and Address of Supplier/Payee</u>	<u>Description of Expenditure</u>	<u>Date of Expenditure</u>	<u>Amount of Expenditure</u>
“YAT...	Multi Media Services (Mar)	3/17/14	\$1752.96”
* * *			
“YOUR AD TEAM...	MULTIMEDIA SERVICES MARCH 2014	3-17-2014	1,452.16
“YOUR AD TEAM...	REIMBURSEMENT PAID TO JASON BRADY FOR FACEBOOK EXPENSES”	3-17-14	300.80

It is noted that the aforementioned amended C&E Report included the following categorization of the expenditures in question: “~~3/17/14 MEDIA/FACEBOOK~~

~~SERVICES CK 1276 1,752.96~~", "3/17/14 MEDIA/FACEBOOK SERVICES CK 1276 1452.16", and "YOUR AD TEAM CONSULTANT-MEDIA/FACEBOOK/TWITTER CK 1276 3/17/14 MEDIA/ FACEBOOK SERVICES - REIMBURSEMENT OF FACEBOOK EXPENSES PAID BY JASON BRADY 300.80".

The focus of the investigation with regard to allegation number 8(c) will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated Ark. Code Ann. § 7-6-204 by making a campaign expenditure in cash in excess of \$50 in connection with a debit card payment of \$751.40 for Facebook advertisements.

With regard to this allegation, it is noted that Mr. Milligan filed a C&E Report for the period "5/11/14 through 5/20/14" on June 30, 2014, which included the following itemized expenditure:

<u>Name and Address of Supplier/Payee</u>	<u>Description of Expenditure</u>	<u>Date of Expenditure</u>	<u>Amount of Expenditure</u>
"Facebook...	Facebook Advertisements	5/19/14	\$751.40"

It is noted that the aforementioned C&E Report included the following corresponding categorization of the expenditures in question: "5/19/14 – W/D DBT Card – Facebook Advertisements \$751.40".

In addition, Mr. Milligan subsequently filed amended C&E Reports for the same period on July 25, 2014, and May 22, 2015, both of which included the following itemized expenditure:

<u>Name and Address of Supplier/Payee</u>	<u>Description of Expenditure</u>	<u>Date of Expenditure</u>	<u>Amount of Expenditure</u>
"Facebook...	Facebook Advertisements	5/19/14	\$751.40"

It is noted that the aforementioned amended C&E Reports included the following corresponding categorization of the expenditure in question: "5/19/14 – W/D DBT Card – Facebook Advertisements \$751.40".

The focus of the investigation with regard to allegation number 9 will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated Ark. Code Ann. §§ 7-6-207(b)(1), 7-6-207(b)(2), and/or 7-6-203(h) by failing to provide statutorily-required information concerning the disposal of surplus campaign funds in connection with the disposal of campaign assets, including the following: "Printer Purchase at Best Buy 8/28/13 \$182.47[;] Campaign iPad/Bluetooth Keyboard for Media & Communications Director 8/5/13 \$1043.08[;] Guitar – for Raffle 10/23/13 \$333.50[; and]...another printer, a hard drive, and other related items whose source and disposal are not reported in any campaign report."

The focus of the investigation with regard to allegation numbers 10(a) and (b) will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated Ark. Code Ann. §§ 7-6-207(b)(1) and/or 7-6-216 by failing to provide statutorily-required information in connection with fourteen (14) amended C&E Reports and/or disclosure reports filed in connection with his exploratory committee which was “established on February 25, 2013 and ended on April 30, 2013.”

The focus of the investigation with regard to allegation number 11 will be whether or not, in his capacity as Saline County Circuit Clerk, Mr. Milligan violated Ark. Code Ann. § 21-8-304(a) by using or attempting to use his official position to secure special privileges and/or exemptions for himself or certain others in connection with using his office fax machine for his personal horse racing business.

The focus of the investigation with regard to allegation number 12 will be whether or not, in his capacity as a candidate for Treasurer of State, Mr. Milligan violated (i) Ark. Code Ann. § 7-6-207(b)(1) by failing to provide statutorily-required information concerning a \$1,500 loan repayment made to Your Ad Team and/or (ii) Ark. Code Ann. § 7-6-203(h)(4)(C) in connection with the disclosure of carryover funds following the 2014 general election.

With regard to this allegation, it is noted that Mr. Milligan filed a Carryover Fund Reporting Form for the 2014 General Election on July 14, 2015, which included the following itemized expenditure:

<u>Name and Address of Supplier/Payee</u>	<u>Description of Expenditure</u>	<u>Date of Expenditure</u>	<u>Amount of Expenditure</u>
“YAT...	Media Production Loan Repayment	6/16/15	1,500.00”

The focus of the investigation with regard to allegation number 13 will be whether or not, in his capacity at Treasurer of State, Mr. Milligan violated Ark. Code Ann. § 21-8-304(a) by using or attempting to use his official position to secure special privileges and/or exemptions for himself in connection with the production of color copies of a public relations document, entitled *A change maker*, which was prepared by his office staff for distribution at a political party meeting held on or about July 17, 2015.

With regard to the Ethics Commission’s investigation, the following statutes and definitions by rule are noted:

Ark. Code Ann. § 7-1-103(a)(1) (Supp. 2013) provides as follows:

It shall be unlawful for any person to appoint or offer to appoint anyone to any office or position of trust or for any person to influence, attempt to

influence, or offer to influence the appointment, nomination, or election of any person to office in consideration of the support or assistance of the person for any candidate in any election in this state[.]

Ark. Code Ann. § 7-1-103(a)(3) (Supp. 2013) provides as follows:

(A) It shall be unlawful for any public servant, as defined in [Ark. Code Ann.] § 21-8-402, to use any office or room furnished at public expense to distribute any letters, circulars, or other campaign materials unless such office or room is regularly used by members of the public for such purposes without regard to political affiliation. It shall further be unlawful for any public servant to use for campaign purposes any item of personal property provided with public funds.

(B) As used in subdivision (a)(3)(A) of this section, ‘campaign materials’ and ‘campaign purposes’ refer to: (i) The campaign of a candidate for public office; and (ii) Efforts to support or oppose a ballot measure, except as provided in [Ark. Code Ann.] § 7-1-111[.]

Ark. Code Ann. § 7-6-201(3) (Supp. 2013) provides as follows:

‘Carryover funds’ means the amount of campaign funds retained from the last election by the candidate for future use but not to exceed the annual salary, excluding expense allowances, set by Arkansas law for the office sought[.]

Ark. Code Ann. § 7-6-201(4) (Supp. 2013) provides as follows:

(A) ‘Contribution’ means, whether direct or indirect, advances, deposits, or transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, or pledges or promises of money or anything of value, whether or not legally enforceable, to a candidate, committee, or holder of elective office made for the purpose of influencing the nomination or election of any candidate.

(B)(i) ‘Contribution’ includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or persons whose expenditures the candidates or committee must report under [Ark. Code Ann. § 7-6-201 et seq.]. (ii) ‘Contribution’

further includes any transfer of anything of value received by a committee from another committee.

(C) 'Contribution' shall not include noncompensated, nonreimbursed, volunteer personal services or travel[.]

Ark. Code Ann. § 7-6-201(8) (Supp. 2013) provides as follows:

'Expenditure' means a purchase, payment, distribution, gift, loan, or advance of money or anything of value, and a contract, promise, or agreement to make an expenditure, made for the purpose of influencing the nomination or election of any candidate[.]

Ark. Code Ann. § 7-6-201(9) (Supp. 2013) provides as follows:

(A) 'Exploratory committee' means a person that receives contributions which are held to be transferred to the campaign of a single candidate in an election.

(B) 'Exploratory committee' shall not include: (i) A political party: (a) That meets the definition of a political party under [Ark. Code Ann.] § 7-1-101; or (b) A political party that meets the requirements of [Ark. Code Ann.] § 7-7-205; or (ii) The candidate's own campaign committee[.]

Section 200(i) of the Arkansas Ethics Commission's Rules on Campaign Finance & Disclosure provides as follows:

'Fair market value' means the price the good or service would bring between a willing seller and a willing buyer in the open market after negotiations. *See Minerva Enterprises, Inc. v. Howlett*, 308 Ark. 291, 824 S.W.2d 377 (1992).

Ark. Code Ann. § 7-6-201(17) (Supp. 2013) provides, in pertinent part, as follows:

'Surplus campaign funds' means any balance of campaign funds over expenses incurred as of the day of the election except for: (A) Carryover funds; and (B) Any funds required to repay loans made by the candidate from his...personal funds to the campaign or to repay loans made by financial institutions to the candidate and applied to the campaign[.]

Ark. Code Ann. § 7-6-201(18) (Supp. 2013) provides as follows:

(A) 'Written instrument' means a check on which the contributor is directly liable or which is written on a personal account, trust account,

partnership account, business account, or other account that contains the contributor's funds.

(B) As used in [Ark. Code Ann.] § 7-6-204 in the case of a contribution by credit card or debit card, 'written instrument' includes without limitation: (i) A paper record signed by the cardholder, provided that the paper record contains the following information for the cardholder at the time of making the contribution: (a) Valid name; (b) Complete address; (c) Place of business; (d) Employer; and (e) Occupation; or (ii) In the case of a contribution made through the Internet, an electronic record created and transmitted by the cardholder, provided that the electronic record contains the following information for the cardholder at the time of making the contribution: (a) Valid name; (b) Complete address; (c) Place of business; (d) Employer; and (e) Occupation.

Ark. Code Ann. § 7-6-203(a)(2) (Supp. 2013) provides as follows:

(A) It shall be unlawful for any candidate for the office of Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, or for any person acting on the candidate's behalf to accept campaign contributions in excess of two thousand dollars (\$2,000) per election from any person.

(B) A candidate may accept a campaign contribution or contributions up to the maximum amount from any prospective contributor for each election, whether opposed or unopposed.

Ark. Code Ann. § 7-6-203(h) (Supp. 2013) provides, in pertinent part, as follows:

(1) Within thirty (30) days following the end of the month in which an election is held or a candidate has withdrawn, a candidate shall turn over surplus campaign funds to either: (A) The Treasurer of State for the benefit of the General Revenue Fund Account of the State Apportionment Fund; (B) A political party as defined in [Ark. Code Ann.] § 7-1-101 or a political party caucus of the General Assembly, the Senate, or the House of Representatives; (C) A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; (D) Cities of the first class, cities of the second class, or incorporated towns; or (E) The contributors to the candidate's campaign.

(2) If the candidate's campaign has not ended, disposal of surplus campaign funds shall not be required and the candidate may carry forward any remaining funds to the general primary election, general election, or general runoff election for that same office.

* * *

(4)(A) Carryover funds may be expended at any time for any purpose not prohibited by this chapter and may be used as campaign funds for seeking any public office. Nothing shall prohibit a person at any time from disposing of all or any portion of his...carryover funds in the same manner as for surplus campaign funds. However, the candidate shall not take the funds as personal income or as income for his...spouse or dependent children.

(B)(i) When a person having carryover funds files as a candidate for public office, his...carryover funds shall be transferred to the person's active campaign fund. Once transferred, the funds will no longer be treated as carryover funds. (ii) This subdivision (h)(4)(B) shall not apply to carryover funds from an election held prior to July 1, 1997. (iii) This subdivision (h)(4)(B) shall not apply to a campaign debt.

(C)(i) If carryover funds are expended prior to a transferring the funds to an active campaign fund, the expenditures shall be reported pursuant to this subdivision (h)(4)(C). A person shall file an expenditure report concerning carryover funds if, since the last report concerning the carryover funds, the person has expended in excess of five hundred dollars (\$500). The report shall be filed at the office in which the candidate was required to file his...campaign contribution and expenditure reports for the previous campaign not later than fifteen (15) days after a calendar quarter in which a report becomes required. No report is required in any calendar quarter in which the cumulative expenditure limit has not been exceeded since the person's last report. (ii) The person shall also file an expenditure report for the calendar quarter in which he...transfers the carryover funds to an active campaign fund. (iii) A person who retains carryover funds shall file an annual report outlining the status of the carryover fund account as of December 31 unless the person has filed a quarterly report during the calendar year pursuant to subdivisions (h)(4)(C)(i) and (ii) of this section. The annual report shall be due by January 31 of each year. (iv) The carryover fund reports of a candidate for school district, township, municipal, or county office shall be filed with the county clerk of the county in which the election was held. (v) The carryover fund reports of a candidate for state or district office shall be filed with the Secretary of State.

* * *

(5) After the date of an election at which the person is a candidate for nomination or election, the person shall not accept campaign

contributions for that election except for the sole purpose of raising funds to retire campaign debt.

* * *

A candidate may maintain his or her campaign funds in one (1) or more campaign accounts. Campaign funds shall not be placed in an account containing personal or business funds.

Ark. Code Ann. § 7-6-204 provides as follows:

(a) No campaign contribution in excess of one hundred dollars (\$100) or expenditure in excess of fifty dollars (\$50.00) shall be made or received in cash.

(b) All contributions or expenditures in behalf of a campaign activity, other than in-kind contributions and expenditures, in excess of the amounts mentioned in subsection (a) of this section shall be made:

(1) By a written instrument containing the name of the donor and the name of the payee;

(2) By credit card or debit card where the transaction results in a paper record signed by the cardholder, provided that the paper record contains the following information for the cardholder at the time of making the contribution: (A) Valid name; (B) Complete address; (C) Place of business; (D) Employer; and (E) Occupation; or

(3) By transaction that results in an electronic record created or transmitted by the cardholder where a contribution or expenditure is made through the Internet, provided that the electronic record contains the following information for the cardholder at the time of making the contribution: (A) Valid name; (B) Complete address; (C) Place of business; (D) Employer; and (E) Occupation.

(c) The payment of filing fees may be in cash even though the amount exceeds fifty dollars (\$50.00). The candidate shall obtain a receipt for the payment and shall report it as a campaign expenditure.

Ark. Code Ann. § 7-6-207(b) (Supp. 2013) provides as follows:

(1) The contribution and expenditure reports required by [Ark. Code Ann. § 7-6-207(a)] shall indicate:

(A) The total amount of contributions received with loans stated separately, the total amount of expenditures made during the filing periods, and the cumulative amount of those totals for the entire election cycle;

(B) The name and address of each person, including the candidate, who made a contribution or contributions that in the aggregate exceeded fifty dollars (\$50.00);

(C) The contributor's principal place of business, employer, occupation, the amount contributed, the date the contribution was accepted by the candidate, and the aggregate contributed for each election;

(D) The name and address of each person, including the candidate, who contributed a nonmoney item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals;

(E) An itemization of all single expenditures made that exceed one hundred dollars (\$100), including the: (i) Amount of the expenditure; (ii) Name and address of any person, including the candidate, to whom the expenditure was made; and (iii) Date the expenditure was made;

(F) A list of all paid campaign workers and the amount the workers were paid;

(G) A list of all expenditures by categories, including, but not limited to: (i)(a) Television; (b) Radio; (c) Print; and (d) Other advertising; (ii) Direct mail; (iii) Office supplies; (iv) Rent; (v) Travel; (vi) Expenses; (vii) Entertainment; and (viii) Telephone;

(H) The total amount of all nonitemized expenditures made during the filing period; and

(I) The current balance of campaign funds.

(2)(A) When the candidate's campaign has ended, the final report shall also indicate which option under [Ark. Code Ann.] § 7-6-203(h) was used to dispose of any surplus of campaign funds, the amount of funds disposed of by the candidate, and the amount of funds retained by the candidate in accordance with [Ark. Code Ann.] § 7-6-201(3).

(B) If the candidate's campaign has not ended, disposal of campaign funds shall not be required and the candidate may carry forward

any remaining campaign funds to the general primary election, general election, or general runoff election for that same office.

Ark. Code Ann. § 7-6-216 (Supp. 2013) provides as follows:

(a)(1) An exploratory committee shall register with the appropriate filing office within fifteen (15) days after receiving contributions during a calendar year which, in the aggregate, exceed five hundred dollars (\$500).

(2)(A) For a state or district office, the place of filing shall be the Secretary of State's office. (B) For a county, municipal, township, or school district office, the place of filing shall be the county clerk's office.

(3) Registration shall be on forms provided by the Secretary of State and the contents therein shall be verified by an affidavit of an officer of the committee.

(b) An exploratory committee shall disclose on the registration form the name, address, and, where available, phone number of the committee and each of its officers. It shall also disclose the individual person who, upon becoming a candidate, is intended to receive campaign contributions from the committee.

(c) Within thirty (30) days of the end of each month, an exploratory committee shall file a report with the appropriate filing office indicating:

(1) The total amount of contributions received during the filing period; (2) The name and address of each person who has made a contribution which, in the aggregate, exceeds fifty dollars (\$50.00), along with the contributor's principal place of business, employer, occupation, and the amount contributed; and (3) The total amount of expenditures made and, for each single expenditure that exceeds one hundred dollars (\$100), an itemization, including the amount of the expenditure, the name and address of the person to whom the expenditure was made, and the date the expenditure was made.

(d)(1) The first report shall be filed for the month in which the committee files its registration. The final report shall be filed within thirty (30) days after the end of the month in which the committee either transfers its contributions to a candidate's campaign or no longer accepts contributions. (2) The committee shall not accept contributions after the filing of a final report.

Ark. Code Ann. § 21-1-401(1) provides as follows:

'Constitutional officer' means Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Attorney General, Commissioner of State

Lands, Auditor of State, member of the Arkansas House of Representatives, and member of the Arkansas Senate[.]

Ark. Code Ann. § 21-1-401(2) provides as follows:

‘State agency’ means every board, commission, department, division, institution, and other office of state government whether located within the legislative, executive, or judicial branch of government and including state-supported colleges and universities.

Ark. Code Ann. § 21-1-402(b) (Supp. 2013) provides as follows:

No person whose spouse is elected to a constitutional office may, after the spouse is elected to the constitutional office and during the term for which the spouse is elected, enter into employment with any state agency without the prior approval of the Joint Budget Committee during a legislative session, the Legislative Council between legislative sessions, and the Governor.

Ark. Code Ann. § 21-1-407 provides as follows:

A person whose spouse is elected to a constitutional office may be employed by a state agency without the approval of the employment required by [Ark. Code Ann.] § 21-1-402(b) if the person’s entry salary does not exceed the amount prescribed by Level 4 of Grade 13 of the state compensation plan found in [Ark. Code Ann.] § 21-5-209.

Ark. Code Ann. § 21-8-301(4) (Supp. 2013) provides, in pertinent part, as follows:

(A) ‘Public official’ means a person holding an elective office of any governmental body, whether elected or appointed to the office. (B) ‘Public official’ includes a person holding an elective office of any governmental body, whether elected or appointed to the office, during the time period between the date he...is elected or appointed and the date he...takes office[.]

Ark. Code Ann. § 21-8-301(5) (Supp. 2013) provides that “‘Public servant’ means a: (A) Public appointee; (B) Public employee; or (C) Public official.”

Ark. Code Ann. § 21-8-304(a) (Supp. 2013) provides, in pertinent part, as follows:

No public servant shall use or attempt to use his...official position to secure special privileges or exemptions for himself...or his...spouse, child, parents, or other persons standing in the first degree of relationship,

or for those with whom he...has a substantial financial relationship that are not available to others except as may be otherwise provided by law.

Section 400(p) of the Ethics Commission's Rules on Conflicts provides as follows:

'Special privileges or exemptions' means a particular benefit or advantage unfairly extended to a person beyond the common advantages of others or the unjustified release of a person from a duty or obligation required of others.

Ark. Code Ann. § 21-8-402(17) (Supp. 2013) provides as follows:

'Public official' means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office[.]

Ark. Code Ann. § 21-8-402(18) (Supp. 2013) provides that "'Public servant' means all public officials, public employees, and public appointees[.]"

It is noted that your complaint references alleged violations of (i) the Freedom of Information Act and (ii) an American Cancer Society Code of Ethics and Conflict of Interest Policy. Please be advised that the Ethics Commission has jurisdiction over the following:

Sections 28, 29, and 30 of Article 19 of the Arkansas Constitution;

Ark. Code Ann. § 3-8-701 *et seq.* (entitled "Disclosure Act for Initiative Proceedings");

Ark. Code Ann. § 7-1-103(a)(1)-(4), (6) and (7) (concerning "Elections");

Ark. Code Ann. § 7-6-201 *et seq.* (entitled "Campaign Financing");

Ark. Code Ann. § 7-9-401 *et seq.* (entitled "Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters");

Ark. Code Ann. § 19-11-718 (concerning "Special State Employees – Conflicts of Interest")

Ark. Code Ann. § 21-1-401 *et seq.* (concerning "Constitutional Officers and Their Spouses");

Ark. Code Ann. § 21-8-301 through § 21-8-903 (referred to as "The Disclosure Act for Lobbyists and State and Local Officials");

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Ark. Code Ann. § 21-8-1001 *et seq.* (pertaining to “State Boards, Commissions, and Entities Receiving State Funds”); and

Ark. Code Ann. § 23-115-501(e) and § 23-115-601(j) (concerning “Arkansas Scholarship Lottery Act” vendor/retailer gift/compensation prohibition).

Based upon the foregoing, the enforcement jurisdiction of the Ethics Commission’s does not include the FOIA and/or the aforementioned corporate policy. Accordingly, such allegations will not be made a part of the Ethics Commission’s investigation.

In accordance with Section VI(3) of the Ethics Commission’s Rules of Practice and Procedure, I am requesting that you submit any and all evidence which you may have concerning allegation numbers 1 through 13 set forth in this letter.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Graham F. Sloan".

Graham F. Sloan
Director