



STATE ETHICS COMMISSION

Memorandum

To: Rick Thompson
Executive Secretary

From: Tom Plank

Date: July 2, 2008

Re: In the Matter of Ben Harbin, Case No. 2008-0012: Recommendation
for Dismissal

Pursuant to Rule 189-2-.03(5), it is recommended that this matter be administratively dismissed because the evidence does not support finding a violation of the Ethics in Government Act (Act). The allegations and findings are summarized herein.

Respondent is the State Representative for District 118. The Complaint alleges that Respondent disclosed two \$1,000 campaign contributions to Berry Fleming while Fleming did not disclose receipt of these contributions. The implication of the complaint is that Respondent improperly disclosed the existence of these two expenditures in violation of O.C.G.A. §21-5-34(a)(1)(B), and may have misappropriated the \$2,000 in violation of O.C.G.A. §21-5-33(c).

Respondent disclosed the purpose of his campaign's two \$1,000 expenditures as "campaign contribution[s]." In 2007 and this part of 2008, Fleming has filed Campaign Contribution Disclosure Reports (CCDRs) with the State Ethics Commission and has also filed disclosure reports related to his campaign for U.S. Congress with the Federal Elections Commission (FEC). It appears that Complainant only reviewed Fleming's State Ethics Commission filings, which do not disclose receipt of the two \$1,000 contributions from Respondent. However, Fleming's quarterly FEC filings do timely disclose the receipt of the two \$1,000 contributions from Respondent's campaign. Therefore, the evidence available shows that the two contributions at issue have been properly disclosed and accounted for in accordance with the Act.

Based upon the foregoing analysis, it is recommended that this case be administratively dismissed pursuant to Rule 189-2-.03(5).