



**BEFORE THE STATE ETHICS COMMISSION
STATE OF GEORGIA**

IN THE MATTER OF:

David Scott

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CASE NO.

PC2008-0004

CONSENT ORDER

This matter comes before the State Ethics Commission (Commission), pursuant to a Probable Cause investigation alleging violations of the Ethics in Government Act (Act). Respondent David Scott waived his right to a preliminary hearing and now agrees to resolve this matter by way of Consent Order (Order).

FINDINGS OF FACT

Respondent is a former State Senator and is a sitting U.S. Congressman. A probable cause investigation was initiated against Respondent on January 24, 2008. Subsequently, on January 31, 2008, Respondent filed seven original Campaign Contribution Disclosure Reports (CCDRs) that were due between 2004 and 2007 regarding his State Senate campaign account. These filings disclosed figures that purported to show that Respondent failed to account for \$38,625 in contributions and \$124,371.11 in expenditures that were previously unreported. On March 28, 2008, subsequent to realizing that these original CCDRs did not disclose accurate figures, Respondent filed 14 amended CCDRs covering reporting periods between 2001 and 2007. Respondent acknowledges the following violations of the Act:

First, Respondent failed to timely file seven original CCDRs for December 31, 2004, June 30 and December 31, 2005, June 30 and December 31, 2006, and June 30 and December 31, 2007. These seven original CCDRs were filed on January 31, 2008.

Second, Respondent failed to properly disclose all contributions received and expenditures made on these seven CCDRs. The aforementioned original CCDRs are identical in that each discloses a net balance of \$83,053.73 and no contributions, loans, investments or expenditures and no accounting for accrued interest. However, an audit of Respondent's bank records reveals that Respondent should have reported approximately \$14,000 as the net balance on-hand for the majority of the aforementioned CCDRs.

Third, on March 28, 2008, Respondent filed 14 amended CCDRs covering June 30, 2001 through December 31, 2007, which disclose a net balance of negative \$274.61 on each CCDR with no accounting of contributions, loans, investments, expenditures or accrued interest. For example, Respondent failed to disclose all contributions and expenditures of \$101 or more made by his State Senate Campaign on his 2005 – 2007 CCDRs. Specifically, on his June 30, 2005 CCDR, Respondent failed to disclose an expenditure worth \$125. On his December 30, 2005 CCDR, Respondent failed to disclose two expenditures worth \$1,325. Respondent failed to disclose a \$2,000 contribution on his December 31, 2006 CCDR. On his June 30, 2007 CCDR, Respondent failed to disclose three expenditures worth a total of \$8,400.

Fourth, Respondent failed to file copies of the abovementioned CCDRs with his local filing officer, the election superintendent of the county of Respondent's residence. Finally, Respondent failed to electronically file the abovementioned CCDRs for 2003 through the present.

CONCLUSIONS OF LAW

Respondent's failure to timely file seven original CCDRs from 2004 to 2007 constitutes seven violations of O.C.G.A. § 21-5-34(c). Respondent's failure to properly account for all contributions on the untimely filed original 2005 – 2007 CCDRs constitutes seven violations of O.C.G.A. § 21-5-34(b). Respondent's failure to file copies of the abovementioned CCDRs constitutes a violation of O.C.G.A. § 21-5-34(a)(1)(A). Respondent's failure to electronically file the CCDRs at issue from 2003 until present constitutes seven violations of O.C.G.A. § 21-5-34.1(b).

The negative balances on Respondent's 14 amended CCDRs are accounting errors that fail to accurately account for all contributions and expenditures. Respondent is required by the Act to file CCDRs until his campaign account balance reflects a \$0 amount and he terminates his State Senate campaign committee, in accordance with O.C.G.A. § 21-5-34 and Rule 189-4-.01(5).

SANCTION

Respondent is hereby ordered to pay a total civil penalty of \$7,500 on the following payment schedule. Respondent shall pay \$1,000 to the Commission no later than the fifth day of each of the first seven calendar months following the date of this Order. Respondent shall then pay \$500 to the Commission no later than the fifth day of the eight calendar month following the date of this Order. The civil penalty must be paid out of Respondent's personal funds and not those of his campaign. All checks must be made out to the "State Ethics Commission." In the event that Respondent makes a prepayment in excess of the scheduled amount required herein, Respondent may deduct the excess amount of the prepayment from the amount owed on any subsequent monthly payment(s), provided, however, that at all times Respondent's total amount due is consistent with the payment plan schedule herein described. If Respondent fails to keep current with the payment plan schedule described herein, the Commission may demand immediate payment of the entire remaining balance due.

In addition, Respondent shall electronically file all properly accounted for amendments with the Commission and file all delinquent copies of his CCDRs with his local filing officer within 30 days of the date of this Consent Order. Respondent is further ordered to cease and desist from any and all actions that violate the Act.

AGREEMENT

Respondent represents that the foregoing findings of fact are true, agrees to the conclusions of law, and further agrees to abide by all terms thereof. By signing this Order Respondent waives any right to an appeal pursuant to the procedures outlined in O.C.G.A. § 50-13 *et seq.* Failure to comply with the terms herein absent good faith attempts to comply will constitute a willful and knowing violation of said terms by the Respondent. Respondent's failure to comply with the terms herein shall constitute a breach of this agreement and thereby authorize the Commission to seek an enforcement action against the Respondent. The parties

agree that all costs and attorney fees incurred by the Commission in an enforcement action shall be assessed against the Respondent pursuant to O.C.G.A. § 21-5-6(b)(14)(C).

The Commission adopts the foregoing statements and conclusions as the Commission's findings of fact and conclusions of law, and orders the implementation of the terms of this Consent Order.

Signatures attested to on this 11th day
of February, 2009.

By: *Diana Smith*
DIANA SMITH
Notary Public
DeKalb County
State of Georgia
My Commission Expires Aug 2, 2011

RESPONDENT

David Scott
David Scott

SO ORDERED this ~~11th~~ day of ~~February~~, 2009.

15th October

STATE ETHICS COMMISSION

By: *William H. Jordan*
William H. Jordan
Chairman

Prepared by: *Tom Plank*
Tom Plank
Commission Attorney