**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS**
**STATE OF GEORGIA**

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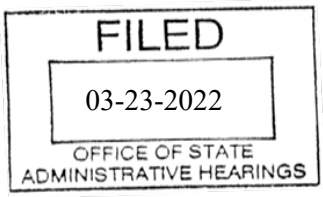
| **GEORGIA GOVERNMENT TRANSPARENCY AND CAMPAIGN FINANCE COMMISSION,**<br>**Petitioner,** | **Docket No.: 2028944**<br>**2028944-OSAH-GGTACFC-NCAN-106-Fry** |
| **v.** | **Agency Reference No.: 2016-0046** |
| **SCHOOL REFORM 2016,**<br>**Respondent.** | |




# INITIAL DECISION

## I. INTRODUCTION

This matter arises from a finding that reasonable grounds exist that School Reform 2016 violated the Ethics in Government Act by the Georgia Government Transparency and Campaign Finance Commission (the "Commission"). School Reform 2016 was formed by Mr. Frank Myers and Mr. John Thomas in 2016. Mr. Myers, a licensed attorney in the State of Georgia who is not currently actively practicing law represents Respondent, School Reform 2016. Initially, Mr. Christian Fuller, and later Ms. Elizabeth Young, both Assistant Attorneys General, represent the Commission.

On or about March 26, 2020, the Commission, though the Attorney General's office filed a Statement of Matters Asserted ("SMA"), which alleged, *inter alia*, the following:

- School Reform 2016 failed to register with the Commission as an independent committee prior to making expenditures and accepting contributions in violation of O.C.G.A. § 21-5-34(e).
- School Reform 2016 failed to file a disclosure report due no later than May 6, 2016 in violation of O.C.G.A. § 21-5-34(f)(l)(A).
- School Reform 2016 failed to file a disclosure report due no later than June 8, 2016 in violation of O.C.G.A. § 21-5-34(f)(l)(A).

- School Reform 2016 failed to file a disclosure report due no later than June 19, 2016 in violation of O.C.G.A. 21-5-34(f)(l)(B).

[SMA ¶¶ 47-50].

This case was submitted to OSAH just as the courts and other venues in this state were closing down in response to the COVID 19 pandemic. OSAH's typical venue for Muscogee County cases, the county courthouse in adjacent Harris County, remained closed and unavailable for a number of months. In or around April 2020, the Court set a telephone hearing in this case. Mr. Myers advised the Court that he did not believe that the case could be heard adequately via a telephone or video hearing, so the case was continued indefinitely until a suitable venue was available.

Ultimately, the case was set for January 28-29, 2021, in the Harris County Courthouse. For reasons, again related to the availability and safety of the parties and witnesses during the pandemic, the hearing was again continued. During a telephone status conference to discuss resetting the case, Respondent indicated that it intended to file a Motion for Summary Determination, which the Court invited. Mr. Fuller and Mr. Myers participated in the call on behalf of the Petitioner and Respondent, respectively.

On March 30, 2021, Mr. Myers filed the Respondent's Motion for Summary Determination. Ms. Young entered her appearance and substituted as counsel for Petitioner on April 5, 2021. Petitioner followed suit and on May 17, 2021, filed Petitioner's Motion for Summary Determination. Responses by both sides followed. On June 2, 2021, Respondent filed a one-page letter sur-response and the briefing closed. The Court issued a Final Decision on July 30, 2021. Both parties filed post ruling motions, which made it clear that despite Respondent's admission in its response to Petitioner's Motion for Summary Determination, there nevertheless

were disputed issues of fact that rendered summary determination inappropriate. [1] As a result, the Court vacated its Final Decision on October 26, 2021. The parties submitted a Prehearing Statement and identified the issues to be determined at the hearing as follows:

By Petitioner:

A. Whether School Reform 2016 received donations and expended funds for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate (see O.C.G.A. § 21-5-3(15)).

B. Whether School Reform 2016 contributed funds to one or more candidates for public office or campaign committees of candidates for public office (see O.C.G.A. § 21-5-3(20)(A)).

C. Whether School Reform 2016 was required to register with the Commission as an independent committee prior to making expenditures and accepting contributions pursuant to O.C.G.A. §§ 21-5-34(e) and 21-5-34(f)(1) but failed to do so.

D. Whether School Reform 2016 was required to file a disclosure report with the Commission no later than May 6, 2016 pursuant to O.C.G.A. § 21-5-24(f)(1)(A) but failed to do so.

E. Whether School Reform 2016 was required to file a disclosure report with the Commission no later than June 8, 2016 pursuant to O.C.G.A. § 21-5-24(f)(1)(A) but failed to do so.

F. Whether School Reform 2016 was required to file a disclosure report with the Commission no later than June 19, 2016 pursuant to O.C.G.A. § 21-5-24(f)(1)(A) but failed to do so.

G. Whether School Reform made contributions to one or more candidates exceeding the contribution limits of O.C.G.A. § 21-5-41.

H. In the event that the Court determines School Reform 2016 violated one or more provisions of the Ethics in Government Act (21-5-1 et seq.), what penalties should be imposed for such violation(s)?

By Respondent:

A. Whether Georgia law required Respondents to register and report as both a Political Action Committee and as an Independent Committee? Respondents specifically request the Court rule on the legal question of whether any political entity not unlike School

1 In Respondent's May 26, 2021, letter response to Petitioner's MSD, Respondent stated, "Respondents do not take issue with Petitioner's Statement of Undisputed Material Facts, but Respondents do find it important to fill in a couple of important gaps." [Resp. 5/26/2021 Opposition, p. 3]. As a result, the facts recited in Petitioner's SMF were deemed admitted by Respondent for the purposes of summary determination.

Reform is required to register as both a political action committee and independent committee.

B. As to the "No More Pat and Cathy" television ads, did either JoAnn Thomas Brown or Shelia Williams cooperate with, consent to, or were they consulted with regard to these ads?

A hearing was held at the Office of State Administrative Hearings on December 10, 2021. The record was kept open for the parties to submit proposed findings of fact and conclusions of law, which they did on January 12, 2022.

## II. FINDINGS OF FACT

1. This matter involves events that occurred during the 2016 Muscogee County School Board elections. [*See generally* Petitioner's Statement of Material Facts ("SMF") ¶¶ 1-5; Respondent's Proposed Findings of Fact, Petitioner's Proposed Findings of Fact].
2. School Reform 2016 was organized by Mr. Myers and Mr. Thomas to raise and spend funds to defeat two particular board members within the Muscogee County School District and replace those members. In District 1, Patricia (Pat) Hughley-Green was the incumbent school board member and was challenged in the runoff by Joann Thomas-Brown. In District 7, Cathy Williams was the incumbent school board member, and was challenged in the runoff by Shelia Williams. Mr. Myers and Mr. Thomas organized School Reform 2016 with the intent that it was to operate as a PAC. According to Mr. Thomas, both considered it to be a PAC. They never registered with the Commission because they believed School Reform 2016 was not required to register. School Reform was never formally registered as any form of business entity with the Secretary of State or other business registration entity. [Testimony of Joann Thomas Brown, Testimony of Sheila Williams, Testimony of John Thomas, Petitioner's Exhibit 8].

3. School Reform's expenses are documented on the spreadsheet that was admitted as Petitioner's Exhibit 11. It shows total expenditures of $10,508.22. [Petitioner's Exhibit 11, Testimony of John Thomas].
4. Of School Reform's overall expenses, $4,858.00 was used to pay expenses to third parties for negative advertising campaign against incumbent school board candidates (the "no more Pat and Cathy" advertisements), and $5,650.22 was paid to third parties for expenses, such as yard signs, flyers and robocalls that directly supported the nonincumbent candidates. The Court concludes that the $5,650.22 in expenditures were PAC type expenditures as there is no basis to dispute that the $5,650.22 in expenditures were made with the direct cooperation and involvement of the candidates such that they are not independent expenditures. [Petitioner's Exhibit 11, Testimony of John Thomas, Testimony of Shelia Williams, Testimony of Joann Thomas Brown].
5. The candidates also had knowledge that there were expenditures on the negative campaign advertisements, but Mr. Myers and Mr. Thomas, "advised these two candidates that we believed they should publicly keep their distance from the commercials." During the December 13. 2017 hearing before the Commission, Mr. Myers stated that regarding candidates Ms. Williams and Ms. Thomas-Brown, "I told them in my capacity as a political consultant that this is an independent deal, a PAC is not part of your committee, and these commercials are going to be hot and they're going to get a lot of attention and you need to stay a hundred miles away from them. That's what really happened." [Exhibit 2 (12/13/2017 Transcript) to Resp. 3/30/21 MSD, pp. 19, 25-26, 44]. This is consistent with the affidavit of Joann Thomas-Brown, and the email from Sheila Williams. [Exhibits A and B to Petitioner's Response to Respondent's Motion for Summary Determination.] In her

affidavit, Joann Thomas-Brown further stated that "I did not receive any financial contributions or other benefits towards my campaign in connection with the "No More Pat and Cathy" ads. Furthermore, I did not receive any financial gain or income from those ads." [*Id*.]

6. Both candidates testified at the hearing that they did not have input into the content, production, or broadcasting of the television ads. They did not approve the ads and they did not ask that School Reform 2016 produce or run such ads. They both confirmed at the hearing that Mr. Meyers told them to stay away from the ads and they were not to be involved. On cross-examination by Mr. Myers, in response to one of a series of questions concerning her knowledge of the No More Pat and Cathy campaign ads, Ms. Williams agreed that she consented to the ads. It was abundantly clear, however, from the context of the series of questions that her use of the word consent was to indicate that she did not oppose School Reform's running the ads, which is different from use of the word consent to indicate approval or permission. John Thomas testified that Ms. Williams and Ms. Thomas-Brown were aware of the negative ad campaign, but agreed that they did not give their approval of or have input into the decision to run the campaign, its content, its production or its distribution. [Testimony or Sheila Williams, Joann Thomas-Brown and John Thomas]
7. Shelia Williams testified that Mr. Myers assisted her in preparing her Campaign Contribution Disclosure Reports. The two reports she filed in connection with the campaign were admitted as Petitioner's Exhibits 2 and 3. She testified that Mr. Myers provided her with the information concerning the in-kind support School Reform 2016 provided in the form of the flyers, signs and robocalls. The amounts listed on Exhibits 2 and 3 do not reflect any portion of the $4,858.00 spent on the negative ad campaign. She testified that it was not

disclosed because the information was not provided to her, and it was not presented as an in-kind contribution. Ms. Thomas- Brown's testimony showed that she distanced herself even further from the ad campaign indicating that she had absolutely nothing to do with it. Similarly, she did not consider any of the money spent as a contribution to her campaign, which is entirely consistent with the portion of her affidavit quoted above. [Testimony of Sheila Williams, Testimony of Joann Thomas Brown, Petitioner's Exhibits 2 and 3].

8. School Reform's $4,858.00 in expenditures were made during a runoff election for the two Muscogee County School Board District 1 and District 7 positions. [Testimony of John Thomas; Petitioner's Exhibits 11-12, 15-17, *See* also Exhibit 2 (12/13/2017 Transcript) to Resp. 3/30/21 MSD, at p. 44]
9. A Commission employee named D'Angelo Hall received an inquiry asking whether a "No More Pat and Caty" campaign had been registered with the Commission via the "chat" function on the Commission's website from a user that appeared to be an employee of the Muscogee County Elections Office. [Testimony of Robert Lane, Petitioner's Exhibit 4].[2]
10. The Commission filed a Complaint against School Reform 2016 on July 27, 2016. [Testimony of Robert Lane, Petitioner's Exhibit 5]. A Notice of Additional Allegations was

2 It has never been clear to the undersigned what relevance this has to the issues presented in this case although Respondent has urged from the inception of this case that there was something nefarious about what transpired in connection with the filing of the Complaint as well as with the lack of an investigation into Ms. Williams' and Ms. Thomas-Brown's campaigns. The Commission is empowered to initiate proceedings without a formal outside complaint being filed. *See* O.C.G.A. § 21-5-6(10)(A), which provides in part: "The hearing shall be conducted in all respects in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The commission may file a complaint charging violations of this chapter, and any person aggrieved by the final decision of the commission is entitled to judicial review in accordance with Chapter 13 of Title 50; provided, however, that *nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.*" (emphasis added). None of the ***evidence*** adduced at the hearing or in all the filings leading up to the hearing support a factual finding that the Commission, its attorneys, or the witnesses the Commission presented did anything wrong or inappropriate in carrying out their duties, complying with the campaign finance laws or testifying in connection with the investigation, the filing of the Complaint (Petitioner's Exhibit 5), or the handling of this matter.

served on School Reform on August 31, 2017. [Testimony of Robert Lane, Petitioner's Exhibit 7].

11. On September 21, 2017, the Commission held a preliminary hearing on the Complaint. A motion to dismiss the Complaint was made but did not carry enough votes to pass. [SMF ¶ 16-18; Exhibit 1 (9/21/2017 Transcript) to Resp. 3/30/21 MSD, pp. 3, 61, 67.] As a result, the matter remained an active case, was tabled and was carried forward to December 13, 2017, for a subsequent hearing. [*Id.*; Exhibit 2 (12/13/2017 Transcript) to Resp. 3/30/21 MSD, pp. 3, 7].
12. Probable Cause was found by the Commission at a hearing on 12/13/17. [SMF ¶16, Testimony of Robert Lane, Exhibit 2 (12/13/2017 Transcript) to Resp. 3/30/21 MSD, pp. 54-58].
13. School Reform did not register as either a PAC or as an Independent Committee with the Commission and did not file any Campaign Contribution Disclosure Reports with the Commission. [SMA ¶¶ 44, 46; Testimony of Robert Lane, Petitioner's Exhibit 5].
14. During the hearing, John Thomas testified and Mr. Myers argued that they consulted with a campaign finance law attorney who advised them to operate as a PAC and that they did not have to register as an Independent Committee. The attorney was never identified, and Petitioner objected to the advice as hearsay. [Testimony of John Thomas]. While the Court finds that School Reform 2016 operated under the erroneous assumption that it was not operating as an independent committee, the Court finds that this error, while based on (1) preconceived assumptions/notions since this was not Mr. Myers' first foray into campaigns and campaign committees, and (2) the hearsay advice of a unidentified "expert," was not an

intentional decision because Mr. Myers and Mr. Thomas knew better, but an unintentional one because they believed, albeit incorrectly, otherwise.

## III. CONCLUSIONS OF LAW

1. The Commission bears the burden of proof in this matter. Ga. Comp. R. & Regs. 161-1-2-.07(1). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 161-1-2-.21(4).
2. The undersigned Administrative Law Judge ("ALJ") stands in the shoes of the referring agency and "has all the powers of the referring agency with respect to a contested case." O.C.G.A. § 50-13-41(b). Further, the ALJ "shall make an independent determination on the basis of the competent evidence presented at the hearing" and "may make any disposition of the matter available to the Referring Agency." Ga. Comp. R. & Regs. r. 616-1-2-.21(1).

**B. Campaign Statutes and Regulations**

3. Under the Ethics in Government Act, there are two types of noncandidate organizations that accept and spend funds to further political goals: Independent Committees and PACs.

   O.C.G.A. § 21-5-3(15) defines an "Independent Committee" as:

   > …any committee, club, association, partnership, corporation, labor union, or other group of persons, other than a campaign committee, political party, or political action committee, which receives donations during a calendar year from persons who are members or supporters of the committee and which expends such funds either for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate.

4. A "Political action committee" ("PAC") is defined by O.C.G.A. § 21-5-3(20) as:

   > (A) Any committee, club, association, partnership, corporation, labor union, or other group of persons which receives donations during a calendar year from persons who are members or supporters of the committee and which contributes funds to one or more candidates for public office or campaign committees of candidates for public office; and
   > (B) A "separate segregated fund" as defined in Code Section 21-5-40. Such term does not include a candidate campaign committee.

5. Independent Committees and PACs are subject to different requirements. An Independent Committee is required to meet certain requirements to comply with the Act. Any Independent Committee must register with the Commission prior to accepting contributions or expenditures. O.C.G.A. §§ 21-5-34(f)(1) and 21-5-30(a). An Independent Committee must then file periodic reports disclosing contributions and expenditures according to a statutory schedule. O.C.G.A. § 21-5-34(f)(1)(A), (B) and (C). Independent Committee expenditures are not subject to campaign contribution limits.
6. Pursuant to the exception in O.C.G.A. § 21-5-34(e)(2) a PAC is exempted from registration, provided it makes, "aggregate contributions of $25,000.00 or less directly to candidates or the candidates' campaign committees in one calendar year." That code section reads as follows:

> (e) Any person who makes contributions to, accepts contributions for, or makes expenditures on behalf of candidates, and any independent committee, shall file a registration in the same manner as is required of campaign committees prior to accepting or making contributions or expenditures. Such persons, other than independent committees, shall also file campaign contribution disclosure reports at the same times as required of the candidates they are supporting. *The following persons shall be exempt from the foregoing registration and reporting requirements*:
>
> > (1) Individuals making aggregate contributions of $25,000.00 or less directly to candidates or the candidates' campaign committees in one calendar year;
> >
> > (2) Persons other than individuals making aggregate contributions and expenditures to or on behalf of candidates of $25,000.00 or less in one calendar year; and
> >
> > (3) Contributors who make contributions to only one candidate during one calendar year.

O.C.G.A. § 21-5-34(e)(2) (emphasis added).

This code section clearly differentiates between "persons" and "any independent committee," and is also clear that the $25,000.00 exception in subpart (e)(2) does not apply to an

independent committee. This conclusion is further supported by the express language in O.C.G.A. §§ 21-5-34(f)(1) and 21-5-30(g). Those contributions, however, are to be disclosed by the candidate on the candidate's campaign contribution reports, such as Sheila Williams' disclosure reports that were admitted as Petitioner's Exhibits 2 and 3. Those contributions are subject to the campaign contribution limits.

7. All committees that require registration under the Act shall also file disclosure reports that identify each contribution or expenditure exceeding $100.00. O.C.G.A. § 21-5-34(a), § 21-5-34 (b), § 21-5-34 (f)(2)(A). Reports must be filed according to a set schedule. O.C.G.A. §§ 21-5-34(c) and 21-5-34(f)(1).

8. The statutory schedule for PACs requires that reports be filed as follows:

    1. In each nonelection year on January 31 and June 30;
    2. In each election year:
        (A) On January 31, March 31, June 30, September 30, October 25, and December 31;
        (B) Six days before any run-off primary or election in which the candidate is listed on the ballot; and
        (C) During the period of time between the last report due prior to the date of any election for which the candidate is qualified and the date of such election, all contributions of $1,000.00 or more shall be reported within two business days of receipt and also reported on the next succeeding regularly scheduled campaign contribution disclosure report;
    3. If the candidate is a candidate in a special primary or special primary runoff, 15 days prior to the special primary and six days prior to the special primary runoff; and
    4. If the candidate is a candidate in a special election or special election runoff, 15 days prior to the special election and six days prior to the special election runoff.

    O.C.G.A. §§ 21-5-34(c).

9. The statutory schedule for independent committees requires that reports be filed as follows:

    1. On the first day of each of the two months prior to the Election Date;
    2. Two weeks prior to the Election date;
    3.; and the final report is due December 31.

    O.C.G.A. § 21-5-34(f)(1).

10. Independent expenditures that are made to influence elections are not subject to campaign contribution limits. An independent expenditure is “an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate, but which is made independently of any candidate's campaign. However, an expenditure is "independent" only if it meets certain conditions. It must not be made with the cooperation or consent of, or in consultation with, or at the request or suggestion of any candidate or any of his or her agents or authorized committees. An expenditure which does not meet the above criteria for independence is considered a contribution which is subject to limits.” Ga. Comp. R. & Regs. r. 189-6-.04.

11. Regarding in-kind contributions to candidates, the Commission’s regulations provide as follows:

> 1) An in-kind contribution is deemed a "contribution" for purposes of the Act, and refers to any item of value other than money received by a candidate or any committee.
> (2) The aggregate of monetary and in-kind contributions from the same contributor shall not exceed the maximum contribution limits authorized by the Act.

Ga. Comp. R. & Regs. r. 189-6-.07.

12. “Contribution” is defined in the Act as “

> a gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value conveyed or transferred for the purpose of influencing the nomination for election or election of any person for office, bringing about the recall of a public officer holding elective office or opposing the recall of a public officer holding elective office, or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in this state or in a county or a municipal election in this state.

O.C.G.A. §21-5-3(7).

13. Contributions to candidates for public office other than statewide office are subject to certain limitations as follows:

(b) No person, corporation, political committee, or political party shall make, and no candidate or campaign committee shall receive from any such entity, contributions to any candidate for the General Assembly or public office other than state-wide elected office *which in the aggregate* for an *election cycle* exceed:

(1) Two thousand dollars for a primary election;
(2) One thousand dollars for a primary run-off election;
(3) Two thousand dollars for a general election; and
(4) One thousand dollars for a general election runoff.

O.C.G.A. § 21-5-41(b) (emphasis added).

The regulations promulgated by the Commission pursuant to its rulemaking authority, provide as follows:

> No political committee shall make, for any election, contributions to any candidate which, *when aggregated with contributions to the same candidate for the same election from any affiliated political committees*, exceed the per election contribution limits for such candidate as set forth in O.C.G.A. § 21-5-41. Campaign contribution limits on contributions to candidates do not apply to independent expenditures made to influence candidate elections. An independent expenditure is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate but which is made independently of any candidate's campaign. However, an expenditure is "independent" only if it meets certain conditions. It must not be made with the cooperation or consent of, or in consultation with, or at the request or suggestion of any candidate or any of his or her agents or authorized committees. An expenditure which does not meet the above criteria for independence is considered a contribution which is subject to limits.

Ga. Comp. R. & Regs. r. 189-6-.04 (emphasis added).

14. During the hearings before the Commission there was extensive discussion regarding what it meant to aggregate contributions for the same election. There appears to have been no discussion of the language from the statute, but it is pertinent here since makes it clear that there is a difference between an "election cycle" and the "same election." Based on the statute, an "election cycle" consists of four potential parts: the primary and any runoff and the general election and any runoff. Similarly, it is also clear that each one of those four possible parts of an election cycle is the "same" election for the purposes of the regulation. The use of the word "aggregate" in the statute refers to the aggregate across the election

cycle is subject to those limits, but also that each of the individual parts is subject to the specified limit for that part. It does not allow one to lump the limits across parts. For example, if a PAC did not make any contributions during a primary, it cannot lump the $2,000 limit for the primary with the $1,000 limit for the runoff and make a $3,000 contribution during a runoff. Use of the word "aggregated" in the regulation means to add together and thus, the sum of the contributions by a political committee along with those by any affiliated political committee are aggregated together and are subject to the statutory limitations for each possible portion of an election, i.e., a primary and any runoff and a general election and any runoff.

O.C.G.A. § 21-5-41(b); Ga. Comp. R. & Regs. r. 189-6-.04.

15. Georgia Code Section 21-5-2 states:

> It is declared to be the policy of this state, in furtherance of its responsibility to protect the integrity of the democratic process and to ensure fair elections for constitutional offices; state offices; district attorneys; members of the Georgia House of Representatives and Georgia Senate; all constitutional judicial officers; and all county and municipal elected officials, to institute and establish a requirement of public disclosure of campaign contributions and expenditures relative to the seeking of such offices, to the recall of public officers holding elective office, and to the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any county or municipal election. Further, it is the policy of this state that the state's public affairs will be best served by disclosures of significant private interests of public officers and officials which may influence the discharge of their public duties and responsibilities. The General Assembly further finds that it is for the public to determine whether significant private interests of public officers have influenced the state's public officers to the detriment of their public duties and responsibilities and, in order to make that determination and hold the public officers accountable, the public must have reasonable access to the disclosure of the significant private interests of the public officers of this state.

16. Georgia Code Section 21-5-4(a) provides:

> The Georgia Government Transparency and Campaign Finance Commission shall be a successor to the State Ethics Commission, with such duties and powers as are set forth in this chapter.

17. Pursuant to O.C.G.A. §21-5-6(a), the powers vested in the Commission by the General Assembly include the following:

> (7) To adopt in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," any rules and regulations necessary and appropriate for carrying out the purposes of this chapter; provided, however, that the commission shall not require the reporting or disclosure of more information on any report than is expressly required to be reported or disclosed by this chapter, unless such information was required to be reported or disclosed by rules and regulations of the commission which were in effect as of January 1, 2013, so long as such rules and regulations do not conflict with this chapter; and
>
> (8) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the powers specifically authorized to it in this chapter.

The Court concludes that the regulations contained in Ga. Comp. R. & Regs. Ga. Comp. R. & Regs. r. 189, et seq. were adopted in accordance with subpart (7) above.

18. Pursuant to O.C.G.A. §21-5-6(b), the duties imposed on the Commission by the General Assembly include to following:

> (8) To determine whether the required statements and reports have been filed and, if so, whether they conform to the requirements of this chapter;
>
> (9) To make investigations, subject to the limitations contained in Code Section 21-5-7.1, with respect to the statements and reports filed under this chapter and with respect to alleged failure to file any statements or reports required under this chapter and upon receipt of the written complaint of any person, verified under oath to the best information, knowledge, and belief by the person making such complaint with respect to an alleged violation of any provision of this chapter, provided that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter;
>
> (10) (A) To conduct a preliminary investigation, subject to the limitations contained in Code Section 21-5-7.1, of the merits of a written complaint by any person who believes that a violation of this chapter has occurred, verified under oath to the best information, knowledge, and belief by the person making such

complaint. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. If the commission determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The hearing shall be conducted in all respects in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The commission may file a complaint charging violations of this chapter, and any person aggrieved by the final decision of the commission is entitled to judicial review in accordance with Chapter 13 of Title 50; provided, however, that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.

(B) In any such preliminary investigation referenced in subparagraph (A) of this paragraph, until such time as the commission determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act";

. . .

(13) To issue, upon written request, and publish in print or electronically written advisory opinions on the requirements of this chapter, based on a real or hypothetical set of circumstances; and each such written advisory opinion shall be issued within 60 days of the written request for the advisory opinion. The commission shall make all advisory opinions that were issued after January 9, 2006, publicly available for review and shall post these and all future opinions on the commission's website, and the commission shall make all advisory opinions that were issued prior to January 9, 2006, publicly available for review and shall post these opinions on the commission's website. No liability shall be imposed under this chapter for any act or omission made in conformity with a written advisory opinion issued by the commission that is valid at the time of the act or omission;

Additionally, an advisory opinion is defined in the regulations promulgated by the

Commission provide as follows:

"Advisory Opinion" an opinion issued by the Commission pursuant to its authority under O.C.G.A. § 21-5-6(b)(13). The provision of information or advice by Commission staff in response to questions shall not constitute an "advisory opinion" in terms of the law unless such information or advice is formally adopted by the Commission pursuant to O.C.G.A. § 21-5-6(b)(13).

Ga. Comp. R. & Regs. r. 616-2-.01(1)

These regulations define a “Contested Case” as follows:

> "Contested Case" a case that will proceed to an administrative hearing in accordance with the Georgia Administrative Procedure Act following a finding that there are reasonable grounds to believe that the Georgia Government Transparency and Campaign Finance Act or other statute under the jurisdiction of the Commission has been violated.

Ga. Comp. R. & Regs. r. 616-2-.01(5)

19. Regarding a hearing in a contested case, the Commission’s regulations provide:

> After the initial investigation and preliminary hearing have been completed, and if reasonable grounds to believe a violation of the Campaign Finance Act has occurred have been found, a matter becomes a contested case and shall be scheduled for hearing pursuant to the Administrative Procedure Act. The rules of that Act and of the Office of State Administrative Hearings shall govern contested cases, in addition to the rules of the Georgia Government Transparency and Campaign Finance Commission.

Ga. Comp. R. & Regs. r. 616-2-.05.

20. Regarding the penalties and required remedial actions that may be imposed, the Ethics Act provides that the Commission has a duty:

> To issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or prohibiting the actual or threatened commission of any conduct constituting a violation. Such order may include a provision requiring the violator:
>
> (A) To cease and desist from committing further violations;
>
> (B) To make public complete statements, in corrected form, containing the information required by this chapter;
>
> (C) (i) Except as provided in paragraph (2) of Code Section 21-5-7.1, to pay a civil penalty not to exceed $1,000.00 for each violation contained in any report required by this chapter or for each failure to comply with any other provision of this chapter or of any rule or regulation promulgated under this chapter; provided, however, that a civil penalty not to exceed $10,000.00 may be imposed for a second occurrence of a violation of the same provision and a civil penalty not to exceed $25,000.00 may be imposed for each third or subsequent occurrence of a violation of the same provision. In imposing a penalty or late filing fee under this chapter, the commission may waive or suspend such penalty or fee if the imposition of

> such penalty or fee would impose an undue hardship on the person required to pay such penalty or fee. The commission may also waive or suspend a penalty or fee in the case of failure to file or late filing of a report if there are no items to be included in the report. *For the purposes of the penalties imposed by this division, the same error, act, omission, or inaccurate entry shall be considered a single violation if the error, act, omission, or inaccurate entry appears multiple times on the same report or causes further errors, omissions, or inaccurate entries in that report or in any future reports or further violations in that report or in any future reports.*

O.C.G.A. §21-5-6(14) (emphasis added)

**B. Rules of Statutory Construction**

21. The Georgia Supreme Court has stated that the principles governing the consideration of statutory meaning are "familiar and settled." *Tibbles v. Teachers Ret. Sys. of Ga.*, 257 Ga. 557, 559 (2015). There, the Supreme Court summarized those principles as follows:

> A statute draws its meaning, of course, from its text. When we read the statutory text, we must presume that the General Assembly meant what it said and said what it meant, and so, we must read the statutory text in its most natural and reasonable way, as an ordinary speaker of the English language would. The common and customary usages of the words are important, but so is their context. For context, we may look to the other provisions of the same statute, the structure and history of the whole statute, and the other law — constitutional, statutory, and common law alike — that forms the legal background of the statutory provision in question.

*Id*. (citations and quotations omitted). The Supreme Court further stated:

> It is normally the Court's function to interpret the law and resolve any ambiguity "by ascertaining the *most* natural and reasonable understanding of the text." *Id*. (emphasis in original). In the area of administrative law as is the case here, before jumping to that approach to statutory construction, a court must first determine whether "the General Assembly has committed the resolution of such an ambiguity to the discretion of an agency of the Executive Branch that is charged with administration of the statute in question." *Id.* In that case, a court is to defer to the way the agency has resolved the ambiguity provided two criteria are met: (1) the agency must have "resolved the ambiguity in the proper exercise of its lawful discretion;" and (2) the agency must have resolved the ambiguity "upon terms that are reasonable in light of the statutory text."

*Id.* at 558-59.

After an extensive analysis of the governing statute that created the Teachers Retirement System, the Supreme Court concluded that

> the General Assembly has provided explicitly that '[t]he administration and responsibility for the proper operation of the retirement system and for placing [the teacher retirement statutes] into effect are vested in the board of trustees,' and it has expressly authorized the System (through its board) 'to establish rules and regulations for the administration of the funds created by this chapter and for the transaction of its business.' In our view, these provisions give the System 'the authority to promulgate binding legal rules,' which it has done 'in the exercise of that authority.

*Id*. at 533(*citing and quoting* OCGA §§ 47-3-26 (a) and 26(b) and *National Cable & Telecommunications Assn. v. Brand X Internet Svcs.*, 545 U. S. 967, 980 (2005)).

22. Here, the enabling language in the Ethics in Government Act substantially mirrors the broad enabling language in the statute that created the Teachers Retirement System. Accordingly, the Commission, like the System, has been given "the authority to promulgate binding legal rules, which it has done [through the regulations] in the proper exercise of that authority.
23. When an agency rule or regulation exceeds the scope of the authority granted to the agency by the General Assembly, however, the rule or regulation is invalid. *See Premier Health Care Invs., LLC v. UHS of Anchor, L.P.*, 310 Ga. 32, 55-56 (2020) (concluding that "To the extent the Psychiatric Rule purports to require a new CON for redistribution of psychiatric/ substance-abuse beds in a facility that has already secured CON approval to operate a psychiatric/substance-abuse inpatient program and the total number of inpatient beds under the facility's broader CON is not exceeded, the Rule exceeds the Department's rulemaking authority and is therefore invalid."). The Court concludes that *Premier Health* is inapplicable here and that the Commission's regulations do not exceed the scope of authority granted to the Commission by the General Assembly.

**C. Analysis and Opinion**

24. The fundamental issue presented in this case is whether School Reform 2016 was (1) a PAC as Respondent asserts; or (2) was either an independent committee or a combination of a PAC and an independent committee as asserted by Petitioner. After canvassing the entirety of the statutes and regulations at issue, the Court found nothing to support Petitioner's contention that the regulations (or the statute, which is the starting place for this analysis) requires or even suggests that an entity is forced to pick between being a PAC and being an independent committee. While the Commission's website has undoubtedly been updated in some fashion since 2016, there also appears to be nothing on the website that instructs an entity to pick one political committee type versus another. The only thing that suggests a possible either/or choice is CFC Form RO, which is for the purpose of registering with the Commission. Several different campaign related entities are included in the top block. Both a PAC and an independent committee are among the options. The form instructs the preparer to "check one," which appears to indicate only that the form is to be used for a single purpose at a time, not that a filer must make an election as to which entity to be. In any event, School Reform never filed this form, so it cannot be said that School Reform made an election in a filing with the Commission. It made the election in the minds of its organizers, Mr. Myers and Mr. Thomas.

25. The plain meaning of the statutory definitions for a PAC and an independent committee are clear that the entity is defined by what it does, not by what its organizers choose to think it is. Both follow the same basic structure: a _____ is "any committee, club, association, partnership, corporation, labor union or other group of persons . . . which receives donations . . . from persons who are members or supporters of the committee and which [carries out

these specific acts]. In the case of an independent committee, those acts consist of "expend[ing] funds either for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate. O.C.G.A. § 21-5-3(15)[3]. In the case of a PAC, those specific acts consist of "contributing funds to one or more candidates for public office or campaign committees of candidates for public office." O.C.G.A. § 21-5-3(20). Here, the existence of School Reform 2016 as a PAC was simply a figment in the minds of its organizers, as it did not, because it was not required to. register as a PAC. Notably, School Reform 2016 was never organized as any form of corporate or other business entity. It appears that it had no formal structure, even the checks for the entity also included Mr. Thomas' name. The evidence showed thar School Reform 2016 was nothing more than a title used by Mr. Myers and Mr. Thomas to refer to their combined activities related to the 2016 election at issue here.

26. Based on its plain meaning, the clause, "other than a campaign committee, political party or political action committee," in the definition for an independent committee, means that to the extent the activities such as expending funds for campaign advertising to support the candidate performed by a campaign committee, for example, could be construed to be expending funds for the purpose of affecting the outcome of an election, those acts do not make the campaign committee an independent committee. In the case of a PAC, this would mean that to the extent that contributing funds to one or more candidates could be construed to be expending funds for the purpose of affecting the outcome of an election, that act does

3 For ease of reference, and Independent Committee is defined as: "any committee, club, association, partnership, corporation, labor union, or other group of persons, other than a campaign committee, political party, or political action committee, which receives donations during a calendar year from persons who are members or supporters of the committee and which expends such funds either for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate."

not make the PAC an independent committee. This construction is consistent with the intent of the General Assembly that the public has a right to know who is behind the forces that support a candidate so the public can evaluate those influences and make informed voting choices. As quoted above,

> It is declared to be the policy of this state . . . that the state's public affairs will be best served by disclosures of significant private interests of public officers and officials which may influence the discharge of their public duties and responsibilities. The General Assembly further finds that it is for the public to determine whether significant private interests of public officers have influenced the state's public officers to the detriment of their public duties and responsibilities and, in order to make that determination and hold the public officers accountable, the public must have reasonable access to the disclosure of the significant private interests of the public officers of this state.

O.C.G.A. 21-5-2.

The Court concludes that the exception language is simply to make it clear that to the extent the activities by a campaign committee, a political party, or a political action committee by expending funds to or on behalf of a candidate (i.e., not independent expenditures), could be construed to be expending funds for the purpose of affecting the outcome of an election, that fact alone does not make them an independent committee. The Court further concludes that it helps clarify that an independent committee may consist of any grouping of people, persons or entities to the extent their activities are not those of a campaign committee (which is controlled by a candidate), of a political party (which can coordinate its actions with candidates pursuant to O.C.G.A. § 21-5-41(j)), or of a PAC (which makes direct of in-kind contribution to candidates that are subject to campaign contribution limits).

27. Although an entity that is operating as a PAC and makes contributions directly to or expends funds on behalf of candidates totaling less than $25,000 may be exempt from registering as a PAC, those contributions would nevertheless be disclosed by the candidate pursuant to the

candidate disclosure requirements set forth in O.C.G.A. § 21-5-34. Independent expenditures, on the other hand, do not have a corresponding recipient with a disclosure obligation. Hence, the reason for the requirement that the entity must register as an independent committee *prior* to receiving contributions. O.C.G.A. § 21-5-34(e).

28. It would be ironic indeed if an entity could escape its disclosure obligations by acting one way and simply believing it was something other than that which its actions necessarily demonstrate. This, however, is exactly what Mr. Myers and Mr. Thomas did with School Reform 2016, albeit with the erroneous and misguided belief that School Reform 2016 was operating as a PAC and not as an independent committee.

29. As noted above, an expenditure is "independent" only if it meets certain conditions. It must not be made with the cooperation or consent of, or in consultation with, or at the request or suggestion of any candidate or any of his or her agents or authorized committees. An expenditure which does not meet the above criteria for independence is considered a contribution which is subject to limits." Ga. Comp. R. & Regs. r. 189-6-.04. Respondent argued that if the negative ad campaign was made "with the cooperation or consent of, or in consultation with, or at the request or suggestion" of at least one of either Joann Thomas-Brown or Shelia Williams, the expenditures on the negative ad campaign were not independent expenditures. There are only two types of expenditures and if the expenditures were not independent expenditures, then since they were not direct monetary contributions by a PAC to the candidates they would have to have been treated as in-kind contributions and would be subject to the contribution limits. There is no evidence to suggest, however, that Mr. Myers and Mr. Thomas treated them as in-kind contributions,

30. The Court asked the parties to provide an analysis of the meaning of the phrases "cooperation or consent of," "in consultation with," and "at the request or suggestion of" in the portion of the definition of independent expenditure that reads: "However, an expenditure is "independent" only if it meets certain conditions. It must not be made with the cooperation or consent of, or in consultation with, or at the request or suggestion of any candidate or any of his or her agents or authorized committees. An expenditure which does not meet the above criteria for independence is considered a contribution which is subject to limits." Ga. Comp. R. & Regs. r. 189-6-.04. As noted above in the section on statutory construction, words should be given their plain and ordinary meaning. *Fulton County v. Berry*, 354 Ga. App. 841, 845 (2020). Petitioner proposed definitions from the online version of Merriam-Webster's Dictionary found at https://www.merriam-webster.com. These definitions are set forth below:

> The Merriam Webster dictionary1 defines "cooperation" as "the actions of someone who is being helpful by doing what is wanted or asked for common effort." It defines "consent" as "to give assent or approval."
>
> The Merriam Webster dictionary defines the term "consult" as "to deliberate together; confer."
>
> The Merriam Webster dictionary defines "request" as "the act or an instance of asking for something" and defines "suggestion" as "the act of suggesting," which in turn is defined as "to mention or imply as a possibility."

For the purposes of the analysis and interpretation of this clause in the definition of independent expenditure, the Court concludes that these definitions accurately set forth the plain, ordinary and logical meaning of the words in the context in which they are used.

31. With these definitions in mind, the testimony of Joann Thomas-Brown and Shelia Williams showed that they only had mere knowledge of the negative ad campaign. They did not have input into and were not asked for their consent to the content or strategy to be used with the adds. They were not asked for their permission to run the ads or for their approval. They did not have input into School Reform's decision to run the ads or the amount School Reform was going to spend on the ads. The amount spent on the negative ad campaigns was not provided to Joann Thomas-Brown and Shelia Williams for them to include in their campaign disclosure reports. Except for Mr. Myers extracting the word "consent" from Ms. Williams during cross-examination, there is not a shred of evidence that the negative ad campaign was carried out with the cooperation or consent of, or in consultation with, or at the request or suggestion or either Ms. Williams or Ms. Thomas Brown. Regarding Ms. Williams's use of the word consent, in the context of the exchange, it was clearly used to indicate that she did not tell Mr. Myers or Mr. Thomas that she opposed the negative ad campaign. The testimony was also clear that she was not saying that she provided consent back when the ads were to be run. She used the word during her testimony to characterize her lack of opposition at the time and not that, at the time, she provided her consent to Mr. Myers or Mr. Thomas. That would make not sense in any event because the evidence was clear that no "consent" was sought from either Ms. Williams or Ms. Thomas-Brown, by Mr. Myers or Mr. Thomas. If School Reform had intended to treat the expenditures as anything other than independent expenditures, they would have provided the amounts of those expenditures to the candidates to include as in-kind contributions on their campaign contribution reports. The evidence adduced at the hearing shows that did not happen. The uncontroverted direct evidence therefore shows that the expenditures related to the "No More Pat and Cathy" ad campaign

were independent expenditures, and not coordinated expenditures that should be treated as an in-kind contribution to the candidates' campaigns.

32. The Court concludes that Petitioner showed by a preponderance of the evidence that School Reform 2016 made PAC type contributions within the scope of O.C.G.A. § 21-5-3(20) to the campaigns of Joann Thomas Brown and Shelia Williams in the amount of $5,650.22. The Court further concludes that Petitioner showed by a preponderance of the evidence that School Reform 2016 also made independent expenditures advocating the defeat of two incumbent candidates thereby making it an independent committee within the scope of O.C.G.A. § 21-5-3(15), which was required to register under O.C.G.A. § 21-5-34(e). The amount of those expenditures was $4,858.00.

33. Although the Court concludes that School Reform 2016 was required to register as and independent committee based on the statute and the regulations, Advisory Opinion 2015-02 ("AO-15-02") supports this conclusion. Contrary to Respondent's contention, AO-15-02 was issued pursuant to the Commission's express authority from the General Assembly to issue advisory opinions as set forth in O.C.G.A. § 21-5-6(13). Moreover, this is precisely the type of situation that warrants an advisory opinion since the General Assembly empowered the Commission, "To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the powers specifically authorized to it in this chapter." O.C.G.A. § 21-5-6(a)(8). The statute provides a safe harbor if an entity is operating in compliance with an advisory opinion. *See* O.C.G.A. § 21-5-6(13) ("No liability shall be imposed under this chapter for any act or omission made in conformity with a written advisory opinion issued by the commission that is valid at the time of the act or omission.") The inverse, however, is not necessarily the case. That is, if an entity is not

operating in compliance with an advisory opinion, the entity is not *ipso facto* violating the rule, regulation or statute that is the subject of the advisory opinion. It is undisputed that School Reform 2016 did not act in compliance with AO-15-02, which advises that under these facts, School Reform 2016 was required to register as an independent committee. As noted above, however, the Court reached the same conclusion based on its review of the statutes and regulations.

34. Respondent's argument that the campaign finance statute does not contemplate registering as both a PAC and an independent committee rings hollow in School Reform 2016's case. Since school reform did not register as a PAC since it was not required to, its existence as PAC is merely a creation in the minds of Mr. Myers and Mr. Thomas. They rely on the definition of a PAC to identify themselves as such and avail themselves of the $25,000 contribution threshold to avoid registration. They conveniently ignore, however, their negative campaign activities, which they did not treat as in-kind contributions. Accordingly, the only other alternative is that they were independent expenditures which required School Reform to register as an independent committee. Since School Reform 2016 did not register, and presumably would never need to actually register as a PAC, registering as an independent committee would not have caused them to register as two entities. That is a hypothetical issue, wholly inapplicable to School Reform 2016's circumstances.

35. The evidence shows that the independent expenditures, which are not contributions subject to the contribution limit, totaled $4,858.00. The evidence and the stipulation during the December 13, 2017 hearing before the Commission was that these expenditures were made in connection with the no more Pat and Cathy advertisements for the July 26, 2016 runoff. This leaves a total of $5,650.22. These are all in-kind contributions, i.e., not direct

contributions to the candidates, but they are nevertheless contributions to the candidates for the purposes of the contribution limits. *See* O.C.G.A. §21-5-3(7); Ga. Comp. R. & Regs. r. 189-6-.07. The expense detail showed in Petitioner's Exhibit 11, shows that of that amount, $3,848.75 in expenditures are dated after the May 24, 2016 election. There was one large expenditure on May 31, 2016, for $2,500.00 to Xpress Printing that could have been a payment after the election for work done for the primary rather than for the runoff. The remaining expenses dated after May 24, 2016, are dated June 9, 2016, or later. The timing and purpose for that payment is relevant because if the $2,500 was made in connection with the primary and not with the runoff, the portion of the $5,650.22 that was spent in connection with the primary was $4,301.44 and the total in-kind contributions made in connection with the runoff were $1,348.78. As a result, the $4,301.44 in contributions would exceed the statutory limit of $2,000.00 per candidate for two candidates. *See* O.C.G.A. § 21-5-41(b). While there was some evidence that Respondent supported some other candidates, there is no evidence to show that any of these expenditures should be considered contributions to a third candidate. If any of the expenses dated June 9, 2016, or after are properly attributable to the May 24, 2016 election, then the amount over $4,000.00 only gets larger. If, on the other hand, the $2,500 is a runoff expenditure/contribution, the primary expenditures would be under $4,000, but the runoff expenditures/ contributions would be $3,548.78, which exceeds the statutory limit of $1,000.00 per candidate. *Id.* Either way, Respondent exceeded the limits.

36. Because School Reform operated as an Independent Committee, it was required to file periodic reports disclosing contributions and expenditures according to a statutory schedule. O.C.G.A. § 21-5-34(f)(1)(A), (B) and (C). Applying this statutory schedule to the time period

at issue, Respondent was required to file these disclosure reports no later than May 6, 2016, June 8, 2016 and June 19, 2016. Respondent did not do so.

37. Although the failure to file reports is also a violation of the statute and the Court has concluded School Reform 2016 should have registered as an independent committee in accordance with O.C.G.A. §§ 21-5-34(e) and 34(f)(1) and should have filed the requisite reports required of an independent committee, the Court concludes that the failure to file those reports was a "further error" that was caused by and flows directly from the error in failing to file as a independent committee. As a result, and pursuant to O.C.G.A. §21-5-6(14)(C)(i), the Court concludes that the errors of failing to file the disclosure reports was part of a single violation along with the failure to register as an independent committee.

38. Accordingly, the Court concludes that School Reform 2016 committed two violations of the Act. The first was the failure to file as an independent committee together with the failure to file the requisite independent committee reports, which were further errors. The second was that its contributions during either the May 24, 2016, primary or the July 26, 2016, exceeded the campaign limits set by statute.

39. Since School Reform 2016 appears not to be operational, there is no need for a cease-and-desist order. However, since School Reform 2016, was a creation in the minds of Mr. Myers and Mr. Thomas and not a formally established entity that insulated its organizers from liability, it would be improper to say it is defunct. They called themselves that and in connection with the hearing in this matter signed subpoenas on its behalf. There is not reason to believe that it is just as real now as it was in 2016 and the responsibility of its organizers Mr. Myers and Mr. Thomas.

40. Pursuant to O.C.G.A. § 21-5-6(14)(C)(i), the Court may impose a penalty not to exceed $1,000.00 for each violation. There is no evidence to suggest that this is anything other than a first violation so the enhanced penalties for repeat violations are not applicable. For the first violation of failure to file as an independent committee and failure to file the requisite independent committee reports, the Court imposes a fine of $1,000.00. For the second violation of exceeding the campaign contribution limits, the Court imposes a fine of $1,000.00. The total fine is $2,000.00.

41. Pursuant to O.C.G.A. § 21-5-6(14)(B), Respondent is hereby ordered to register as an independent committee and to file the requisite statutory reports in connection with the $4,858.00 in expenditures required of an independent committee.

## IV. DECISION

Respondent, School Reform 2016, committed two violations of the Ethics in Government Act, O.C.G.A. §21-5-1, et seq. in connection with its activities during the May 24, 2016, primary and July 26, 2016, runoff elections. The first violation was a failure to file as an independent committee and file the requisite disclosure reports in connection with certain expenditures for the July 26, 2016 runoff. For this first violation, the Court **HEREBY IMPOSES A FINE OF** $1,000.00. The second violation concerned a different set of expenditures that were in-kind contributions subject to the campaign contribution limits in O.C.G.A. § 21-5-41(b). For this first violation, the Court **HEREBY IMPOSES A FINE OF** $1000.00. Respondent is **HEREBY ORDERED** to register School Reform 2016 as an independent committee and to submit the requisite disclosure reports within 30 days of the date of this decision.

**SO ORDERED**, this 23rd day of March, 2022.

**John Fry**
**Administrative Law Judge**