

CITY OF ALBUQUERQUE
BOARD OF ETHICS AND CAMPAIGN PRACTICES

DAVE ESDALE,

Complainant,

vs.

Case No. BOE 03-2023

BROOK BASSAN,

Respondent.

VERIFIED ANSWER TO THE COMPLAINT

Councilor Brook Bassan hereby submits the following Answer to the Complaint filed by Complainant Dave Esdale on October 30, 2023. On November 2, 2023, the City Clerk rejected large portions of the Complaint and determined that only “the allegations that Councilor Bassan utilized her official position to influence City employees” would be referred to the Board of Ethics for adjudication. Referral Ltr. at 2. This leaves only the following allegations in the case:

I believe Councilor Bassan, as a City Councilor, is violating Section 7 of Article XXII, the City Code of Ethics. Section 7 deals with the Misuse of City Employees in Campaigns. In Section 7(A), states that no official shall participate in the following types of political activity: “Using his or her position or employment with the city to influence support of employees of the city for or against any candidate, issue or Measure Finance Committee or other similar organization in any election or pre-election activity; provided, however, that nothing herein shall deny the right of an official of the city to express his or her views on any issue.”

Councilor Bassan employs Dawn Marie Emillio as her policy analyst with the Albuquerque City Council. Emillio is believed to be a resident of the City of Albuquerque based on public records that showed she was recently registered to vote at 10208 Delbert Ave NW, Albuquerque, NM, 87114. That residence is on Albuquerque’s Westside, and outside City Council District 4, which is represented by Councilor Bassan. According to public records, Emillio changed her voting address on April 23, 2023 to 9000 Modesto Ave NE, Albuquerque, NM, 87122, but

maintains her mailing address on the Westside at 10344 Mogollon Dr NW Albuquerque, NM 87114.

9000 Modesto Ave. NE is the residence that Councilor Bassan lists on city records as her home.

While it is unclear whether Emillio physically moved into Councilor Bassan's home, it appears Bassan intends to allow her residence to be used for Emillio's voter registration address, so that Emillio can vote for Bassan in the upcoming city election as a resident of Council District 4.

....

I am concerned that Councilor Bassan is using her position as a City Councilor and direct supervisor of Emillio to encourage and consent for [sic] Emillio to change her voter registration and vote for Bassan in the upcoming election.

Complaint ¶ 5, at 6.

With all due respect, it is not entirely clear what is being alleged here. Ms. Emillio did in fact stay with Councilor Bassan (a fact about which the Complaint seems to be agnostic, what with the “[w]hile it is unclear whether [Ms.] Emillio physically moved into Councilor Bassan's home” language), so if the claim is that Ms. Bassan either coerced Ms. Emillio to stay with her or influenced her to do so with the purpose of gaining an election advantage — which, again, would be gaining *one* qualifying contribution¹ and *one* potential vote,² which virtually no candidate would deem worth having an extra person *live in their house* for — Councilor Bassan denies the allegation. If the allegation is that Councilor Bassan encouraged or influenced Ms. Emillio to

¹ Council Bassan cleared the 500-QC threshold for public financing by 70 QCs, garnering 114% of the required total. See 2023 Petition & Qualifying Contribution Tally, ABQ City Website, <https://www.cabq.gov/vote/candidate-information/2023-candidates-and-committees-1/2023-petition-qualifying-contribution-tally> (last visited Nov. 27, 2023).

² On information and belief, Ms. Emillio in fact did not end up voting in the 2023 local election.

change her registration for that purpose, Councilor Bassan states that she was not even aware of Ms. Emillio making the change to her registration until well after the change was made, and certainly did not advise or encourage the change (let alone insist to a degree that would make out the charges the Complainant appears to be alleging). If the allegation is that Councilor Bassan coerced or unduly influenced Ms. Emillio to make the qualifying contribution she gave (which does not appear to be the allegation, as it does not make any use of the whole voter-registration-address issue), Councilor Bassan denies that allegation.

Respectfully submitted,

HARRISON & HART, LLC

By:  _____

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Attorneys for the Respondent

This Filing Has No Exhibits

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November 2023, I submitted the foregoing Answer via email to the Albuquerque City Clerk (ewatson@cabq.com). I also sent a copy to the Complainant via first-class mail to the following address:

David Esdale
4335 San Pedro Drive NE, Apt. E9
Albuquerque, NM 87109


Pro Se Respondent

HARRISON & HART, LLC

By: /s/ Carter B. Harrison IV
Carter B. Harrison IV

VERIFICATION

I, Brook Bassan, have reviewed this Answer, and I swear, under penalty of perjury under the laws of the State of New Mexico, that it is true and correct to the best of my knowledge.



Brook Bassan

11/29/23
Date