

SWORN COMPLAINT

To:
The Arkansas Ethics Commission
Attention: Mr. Graham Sloan, Director
Post Office Box 1917
Little Rock, AR 72203-1917
Email: contactus@arkansasethics.com
Voice Phone Number: 501.324.9600
<http://www.arkansasethics.com/>

Via: Fax # 501.324.9606
and Overnight Del# _____

Date:
May 19, 2014

From:
Mr. Edward George Geier
613 S Chestnut Street
Harrison, AR 72601

Re:
Ethics Complaint against Representative John Burriss (D85)

Dear Commissioner Sloan:

This complaint is filed by me, Edward George Geier, in good faith and upon what I consider to be reliable facts, against Representative John Burriss, District 85.

I am over 21 years of age and am a resident of and registered as an independent voter in Boone County, Arkansas. Representative John Burriss was last elected as my House member in November 2012.

According to the laws of the state of Arkansas, the Arkansas Ethics Commission's authorities and responsibilities are set out in Ark. Code Ann. §§ 7-6-217 and 218, "and include: ... (2) monitoring compliance with disclosure requirements; (4) investigating alleged violations of the law and determining whether a violation has occurred; (6) issuing disciplinary action for violations of the law, or referring its findings to a prosecuting attorney for criminal proceedings;" and specifically includes the investigation of complaints against elected officials for wrongful actions under A.C.A. § 10-2-212 et seq. and A.C.A. § 21-8-301 et seq., among other things.

This complaint is against the elected official, Representative John Burriss, District 85, for the following reasons:

1. Serving and receiving compensation as a representative of an Arkansas House district in which he does not reside;
2. Claiming reimbursements for out-of-pocket expenditures in excess of the maximum amount prescribed by law; and
3. Filing incomplete financial disclosure statements.

The basis for these claims are as follows:

1) Not residing in the District:

Representative Burriss is elected to represent the citizens of District 85, first being elected in 2008 and currently serving out his last term for which he was elected in November 2012. As a qualification for said office (under the Arkansas Constitution Article 5) he has claimed to reside as his primary residence at 923 West Prospect Ave., Harrison, Arkansas 72601. Representative John Burriss no longer resides at the above address or in the District 85.

The proof of one's residency is often not easy to verify, as one may simply say—"I reside here." However, when considering the multitude of facts in this case, I ask this Commission to recognize that John Burris no longer resides in District 85, based upon the following:

- By his own admission, John Burris states in the interview with Dale Hoffman from Mt Talk Radio, Mountain Home, AR-April 8, 2014 (see attached Exhibit A-digital recording 12:39 minutes into interview):
*"It's very well known how much time I spend traveling across the state."
"All of my jobs have really been outside the district-really statewide."
"I own a home in Harrison, and I go there as often as I can...But I do spend a lot of time traveling across the state trying to help elect Republicans to office. And... Frankly I have never been...shied away from that...I think that is why I ran for office, why I was elected...I think people want you to be engaged. I would always tell folks in Harrison, hey, you did not elect me to sit down here and talk to you the next day, hey we've got to go to Little Rock; we've got to get to work; we've got to elect other Republicans...";*
- By his own action, John Burris has his annual tax bill for his Boone County real estate taxes on 923 West Prospect Ave., Harrison, Arkansas 72601 mailed to "PO Box 7585 in Little Rock, AR" (see attached Exhibit B);
- By his own admission and according to the records with the Pulaski County Circuit Clerk Ex-Officio Recorder-#2014013339, John Burris bought a residence at 600 Gillette Drive in Little Rock, Arkansas on February 28, 2014 (see attached Exhibit C-Quitclaim deed to John Burris- and photo of residence and Exhibit A-recording) in which he states in response to the question as to why he bought this residence in Little Rock:
"All that is personal stuff, I really do not think is relevant. I have always bought and remodeled houses.....house I own in Harrison now is a fixer-upper that I bought....";
- By his own sworn statements and according to the records with the Pulaski County Circuit Clerk Ex-Officio Recorder #2014013341, John Burris states his address to be "1350 W 4th Street, Little Rock, AR 72201." (It should be noted that this address appears to be an empty lot.) This sworn statement is in a notarized and recorded mortgage from John Burris, mortgagor, to Centennial Bank, mortgagee in the amount of \$216,800 on real property located at 600 Gillette Drive in Little Rock, Arkansas, dated February 28, 2014 (see attached Exhibit D-Mortgage from John Burris);
- By admission of his friends and colleagues in the Arkansas House of Representatives, it is acknowledged as a well-known fact that John Burris does not reside in Harrison and is actually rarely in Harrison. (See attached Exhibit E which is a news article reciting an event on the House floor on March 12, 2014 when House members gave him a visitor's guide from Harrison Chamber of Commerce inviting him to visit Harrison.—*"followed by roars of laughter and clapping."*)
- Lastly, other concerned citizens and registered voters in Harrison, Arkansas have the same concerns as mine. One of those reliable citizens went to the residence at 923 West Prospect Ave., Harrison in April 2014 in an attempt to determine whether John Burris resided at that address; he knocked on the door and ask whether John Burris resided there. An elderly lady answered, unwilling to open the door to show her face (as the door was covered with plastic which prevented visibility;) she stated that John Burris was not there and that he had two houses. This concerned citizen is available to speak to the Commission upon request;
- Likewise, there are a multitude of politically active citizens of Harrison who can attest to the fact that John Burris is rarely seen in the District but for very special occasions; one is quoted as saying, *"I see US Congressman Steve Womack more than AR House member John Burris."*
- It is my position and complaint that the people of House District 85 deserve representation from a person who resides in their district as contemplated by the Arkansas Constitution (which said residency allows him to know and understand the will and needs of the people he claims to represent.) John Burris is not so qualified, as he resides in Little Rock.

2) Paid for Claims for Reimbursement Above Those Prescribed by Law!

Representative Burris has received from the State of Arkansas each year starting in 2009 payment for said elected service as follows: salary, reimbursement for office expenses, mileage, per diem, and trip expenses. He has consistently been included among the highest, if not the highest, paid Arkansas legislator among the 135 house members and senators, for salary plus reimbursed expenses. (See the attached Exhibit F setting out the summary of said payments by the State of Arkansas to Rep John Burris from January 1, 2009 through April 1, 2014. Detailed reimbursement claims by John Burris to the state of Arkansas are attached as Exhibit G and gathered through a prior FOIA request to the State.)

Pursuant to A.C.A. § 10-2-212 et seq., the settlement agreement reached in *Wells, et al v. Taylor, et al Circuit Court of Pulaski County, No 60CV-2011-4688 (2012)*, and *The Accountable Reimbursement Plan for the Arkansas House of Representatives* (pertinent pages attached as Exhibit H), John Burris has exceeded the reimbursement expenses allowed by law under the following situations:

A-Excess Mileage-para 400 Mileage Reimbursement: Representative John Burris has annually overcharged the State of Arkansas for mileage reimbursement for driving to and from Harrison, Arkansas. This is an overcharge due to the fact that Rep Burris does not occupy the address of 923 West Prospect Ave., Harrison, Arkansas 72601 as his primary residence and is seldom present at that address but instead resides in Little Rock or other whereabouts; therefore, reimbursement for said driving is in excess of that allowed by Arkansas law. See Section 1 above as proof of the fact that John Burris is not driving from Harrison to Little Rock as claimed on the mileage reimbursement forms. Therefore these claims for reimbursement are in excess of those allowed by law.

B-Excess Charges for Office Space in His Personal Residence-para 130 Use of Personal Residence: Representative John Burris has charged the state of Arkansas \$300 per month for a dedicated office space at the residence of 923 West Prospect Ave., Harrison, Arkansas 72601 since April 2012 in violation of the House Members' Accountable Reimbursement Plan, paragraph 130-page 3-Use of Residence rule, due to the fact he cannot pass the test of "time spent in the residence on legislative activities compared to the time spent away from the residence." He does not spend time at that location in that office space sufficient to be reimbursed at the rate of \$300/month. Likewise, he has not filed appropriate forms for said reimbursement setting out square footage, etc.

C-Excess Charges for Work Performed by a First Degree Disqualified Relative-para 120 and 140: Representative John Burris has charged the state of Arkansas \$1200 per month or more for clerical services alleged to be paid to his father Douglas Burris through John Burris' solely owned limited liability company, Conservative Strategies. There are several issues of concern as to why these charges are in excess of those allowed by law:

- First, it is unfortunate and out of no disrespect to the father of John Burris, that Douglas Burris is made an issue in this complaint. That is due to the actions of John Burris by involving his father in this matter. For that I am regretful.
- Next, there is insufficient proof that wages have actually been paid to Douglas Burris by John Burris (a mere typed statement will not pass the smell test for a CPA); proof should include such as an IRS Form 1099 as would be filed with the IRS to prove wages have been paid by John Burris and properly reported as income by Douglas Burris (all pursuant to the lawsuit settlement mentioned above under Exhibit H);
- Douglas Burris is claimed by John Burris (see Audio Exhibit A) to be the full-time US Postmaster of Pyatt, Arkansas and a full-time pastor of a local church. Yet at the rate of \$1200 per month and assuming a generous compensation at competitive rates (for whatever the elder Burris may do) would be estimated at \$18/hour. This would require that Douglas Burris do the work as described under the claim for reimbursement at the rate of at least 16.7 hours per week. With a full-time postmaster job and a full-time pastor job—it is hard to believe that he still has available 16.7/week more hours to spend working for John Burris for the District each and every week since April 2012.

- Prior to the settlement between the Pulaski Court and the House in April 2012, John Burris filed for reimbursement in the amount of \$1500/month with said monies going directly to him for work he supposedly performed for himself. When the rental reimbursement and payment to Douglas Burris are added, there remains a consistent payment of John Burris at the rate of \$1500/month. These post April 2012 payment appears to be an attempt to maintain a specific cash flow and not repayment for expenses. This payment is inconsistent with the reimbursement allowed by law.
- Hiring of his father for this job is in violation of ACA 21-8-304, Prohibited activities. "(a) No public servant shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that are not available to others except as may be otherwise provided by law";
- Hiring of his father, a US Post Master, for this job is in violation of the Arkansas Constitution. *Arkansas Constitution Article 5, Section 7, Officers Ineligible*, states that "No judge of the Supreme, Circuit or inferior courts of law or equity, Secretary of State, Attorney General for the State, Auditor or Treasurer, Recorder, clerk of any court of record, Sheriff, Coroner, member of Congress, nor any other person holding any lucrative office under the United States or this State (militia officers, justices of the peace, postmaster's, officers of public schools and notaries excepted), shall be eligible to a seat in either house of the General Assembly." Even though John Burris is not a US Postmaster, it is a reasonable assumption that he may not hire a person to fulfill his obligations (such as his father) who is a US Postmaster and that person be paid by the state of Arkansas, even though indirect, to do the work for a House member, when that person is disqualified himself to serve as a House member.
- Therefore, for all the reasons mentioned above, Douglas Burris is a disqualified employee; therefore all expensed reimbursed to John Burris for the salary of Douglas Burris is in excess of those allowed by law.

3) Filing Incomplete Financial Disclosure Statements:

Pursuant to the requirement by the State of Arkansas that a candidate and an elected official file annually a *Statement of Financial Interest*, Rep John Burris has filed same since 2007. (See filings 2007-2013 attached as Exhibit I.)

Such statements reveal the following regarding the financial interest of John Burris:

- That he has not worked as a substitute teacher to the degree that he has made more than \$1000 per year since 2008;
- That his only current sources of income are State of Arkansas—House member (paying just under \$16,000) and part time work with the Tom Cotton Senate Campaign—which he claims is temporarily on hold since March 2014 (and will obviously end November 2014);
- That he does not hold investment accounts or funds with financial institutions other than his retirement account (assumed as a result of being a state representative.)
- That he does not currently have loans or guarantees on loans from individuals or otherwise.

On February 28, 2014, (during the hotly debated fiscal session) John Burris made a loan with Centennial Bank (the President of which is Davy Carter, Speaker of the Arkansas House) for \$216,800—collateralizing said loan with two pieces of real estate. (See the attached Exhibit D mentioned above.)

It is unreasonable to assume that John Burris could qualify for a third party loan with a reputable institution with all the current rules and regulations for loans with income and assets as reflected on the attached SFI filings.

Therefore, it is my sincere position that the *Statement of Financial Interests* as last filed by John Burris on January 23, 2014 are obviously incomplete.

Thank you for your consideration of this complaint. I will look forward to hearing from you regarding any additional information needed and your decisions in this regard.

Respectfully Submitted,

Edward George Geler

Affidavit

I, George Geler, being duly sworn, have read the foregoing complaint in its entirety (five pages), including all nine exhibits, and to the best of my knowledge, or based on information and belief, believe it to be true. I also understand the intentional submission of false information may constitute a crime punishable by fine or imprisonment, or both.

Edward George Geler

Sworn to before me this 19 day of May, 2014.

Notary Public

Commission Expires:

