

STATE OF SOUTH CAROLINA) BEFORE THE STATE ETHICS COMMISSION
COUNTY OF RICHLAND)
))
IN THE MATTER OF:)
COMPLAINT C2013-034)
))
State Ethics Commission,)
Complainant,)
))
v.)
))
Michael D. Owens,)
Respondent.)
_____)

CONSENT ORDER

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COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on October 15, 2012. On November 28, 2012, pursuant to S.C. Code Ann. § 8-13-320(10)(i)(Supp. 2011), the State Ethics Commission reviewed the above-captioned complaint charging the Respondent, Michael D. Owens, with a violation of Section 8-13-765 and probable cause was found to warrant an evidentiary hearing.

Prior to the call of the case, Respondent agreed to the entry of the following statements of fact, conclusions of law, discussion, and disposition in this matter as follows:

STATEMENT OF FACTS

1. At all times relevant hereto, Respondent served as Investigator/General Counsel for the Pickens County Sheriff's Office.
2. During the time period surrounding the complaint, Assistant Sheriff Tim Morgan was seeking to be added as a petition candidate for the office of Pickens County

Sheriff.

3. The petition process involved gathering signatures of Pickens County voters on designated petition forms, with the goal being to gather signatures of a certain percentage of the total number of qualified electors of the county.

4. During the 2012 election cycle, the target number for success in a petition effort at the county level was 3,153 valid signatures.

5. Each registered voter in South Carolina has an assigned voter identification number.

6. In order to be a "qualified elector" of a particular county, one must have registered in the county, not moved out of the county since registering, not have been stripped of the right to vote, and have voted in the prior eight years.

7. A database, accessible through the Pickens County Registration and Election Commission (hereinafter "Election Commission") website, is maintained whereby one can use a name and date of birth to determine whether an individual is a "qualified elector" of a certain county.

8. Upon receiving a petition from someone seeking to be added as a candidate for office, the Election Commission employees count the total number of signatures submitted and provide such number to the petitioner.

9. Election Commission personnel then begin the process of validating signatures, which involves locating the original voter registration card for the purported signer, and comparing the signature thereon to the purported signature which appears on the petition.

10. The original voter registration card is stored at the Election Commission office, and is readily located using the voter registration number assigned to a particular voter.

11. Respondent took four days of vacation leave from his duties at the Sheriff's Office to assist with Morgan's petition effort.

12. Respondent freely admitted using the computer in his office at the Sheriff's Office to connect to the Election Commission website in order to check names in the voter registration database.

13. If Respondent was able to confirm a signer was a qualified elector of Pickens County, he wrote the signer's voter registration number beside the individual's name, and proceeded to the next name on the list.

14. If Respondent was unable to locate the individual in the Election Commission database, he wrote nothing beside the signer's name, under the view that this was most probably an individual who was not a "qualified elector" of Pickens County.

15. Upon inquiry, Respondent advised that his computer at home was too slow to efficiently check the petition signatures through the Election Commission website.

16. Respondent also stated that, as a natural matter, when he thought of using a computer for research he automatically thought of the computer in his office, because that is where Respondent did virtually all work involving a computer.

17. Respondent admitted he checked "a lot" of petition signatures using the computer in his office, writing the voter registration number for each validated signature beside the signer's name.

18. Overall, according to a news article in the Greenville News on October 28, 2012, Morgan's petition effort gathered more than 5,400 validated signatures.

19. Respondent advised that his use of the office computer was not an intentional violation of the rules and regulations which apply to campaigns.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Commission concludes, as a matter of law:

1. During all relevant times, Respondent was a public employee as defined by Section 8-13-100(25) of the South Carolina Code of Laws.
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 8-13-765(A) provides as follows:
 - (A) No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.

DISCUSSION

1. As a matter of course, Respondent's job duties often included using his office computer to connect to various databases and websites for purposes of research or investigation.
2. Respondent used his office computer, owned by Pickens County, to connect to a Pickens County website, in order to determine whether individuals who had signed Morgan's petition were qualified voters of Pickens County.
3. The Election Commission procedure for determining the validity of petition signatures dictates that the voter identification number be identified, the original voter

registration card located, and the signature thereon compared to the petition signature.

4. It appears that for every voter identification number which Respondent looked up and identified, this saved Election Commission personnel, who are also employees of Pickens County, from having to perform virtually identical work on their Pickens County computers.

5. It is clear that had Respondent performed the work at a branch of the county library no violation would have occurred, even though this would necessarily consist of the use of a Pickens County computer in the exact same manner as Respondent used the Pickens County computer at his office.

6. While a benefit no doubt flowed to the Morgan petition drive from Respondent's efforts due to the monitoring, at least in part, of the number of "qualified elector" signatures being gathered, the reality that the identical work would eventually have to be performed by another county employee, on a county computer, suggests that Respondent's actions constitute, at best, a de minimis violation of the Ethics Reform Act.

DISPOSITION

Accordingly, the State Ethics Commission hereby finds Respondent in violation of Section 8-13-765, and adopts the Statement of Facts, Conclusions of Law, Discussion, and Disposition as agreed upon by Respondent.

THEREFORE, the State Ethics Commission hereby issues this written warning to Respondent for his violation of Section 8-13-765;

AND, in order to avoid future violations, directs Respondent to review the Ethics Reform Act and be vigilant in adhering to the provisions thereof;

AND, orders Respondent to pay an administrative fee of \$150.00 within thirty days of receipt of this signed order.

AND IT IS SO ORDERED THIS 9th DAY OF July 2013.

STATE ETHICS COMMISSION



PHILLIP FLORENCE, JR.
CHAIR



Michael D. Owens
Respondent

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