

STATE OF SOUTH CAROLINA) BEFORE THE STATE ETHICS COMMISSION
COUNTY OF RICHLAND)
))
IN THE MATTER OF:)
COMPLAINT C2013-080)
))
State Ethics Commission,)
Complainant,)
))
vs.) **DECISION AND ORDER**
))
Earnest E. Suber,)
Respondent.)
_____)

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STATE ETHICS
COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on November 28, 2012. On January 16, 2013, pursuant to S.C. Code Ann. § 8-13-320(10)(i)(Supp. 2012), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Earnest E. Suber, with a violation of Section 8-13-1308 and probable cause was found.

Present at the Hearing on March 19, 2014 were Commission Members, Phillip Florence, Jr., Chair, E. Kay Biermann Brohl, and James I. Warren. Respondent was present and appeared *pro se*. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charge was considered:

COUNT ONE
FAILURE TO FILE PRE-ELECTION CAMPAIGN DISCLOSURE
SECTION 8-13-1308(D), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Earnest E. Suber, a candidate for Greer Town Council, did in Richland County, on or about June 14, 2010, did fail to timely file a pre-election Campaign Disclosure Report in violation of Section of 8-13-1308(D).

FINDINGS OF FACT

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. The Respondent, Earnest E. Suber, was a candidate for Greer City Council in a June 29, 2010 special election.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that on June 4, 2010 Respondent filed a Statement of Economic Interests form (SEI) stating he was a candidate in a special election on June 29, 2010 for Greer City Council. On September 5, 2012 Respondent was assessed a \$100.00 late filing penalty for failure to file a pre-election Campaign Disclosure form (CD) by June 14, 2010. On October 2, 2012 the letter of September 5, 2012 was sent certified. On October 23, 2012 the certified letter was returned as "Return to Sender – Unclaimed" and was re-mailed first class on October 24, 2012. Penalties began accruing at \$10 per day for the first ten days on November 4, 2012 and \$100 per day on November 14, 2012. Respondent filed the pre-election CD on December 12, 2012. The late filing penalty of \$3,000.00 was not paid.

3. Respondent testified that he was a write-in candidate. He received forms from the clerk; however, he did not receive anything about filing campaign disclosure forms. He received no correspondence from the Commission until he received the complaint and the notice of hearing. The complaint was filed on November 28th and he filed on December 12th, which was as soon as he knew what he was supposed to do.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Earnest E. Suber, was a candidate as

defined by Section 8-13-1300(4).

2. The State Ethics Commission has personal and subject matter jurisdiction.

3. Section 8-13-1308(D) provides that a candidate must file a pre-election campaign disclosure form 15 days before the election.

4. Section 8-13-1510(1) provides as follows:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if not filed within five days after the established deadline provided by law in this chapter;

5. Section 8-13-130 states in part:

The State Ethics Commission may levy an enforcement or administrative fee on a person who is found in violation, or who admits to a violation, of the "Ethics, Government Accountability and Campaign Reform Act of 1991". The fee must be used to reimburse the commission for costs associated with the investigation and hearing of a violation.

DECISION

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the State Ethics Commission has determined based upon a preponderance of evidence that Respondent Earnest E. Suber is in violation of Section 8-13-1308; and therefore, Respondent Earnest E. Suber is hereby assessed a reduced late-filing penalty of \$500.00 to be paid within 60 days of receipt of the order. If the reduced late-filing penalty is not timely paid then the amount owed will revert to the original late filing penalty of \$3,000.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$3,000.00 is, and shall be entered against Respondent, if he fails to pay the re-

duced late-filing penalty within the time permitted.

FINALLY, Respondent Earnest E. Suber has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 8th DAY OF May, 2014.

STATE ETHICS COMMISSION


PHILLIP FLORENCE, JR.
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA