

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 IN THE MATTER OF:)
 COMPLAINT C2013-096)
)
 State Ethics Commission,)
 Complainant,)
)
 vs.)
)
 Eric G. Winstead,)
 Respondent.)
 _____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

STATE ETHICS
 COMMISSION

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RECEIVED

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on January 22, 2013. On September 18, 2013, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2013), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Eric G. Winstead, with violations of Section 8-13-1308 and probable cause was found to warrant an evidentiary hearing.

Present at the Hearing on November 20, 2013 were Commission Members Phillip Florence, Jr., Chair, Jonathan H. Burnett and Richard H. Fitzgerald. Respondent was present and appeared *pro se*. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charges were considered:

**COUNT ONE
 FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
 SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED**

That Eric G. Winstead, a candidate for York County Council in a November 6, 2012 election, did in Richland County, fail to timely file an April 10, 2011 quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

COUNT TWO
FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That Eric G. Winstead, a candidate for York County Council in a November 6, 2012 election, did in Richland County, fail to timely file a July 10, 2011 quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

COUNT THREE
FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That Eric G. Winstead, a candidate for York County Council in a November 6, 2012 election, did in Richland County, fail to timely file an October 10, 2011 quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

COUNT FOUR
FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That Eric G. Winstead, a candidate for York County Council in a November 6, 2012 election, did in Richland County, fail to timely file a January 10, 2012 quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

COUNT FIVE
FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That Eric G. Winstead, a candidate for York County Council in a November 6, 2012 election, did in Richland County, fail to timely file a July 10, 2012 quarterly Cam-

paigned Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

COUNT SIX
FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That Eric G. Winstead, a candidate for York County Council in a November 6, 2012 election, did in Richland County, fail to timely file an October 10, 2012 quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

COUNT SEVEN
FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That Eric G. Winstead, a candidate for York County Council in a November 6, 2012 election, did in Richland County, fail to timely file a January 10, 2013 quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

FINDINGS OF FACT

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

1. The Respondent, Eric G. Winstead, was a candidate for York County Council in a June 12, 2012 primary election.
2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that by letter dated October 25, 2012, Respondent was penalized \$500.00 for failing to file an April 10, 2011, a July 10, 2011, an October 10, 2011, a January 10, 2012 and a July 10, 2012 Campaign Disclosure form (CD). The letter was re-

sent certified on November 16, 2012. The certified letter was returned as unclaimed on December 12, 2012. It was re-mailed first class. Penalties began accruing on December 23, 2012. Respondent filed the required CDs on June 19, 2013, but the \$25,000.00 late-filing penalty was not paid.

3. Commission Investigator Dan Choate testified that on January 29, 2013 he left a message at the listed telephone number for Respondent advising him of the late CDs and accruing penalties. A second message was left on February 8, 2013. Investigator Choate determined that the telephone number was no longer listed to Respondent. On February 12, 2013 a new telephone number was found for Respondent, but it was out of order. Investigator Choate spoke to Karen Brogdon, Clerk to York County Council, who stated Respondent left office on December 13, 2012 and their contact information was the same as the Commission's.

4. Respondent testified that lots of things were happening at the same time. Respondent lost his job; he had to move; and he lost his phone. He believed that his campaign person was filing his CDs, but he wasn't. Respondent testified that he is a part-time chaplain with hospice and attending school full-time. He cannot afford the \$25,000.00 late filing penalty, although he knows it was his responsibility to file.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Eric G. Winstead, 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(B) provides:

Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election until the campaign account undergoes final disbursement pursuant to the provisions of Section 8-13-1370.

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 Eric G. Winstead is in violation of Section 8-13-1308; and therefore, Respondent Eric G. Winstead is hereby Publicly Reprimanded and he is hereby assessed a reduced late-filing penalty of \$200.00 to be paid within 60 days of receipt of the order. In addition a \$100.00 administrative fee is assessed and it must be paid within 60 days of receipt of the order. If the reduced late-filing penalty and administrative fee are not timely paid then the amount owed will revert to the original late filing penalty of

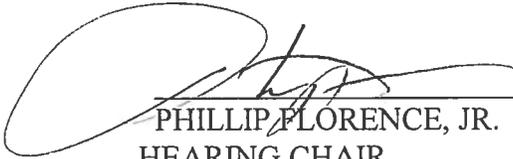
\$25,000.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$25,000.00 is, and shall be entered against Respondent, if he fails to pay the reduced late-filing penalty and administrative fee within the time permitted.

FINALLY, Respondent Eric G. Winstead has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 9th DAY OF Dec., 2013.

STATE ETHICS COMMISSION


PHILLIP FLORENCE, JR.
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA