

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 IN THE MATTER OF:)
 COMPLAINT C2014-020)
)
 State Ethics Commission,)
 Complainant,)
)
 vs.)
)
 Tony Fayyazi,)
 Respondent.)
 _____)

BEFORE THE STATE ETHICS COMMISSION

STATE ETHICS
 COMMISSION

2014 MAY 12 PM 4:35

RECEIVED

DECISION AND ORDER

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on August 14, 2013. On November 20, 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, Tony Fayyazi, 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 not present, but he was duly noticed. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charge was considered:

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

That the Respondent, Tony Fayyazi, a candidate for South Carolina Superintendent of Education, did in Richland County, on or about October 18, 2010, 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, Tony Fayyazi, was a candidate for State Superintendent of Education in a November 2, 2010 election.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that on May 9, 2013 Respondent was assessed a \$100.00 late filing penalty for failure to file a pre-election Campaign Disclosure form (CD) by October 18, 2010. On June 6, 2013 the penalty letter was sent certified. It was returned as unclaimed and re-mailed first class on June 26, 2013. Penalties began accruing at \$10 per day on July 7, 2013 and at \$100 per day on July 17, 2013. Respondent has not filed the pre-election CD. The late filing penalty of \$5,000.00 has not been paid.

2. Daniel Choate, State Ethics Commission Investigator, testified that on August 20, 2013, August 27, 2013 and September 19, 2013 he left recorded messages on Respondent's telephone concerning the late CDs and the accruing penalty. As of March 19, 2014 there has been no compliance nor any response to the messages left. The outstanding penalty remains at \$5,000.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Tony Fayyazi, 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.

6. Section 8-13-320(10)(l) provides:

(i) requiring the public official, public member, or public employee to pay a civil penalty of not more than two thousand dollars for each 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 Tony Fayyazi is in violation of Section 8-13-1308; and therefore, Respondent Tony Fayyazi is hereby Publicly Reprimanded and he is assessed a fine of \$2,000.00, in addition to the late-filing penalty of \$5,000.00 and he is assessed an administrative fee of \$500.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$7,500.00 is, and shall be entered against Respondent.

IT IS FURTHER THE ORDER OF THIS COMMISSION that the Clerk of Court of the County in which Respondent was last known to reside shall enter this Order in its

Judgment Rolls, without cost to the State Ethics Commission, in the amount of \$7,500.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Tony Fayyazi 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