

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2014-044)
State Ethics Commission,)
Complainant,)
Michael D. Brown,)
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 October 17, 2013. On January 15, 2014, pursuant to S.C. Code Ann. § 8-13-320(10)(i)(Supp. 2013), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Michael D. Brown, with a violation of Section 8-13-1308 and probable cause was found.

Present at the Hearing on July 16, 2014 were Commission Members, James I. Warren, III, Chair, James H. Burns, and Regina H. Lewis. 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 A PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(D), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Michael D. Brown, a candidate for Spartanburg County Council, did in Richland County, on or about October 22, 2012, 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, Michael D. Brown, was a candidate for Spartanburg County Council in a November 6, 2012 election.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that on March 30, 2012, Respondent filed a Statement of Economic Interests stating he was a candidate for Spartanburg County Council in the November 6, 2012 election. On July 11, 2013 Respondent was assessed a \$100.00 late filing penalty for failure to file a pre-election Campaign Disclosure form (CD) by October 22, 2012. On August 7, 2013 the penalty letter was sent certified. The letter was delivered on August 8, 2013. Penalties began accruing at \$10 per day on August 18, 2013 and at \$100 per day on August 28, 2013. Respondent filed the pre-election CD on October 29, 2013. The late filing penalty of \$5,000.00 has not been paid.

3. Daniel Choate, State Ethics Commission Investigator, testified that on November 29, 2013 Respondent advised him by telephone that Respondent had received the Commission's correspondence. He stated he would file the late CD immediately. On the same date, a check of on-line reporting disclosed that Respondent filed an initial CD but did not file a pre-election CD. On November 5, 2013 he contacted a representative of Respondent and requested that Respondent contact the investigator. The representative was advised that the CD that was filed was not a pre-election CD. On November 21, 2013 the investigator made another telephone call to the representative and requested that the initial CD filed be changed to a pre-election CD. Commission staff eventually made the change for Respondent from initial to pre-election CD. The outstanding penalty for failure to file the pre-election CD was \$5,000.00 at the time of the initial filing.



CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Michael D. Brown, 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;

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 Michael D. Brown is in violation of Section 8-13-1308; and therefore, Respondent Michael D. Brown is hereby assessed a late-filing penalty of \$5,000.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$5,000.00 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 \$5,000.00



upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Michael D. Brown has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 6 DAY OF Aug., 2014.

STATE ETHICS COMMISSION



JAMES I. WARREN, III
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA