

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 IN THE MATTER OF:)
)
 COMPLAINT C2014-045)
)
 State Ethics Commission,)
 Complainant,)
)
)
 Robert Gathers,)
 Respondent.)
)
 _____)

BEFORE THE STATE ETHICS COMMISSION

STATE ETHICS
 COMMISSION

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DECISION AND ORDER

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, Robert Gathers, with violations 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 charges were 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, Robert Gathers, a candidate for Orangeburg County School Board, in a November 8, 2011 election, did in Richland County, on or about October 23, 2011, fail to timely file a pre-election Campaign Disclosure Report in violation of Section of 8-13-1308(D).

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

That the Respondent, Robert Gathers, a candidate for Orangeburg County School Board, in a November 8, 2011 election, did in Richland County, in February 29, 2012 fail to timely file a final Campaign Disclosure Report upon closing his campaign account, 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, Robert Gathers, was a candidate for Orangeburg County School Board in a November 8, 2011 election.
2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that on July 17, 2013 Respondent was assessed an \$800.00 late filing penalty for failure to file a July 10, 2011, pre-election/October 10, 2011, April 10, 2012, July 10, 2012, October 10, 2012, January 10, 2013, April 10, 2013, and July 10, 2013 Campaign Disclosure form (CD). On July 22, 2013 the penalty letter was returned as "Box Closed – Unable to Forward". On July 30, 2013 the penalty letter was re-mailed to an address found on-line. On August 19, 2013 the penalty letter was sent certified. The letter was returned and re-mailed certified to a new address on August 27, 2013. Penalties began accruing at \$10 per day per form on September 8, 2013 and at \$100 per day per form on September 18, 2013. Respondent filed a pre-election CD on October 6, 2013 and a final CD on November 6, 2013. The late filing penalty of \$6,9000.00 has not been paid.
3. Daniel Choate, State Ethics Commission Investigator, testified that on Novem-



ber 5, 2013 he spoke to Respondent's spouse. She stated she and her husband have been in contact with staff concerning compliance. On October 6, 2013 Respondent complied by filing a pre-election CD. The outstanding penalty is \$1900.00. On November 6, 2013 Respondent complied by filing a final CD. The outstanding penalty is \$5000.00 for the final CD. It is noted that Respondent closed out his campaign bank account on February 29, 2012.

3. The Respondent, Robert Gathers, testified that he re-located to Greenville in 2012 at which time he closed his post office box in Orangeburg. He testified that he never received any certified mail regarding the complaint. He had no idea there was certified mail in Orangeburg until Investigator Choate spoke to his wife. He found the mail in his Orangeburg home's mailbox and he immediately took action. He followed every instruction once the information came from Kristin Smith and Sandra McClellan.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Robert Gathers, 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 8-13-1308(D) provides that a candidate must file a pre-election Cam-



paign Disclosure form 15 days before the election.

5. 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 Robert Gathers is in violation of Section 8-13-1308; and therefore, Respondent Robert Gathers is hereby assessed a reduced late-filing penalty of \$3,300.00 to be paid within three months 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 \$6,900.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$6,900.00 is, and shall be entered against Respondent, if he fails to pay the reduced late-filing penalty within the time permitted.

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 \$6,900.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Robert Gathers has ten (10) days from receipt of this or-



der 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