

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
)
IN THE MATTER OF:)
COMPLAINT C2012-018)
)
State Ethics Commission,)
Complainant;)
)
vs.)
)
Robert L. Gary,)
Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

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STATE ETHICS
COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the State Ethics Commission on August 10, 2011. On January 18, 2012, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2011), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Robert L. Gary, with twelve violations of Section 8-13-1308(B) and probable cause was found to warrant an evidentiary hearing.

Present at the Hearing on March 21, 2012 were Commission Members Edward E. Duryea, Chair, George Carlton Manley and JB Holeman. 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 QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Robert L. Gary, a candidate for Kershaw County Chairman/Supervisor, in an election on November 2, 2010, on or about January 10, 2011, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Chairman/Supervisor, on or about April 10, 2011, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about January 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about April 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about July 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about October 10, 2009, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about January 10, 2010, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about April 10, 2010, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about July 10, 2010, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about October 10, 2010, did fail to timely file a quarterly Campaign Disclosure Re-

port within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about January 10, 2011, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

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

That the Respondent, Robert L. Gary, a candidate for Kershaw County Council, on or about April 10, 2011, did fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter.

STATEMENT OF FACTS

1. The Respondent, Robert L. Gary, was a candidate for Kershaw County Chairman/Supervisor in an election on November 2, 2010 and for Kershaw County Council in an election on November 2008 and he was required to file a quarterly campaign disclosure forms (CD) until final disbursement in both races.

2. Commission Investigator Dan Choate testified that Respondent received a late-filing penalty letter dated June 3, 2011 for failure to file a January 10, 2009, April 10, 2009, July 10, 2009, October 10, 2009, January 10, 2010, April 10, 2010, July 10, 2010, October 10, 2010, January 10, 2011, and April 10, 2011 CDs for his county council race and a \$200.00 late-filing penalty letter for failure to file a January 10, 2011, and a April 10, 2011 CD for his county council chairman/supervisor race.

3. Investigator Choate testified that he contacted Respondent by telephone on August 18, 2011 and advised him concerning the late CDs and penalties. On September 2, 2011 Respondent did file a final CD for his chairman/supervisor campaign and on November 30, 2011 for the county council race. The late-filing penalty remains at \$53,400.00.

4. Respondent testified that he closed the campaign accounts after each election, although he did not follow through with filing a final CD. He didn't have any money after the campaigns, so he thought he was finished.

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 L. Gary, 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;

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 L. Gary is in violation of Section 8-13-1308(B); and therefore, Respondent Robert L. Gary is hereby assessed a reduced late-filing penalty of \$400.00. The reduced late filing penalty of \$400.00 must be paid within 60 days of receipt of the signed order or it will revert to the original \$53,400.00 late filing penalty.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$53,400.00 is, and shall be entered against Respondent, if he fails to pay the reduced late filing penalty within 90 days of receipt of the order.

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 \$53,400.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Robert L. Gary has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 29th DAY OF April, 2012.

STATE ETHICS COMMISSION


EDWARD E. DURYEA
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA