

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
IN THE MATTER OF:)
COMPLAINT C2011-043)
)
State Ethics Commission,)
Complainant;)
)
vs.)
)
Mark S. McBride,)
Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

STATE ETHICS
COMMISSION

2011 SEP -6 AM 9:48

RECEIVED

This matter comes before the State Ethics Commission by virtue of a complaint filed by the State Ethics Commission on December 9, 2010. On March 16, 2011, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2010), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Mark S. McBride, with one violation of Section 8-13-1314, and one violation of Section 8-13-1308(B), and probable cause was found to warrant an evidentiary hearing.

Present at the Hearing on July 20, 2011 were Commission Members Edward E. Duryea, Chair, George Carlton Manley 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
RECEIPT OF EXCESSIVE CONTRIBUTION
SECTION 8-13-1314, S.C. CODE ANN., 1976, AS AMENDED

The Respondent, Mark S. McBride, a candidate for Mayor of City of Myrtle Beach, did in Horry County, on November 6, 2009, unlawfully violate Section 8-13-1314, by accepting a contribution in excess of \$1000 from American Hot Sauce.

COUNT TWO
FAILURE TO AMEND FINAL REPORT
SECTION 8-13-1308, S.C. CODE ANN., 1976, AS AMENDED

The Respondent, Mark S. McBride, a candidate for Mayor of City of Myrtle Beach, did in Horry County, December, 2010, unlawfully violate Section 8-13-1308, for failing to amend his final campaign disclosure form to show the return of an excessive campaign contribution to American Hot Sauce.

STATEMENT OF FACTS

1. The Respondent, Mark S. McBride, was a candidate for Mayor of Myrtle Beach in an election in November 2009.
2. Commission Investigator Dan Choate testified that Respondent was notified by letter on August 30, 2010, October 7, 2010 and November 2, 2010 that an excess contribution had been received and that he was required to refund the excess to American Hot Sauce and file an amended final Campaign Disclosure form. Investigator Choate testified that he interviewed Respondent on January 6, 2011 by telephone. He explained to Respondent the law pertaining to excess contributions and what actions he needed to take.
3. Respondent testified that he was in the general election and then in the general election run-off. Respondent testified that Section 8-13-1320, which provides for contributions within specified periods, does not discuss a general election run-off thus his two contributions from American Hot Sauce were in two different cycles.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Mark S. McBride, 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 8-13-1314(A) provides as follows:

Within an election cycle, no candidate or anyone acting on his behalf may solicit or accept:

- (1) a contribution which exceeds:
(a) three thousand five hundred dollars in the case of a candidate for statewide office; or
(b) one thousand dollars in the case of a candidate for any other office;

5. Section 8-13-1320 provides as follows:

For purposes of this article:

- (1) A contribution made on or before the seventh day after a primary or primary runoff is attributed to the primary or primary runoff, respectively.
- (2) A contribution made on or before the end of the quarter immediately following a general election or special election is attributed to the general election or special election, respectively.

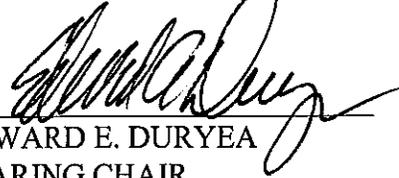
DECISION

THEREFORE, based on the evidence presented, the findings of fact and conclusions contained herein, the State Ethics Commission has determined that there is not a preponderance of evidence to prove the allegations contained in the Notice of Hearing. The Commission has therefore dismissed the charges in accordance with

Section 8-13-320(10) and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 3/rd DAY OF August, 2011.

STATE ETHICS COMMISSION



EDWARD E. DURYEA
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA