

BEFORE THE TENNESSEE ETHICS COMMISSION

In re:)
)
Marc Harris) No. 2009-032
)
Respondent.)
)

CONDITIONAL ORDER ON SHOW CAUSE

This matter came on to be heard by the Tennessee Ethics Commission ("Commission") on August 20, 2009 at its regularly scheduled meeting upon Commission staff's presentation of evidence substantiating that Respondent failed to timely file a Statement of Disclosure of Interests, Form SS-8005 ("Statement"), as required by Tenn. Code Ann. §§ 8-50-501, 8-50-503 or 8-50-504.

FINDINGS OF FACT

Based on the entire record in this matter, the Commission finds as follows:

1. Respondent, Mr. Marc Harris, was a local elected official on January 31, 2009, and was required to file a Statement as required by Tenn. Code Ann. §§ 8-50-501-502.
2. The Commission has taken steps through training, website postings, and notices to help persons required to file Statements do so in a timely manner.
3. Respondent did not file a Statement by January 31, 2009. On April 16, 2009, the Commission sent a late notice to Mr. Harris by certified and first class mail. The certified late notice was returned to the Commission marked "Unclaimed" on May 26, 2009. The first class letter was not returned.
4. On June 11, 2009, the Commission sent Respondent, a class one civil penalty hearing notice by certified mail, return receipt requested, and by regular first class mail. The notice stated that the Commission intended to consider, at its July 27, 2009 meeting, an assessment of civil penalties against Respondent for failure to file his 2009 Statement in a timely manner.
5. The June 11, 2009 notice set forth the allegations, the maximum amount of civil penalties that could be assessed, and the date, place, and time of the hearing. The notice also informed Respondent of his opportunity to participate in the hearing either by appearing personally or by submitting a sworn statement and any supporting documents.
6. The Commission received the certified notice from the United States Postal Service on July 20, 2009 marked as "Unclaimed". The first class mailing was not returned to the Commission.

7. On June 22, 2009, the Commission notified the Respondent, by certified mail, return receipt requested, and by regular first class mail, that the class one civil penalty hearing had been cancelled and would be rescheduled for a later date. The certified notice was returned "Unclaimed". The first class mailing was not returned to the Commission.

8. On August 4, 2009, the Commission notified the Respondent, by certified mail, return receipt requested, and by regular first class mail, that the class one civil penalty hearing had been scheduled for August 20, 2009. The certified notice was returned "Unclaimed". The first class mailing was not returned to the Commission.

9. Mr. Harris had not filed his Statement as of the date of the August 20, 2009 hearing.

CONCLUSIONS OF LAW

1. Respondent had a duty under Tenn. Code Ann. § 8-50-501(a)(19) to file a Statement as a local elected official.

2. Respondent's 2009 Statement was required under Tenn. Code Ann. § 8-50-504 to be filed on or before January 31, 2009.

3. Tenn. Code Ann. § 3-6-205(a)(1)(A) authorizes the Commission to administratively assess a civil penalty of not more than twenty five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750.00) if an official fails to timely file a Statement within five (5) days of receipt of an assessment letter.

4. Respondent did not accept his certified hearing notice, notifying him that he was in jeopardy of being assessed a civil penalty. His civil penalty began to accrue on May 31, 2009. The maximum class one civil penalty that may accrue is seven hundred-fifty dollars (\$750.00), thirty (30) days at twenty-five dollars (\$25.00) per day. On June 30, 2009, thirty (30) days of class one (1) civil penalties had accrued and the Statement had not been filed.

ORDER

It is therefore ORDERED as follows:

1. A civil penalty in the amount of seven hundred-fifty hundred dollars (\$750.00) is assessed against Mr. Marc Harris for failure to file a Statement in a timely manner.

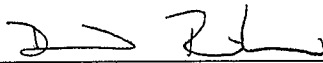
2. The Executive Director shall enter this Order.

3. The Executive Director shall cause a copy of this Order to be provided to the Respondent, by either personal service, certified mail return receipt requested, or overnight delivery.

4. As provided by Tenn. Code Ann. § 3-6-107(8), this assessment cannot become

6. If Respondent does not timely file a Petition, this Order shall become final and shall form the basis for legal action to collect the civil penalty.

SO ORDERED this 2nd day of September, 2009

By: 
Drew Rawlins, Executive Director
Bureau of Ethics and Campaign Finance