

FILED
FEB 23 2021

BEFORE THE ARKANSAS ETHICS COMMISSION

ARKANSAS ETHICS
COMMISSION

BY



**In Re: Shawn Bates
Respondent**

Case No. 2020-CM-010

FINAL ORDER

Came for a final adjudication hearing on January 15, 2021, the complaint filed in this matter against the Respondent, Shawn Bates, and based upon due consideration of the evidence presented at that hearing and the applicable law, the Arkansas Ethics Commission (hereinafter the "Commission") hereby makes the following findings of fact and conclusions of law:

1. The Commission has jurisdiction over this matter pursuant to Ark. Code Ann. § 7-6-218.
2. The Respondent is a citizen of the State of Arkansas who, at all times relevant to this case, was a candidate for State Representative - District 74 during the 2020 election cycle.
3. The Commission is charged with enforcing Ark. Code Ann. § 7-6-207 which provides, in pertinent part, as follows:

(a) Reports Required.

(1) Except as provided in subsections (c) and (e) of this section, each candidate for state or district office, including a district judge, or a person acting in the candidate's behalf, shall file with the Secretary of State:

(D) No later than thirty (30) days after the end of the month in which the candidate's name has appeared on the ballot in any primary election, runoff election, general election, or special election, or when only one (1) candidate qualifies for a particular office or position and no position or name of an unopposed candidate shall appear on a ballot, a final report of all contributions received and expenditures made which have not been disclosed on reports previously required to

be filed. A final report is required regardless of whether a candidate has received contributions or made expenditures in excess of five hundred dollars (\$500)[.]

4. In accordance with Ark. Code Ann. § 7-6-207(a)(1)(D), the Respondent was required to file a Final Campaign Contribution and Expenditure (“C&E”) Report for the 2020 primary election on or before April 30, 2020.

5. On May 28, 2020, the Commission sent Respondent a corrective action letter advising him to file a Final C&E Report for the 2020 primary election within ten (10) days.

6. On July 29, 2020, the Commission filed a complaint against the Respondent based upon his apparent failure to file a Final C&E Report for the 2020 primary election. That same day, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify him that an investigation was being commenced regarding the issue of whether or not he violated Ark. Code Ann. § 7-6-207(a)(1)(D) by failing to file a Final C&E Report for the 2020 primary election in his capacity as a candidate for State Representative - District 74 during the 2020 election cycle.

7. On August 21, 2020, staff presented the preliminary results of its investigation to the Commission at its regular monthly meeting and was instructed to complete the investigation. The Respondent was notified of the Commission’s decision by letter dated August 21, 2020.

8. On August 25, 2020, staff contacted Respondent by telephone to confirm receipt of the complaint and that the address on file was the correct address for correspondence regarding this case. Respondent was sent a letter dated August 25, 2020, confirming said telephone conversation.

9. On August 25, 2020, staff also emailed the Respondent a copy of the Complaint and of the July 29, 2020, letter. Respondent acknowledged receipt of said email by reply email on August 25, 2020.

10. On September 8, 2020, the Commission sent the Respondent a letter, via first-class mail, to notify him that the results of the investigation would be presented to the Commission at its regular monthly meeting on September 18, 2020, for purposes of determining whether or not probable cause existed for the finding of a violation.

11. On September 18, 2020, the Commission considered the results of staff's investigation and found, by a vote of 5-0, that probable cause existed for finding that the Respondent violated Ark. Code Ann. § 7-6-207(a)(1)(D) in his capacity as a candidate for State Representative - District 74 during the 2020 election cycle by failing to file a Final C&E Report for the 2020 primary election.

12. On September 18, 2020, staff sent a letter to the Respondent, via first-class mail, notifying him of the Commission's finding of probable cause. In accordance with the Commission's Rules of Practice and Procedure, said letter contained a written Offer of Settlement proposing the issuance of a Public Letter of Caution, and the requirement to file the report in question. The Respondent was given ten (10) days to accept the written Offer of Settlement or request a public hearing before the Commission.

13. On January 5, 2021, staff sent a letter to the Respondent, via first-class mail, notifying him that the time to accept the written Offer of Settlement had expired and, therefore, a final adjudication hearing would be held on January 15, 2021. Said letter contained a separate written notice of final adjudication hearing providing the information required in Ark. Code Ann. § 25-15-208(a)(2).

14. The Respondent did not appear at the final adjudication hearing which was held during the Commission's confidential session on January 15, 2021. Said hearing was conducted in accordance with Ark. Code Ann. § 25-15-213.

15. At the hearing, the following exhibits were introduced into evidence:

- Exhibit “1” - Probable Cause Report
- Exhibit “2” - Written Offer of Settlement
- Exhibit “3” - Notice of Final Adjudication Hearing and letter accompanying Notice of Final Adjudication Hearing
- Exhibit “4” - Affidavit of non-filing of the Arkansas Secretary of State

16. In the Affidavit introduced as Exhibit “4”, Jacqueline Cowan, of the Arkansas Secretary of State’s office, verified that the Respondent had not yet filed his Final C&E Report for the 2020 primary election.

17. At the conclusion of the final adjudication hearing, the Commission conducted its deliberations and then returned to public session. When it returned to public session, the Commission voted on the following matter:

A motion was made by Commissioner Fletcher and seconded by Commissioner Johnson to find the Respondent violated Ark. Code Ann. § 7-6-207(a)(1)(D) by failing to file a Final C&E Report for the 2020 primary election in his capacity as a candidate for State Representative - District 74 during the 2020 election cycle, and shall be issued a Public Letter of Caution, fined Two Hundred Dollars (\$200.00), and ordered to file a Final C&E Report for the 2020 primary election within thirty (30) days. The motion passed by a vote of 4-0, with Commissioner Klein not voting since she attended the meeting electronically and was not physically present.

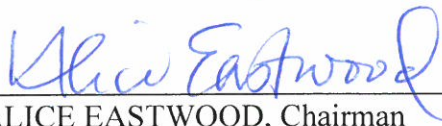
18. The Respondent committed a violation of Ark. Code Ann. § 7-6-207(a)(1)(D) by failing to file a Final C&E Report for the 2020 primary election in his capacity as a candidate for State Representative - District 74 during the 2020 election cycle.

19. With respect to the Respondent’s violation of Ark. Code Ann. § 7-6-207(a)(1)(D), the Commission found that a Public Letter of Caution shall be issued, that a fine of Two Hundred Dollars (\$200.00) shall be imposed and be due and payable within thirty (30) days from the entry

of this Order, and that the Respondent shall be ordered to file a Final C&E Report for the 2020 primary election within thirty (30) days from the entry of this Order.

IT IS, THEREFORE, CONSIDERED, DECIDED and ORDERED by the Commission that the Respondent, Shawn Bates, shall be found to have violated Ark. Code Ann. § 7-6-207(a)(1)(D) in his capacity as a candidate for State Representative - District 74 during the 2020 election cycle; that the Respondent shall be issued a Public Letter of Caution; that the Respondent shall be fined Two Hundred Dollars (\$200.00), with that amount due and payable within thirty (30) days from the entry of this Order; and that the Respondent shall be ordered to file a Final C&E Report for the 2020 primary election within thirty (30) days from the entry of this Order.

IT IS SO ORDERED this 23rd day of February, 2021.



ALICE EASTWOOD, Chairman
Arkansas Ethics Commission