

**FILED**

AUG 09 2021

**BEFORE THE ARKANSAS ETHICS COMMISSION**

ARKANSAS ETHICS  
COMMISSION

BY

*[Signature]*

**In Re: Barbara Masburn  
Respondent**

**Case No. 2020-CO-082**

**FINAL ORDER**

Came for a final adjudication hearing on July 15, 2021, the complaint filed in this case against the Respondent, Barbara Mashburn, and based upon due consideration of both 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 Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle or a Jacksonville City Council member - Ward 3, Position 2.

3. The Commission is charged with enforcing Ark. Code Ann. § 7-6-208 which, at all times relevant to this case, provided, in pertinent part, as follows:

(a) Reports Required. Except as provided in subsection (d) of this section, each candidate for school district, township, or municipal office, or a person acting in the candidate's behalf, shall:

(1) No later than seven (7) days prior to any preferential primary election, runoff election, general election, school election, or special election in which the candidate's name appears on the ballot, file a preelection report of all contributions received and expenditures made between the period covered by the previous report, if any, and the period ten (10) days before the election. In case of a runoff election, the report shall cover all contributions received and expenditures made during that period of time that begins after the date of the election from which the runoff arose and ends ten (10) days before the runoff election;

(2) 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 preferential primary election, runoff election, general election, school 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, file a final report of all contributions received and expenditures made that 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);

(3) File supplemental reports of all contributions received and expenditures made after the date of preparation of the final report. The supplemental reports shall be filed within thirty (30) days after the receipt of a contribution or the making of an expenditure; and

(4)(A) No later than thirty (30) days after the end of the month in which the candidate has withdrawn, file a final report of all contributions received and expenditures made that have not been disclosed on reports previously required to be filed.

(B) If a candidate withdraws from the campaign, the candidate shall notify the county clerk in writing of the withdrawal.

4. The Commission is also charged with enforcing Ark. Code Ann. § 21-8-701 which, at all times relevant to this case, provided, in pertinent part, as follows:

(a) The following persons shall file a written statement of financial interest:

(1) A public official, as defined in § 21-8-402(17);

(2) A candidate for elective office;

\*\*\*

(c)(1)(A) The statement of financial interest for the previous calendar year shall be filed by January 31 of each year, except that a candidate for elective office shall file the statement of financial interest for the previous calendar year on the first Monday following the close of the period to file as a candidate for the elective office, and persons identified in subdivisions (a)(4) and (5) of this section shall file the statement of financial interest within thirty (30) days after appointment or employment.

\*\*\*

(d) The statement of financial interest shall include the following:

\*\*\*

(3) Identification of each:

(A)(i) Employer and of each other source of gross income amounting to more than one thousand dollars (\$1,000) annually received by the person or his or her spouse in his or her own name, or by any other person for the use or benefit of the public servant or candidate or his or her spouse, and a brief description of the nature of the services for which the compensation was received.

(ii) However, this subdivision (d)(3)(A) does not require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or candidate or his or her spouse derives income; and

(B)(i) Source of gross income as described in subdivision (d)(3)(A) of this section of more than twelve thousand five hundred dollars (\$12,500).

(ii) However, this subdivision (d)(3)(B) does not require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or candidate or his or her spouse derives income;

\*\*\*

(7) The name and address of each governmental body to which the public servant or candidate is legally obligated to pay a past-due amount and a description of the nature and amount of the obligation[.]

5. On December 1, 2020, the Commission received a complaint against the Respondent in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle and in her capacity as a Jacksonville City Council member - Ward 3, Position 2. Briefly restated, the essential allegations of the complaint are as follows:

- (a) The Respondent failed to file required Campaign Contribution and Expenditure ("C&E") reports in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle.
- (b) The Respondent failed to list income as a city council member on the Statements of Financial Interest ("SFI") for calendar years 2016, 2017, 2018, and 2019 in her capacity as a Jacksonville City Council member - Ward 3, Position 2.
- (c) The Respondent failed to disclose unpaid personal property taxes in Section 7 of the SFI for calendar year 2019 in her capacity as a Jacksonville City Council member - Ward 3, Position 2.

6. On December 23, 2020, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify her that an investigation was being commenced

concerning the allegations set forth above. The letter went on to state that the focus of the investigation with regard to those allegations would be whether or not she violated Ark. Code Ann. § 7-6-208 in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 by failing to file required C&E reports during the 2016 election cycle, and/or Ark. Code Ann. § 21-8-701 in her capacity as a Jacksonville City Council member - Ward 3, Position 2 by failing to list income as a city council member on her SFIs for calendar years 2016, 2017, 2018, and 2019, and/or failing to disclose unpaid personal property taxes in Section 7 of her SFI for calendar year 2019. She was also notified that the affirmative defense provision of Ark. Code Ann. § 21-8-701(f) was potentially applicable to allegation numbers 2 and 3 of the complaint and that the case had been placed on the agenda for the Commission's meeting scheduled for February 19, 2021.

7. On February 19, 2021, 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 did not attend the meeting and did not provide staff with any amendments. The Respondent was notified of the Commission's decision by letter dated February 26, 2021.

8. On June 8, 2021, the Commission sent the Respondent a letter, via first-class mail, to notify her that the results of the investigation would be presented to the Commission at its regular monthly meeting on June 18, 2021, for purposes of determining whether or not probable cause existed for the finding of a violation.

9. On June 18, 2021, the Commission considered the results of staff's investigation and decided by a vote of 4-0, with Commissioner Klein not present, that probable cause existed for finding that the Respondent violated Ark. Code Ann. § 7-6-208 in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle by failing to timely file a final C&E report for the 2016 general election, and Ark. Code Ann. § 21-8-701 in her

capacity as a Jacksonville City Council member - Ward 3, Position 2 by failing to list income as a city council member on her SFIs for calendar years 2016, 2017, 2018, and 2019, and/or failing to disclose unpaid personal property taxes in Section 7 of her SFI for calendar year 2019.

10. On June 22, 2021, the Commission sent a letter to the Respondent, via first-class mail, notifying her of the Commission's decision that probable cause existed for finding that she violated Ark. Code Ann. § 7-6-208 in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle and Ark. Code Ann. § 21-8-701 in her capacity as a Jacksonville City Council member - Ward 3, Position 2. The June 22nd letter also noted that the Respondent filed a final C&E report for the 2016 general election on June 11, 2021, and amended her SFIs for 2016 through 2020 to disclose the information in question.

11. In accordance with the Commission's Rules of Practice and Procedure, the June 22nd letter contained a written Offer of Settlement with the proposed outcome being the issuance of a Public Letter of Caution and the imposition of a fine in the amount of One Hundred Fifty Dollars (\$150.00).

12. On July 3, 2021, the Commission sent the Respondent a letter, via first-class mail, notifying her that the time to accept the written Offer of Settlement had expired and, therefore, a final adjudication hearing would be held on July 15, 2021. Said letter contained a separate written notice providing the information required in Ark. Code Ann. § 25-15-208(a)(2).

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

14. 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
- Exhibit “4” - Letter accompanying Notice of Final Adjudication Hearing

15. 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 Klein and seconded by Commissioner Fletcher to (i) find the Respondent violated Ark. Code Ann. § 7-6-208 in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle by failing to timely file a final C&E report for the 2016 general election, and Ark. Code Ann. § 21-8-701 in her capacity as a Jacksonville City Council member - Ward 3, Position 2 by failing to list income as a city council member on her SFIs for calendar years 2016, 2017, 2018, and 2019, and failing to disclose unpaid personal property taxes in Section 7 of her SFI for calendar year 2019; (ii) issue the Respondent a Public Letter of Caution, and (iii) fine the Respondent \$150. The motion passed by a vote of 3-0, with Commissioners Eastwood and Johnson not voting since they attended the meeting electronically and were not physically present.

16. The Respondent committed a violation of Ark. Code Ann. § 7-6-208 in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle by failing to timely file a final C&E report for the 2016 general election.

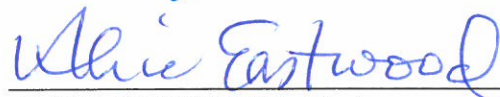
17. The Respondent committed a violation of Ark. Code Ann. § 21-8-701 in her capacity as a Jacksonville City Council member - Ward 3, Position 2 by failing to list income as a city council member on her SFIs for calendar years 2016, 2017, 2018, and 2019, and failing to disclose unpaid personal property taxes in Section 7 of her SFI for calendar year 2019.

18. With respect to the Respondent’s violation of Ark. Code Ann. § 7-6-208 and Ark. Code Ann. § 21-8-701, the Commission found that a Public Letter of Caution shall be issued and that a fine of One Hundred Fifty Dollars (\$150.00) shall be imposed and be due and payable within thirty (30) days from the entry of this Order.



**IT IS, THEREFORE, CONSIDERED, DECIDED and ORDERED** by the Commission that the Respondent, Barbara Mashburn, shall be found to have violated Ark. Code Ann. § 7-6-208 in her capacity as a candidate for Jacksonville City Council - Ward 3, Position 2 during the 2016 election cycle; that the Respondent shall be found to have violated Ark. Code Ann. § 21-8-701 in her capacity as a Jacksonville City Council member - Ward 3, Position 2; that the Respondent shall be issued a Public Letter of Caution; and that the Respondent shall be fined One Hundred Fifty Dollars (\$150.00), with that amount due and payable within thirty (30) days from the entry of this Order.

**IT IS SO ORDERED** this 9th day of August, 2021.



ALICE EASTWOOD, Chairman  
Arkansas Ethics Commission