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DEC 13 2021

BEFORE THE ARKANSAS ETHICS COMMISSION

ARKANSAS ETHICS

COMMISSION

BY



**In Re: Gary Tobar  
Respondent**

**Case No. 2021-CM-009**

**FINAL ORDER**

Came for a final adjudication hearing on November 19, 2021, the complaint filed in this matter against the Respondent, Gary Tobar, 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 55.

3. The Commission is charged with enforcing Ark. Code Ann. § 21-8-701 which provides, in pertinent part, as follows:

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

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(2) A candidate for elective office;

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(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[.]

4. In accordance with Ark. Code Ann. § 21-8-701(c)(1)(A), the Respondent was required to file a Statement of Financial Interest (“SFI”) for calendar year 2018 on or before November 18, 2019.

5. On October 9, 2020, and February 4, 2021, the Commission sent Respondent a corrective action letter advising him to file a SFI for calendar year 2018 within ten (10) days.

6. On May 26, 2021, the Commission filed a complaint against the Respondent based upon his apparent failure to file a SFI for calendar year 2018. 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. § 21-8-701 by failing to file a SFI for calendar year 2018.

7. On June 18, 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 was notified of the Commission’s decision by letter dated June 25, 2021.

8. On September 7, 2021, 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 17, 2021, for purposes of determining whether or not probable cause existed for the finding of a violation.

9. On September 17, 2021, 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. § 21-8-701 by failing to file a SFI for calendar year 2018.

10. On September 23, 2021, 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, the imposition of a one hundred dollar (\$100.00) fine, and the requirement to file the disclosure form in question. The Respondent was given ten (10) days to accept the written Offer of Settlement or request a public hearing before the Commission.

11. On November 9, 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 November 19, 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).

12. On November 12, 2021, the Respondent contacted the Commission and stated that he had mailed a SFI for 2018 to the Secretary of State's office shortly after he received the Commission's May 26, 2021, letter. When staff informed the Respondent that the Secretary of State's office had not received that filing, he agreed to file another one.

13. The Respondent did not appear at the final adjudication hearing which was held during the Commission's confidential session on November 19, 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 and letter accompanying Notice of Final Adjudication Hearing
- Exhibit "4" - Email confirming telephone conversation between the Respondent and Commission's staff on November 12, 2021
- Exhibit "5" - Respondent's SFI for calendar year 2018 which he faxed to the Arkansas Secretary of State on November 18, 2021

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 Irby and seconded by Commissioner Fletcher to find the Respondent violated Ark. Code Ann. § 21-8-701 in his capacity as a candidate for State Representative - District 55 during the 2020 election cycle by failing to *timely* file a SFI for calendar year 2018, and shall be issued a Public Letter of Caution, and fined One Hundred Dollars (\$100.00). The motion passed by a vote of 3-0, with Commissioners Eastwood and Johnson not present.

16. The Respondent committed a violation of Ark. Code Ann. § 21-8-701 by failing to *timely* file a SFI for calendar year 2018 in his capacity as a candidate for State Representative - District 55 during the 2020 election cycle.

17. With respect to the Respondent's violation of 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 Dollars (\$100.00) 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, Gary Tobar, shall be found to have violated Ark. Code Ann. § 21-8-701 in his capacity as a candidate for State Representative - District 55 during the 2020 election cycle by failing to *timely* file a SFI for calendar year 2018; that the Respondent shall be issued a Public Letter of Caution; and that the Respondent shall be fined One Hundred Dollars (\$100.00), with that amount due and payable within thirty (30) days from the entry of this Order.

**IT IS SO ORDERED** this 13<sup>th</sup> day of December, 2021.

  
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ALICE EASTWOOD, Chairman  
Arkansas Ethics Commission