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DEC 16 2022

BEFORE THE ARKANSAS ETHICS COMMISSION

**ARKANSAS ETHICS
COMMISSION**

BY *L.F.*

**In Re: Diamond Arnold-Johnson
Respondent**

Case No. 2022-CO-079

FINAL ORDER

Came for a final adjudication hearing on November 18, 2022, the complaint filed in this case against the Respondent, Diamond Arnold-Johnson, 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 Auditor of State during the 2022 election cycle.

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:

(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.

4. The Commission is also charged with enforcing Ark. Code Ann. § 7-6-207(a)

which provides 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:

(A) For each quarter during a calendar year in which a candidate is not listed on any ballot for election, a quarterly report of all contributions received and expenditures made during that quarter. The quarterly report shall be filed no later than fifteen (15) days after the end of each quarter;

(B) Beginning with the month of January of a calendar year in which a candidate may be listed on any ballot for election, a monthly report of all contributions received and expenditures made during that month. However, for any month in which certain days of that month are included in a preelection report required under subdivision (a)(1)(C) of this section or a final report required under subdivision (a)(1)(D) of this section, no monthly report for that month shall be due. In the case of a primary or runoff election, those days of the month occurring after the date of the election shall be carried forward and included in the next monthly report. The monthly report shall be filed no later than fifteen (15) days after the end of each month, except that the final report, covering the month during which an election is held, shall be filed within thirty (30) days after the end of the month in which the last election is held at which the candidate seeks nomination and after the end of the month in which the general election is held. With respect to a special election, the candidate shall file monthly reports under this section beginning with the month in which the special election candidate's total campaign contributions or expenditures exceed five hundred dollars (\$500);

(C) No later than seven (7) days prior to any preferential primary election, runoff election, general election, or special election in which the candidate's name appears on the ballot, a preelection report of all contributions received and expenditures made between the period covered by the previous report 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;

(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);

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

(ii) If a candidate withdraws from the campaign, the candidate shall notify the Secretary of State in writing of the withdrawal; and

(F) If a candidate keeps remaining campaign funds after an election, the candidate shall continue filing the reports required by this subsection.

(2) Upon receiving the first report from any candidate, or upon receipt of the candidate's notice of filing for office, the Secretary of State shall provide the candidate with information on the deadlines for filing remaining quarterly, monthly, and preelection reports and shall furnish each candidate with the appropriate instructions for complying with the deadlines.

(3) A report is timely filed if it is filed in electronic form through the official website of the Secretary of State on or before the date that the report is due.

5. On July 13, 2022, the Commission received a complaint against the Respondent in her capacity as a candidate for Auditor of State during the 2022 election cycle. Briefly restated, the essential allegations of the complaint are as follows:

- (a) The Respondent failed to file a Statement of Financial Interest ("SFI").
- (b) The Respondent failed to file required quarterly/monthly Campaign Contribution and Expenditure ("C&E") reports.

6. On July 19, 2022, 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. § 21-8-701 and/or Ark. Code Ann. § 7-6-207(a) in her capacity as a candidate for Auditor of State

during the 2022 election cycle by failing to file a SFI for calendar year 2021 and by failing to file required C&E reports for the 2022 election cycle.

7. On August 19, 2022, 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 22, 2022.

8. On August 30, 2022, 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 September 9, 2022, for purposes of determining whether or not probable cause existed for the finding of a violation.

9. On September 9, 2022, 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 and/or Ark. Code Ann. § 7-6-207(a) in her capacity as a candidate for Auditor of State during the 2022 election cycle by failing to file a SFI for calendar year 2021 and by failing to file required C&E reports for the 2022 election cycle.

10. On September 9, 2022, the Commission sent the Respondent a letter, via first-class mail, which notified her 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 five hundred dollar (\$500.00) fine, and the requirement that Respondent file a SFI for calendar year 2021 and all required C&E reports for the 2022 election cycle within thirty (30) days of her acceptance of the Offer of Settlement.

11. Pursuant to the terms of the written Offer of Settlement, the Respondent had ten (10) days to either sign and return the offer or request a public hearing. The written Offer of

Settlement went on to state in the event that she did neither of those things, this matter would proceed to a final adjudication hearing.

12. On October 15, 2022, the Respondent's husband was personally served in Respondent's presence with the written Offer of Settlement dated September 9, 2022.

13. On November 8, 2022, staff sent a letter to the Respondent, 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 November 18, 2022. Said letter contained a separate written notice of final adjudication hearing providing the information required in Ark. Code Ann. § 25-15-208(a)(2). USPS tracking shows that this letter was delivered on November 9, 2022.

14. The Respondent did not appear at the final adjudication hearing which was held during the Commission's confidential session on November 18, 2022. 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 "A" - Probable Cause Report
- Exhibit "B" - Written Offer of Settlement
- Exhibit "C" - Email and Proof of Service from Process Server -
Written Offer of Settlement served on Respondent
- Exhibit "D" - Notice of Final Adjudication Hearing
- Exhibit "E" - Letter to Respondent accompanying Notice
of Final Adjudication Hearing
- Exhibit "F" - USPS tracking information confirming receipt of
of Notice and letter for Final Adjudication Hearing
- Exhibit "G" - Letter to Complainant giving notice of Final
Adjudication Hearing
- Exhibit "H" - Certification of Arkansas Secretary of State - Proof of
candidacy for Respondent during the 2022 election cycle

- Exhibit “I” - Certification of the Arkansas Secretary of State of non-filing of preelection report by Respondent
- Exhibit “J” - Certification from the Arkansas Secretary of State of non-filing of SFI for calendar year 2021 by Respondent
- Exhibit “K” - Certification from the Arkansas Secretary of State of filing of C&E reports for the 2022 election cycle by Respondent
- Exhibit “L” - The Commission’s 2022 Reporting Calendar for Candidates for State or District Office

16. In the Certification introduced as Exhibit “H”, Jacqueline Cowan, of the Arkansas Secretary of State’s office, provided a true and perfect copy of the Respondent’s paperwork filed in candidate filing for the 2022 election cycle.

17. In the Certification introduced as Exhibit “I”, Jacqueline Cowan, of the Arkansas Secretary of State’s office, verified that the Respondent had not yet filed a preelection report for the general election for the year of 2022.

18. In the Certification introduced as Exhibit “J”, Jacqueline Cowan, of the Arkansas Secretary of State’s office, verified that the Respondent had not yet filed her SFI for calendar year 2021.

19. In the Certification introduced as Exhibit “K”, the Arkansas Secretary of State’s office provided true and perfect copies of the following C&E reports which the Respondent filed for the 2022 election cycle: April Monthly, Primary Pre-Election, Final Primary Report, (2) Final Primary Reports Amended, June Monthly, July Monthly, (2) July Monthly Reports Amended, August Monthly, and September Monthly.

20. 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 Lopez and seconded by Commissioner Pitts (i) to find the Respondent, in her capacity as a candidate for Auditor of State during the 2022 election cycle, violated Ark. Code Ann. § 21-8-701 by failing to file a SFI for calendar year 2021 and Ark. Code Ann. § 7-6-207(a) by failing to timely file required C&E reports for the 2022 election cycle; (ii) that as sanctions for those violations, the Respondent be issued a Public Letter of Warning and be fined seven hundred fifty dollars (\$750.00); and (iii) that the Respondent be ordered to file a SFI for calendar year 2021 within thirty (30) days.

The foregoing motion passed by a vote of 3-0, with Commissioners Irby and Johnson not voting since they attended the hearing electronically and were not physically present.

21. The Respondent committed a violation of Ark. Code Ann. § 21-8-701 by failing to file a SFI for calendar year 2021 in her capacity as a candidate for Auditor of State during the 2022 election cycle.

22. The Respondent committed a violation of Ark. Code Ann. § 7-6-207(a) by failing to timely file the following required C&E reports for the 2022 election cycle in her capacity as a candidate for Auditor of State during the 2022 election cycle:

April Monthly C&E Report (125 days late)

Preelection Report for Primary (142 days late)

Final Report for Primary (76 days late)

June Monthly C&E Report (83 days late)

July Monthly C&E Report (52 days late)

August Monthly C&E Report (21 days late)

23. With respect to the Respondent's violation of Ark. Code Ann. § 21-8-701 and Ark. Code Ann. § 7-6-207(a), the Commission found that a Public Letter of Warning shall be issued, that a fine of seven hundred fifty dollars (\$750.00) 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 SFI for calendar year 2021 within thirty (30) days from the entry of this Order.

IT IS, THEREFORE, CONSIDERED, DECIDED and ORDERED by the Commission that the Respondent, Diamond Arnold-Johnson, shall be found to have violated Ark. Code Ann. § 21-8-701 and Ark. Code Ann. § 7-6-207(a) in her capacity as a candidate for Auditor of State during the 2022 election cycle by failing to file a SFI for calendar year 2021 and to timely file her April monthly C&E report, her preelection report for primary; her final report for primary, her June monthly C&E report, her July monthly C&E report, and her August monthly C&E report; that the Respondent shall be issued a Public Letter of Warning; that the Respondent shall be fined seven hundred fifty dollars (\$750.00), 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 SFI for calendar year 2021 within thirty (30) days from the entry of this Order.

IT IS SO ORDERED this 16th day of December, 2022.



LORI KLEIN, Chairman
Arkansas Ethics Commission