

BEFORE THE TENNESSEE ETHICS COMMISSION

In re:

RONALD BELL,

Respondent.

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No. 2008-33

ORDER ASSESSING CIVIL PENALITIES

This matter came on to be heard by the Tennessee Ethics Commission ("Commission") on June 24, 2008 at its regularly scheduled meeting upon Commission staff's presentation of evidence substantiating that Respondent failed timely to 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. Ronald Bell, was a local elected official on January 31, 2008, 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. In April 2008, The Commission sent a warning letter to Mr. Bell.
3. Respondent did not file a Statement by January 31, 2008.
4. On May 5, 2008, the Commission sent Respondent, a Notice of Informal Show Cause Hearing (the "Show-Cause Notice") by certified mail, return receipt requested, and by regular first class mail. The Show-Cause Notice stated that the Commission intended to consider, at its June 24, 2008 meeting, an assessment of civil penalties against Respondent for failure to file his 2008 Statement in a timely manner.
5. The Show-Cause 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 Show-Cause 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 a return receipt substantiating that Mr. Bell received The Show Cause Notice on May 8, 2008.
7. On May 13, 2008, Respondent telephoned the Commission office and stated that the zip code on the Show Cause Notice was incorrect and that he had not received any prior

correspondence from the commission. However, none of the first class mailings sent to Respondent were returned to the Commission.

8. On May 20, 2008, the Commission received Respondent's 2008 Statement. Thus, by the date of the informal show-cause hearing, Respondent had filed his 2008 Statement.

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. Since Respondent filed his 2008 Statement required under Tenn. Code Ann. § 8-50-504 on May 20, 2008, rather than on or before January 31, 2008, his Statement was not timely filed.

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. Since Respondent received his Show-Cause Notice, notifying him that he was in jeopardy of being assessed a civil penalty, on May 8, 2008, his civil penalty began to accrue on May 13, 2008. It accrued through May 19, 2008, since he filed his Statement on May 20, 2008. The penalty accrued for seven (7) days at twenty-five dollars (\$25.00) per day, for a total penalty of one hundred seventy-five dollars (\$175.00).

5. Respondent's assertion that he did not receive any prior correspondence prior to the Show Cause Notice is unsubstantiated as no first class mail was returned to the Commission.

ORDER

It is therefore ORDERED as follows:

1. A civil penalty in the amount of one hundred seventy-five dollars (\$175.00) is assessed against Mr. Ronald Bell for failure to file a Statement.

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 final until after Respondent has been afforded an opportunity for a notice and a hearing. This includes the right, under Tenn. Code Ann. § 3-6-205(a)(1)(B) as follows: "To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 1 offense, a person shall file a petition with the commission," and to such other or

additional rights as may be afforded to him to a contested case hearing under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 - 4-5-325.

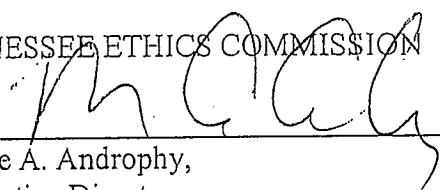
5. Along with the Order, the Executive Director shall provide Respondent a copy of the Commission's draft Rules on Administrative Sanctions.

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 7th day of July, 2008

TENNESSEE ETHICS COMMISSION

By: _____


Bruce A. Androphy,
Executive Director