STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS

IN RE: COMPLAINT OF SUE HICKS AGAINST CAMDEN COUNTY BOARD OF ELECTIONS MEMBER RICKEY WILSON

ORDER

THIS MATTER CAME BEFORE THE STATE BOARD OF ELECTIONS (“State Board”) for hearing via WebEx on October 15, 2020, on the complaint filed by Sue Hicks (“Petitioner”), a fellow member of the Camden County Board of Elections (“Camden Board”), against Camden Board member Rickey Wilson (“Respondent”).

Petitioner and Respondent appeared at the hearing pro se. Having considered argument and written submissions from the parties, relevant statutes, and basing its decision upon the whole record, the State Board by a unanimous vote, hereby finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Petitioner filed a complaint pursuant to 08 NCAC 03 .0101 on September 17, 2020, against Respondent, who is also a member of the Camden Board. The complaint alleged that Respondent screamed at a guest during a board meeting and engaged in actions that were “rude, unprofessional, and uncalled for” and then “lashed out” at Petitioner when she asked Respondent to apologize during a subsequent board meeting. Petitioner interpreted Respondent’s actions toward her as a threat. The complaint also alleged that Respondent posted pro-Biden and anti-Trump messages on his Facebook page. Petitioner included 34 screenshots from Respondent’s Facebook account. These posts contain statements including “Follow Ridin’ with Biden to defeat Trump!” and “#BidenHarris2020.”

2. On October 8, 2020, the State Board unanimously found that there was prima facie evidence of a violation of Chapter 163 or the Rules by Respondent, in accordance with 08 NCAC 03 .0102.

3. The State Board held a hearing on October 15, 2020, at which time it considered testimony, evidence, and argument from the parties in accordance with 08 NCAC 03 .0103. Both parties consented to the hearing being held via WebEx. Petitioner called one witness, Brenda Bowman, a fellow member of the Camden Board. Respondent called one witness, Revered William Sawyer, Chair of the Camden Board.

4. In September 2020, a contentious meeting of the Camden Board took place, whereby Respondent and Petitioner had a heated exchange after Petitioner confronted Respondent regarding his behavior toward a guest at the meeting.
5. Respondent admitted that the Facebook page in question belonged to him but claimed that he believed that only Facebook “friends” could view his page. However, Ms. Bowan accessed Respondent’s Facebook page and was able to view his posts even though they are not “friends” on Facebook.

6. The Director of the Camden Board informed board members of the limitation on political activities in 2019.

7. Respondent admitted to posting a video of Donald Trump and Jacki Gleason. He denied posting the July 10th “Follow Ridin’ with Biden to defeat Trump!” post, indicating that his wife and grandchildren may have also posted to his Facebook page.

CONCLUSIONS OF LAW

8. The State Board has jurisdiction over this matter pursuant to G.S. § 163-22(c) and 08 NCAC 03 .0101.

9. The State Board has the power to remove from office any member of a county board of elections for “incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause.” G.S. § 163-22(c). Before exercising the power to remove, the State Board must notify the county board member affected and give the member an opportunity to be heard.

10. A voter who wishes to submit a complaint against a county board of elections member must submit to the State Board a complaint form, sworn under oath or affirmation of the voter, pursuant to 08 NCAC 03 .0101.

11. The State Board must set a hearing if the complaint includes prima facie evidence of a violation of the administrative rules or of any election law under Chapter 163 of the General Statute; a breach of a duty imposed by Chapter 163; or participation in “irregularities, incapacity, or incompetency to discharge the duties to the office.” 08 NCAC 03 .0102(a). The member against whom charges are preferred has the right to respond to the charges and to present additional evidence. 08 NCAC 03 .0104.

12. North Carolina law prohibits members and employees of the State Board and the county boards of elections from “Mak[ing] written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the nomination or election of one or more clearly identified candidates for public office.” G.S. §§ 163-38 and 163-39(1). A violation may be grounds for removal of a county board of elections member. G.S. § 163-40.

13. Former State Board Chair Joshua Howard issued a Notice Regarding Social Media to all county board members on August 5, 2014. Citing to a recent 4th Circuit Court of Appeals case, *Bland v. Roberts*, 730 F.3d 368 (4th Cir. 2013), it explains that a “like” on Facebook “is the Internet equivalent of displaying a political sign in one’s front yard.” It warns county board of elections members that they engage in speech at their peril when it comes to the State Board, and that they should review previous social media posts and take action “to
cure any perception of bias their posts might cast over their official actions.” A copy of this policy is provided to county board members when they are appointed.

14. By posting to a public social media page statements opposing a candidate for President of the United States and supporting a candidate for President of the United States, Respondent has violated the provisions of G.S. § 163-39(1) and is therefore subject to removal pursuant to G.S. §§ 163-40 and G.S. 163-22(c).

15. County board members have a duty not to make public statements supporting or opposing candidates. If a county board member chooses to engage on social media, the board member is responsible for ensuring they do not make any statements that violate the law. A county board member will not be excused from this responsibility by claiming that they forgot about the posts or that they gave their login credentials to a third party.

IT IS THEREFORE ORDERED that:

Rickey Wilson is hereby REMOVED from the Camden County Board of Elections.

This the 23rd day of October, 2020.

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Damon Circosta, Chair
STATE BOARD OF ELECTIONS