

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
)
IN THE MATTER OF:)
)
COMPLAINT C2012-054)
)
PHILLIP E. CLARDY,)
Complainant;)
)
vs.)
)
PHYLLIS S. LOLLIS,)
Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER



Pursuant to Section 8-13-320(10)(i), Code of Laws for South Carolina, 1976, as amended, the State Ethics Commission reviewed the above captioned complaint on March 21, 2012 charging the Respondent, Phyllis S. Lollis, with a violation of Section 8-13-700, Code of Laws for South Carolina, 1976, as amended.

Present at the meeting were Commission Members Phillip Florence, Jr, Chairman, E. Kay Biermann-Brohl, Vice-Chair, Richard H. Fitzgerald, Edward E. Duryea, JB Holeman, Jonathan H. Burnett, Priscilla L. Tanner, and G. Carlton Manley. Also present were the Commission's Executive Director, Herbert R. Hayden, Jr., and his immediate staff.

ALLEGATIONS

The following allegations were considered:

That on or about March 7, 2011, the Respondent began receiving additional compensation/gift of fuel in lieu of salary without proper authorization or knowledge of town council for her personal vehicle..

FINDINGS OF FACT

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. The Respondent is employed as the Town Administrator for the Town of Williamston, SC and has been so employed since September 15, 2008.

2. The Town of Williamston has a Mayor/Council form of government, commonly referred to as a "Strong Mayor" form.

3. In a Town of Williamston letter dated March 7, 2011, Mayor A. Carthel Crout, stated that the Respondent is authorized "a tank of gas by-weekly for her personal vehicle effective 7, 2011." The letter further provided "Mrs. Lollis will drive her personal vehicle on any town business without reimbursement."

4. A review of fuel card documents from Mansfield Oil to the Town of Williamston show gasoline purchases by "PLOLLIS" for a Volvo, tag number AIN837 in the amount of \$528.63 during the period covered in the investigation, March 24, 2011 through October 22, 2011.

5. The Respondent provided a list of official travel during the same period which indicates that she drove 2,278.7 miles on Town business.

6. The Town's policy entitled "TRAVEL AND SUBSISTENCE PAY" provides that "Employees who, with proper authorization, use their personal vehicle, may be reimbursed at a rate determined by the Mayor and/or administrator, not to exceed the amount allowed for deduction by the Internal Revenue Service."

7. At the IRS rate effective for the time period in question, 55.5 cents per mile, the Respondent could have been reimbursed \$1,264.68 for the travel stated. This figure represents \$736.05 more than the amount the Respondent actually received in gasoline.

8. Notwithstanding the Town policy, the decision to provide the Respondent with a tank of gas on a bi-weekly basis, rather than mileage reimbursement, was made by the Mayor, and there is no evidence to even suggest that the Respondent used her official position to obtain an economic interest for herself over and above what she was due for mileage.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commission concludes, as a matter of law:

1. During all times relevant, the Respondent was a Public Employee as defined by Section 8-13-100(25).

2. The State Ethics Commission has personal and subject matter jurisdiction.

3. Section 8-13-700(A) provides that no public employee may knowingly use their official position to obtain an economic interest for themselves.

4. Section 8-13-700(B) provides that no public employee may make, participate in making, or use their position to influence a governmental decision in which the public employee has an economic interest.

5. The State Ethics Commission has no statutory authority to comment on, enforce or issue a ruling with regard to a town policy.

DISCUSSION

The provisions contained in Sections 8-13-700 (A)&(B) prohibit a public employee from using their position for their own personal financial benefit. It is clear that the Respondent did have an "economic interest", i.e. the reimbursement for travel expenses; however, that is only half of the equation. For a violation of Section 8-13-700

(A) and/or (B) to have occurred it must also be shown that the Respondent took some action, or used her official position in some way which resulted in that "economic interest".

In this case there is no evidence that the Respondent took any action in her official capacity which resulted in any financial benefit for herself. The investigation showed that the decision was made by the Mayor to provide gasoline in lieu of mileage reimbursement. Further, that decision resulted in the Respondent receiving less money for using her personal vehicle for official town travel than she would have received had she received mileage reimbursement.

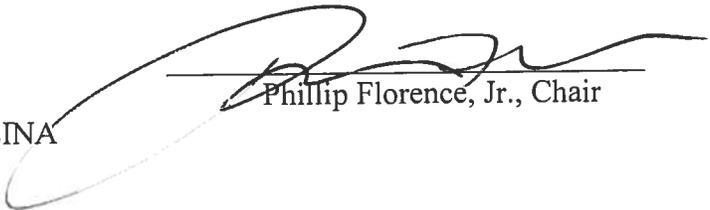
While the decision to provide gasoline in lieu of mileage reimbursement may be in conflict with the Town's travel policy, it is not violative of any section of the State Ethics Act.

DECISION

THEREFORE, based upon evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, Phyllis S. Lollis, knowingly violated Section 8-13-700, S.C. Code Ann., 1976, as amended. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i), Code of Laws for South Carolina, 1976, as amended, and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 16th DAY OF May, 2012.

STATE ETHICS COMMISSION


Phillip Florence, Jr., Chair

COLUMBIA, SOUTH CAROLINA