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STATE ETHICS COMMISSION

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STATE ETHICS COMMISSION

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
)   
IN THE MATTER OF: )  
COMPLAINT C2013-001 )  
)   
State Ethics Commission, )  
Complainant; )  
)   
vs. )  
)   
Joseph N. Malphrus, Jr., )  
Respondent. )  
\_\_\_\_\_ )

BEFORE THE STATE ETHICS COMMISSION

**CONSENT ORDER**

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on July 3, 2012. The complaint against the Respondent, Joseph N. Malphrus, Jr., was considered by the Commission on November 28, 2012 and probable cause found to warrant an evidentiary hearing. A Notice of Hearing was issued on December 13, 2012 setting the matter for a hearing on March 20, 2013. Prior to the call of the case Respondent agreed to entry of the following statement of facts, conclusions of law, discussion, admission, and disposition in this matter as follows.

**STATEMENT OF FACTS**

1. The Respondent, Joseph N. Malphrus, Jr., was a candidate for Mayor of Ridgeland in an election held on November 8, 2011 and he was required to file Campaign Disclosure forms (CD).
2. Information received at the Ethics Commission office disclosed that Respondent did have contributions and expenditures during his campaign for Mayor of Ridgeland. Two flyers were produced showing the same address as shown on the

Respondent's CDs.

3. On July 10, 2012 a Commission investigator contacted Respondent by telephone. Respondent stated he would file a CD showing the date and amount of an in-kind contribution for the subject flyers.

4. H. Fred Kuhn, Jr., attorney representing Respondent, advised that the campaign flyers in question were purchased and mailed out by Respondent. The Commission investigator informed Mr. Kuhn that Respondent would be required to amend his reports to reflect the contributions and expenditures with regard to the flyers. Mr. Kuhn stated that his client had read a number of publications regarding a court decision which held that certain "committees" were no longer required to file CDs. The Court decision also changed the legal definition of a "committee". Respondent felt that his situation qualified as a "committee" and, as such, he had initially believed that CDs were not required to be filed.

5. On August 23, 2012 Respondent filed an initial CD, a pre-election CD and a January 10, 2012 CD disclosing the contributions and expenditures he made in his mayoral race. Respondent only spent his personal funds.

#### **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, Joseph N. Malphrus, Jr., was a candidate as defined by Section 8-13-1300(4).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 8-13-1308(F) provides that all contributions and expenditures to a

candidate, to include in-kind contributions and expenditures, must be disclosed on the campaign disclosure form.

4. Section 8-13-1312 provides, *inter alia*, that a candidate must open a separate campaign checking account titled with the name and address of the candidate. All campaign expenditures must be paid from the campaign account.

#### **DISCUSSION**

Only the Respondent's personal funds were involved in his campaign. Respondent received no "outside" contributions. No one made any type of contribution to Respondent's campaign, other than the Respondent, himself. All required CDs were promptly filed by Respondent once he was contacted by the Commission. Respondent, at all times, made an honest, good faith effort, to comply with the relevant statutes and case law, as he understood them. At no time, were Respondent's actions knowingly fraudulent, deceptive, or done in a manner to subvert any requirement of law. At that time, the published media reports concerning recent Court decisions on campaign reporting requirements were conflicting, confusing and misleading. The violations of the two applicable sections of law (Sections 8-13-1308 & 8-13-1312) were unintentional, inadvertent, and not an effort to knowingly violate any requirement of law.

#### **ADMISSIONS**

The Respondent, Joseph N. Malphrus, Jr., admits he violated Sections 8-13-1308 and 1312 of the Ethics Reform Act.

#### **DISPOSITION**

The State Ethics Commission hereby finds Respondent Joseph N. Malphrus, Jr. in

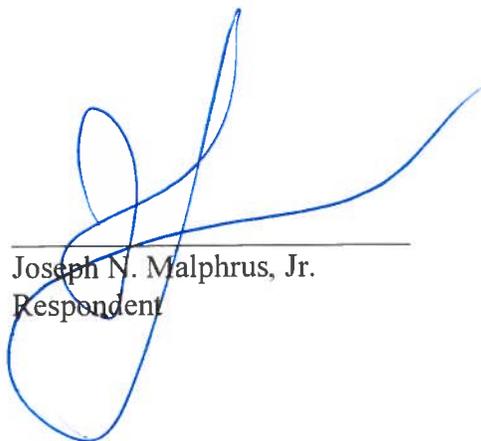
violation of Sections 8-13-1308 and 1312 of the Ethics Reform Act and hereby adopts the Statement of Facts, Conclusions of Law, Discussion, Admissions, and Disposition as agreed upon by Respondent.

THEREFORE, the State Ethics Commission hereby issues a written reprimand to Respondent Joseph N. Malphrus, Jr. for his violations of Sections 8-13-1308 and 1312 of the Ethics Reform Act,

AND, orders Respondent to pay an administrative fee of \$500.00 within 30 days of receipt of the signed order,

AND IT IS SO ORDERED THIS 19<sup>th</sup> DAY OF FEBRUARY 2013.

STATE ETHICS COMMISSION



\_\_\_\_\_  
Joseph N. Malphrus, Jr.  
Respondent



\_\_\_\_\_  
Phillip Florence, Jr.  
Chairman