STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND) BEFORE THE STATE ETHICS COMMISSION

)

IN THE MATTER OF:)

Complaint 2013-071)

)

Marsha Dowell,) **CONSENT ORDER**

Respondent.)

)

Lynette Hamlin,)

Complainant.)

)

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STATE ETHICS COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Complainant, Lynette Hamlin, on November 19, 2012. The complaint against the Respondent, Marsha Dowell, was considered by the Commission on March 20, 2013 and probable cause found to warrant an evidentiary hearing.

Prior to the call of the case Respondent agreed to entry of the following statements of fact, conclusions of law, admission, discussion, and disposition in this matter as follows.

STATEMENT OF FACTS

1. The Respondent, Marsha Dowell, served, until June 28, 2012, as Senior Vice Chancellor at the University of South Carolina Upstate (USC-Upstate).

2. Respondent reported that the she worked closely with the Spartanburg Regional Hospital System (SRHS) in regard to the Joint Center for Nursing Research. Respondent advised that in the summer of 2010, the Complainant, Lynette Hamlin, was hired as the Dean of Mary Black School of Nursing, and at that time Complainant was advised of her duties including grant approval and management. Complainant was advised that some portion of a federal grant would be transferred to the school. Complainant was also advised that through NXT, Inc. the school could obtain services to research, develop, design and evaluate a futuristic home care environment. The concept of a futuristic home care environment was a key component of the grant. In October of 2010, the SRHS did receive a grant and some portion of the grant monies were transferred to the Mary Black School of Nursing at USC Upstate.

3. Respondent advised that she did serve on the NXT, Inc. Board of Directors; however, she did not have any personal economic interest in the activities of the corporation and she did not administer grant money. NXT, Inc. is a non-profit corporation whose mission is to conduct health care related research and education. According to the NXT, Inc. web page dated March 30, 2012, Respondent was on the Board of Directors and she served as its chair.

4. Respondent reported that at the time Complainant was responsible for grant fund administration no grant monies were committed to NXT, Inc. Respondent advised that Complaint approved the sole source procurement for services from NXT, Inc.

Respondent said that she was not involved in any budget discussions with Complainant and she did not sign the sole source procurement order. Respondent reported that she never directed Complainant to take any particular action in regard to the grant.

5. A review of a USC Upstate purchase requisition form dated January 27, 2011 revealed that Complainant approved the sole source distribution of grant funds to NXT, Inc. in the amount of $55,000.00. Respondent's signature does not appear on the requisition form.

6. A review of an email dated August 31, 2010 from Respondent to Complainant documents that "The money will come to SRHS (at some time) and be transferred to a grant account for all……..(and the actual sum is 495K…as they cut 5K…..) Currently there is no "budget""….but I did commit some funding to "NXT" (the hospital of the future) for the joint project with MIT…did not indicate a specific amount (we talked about 150-200K <u>but committed to nothing</u> until we meet John from MIT)!! In short... you will be ultimately responsible for the money….. "

7. Respondent was advised of the aforementioned e-mail and she said that she used a poor choice of words when she sent the e-mail to Complainant. Respondent said that it was ultimately Complainant's decision to approve grant money to NXT, Inc.

8. A review of an email dated October 28, 2010 from Respondent to Complainant and the Budget Manager documents that "Is there money "committed" to the "Hospital of the Future (NXT)?????"

9. During the course of the investigation, staff was advised that Respondent's e-mail account had been cleared since her retirement in July, 2012.

10. According to Complainant, Respondent was the co-principle investigator for the federal grant, and Respondent while acting as her supervisor told her monies had been committed to NXT, Inc. Respondent has indicated, through her attorney, that she has no recollection of having advised Complainant "that NXT, Inc. was a fledgling company, etc." In fact, according to Respondent, NXT, Inc. was not a fledgling company. However, Respondent concedes that she probably said she wanted to help NXT, Inc. and the School of Nursing. She believes that the purpose for what she probably said was primarily to help the School of Nursing.

CONCLUSIONS OF LAW

Based upon the foregoing Statement of Facts, the Commission concludes, as a matter of law:

1. During all times relevant, the Respondent, Marsha Dowell, was a public official, as defined by S.C. Code Ann. § 8-13-100(27)(Supp. 2012).

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

3. Section 8-13-700(A) prohibits a public employee from using his official position to obtain an economic interest for himself or a business with which he is associated.

4. Section 8-13-100(4) states:

> 'Business with which he is associated' means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

ADMISSIONS

The Respondent, Marsha Dowell, admits she inadvertently violated Section 8-13-700(A) of the Ethics Reform Act.

DISPOSITION

The State Ethics Commission hereby finds Marsha Dowell in violation, albeit inadvertently, of Section 8-13-700(A) of the Ethics Reform Act and hereby adopts the Statement of Facts, Conclusions of Law, Admissions, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the State Ethics Commission hereby issues a written warning to Marsha Dowell for her violation of Section 8-13-700(A) of the Ethics Reform Act,

AND, orders Respondent to pay an administrative fee of $250.00 within 30 days of receipt of the signed order,

AND IT IS SO ORDERED THIS 15th DAY OF July 2013.

STATE ETHICS COMMISSION

Phillip Florence, Jr.
Chairman

Marsha Dowell
Respondent

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