

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
)
IN THE MATTER OF:)
)
COMPLAINT C2013- 024)
)
)
Benjamin R. Hines,)
 Complainant;)
)
 vs.)
)
David M. Finley,)
 Respondent.)
)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

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COMMISSION

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 November 28, 2012, charging the Respondent, David M. Finley, with a violation of Section 8-13-700(A), Code of Laws for South Carolina, 1976, as amended.

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

ALLEGATIONS

The following allegations were considered:

On August 15, 2012 the State Ethics Commission received a complaint from Mr. Benjamin R. Hines. Mr. Hines reported that on or about June 15, 2012 he observed a SC County Government vehicle bearing South Carolina vehicle tag CG61297 at the visitor center at Antietam National Battlefield in Martinsburg, West Virginia, and the operator of the vehicle appeared to be a

tourist. The complaint alleged that the operator of the aforementioned vehicle used their position for personal gain by using government equipment for personal use.

FINDINGS OF FACT

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

1. Records of the South Carolina Department of Motor Vehicles reveal that the vehicle license tag was registered to the York County District Three Schools. The school district Superintendent, Dr. Lynn Moody, verified that the vehicle is assigned to the school district.
2. York County District Three Schools, Assistant Superintendent, Mr. Anthony Cox, advised that the vehicle was operated by Respondent, David M. Finley, and Mr. Finley is a technology education teacher. The Respondent is a public employee at York County District Three Schools. Mr. Cox advised that the Respondent was attending a four day training conference in Martinsburg, WV, and on the return trip home the Respondent and his wife; an elementary school teacher, visited the Antietam National Battlefield in Sharpsburg, MD. Mr. Cox advised that the Respondent did not obtain authorization to use the school district vehicle to visit the Battlefield. Mr. Cox advised that the Respondent paid for all cost related to the training conference other than the use of the District's vehicle.
3. The Respondent did not submit to an interview; however, he did provide a written statement in which he confirmed that he did operate the district vehicle on June 14, 2012 to visit the Antietam National Battlefield. The Respondent also provided information to confirm that he paid all costs related to the conference in Martinsburg, WV except for the use of the School District vehicle. The Respondent reports that on his return trip back to South Carolina he traveled

19.7 miles from his hotel in Martinsburg, WV to Antietam Battlefield in Sharpsburg, MD.

4. The Respondent reported that “I have been informed by my district Superintendent and staff that, given the research and development nature of my activities that my elective visit to this site, in the vicinity of my travel area, is considered professional development and is an official activity. Verification to this effect is available from the district upon request.”

5. According to the York County School District Three Superintendent, Dr. Lynn Moody, the Respondent’s trip to the battlefield is considered professional development and an official activity.

CONCLUSIONS OF LAW

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

1. At all times relevant the Respondent, David M. Finley, 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), 1976 Code of Laws of South Carolina, provides that no public employee may knowingly use his official employment to obtain an economic interest for himself.

DISCUSSION

As indicated in the Respondent’s statement and confirmed by the District Superintendent, the Respondent’s visit to Antietam National Battlefield appears to have been an acceptable activity in the minds of the School District management. The Respondent did not obtain permission to use the district’s vehicle to travel to the battlefield site; however, when presented with the facts, the District Superintendent, albeit after the fact, approved the activity as official

school district business.

The Commission has determined that based on the School District's decision there is insufficient evidence to charge the Respondent with using a school district owned vehicle for a personal side trip while attending a district sponsored trip. In doing so, the Commission does not in any way agree with the District's or the Respondent's contentions, nor does the Commission condone the Respondent's actions. Government owned vehicles are to be used for official business only, unless permission is granted for some other purpose. It is not within the authority of a public employee to make such a decision, when that decision impacts that public employee's financial interest.

DECISION

THEREFORE, based upon evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, David M. Finley, violated Section 8-13-700(A), 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 JANUARY 2013.

STATE ETHICS COMMISSION


Phillip Florence, Jr.
Chairman

COLUMBIA, SOUTH CAROLINA