STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	BEFORE THE STATE ETHICS COMMISSION
IN THE MATTER OF: COMPLAINT C2014-010	)	
State Ethics Commission, Complainant;	)	
vs.	)	**DECISION AND ORDER**
American College of Ob. & Gyn., SC Section, Respondent.	)	

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STATE ETHICS COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on July 31, 2012. On September 18, 2013, pursuant to S. C. Code Ann. § 8-13-320(10)(i)(Supp. 2013), the State Ethics Commission reviewed the above-captioned complaint charging the Respondent, American College of Obstetricians & Gynecologists, SC Section, with a violation of Section 2-17-35 and probable cause was found.

Present at the Hearing on March 19, 2014 were Commission Members, Phillip Florence, Jr., Chair, E. Kay Biermann Brohl, and James I. Warren. Respondent was present and represented by Aaron J. Kozloski. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charge was considered:

COUNT ONE
FAILURE TO FILE LOBBYIST'S PRINCIPAL DISCLOSURE FORM
SECTION 2-17-35, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, American College of Obstetricians Gynecologists, SC Section, a registered lobbyist's principal in 2012, did in Richland County, fail to file a Lobbyist's Principal Disclosure form on or before the January 31, 2013 deadline for the period, June 1, 2012 to December 31, 2012.

FINDINGS OF FACTS

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

1. On January 29, 2012 Respondent, American College of Obstetricians & Gynecologists, SC Section, registered as a lobbyist's principal.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that Respondent registered as a lobbyist's principal and as a lobbyist's principal, it was required to file two Lobbyist's Principal Disclosure statements (LPD): a June 30th LPD for the period of January 1st through May 31st and January 31st LPD for the period of June 1st through December 31st. On May 28, 2013 a $100.00 penalty was assessed for failure to file a January 31, 2013 LPD. On June 25, 2013 a Notice to Cease and Desist lobbying activities was sent certified. On June 28, 2013 the certified letter was delivered at 11:37 a.m. according to the United States Postal Service website. Respondent complied by filing the LPD on August 5, 2013. On August 9, 2013 Respondent paid $100.00, but the balance of $1,800.00 was not paid.

3. Respondent testified on behalf of the principal that he did not believe that he fit the definition of a lobbyist under the Act for his activity in 2012 and Respondent did not fit the definition of a lobbyist's principal. He did not lobby. Respondent testified that his wife was very ill and died on the same day as he received the cease and desist order. She had been hospitalized and following her death Respondent was hospitalized twice. He did not remember much of July or August of 2013.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, American College of Obstetricians

& Gynecologists, SC Section, was a registered lobbyist's principal as defined by Section 2-17-10(14).

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

3. Section 2-17-35 provides in part:

> (A) Except as otherwise provided by Section 2-17-90(E), each lobbyist's principal, no later than April tenth and October tenth of each year, must file a report with the State Ethics Commission covering that lobbyist's principal's expenditures attributable to lobbying during that filing period. The filing periods shall be from January first to March thirty-first for the April tenth report and shall be from April first to September thirtieth for the October tenth report. Any lobbying activity not reflected on the October tenth report and not reported on a statement of termination pursuant to Section 2-17-25(C) must be reported no later than December thirty-first of that year.

4. Section 8-13-1510(1) provides as follows:

> Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:
>
> (1) a fine of one hundred dollars if not filed within five days after the established deadline provided by law in this chapter;
>
> (2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

DECISION

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the State Ethics Commission has determined based upon a preponderance of evidence that Respondent American College of Obstetricians & Gynecologists, SC Section is in violation of Section 2-17-35; and therefore, Respondent American College of Obstetricians & Gynecologists, SC Section is hereby assessed a reduced late-filing

penalty of $500.00 to be paid within 60 days of receipt of the order or it will revert to $1,800.00.

FINALLY, Respondent American College of Obstetricians & Gynecologists, SC Section has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 8th DAY OF May, 2014.

STATE ETHICS COMMISSION

PHILLIP FLORENCE, JR.
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA