

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 IN THE MATTER OF:)
 COMPLAINT C2014-065)
)
 D. Paul Sommerville,)
 Complainant;)
)
 vs.)
)
 Cynthia M. Bensch,)
 Respondent.)
 _____)

BEFORE THE STATE ETHICS COMMISSION

STATE ETHICS
 COMMISSION

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DECISION AND ORDER

Pursuant to S. C. Code Ann. § 8-13-320(10)(i)(Supp. 2013), the State Ethics Commission reviewed the above captioned complaint on November 21, 2013 charging the Respondent, Cynthia M. Bensch, with a violation of Section 8-13-700(A). Present at the meeting were Commission Members Phillip Florence, Jr., Chair, E. Kay Biermann Brohl, George Carlton Manley, Richard H. Fitzgerald, and Jonathan H. Burnett. The following allegation was considered:

ALLEGATION

On November 21, 2013 the State Ethics Commission received a complaint filed by D. Paul Sommerville, Chairman, Beaufort County Council against Cynthia M. Bensch, member, Beaufort County Council. The complaint alleged that the Respondent and her husband owned a parcel of land in Beaufort County that was subject to multiple legal actions. These actions arose from the County's condemnation of a portion of said property. Following her election to County Council, the Respondent attended a Beaufort County paid Conference of the SC Association of Counties. At this meeting the Respondent solicited a legal opinion and related research from a staff attorney with the Association of Counties. The Respondent then used this information in her and her husband's legal action against the County regarding an appeal before the Beaufort

County Tax Equalization Board. Due to her membership on Beaufort County Council she was able to obtain legal assistance from the SC Association of Counties which would not have been available to private citizens. The SC Association of Counties has indicated that the information provided to the Respondent would not have been made available if the Association had known that the information would be used against Beaufort County's interest. As a result of the Respondent's legal action on behalf of her LLC the Tax Equalization Board awarded her a reduction in the assessed value of the property in question.

FINDINGS OF FACT

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

1. The Respondent, Cynthia M. Bensch, is a member of Beaufort County Council.
2. Tim Winslow, attorney for the South Carolina Association of Counties, advised that following a presentation to the annual conference of the Association he met and spoke briefly with Respondent. Respondent inquired about South Carolina state law pertaining to business license fees and condemning of property. Winslow stated to Respondent that he would email to Respondent copies of relevant state law regarding her inquiry. Winslow stated he would provide the same assistance to any person who would make the request either in person or by telephone. It was noted that this same information which Winslow provided to Respondent is available on the internet. Mr. Winslow was emphatic that he did not give any "legal advice", only provided a copy of the pertinent statute.
3. Respondent stated that the meeting between her and Tim Winslow was casual

and was not done during seminar hours. She stated she was not, in any way, using her position to obtain an economic interest.

CONCLUSIONS OF LAW

1. The Respondent is a public official, as defined by Section 8-13-100(27).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 8-13-700 provides in part:

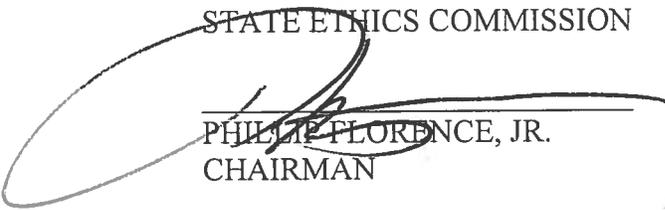
(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use that does not result in additional public expense.

DECISION

THEREFORE, based upon evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, Cynthia M. Bensch, violated Section 8-13-700(A). The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i), and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 10th DAY OF Feb., 2014.

STATE ETHICS COMMISSION



PHILLIP FLORENCE, JR.
CHAIRMAN

COLUMBIA, SOUTH CAROLINA