

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
) IN THE MATTER OF:
) COMPLAINT C2012-050)
) State Ethics Commission,)
) Complainant;)
) vs.)
) Thomas E. Baker, II)
) Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

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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 December 7, 2011. On January 18, 2012, pursuant to S. C. Code Ann. § 8-13-320(10)(i)(Supp. 2011), the State Ethics Commission reviewed the above-captioned complaint charging the Respondent, Thomas E. Baker, II, with two violations of Section 8-13-1110 and probable cause was found.

Present at the Hearing on November 28, 2012 were Commission Members E. Kay Biermann Brohl, Chair, JB Holeman and Richard H. Fitzgerald. Respondent was present and represented by Bob Cook. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charges were considered:

COUNT ONE
FAILURE TO FILE A STATEMENT OF ECONOMIC INTEREST REPORT
SECTION 8-13-1110, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Thomas E. Baker, II, a member of LLR Funeral Services Board did fail to timely file an annual Statement of Economic Interests form on or before April 15, 2010.

COUNT TWO
FAILURE TO FILE A STATEMENT OF ECONOMIC INTEREST REPORT

SECTION 8-13-1110, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Thomas E. Baker, II, a member of LLR Funeral Services Board did fail to timely file an annual Statement of Economic Interests form on or before April 15, 2011.

FINDINGS OF FACT

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

1. The Respondent, Thomas E. Baker, II, is a member of member of the LLR Funeral Services Board and he is required to file an annual Statement of Economic Interests form (SEI) prior to April 15th of each year.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that the Commission received a copy of LLR Funeral Services Board 2010 and 2011 entity lists, which showed Respondent as a person required to file an SEI. Respondent was penalized \$200.00 in a September 2, 2011 letter for failure to file his 2010 and 2011 SEI. That letter was re-sent certified on November 7, 2011 and delivered on November 8, 2011. Those letters were going to Respondent's old address. On December 15, 2011 Respondent filed the two SEIs.

3. Commission Investigator Dan Choate testified that on December 13, 2011 he left a message for Respondent. He did not call him again because Respondent filed the SEIs on December 15, 2011.

4. Respondent testified that he had lived at the Park Street address upon his appointment to the Funeral Board in early 2009, but he moved in December 2009. He testified that he informed LLR of his move and address change. He received the November 8, 2011 certified letter only because the postman told him that there was some correspond-

ence for him. Respondent called his contact at LLR who e-mailed him back that she believed everyone was in compliance. When he received Investigator Choate's telephone message it was clear he was not in compliance.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Thomas E. Baker, II, was a public member of a state board or commission, as defined by Section 8-13-100(26) and (31) respectively.

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

3. Sections 8-13-1110 and 8-13-1140 provide that certain public members shall file a Statement of Economic Interests at the time of assuming the duties of the position and annually thereafter prior to April 15.

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 evi-

dence that Respondent Thomas E. Baker, II is in violation of Section 8-13-1140; and therefore, Respondent Thomas E. Baker, II is hereby assessed a reduced late-filing penalty of \$1,200.00 to be paid within 30 days of receipt of the order. The penalty will revert to the original \$3,600.00 if the reduced penalty is not paid within 30 days of receipt of the order.

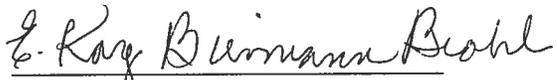
IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$3,600.00 is, and shall be entered against Respondent, if he fails to pay within the time permitted.

IT IS FURTHER THE ORDER OF THIS COMMISSION that the Clerk of Court of the County in which Respondent was last known to reside shall enter this Order in its Judgment Rolls, without cost to the State Ethics Commission, in the amount of \$3,600.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Thomas E. Baker, II has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 9th DAY OF January, 2013.

STATE ETHICS COMMISSION


E. KAY BIERMANN BROHL
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA