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STATE ETHICS COMMISSION

STATE OF SOUTH CAROLINA) BEFORE THE STATE ETHICS COMMISSION
COUNTY OF RICHLAND)
))
IN THE MATTER OF:)
COMPLAINT C2012-060)
))
State Ethics Commission,)
Complainant;)
))
vs.) **DECISION AND ORDER**
))
Stephen D. Cain,)
Respondent.)
_____)

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on January 11, 2012. On March 21, 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, Stephen D. Cain, with a violation of Section 8-13-1140 and probable cause was found.

Present at the hearing on July 18, 2012 were Commission Members Phillip Florence, Jr., Chair, Edward E. Duryea, and George Carlton Manley. Respondent was not present but was duly noticed. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charge was considered:

COUNT ONE
FAILURE TO FILE A STATEMENT OF ECONOMIC INTEREST REPORT
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Stephen D. Cain, a member of Batesburg-Leesville City Council, did in Richland County, fail to timely file an annual Statement of Economic Interests form on or before April 15, 2010.

FINDINGS OF FACT

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

1. The Respondent, Stephen D. Cain, is a Batesburg-Leesville City Council member 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 Batesburg-Leesville returned its 2010 Statement of Economic Interests entity list on September 28, 2010 and it listed Respondent as a person required to file an SEI. Respondent was penalized in a September 28, 2011 letter for failure to file his 2010 SEI. That letter was re-sent certified on November 10, 2011. It was returned as "return to sender – unclaimed" and re-mailed first class on December 6, 2011. On January 31, 2012 Respondent complied by filing a 2010 SEI.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Stephen D. Cain, was a public official, as defined by Section 8-13-100(27).

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

3. Sections 8-13-1110 and 8-13-1140 provide that certain public officials 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 evidence that Respondent Stephen D. Cain is in violation of Section 8-13-1140; and therefore, Respondent Stephen D. Cain is hereby assessed a administrative fee of \$500.00 in addition to the late-filing penalty of \$3,600.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$4,100.00 is, and shall be entered against Respondent.

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 \$4,100.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Stephen D. Cain has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 4th DAY OF Sept., 2012.

STATE ETHICS COMMISSION



PHILLIP FLORENCE, JR.
CHAIRMAN

COLUMBIA, SOUTH CAROLINA