

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )  
 )  
IN THE MATTER OF: )  
COMPLAINT C2012-068 )  
 )  
State Ethics Commission, )  
Complainant; )  
 )  
vs. )  
 )  
Tina N. Herbert, )  
Respondent. )  
\_\_\_\_\_ )

BEFORE THE STATE ETHICS COMMISSION

**DECISION AND ORDER**

STATE ETHICS  
COMMISSION

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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, Tina N. Herbert, with a violation of Section 8-13-1110 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 present and appeared *pro se*. 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 8-13-1110, S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Tina N. Herbert, a member of Richland County Board of Elections and Registration, did in Richland County, 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, Tina N. Herbert, is a member of Richland County Board of Elections and Registration and she is required to file an annual Statement of Economic Interests form (SEI) prior to April 15<sup>th</sup> of each year.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that Respondent was appointed to the Richland County Board of Elections and Registration in March 2010. Ms. Smith testified that Respondent received letters dated November 8, 2011 and December 15, 2011, which outlined the forms that needed to be filed and the increasing late-filing penalties. On February 17, 2012 Respondent filed the 2011 SEI; however, the late filing penalty of \$4100.00 was not paid.

3. Respondent testified that she had experienced a career change in the midst of beginning her service on the election board. She had no staff at the City of Columbia and this was just one of many items that she had to deal with in the transition. Respondent took full responsibility for the failure to timely file, but requested any reduction the Commission would consider.

### **CONCLUSIONS OF LAW**

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

1. During all times relevant, the Respondent, Tina N. Herbert, 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 Tina N. Herbert is in violation of Section 8-13-1110; and therefore, Respondent Tina N. Herbert is hereby assessed a reduced late-filing penalty of \$200.00 to be paid within 30 days of receipt of the order. If the reduced late-filing penalty of \$200.00 is not paid within 30 days of receipt of the order, then the late-filing penalty will revert to the full amount of \$4,100.00.

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, 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 \$4,100.00

upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Tina N. Herbert has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 15<sup>th</sup> DAY OF Aug, 2012.

STATE ETHICS COMMISSION

  
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PHILLIP FLORENCE, JR.  
CHAIRMAN

COLUMBIA, SOUTH CAROLINA