STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	BEFORE THE STATE ETHICS COMMISSION
IN THE MATTER OF: COMPLAINT C2013-054	)	
State Ethics Commission, Complainant;	)	
vs.	)	**DECISION AND ORDER**
David E. Anderson, Respondent.	)	

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STATE ETHICS COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the State Ethics Commission on October 23, 2012. On January 16, 2013, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2012), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, David E. Anderson, with two violations of Section 8-13-1140 and probable cause was found to warrant an evidentiary hearing.

Present at the Hearing on March 20, 2013 were Commission Members E. Kay Biermann Brohl, Chair, Priscilla Tanner and George Carlton Manley. Respondent was present and represented by J. René Josey. 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 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, David E. Anderson, a state board member of the SC Rural Infrastructure Authority, did in Richland County, fail to timely file a 2011 annual Statement of Economic Interests form on or before April 15, 2011 in violation of Section 8-13-

1140.

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

That the Respondent, David E. Anderson, a state board member of the SC Rural Infrastructure Authority, did in Richland County, fail to timely file a 2012 annual Statement of Economic Interests form on or before April 15, 2012 in violation of Section 8-13-1140.

STATEMENT OF FACTS

1. The Respondent, David E. Anderson, is a board member of the SC Rural Infrastructure Authority and he is 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 Governor's office forwarded to the Commission Respondent's confirmation appointment letter to the SC Rural Infrastructure Authority in November 2011. A memo was sent to Respondent on November 22, 2011 informing him of the need to file a 2011 SEI. Respondent was penalized $200.00 in a June 29, 2012 letter for failure to file the 2011 and 2012 SEIs. That letter was re-sent certified on August 2, 2012 and delivered on August 3, 2012. Penalties began to accrue on August 14, 2012. Respondent paid $100.00 on August 28, 2012, but did not file the SEIs. Respondent filed the two SEIs on October 31, 2012. The late filing penalty was not paid and is $5,000.00.

3. Respondent submitted an affidavit as to his recollection of the matter. Respondent made several attempts to file and thought he had. He noted that he had a "saved,

not filed" SEI when he finally successfully managed to file the two SEIs. He admitted his failure to timely file, but the failure was unintended, inadvertent and associated in part with his thinking he had filed, but instead had only saved the form.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, David E. Anderson, was a public member of a state board or commission as defined by Sections 8-13-100(26) and (31).

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;

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 David E. Anderson is in violation of Section 8-13-1140; and therefore, Respondent David E. Anderson is hereby assessed a reduced late-filing penalty of $100.00 to be paid within 30 days of receipt of the order or it will revert to $5,000.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the

amount of $5,000.00 is, and shall be entered against Respondent, if he fails to pay the reduced late-filing penalty 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 $5,000.00 upon the Commission's filing of same with the Clerk of Court's Office.

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

IT IS SO ORDERED THIS 10th DAY OF May, 2013.

STATE ETHICS COMMISSION

E. Kay Biermann Brohl

E. KAY BIERMANN BROHL
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA