

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF:)
COMPLAINT C2013-100)

State Ethics Commission,)
Complainant;)

vs.)

DECISION AND ORDER

Thomas E. Baker, II,)
Respondent.)
_____)

RECEIVED
2013 AUG 19 AM 9:28
STATE ETHICS
COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on January 25, 2013. On March 20, 2013, pursuant to S. C. Code Ann. § 8-13-320(10)(i)(Supp. 2012), the State Ethics Commission reviewed the above-captioned complaint charging the Respondent, Thomas E. Baker, II, with a violation of Section 8-13-1140 and probable cause was found.

Present at the Hearing on July 17, 2013 were Commission Members E. Kay Biermann Brohl, Chair, Jonathan H. Burnett and Richard H. Fitzgerald. Respondent was not present, but he 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, Thomas E. Baker, II, a Board Member for the Funeral Board at the South Carolina Department of Labor, Licensing and Regulation, did in Richland County, fail to timely file an annual Statement of Economic Interests form on or before April 15, 2012 in violation of Section 8-13-1140.

FINDINGS OF FACT

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

1. The Respondent, Thomas E. Baker, II, is a Board Member for the Funeral Board at the South Carolina Department of Labor, Licensing and Regulation 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 Respondent was a member of the Funeral Board at the South Carolina Department of Labor, Licensing and Regulation in 2012. Respondent was penalized \$100.00 in a November 27, 2012 letter for failure to file his 2012 SEI. That letter was re-sent certified on December 17, 2012. It was delivered on January 2, 2013. Penalties began accruing on January 13, 2013. Respondent filed the 2012 SEI on February 4, 2013 and made a \$100.00 late-filing payment on February 5; however, the balance of \$1,300.00 has not been paid.

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, commission or council, as defined by Section 8-13-100(27) 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 prior to taking the oath of office 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.

5. Section 8-13-320(10)(l) provides:

(i) requiring the public official, public member, or public employee to pay a civil penalty of not more than two thousand dollars for each violation.

6. Section 8-13-130 states in part:

The State Ethics Commission may levy an enforcement or administrative fee on a person who is found in violation, or who admits to a violation, of the "Ethics, Government Accountability and Campaign Reform Act of 1991". The fee must be used to reimburse the commission for costs associated with the investigation and hearing of a violation.

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 Thomas E. Baker, II is in violation of Section 8-13-1140; and therefore, Respondent Thomas E. Baker, II is hereby Publicly Reprimanded and he is assessed a fine of \$2,000.00, in addition to the late-filing penalty of \$1,300.00 and he is assessed an administrative fee of \$500.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$3,800.00 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 \$3,800.00 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 15th DAY OF August, 2013.

STATE ETHICS COMMISSION


E. KAYBIERMANN BROHL
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA