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STATE ETHICS COMMISSION

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	BEFORE THE STATE ETHICS COMMISSION
IN THE MATTER OF: COMPLAINT C2013-102	)	
Johnny Wright, Complainant;	)	**DECISION AND ORDER**
vs.	)	
William James, Jr., Respondent.	)	

Pursuant to S. C. Code Ann. § 8-13-320(10)(i)(Supp. 2012), the State Ethics Commission reviewed the above captioned complaint on May 15, 2013 charging the Respondent, William James, Jr., with a violation of Section 8-13-700(A). Present at the meeting were Commission Members Phillip Florence, Jr., Chair, Priscilla L. Turner, George Carlton Manley, Richard H. Fitzgerald, James I. Warren, and Twana N. Burris-Alcide. The following allegation was considered:

ALLEGATIONS

On January 28, 2013 the State Ethics Commission received a complaint filed by Johnny Wright of Timmonsville, SC against William James, Jr., Council member, Town of Timmonsville, SC. The complaint alleged that the Respondent, from September 2009 to February 2010, signed thirteen money transfers from the Timmonsville Water Department to General Funds or Garbage funds to General Funds. These transfers were not approved by Town Council. The Complainant stated that an audit was not able to substantiate payments made during this period. Therefore, the funds may have been used for personal gain or unapproved purchases.

FINDINGS OF FACT

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

1. The Respondent, William James, Jr., is currently a member of Timmonsville Town Council, and he was a council member during the period of the alleged violations.

2. Respondent stated that over the years Timmonsville has had serious financial difficulties. He said that there was a time period in 2009, that the town administrator was only working three days a week. Respondent said that town council approved a motion for himself, along with Timmonsville Council Member Darrick Jackson to assist the town administrator. Respondent said that he did not receive any compensation for assisting the administrator.

3. Respondent advised that in 2009, Complainant nominated him to be on the finance committee and his nomination was approved by council. Respondent said that a part of his duties were to go over the checks, that needed to be written for the town's bills, with the town clerk. He said that the transfer memorandums in the files, that he signed, documented that he reviewed the checks, and made sure that money was in the account to pay the town's bills. Respondent said that the town had only two accounts that had checks, the general Fund and water Department. Respondent stated that he was not on the signature card for the town accounts and he did not sign any checks. Respondent said that he did authorize the transfer of funds from either the water department or the garbage fund to insure that bills for the town were paid. Respondent said that he never authorized payment to himself, an immediate family member or a business with which he was associated.

4. A review of the minutes for the town council meeting conducted on August 9, 2009 revealed that council approved a motion for council members, William James and

Darrick Jackson to be appointed co-interim administrators, to assist the town's administrator, until a full time administrator was hired.

5. A review of the town's payroll records revealed that Respondent received no additional compensation for assisting the town administrator.

6. Staff met with the former town treasurer, Ms. Dora Lee, and she reviewed copies of checks from the town's accounts payable account from September 1, 2009 through February 26, 2010. Ms. Lee did not identify any checks that were fraudulently written to Respondent. She did not identify any checks that were written to immediate family members or business with which Respondent was associated. Ms. Lee said that she could not provide specific information, about whether the transfer of town funds authorized by Respondent, resulted in an economic benefit for Respondent, a family member, an individual with whom he is associated or a business with which he is associated.

7. The Complainant, Council Member Johnny Wright, advised that he could not provide specific information about whether the transfer of town funds authorized by Respondent resulted in an economic benefit for Respondent, a family member, an individual with whom he is associated or a business with which he is associated.

8. The complaint contained information that the transfer of funds from the water department, the garbage fund, and general fund were not approved by town council, rather than an allegation that Respondent personally benefitted from the transfers. A review of the town's minutes did not document that each transaction was approved by town council. A review of an audit conducted by Holt and Holt CPAs, LLC, for the Town of Timmonsville, for fiscal year 2009, revealed that the town did not maintain adequate

accounting records, and supporting documentation to permit the application of auditing procedures.

CONCLUSIONS OF LAW

1. The Respondent is a public official as defined by Section 8-13-100(27).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 8-13-700 provides in part:

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use that does not result in additional public expense.

DECISION

THEREFORE, based upon evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, William James, Jr., violated Section 8-13-700(A) as none of the allegations were substantiated in interviews. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i), and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 29th DAY OF MAY, 2013.

STATE ETHICS COMMISSION

PHILLIP FLORENCE, JR.
CHAIRMAN

COLUMBIA, SOUTH CAROLINA