STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	BEFORE THE STATE ETHICS COMMISSION
IN THE MATTER OF:	)	
COMPLAINT C2013-098	)	
State Ethics Commission, Complainant;	)	
vs.	)	**DECISION AND ORDER**
Carter McMillian, 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 January 22, 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 Respondent, Carter McMillian, with a violation of Section 8-13-1308 and probable cause was found to warrant an evidentiary hearing.

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 present and appeared *pro se*. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charge was considered:

COUNT ONE
FAILURE TO FILE QUARTERLY CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Carter McMillian, a candidate for James Island City Council, did in Richland County on or about January 10, 2012, fail to timely file a quarterly Campaign Disclosure Report within ten days of the end of the calendar quarter, all in violation of Section 8-13-1308(B).

STATEMENT OF FACTS

1. The Respondent, Carter McMillian, was a candidate for James Island City Council, in an August 3, 2010 election and he was required to file quarterly campaign disclosure forms (CD) until final disposition.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that a letter dated November 8, 2012 was sent to Respondent for failure to file three campaign disclosure forms in 2012 for the James Island City Council election. That letter was re-sent certified on November 30, 2012 and delivered on December 1, 2012. Penalties began to accrue on December 12, 2012. Respondent filed a final report on February 5, 2013. The late filing penalty was not paid and is $4,500.00. A review of bank documents revealed that Respondent closed the campaign account and only one report was due.

3. Respondent testified that he ran for James Island Town Council and was elected. The town was subsequently dissolved in June 2011. Respondent testified that he thought he had filed a final report as he closed the account after no activity for six months. Respondent was appointed to fill a seat on the James Island Public Service District until the next election in November 2012. He ran for the seat in 2012 and was elected. There was confusion between the two seats and two accounts.

4. Brady Garvin testified that he helped Respondent with both races. He testified that he was confused between the James Island Town Council and James Island Public Service District correspondence.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Carter McMillian, was a candidate as defined by Section 8-13-1300(4).

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

3. Section 8-13-1308(B) provides:

> Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election until the campaign account undergoes final disbursement pursuant to the provisions of Section 8-13-1370.

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;

5. 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 Carter McMillan is in violation of Section 8-13-1140; and there-

fore, Respondent Carter McMillan is hereby assessed a reduced late-filing penalty of $100.00 to be paid within 30 days of receipt of the order. In addition a $150.00 administrative fee is assessed and it must be paid within 30 days of receipt of the order. If the reduced late filing penalty and administrative fee are not timely paid then the amount owed will revert to the original late filing penalty of $4,500.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of $4,500.00 is, and shall be entered against Respondent, if he fails to pay the reduced late-filing penalty and administrative fee within the time permitted.

FINALLY, Respondent Carter McMillan 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 DAY OF August, 2013.

STATE ETHICS COMMISSION

E. Kay Biermann Brohl

E. KAY BIERMANN BROHL
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA