STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	BEFORE THE STATE ETHICS COMMISSION
IN THE MATTER OF: COMPLAINT C2013-050	)	
State Ethics Commission, Complainant;	)	
vs.	)	**DECISION AND ORDER**
Brian D. Newman, 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, Brian D. Newman, with a violation 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 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 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Brian D. Newman, a Columbia City Council Member, 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.

STATEMENT OF FACTS

1. The Respondent, Brian D. Newman, is a member of Columbia City Council 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 Respondent was required to file a 2011 SEI as member of Columbia City Council after winning a special 2010 election. Respondent was penalized in a July 25, 2012 letter for failure to file his 2011 SEI. That letter was returned as "at-tempted, not known." The letter was re-mailed to his City of Columbia mailbox as listed on the city's web-site. That letter was re-sent certified on September 18, 2012 and deliv-ered on September 20, 2012. Penalties began to accrue on October 1, 2012. Respondent filed his 2011 SEI on January 8, 2013. The late filing penalty was not paid and is $5,000.00.

3. Commission Investigator Dan Choate testified that on November 6, 2012 he left a message at Respondent's telephone concerning the 2011 SEI and accruing penalties. On November 13, 2012 the investigator left a message at Respondent's law firm advising that the 2011 SEI had not been received.

4. Respondent testified that he did not realize an annual SEI was due. He thought he filed that report when he was a candidate, which he was in 2010 and 2012 when he filed both SEIs timely. The original address in the electronic system was his law firm's old address so he did not receive the original correspondence. Columbia City Hall is be-ing renovated, so he was not sure about the city hall address as he never received that cor-

respondence. Only on January 8, 2013 when he came to the Commission office did he receive a copy of the correspondence. He testified that he knew he was ultimately responsible, but he did not realize that it was an annual requirement.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Brian D. Newman, 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 prior to taking the oath of office and annually by 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 Brian D. Newman is in violation of Section 8-13-1140; and therefore, Respondent Brian D. Newman is hereby assessed a reduced late-filing penalty of $300.00 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 Brian D. Newman 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