

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE MATTER OF:)
COMPLAINT C2013-026)

State Ethics Commission,)
Complainant;)

vs.)

SC Counseling Association,)
Respondent.)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

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COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on September 19, 2012. On November 28, 2012, pursuant to S.C. Code Ann. § 8-13-320(10)(i)(Supp. 2011), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, SC Counseling Association, with two violations of Section 2-17-35, 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's representatives were present. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charges were considered:

COUNT ONE
FAILURE TO FILE LOBBYIST'S PRINCIPAL DISCLOSURE FORM
SECTION 2-17-35, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, SC Counseling Association, a registered lobbyist's principal in 2011, did in Richland County, fail to file a Lobbyist's Principal Disclosure form on or before the June 30, 2011 deadline for the period, January 1, 2011 to May 31, 2011.

COUNT TWO
FAILURE TO FILE LOBBYIST'S PRINCIPAL DISCLOSURE FORM
SECTION 2-17-35, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, SC Counseling Association, a registered lobbyist's principal in 2011, did in Richland County, fail to file a Lobbyist's Principal Disclosure form on or before the January 31, 2012 deadline for the period, June 1, 2011 to December 31, 2011.

FINDINGS OF FACT

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

1. On January 18, 2011, Respondent, SC Counseling Association, registered as a lobbyist's principal for the 2011 calendar year and a Lobbyist's Principal Disclosure statement (LPD) was due by June 30, 2011 for the period, January 1, 2011 to May 31, 2011 and by January 31, 2012 for the period, June 1, 2011 to December 31, 2011.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that by letter dated June 7, 2012, Respondent was penalized \$200.00 for failing to file the LPDs that were due June 30, 2011 and January 31, 2012. The letter was sent to the contact person in Respondent's profile, Harriett G. Fields. A Notice to Cease and Desist Lobbying Activities was sent on July 11, 2012, certified. The certified letter was delivered on July 13, 2012. Ms. Smith testified that she spoke with Gary Baum who called on behalf of Harriett Field's son. Ms. Fields passed away and her name needed to be removed from the profile. The contact person was changed to the current lobbyist, John D. McInnis, Jr. Mr. McInnis received the cease and desist order and informed Ms. Smith that he had left messages with the appropriate association members. Penalties began accruing on July 24, 2012. Respondent filed the LPDs on

October 17, 2012, but the \$10,000.00 late-filing penalty was not paid.

3. Gwendolyn Snider, Respondent's past president, testified that Harriett Fields had always filed the lobbying paperwork. She passed away in 2009 and in 2010 the association did not lobby. Art Grant filed in 2011 as the contact person for Respondent and she and other officers did not know that. They did not know that the association was registered again and that disclosure was supposed to be done. The association does not have a large budget as it is a membership organization and its main interest is professional training.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, SC Counseling Association, was a registered lobbyist's principal as defined by Section 2-17-10(14).

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

3. Section 2-17-35 provides in part:

(A) Except as otherwise provided by Section 2-17-90(E), each lobbyist's principal, no later than April tenth and October tenth of each year, must file a report with the State Ethics Commission covering that lobbyist's principal's expenditures attributable to lobbying during that filing period. The filing periods shall be from January first to March thirty-first for the April tenth report and shall be from April first to September thirtieth for the October tenth report. Any lobbying activity not reflected on the October tenth report and not reported on a statement of termination pursuant to Section 2-17-25(C) must be reported no later than December thirty-first of that year.

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 SC Counseling Association is in violation of Section 2-17-35; and therefore, Respondent SC Counseling Association is hereby assessed a reduced late-filing penalty of \$500.00 to be paid within 30 days of receipt of the order or it will revert to the original late filing penalty of \$10,000.00. In addition a \$150.00 administrative fee is assessed.

FINALLY, Respondent SC Counseling Association 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. KAY BIERMANN BROHL
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA