

STATE OF SOUTH CAROLINA ) BEFORE THE STATE ETHICS COMMISSION  
COUNTY OF RICHLAND )  
) )  
IN THE MATTER OF: ) )  
) )  
COMPLAINT C2013-090 ) )  
) )  
State Ethics Commission, ) )  
Complainant; ) )  
) )  
vs. ) **DECISION AND ORDER**  
) )  
Thomas Smith, ) )  
Respondent. ) )  
\_\_\_\_\_ ) )

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STATE ETHICS  
COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on January 8, 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, Thomas Smith, with three violations 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 present and appeared *pro se*. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charges were 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 Smith, Chief Administrative Official for South Carolina Minority Affairs Commission, did in Richland County, fail to timely file an annual Statement of Economic Interests form on or before April 15, 2010 in violation of

Section 8-13-1140.

**COUNT TWO**  
**FAILURE TO FILE A STATEMENT OF ECONOMIC INTEREST REPORT**  
**SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Thomas Smith, Chief Administrative Official for South Carolina Minority Affairs Commission, did in Richland County, fail to timely file an annual Statement of Economic Interests form on or before April 15, 2011 in violation of Section 8-13-1140.

**COUNT THREE**  
**FAILURE TO FILE A STATEMENT OF ECONOMIC INTEREST REPORT**  
**SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Thomas Smith, Chief Administrative Official for South Carolina Minority Affairs Commission, 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 Smith, is the Chief Administrative Official for South Carolina Minority Affairs Commission and he is required to file an annual Statement of Economic Interests form (SEI) prior to April 15<sup>th</sup> of each year.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that a review of the SC Minority Affairs Commission's 2011 entity list added Respondent as the chief administrative official as of July 1, 2010. By letter dated September 5, 2012, Respondent was penalized \$300.00 for failing to file his

2010, 2011 and 2012 SEIs. The letter was re-sent certified on October 2, 2012. It was returned and was re-mailed first class on November 6, 2012. Penalties began accruing on November 17, 2012. Respondent filed the three SEIs on January 24, 2013, but the \$15,000.00 late-filing penalty was not paid.

3. Commission Investigator Dan Choate testified that on January 22, 2013 he spoke with Respondent about the need to file the SEIs. Respondent filed on January 24, 2013.

4. Respondent testified that he began in the position on July 1, 2010 after the retirement of the previous agency director. Throughout this he has been caring for his elderly mother and spends the nights with her most nights. When he spoke with Mr. Choate he was able to then speak to Karen Wiggins who helped file all three late SEIs and his 2013 SEI. Respondent testified that he had no excuse and that he would appreciate any leniency the Commission could offer.

### **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 Smith, was a public employee, as defined by Section 8-13-100(25).
2. The State Ethics Commission has personal and subject matter jurisdiction
3. Section 8-13-1140 provides that certain public employees 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;

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 Thomas Smith is in violation of Section 8-13-1140; and therefore, Respondent Thomas Smith is hereby assessed a reduced late-filing penalty of \$300.00 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 \$15,000.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$15,000.00 is, and shall be entered against Respondent, if she fails to pay the reduced late-filing penalty and administrative fee within the time permitted.

FINALLY, Respondent Thomas Smith 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<sup>th</sup> DAY OF August, 2013.

STATE ETHICS COMMISSION



E. KAY BIERMANN BROHL  
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA