

That the Respondent, Virgil A. Smith, a Six Mile Town 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.

FINDINGS OF FACT

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

1. The Respondent, Virgil A. Smith, is a Six Mile Town Council Member and he is required 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 the Town of Six Mile returned its 2010 SEI entity list and Respondent was listed as a council member. The Town of Six Mile did not return its 2011 entity list, but Respondent's term was through December 2013. Respondent was penalized \$200.00 in a March 26, 2012 letter for failure to file his 2010 and 2011 SEIs. That letter was re-sent certified on April 17, 2012 and was delivered April 24, 2012. Penalties began accruing on May 5, 2012. Respondent filed his 2010 and 2011 SEIs on July 9, 2012; however, he did not pay the \$10,000.00 late-filing penalty.

CONCLUSIONS OF LAW

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

1. During all times relevant, the Respondent, Virgil A. Smith, was a public official, as defined by Section 8-13-100(27).
2. The State Ethics Commission has personal and subject matter jurisdiction
3. Section 8-13-1140 provide that certain public officials shall file a Statement of Economic Interests 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;
- (2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

5. Section 8-13-320(10)(l) provides:

- (i) requiring the public official, public member, or public employee to pay a civil penalty of not more than two thousand dollars for each 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 Virgil A. Smith is in violation of two counts of Section 8-13-1140; and therefore, Respondent Virgil A. Smith is hereby Publicly Reprimanded and he is assessed a fine of \$4,000.00, in addition to the late-filing penalty of \$10,000.00 and he is assessed an administrative fee of \$500.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$14,500.00 is, and shall be entered against Respondent.

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

\$14,500.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Virgil A. 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 10th DAY OF May, 2013.

STATE ETHICS COMMISSION


E. KAY BIERMANN BROHL
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA