

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE MATTER OF:

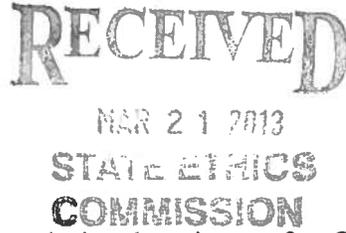
Complaint C2012-111

Chris Fail,
Respondent.

State Ethics Commission,
Complainant.

BEFORE THE STATE ETHICS
COMMISSION

DISMISSAL ORDER



This matter comes before the State Ethics Commission by virtue of a Complaint filed against Respondent, pursuant to the South Carolina Ethics Act, particularly S.C. Code Ann. § 8-13-700(A). Following the probable cause finding, Respondent's attorneys, Daniel W. Luginbill filed a Notice of Appearance.

STATEMENT OF FACTS

1. Respondent Chris Fail (hereinafter "Respondent") was serving as the Fire Chief of the Olar Volunteer Fire Department (hereinafter "OFD").
2. The Respondent, on June 9, 2008, deposited check in the amount of \$2,500.00 written out of the Operating Account of the OFD, the Chris' Auto Care of Olar, a business owned and operated by the Respondent.
3. The check written was ostensibly for reimbursement of costs related to parts for the OFD brush truck. Mr. Fail produced documentation as to the parts procured to obtain and refurbish the brush truck. Mr. Fail and Mr. Brabham, the Assistant Chief, testified the value of the truck greatly exceeded the costs of procurement. Further, Mr. Fail produced evidence that

the prices for the parts used, although purchased by this business, were sold to OFD at Mr. Fail's costs, without markup.

4. The Respondent issued a check from the OFD operating account in the amount of \$191.41, ostensibly to reimburse himself for food items purchased on behalf of the OFD for a fund raiser.

5. The Respondent issued a check in the amount of \$309.49, from the OFD operating account to himself, ostensibly to reimburse himself for items purchases by Mr. Fail for the OFD.

6. Each of the three checks written by or to Mr. Fail corresponded to receipts for items purchased on the behalf of the OFD.

7. Mr. Fail did not make or attempt to make a profit from any of the transactions.

CONCLUSIONS OF LAW

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

1. During all times relevant, Respondent was a public official as defined by S.C. Code Ann. § 8-13-100(27).

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

3. S.C. Code Ann. § 8-13-700(A) prohibits a public official from knowingly using his official employment to obtain an economic interest for a business with which he is associated.

DECISION

THEREFORE, based upon the evidence presented, Respondent did not knowingly use his official employment to obtain, or seek to obtain, an economic interest for a business with which

he was affiliated. Thus, Respondent did not violate the South Carolina Ethics Act on May 14, 2009. The Motion to Dismiss the Complaint against Respondent is granted.

IT IS SO ORDERED THIS 20th DAY OF MARCH, 2013.

STATE ETHICS COMMISSION



PHILLIP FLORENCE, JR.
CHAIRMAN

COLUMBIA, SOUTH CAROLINA