

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2014-096)
David Knight,)
Respondent.)
Town of Chapin,)
Complainant.)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

STATE ETHICS
COMMISSION

2014 JUN 20 PM 3:41

RECEIVED

Pursuant to S. C. Code Ann. § 8-13-320(10)(i)(Supp. 2013), the State Ethics Commission reviewed the above captioned complaint on June 17, 2014 charging the Respondent, David Knight, with violations of Section 8-13-700, etal. Present at the meeting were Commission Members, Sherri A. Lydon, Vice Chair, Clisby P. Templeton, James I. Warren, III, Regina H. Lewis, Julie S. Jeffords-Moose, and Thomas Miller Galardi. Chair James H. Burns recused. The following allegation was considered:

ALLEGATION

On March 13, 2014 the State Ethics Commission received a complaint filed by Town of Chapin (Mayor Skip Wilson) against David Knight, Utility Attorney for the Town of Chapin, SC. The complaint alleged that the before the Respondent officially retired as Chapin Town Attorney effective December 31, 2013 he negotiated a contract between himself and the Town of Chapin to be retained as the Town Utility Attorney. The Respondent appeared before the SC Election Commission to represent the former Chapin Mayor in an effort to seek a re-count following the November 2013 election. The Respondent has been outspoken in his opposition to the Complainant since the election and has offered advice to Council members even though he no longer serves as Town Attorney.

FINDINGS OF FACT

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

1. The Respondent, David Knight, was the Municipal Attorney for the Town of Chapin.
2. Respondent stated that since 1987 he served as the Town Attorney for the Town of Chapin. Respondent said that over the years he billed the town for legal services at an hourly rate. Respondent stated that at the end of each year he received a federal 1099 tax form from the town for legal services. Respondent said that he did not have written contract with the Town of Chapin for the legal services he provided the town. Respondent stated that he worked at the pleasure of the former mayor and town council. Respondent advised that in December of 2013, he made a decision to retire, and to stop providing services as the town attorney. Respondent said that he has been involved with the Town Of Chapin's Utility Department since it began operating at the town. Respondent said that director of the utility department, Ms. Mary Wynn, asked him to provide legal services for the utility department. Respondent stated that he discussed the utility department attorney position with the former Chapin Mayor, Mr. Stanley Shealy. Respondent said that he prepared a written contract in regard to services he could provide for the utility department position. Respondent said that in December of 2013, the former Chapin Mayor and Town Council approved his contract. Respondent stated that he did not sign the utility department contract as the town's attorney. Respondent stated that the utility department contract he signed was to accept the terms of the agreement with the Town of Chapin as an independent contractor.

3. Skip Wilson, Mayor of the Town of Chapin, said that Respondent worked as the town attorney for over 25 years and he worked at the will of the Chapin Mayor and Town Council without a written contract. Mr. Wilson stated that Respondent billed the town for his legal services.

4. Staff met with the Town of Chapin Clerk, Mrs. Adrienne Thompson, and she stated that Respondent was the former Municipal Attorney for the Town of Chapin. Mrs. Thompson said that Respondent was appointed by Chapin Town Council on July 7, 1987. Mrs. Thompson stated that Respondent was an independent contractor, and he was not a public employee. She said that Respondent received a 1099 tax form each year from the Town of Chapin, and the town did not withhold any taxes or Social Security contributions. Mrs. Thompson stated that Respondent did not have a written contract with the Town of Chapin, and he served at the pleasure of Chapin Town Council. Mrs. Thompson stated that at the December 3, 2013 town council meeting Respondent advised council that he was going to retire from his duties as the municipal attorney effective December 31, 2013.

5. A review of the Chapin Town Council meeting minutes dated December 3, 2013 revealed that Respondent announced his retirement, and Respondent submitted a professional service contract to the council to represent the utility department. The contract was unanimously approved.

CONCLUSIONS OF LAW

1. The Respondent is not a public employee or a public official, as defined by Sections 8-13-100(25) and (27).

2. The State Ethics Commission does not have personal jurisdiction.

DECISION

THEREFORE, based upon evidence presented, the State Ethics Commission has determined that Respondent David Knight does not fall within the jurisdiction of the Ethics Reform Act. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i), and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 20th DAY OF June, 2014.

STATE ETHICS COMMISSION



JAMES H. BURNS
CHAIRMAN

COLUMBIA, SOUTH CAROLINA