STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	BEFORE THE STATE ETHICS COMMISSION
IN THE MATTER OF: Complaint 2010-120	)	
Carolyn Cole, Respondent.	)	**DECISION AND ORDER**
State Ethics Commission, Complainant.	)	

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COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on April 29, 2010. The complaint against the Respondent, Carolyn Cole, was considered by the Commission on July 21, 2010 and probable cause found to warrant an evidentiary hearing.

Present at the Hearing on July 20, 2011 were Commission Members Edward E. Duryea, Chair, George Carlton Manley and Richard H. Fitzgerald. Respondent was present and represented by Charles Jordan. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charge was considered:

COUNT ONE
FAILURE TO FILE A PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(D), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Carolyn Cole, a candidate for Atlantic Beach City Council, on or about October 19, 2009, did fail to timely file a pre-election Campaign Disclosure Report.

STATEMENT OF FACTS

1. The Respondent, Carolyn Cole, was involved in an election in Atlantic Beach in November 2009. Respondent was certified the winner of the election by Atlantic

Beach's Municipal Election Commission on November 5, 2009.

2. Investigator Dan Choate testified that Commission staff informed Respondent in a letter dated November 10, 2009 that she needed to file a campaign disclosure since she had won the election. He testified that she received additional correspondence regarding the filing. Investigator testified that on May 5, 2010 he left a message at Respondent's office and that on May 25, 2010 he spoke to her.

3. Respondent testified that she did not run for Atlantic Beach. She knew that some citizens were going to write her in for council. She did not win the election at the outset, but when the absentee ballots were counted she was declared the winner. The losing candidates immediately filed an election challenge. Respondent testified that since she had not run as a write-in and was only briefly declared the winner, that she was never a candidate.

CONCLUSIONS OF LAW

Based upon the Statement of Facts, the Commission concludes, as a matter of law:

1. During all times relevant, the Respondent, Carolyn Cole, was not a candidate, as defined by S.C. Code Ann. § 8-13-1300(4)(Supp. 2010).

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

3. Section 8-13-1308(D) requires a candidate to file a pre-election campaign disclosure form 15 days before the election.

DECISION

THEREFORE, based on the evidence presented, the findings of fact and conclusions contained herein, the State Ethics Commission has determined that there is

not a preponderance of evidence to prove the allegations contained in the Notice of Hearing. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10) and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 31st DAY OF August, 2011.

STATE ETHICS COMMISSION

EDWARD E. DURYEA
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA