

# *State of South Carolina*

## *State Ethics Commission*

### COMMISSIONERS

JAMES I. WARREN, III, 4<sup>th</sup> DISTRICT  
CHAIR  
SHERRI A. LYDON, MEMBER AT LARGE,  
VICE CHAIR  
THOMAS M. GALARDI, 2<sup>nd</sup> DISTRICT  
FRANCIS E. GRIMBALL, 1<sup>st</sup> DISTRICT



### COMMISSIONERS

SANDY TEMPLETON, 3<sup>rd</sup> DISTRICT  
TWANA BURRIS-ALCIDE, 5<sup>th</sup> DISTRICT  
REGINA HOLLINS LEWIS, 6<sup>th</sup> DISTRICT  
JULIE J. MOOSE, 7<sup>th</sup> DISTRICT  
BRIAN M. BARNWELL, MEMBER AT LARGE

5000 THURMOND MALL, SUITE 250  
COLUMBIA, S.C. 29201

HERBERT R. HAYDEN, JR.  
EXECUTIVE DIRECTOR

### MINUTES COMMISSION MEETING OPEN SESSION

**June 28, 2016**

The meeting was called to order by Acting Chair Twana Burris-Alcide at 9:37 a.m. Other members present were Francis E. Grimball, Julie J. Moose, Sandy Templeton, Thomas M. Galardi, Brian M. Barnwell, and Regina Hollins Lewis. Chairman James I. Warren, III, arrived at 10:41 a.m, and Vice Chair Sherri Lydon arrived at 10:43 a.m.

The news media was duly notified and present at today's meeting.

Staff present: Herbert R. Hayden, Jr., James T. Bagnall, Michael R. Burchstead, Ami R. Franklin, Ryanne Gillum, Kristin S. Nabors, Katie Nilges, and Karen A. Wiggins.

Others present: Greg Harris, Christian Stegmaier, Craig Caldwell, Jordan Raines, Jamie Self, Wayne Pruitt, Wayne Bell, Betty C. Black, Mrs. Griswold, Sam Griswold, Steve Ross, DeLinda Ridings, Thomas M. Parkman, Cindy Risher, Clarissa Adams, Maya Prabhu, and Edward Frazier.

Acting Chair Burris-Alcide welcomed everyone and presented the Open Session Agenda.

### MOTION TO DISMISS

**C2014-156 J. Samuel Griswold vs. Curtis M. Loftis, Jr.**

Acting Chair Burris-Alcide called the Curtis M. Loftis, Jr. Motion to Dismiss. Chairman Jim Warren and Vice Chair Lydon submitted a Statement of Recusal in this matter. Acting Chair Burris-Alcide then presented Greg Harris, attorney for Mr. Loftis, and Christian Stegmaier, special counsel to the State Ethics Commission. Mr. Harris gave an opening statement, and gave arguments on whether or not Mr. Loftis and Mr. Montgomery are associated as defined by the Ethics Act; expounded on legal

definitions of “business,” “interests,” and “economic interest;” gave further legal definition on “individual with whom he is associated with” for purposes of Section 8-13-700(B); briefed events in the Launi v. Broadhurst case; and presented history and make-up of the Saluda Charitable Foundation. Mr. Grimball asked for clarification on how the Ethics Act could not include “a business with which he is associated.” A lengthy discussion ensued. Acting Chair Burris-Alcide then asked for Mr. Stegmaier to give an opening statement. Mr. Stegmaier presented a section of statute that supports disposition of this particular action, “no public official (Mr. Loftis), public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated (Mr. Montgomery), or a business with which he is associated has an economic interest. Mr. Stegmaier continued presenting definitions of the statute; arguing that the Ethics Act can’t be thrown out which was created by the General Assembly; referenced *Black’s Law Dictionary* to define not-for-profit or for-profit. Mr. Stegmaier argued that the prosecution should go forward because Respondent violated 700(B) by failing to disclose his association with Mr. Montgomery to the Attorney General. Mrs. Lewis asked for clarification on “interest with any business.” Mr. Barnwell asked for clarification on the “interest” that’s being talked about, creating a conflict of the cart after the horse--that the interest has to be the business, and the focus should be solely on the link that makes that person an associated person, or, is there an interest in the governmental decision which triggers it. Mr. Stegmaier responded that the purpose of this case is that the Respondent’s association with Mr. Montgomery relates to Mr. Montgomery’s membership as a director of the Respondent’s non-profit charitable corporation, and the Ethics Act does not make a distinction between a for-profit and a not-for-profit business when determining if there is any interest that should be disclosed. Discussion ensued concerning any economic interest, payment, or fee by the appointment as special counsel. Mrs. Lewis asked for clarification on the Legislature’s intent on any “business interest.” Further discussion ensued concerning two case decisions, lack of evidence to resolve the economic interest issue, and determination of a 700(B) violation. Further discussion and clarification ensued concerning earlier dismissal of 700(A); would not be here if respondent had only disclosed their serving on the board together; and having enough evidence to go forward. Mr. Harris then gave a closing statement arguing that the mutual entity in this case is the Saluda Trust Charitable Foundation, and which goes back to the financial interest, and stated that there is no financial interest, and that this is all about the economic interest in the Saluda Trust, where there is none, so the State was not required to be notified if there was no economic interest. Mr. Grimball asked for clarification on two guys who are directors in a charitable trust, and that makes them associated, and the economic interest is when Mr. Loftis sends a letter to Mr. Wilson to hire Mr. Montgomery, not in the business, but the relationship within the business that creates the connection. Mr. Harris argues that these individuals have to have an economic interest in a mutual entity, and the only mutual entity is the Saluda Trust. Mr. Grimball asked for confirmation that Mr. Harris was saying two guys can serve on a charitable board together and not be associated because there is no economic interest involved. Mr. Harris agreed. Acting Chair Burris-Alcide asked for any other witnesses, questions, or rebuttal. There being none, thanked everyone for coming and noted that the Commission would take this matter under advisement, consider all evidence as presented, and will issue a written decision within 30 days.

Upon deliberation, the Commission voted 7 – 0 to deny the Motion to Dismiss. Chairman Warren and Vice Chair Lydon not voting.

## **POINT OF ORDER**

Chairman Warren and Vice Chair Lydon arrived at 10:41 a.m. and 10:43 a.m. respectively. Everyone agreed to take a break.

## **MOTION TO DISMISS**

### **C2014-056 State Ethics Commission vs. Charles E. Houston, Jr.**

Chairman Warren called this matter. Mr. Burchstead gave an opening statement noting that the Respondent came into compliance after being contacted by the investigator; has re-located out of state; and was not present because of economic practicalities of traveling to this meeting and then again next month for a hearing. Mr. Burchstead then submitted Respondent's Motion and added that the Respondent was a candidate in an election, filed an Initial CD three months before the election showing no financial campaign activity, which was not required. The Respondent argues that because he had no campaign activity, the Pre-election CD was not required. Mr. Burchstead argues that Section 8-13-1308(D) states a Pre-election CD is required 15 days prior to an election. Penalties have accrued, and no agreement can be reached on a consent order. Discussion ensued clarifying the different CD reports required in Section 8-13-1308. Chairman Warren asked for further discussion. There being none, Mr. Grimbball made a motion, seconded by Mrs. Lewis, to deny the Motion to Dismiss and or Motion for Summary Judgment. The motion carried with a 9 – 0 vote.

## **DISCUSSION**

### **C2015-117 In the Matter of Travis N. Gilliam**

Chairman Warren called this matter. Mr. Burchstead gave an opening statement noting that Respondent has asked for more time to make payments on his Decision and Order. Mr. Burchstead then gave a history of Mr. Gilliam's appeal, request to perfect the appeal, expiration of the appeal, and then a request for payment arrangements. Discussion ensued staff providing a plan for payment. A motion was made by Mr. Grimbball, seconded by Mrs. Lewis, to allow the Respondent to pay the \$1,250 in fines that have been assessed in five payments of \$250.00 each, with the first payment being due July 31, 2016, and each subsequent \$250.00 payment due on the last day of each successive month, and that if any one of those payments are missed, Respondent will be responsible for paying the entire \$7,500.00 per the Commission's order. The motion carried with a 9 – 0 vote.

## **LEGISLATION**

Mr. Hayden presented this matter, noting that the Commission should have received two bills the Legislature has passed affecting the State Ethics Commission:

1. H.3184 - The Ethics Reform Act. All current commissioners will be up for reappointment March 31, 2017. Effective April 1, 2017, the new Commission will be made up of 4 appointments by the Governor (only two of which come from the Governor's party), 2 appointments by the House, and 2 appointments by the Senate—each body appointing one by the Majority Party and one by the Minority Party. Mr. Hayden further noted that the new

Commission will also begin investigating complaints for the General Assembly, and recommend to the respective Ethics Committee whether there is probable cause.

2. H.3186 - Disclosure of Specified Income on Statements of Economic Interests reports. Filers and their family members living at home will have to disclose all of their sources of income, but not the amounts.

Discussion ensued concerning how the complaints from the General Assembly will be handled by the Commission and approximately how many complaints they handle each year. Staff responded.

### EXECUTIVE SESSION

Chairman Warren asked for a motion to go into Executive Session for the purpose of hearing probable cause matters and an employment issue. A motion was made by Mr. Grimball, seconded by Mrs. Moose, to go into Executive Session. There being no discussion, the motion carried with a 9 – 0 vote.

### RETURN FROM EXECUTIVE SESSION

Upon return from Executive Session, a motion was made by Mrs. Moose, seconded by Mr. Galardi, to adopt and ratify actions taken in Executive Session. Chairman Warren reminded everyone that if they recused themselves on a matter in Executive Session, they were still recused on that matter with this vote. The motion carried with a 7 - 0 vote. Mr. Barnwell left at 11:35 a.m. and Mrs. Lewis left at 3:05 p.m. for appointments.

### ADJOURNMENT

Chairman Warren asked for any further discussion. There being no further business, Mr. Grimball made a motion, seconded by Mrs. Moose, to adjourn at 3:44 p.m. The motion carried with a 7 – 0 vote. Mr. Barnwell left at 11:35 a.m. and Mrs. Lewis left at 3:05 p.m. for appointments.

Respectfully submitted,



Karen A. Wiggins  
Administrative Specialist