

State of South Carolina
State Ethics Commission

BRIAN M. BARNWELL, CHAIR
VICTOR K. LI, VICE CHAIR
DONALD GIST
SAMUEL L. ERWIN



DON JACKSON
BRANDOLYN THOMAS PINKSTON
CHILDS CANTEY THRASHER
ASHLEIGH R. WILSON

201 EXECUTIVE CENTER DRIVE, SUITE 150
COLUMBIA, S.C. 29210

MEGHAN L. WALKER
EXECUTIVE DIRECTOR

MINUTES
COMMISSION MEETING
OPEN SESSION

September 20, 2018

The meeting was called to order by Chairman Brian M. Barnwell at 9:38 a.m. at the Public Service Commission's Hearing Room located at 101 Executive Center Drive, Suite 100, Columbia, South Carolina. Commission members present were Donald H. Jackson, Vice Chair Victor K. Li, Brandolyn T. Pinkston, Childs Cantey Thrasher, and Ashleigh R. Wilson. Commissioner Samuel L. Erwin arrived at 10:00 a.m. Commissioner Donald Gist had an excused absence for this meeting.

The news media was duly and timely notified.

Staff present: Meghan L. Walker, Ami Franklin, Jimmy Bagnall, Ryanne Caldwell, Kristin Nabors, Kevin Hinson, Courtney Laster, Reggie Gaymon, Karen A. Wiggins, Richard Provencher, and Teresa Posey.

Others present: Laura Von Harten, Pat Von Harten, Seanna Adcox, Lynn Ballentine, Charles Houston, and Jo Wheat.

Director Meghan Walker gave an opening statement and welcomed everyone and thanked the Public Service Commission for the use of their Hearing Room.

MINUTES

Chairman Barnwell called for approval of the Minutes. A motion was made by Commissioner Wilson, seconded by Commissioner Thrasher, to accept the Minutes. Chairman Barnwell asked for any discussion or opposition. There being none, the motion carried with no opposition to

approve the Open Session Minutes and the Executive Session Minutes from the July 19, 2018 Commission meeting. The motion was carried unanimously with a 6 - 0 vote. Commissioner Erwin was delayed because of traffic. Commissioner Donald Gist had an excused absence for this meeting.

APPEALS

Director Walker gave an overview of the regulations and Commission's policy for handling Appeals.

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

Chairman Barnwell called this matter at 9:46 a.m., presented Mr. Houston's appeal, and noted that Mr. Houston notified staff that he would be present today, but he has failed to appear. General Counsel Laster was called and gave a history of events in this matter, reviewing documentation from prior hearings, and presented arguments to Mr. Houston's Motion to Dismiss and or Motion for Summary Judgment. Discussion ensued concerning Mr. Houston's failure to file a Pre-election Campaign Disclosure report which was due October 22, 2012, and was required even if there was no money spent. General Counsel Laster closed by asking the Commission to affirm the prior Order and Decision in this matter and direct that the amount be due within 90 days of the receipt of the Order. Discussion ensued concerning Mr. Houston's absence. General Counsel Laster presented Exhibit 1 consisting of a certified letter to Mr. Houston, the Notice of Appellate Hearing, and a copy of the Proof of Delivery. Further discussion ensued.

POINT OF ORDER

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

Chairman Barnwell asked for a motion to go into Executive Session for the purpose of discussing this matter. A motion was made by Commissioner Thrasher, seconded by Commissioner Wilson, to go into Executive Session. The motion carried with a 6 - 0 vote. Commissioner Erwin was delayed because of traffic. Commissioner Donald Gist had an excused absence for this meeting.

POINT OF ORDER

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

Upon return from Executive Session at 10:05 a.m., Chairman Barnwell stated for the record that Commissioner Erwin was now present and that no action was taken in Executive Session. Chairman Barnwell then asked for a discussion or a motion in this matter. Commissioner Thrasher made a motion, seconded by Commissioner Pinkston, to affirm the underlying decision of the Commission panel in this matter. The motion carried unanimously with a 7 - 0 vote. Commissioner Donald Gist had an excused absence for this meeting.

POINT OF ORDER

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

Director Walker announced that staff had received a call from Charles E. Houston, Jr., and he was on his way to our new location--he went to the Commission's old office. Chairman Barnwell noted

for the record that Mr. Houston's hearing was at 9:30 a.m., but stated that the Commission would wait and see what Mr. Houston had to say. There was no opposition.

POINT OF ORDER

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

At 10:40 a.m., Director Walker directed everyone back to the Agenda for the Appeal of Mr. Charles E. Houston, Jr. Mr. Houston was now present. Chairman Barnwell notified Mr. Houston that his Appeal was heard earlier at 9:30 a.m., that the Commission panel affirmed the Commission's earlier decision, and the Commission panel has now agreed to hear Mr. Houston's explanation. Mr. Houston asked for reconsideration, explaining that he arrived on time at the location his GPS sent him to, but it was the wrong location, and someone helped him get to the Commission's new location. Mr. Houston explained that his Appeal was based on no instructions were given to him when he filed to run for the position; that there was no intent not to comply with reports that were required, and he did file after the investigator contacted him; he left the jurisdiction and moved out of state; and, there was nothing to report because there was no campaign contributions or expenditures—no campaign activity. Discussion ensued concerning the requirement in the statute that all candidates must file the Pre-election Campaign Disclosure report before the election; the lack of notice of any campaign report required before the election; and detailed timeframe for receipt of the letters mailed from the State Ethics Commission before and after the move out-of-state. General Counsel Laster gave a closing statement, restating her arguments. Discussion ensued concerning the timeframe of mail received after he moved, and then the contact by the investigator. Chairman Barnwell then asked for further discussion. There being none, Chairman Barnwell thanked Mr. Houston for coming, and stated that the Commission would consider the Appeal and let him know of their decision.

POINT OF ORDER

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

After return from deliberations in this matter, Chairman Barnwell asked for a motion. Commissioner Wilson made a motion, seconded by Commissioner Jackson, to deny Mr. Houston's Motion to Dismiss and or Motion for Summary Judgment. The motion carried with a 7 – 0 vote. Commissioner Donald Gist had an excused absence for this meeting.

APPEALS – continued

C2016-081 State Ethics Commission vs. Laura L. Von Harten

Chairman Barnwell called this matter. Vice Chair Li and Commissioner Pinkston stepped out of the hearing room since they participated in the previous hearing on this matter. Ms. Von Harten gave an opening statement concerning events that affected her failure to comply with timely filing of required reports. Discussion ensued concerning clarification for relief for more time to pay the amount or consideration for a deduction in the amount. Further discussion ensued concerning the factors listed in Ms. Von Harten's Appeal as to the amount due and difficulties she will have making payments. General Counsel Laster gave a statement noting the current amount due and arguments denying the Appeal, and asked the Commission in conclusion to affirm the July 3, 2018

decision. Ms. Von Harten gave closing remarks, asking for mercy. Chairman Barnwell thanked everyone for coming and stated that the Commission would consider the Appeal and let her know of their decision.

POINT OF ORDER

C2016-081 State Ethics Commission vs. Laura L. Von Harten

After return from deliberations in this matter, Chairman Barnwell asked for a motion. Commissioner Thrasher made a motion, seconded by Commissioner Wilson, affirming the decision based on liability; however, modifying the payment of penalties. The motion carried with a 5 – 0 vote. Regulations required Vice Chair Li and Commissioner Pinkston to abstain because they participated on a previous hearing panel in this matter. Commissioner Donald Gist had an excused absence for this meeting.

FORMAL ADVISORY OPINION – Use of Campaign Funds to Pay Fines or Penalties Imposed by the State Ethics Commission for Violations of The Ethics Act

Director Walker called this matter, noting that this request comes from staff wanting a fresh opinion on campaign funds being used to pay fines or penalties imposed by the State Ethics Commission. General Counsel Laster gave an overview of the two draft opinions in this matter. Discussion ensued concerning if filing fees for the candidates can be considered a campaign expenditure; the definition of campaign expenditure; and how others are handling the payment of fines and penalties. Chairman Barnwell requested that the Commissioners review the two drafts, share their thoughts with General Counsel Laster, and put this on the agenda for the November Open Session meeting. There was no opposition.

OFFICE OPERATIONS

2018-2019 Budget and Compliance Report

Director Walker presented for information only the 2018-2019 Budget, Compliance Report, and the Pending and Paid Orders Report. The reports were approved as presented.

New Business

Director Walker presented for a vote adoption of Commission Policies the Commissioners had been given to review. Discussion ensued. Chairman Barnwell asked for further discussion or a motion. Commissioner Pinkston made a motion, seconded by Commissioner Thrasher to accept the Policies. The motion carried with a 7 – 0 vote. Commissioner Donald Gist had an excused absence for this meeting.

Director Walker presented the final revisions and changes to the old Ethics Act “Red” Book. Discussion ensued concerning issues that are grandfathered, the price of the new book, the date it will be available to the public, and providing a reference section for the violations prior to April, 2017, to be available for the Commissioners for cases that fall under that four-year jurisdiction period. Staff will give an update on their findings at a later date.

Director Walker presented for information only staff's consideration of a digital program for the Commissioners to receive their meeting material vs. the paper books they currently receive in the mail. Discussion ensued concerning price, equipment required, timeframe, and who would have available access to the program. Staff will give an update on their findings at a later date.

POINT OF ORDER

Director Walker presented the matter of appointing a designee to have subpoena power for the Commission. Chairman Barnwell moved to appoint Director Meghan L. Walker as the designee to have subpoena power for the State Ethics Commission. It was unanimously carried.

EXECUTIVE SESSION

Chairman Barnwell asked for a motion to go into Executive Session for the purpose of discussing probable cause matters. A motion was made by Commissioner Pinkston, seconded by Commissioner Jackson, to go into Executive Session. There being no discussion or opposition, the motion carried with a 7 – 0 vote. Commissioner Donald Gist had an excused absence for this meeting.

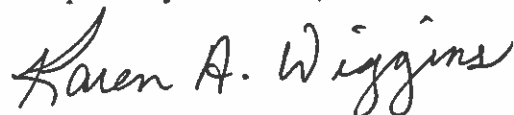
RETURN FROM EXECUTIVE SESSION

Upon return from Executive Session, Chairman Barnwell noted probable cause matters were discussed in Executive Session. A motion was made by Commissioner Thrasher, seconded by Commissioner Wilson, to adopt and ratify actions taken with regard to probable cause matters in Executive Session. The motion carried unanimously with a 7 – 0 vote. Commissioner Donald Gist had an excused absence for this meeting.

ADJOURNMENT

Chairman Barnwell asked for further discussion. There being none, a motion was made by Commissioner Jackson, seconded by Vice Chair Li, to adjourn. The motion carried with a 7 – 0 vote. Commissioner Donald Gist had an excused absence for this meeting.

Respectfully Submitted,



Karen A. Wiggins
Program Assistant