

**OPINION OVERTUNED IN PART BY AMENDMENT TO SECTION 8-13-740(4) AND (5).
EFFECTIVE APRIL 12, 2007. SEE R12, H3226 FROM THE 2007 TERM AT
<http://www.scstatehouse.net/index.html>.**

SEC AO95-006

November 16, 1994

**SUBJECT: MEMBERS OF COUNTY BOARD OF ASSESSMENT APPEALS
APPEARING BEFORE BOARD AS WITNESSES**

SUMMARY: Members of the Charleston County Board of Assessment Appeals, individuals with whom they are associated, and businesses with which they are associated are prohibited from appearing before the Board as witnesses offering opinion testimony on behalf of taxpayer appellants.

QUESTION: The Charleston Deputy County Attorney inquires whether S.C. Code Section 8-13-740(A)(4) prohibits the members of the Charleston County Board of Assessment Appeals and their business associates from appearing before the Board as witnesses on behalf of taxpayer appellants.

DISCUSSION:

This opinion is rendered in response to a letter dated August 25, 1994 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 2-17-5 et seq and Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

In relevant part, Section 8-13-740(A) provides:

- (4) A public official, public member, or public employee of a county, an individual with whom the public official, public member or public employee is associated, or a business with which the public official, public member, or public employee is associated may not knowingly represent a person before any agency, unit, or subunit of that county except:
 - (a) as required by law; or
 - (b) before a court under the unified judicial system.

* * *

- (7) The restrictions set forth in items (1) through (6) of this subsection do not apply to:
- (a) purely ministerial matters which do not require discretion on the part of the governmental entity before which the public official, public member, or public employee is appearing;
 - (b) representation by the public official, public member, or public employee in the course of the public official's, public member's, or public employee's official duties
 - (c) representation by the public official, public member, or public employee in matters relating to the public official's, public member's, or public employee's personal affairs or the personal affairs of the public official's, public member's, or public employee's immediate family.

Section 8-13-100(21) defines the term "individual with whom he is associated" as:

... an individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

"Business" is defined in Section 8-13-100(3) as:

... a corporation, partnership, proprietorship, firm, an enterprise, a franchise, an association, organization, or a self-employed individual.

Section 8-13-100(4) defines "business with which he is associated" as:

... a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

Thus, members of the Charleston County Board of Assessment Appeals, individuals with whom the members are associated, and businesses with which the members are associated may not **represent** a person before any agency, unit, or subunit of Charleston County, unless such **representation** is required by law or otherwise permitted by Section 8-13-740(A)(7).

Section 8-13-100(28) defines the term "represent" as:

- (28) **'Represent' or 'representation' means making an appearance**, whether gratuitous or for compensation, before a state agency, office, department, division, bureau, board, commission, or council, including the General Assembly, or **before a local or regional government office, department, division, bureau, board, or**

commission. (Emphasis added.)

In construing a statute, the State Ethics Commission recognizes that it cannot read into a statute something that was not within the manifest intention of the legislature as evidenced by the statute itself. Laird v. Nationwide Ins. Co., 243 S.C. 388, 134 S.E.2d 206 (1964). Accordingly, the Commission believes that the legislature, by not limiting the meaning of "represent" to only those instances when one appears as the advocate for another person, appears to have intended for the term to encompass other types of appearances before any state or local government office. Thus, based on the facts presented, the State Ethics Commission advises that members of the Charleston County Board of Assessment Appeals, individuals with whom they are associated, and businesses with which they are associated may not appear before the Board as witnesses to offer opinion testimony on behalf of taxpayer appellants.