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STATE OF SOUTH CAROLINA
STATE ETHICS COMMISSION

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STATE ETHICS
COMMISSION

COMPLAINT FORM

FOR COMMISSION USE ONLY:
CASE NUMBER
C 2021-079

COMPLAINANT: State Ethics Commission
ADDRESS: 201 Executive Center Drive
Suite 150
Columbia, SC 29210

RESPONDENT: Benjamin H. Boensch
ADDRESS: [REDACTED]
TELEPHONE NUMBER: [REDACTED]
TITLE: Council – Town of Rowesville

TELEPHONE NUMBER: (803) 253-4192

Section 8-13-1140, SC Code Ann., 1976, as amended, requires the filing of an updated Statement of Economic Interests for the previous calendar year annually thereafter prior to March 30. Records in the State Ethics Commission indicate that the Respondent was required to file the 2018, 2020, and 2021 Statement of Economic Interests.

Section 8-13-1308, S.C. Code Ann., 1976, as amended, requires candidates to file Campaign Disclosures within ten (10) days of receiving or expending \$500; fifteen (15) days prior to each election; within ten (10) days of the end of each quarter; and a final report when the campaign account is closed. In addition, certified campaign reports detailing campaign contributions and expenditures must contain the total of contributions accepted, the name and address of each person making a contribution, the total expenditures made by or on behalf of the candidate or committee, and the name and address of each person to whom an expenditure is made from campaign funds. Pursuant to Section 8-13-1362 and Regulation 52-504 (C), the Pre-Election and quarterly report are required even when there have been no contributions or expenditures. Records of the State Ethics Commission indicate that a Pre-Election Campaign Disclosure was due between October 16, 2019 and October 21, 2019. Respondent was sent an email reminder thirty days before the Pre-Election Campaign Disclosure deadline.

Respondent was reminded of the filing requirement by a certified letter dated January 11, 2021 as described in the attached. In addition, an email reminder was sent thirty days prior to the deadline. To date, no properly completed Pre-Election Campaign Disclosure, 2018 Statement of Economic Interests, 2020 Statement of Economic Interests, or 2021 Statement of Economic Interests have been received. All in violation of Section 8-13-1140 and Section 8-13-1308 (D)(1) SC Code Ann., 1976, as amended.

All investigations, inquiries, hearings, and accompanying documents must remain confidential unless respondent waives the right to confidentiality. If there is a finding of probable cause, the following documents become public record: the complaint, the response (if any) by respondent, and the notice of hearing. If a hearing is to be held, the final order and all exhibits become public record. If no hearing is held following a finding of probable cause, the final disposition of the matter becomes public record. The willful release of confidential information is a misdemeanor, and any person releasing such confidential information, upon conviction, must be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year. Section 8-13-320(10)(g).

STATE OF SOUTH CAROLINA

COUNTY OF Richland

Personally appeared before me Meghan L. Walker who, first being duly sworn, says that she has read and knows the contents of the above complaint and that the allegations contained therein, are true and correct to the best of her own knowledge, except for those matters therein based upon information and belief, and as to those she believes them to be true.

Sworn to, and subscribed before me this 31st day of August, 2021

[REDACTED]
Meghan L. Walker, Executive Director

Notary Public for South Carolina
My Commission expires 8-4-2025

SEC-7 (Revised 8/2019)

REPLY TO: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210 (803)253-4192
FAXED COPIES WILL NOT BE ACCEPTED

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STATE OF SOUTH CAROLINA)	
COUNTY OF RICHLAND)	BEFORE THE STATE ETHICS COMMISSION
)	
IN THE MATTER OF:)	
)	
Complaint C2021-074)	
)	
Benjamin H. Boensch)	NOTICE OF HEARING
Respondent.)	
)	
State Ethics Commission)	
Complainant.)	
)	

The State Ethics Commission has determined that there is probable cause pursuant to Section 8-13-320(10)(i), Code of Laws, South Carolina, 1976, as amended, to support the allegations made in the above-captioned complaint. The Commission will convene a formal hearing into the matter in accordance with Section 8-13-320(10)(i) & (j), Code of Laws, South Carolina, 1976, as amended, and State Ethics Commission Regulations, S.C. Code Ann. Regs. 52-707 (1997 Cum. Supp.) on Thursday, August 18, 2022 at 9:30 a.m. at the Commission Hearing Room located at: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210.

The following allegations will be heard:

COUNT ONE
FAILURE TO FILE STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland County, fail to file a 2018 Statement of Economic Interests (SEI), in violation of Section 8-13-1140.

COUNT TWO
FAILURE TO FILE STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland

County, fail to file a 2020 Statement of Economic Interests (SEI), in violation of Section 8-13-1140.

COUNT THREE
FAILURE TO FILE STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland County, fail to file a 2021 Statement of Economic Interests (SEI), in violation of Section 8-13-1140.


COUNT FOUR
FAILURE TO FILE PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(D)(1), S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland County, fail to file a 2019 Pre-Election Campaign Disclosure Report, in violation of Section 8-13-1308(D)(1).

You have the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses. This hearing will be open to the public as required by Section 8-13-320(10)(j), Code of Laws, South Carolina, 1976, as amended. The procedures to be followed are set forth in the Administrative Procedures Act, Section 1-23-10, et seq., Code of Laws, South Carolina, 1976 as amended the State Ethics Act, Section 8-13-100, et seq., Code of Laws, South Carolina, 1976, as amended, and State Ethics Commission Regulations, S.C. Code Ann. Regs. 52-707 (1997 Cum. Supp.).

[THIS SPACE INTENTIONALLY LEFT BLANK]

A pre-hearing conference may be scheduled prior to the hearing to allow exchange of witness lists and evidence, marking of exhibits, and disposition of motions or pleadings. In the event you fail to appear, judgment by default will be rendered against you. If there are any questions concerning the above notice or hearing times, please contact the State Ethics Commission.



Meghan D. Walker, Executive Director
State Ethics Commission

Dated this 23rd day,
of March 2022.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on the **RESPONDENT** Benjamin H. Boensch, 110 Calhoun Street, Rowesville, SC 29133 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 11th day of April 2022, by **CERTIFIED MAIL, E-RETURN RECEIPT REQUESTED**, appropriate postage affixed, and a return address clearly indicated on said envelope.



Columbia, South Carolina

Rachael O'Bryan, Administrative Assistant
State Ethics Commission

(803) 253-4192

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2021-074)
State Ethics Commission,)
Complainant.)
Benjamin H. Boensch,)
Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

This matter comes before the State Ethics Commission (Commission) by way of a complaint filed on August 31, 2021. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act of 1991 (Ethics Act), the Commission reviewed the above-captioned complaint against Benjamin H. Boensch (Respondent) and probable cause was found to warrant an evidentiary hearing. Present at the hearing on August 18, 2022, were Commissioners Brandolyn Thomas Pinkston, Matthew N. Tyler, and AJ Holloway, Hearing Chair. Respondent appeared *pro se* and Complainant was represented by Courtney M. Laster. The following charges were considered:

COUNT ONE
FAILURE TO FILE STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland County, fail to file a 2018 Statement of Economic Interests (SEI), in violation of Section 8-13-1140.

COUNT TWO
FAILURE TO FILE STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland County, fail to file a 2020 SEI, in violation of Section 8-13-1140.

COUNT THREE
FAILURE TO FILE STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland County, fail to file a 2021 SEI, in violation of Section 8-13-1140.

COUNT FOUR
FAILURE TO FILE PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(D)(1), S.C. CODE ANN., 1976, AS AMENDED

That Benjamin H. Boensch, Council Member for the Town of Rowesville, did in Richland County, fail to file a 2019 Pre-Election Campaign Disclosure Report (CDR), in violation of Section 8-13-1308(D)(1).

FINDINGS OF FACT

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

1. At all times relevant, Respondent has served as a council member of Town of Rowesville. Respondent's most recent election occurred on November 5, 2019.
2. Respondent did not file a Pre-Election CDR prior to his November 5, 2019 election.
3. Respondent did not file a SEI on or before March 30 in 2018, 2020, or 2021.
4. In a January 11, 2021 certified letter, the Commission notified Respondent of his failure to file the following: a 2019 Pre-Election CDR; a 2018 SEI; and a 2020 SEI. This letter did not refer to Respondent's 2021 SEI because the filing deadline of March 30, 2021 had not yet passed.
5. According to the United States Postal Service, the January 11, 2021 letter was delivered to Respondent's address of record on January 14, 2021 at 10:31 a.m.
6. Penalties began to accrue at \$30.00 per day (\$10.00 per report) on January 24, 2021.
7. Penalties began to accrue at \$300.00 per day (\$100.00 per report) on February 3, 2021.
8. Respondent did not file a 2021 SEI on or before March 30, 2021.
9. Respondent was not in compliance as of the date of the hearing and had accrued 15,100.00 in late-filing penalties (\$5,000.00 each for the Pre-Election CDR, the 2018 SEI, and the 2020 SEI and \$100.00 for the 2021 SEI).

10. Respondent appeared at the hearing and testified that the allegations contained in the Complaint were true and that he wanted to come into compliance. Respondent apologized to the Commission for his actions.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Commission concludes, as a matter of law:

1. At all times relevant, Respondent was a “public official” pursuant to Section 8-13-100(27) and a “candidate” pursuant to Section 8-13-1300(4) of the Ethics Act. Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-1308 provides, in relevant part:
 - (A) . . . a candidate who does not receive or expend campaign contributions totaling an accumulated aggregate of five hundred dollars or more must file an initial certified campaign report fifteen days before an election.
...
 - (D)(1) At least fifteen days before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate for the period ending twenty days before the election.
3. Section 8-13-1140 provides, in relevant part:

A person required to file a [SEI] under this chapter annually shall file, pursuant to Section 8-13-365, an updated statement for the previous calendar year, no later than noon on March thirtieth of each calendar year . . .
4. Section 8-13-1510(A) of the Ethics Act provides, in part:

. . . a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows: (1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and (2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.
6. Section 8-13-130 of the Ethics Act allows the Commission to levy an administrative fee on any person who is found in violation of the Ethics Act.

DECISION

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the Panel has determined, based on a preponderance of evidence, that Respondent Benjamin H. Boensch is in violation of three (3) counts of Section 8-13-1140 for failing to timely file SEIs in 2018, 2020, and 2021 and one (1) count of Section 8-13-1308(D)(1) for failing to timely file a 2019 Pre-Election CDR prior to his November 5, 2019 election.

THEREFORE, Respondent is hereby Publicly Reprimanded and assessed a reduced late-filing penalty of \$7,550.00 (\$2,500.00 each for the Pre-Election CDR, 2018 SEI, and 2020 SEI and \$50.00 for the 2021 SEI) and an administrative fee of \$650.00, for a total of \$8,200.00.

AND, pursuant to Section 8-13-320 of the Ethics Act, if the \$8,200.00 is not paid within one hundred and eighty (180) days from Respondent's receipt of this Order, a judgment in the amount of \$15,750.00 (the maximum possible penalty that may be assessed) shall be entered against Respondent. In the event of a failure to pay, upon the Commission's filing of said Judgment with the Clerk of Court in the County of Respondent's last known residence, the Clerk of Court shall enter this Order in the amount of \$15,750.00 in its Judgment Rolls, without cost to the Commission.

FINALLY, Respondent Benjamin H. Boensch, has ten (10) days from receipt of this Order to appeal this Decision and Order to the full Commission.

AND IT IS SO ORDERED THIS 26th DAY OF August 2022.

STATE ETHICS COMMISSION


AJ HOLLOWAY, HEARING CHAIR

Columbia, South Carolina