

# STATE OF SOUTH CAROLINA STATE ETHICS COMMISSION

**FOR COMMISSION USE ONLY:**  
**CASE NUMBER**  
C 2022-084

## COMPLAINT FORM

**COMPLAINANT:** State Ethics Commission  
**ADDRESS:** 201 Executive Center Drive  
Suite 150  
Columbia, SC 29210  
**TELEPHONE NUMBER:** (803) 253-4192

**RESPONDENT:** Kelly Spann  
**ADDRESS:** [REDACTED]  
**TELEPHONE NUMBER:** [REDACTED]  
**TITLE:** Former Trustee – Berkeley County School Board

Section 8-13-1120, SC Code Ann., 1976, as amended, requires disclosure of the source, type, and amount of income from a governmental entity and a listing of the private source and type of any income received by the filer or a member of the filer's immediate family during the reporting period. Respondent failed to report income on his 2019 Statement of Economic Interests.

Respondent was reminded of the filing requirement by letters dated March 18, 2021, November 8, 2021, and January 12, 2022 as described in the attached. All in violation of Section 8-13-1120, SC Code Ann., 1976, as amended.

**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.**

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  
20<sup>th</sup> day of July, 2022

[REDACTED]  
Meghan L. Walker, Executive Director

[REDACTED]  
Notary Public for South Carolina  
My Commission expires 01/22/26

SEC-7 (Revised 3/2022)

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

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
)  
)  
IN THE MATTER OF: )  
)  
Complaint C2022-084 )  
)  
Kelly Spann )  
Respondent. )  
)  
State Ethics Commission )  
Complainant. )  
\_\_\_\_\_ )

BEFORE THE STATE ETHICS COMMISSION

**NOTICE OF HEARING**

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 State Ethics Commission will, therefore, convene a formal hearing into the matters, 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, April 20, 2023 at 9:30 a.m. at the State Ethics Commission Hearing Room located at: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210.

The following allegation will be heard:


**COUNT ONE**  
**FAILURE TO REPORT INCOME ON STATEMENT OF ECONOMIC INTERESTS**  
**SECTION 8-13-1120(A)(2) S.C. CODE ANN., 1976, AS AMENDED**

That Kelly Spann, former Berkeley County School District Board Member, did in Richland County, fail to report Respondent's government income received from Berkeley County School District on his 2019 Statement of Economic Interests (SEI), in violation of Section 8-13-1120(A)(2).

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.).

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 L. Walker, Executive Director  
State Ethics Commission

Dated this 19<sup>th</sup> day,  
of January 2023.

*Certificate of Service by Certified Mail*

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on Kelly Spann, 1431 Trojan Road, Cross, SC 29436 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 20th day of January 2023, by **CERTIFIED MAIL, E-RETURN RECEIPT REQUESTED**, appropriate postage affixed, and a return address clearly indicated on said envelope.



**Rachael O'Bryan, Administrative Assistant**

Columbia, South Carolina

State Ethics Commission

(803) 253-4192

STATE OF SOUTH CAROLINA )  
 COUNTY OF RICHLAND )  
 )  
 IN THE MATTER OF: )  
 COMPLAINT C2022-084 )  
 )  
 State Ethics Commission, )  
 Complainant, )  
 )  
 Kelly Spann, )  
 Respondent. )  
 \_\_\_\_\_ )

BEFORE THE STATE ETHICS COMMISSION

**CONSENT ORDER**

This matter comes before the State Ethics Commission (Commission) by way of a Complaint filed on July 20, 2022. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against Kelly Spann (Respondent) was considered by the Commission and probable cause was found to warrant an evidentiary hearing on one (1) count of violating Section 8-13-1120(A)(2) for failing to report government income on his 2019 Statement of Economic Interests (SEI). Prior to the call of the case, Respondent agreed to the following:

**STATEMENTS OF FACT**

1. Respondent served on the Berkeley County School District Board of Trustees from 2016 until he resigned in August of 2019.
2. On January 26, 2019, Respondent filed his 2019 SEI, but failed to disclose the amount of government income he received in 2018. Respondent had previously disclosed his government income on past SEIs.
3. In a March 18, 2021 first-class letter mailed to Respondent’s address of record, the Commission notified Respondent that he failed to disclose government income on his 2019 SEI.
4. In a November 8, 2021 certified letter mailed to Respondent’s address of record, the Commission notified Respondent that he failed to disclose government income on his 2019 SEI.
5. On January 5, 2022, the certified letter was returned as “Return to Sender – Unclaimed.”

6. On January 12, 2022, the certified letter was remailed first class with a USPS tracking number.
7. According to the United States Postal Service, the January 12, 2022 letter was not delivered.
8. On June 15, 2022, June 28, 2022 and June 30, 2022 a Commission staff member attempted to contact the Respondent, leaving a voicemail each time.
9. On July 18, 2022, after no response, a complaint was filed. Commission staff located an updated address for Respondent and mailed the Complaint via certified mail.
10. On August 22, 2022, Respondent submitted a written response stating “There were [*sic*] no income received by me or my immediate family from a private or government source that must be disclosed.”
11. On August 25, 2022, a Commission Investigator contacted the District’s Superintendent, who stated each Board member receives an annual stipend of \$7,200.
12. On September 21, 2022, the Commission Investigator contacted Respondent and advised him that he had received income that was required to be disclosed. Respondent advised he did not think the income was required to be disclosed because he resigned in 2019.
13. On September 21, 2022, Respondent amended his 2019 SEI to disclose that he received \$7,200 from the Berkeley County School District in 2018.

#### CONCLUSIONS OF LAW

Based upon the Statements 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).  
Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-1120(A)(2) of the Act requires public officials to disclose:  
  
the source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or a member of the filer’s immediate family during the reporting period.
3. Section 8-13-100(29) defines “substantial monetary value” as “a monetary value of five hundred

dollars or more.”

4. Section 8-13-320(10)(l) allows the Commission to require a public official to pay a civil penalty of up to \$2,000 for each violation of the Ethics Act.
5. Section 8-13-130 allows the Commission to “levy an enforcement or administrative fee on a person who is in violation” of the Ethics Act.

#### **DISCUSSION**

The Commission found probable cause to charge Respondent with one (1) count of violating Section 8-13-1120(A)(2) for failing to disclose government income received on his 2019 SEI. Through this Consent Order, Respondent acknowledges he violated the Ethics Act when he failed to disclose his government income in 2019. As mitigation, Respondent states that his failure to disclose the government income was an oversight on his part. Respondent stated that he moved prior to March 2021 and that he did not update his contact information within the Commission’s electronic filing system. Respondent states he therefore did not receive any of the Commission’s written correspondence in this matter until he received the Complaint. Respondent states it was not his intention to omit any required information.

#### **DISPOSITION**

1. The Commission finds Respondent in violation of one (1) count of Section 8-13-1120(A)(2).
2. The Commission adopts the Statements of Fact, Conclusions of Law, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the Commission hereby issues a written warning and orders the Respondent to pay the Commission, within six (6) months from receipt of this Order, an administrative fee of \$300 and a reduced civil penalty of \$100, for a total of \$400.

By executing this Consent Order, Respondent understands that he is not only admitting to violations of the Ethics Act, but also confessing to a judgment of \$400 (less any money paid to the

Commission) in the event he does not make full and timely payment as provided for in this Order. In that event, the Commission shall file a Judgment against Respondent in the Clerk of Court's Office in the County of Respondent's last known residence. Upon said filing, the Clerk shall enter this Order in the amount of \$400 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

AND IT IS SO ORDERED THIS 31<sup>st</sup> DAY OF March 2023.

STATE ETHICS COMMISSION

  
SCOTT E. FRICK, CHAIR

  
KELLY SPANN, RESPONDENT