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STATE OF SOUTH CAROLINA  
STATE ETHICS COMMISSION

2021 SEP -8 AM 11:54

STATE ETHICS  
COMMISSION

COMPLAINT FORM

FOR COMMISSION USE ONLY:  
CASE NUMBER  
c. 2021-078

COMPLAINANT: Shirley Etheredge Mitchell  
ADDRESS: [REDACTED]  
TELEPHONE NUMBER: [REDACTED]  
TITLE: Batesburg-Leesville Town Councilmember

RESPONDENT: Lancer Shull  
ADDRESS: [REDACTED]  
TELEPHONE NUMBER: [REDACTED]  
TITLE: Batesburg-Leesville Mayor

Set forth in detail specific facts upon which you based your complaint against above-named respondent (only detailed, clear factual allegations will be considered. If additional space is needed, attach supplemental sheets).

This is an official request for an investigation. Batesburg-Leesville Mayor Lancer Shull is paid by the Town of Batesburg-Leesville and he is also a paid Board-member of the Joint Municipal Water and Sewer Commission. Mayor Shull has voted and steered a \$20,000,000+ infrastructure contract from Batesburg-Leesville to the Joint Municipal Water and Sewer Commission [on which he serves] and to Hazen & Sawyer. His voting and steering places Mayor Shull is in violation of SC Section 8-13-700 and SC Section 8-1-80.

The Batesburg-Leesville Town Council minutes (attached) show that Mayor Shull was removed from the Joint Municipal Water and Sewer Commission Board by a 5-4 vote of Council on January 13, 2020. Instead of recusing, Mayor Shull voted "No"; after the vote, he was so angry and distraught that he pressured Council members Cynthia Etheredge and Bob Hall, [who were new to council at the time] to reverse their vote in a hastily scheduled special council meeting 8 days later on January 21, 2020. Mayor Shull consented to the special council meeting and presided over the meeting, he voted to reverse the appointment of the new appointee and then he voted for his own reappointment to the Joint Municipal Water and Sewer Commission. After being voted back on the Commission's Board, Mayor Shull met with Hazen and Sewer engineers, consultants, citizens advocating for decommissioning our water plant. On March 9, 2020 Mayor Shull presided over a meeting where the BL Town Council voted 6-0 to purchase water and/or capacity from the Joint Municipal Water and Sewer Commission; Mayor Shull vote in "Yes".

CONT .... SEE ATTACHED

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~~ Lexington

Personally appeared before me SHIRLEY MITCHELL who, first being duly sworn, says that he/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 his/her own knowledge, except for those matters therein based upon information and belief, and as to those he/she believes them to be true.

Sworn to and subscribed before me this  
3RD day of SEPTEMBER 2021

[REDACTED]

Notary Public for South Carolina  
My Commission expires JANUARY 14, 2031

[REDACTED]

Complainant Signature

SEC-7 (Revised 8/2019)

REPLY TO: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210 (803)253-4192  
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C102form

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My Mailing Address

is:

Post Office Box 3085

# Batesburg Leesville

TOWN COUNCIL

*Come Sample the South*

COUNCILWOMAN SHIRLEY ETHEREDGE MITCHELL  
PO Box 3085 STREET BATESBURG-LEESVILLE, SC  
29006 (803)504-7393

South Carolina State Ethics Commission  
201 Executive Center Drive, Suite 150  
Columbia, South Carolina 29210  
September 3, 2021

Dear Courtney Laster:

This is an official request for an investigation. Batesburg-Leesville Mayor Lancer Shull is paid by the Town of Batesburg-Leesville and he is also a paid Board-member of the Joint Municipal Water and Sewer Commission. Mayor Shull has voted and steered a \$20,000,000 + infrastructure contract from Batesburg-Leesville to the Joint Municipal Water and Sewer Commission [on which he serves] and to Hazen & Sawyer. His voting and steering places Mayor Shull in violation of SC Section 8-13-700 and SC Section 8-1-80.

As a Board-member of Joint Municipal Water and Sewer Commission, Mayor Shull is required by S.C law to recuse himself from voting on matters that involve the Commission that come before the BL Town Council and from advocating on business matters concerning the Commission. Mayor Shull has consistently presided over meetings with business involving the Commission and he has consistently voted in his own interest and in the interest of the Commission. This behavior violates State Ethic Laws and is tantamount misconduct in office.

Mayor Shull's behavior is curious because Batesburg-Leesville has it's own reliable water plant and sewer plant. With the available federal infrastructure funds, Batesburg-Leesville is positioned to repair, replace and expand its plants. We have completed engineering drawings that can easily be used to build a new state-of-the-art water plant at the site of the current water plant. It makes no rational sense that we would decommission our plant to become a customer of the Joint Municipal Water and Sewer Commission, especially considering the fact that the Joint Municipal Water and Sewer Commission is itself a water customer of West Columbia's water system. We should be negotiating for new customers not being steered by Mayor Shull into becoming a customer.

The Mayor has voted several times and has been an outspoken advocate in favor of the Joint Municipal Water and Sewer Commission to the disadvantage of Batesburg-Leesville citizens and according to SC Ethics Commission General Counsel, Ms. Courtney Laster, this is a clear violation of Section 8-13-700. This section of SC law would require Mayor Shull to recuse himself from any official business involving the Joint Municipal Water and Sewer Commission, to include discussions leading up to any formal votes. The attached exhibits of official Batesburg-Leesville meeting minutes and emails, detail votes taken and some bullying tactics.

The Batesburg-Leesville Town Council minutes show that Mayor Shull was removed from the Joint Municipal Water and Sewer Commission Board by a 5-4 vote of Council on January 13, 2020. Instead of recusing, Mayor Shull voted "No"; after the vote, he was so angry and distraught that he pressured Council members Cynthia Etheredge and Bob Hall, [who were new to council at the time] to reverse their vote in a hastily scheduled special council meeting 8 days later on January 21, 2020. Mayor Shull consented to the special council meeting and presided over the meeting, he voted to reverse the appointment of the new appointee and then he voted for his own reappointment to the Joint Municipal Water and Sewer Commission. After being voted back on the Commission's Board, Mayor Shull met with Hazen and Sewer engineers, consultants, citizens advocating for decommissioning our water plant. On March 9, 2020 Mayor Shull presided over a meeting where the BL Town Council voted 6-0 to purchase water and/or capacity from the Joint Municipal Water and Sewer Commission; Mayor Shull vote in "Yes".

Mayor Shull's votes and his behavior clearly violates SC Law and warrants a grand jury investigation and adjudication. Also, the motion and vote that Mayor Shull helped craft names Hazen & Sewer as the engineering firm for the project. In most similar cases, staff would bid engineering services to get the best price possible for the citizens. I understand that Hazen & Sawyer and its associates are engaged in business ventures with the Joint Municipal Water and Sewer Commission so the Mayor's steering council to sole-source a contract to Hazen & Sewer Commission is also a violation of SC law.

Normally the potential of a \$40 million grant would prompt a politician to act in the best interest of his community and rally Council towards plans to repair\replace and expand our plants and to sell water to surrounding communities with water needs. Here, Mayor Shull has done the exact opposite by pushing a curious plan to handover \$20 Million to the Joint Municipal Water and Sewer Commission and making Batesburg-Leesville a customer of the Commission he fought to serve on?

This matter requires an immediate investigation. The public has to be able to trust that Mayor Shull and others are acting in the citizen's best interest and not their own best financial and political interest. I am asking for an investigation into this matter. Mayor Shull is clearly in violation of SC law, but there are other bad actors who have participated in steering Batesburg-Leesville into doing business with the Joint Municipal Water and Sewer Commission and Hazen & Sawyer even when a lay observer could easily reason that this arrangement disadvantages Batesburg-Leesville and favors the Joint Municipal Water and Sewer Commission and others.

I look forward to your response,

Regards,

  
Shirley Etheredge Mitchell  
Batesburg-Leesville Council District 5

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STATE ETHICS  
COMMISSION

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**Attachment Exhibit One**

**Council voted 5-4 to replace Mayor Shull on the  
Joint Municipal Water & Sewer Commission.**

**Mayor Shull voted against this motion.**

**POSSIBLE ACTIONS BY COUNCIL CONT'D.**

**C. Possible action on Council Appointments for:  
a. Central Midlands Council of Governments**

A motion was made by Council Member Mitchell with a second by Council Member Prouse to appoint Council Member Hall. With no discussion, a vote was taken.

VOTE: 9 Approved 0 Denied

**b. Environmental Planning Advisory Committee**

A motion was made by Council Member Lemon with a second by Council Member Gambrell for Council Member Prouse to remain on this committee. With no discussion, a vote was taken.

VOTE: 9 Approved 0 Denied

**c. Joint Municipal Water & Sewer Commission**

A motion was made by Council Member Cain with a second by Council Member Mitchell to place Council Member Cain on the Commission. After discussion, a vote was taken.

VOTE: 5 Approved 4 Denied - Mayor Shull, Council Member Gambrell, Wise, Prouse

**D. Possible Action Regarding the Selection of Council Members to Serve on the Town Manager's Evaluation Committee**

A motion was made by Council Member Cain with a second by Council Member Mitchell that Council Member Mitchell, Council Member Hall, and Council Member Cain serve on this committee along with Mayor Shull by default. After discussion, a vote was taken.

VOTE: 4 Approved 5 Denied - Mayor Shull, Council Member Gambrell, Wise, Prouse, Hall

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## **Attachment Exhibit Two**

**Emails from Town Manager Ted Luckadoo informing that Councilman Hall and Councilmember Etheredge have requested a special Council meeting to reconsider their vote to replace Mayor Shull on the Joint Municipal Water & Sewer Commission.**

## FW: Request for support of a special meeting of Town Council

From: [Ted Luckadoo \(tluckadoo@batesburg-leesville.org\)](mailto:tluckadoo@batesburg-leesville.org)  
To: [stevecain\\_2000@yahoo.com](mailto:stevecain_2000@yahoo.com)  
Date: Friday, January 17, 2020, 10:24 AM EST

Councilman Cain,

Below is the email that was sent by Mr. Hall to me wanting to have the Special Meeting. As for Ms. Etheredge, her request came by phone that she wished to meet about the appointment. With regards to those listed that Mr. Hall emailed the request to, they also called me and expressed that they wished to meet, based on Mr. Hall's email, about the appointment.

Mr. Hall did express to me after this email that his intent was also to move forward with the Town Attorney and Town Judge contracts. Mr. Hall further communicated that with all the parties involved and they all further expressed to me that they wanted those items on the agenda as well.

As another note, in his initial request, he stated Monday, January 20<sup>th</sup>. During a discussion with Mr. Hall, I did note that this was M. Luther King Jr. holiday and he changed his request to Tuesday, January 21<sup>st</sup>.

### Ted Luckadoo | Town Manager

Town of Batesburg-Leesville

P.O. Box 2329 Batesburg-Leesville, SC 29006

Office: (803) 532-4601 | Cell: (803) 582-8685

Email: [tluckadoo@batesburg-leesville.org](mailto:tluckadoo@batesburg-leesville.org)

Website: [www.batesburg-leesville.org](http://www.batesburg-leesville.org)



**IMPORTANT WARNING:** This email (and any attachments) is only intended for the use of the person or entity to which it is addressed, and may contain information that is privileged and confidential. You, the recipient, are

obligated to maintain it in a safe, secure and confidential manner. Unauthorized redisclosure or failure to maintain confidentiality may subject you to federal and state penalties. If you are not the intended recipient, please immediately notify us by return email, and delete this message from your computer.

**From:** Bob Hall <district8@batesburg-leesville.org>  
**Sent:** Tuesday, January 14, 2020 1:07 PM  
**To:** Olin Gambrell <district2@batesburg-leesville.org>; Jason Prouse <district7@batesburg-leesville.org>; Paul Wise <district6@batesburg-leesville.org>  
**Cc:** Chris Spradley <chris@mttlaw.com>; Ted Luckadoo <tluckadoo@batesburg-leesville.org>  
**Subject:** Request for support of a special meeting of Town Council

I would like to have a meeting of Town Council on Monday January 20th for the purpose of revisiting the issue of the appointment of a representative to Lexington County Municipal Water and Sewer Commission as well as the contract with the Lexington County Magistrate for services

The urgency is due to possible damages which may be done, if we delay. to the Town's relationship with the Municipal Water Commission because of my vote on the issue of an appointment.

My vote was influenced by incorrect information from a party or parties on this and related issues.

I would appreciate your help in reversing this error by notifying the Town Manager of your support for the meeting. If you have questions I will attempt to answer them.

Thank you

Bob Hall

**Fw: Special Council Meeting Tuesday January 21st 6:00pm**

From: Steve Cain (stevecain\_2000@yahoo.com)

To: stevecain\_2000@yahoo.com

Date: Friday, January 17, 2020, 08:57 AM EST

FYI ... this has never been done in my memory and it sets the precedent that NO vote of Council is ever final ...

----- Forwarded Message -----

**From:** Ted Luckadoo <tluckadoo@batesburg-leeessville.org>  
**To:** Bob Hall <district8@batesburg-leeessville.org>; Cynthia Etheredge <district1@batesburg-leeessville.org>; Jason Prouse <jasonprouse@hotmail.com>; Johnnie Mae Lemon <district4@batesburg-leeessville.org>; Lancer Shull <mayor@batesburg-leeessville.org>; Olin Gambrell <ogambrell@sc.rr.com>; Paul Wise <district6@batesburg-leeessville.org>; Shirley Mitchell <thetablet803@gmail.com>; Steve Cain <stevecain\_2000@yahoo.com>  
**Cc:** Judy Edwards <jedwards@batesburg-leeessville.org>; Jay Hendrix <jhendrix@batesburg-leeessville.org>; Chris Spradley <chris@mttlaw.com>; Wallace Oswald <wooswald@batesburg-leeessville.org>  
**Sent:** Thursday, January 16, 2020, 05:18:57 PM EST  
**Subject:** Special Council Meeting Tuesday January 21st 6:00pm

To All,

I received a request from Councilman Hall and Councilwoman Etheredge yesterday, along with support from 3 other members of Council, to have a Special Called Meeting of Council next Tuesday, January 21, 2020 at 6:00pm.

According to our Town Code of Ordinances Section 1-3-1 (b), it states "Special meetings of the council may be held on the call of the town manager or by four council members presenting a signed request to the town manager detailing the need. Notice of a special meeting shall be given immediately to all available members and the news media by the municipal clerk. Calls for special meetings of the council shall set forth the object or purpose for which the meeting is called and no other business shall be transacted at special meetings."

The stated purpose of the meeting is to address the following topics:

1. Motion to Reconsider Council Appointment to Joint Municipal Water and Sewer Commission
2. Contractual Matters relating to the Town Judge
3. Contractual Matters relating to the Town Attorney

Please find attached the agenda for the Special Council Meeting on Tuesday.

Thanks,

**Ted Luckadoo | Town Manager**

Town of Batesburg-Leesville

P.O. Box 2329 Batesburg-Leesville, SC 29006

Office: (803) 532-4601 | Cell: (803) 582-8685

Email: [tluckadoo@batesburg-leesville.org](mailto:tluckadoo@batesburg-leesville.org)

Website: [www.batesburg-leesville.org](http://www.batesburg-leesville.org)



Town of Batesburg-Leesville logo



Agenda 01 21 20.pdf

67.5kB

## Ted Luckadoo | Town Manager

Town of Batesburg-Leesville

P.O. Box 2329 Batesburg-Leesville, SC 29006

Office: (803) 532-4501 | Cell: (803) 582-8685

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Website: [www.batesburg-leesville.org](http://www.batesburg-leesville.org)



Agenda 01 21 20.pdf

97.5kB

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**Attachment Exhibit Three**

**January 21, 2020 Special Council meeting**

**Mayor Shull presided and voted to approve the meeting agenda**

**Mayor Shull voted to reconsider Council's appointment to Joint Municipal Water & Sewer Commission.**

**Mayor Shull voted to retain his previous position on Joint Municipal Water & Sewer Commission.**

**TOWN OF BATESBURG-LEESVILLE  
AGENDA  
SPECIAL COUNCIL MEETING  
January 21, 2020 6:00 P. M.  
TOWN HALL COMPLEX  
120 West Church Street (Bldg. B)**

---

- I CALL TO ORDER**
- II INVOCATION**
- III PLEDGE OF ALLEGIANCE**
- IV APPROVAL OF AGENDA**
- V NEW BUSINESS**
  - A. Motion to Reconsider Council Appointment to Joint Municipal Water and Sewer Commission**
- VI EXECUTIVE SESSION**
  - A. Discussion of Contractual Matters Between the Town of Batesburg-Leesville and Town Judge**
  - B. Discussion of Contractual Matters Between the Town of Batesburg-Leesville and Town Attorney**
- VII POSSIBLE ACTIONS BY COUNCIL IN FOLLOW UP TO EXECUTIVE SESSION**
  - A. Possible Action Regarding Contractual Matters Between the Town of Batesburg-Leesville and Town Judge**
  - B. Possible Action Regarding Contractual Matters Between the Town of Batesburg-Leesville and Town Attorney**
- VII ADJOURNMENT**



Special Council Meeting  
January 21, 2020  
Page 2

**Joint Water & Sewer Commission Cont'd.**

A motion was made by Council Member Prouse that we nominate Mayor Shull to retain his previous position on the Joint Water & Sewer Commission with a second by Council Member Hall. With no discussion, a vote was taken.

VOTE:        7 Approved                    2 Denied – Council Member Cain, Mitchell

**EXECUTIVE SESSION**

- A. Discussion of Contractual Matters Between the Town of Batesburg-Leesville and The Town Judge**
- B. Discussion of Contractual Matters Between the Town of Batesburg-Leesville and The Town Attorney**

A motion was made by Council Member Prouse with a second by Council Member Etheredge to go into Executive Session at 6:07 P. M. Council Member Cain asked to be excused at this time because he had to go to work. With no discussion, a vote was taken.

VOTE:        9 Approved                    0 Denied

**Return to Special Council Meeting**

A motion was made by Council Member Hall with a second by Council Member Gambrell to return to the Special Council Meeting at 6:24 P. M. With no discussion, a vote was taken.

VOTE:        8 Approved                    0 Denied

**POSSIBLE ACTIONS BY COUNCIL IN FOLLOW-UP TO EXECUTIVE SESSION**

- A. Possible Action Regarding Contractual Matters Between the Town of Batesburg-Leesville and the Town Judge**

A motion was made by Council Member Gambrell with a second by Council Member Etheredge to approve the contract as presented in Executive Session. With no discussion, a vote was taken.

VOTE:        8 Approved                    0 Denied

---

## **Attachment Exhibit Four**

**March 9, 2020 Regular BL Council meeting**

**Mayor Shull presided and voted to approve the meeting agenda**

**Mayor Shull voted to move forward with purchasing water and/or water capacity from Joint Municipal Water & Sewer Commission and that Hazen and Sawyer remain the engineers for the duration of the project.**





**D. Possible Action Relating to Water Alternative Options**

A motion was made by Council Member Prouse with a second by Council Member Gambrell to direct the Town Manager and Town Attorney to do all things necessary to move forward with purchasing water and/or water capacity from Joint Municipal Water and Sewer Commission and to contract with the Town of Ridge Spring to Supply water to them. Further included in this motion, "I would like to state that Hazen and Sawyer, the engineering firm, remain the engineers for the duration of this project". With no discussion, a vote was taken.

VOTE:                      6 Approved                      0 Denied

**POTENTIAL AGENDA ITEMS FOR NEXT MONTH'S MEETING - APRIL 13, 2020**

**ADJOURNMENT**

A motion was made by Council Member Gambrell with a second by Council Member Prouse to adjourn at 9:35 P. M. With no discussion, a vote was taken.

VOTE:                      6 Approved                      0 Denied

Approved this 13<sup>th</sup> day of April 2020.

---

**Lancer D. Shull, Mayor**

**ATTEST:**

---

**Judy E. Edwards  
Town Clerk**

# STATE OF SOUTH CAROLINA STATE ETHICS COMMISSION

FOR COMMISSION USE ONLY:  
CASE NUMBER

C 2023-129

## COMPLAINT FORM

COMPLAINANT: Stephen D Cain

RESPONDENT: Lancer Shull

ADDRESS: [REDACTED]

ADDRESS:

29006

TELEPHONE NUMBER: TITLE: BL Mayor

TELEPHONE NUMBER: (803)807-1593

TITLE: C o u n c i l m e m b e r

Set forth in detail specific facts upon which you based your complaint against above-named respondent (only detailed, clear factual allegations will be considered. If additional space is needed, attach supplemental sheets).

It is my understanding that BL mayor Lancer Shull, who sits on the Joint Municipal Water & Sewer Commission Board - needs to recuse when contracts and financial policy issues that requires Town Batesburg-Leesville's participation and also involves Joint Municipal financially. Tonight the mayor voted on a project for BL sewer expansion and the same project would give Joint Municipal water contracts that actually bypasses BL and encroaches on BL's water district. Batesburg-Leesville has the capacity to service this project with water and sewer independent of the Joint Municipal Water and Sewer, though Joint Municipal Water & Sewer cannot service that contract without Batesburg-Leesville.

Our town attorney's opinion is that a Per Diem is not a thing of value ergo the mayor can vote on the project as a member of both boards?

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 Lexington

Personally appeared before me Stephen D. Cain who, first being duly sworn, says that he/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 his/her own knowledge, except for those matters therein based upon information and belief, and as to those he/she believes them to be true.

Sworn to and subscribed before me this

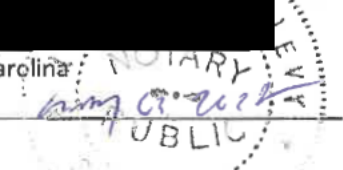
17<sup>th</sup> day of Oct 2023

[REDACTED SIGNATURE]

Complainant Signature

[REDACTED]

Notary Public for South Carolina  
My Commission expires Aug 2024



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

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF: )

Complaints C2021-078 )  
C2023-129 )

Shirley Etheredge Mitchell )  
Stephen D. Cain )  
Complainants. )

Lancer Shull )  
Respondent. )

**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, 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, February 20, 2025 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 allegations will be heard:

**COUNT ONE**  
**ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH**  
**RESPONDENT HAD AN ECONOMIC INTERESTS**  
**SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by participating in discussions regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT TWO**  
**ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT THREE**  
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FOUR**  
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FIVE**  
**ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by participating in discussions regarding his appointment to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town


Council meeting, in violation of Section 8-13-700(B).

**COUNT SIX**  
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).

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 Walker Dayson, Executive Director  
State Ethics Commission

Dated this 19<sup>th</sup> day,  
of September 2024.

**Certificate of Service by Certified Mail**

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on RESPONDENT'S ATTORNEY James Randall Davis, PO Box 489, Lexington, SC 29071 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 23rd day of September 2024, 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 )

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF: )  
Complaints C2021-078 )  
C2023-129 )

Shirley Etheredge Mitchell, )  
Stephen D. Cain )  
Complainants. )

**STIPULATIONS**

Lancer Shull, )  
Respondent. )

The State Ethics Commission (Commission) and Lancer Shull (Respondent), through their undersigned counsel, stipulate to the following facts and agree that the attachments are admissible:

1. At all times relevant, Respondent served as Mayor in the Town of Batesburg-Leesville.
2. At all relevant times, Respondent has served on the Lexington County Joint Municipal Water and Sewer Commission (JMWSC). Respondent attended his first JMWSC meeting on January 10, 2018.
3. The JMWSC meets monthly for regular business and holds special meetings as needed.
4. In 2018, JMWSC convened as follows:

January 10, 2018	Meeting Held
February 14, 2018	Meeting Held
March 14, 2018	Meeting Held
April 2018	Meeting Not Held
May 9, 2018	Meeting Held
June 2018	Meeting Not Held
July 2018	Meeting Not Held
August 8, 2018	Meeting Held
September 12, 2018	Meeting Held
October 10, 2018	Meeting Held
November 14, 2018	Meeting Held
December 2018	Meeting Not Held

5. In 2018, Respondent attended all meetings held by JMWSC.

6. In 2019, JMWSC convened as follows:

January 9, 2019	Meeting Held
February 13, 2019	Meeting Held
March 2019	Meeting Not Held
April 10, 2019	Meeting Held
May 8, 2019	Meeting Held
June 12, 2019	Meeting Held
July 2019	Meeting Not Held
August 14, 2019	Meeting Held
September 11, 2019	Meeting Held
October 9, 2019	Meeting Held
November 13, 2019	Meeting Held
December 19, 2019	Meeting Held

7. In 2019, Respondent did not attend the April 10, 2019 JMWSC meeting.

8. In 2020, JMWSC convened as follows:

January 8, 2020	Meeting Held
February 12, 2020	Meeting Held
March 2020	Meeting Not Held
April 2020	Meeting Not Held
May 13, 2020	Meeting Held
June 2020	Meeting Not Held
July 2020	Meeting Not Held
August 19, 2020	Meeting Held
September 2020	Meeting Not Held
October 14, 2020	Meeting Held
November 18, 2020	Meeting Held
December 2020	Meeting Not Held

9. In 2020, Respondent attended all meetings held by JMWSC.

10. In 2021, JMWSC convened as follows:

January 13, 2021	Meeting Held
February 10, 2021	Meeting Held
March 10, 2021	Meeting Held
April 2021	Meeting Not Held
May 12, 2021	Meeting Held
June 2021	Meeting Not Held
July 2021	Meeting Not Held
August 18, 2021	Meeting Held
September 8, 2021	Meeting Held

October 13, 2021	Meeting Held
November 10, 2021	Meeting Held
December 2021	Meeting Not Held

11. In 2021, Respondent did not attend the August 18, 2021 JMWSC meeting.

12. In 2022, JMWSC convened as follows:

January 12, 2022	Meeting Held
February 9, 2022	Meeting Held
March 2022	Meeting Not Held
April 2022	Meeting Not Held
May 18, 2022	Meeting Held
June 2022	Meeting Not Held
July 2022	Meeting Not Held
August 10, 2022	Meeting Held
September 14, 2022	Meeting Held
October 2022	Meeting Not Held
November 9, 2022	Meeting Held
December 2022	Meeting Not Held

13. In 2022, Respondent attended all meetings held by JMWSC.

14. In 2023, JMWSC convened as follows:


January 11, 2023	Meeting Held
February 8, 2023	Meeting Held
March 8, 2023	Meeting Held
April 2023	Meeting Not Held
May 10, 2023	Meeting Held
June 2023	Meeting Not Held
July 12, 2023	Meeting Held
August 2023	Meeting Not Held
September 13, 2023	Meeting Held
October 11, 2023	Meeting Held
November 15, 2023	Meeting Held
December 2023	Meeting Not Held

15. In 2023, Respondent attended all meetings held by JMWSC.

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Respectfully submitted,

  
\_\_\_\_\_  
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\_\_\_\_\_  
James Randall Davis  
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randy@oldcourthouse.com

February 20, 2025  
Columbia, SC

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF: )  
Complaints C2021-078 )  
C2023-129 )

Shirley Etheredge Mitchell )  
Stephen D. Cain )  
Complainants. )

**DECISION AND ORDER**

Lancer Shull )  
Respondent. )

Pursuant to Section 8-13-320(10) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act of 1991 (Ethics Act), the State Ethics Commission (Commission) reviewed the above-captioned complaints and found probable cause to charge Lancer Shull (Respondent) with six (6) counts of violating Section 8-13-700(B). Present at the hearing held on February 20, 2025, were Commissioners Brandolyn T. Pinkston, AJ Holloway, and Scott E. Frick, Hearing Panel Chair. Respondent was represented by James Randall Davis and the Commission was represented by Courtney M. Laster. The following charges were considered:

**COUNT ONE**  
**ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH**  
**RESPONDENT HAD AN ECONOMIC INTERESTS**  
**SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by participating in discussions regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT TWO**  
**ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH**  
**RESPONDENT HAD AN ECONOMIC INTERESTS**  
**SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT THREE**  
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FOUR**  
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FIVE**  
**ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal

Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).<sup>1</sup>

**COUNT SIX**  
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH  
RESPONDENT HAD AN ECONOMIC INTERESTS  
SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED**

That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).

**FINDINGS OF FACT**

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

1. Respondent has served as mayor for the Town of Batesburg-Leesville (Town) since 2018. The Town has a Council-Manager form of government, with the Town Council (Council) being comprised of the Mayor and eight (8) Council members.
2. Respondent was appointed by Council to the Lexington County Joint Municipal Water and Sewer Commission (JMWSC) in 2018. The purpose of the JMWSC is, in part, to meet water and wastewater service needs in certain unincorporated areas of Lexington County.
3. The JMWSC meets monthly for regular business and holds special meetings as needed. From 2018 through 2023, the JMWSC met, and Respondent attended, as follows:
  - a. In 2018, the JMWSC convened for eight (8) monthly meetings. Respondent attended all meetings.
  - b. In 2019, the JMWSC convened for ten (10) monthly meetings. Respondent attended only nine (9) meetings in 2019.
  - c. In 2020, the JMWSC convened for six (6) monthly meetings. Respondent attended every meeting in 2020.

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<sup>1</sup> Count Five of the Commission's Notice of Hearing contains a scrivener's error in stating Respondent participated in a discussion regarding appointing himself to the JMWSC during a December 11, 2023 Council meeting.

- d. In 2021, the JMWSC convened for eighty (8) monthly meetings. Respondent attended only seven (7) meetings in 2021.
  - e. In 2022, the JMWSC convened for six (6) monthly meetings. Respondent attended every meeting in 2022.
  - f. In 2023, the JMWSC convened for eight (8) monthly meetings, and Respondent attended every 2023 meeting.
4. From 2018 through 2023, Respondent received \$250.00 each month from JMWSC. These payments were made without regard to the JMWSC convening a monthly meeting or Respondent's attendance. The JMWSC issued Respondent 1099 tax forms for each year, showing Respondent received \$3,000.00 each year, equating to \$250.00 each month, for his service on the JMWSC. Respondent reported the money on the Statement of Economic Interest for each respective year. The JMWSC did not maintain records related to Respondent's mileage or actual expenses.
  5. During a January 13, 2020 Council meeting, Respondent participated in discussions and a corresponding vote regarding his reappointment to the JMWSC. Council voted against placing Respondent on the JMWSC and instead appointed Councilmember Stephen Cain in a 5-4 vote. Respondent did not provide a written recusal statement.
  6. Council held a special meeting on January 21, 2020, in part, to reconsider Council's January 13, 2020 appointment to the JMWSC. During the meeting, Respondent participated in the discussion and corresponding vote for him to be reappointed to the JMWSC. Council reappointed Respondent in a 7-2 vote. Respondent did not provide a written recusal statement.
  7. On December 11, 2023, Council held a regular meeting wherein a motion was made to reappoint Respondent to the JMWSC. Respondent participated in the corresponding vote, and the Council reappointed him to the JMWSC. Respondent did not provide a written recusal

statement.

### CONCLUSIONS OF LAW

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

1. At all times relevant, Respondent was a public official as defined by Section 8-13-100(27).

Accordingly, the Commission has personal and subject matter jurisdiction.

2. Section 8-13-700 provides, in relevant part:

(B) No [public official] may make, participate in making, or in any way attempt to use his [public office] to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [public official] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

- (1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

...

- (4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

3. Section 8-13-100(11) defines "economic interest," in relevant part, as:

- (a) . . . an interest distinct from that of the general public in a purchase, sale, lease,

contract, option, or other transaction or arrangement involving property or services in which a [public official] may gain an economic benefit of fifty dollars or more.

- (b) This definition does not prohibit a [public official] from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the [public official] is incidental to the [public official's] position or which accrues to the [public official] as a member of a profession, occupation or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

4. Sections 8-13-130 and 8-13-320(10) allow the Panel to levy an administrative fee and to require payment of a civil penalty of up to \$2,000 for each 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 the evidence, that Respondent Lancer Shull is in violation of six (6) counts of Section 8-13-700(B) as outlined in the Notice of Hearing. Specifically, the Panel finds Respondent in violation of three (3) counts of Section 8-13-700(B) for his attempts to influence a governmental decision in which he had an economic interest in by participating in either discussions or votes related to his reappointment to the JMWSC during Council meetings held on January 13, 2020, January 21, 2020, and December 11, 2023. The Panel further finds Respondent in violation of three (3) counts of Section 8-13-700(B) for his failure to provide written recusal statements regarding his reappointment to the JMWSC during the January 13, 2020, January 21, 2020, and December 11, 2023 Council meetings.

THEREFORE, pursuant to Section 8-13-320(1)(i) of the Ethics Act, the Panel hereby issues a Public Reprimand and orders Respondent to pay a reduced civil penalty of \$300.00 (\$50.00 for each count);

AND, pursuant to Section 8-13-130 of the Ethics Act, and in addition to the reduced civil

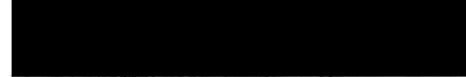
penalty, the Panel hereby orders Respondent to pay an administrative fee of \$1,000.00 (\$700.00 for C2021-078 and \$300.00 for C2023-129), making Respondent's total amount owed to the Commission \$1,300.00.

AND, pursuant to Section 8-13-320 of the Ethics Act, if the \$1,300.00 is not paid within sixty (60) days from Respondent's receipt of this Order, the civil penalty shall revert to the statutory maximum of \$12,000.00 (\$2,000.00 per count) and a judgment in the amount of \$13,000.00 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 \$13,000.00 in its Judgment Rolls, without cost to the Commission.

FINALLY, Respondent Lancer Shull has ten (10) days from receipt of this Order to appeal to the full Commission.

AND IT IS SO ORDERED THIS 7<sup>th</sup> DAY OF March 2025.

STATE ETHICS COMMISSION



SCOTT E. FRICK, HEARING CHAIR

Columbia, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

BEFORE THE STATE  
ETHICS COMMISSION

IN THE MATTER OF: )  
Complaints C2021-078 )  
C2023-129 )

**APPEAL OF DECISION  
AND ORDER**

Shirley Etheredge Mitchell )  
Stephen D. Cain )  
Complainants. )

Lancer Shull )  
Respondent. )

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Respondent, Lancer Shull, appeals the Decision and Order of the three Commission Panel dated March 7, 2025.

Respondent contends that the Commission failed to meet its burden of proof by preponderance of evidence that Respondent violated §8-13-700(B).

Respondent's position is also that the Commission failed to issue findings of fact and conclusions of law on the matters set forth on pages 3 and 4 of this appeal.

The sole evidence presented by the Commission to prove that there was violation of the statute referred to above is that which is set forth in paragraphs 3 and 4 of the Decision and Order. Respondent believes Commission's evidence fails to carry the burden of preponderance of evidence for the following reasons: (1) neither Complainant, Shirley Etheredge Mitchell or Stephen D. Cain, testified in this matter for their complaints; (a) the 2023 Complaint filed by Stephen D. Cain was dismissed by the Commission for lack of probable cause as to his claim of recusal when contract and financial policy issues that require Town of Batesburg-Leesville participation and also involves Joint Municipal financially; (b) no one on behalf of the Commission interviewed the Respondent as to the complaints against the Respondent; and (c) no vote by the Respondent for the 2021 Complaint or the 2023 Complaint caused a favorable

vote for the Respondent by Town Council for Batesburg-Leesville for the appointment to the JMWSC Board. The January 21, 2020 vote was 7 to 2 and the January 2023 vote was 6 to 2; and (d) the vote by the Respondent for the 2021 and 2023 Complaints was a vote only for the appointment to the Commission itself; (2) §8-13-100 indicates the economic interest involves property or services which a public employee gains an economic benefit of \$50 or more. The per diem payment to the Joint Municipal Water and Sewer commissioners is not an economic benefit under the Ethics statute. Joint Municipal Water and Sewer Commission (hereinafter "JMWSC") statute provides the following: "No commissioner of a joint system shall receive any compensation solely for the performance of duties as commissioner, but each commissioner may be paid per diem mileage and subsistence expenses and provided by law the State boards, committees and commissions incurred while engaged in the performance of such duties". Black's Law Dictionary defines "per diem" as "a payment paid for a day's work, not paid weekly or monthly, but daily." It has also been defined as a payment of daily expenses and/or fees. They are simply reimbursement for expenses incurred. Logically, it would not a "gain" of economic benefit that could result in a conflict of interest; (3) JMWSC pays \$250/month reimbursement to its Board members which reimbursement plan is qualified with the Internal Revenue Service under a non-accountable qualified per diem payment plan. This plan is consistent with the Commission's Code §6-25-60(c); (4) Purpose of Ethic statute is to build public trust in officials by preventing them from using their position to gain an economic benefit for themselves; per diem reimbursement expenses does not impact the decisions making process of members of the Board. Facts in this case indicate that is true as to Respondent in that his basis for voting was to continue his involvement as Mayor since 2018 in resolving a DHEC Consent Order mandating the Town of Batesburg-Leesville address long term water supply issues and he can best resolve that by continuing on the JMWSC Board. Also, his


history of public service, which includes those matters shown on Exhibit "A" attached hereto indicate his background as to public service.

(5) Respondent found no legal precedents in South Carolina or otherwise, indicated that the per diem reimbursement plan was an economic benefit to a public official. See attached "Exhibit B".

The three Commissioner panel failed to issue any finding of facts or conclusions as defenses to disqualification of voting law which were presented by Respondent by pleading, Brief and/or argument to the Commission. (A) The JMWSC is a statutory public entity created by legislature. Statutes dealing with the same subject matter are *in pari materia* and must be construed together. Any other conclusion would effectively invalidate per diem reimbursements, mileage reimbursements and any payments made for expenses. Implied repeal is not favored. The two statutes must be read *in pari materia* to give effect to both. "[S]tatutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result." *Joiner v. Rivas*, 342 S.C. 102, 109, 536 S.E.2d 372 (S.C. 2000). The specific statute relating to per diem reimbursement should control over the more general statute regarding conflict of interest. "Generally, specific laws prevail over general laws..." *Langley v. Pierce*, 438 S.E.2d 242, 249 (S.C. 1993); (B) JMWSC is not "separate and distinct" from the governing bodies of the towns and county which appoint the JMWSC commissioners and therefore there is no violation of *SC Code Ann.* §8-13-700(B). JMWSC is a "public entity" created by the participating towns and county. The Commissioners are appointed by the Councils of participating towns and county. Further, the JMWSC is only dissolved through a vote of both the Commission and the Councils of participating towns and county. See *S.C. Code Ann.* §6-25-80 (2023). The JMWSC is clearly an "arm or child" of the county and towns that created it. As an "arm or child" or "alter ego"

of the participating county and towns, and decision of the Commission is effectively a decision of the participating county and towns. The Ethics Commission should find there is no violation of *SC Code Ann.* §8-13-700. See *Bacon v. Cooper*, No. 2000-049 (S.C. Ethics Comm'n March 23, 2000); *State Ethics Comm'n v. Wiseman*, No. C2000-14 (S.C. Ethics Comm'n December 14, 1999); (C) The "large class" exception applies to the disqualification of voting by the Respondent. The only economic interest or foreseeable benefit that may accrue to the Respondent because of vote accrues to the public service as a member of a profession, occupation or large class to no great extent than economic interest or potential benefit that could reasonably be foreseen to accrue to all members of a profession, occupation or class. In this case, the "class" applies to all JMWSC commission members, except the Commission Chairman, receives the same reimbursement figure of \$250 per month. See *SC Code Ann.* §8-13-700(B); (D) "Incidental economic interest" is an exception to disqualification as to voting. Disqualification is not required in this set of facts in that Respondent fits into the incidental exception which indicates if the economic interests or reasonably foreseeable benefit accrues to the public service if incidental to the public service position (i.e. reimbursement of expenses).

DAVIS FRAWLEY, LLC  
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(803) 359-2512

BY:   
James Randall Davis  
Attorneys for the Respondent

Lexington, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )  
  
IN THE MATTER OF: )  
Complaints C2021-078 )  
C2023-129 )  
 )  
Shirley Etheredge Mitchell )  
Stephen D. Cain )  
Complainants. )  
 )  
Lancer Shull )  
Respondent. )  
\_\_\_\_\_ )

BEFORE THE STATE  
ETHICS COMMISSION

**CERTIFICATE OF SERVICE**

I, Nicole T. Price, a paralegal with the law firm of Davis Frawley, LLC, do hereby certify that I have this date served a copy of the following document upon the Respondent, by hand delivering a copy to the following physical address indicated below:

**DOCUMENT SERVED: APPEAL OF DECISION AND ORDER**

**RESPONDENT:** Courtney M. Laster, Esquire  
General Counsel  
South Carolina Ethics Commission  
201 Executive Center Drive, Suite 150  
Columbia, SC 29210



Nicole T. Price

March 24, 2025

Lexington, South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF: )

Complaints C2021-078 )

C2023-129 )

Shirley Etheredge Mitchell )

Stephen D. Cain )

APPELLATES. )

**NOTICE OF APPELLATE HEARING**

Lancer Shull )

APPELLANT. )

James Randall Davis, Attorney for Appellant Lancer Shull, served an Appeal of Decision and Order on the State Ethics Commission on March 24, 2025. The State Ethics Commission will, therefore, convene a formal appellate hearing into the matter, in accordance with State Ethics Commission Regulations, 52 S.C. Code Ann. Regs. 802 (2013 Cum. Supp.) on July 17, 2025 at 9:30 a.m. at the State Ethics Commission Hearing Room located at: 201 Executive Center Drive Suite 150, Columbia, South Carolina 29210.

Pursuant to 52 S.C. Code Ann. Regs. 803, the Appellant shall file any additional briefs within ten (10) days of the date of service of this notice. In the event the Appellant fails to appear, he will have waived his hearing and judgment will stand.



Meghan Walker Dayson  
Executive Director

Dated this 26<sup>th</sup> day,  
of March 2025.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 IN THE MATTER OF: )  
 )  
 Complaint C2021-078 )  
 )  
 Shirley Etheredge Mitchell )  
 Complainant. )  
 )  
 Lancer Shull )  
 Respondent, )  
 \_\_\_\_\_ )

BEFORE THE STATE  
 ETHICS COMMISSION

**BRIEF OF RESPONDENT**

Statement of Facts

The Joint Water and Sewer Commission (hereinafter “the Joint Commission”) is comprised of representatives from towns in the County of Lexington and also a representative of the County of Lexington. The elected county and town governing bodies appoint their own representative from among their own elected officials to the Joint Commission.

Each Commissioner receives a *per diem* (\$250.00 per month) to reimburse them for expenses incurred while serving on the Joint Commission.

Lancer Shull is the mayor of the Town of Batesburg-Leesville. He was appointed to be the Commissioner for Batesburg-Leesville by vote of Town Council. He participated in the vote for his appointment to the Joint Commission.

Discussion

I. Receipt of a Per Diem Pursuant to State Law Is Not An “Economic Interest” and Therefore Not a Violation of Section 8-13-700 of the South Carolina Code.

Section 8-13-700, provides, in part:

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an *economic interest* for himself, a family member, an individual with whom he is associated, or a business with which he is associated...

(B) No public official, 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, or a business with which he is associated has an *economic interest*... S.C. Code Ann. § 8-13-700 (2023). S.C. Code Ann. § 8-13-700 (2023). (emphasis added)

“Economic Interest” is defined by section 8-13-100(11)(a) as:

an interest distinct from that of the general public *in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services* in which a public official, public member, or public employee may gain an *economic benefit* of fifty dollars or more.” S.C. Code Ann. § 8-13-100(11)(a) (2023).

A *per diem* is not considered to be “compensation” for services rendered. Section 8-13-60 of the South Carolina Code allows for the payment of a *per diem* to Commissioners, providing:

*No commissioner of a joint system shall receive any compensation solely for the performance of duties as a commissioner*, but each commissioner may be paid per diem, mileage, and subsistence expenses, as provided by law for state boards, committees, and commissions, incurred while engaged in the performance of such duties.” S.C. Code Ann. § 8-13-60(B) (2023).

“According to the doctrine of *noscitur a sociis*, the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute... We have previously stated that “[t]he Court may not, in order to give affect to particular words, virtually destroy the meaning of the entire context; that is, give the particular words a significance which would be clearly repugnant to the statute, looked at as a whole, and destructive of its obvious intent.” Southern Mut. Church Ins. Co. v. South Carolina Windstorm and Hail Underwriting Assoc., 306 S.C. 339, 342, 412 S.E.2d 377 (S.C. 1991).

The phrase “per diem” has two distinct means, one of which relates to reimbursement for expenses. “Per diem,” according to BLACK’S LAW DICTIONARY, means: “1. A monetary daily allowance, usu. to cover expenses. 2. A daily fee.” BLACK’S LAW DICTIONARY 523 (2<sup>nd</sup> Pocket Ed. 2001)

The "new" 1991 Ethics Act "clearly states the legislative intent is to amend the 'old' Act rather than to repeal it." State v. Thrift, 312 S.C. 282, 440 S.E.2d 341, 1994 S.C. LEXIS 25 at \*38-39 (S.C. Jan. 17, 1994). Other states have similarly held that their version of the Ethics Act simply codifies common law, and is not in derogation of it. See Lexin v. Superior Court, 47 Cal. 4th 1050, 1072, 222 P.3d 214, 228, 103 Cal. Rptr. 3d 767, 784 (Ca. 2010) (the statute "codifies the long-standing common law rule that barred public officials from being personally financially interested in the contracts they formed in their official capacities.") The California Act and the South Carolina Act have similar purposes. Thrift, 1994 S.C. LEXIS 25 at \*40 ("the purposes of the Act include the fostering of public trust and confidence in government, and the promotion of the integrity of government through openness."); Lexin, 222 P.3d at 229 ("The evil to be thwarted by section 1090 is easily identified: If a public official is pulled in one direction by his financial interest and in another direction by his official duties, his judgment cannot and should not be trusted, even if he attempts impartiality."). See, e.g. 63C Am.Jur.2d Public Officers and Employees § 262 (2018)("Furthermore, the view has been followed that any interest which a public officer acquires which is adverse to those of the public, without a full disclosure, is a betrayal of trust and a breach of confidence.")

"[A] statute is not to be construed in derogation of common law rights if another interpretation is reasonable." Doe v. Marion, 361 S.C. 463, 473, 605 S.E.2d 556 (S.C. 2004).

In general, under the common law:

A public official may not use his official power to further his own interest and is not permitted to place himself in a position that will subject him to conflicting duties -- that is in a position where the official's private interest conflicts with his public duty -- or cause the official to act, or expose the official to the temptation of acting, in any manner other than in the best interests of the public

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Under the principle prohibiting conflicts of interest, public officers may not contract with the public agency which they represent or have a private interest in its contracts. Also, an officer cannot lawfully act as the agent of one person

where the private agency will come in conflict with his or her official duties; to act for one of the parties implies an interest adverse to the other. 63C Am.Jur.2d *Public Officers and Employees* § 262 (2018)

The Ethics Commission should find that a *per diem* is not an “economic interest” under the Ethics Act, and that therefore Respondent did not violate the Ethics Act by participating in a town council vote that resulted in his being appointed as the representative of the town on the Joint Commission. A violation of section 8-13-700(A) requires the violator to obtain, through his position, an “economic interest” in property or services. Respondent did not obtain an “economic interest” in a contract for property or services.

The definition of “economic interest” in section 8-13-100 clearly distinguishes between “compensation” on the one hand and “per diem, mileage, and subsistence expenses” on the other. Under the canon of construction *noscitur a sociis* the meaning of a word is influenced by the words around it. *Per diem* is grouped with the words “mileage” and “subsistence expenses,” both of which clearly relate to *reimbursement* of expenses incurred; reimbursement is not an “economic gain” or “economic benefit.”<sup>1</sup>

Federal IRS rules exclude a qualifying per diem, paid for the reimbursement of travel related expenses, from income. South Carolina’s *per diem* qualifies as a *per diem* under Federal IRS rules. It is clearly for the *reimbursement* of travel related expenses.

This interpretation is in accord with the plain meaning of the phrase “*per diem*.” *Per diem*, according to BLACK’S LAW DICTIONARY, means: “[a] monetary daily allowance, usu. to cover expenses.” A payment to “cover expenses” is not an “economic benefit.”

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<sup>1</sup> While the amount of the “reimbursement” does not precisely match on a dollar to dollar basis the amount of expenses incurred, it is within the discretion of the legislature to provide a general amount to cover expenses. The Indiana Ethics Commission, for example, has found that “if the amount of the *per diem* was small and intended to cover food that was not furnished, it felt the amount could be accepted.” See Indiana Ethics Opinion 91-I-3 (March 14, 1991).

Section 8-13-700 of the South Carolina Code is a codification of the common law rule barring public officials from being personally financially interested in the contracts they form in their official capacities. One of its purposes is to foster public trust and confidence in government, and to promote the integrity of government through “openness.” Respondent did not use his position as Mayor to obtain gain the benefits of a contract *for property or services*. The law granting *per diem* reimbursement was passed by the legislature, signed into law by the governor, and recorded in a Code of Laws which is available to every citizen of South Carolina. The payment of a *per die m* pursuant to law is *beyond* the definition of openness. It fosters integrity as well as public trust and confidence in government.

II. No Other State With A Similar Definition of “Economic Benefit.” Has Found That A *Per Diem* for Travel Related Expenses Is an “Economic Benefit; South Carolina Should Not Be the First.

State Ethics Laws vary widely from state to state. Minnesota, for example, has a list of activities that must be reported. Minn. Stat. Ann. § 10A.09 *et seq.* (West 2023). Alabama’s statute uses the term “economic interest,” but does not define it. Ala. Code § 36-25-1 *et seq.* (West 2023). West Virginia’s statute uses the term “thing of value.” W.Va. Code Ann. § 6B-2-5 *et seq.* (West 2023). Alaska uses the term “financial interest.” Alaska Stat. Ann. § 24.60.010 *et seq.* (West 2023). See Colo. Rev. Stat. § 24-18-102 *et seq.* (West 2023); Conn. Gen. Stat. § 1-79 *et seq.* (West 2023); Del. Code Ann. Tit. 29 § 5901 *et seq.* (West 2023); Fla. Stat. Ann. § 112.312 *et seq.* (West 2023); Ga. Code Ann. § 45-10-1 *et seq.* (West 2023); Haw. Rev. Stat. § 84-3 *et seq.* (West 2023); Iowa Code Ann. § 68B.2 *et seq.* (West 2023); Me. Rev. Stat. Ann. Tit. 1 § 1012 *et seq.* (West 2023); Md. Code Ann. General Provisions § 5-101 *et seq.* (West 2023); Mass. Gen. Laws. Ann. ch. 268B § 1 *et seq.* (West 2023); Miss. Code Ann. § 25-4-103 *et seq.* (2023); Mo. Re. Stat. § 105.452 *et seq.* (2023); N.M. Stat. Ann. § 10-16-2 *et seq.* (West

2023); N.C. Gen. Stat. Ann. § 138A-3 *et seq.* (West 2023); 65 Pa. Stat. Ann. § 1102 *et seq.* (West 2023); Va. Code Ann. § 2.2-3101 *et seq.* (West 2023).

Three states employ similar definitions the definition of “economic benefit” in South Carolina’s statute. Kentucky’s statute uses the term “Economic Interest,” which is defined as “an interest distinct from that of the general public in a state purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a legislator may gain an economic benefit of fifty dollars (\$50) or more.” Ky. Rev. Stat. Ann. § 6.611(11) (West 2023). Indiana’s statute defines “Financial Interest” as “an interest: (A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or (B) involving property or services.” Ind. Code Ann. § 4-2-6-1 (West 2023). Kansas’ statute defines “Economic Opportunity” as “any purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services wherein a state officer or employee or candidate for state office may gain a personal economic benefit, but not including any gift.” Kan. Stat. Ann. § 46-217 (West 2023).

No court in any of these states has found that a *per diem* is an “economic interest,” a “financial interest,” or an “economic opportunity” under their state’s ethics law, or that participating in an election to a state board or commission that reimburses its members for travel expenses through a *per diem* is an ethical violation. No Ethics Commission in any of these states has issued any Advisory Opinion or Order finding an ethical violation. Under these circumstances, it would be unfair and unjust for this Ethics Commission to sanction respondent for voting at a council meeting. This Ethics Commission should not find that respondent violated the South Carolina Ethics Code.

III. Since the Joint Water and Sewer Commission Is Not a “Business” With Which Respondent Is “Affiliated,” Respondent Did Not Violate Section 8-13-700 (B) of the South Carolina Code.

As noted above, section 8-13-700(B) of the South Carolina Code prohibits any “public official, public member, or public employee [from] may mak[ing], participat[ing] in making, or in any way attempt[ing] to use his office, membership, or employment to influence a governmental decision in which he... or a business with which he is associated has an economic interest...” S.C. Code Ann. § 8-13-700 (2023).

The Joint Commission is not a business; it is a “government entity.” The “Joint Authority Water and Sewer System is “a *government entity* organized under this chapter to undertake or acquire a water or sewer project.” S.C. Code Ann. § 6-25-10(1) (2023).

Section 8-13-700(B) also prohibits a public official from using or attempting to use his office to influence a governmental decision in which “a *business* with which he is associated” has an economic interest. The Joint Commission is not a “business;” by statute it is a “governmental entity.” The Ethics Commission should find section 8-13-700(B) whenever a council person votes to appoint himself or another councilman as a Commissioner to the Joint Commission.

IV. The Joint Commission Is Not “Separate and Distinct” from the Governing Bodies of the Towns and Counties Which Appoint Its Commissioners; Therefore There Has Been No Violation of Section 8-13-700 of the South Carolina Code.

In Bacon v. Cooper, No. 2000-049 (S.C. Ethics Comm’n Marc 23, 2000), the governing bodies of three counties joined together to form the Tri-County Economic Alliance (TCA), a private, non-profit corporation, the purpose of which was to promote the economic development in Barnwell, Allendale, and Bamberg County. The TCA owned 1400 acres in Allendale County. Respondent was on the Board of the TCA as well as a member of the

Allendale County Council. As a Council Member he voted on an ordinance zoning the 1400 acres for industrial use.

The Articles of Incorporation provided that it was “independent” and could only be dissolved upon vote of the Board of Directors or the TCA. The County Councils, however, appointed all members of the Board of Directors of the TCA

The Ethics Commission found no violation, but *recommended* abstention in the future. Specifically, the Commission found that the TCA was not “separate and distinct” from the Counties of Barnwell, Allendale, and Bamberg because the County councils appointed members of the Board of Directors and the TCA was organized to exclusively benefit Barnwell, Allendale, and Bamberg Counties.

Similarly, in State Ethics Comm’n v. Wiseman, No. C2000-14 (S.C. Ethics Comm’n Dec. 14, 1999), the Newberry Opera House Foundation was a 501(c)(3) corporation that owned and operated, together with the City of Newberry, an opera house. The Respondent was the chair of the board of the Foundation as well as a City Council Member. As a Council member, he voted to authorize the Foundation to obtain a loan to renovate the opera house.

The Ethics Commission found no violation of section 8-13-700(B). The Commission found “The Newberry Opera House Foundation is clearly a creation of Newberry City Council and all its board members are appointed by Council. Since the Foundations not an independent body, and has no assets, Dr. Wiseman would not have a conflict of interest when voting as a Councilman on matters affecting the Foundation.” *See also* Advisory Opinion, “Conflicts Of Interest For County, City And Town Council Members Who Sit On Various Boards” No. AO2000-011 (S.C. Ethics Comm’n May 17, 2000) (“A final exception to the recusal requirement is that situation in which the public official sits on a board in his official capacity as a council member. In order to be serving in his official capacity, the public official must sit

on a board, foundation, agency, etc. which is an arm or child of the council, i.e. created by council and existing solely at the discretion of council.”)


This case presents an even stronger case for finding no violation of Section 8-13-700(B) than Cooper or Wisemen. First, as discussed above in Section III, this case does not involve a business, non-profit or otherwise. It involves a “public entity” created by the participating towns and counties. The Commissioners are appointed by the Councils of participating towns and Counties. Further, the Joint Commission is only dissolved through a vote of both the Commission and the Councils of participating towns and counties. *See* S.C. Code Ann. § 6-25-80 (2023). The Joint Commission is clearly an “arm or child” of the counties and towns that created it.

As an “arm or child” or “alter ego” of the participating counties, and decision of the Commission is effectively a decision of the participating counties. The Ethics Commission should find there is no violation of section 8-13-700 of the South Carolina Code.

#### Conclusion

For the reasons stated above, the Ethics Commission should find there has been no violation of section 8-13-700 of the South Carolina Code and dismiss the complaint.

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Lexington, South Carolina  
December 4, 2023

STATE OF SOUTH CAROLINA	)	
COUNTY OF RICHLAND	)	BEFORE THE STATE ETHICS COMMISSION
	)	
IN THE MATTER OF:	)	
Complaints C2021-078	)	
C2023-129	)	
	)	
Shirley Etheredge Mitchell	)	<b>COMMISSION STAFF’S RESPONSE TO</b>
Stephen D. Cain,	)	<b>APPELLATE BRIEF</b>
Complainants/Appellees	)	
	)	
Lancer Shull,	)	
Respondent/Appellant	)	
_____	)	

This brief is submitted in response to Lancer Shull’s (Respondent/Appellant) Appeal from the State Ethics Commission (Commission) Hearing Panel’s (Panel) Decision and Order (Decision), which found Respondent, Mayor of the Town of Batesburg-Leesville (Town), in violation of six (6) counts of Section 8-13-700(B) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act or Act). For the reasons discussed herein, the Panel’s Decision should be affirmed.

**RELEVANT PROCEDURAL HISTORY**

The above-referenced Complaints were filed on September 8, 2021 (C2021-078) and October 19, 2023 (C2023-129) alleging, among other things, that Respondent improperly participated in matters in which he had an economic interest by discussing, voting on, and failing to properly recuse from discussions and votes related to his appointment to the Lexington County Joint Municipal Water and Sewer Commission (JMWSC) during Town Council meetings held on January 13, 2020, January 21, 2020, and December 11, 2023. The Commission subsequently found probable cause to believe Respondent violated the Ethics Act as follows:

**COUNT ONE ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by participating in discussions regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT TWO ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT THREE FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FOUR FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FIVE ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).<sup>1</sup>

**COUNT SIX FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer

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<sup>1</sup> Count Five of the Commission's Notice of Hearing contained a scrivener's error. This Count improperly stated that Respondent improperly participated in a *discussion* regarding appointing himself to the JMWSC during a December 11, 2023 Council meeting. The Commission actually found probable cause to believe Respondent improperly participated in the *vote* to appoint himself to the JMWSC. This scrivener's error was corrected and properly stated in the Panel's Decision and Order.

Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).

On February 20, 2025, the Panel conducted a hearing pursuant to Section 8-13-320(10)(j) of the Ethics Act. The Panel heard testimony from Respondent, the JMSWC's General Manager Jay Nicholson, and Commission Investigator Kevin Hinson. On March 7, 2025, the Panel found Respondent violated Section 8-13-700(B) of the Act as outlined in the Notice of Hearing. Respondent timely filed a Notice of Appeal.

### **FACTS**

1. Respondent has served on Town Council as Mayor since 2018.
2. The JMWSC is a joint municipal water system that exists, in part, to meet water and wastewater service needs in certain areas of Lexington County. Each member of the JMWSC (all of which are governmental entities) appoints a representative to the JMWSC. These appointed representatives constitute the governing body of the JMWSC.
3. The Town is a member of the JMSWC. Town Council initially appointed Respondent to serve as its JMWSC representative in 2018.
4. The JMWSC typically meets monthly. From 2018 through 2023, the JMWSC met, and Respondent attended, meetings as follows:
  - a. In 2018, the JMWSC met eight (8) times. Respondent attended all eight (8) meetings.
  - b. In 2019, the JMWSC met ten (10) times. Respondent attended only nine (9) meetings.
  - c. In 2020, the JMWSC met six (6) times. Respondent attended all six (6) meetings.
  - d. In 2021, the JMWSC met eight (8) times. Respondent attended only seven (7) meetings.
  - e. In 2022, the JMWSC met six (6) times. Respondent attended all six (6) meetings.
  - f. In 2023, the JMWSC met eight (8) times. Respondent attended all eight (8) meetings.

5. From 2018 through 2023, Respondent received a monthly payment of \$250.00 from the JMWSC, for a total of \$3,000.00 annually. Respondent was paid regardless of whether the JMWSC held a meeting and regardless of whether he attended those meetings. The JMWSC did not maintain records related to Respondent's mileage or actual expenses. According to the JMWSC staff, the \$250.00 is a "*per diem*" payment and is issued under a "nonaccountable plan" in accordance with the Internal Revenue Code (IRC).<sup>2</sup>
6. During a January 13, 2020 Council meeting, Council engaged in discussions regarding Respondent's reappointment to the JMWSC. Instead of reappointing Respondent, Council voted to appoint another Councilmember in a 5-4 vote, with Respondent voting against his removal from the JMWSC. Respondent did not provide a written recusal statement.
7. On January 21, 2020, Council held a meeting to reconsider its January 13, 2020 appointment to the JMWSC. During the meeting, Respondent voted to appoint himself to the JMWSC in a 7-2 vote. Respondent did not provide a written recusal statement.
8. During a December 11, 2023 Council meeting, Respondent voted to reappoint himself to the JMWSC in a 6-2 vote. Respondent did not provide a written recusal statement.

### **APPLICABLE LAW**

Section 8-13-700(B) of the Ethics Act provides, in relevant part:

No [public official] may make, participate in making, or in any way attempt to use his [office] to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [public official] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

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<sup>2</sup> According to Internal Revenue Service Publication 463 (2025), "a nonaccountable plan is a reimbursement or expense allowance arrangement" wherein employees are paid a daily flat rate and are not required to provide detailed accounts of their expenses to their employer.

- (1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

...

- (4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

Section 8-13-100(11) of the Ethics Act defines "economic interest" as:

- (a) . . . an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.
- (b) This definition does not prohibit a [public official] from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the [public official] is incidental to the [public official's] position or which accrues to the [public official] as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

Section 6-25-60(C) of the Joint Authority Water and Sewer Systems Act (Joint Water and Sewer

Act) provides, in relevant part:

. . . no commissioner of a joint system shall receive any compensation solely for the performance of duties as a commissioner, but each commissioner may be paid per diem, mileage, and subsistence expenses . . .

## ARGUMENTS

### **I. Respondent violated Section 8-13-700(B) when he participated in discussions, voted on, and failed to recuse himself from, discussions and votes specifically related to his removal or appointment to the JMWSC.**

#### **A. Economic Interest**

Respondent argues he did not violate Section 8-13-700 of the Ethics Act because the monthly payments to the JMWSC members do not constitute an “economic interest.” Specifically, Respondent argues that (1) his interest does not meet the statutory definition of economic interest under Section 8-13-100(11)(a); (2) his interest is subject to the “large class exception” found in Section 8-13-100(11)(b);<sup>3</sup> and (3) no economic interest can exist because the monthly payments are permissible under the Joint Water and Sewer Act and the IRC. (App.Br.9-13). As discussed herein, these arguments are without merit.

#### Economic Interest and the Large Class Exception

Section 8-13-700 of the Ethics Act prohibits a public official from participating in any matter in which he has an economic interest. As defined in Section 8-13-100(11)(a) of the Act, “economic interest” means “an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or other arrangement involving property or services in which a [public official] may gain” more than \$50.00. When a public official is faced with a matter in which he has an economic interest, the public official must recuse himself following the

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<sup>3</sup> Respondent briefly argues that his economic interest should be considered “incidental” under Section 8-13-100(11)(b) because all members of the JMWSC receive the same or similar payment. However, the plain language of Section 8-13-100(11)(b) requires that the economic interest be “incidental to the public official’s, public member’s or public employee’s position” for the exception to apply. Here, while it may be true that such payments are incidental to the positions of all JMWSC members, they are *not* incidental to the positions of all Town Councilmembers because not all Town Councilmembers are entitled to receive the payments – only those who are appointed to the JMWSC. Thus, Respondent’s argument fails. See Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (finding a court must abide by the plain meaning of the words in a statute).

procedures outlined in Section 8-13-700(B) of the Ethics Act. See SEC AO99-002 (“Section 8-13-700(B) provides the steps to be taken by a public employee who is required to take action or make decisions affecting his personal economic interests”).

However, there is an exception to the general recusal requirement called the “large class exception.” This exception exists where the only economic interest that would accrue to the public official as a result of his conduct is no greater than that of similarly situated persons in the public official’s profession, occupation, or other large class. See Section 8-13-100(11)(b).

Here, Respondent clearly had an interest distinct from the general public in an “arrangement involving . . . services” for which he would receive \$50.00 or more. First, it is undisputed that the JMWSC members are paid \$250.00 per month, for an annual total of \$3,000.00. Second, Respondent admitted during his Panel testimony that the work he does on the JMWSC is a “service.” (Tr. 74:31-75:2). In each of the instances outlined in the Notice of Hearing, Respondent’s continued service on the JMWSC, for which he receives more than \$50.00, was at risk. By the plain language of Section 8-13-100(11)(a), Respondent therefore had an economic interest in his appointment and/or removal from the JMWSC.

As to the “large class exception,” Respondent argues that he was permitted to participate in his own appointment and/or removal from the JMWSC because his economic interest was no greater than that of all other JMWSC members. However, the proper question is not whether all JMWSC members were entitled to the same payments for their service on the JMWSC, but rather how many other people were entitled to the same payments *as a result of Respondent’s conduct*. In that regard, Respondent’s economic interest was unique as to the December 11, 2023 Council meeting because the motion and subsequent vote were limited solely to his reappointment. As to the January 13, 2020 and January 21, 2020 Council meetings, two (2) people had an economic

interest – Respondent, who was the existing appointee to the JMWSC, and the Councilmember who was nominated on January 13, 2020, then replaced on January 21, 2020. However, the Commission has never held that two (2) people constitute a large class. See SEC AO2014-002 (finding 1 out of 9 does *not* constitute a large class); SEC AO2010-004 (finding 1 out of 56 constitutes a large class); SEC AO2008-004 (finding 1 out of 171 constitutes a large class, but 4 out of 19 does *not* constitute a large class). Accordingly, the large class exception cannot, and does not, apply.

#### Joint Water and Sewer Act

Respondent argues that there can be no economic interest in the JMWSC payments because (1) they are permissible under Section 6-25-60(C) of the Joint Water and Sewer Act and (2) the IRC gives the JMWSC discretion in deciding whether to utilize an accountable or nonaccountable *per diem* plan. (App.Br.5-8). Respondent further asks the Commission to “find that the nonaccountable *per diem* plan utilized by the JMWSC [] fully complies with the requirements of [S]ection 6-25-60.” (App.Br.9). As discussed herein, these arguments lack merit and should be disregarded by the Commission.

As an initial matter, the Commission’s jurisdiction is limited to the enforcement and interpretation of the Ethics Act. See Section 8-13-320(9)-(12); SEC AO93-72; Hutto, S.C. Op. Atty. Gen, Dec. 23, 2013 (finding the Commission’s jurisdiction is limited to questions involving interpretation and administrative enforcement of the Ethics Act). Therefore, the Commission lacks the authority to find that the JMWSC payments, or the accounting method utilized for these payments, are compliant with Section 6-25-60(C) of the Joint Water and Sewer Act and/or the IRC.

Moreover, even assuming Respondent’s assertions are true, they have no bearing on

whether Respondent violated Section 8-13-700 of the Ethics Act. Section 6-25-60(C) of the Joint Water and Sewer Act appears to permit certain types of payments from the JMWSC to its members. The IRC appears to explain the possible accounting methods and/or tax implications of these payments. Neither the Joint Water and Sewer Act nor the IRC address how Respondent must conduct himself as a public official on Town Council when Council is considering whether to remove or appoint him to the JMWSC – this is governed by the Ethics Act. These provisions of law are not in conflict with one another - they simply address different aspects of the same scenario. Accordingly, the Commission should find that the JMWSC's compliance with Section 6-25-60(C) and the IRC is irrelevant for purposes of determining a violation of Section 8-13-700. See SEC AO2025-001 (distinguishing between the *permissibility* of a school board member receiving pay under the South Carolina School Code and the *methodology* by which the school board member could participate in receiving such pay under the Ethics Act).

### **B. Miscellaneous Arguments**

Respondent argues the Commission should find that he did not violate Section 8-13-700 of the Ethics Act for several additional reasons, which are discussed below.<sup>4</sup>

#### Business With Which Respondent is Associated

Respondent argues he was permitted to participate in matters related to the JMWSC because the JMWSC is not a “business with which he is associated” for purposes of Section 8-13-700. Section 8-13-100(4) of the Ethics Act defines “business with which he is associated” as:

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<sup>4</sup> Respondent argues that the underlying Panel Decision contains insufficient findings of fact and conclusions of law. (App.Br.4-5). However, the format and contents of the Panel Decision are immaterial for purposes of this appeal given that the Appellate Panel's standard of review is *de novo* and its decision may be based on any evidence found in the record. See S.C. Code Ann. Reg. 52-806; see also Black's Law Dictionary (12th ed. 2024) (“when a court engages in *de novo* review of a legal issue, it makes an independent determination without deference to any earlier analysis about the matter. It is treated as if no previous decision had been made: there is no presumption of the correctness or validity of any prior finding, recommendation, or conclusion”). The review of the Appellate Panel is the final decision of the Commission. See S.C. Code Ann. § 8-13-320(10)(m).

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 [certain] stock . . .

The Commission has formally opined that “a governmental entity is not a business” for purposes of the Ethics Act. See SEC AO2009-002. Thus, Commission staff agrees that the JMWSC is not a “business with which [Respondent] is associated.” However, this argument is immaterial to the present matter because Respondent did not improperly participate in a matter in which a business with which he was associated had an economic interest. Rather, Respondent improperly participated in a matter in which *he personally* had an economic interest. Accordingly, whether the JMWSC is a business with which Respondent is associated is irrelevant.

#### Complainants Did Not Testify/Burden of Proof

Respondent argues Commission staff failed to carry its burden of proof because the Complainants did not testify. (App.Br.5). According to Respondent, the Panel was required to consider the testimony of the Complainants because “as complaining parties, they have voluntarily and intentionally made themselves available to the Court” and because “Respondent had the right to cross examine these complaining, available witnesses.” (App.Br.5). In support of this assertion, Respondent relies on S.C. Code Ann. Regs. 52-714, which provides:

- A. All available evidence and testimony shall be presented at the scheduled hearing or a party must move for adjournment.
- B. Adjournment may be granted in order to take the testimony by deposition or at a hearing reconvened at a later date.

Hearings before the Commission are conducted in accordance with the Administrative Procedures Act (APA), which requires an agency to prove violations of law by a preponderance of the evidence. Section 8-13-320(10)(j). There is no requirement in the Ethics Act or the APA that the agency prove its case using specific witnesses or other evidence. In this case, Commission

staff established Respondent's violations through documentary evidence and the testimony of Chief Investigator Kevin Hinson and the JMWSC General Manager Jay Nicholson.

According to Respondent's interpretation of Regulation 52-714, the Panel would have been required to hear literally \*all\* available evidence and testimony, regardless of whether such evidence or testimony was irrelevant, cumulative, or prejudicial. This interpretation is illogical. Moreover, even taking Respondent's argument as correct, it was still his responsibility to "move for adjournment" if he believed "all available evidence and testimony" had not been presented. See S.C. Code Ann. Reg. 52-712(A). Accordingly, this argument is without merit and should be disregarded by the Commission.

JMWSC Not "Separate and Distinct" from Town Council

Respondent argues he was permitted to participate in his appointment to and/or removal from the JMWSC because the JMWSC is not "separate and distinct" from Town Council. (App.Br.19-20). In support of this argument, Respondent cites prior Commission complaints and advisory opinions involving public officials who, in addition to their primary public offices, served on secondary boards in their official capacities. As discussed herein, this argument is without merit.

The Commission commonly refers to service on such secondary boards as "*ex-officio* service" and it has long held that when a public official's service on a secondary board is *ex-officio*, the public official is "not required to recuse himself on matters that c[o]me before [him] which would affect the economic interest of the board." SEC AO2002-009. For a public official to serve on a secondary board "*ex-officio*," the service must (1) arise because of the position held by the public official; (2) involve matters which fall within the official responsibility of the agency or public official; and (3) be a service the agency would normally provide and for which the public

official would be subject to expense reimbursement by the agency. See SEC AO2018-002.

Here, it appears likely that Respondent's service on the JMWSC is in an *ex-officio* capacity. However, *ex-officio* status only permits a public official to participate in matters affecting "the economic interests of the board." SEC AO2002-009. The Commission has never held that serving *ex-officio* on a particular board gives a public official authorization to participate in or vote on matters affecting his own personal economic interest. Accordingly, Respondent's argument should be disregarded by the Commission.

#### Absurd Result

Respondent argues that any interpretation of the Ethics Act that finds him in violation of Section 8-13-700 for "voting on the appointment of a representative of [Council] to the [JMWSC]" is an absurd result because all members of Council are eligible for appointment and therefore all members of Council have an economic interest in the JMWSC payments. (App.Br.17-18). According to Respondent, this means no member of Council can vote on an appointment to the JMWSC. (App.Br.17-18). This argument overlooks the specific facts of Respondent's case.

Section 8-13-700 prohibits a public official from participating in a matter in which they have a personal economic interest. As explained in Argument I.A., *infra*, all Councilmembers did not have an economic interest in Council's decisions on January 13, 2020, January 21, 2020, and December 11, 2023. As to the January 13, 2020 and January 21, 2020 Council meetings, only two (2) people had an economic interest – Respondent, who was the existing appointee to the JMWSC, and the Councilmember who was nominated on January 13, 2020, then replaced on January 21, 2020. As to the December 11, 2023 Council meeting, Respondent's was the only person with an economic interest because the motion and subsequent vote were limited solely to his reappointment. Accordingly, Respondent's argument lacks merit.

**CONCLUSION**

For the reasons stated herein, the Commission should find Respondent in violation of Section 8-13-700 as outlined in the Notice of Hearing and as more fully explained herein. Commission staff also asks that the Commission permit the parties to submit competing appellate orders for the Commission to consider.

Respectfully submitted,

s/Courtney M. Laster  
Courtney M. Laster  
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June 27, 2025  
Columbia, SC

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 IN THE MATTER OF: )  
 Complaints C2021-078 )  
 C2023-129 )  
 )  
 Shirley Etheredge Mitchell )  
 Stephen D. Cain )  
 Complainants. )  
 )  
 Lancer Shull, )  
 Respondent/Appellant. )  
 \_\_\_\_\_ )

BEFORE THE STATE  
 ETHICS COMMISSION

**ORDER FOR  
 EXTENSION OF TIME TO  
 SUBMIT PROPOSED ORDERS**

A hearing was held before the Appellate Panel on July 17 and the Panel directed to the attorneys involved in this matter to file a proposed Order for each side within 30 days from July 17, 2025. The attorney for the Appellant requested immediately a Transcript of the hearing which was received by his office on July 28. The request has been made by the attorney for the Appellant to have the thirty (30) days for submission of the proposed Orders run from the date of the receipt of the Transcript. Said request is being consented to by counsel for the Ethics Commission.

The Commission does not find that this is an unreasonable request and that thirty (30) days from July 28, 2025 would be an appropriate time period for the attorneys to prepare said proposed Orders for submission to the Commission.

THEREFORE, the thirty (30) days shall run from the date of receipt of the Transcript which was July 28, 2025.

IT IS SO ORDERED.

  
 \_\_\_\_\_  
 F. Xavier Starkes  
 SC Ethics Commission Board Chairman

WE SO CONSENT:

DAVIS FRAWLEY, LLC  
140 East Main Street, P.O. Box 489  
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(803) 359-2512

BY: /s/ James Randall Davis  
James Randall Davis  
Attorneys for the Appellant

SOUTH CAROLINA ETHICS COMMISSION  
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BY: /s/ Courtney M. Laster  
Courtney M. Laster  
Attorney for Commission

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
IN THE MATTER OF: )  
Complaints C2021-078 )  
C2023-129 )  
Shirley Etheredge Mitchell )  
Stephen D. Cain )  
Complainants. )  
Lancer Shull )  
Respondent. )

BEFORE THE STATE ETHICS COMMISSION

**APPEAL ORDER**

This matter comes before the State Ethics Commission (Commission) by way of a timely Notice of Appeal filed by Lancer Shull (Respondent), Mayor of Batesburg-Leesville (Town). Therein, Respondent seeks review of the March 7, 2025 Order of the Commission Hearing Panel (Hearing Panel or Panel) which found him in violation of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Ethics Act or Act). Present at the July 17, 2025 Appeal Hearing were Commissioners Bryant S. Caldwell, Helen Munnerlyn, Sara Parrish, Mary Hunter B. Tomlinson, Matthew N. Tyler, Neal D. Truslow, and F. Xavier Starkes, Appellate Panel Chair.<sup>1</sup>

**RELEVANT PROCEDURAL HISTORY**

The above-referenced Complaints were filed on September 8, 2021 (C2021-078) and October 19, 2023 (C2023-129), alleging, among other things, that Respondent improperly participated in and voted on matters related to his appointment to the Lexington County Joint Municipal Water and Sewer Commission (JMWSC) during Batesburg-Leesville Town Council meetings held on January 13, 2020, January 21, 2020, and December 11, 2023. Following

<sup>1</sup> Pursuant to Reg. 52-805(A), the Appellate Panel is comprised of the full Commission “excluding the original hearing Commissioners.” The Hearing Panel consisted of Commissioners Scott E. Frick, Brandolyn Thomas Pinkston, and AJ Holloway, whose terms all expired on March 30, 2025.

*JS #1*

investigations into the complaints, the Commission found probable cause existed to believe

Respondent violated the Ethics Act as follows:

**COUNT ONE ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by participating in discussions regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT TWO ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT THREE FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FOUR FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT FIVE ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).

**COUNT SIX FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED.** That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement

JK #2

regarding his appointment to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).

On February 20, 2025, the Panel conducted a hearing pursuant to Section 8-13-320(10)(j) of the Ethics Act. The Panel heard testimony from Respondent, the JMSWC's General Manager Jay Nicholson, and Commission Investigator Kevin Hinson. On March 7, 2025, the Panel issued an Order finding Respondent in violation of the Ethics Act as outlined in the Notice of Hearing. This appeal followed.

### FACTS

1. Respondent has served as Town Mayor since 2018.
2. The JMWSC is a joint municipal water system that exists, in part, to meet water and wastewater service needs in certain areas of Lexington County. The members of the JMWSC are governmental entities. Each governmental entity is responsible for appointing a representative to the JMWSC. These appointed representatives constitute the board of the JMWSC.
3. The Town is a member of the JMWSC. Town Council initially appointed Respondent to serve as its JMWSC board member in 2018.
4. The JMWSC's meetings are typically held once a month and the JMWSC pays its board members \$250.00 each month for their service, for a total of \$3,000.00 each year.
5. From 2018 through 2023, the JMWSC met, and Respondent attended meetings as follows:
  - a. In 2018, the JMWSC met eight (8) times. Respondent attended eight (8) meetings.
  - b. In 2019, the JMWSC met ten (10) times. Respondent attended nine (9) meetings.
  - c. In 2020, the JMWSC met six (6) times. Respondent attended six (6) meetings.
  - d. In 2021, the JMWSC met eight (8) times. Respondent attended seven (7) meetings.
  - e. In 2022, the JMWSC met six (6) times. Respondent attended six (6) meetings.
  - f. In 2023, the JMWSC met eight (8) times. Respondent attended eight (8) meetings.

JXL#3

6. From 2018 through 2023, Respondent received \$250.00 each month from the JMWSC, for a total of \$3,000.00 annually, for a cumulative total of \$18,000.00. Respondent was paid regardless of whether the JMWSC held a meeting and regardless of whether Respondent attended those meetings. The JMWSC did not maintain records related to Respondent's mileage or actual expenses. According to the JMWSC General Manager Jay Nicholson, the \$250.00 is a "*per diem*" payment issued under a "nonaccountable plan" in accordance with the Internal Revenue Code (IRC).<sup>2</sup> This amount is paid regardless of whether a board member attends a meeting or performs JMWSC-related duties throughout the month.
7. During a January 13, 2020 Council meeting, Council engaged in discussions regarding Respondent's reappointment to the JMWSC. Instead of reappointing Respondent, Council voted to replace Respondent with Councilman Steve Cain. Respondent voted against his removal from the JMWSC. Respondent did not provide a written recusal statement.
8. On January 21, 2020, Council held a meeting to reconsider Respondent's removal from the JMWSC. During the meeting, Respondent voted to reappoint himself to the JMWSC. Respondent did not provide a written recusal statement.
9. During a December 11, 2023 Council meeting, Respondent voted to reappoint himself to the JMWSC. Respondent did not provide a written recusal statement.
10. As outlined in its Order, the Hearing Panel found Respondent in violation of three (3) counts of Section 8-13-700(B) for his attempts to influence a governmental decision in which he had an economic interest by participating in discussions and votes related to his reappointment to

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<sup>2</sup> According to Internal Revenue Service Publication 463 (2025), "a nonaccountable plan is a reimbursement or expense allowance arrangement" wherein employees are paid a daily flat rate and are not required to provide detailed accounts of their expenses to their employer.

JL #4

the JMWSC during Council meetings held on January 13, 2020, January 21, 2020, and December 11, 2023. The Hearing Panel further found Respondent in violation of three (3) counts of Section 8-13-700(B) for failing to provide a written recusal statement with regard to his appointment on the aforementioned dates. The Hearing Panel assessed a \$50.00 civil penalty for each violation and an administrative fee of \$1,000.00, for a total of \$1,300.00.

### **STANDARD OF REVIEW**

Within ten (10) days after service of a Hearing Panel Order, a respondent may apply to the Commission for a full Commission review. Section 8-13-320(10)(m). The review must be made on the record established in the Panel hearing. *Id.* After reconsidering the evidence, the Commission shall “enter an order amending, affirming or modifying the Panel’s decision.” Reg. 52-806(A).

### **DISCUSSION**

On appeal, Respondent argues that Section 8-13-700 did not prohibit him from participating in his own appointment because he does not have an economic interest in the JMWSC monthly payments. Specifically, Respondent argues no economic interest exists because (1) the payments do not meet the statutory definition of economic interest under Section 8-13-100(11)(a); (2) the large class exception found in Section 8-13-100(11)(b) applies; (3) construing the monthly payments as an economic interest would lead to an absurd result; (4) the monthly payments are authorized by the Joint Water and Sewer Act; and (5) his JMWSC service is *ex-officio*.<sup>3</sup> These arguments are addressed below, in turn.

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<sup>3</sup> Respondent also argues that Commission staff failed to meet its burden of proof because it did not present the Complainants as witnesses. However, there is no requirement in either the Ethics Act or the Administrative Procedures Act that a party prove its case using specific witnesses or evidence. Accordingly, the Commission finds this argument without merit.

*JL #5*

I. Statutory Definition of Economic Interest

Section 8-13-700(B) of the Ethics Act prohibits a public official from participating in any matter in which he, a family member, a business with which he is associated, or an individual with whom he is associated has an economic interest. When a public official is faced with a matter in which he has an economic interest, the public official must recuse himself following the procedures outlined in Section 8-13-700(B) of the Ethics Act:

No [public official] may make, participate in making, or in any way attempt to use his [office] to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [public official] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

...

(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

As defined in Section 8-13-100(11)(a) of the Act, “economic interest” means “an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or other arrangement involving property or services in which a [public official] may gain” more than \$50.00.

JL #6

Here, Respondent argues that his interest in the monthly JMWSC payments does not meet the statutory definition of economic interest because the payments are only for expense reimbursement. First, it is undisputed that the JMWSC pays its board members \$250.00 each month. Second, Respondent admitted during his Panel testimony that the work he does on the JMWSC is a “service.” Finally, because the JMWSC pays its board members each month without regard to meeting attendance or the performance of JMWSC-related duties, the payments constitute an arrangement in which Respondent *may* gain more than \$50.00. Accordingly, the Commission finds that Respondent’s interest in the monthly payments meets the statutory definition of “economic interest” found in Section 8-13-100(11)(a).

## II. Applicability of the Large Class Exception

Section 8-13-700(B) requires a public official to recuse himself from any matter in which he, a family member, a business with which he is associated, or an individual with whom he is associated has an economic interest. However, there is an exception to the recusal requirement called the “large class exception” found in Section 8-13-100(11)(b).<sup>4</sup> Under this exception, a public official may participate in a matter in which he has an economic interest if:

the only economic interest or reasonably foreseeable benefit that may accrue to the [public official] . . . accrues to the [public official] as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

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<sup>4</sup> Section 8-13-100(11)(b) also contains an exception to the recusal requirement when the only benefit that accrues to a public official is “incidental” to the public official’s position. In his appeal, Respondent asks the Commission to apply this exception. However, the plain language of Section 8-13-100(11)(b) requires the economic interest to be “incidental to the public official’s . . . position” for the exception to apply. In the present case, while the payments may be incidental to JMWSC board members, they are *not* incidental to all Town Councilmembers because not all Town Councilmembers receive the payments – only those who are appointed to the JMWSC. Thus, this argument fails. See Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (finding a court must abide by the plain meaning of the words in a statute).

JX # 7

In his appeal, Respondent argues he was permitted to participate in his own appointment because his economic interest was no greater than that of any other JMWSC board member and, therefore, the “large class exception” applies. However, Respondent’s characterization of the remaining JMWSC board members as the “large class” is flawed. The “large class” consists of the individuals or entities impacted by Respondent’s conduct. See SEC AO92-155 (finding a public member could vote on matters affecting his own property as long as all owners of property in the affected area were similarly impacted by the public member’s vote).

In the present case, Respondent was the only person who had an economic interest in the discussion and vote that occurred on December 11, 2023 because the question considered by Town Council was limited to Respondent’s re-appointment. As to the January 13, 2020 and January 21, 2020 Council meetings, only two (2) people had an economic interest – Respondent, who was the existing appointee to the JMWSC, and the Councilmember who briefly replaced Respondent. However, two (2) people do not constitute a large class. See SEC AO2014-002 (finding 1 out of 9 does *not* constitute a large class); SEC AO2010-004 (finding 1 out of 56 constitutes a large class); SEC AO2008-004 (finding 1 out of 171 constitutes a large class, but 4 out of 19 does *not* constitute a large class). Accordingly, the Commission finds that large class exception does not apply.

### III. Absurd Result

Section 8-13-700 prohibits a public official from participating in a matter in which he has a personal economic interest. On appeal, Respondent argues that any interpretation of the Ethics Act finding him in violation of Section 8-13-700 for participating in or voting on his appointment to JMWSC would lead to an absurd result because it would prohibit all Councilmembers from voting on a JMWSC appointment. However, this argument overlooks the specific facts of Respondent’s case.

As explained above in Section II, infra, on January 13, 2020 and January 21, 2020, only two (2) people had an economic interest in the specific questions taken up by Council – Respondent and Councilman Cain, who briefly replaced him. On December 11, 2023, only one (1) person had an interest in the specific question taken up by Council – Respondent. The Commission finds that prohibiting a public official from participating in a matter in which he has a specific economic interest is not absurd. It is, in fact, the entire purpose of Section 8-13-700(B).

#### IV. Joint Water and Sewer Act

Section 6-25-60(C) of the Joint Water and Sewer Act<sup>5</sup> provides, in relevant part:

. . . no commissioner of a joint system shall receive any compensation solely for the performance of duties as a commissioner, but each commissioner may be paid per diem, mileage, and subsistence expenses . . .

Respondent argues that there can be no economic interest in the JMWSC monthly payments because such payments are permissible under Section 6-25-60(C). However, this provision of the Joint Water and Sewer Act only addresses the *types* of payments the JMWSC may make to its board members. It does not address how Respondent must conduct himself as a member of Town Council when Council is considering his appointment to the JMWSC – this situation is governed by the Ethics Act. Contrary to Respondent’s position, the Joint Water and Sewer Act and the Ethics Act are not in conflict - they simply address different aspects of the same scenario. Accordingly, the Commission finds that the permissibility of the payments under Section

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<sup>5</sup> In his brief, Respondent asks the Commission to find that the accounting method utilized by the JMWSC “fully complies with the requirements of [S]ection 6-25-60” and the IRC. However, this Commission’s jurisdiction is limited to the enforcement and interpretation of the Ethics Act. See Section 8-13-320(9)-(12); SEC AO93-72; Hutto, S.C. Op. Atty. Gen, Dec. 23, 2013 (finding the Commission’s jurisdiction is limited to questions involving interpretation and administrative enforcement of the Ethics Act). Therefore, the Commission lacks the authority to make such a finding.

6-25-60(C) is irrelevant for purposes of determining whether Respondent violated Section 8-13-700(B) when he participated in, and failed to recuse from, matters related to his appointment to the JMWSC. See SEC AO2025-001 (distinguishing between the permissibility of a school board member receiving pay and the methodology by which the school board member could participate in receiving such pay).

V. Ex-Officio Service

Section 8-13-700(B) requires a public official to recuse himself from any matter in which he, a family member, a business with which he is associated, or an individual with whom he is associated has an economic interest. The Commission has long held that when a public official's service on a secondary board is *ex-officio* then the public official is "not required to recuse himself on matters that c[o]me before [him] which would affect the economic interest of the board" because the secondary board is not considered a "business with which [Respondent] is associated" for purposes of Section 8-13-700. SEC AO2002-009. For a public official's service on a secondary board to be considered *ex-officio*, the service must (1) arise because of the position held by the public official; (2) involve matters which fall within the official responsibility of the agency or public official; and (3) be a service the agency would normally provide and for which the public official would be subject to expense reimbursement by the agency. See SEC AO2018-002.

On appeal, Respondent argues he was permitted to participate in matters related to his own appointment because the JMWSC is not a "business with which he is associated" for purposes of Section 8-13-700. In that regard, the Commission agrees. However, this fact is immaterial because Respondent did not improperly participate in matters in which the JMWSC had an economic interest. Rather, Respondent improperly participated in matters in which *he* had a personal economic interest. And the Commission has never held that a public official serving *ex-officio* on

JLS # 10

a secondary board is permitted to participate in matters affecting his own personal economic interest – only that participation in matters affecting the economic interests of the secondary board is permissible. Accordingly, the Commission finds Respondent’s argument without merit.

**DECISION**

In this matter, the Commission is essentially tasked with deciding whether Section 8-13-700(B) of the Ethics Act allows a public official to appoint himself to a position that pays \$3,000.00 per year. For the reasons outlined above, the Commission finds that such behavior is prohibited.

NOW, based on the evidence in the record and oral arguments presented, the Commission finds Respondent in violation of six (6) counts of Section 8-13-700(B) as outlined in the Notice of Hearing. Specifically, the Commission finds Respondent was not permitted to participate in discussions and/or votes related to his appointment or removal from the JMWSC. In addition, the Commission finds that Respondent was required to recuse himself pursuant to Section 8-13-700(B)(4) when such matters came before him on Town Council.

THEREFORE, pursuant to Section 8-13-320(10)(l)(i) of the Ethics Act, the Commission hereby issues a Public Reprimand and orders Respondent to pay a reduced civil penalty of \$300.00 (\$50.00 for each count);

AND, pursuant to Section 8-13-130 of the Ethics Act, and in addition to the civil penalty, the Commission hereby orders Respondent to pay an administrative fee of \$1,000.00, making Respondent’s total amount owed to the Commission \$1,300.00.

AND, pursuant to Section 8-13-320 of the Ethics Act, if the \$1,300.00 is not paid within six (6) months from Respondent’s receipt of this Order, a judgment in the amount of \$1,300.00 shall be entered against Respondent. In the event of a failure to pay, upon the Commission’s filing

JX #11

of said Judgment with the Clerk of Court in Respondent's last known County of residence, the Clerk of Court shall enter this Order in the amount of \$1,300.00 in its Judgment Rolls, less any monies paid, without cost to the Commission.

FINALLY, in accordance with Section 8-13-320(10)(m) of the Ethics Act, this review is the final disposition of this matter before the Commission.

AND IT IS SO ORDERED THIS 1st DAY OF October 2025.

STATE ETHICS COMMISSION



F. XAVIER STARKES,  
APPELLATE PANEL CHAIR

Columbia, South Carolina