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STATE OF SOUTH CAROLINA  
STATE ETHICS COMMISSION

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STATE ETHICS  
COMMISSION

COMPLAINT FORM

FOR COMMISSION USE ONLY:  
CASE NUMBER

c. 2021-085

COMPLAINANT: State Ethics Commission

ADDRESS: 201 Executive Center Dr, Ste 150, Columbia, SC

TELEPHONE NUMBER: (803) 253-4192

RESPONDENT: Dr. James P. Wallace

ADDRESS: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

TITLE: Dillon City Councilmember

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).

SECTION 8-13-700. Use of official position or office for financial gain; disclosure of potential conflict of interest.

(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. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use that does not result in additional public expense.

(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. A public official, public member, or public employee 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:

See continuation pages

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

STATE OF SOUTH CAROLINA

COUNTY OF Richland

Personally appeared before me Meghan L. Walker who, first being duly sworn, says that 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

28th day of September 2021

[REDACTED]

[REDACTED]

Complainant Signature

Notary Public for South Carolina

My Commission expires 8-11-2025

SEC-7 (Revised 8/2019)

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

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(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;

Dr. Phil Wallace is a member of Dillon City Council, and is also a physician practicing medicine at Dillon Internal Medicine Associates in Dillon, SC. Commission staff received information that Dr. Wallace participated in a council meeting at which the city discussed bids for employee medical services. The City of Dillon put out for public bid medical services for its employees, to include pre-employment physical examinations, pre-employment drug screen tests, firemen's physicals, DOT physicals, and workman's comp diagnostics. These bids were discussed by Dillon City Council at the July 13, 2020 meeting. Review of the meeting minutes and video recording of the meeting revealed that Dr. Wallace, in his role as mayor pro tem, presided over the July 13, 2020 meeting. When the agenda item "Accepting Bids for Employee Medical Services" was called, Dr. Wallace verbally recused himself; however, there was no written recusal statement available with the meeting minutes posted online. Dr. Wallace also remained in his seat at the table while council members proceeded to discuss the bids, to include a bid submitted by his medical practice, Dillon Internal Medicine. Council members participated in lengthy discussion including a concern raised by one councilman that the bids were not sealed and any member of council, including Dr. Wallace, could have viewed the bids. Dillon City Manager Glen Wagner stated he opened all bids, and he was the only one to view the bids. Council and Wagner discussed concerns about how to proceed with bids when a council member was also a bidder, and Wagner cited SC Code §5-21-30 after stating it was a conflict of interest. After approximately 30 minutes of discussion and several unsuccessful attempts to obtain a unanimous vote among council members to award the bid to Dillon Internal Medicine, Dr. Wallace verbally interjected and said he would withdraw his bid which would "allow him to speak." Wagner cautioned Wallace against speaking, and Wallace stopped speaking. After five more minutes of debate about allowing employees to choose a provider for these services, Wallace raised both hands and said "It is not going to hurt me. I'll just tell ya. It costs me \$57.00 for you to sign in that kiosk machine. It costs me at that point \$57.00 [unintelligible]. This number of \$45.00 for a physical by an internist, you know, that could easily be four times that. I will pull mine. You're not going to get a..." At which point another council member interrupted Wallace to try and bring the matter to another vote to see if the decision could be made unanimously to allow employees to choose between Dillon Internal Medicine and Dillon Family medicine. Several members, including Wallace continued to make comments simultaneously making it difficult to hear what was said by whom. A motion was made and seconded to allow employees to choose between Dillon Internal Medicine and Dillon Family medicine for pre-employment physicals and drug screens, which passed unanimously. Council moved forward with a discussion of award of the bid for firefighter's physicals, with one

councilman stating the firefighters should be allowed to choose their service provider. The video ended before that issue was resolved by vote.

The initiation of a Commission Complaint is required to determine if Dr. Phil Wallace did use his official position or participate in a governmental decision in which a business with which he is associated had a financial interest in violation of §8-13-700, S.C. Code Ann., 1976.

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

BEFORE THE STATE ETHICS COMMISSION

IN THE MATTER OF: )

Complaint C2021-085 )

State Ethics Commission )  
Complainant. )

James P. Wallace )  
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, October 19, 2023 at 9:30 a.m. at the State Ethics Commission Hearing Room located at: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210.

The following allegations will be heard:

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

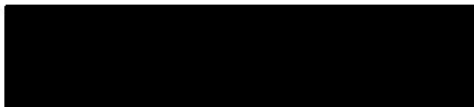
That James P. Wallace, City of Dillon Councilmember, attempted to influence a governmental decision in which a business with which he is associated had an economic interest by participating in discussion to award bids for medical services to businesses including Respondent's business, Dillon Internal Medicine, in a July 13, 2020 County Council meeting, in violation of Section 8-13-700(B).

**COUNT TWO**  
**FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH A  
BUSINESS WITH WHICH ASSOCIATED HAD AN ECONOMIC INTEREST  
SECTION 8-13-700(B)(4), S.C. CODE ANN., 1976, AS AMENDED**

That James P. Wallace, City of Dillon Councilmember, failed to provide a written recusal statement from Council's July 13, 2020 Council meeting discussion regarding the award of bids for medical service providers, including Dillon Internal Medicine, in violation of Section 8-13-700(B)(4).

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 22<sup>nd</sup> day,  
of May 2023.

*Certificate of Service by Certified Mail*

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on Kevin M. Barth, Esquire, PO Box 107, Florence, SC 29503 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 5<sup>th</sup> day of June 2023, by **CERTIFIED MAIL, E-RETURN RECEIPT REQUESTED**, appropriate postage affixed, and a return address clearly indicated on said envelope.



**Rachael O'Bryan, Administrative Assistant**

State Ethics Commission

(803) 253-4192

Columbia, South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
IN THE MATTER OF: )  
COMPLAINT C2021-085 )  
State Ethics Commission, )  
Complainant, )  
James P. Wallace, )  
Respondent. )  
\_\_\_\_\_ )

BEFORE THE STATE ETHICS COMMISSION

**CONSENT ORDER**

This matter comes before the South Carolina State Ethics Commission (Commission) by way of a complaint filed on September 28, 2021. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against James P. Wallace (Respondent) was considered by the Commission and probable cause was found to warrant an evidentiary hearing. Prior to the call of the case, Respondent agreed to the following:

**STATEMENTS OF FACT**

1. Respondent has served on Dillon City Council (Council) since 1995.
2. At all times relevant, Respondent has been the Owner/President of Dillon Internal Medical Associates, P.A. (DIMA).
3. In June 2020, the City requested bids from three (3) medical providers, to include DIMA, for the following medical services: pre-employment physicals/drug screenings, firefighter physicals, SCDOT physicals, workers compensation matters, and Hepatitis B shots.
4. At a July 13, 2020, Council meeting, Council considered each medical service separately. Prior to discussion on any of the bids, Respondent verbally recused himself, but did not submit a written recusal.
5. Council considered the pre-employment physicals/drug screenings first. Another Councilmember expressed concern that DIMA's bid was \$10.00 higher than its bid for the same services in prior years. The Councilmember also suggested that the City move to a sealed bid process because

Respondent could have seen the other bids before DIMA submitted its bid. The City Administrator assured Council this did not occur.

6. A motion was subsequently made to accept DIMA as the lowest bidder for pre-employment physicals/drug screenings. The motion failed with Respondent abstaining from the vote.
7. Another Councilmember expressed concern that DIMA, the lowest bidder, was being alienated from the bid process. Following additional discussion amongst Council, Respondent interjected, "I can take my bid back and let me just say something now that I can speak. By taking my bid back, I can speak." The City Administrator replied, "I don't know that you can."
8. Respondent then stated, "I'll just tell you – it costs me \$57.00 for you to sign in that kiosk machine . . . this number of \$45.00 for a physical . . . that could easily be four times that. I'll pull mine."
9. After Respondent's comments, there was additional discussion by the remaining Councilmembers, then the following occurred:
  - a. As to pre-employment physicals/drug screenings, Council voted to allow employees their choice of provider between the two lowest bidders, to include DIMA. Respondent did not vote in this matter.
  - b. As to firefighter and SCDOT physicals, Council voted to allow employees their choice of provider between the two lowest providers, to include DIMA. Respondent did not vote in this matter.
  - c. As to workers compensation matters, Council voted to request more information from the Municipal Trust after discussion ensued over the complexities of the workers compensation system. Respondent did not vote in this matter.
  - d. As to Hepatitis B shot, Council voted to accept DIMA as the lowest bidder. Respondent did not vote in this matter.
10. Following the final vote related to the medical services, the meeting minutes reflect the following:

[Respondent] wanted to make a comment that is not related to the bids but to his integrity. He asked each councilmember if he called them or asked anyone about this bid process. Everyone said no. He said his integrity was questioned and he wanted to make that clear.

11. The meeting minutes also reflect the following occurred at the conclusion of the meeting:

[Respondent] started his report saying whoever you decide to use, you need to use one provider. That provider should treat the patient first but also protect the industry. There is a limited amount that you can do without an authorization from Workers Compensation. You have to get a lot of things approved and send it to where they tell you to. A lot of it is mandated by Workers Compensation insurance it has nothing to do with the provider. Whoever you decide on you need to have a working relationship.

12. At Council's next meeting held on August 10, 2020, the meeting minutes reflect, in relevant part:

[Respondent] began his report by saying he didn't want anyone in Dillon or on the Council to think he is getting any secondary gain out of being on Council, so he formally removed all bids that he had with the [City].

13. Council subsequently received additional information related to the workers compensation system and voted to accept Dillon Family Medicine as the lowest bidder. Respondent did not vote in this matter.

#### CONCLUSIONS OF LAW

Based upon the Statements of Facts, the Commission concludes, as a matter of law:

1. At all times relevant, Respondent was a public official, as defined by Section 8-13-100(27). The Commission has personal and subject matter jurisdiction.
2. Section 8-13-100(4) defines "business with which he is associated" as:

a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.
3. 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.
4. Section 8-13-130 allows the Commission to "levy an enforcement or administrative fee on a person who is in violation of any provision of the Ethics Act."
  5. Section 8-13-320(1)(i) allows the Commission to require payment of a civil penalty of up to two thousand dollars for each violation of the Ethics Act.

#### DISCUSSION

The Commission found probable cause to charge Respondent with two (2) counts of violating Section 8-13-700(B) for: (1) failing to provide a written recusal form at the outset of the discussion on July 13, 2020 and (2) participating in the July 13, 2020 Council discussion related to the provision of certain medical services, which were matters in which DIMA, a business with which Respondent was associated, had an economic interest. Through this Consent Order, Respondent acknowledges he failed to provide a written recusal on July 13, 2020, and that he participated in the subsequent discussion as described above in the Statements of Facts. In mitigation, as to the first count, Respondent states that he was unaware of the requirement to submit a written recusal in writing. Respondent states that the City Administrator and City Attorney were present at the July 13, 2020, meeting and did not advise

him that the recusal must be in writing. As to the second count, Respondent states he believes he was free to engage in discussion once he verbally retracted his bid from Council's consideration during the July 13, 2020, Council meeting. The Commission finds that although Respondent attempted to verbally withdraw his bid, and believed he had sufficiently done so, during Council's discussion regarding pre-employment physicals/drug screenings, he clearly did not properly withdraw his bid as indicated by Council's vote to allow employees their choice of provider between the two lowest bidders, to include DIMA. Moreover, Respondent made no verbal attempt to withdraw his bid from the workers compensation matters and made comments related to this subject at the conclusion of the meeting, although these comments appeared to have been directed more at the workers compensation process and not necessarily the bid process. As further mitigation, Respondent states that he has not performed any physicals for City employees, nor has he treated any City employees for work-related injuries since that time.

#### DISPOSITION

1. The Commission hereby finds Respondent James P. Wallace in violation of two (2) counts of Section 8-13-700(B).
2. The Commission hereby adopts the Statements of Fact, Conclusions of Law, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the Commission hereby issues this Public Reprimand to Respondent for violations of the Ethics Act;

AND orders Respondent to pay to the Commission, within ninety (90) days, a reduced civil penalty of \$550 for participating in a matter in which a business with which he was associated had an economic interest and an administrative fee of \$300, for a total of \$850. The Commission declines to issue a monetary penalty for Respondent's failure to submit a written recusal.

By executing this Consent Order, Respondent understands that even though he thought at the

time he was acting properly, he is admitting to violations of the Act, and is also confessing to a judgment of \$850 (less any money paid to the Commission) in the event he does not make full and timely payment as provided in this Order. In that event, the Commission shall file a Judgment against Respondent in the County of Respondent's last known residence. Upon said filing, the Clerk of Court shall enter this Order in the amount of \$850 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

AND IT IS ORDERED THIS 3<sup>rd</sup> DAY OF November, 2023.

STATE ETHICS COMMISSION

  
SCOTT E. FRICK, CHAIR

  
JAMES P. WALLACE  
RESPONDENT

  
KEVIN M. BARTH  
RESPONDENT'S ATTORNEY