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STATE OF SOUTH CAROLINA
STATE ETHICS COMMISSION

2022 JAN 11 PM 1:43

STATE ETHICS
COMMISSION

COMPLAINT FORM

FOR COMMISSION USE ONLY:
CASE NUMBER
C 2022-005

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

RESPONDENT: James E. Smith
ADDRESS: [REDACTED]
TELEPHONE NUMBER: [REDACTED]
TITLE: Trustee – Marlboro County School District

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

Records of the State Ethics Commission indicate that quarterly Campaign Disclosures were due no later than July 10, 2018, January 10, 2019, April 10, 2019, July 10, 2019, October 10, 2019, January 10, 2020, April 10, 2020, July 10, 2020, October 10, 2020, January 10, 2021, April 10, 2021, July 10, 2021, October 10, 2021, and January 10, 2022. Respondent was sent an email reminder thirty days before each Campaign Disclosure deadline.

Respondent was reminded of the filing requirement by a certified letter dated March 17, 2021 as described in the attached. To date, no properly completed July 10, 2018, January 10, 2019, April 10, 2019, July 10, 2019, October 10, 2019, January 10, 2020, April 10, 2020, July 10, 2020, October 10, 2020, January 10, 2021, April 10, 2021, July 10, 2021, October 10, 2021, or January 10, 2022 Campaign Disclosure has been received. All in violation of Section 8-13-1308(B) and Section 8-13-1308 (F), S.C. Code Ann., 1976, as amended.

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

STATE OF SOUTH CAROLINA
COUNTY OF Richland

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

Sworn to and subscribed before me this 11th day of January 2022

[REDACTED]
Meghan L Walker, Executive Director

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

SEC-7 (Revised 8/2019)

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

STATE OF SOUTH CAROLINA)	
COUNTY OF RICHLAND)	BEFORE THE STATE ETHICS COMMISSION
)	
IN THE MATTER OF:)	
)	
Complaint C2022-005)	
)	
State Ethics Commission)	NOTICE OF HEARING
Complainant.)	
)	
James E. Smith)	
Respondent.)	
_____)	

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 Commission will convene a formal hearing into the matter in accordance with Section 8-13-320(10)(i) & (j), Code of Laws, South Carolina, 1976, as amended, and State Ethics Commission Regulations, S.C. Code Ann. Regs. 52-707 (1997 Cum. Supp.) on Thursday, August 15, 2024 at 9:30 a.m. at the Commission Hearing Room located at: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210.

The following allegations will be heard:

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

That James E. Smith, Marlboro County School District Trustee, did in Richland County, fail to file a 2018 Pre-Election Campaign Disclosure Report (CDR), in violation of Section 8-13-1308(A).

COUNT TWO
FAILURE TO FILE A CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That James E. Smith, Marlboro County School District Trustee, did in Richland County,

fail to file a 2018 Quarter 2 CDR, in violation of Section 8-13-1308(B).

COUNT THREE
F FAILURE TO FILE A CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That James E. Smith, Marlboro County School District Trustee, did in Richland County,
fail to file a 2018 Quarter 4 CDR, in violation of Section 8-13-1308(B).

COUNT FOUR
F FAILURE TO FILE A CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That James E. Smith, Marlboro County School District Trustee, did in Richland County,
fail to file a 2019 Quarter 1 CDR, in violation of Section 8-13-1308(B).

COUNT FIVE
FAILURE TO USE CAMPAIGN BANK ACCOUNT FOR EXPENDITURE
SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED

That James E. Smith, Marlboro County School District Trustee, did in Richland County,
fail to make a June 28, 2018 expenditure to Walmart in the amount of \$24.29 through his campaign
bank account, in violation of Section 8-13-1312.

COUNT SIX
FAILURE TO USE CAMPAIGN BANK ACCOUNT FOR EXPENDITURE
SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED

That James E. Smith, Marlboro County School District Trustee, did in Richland County,
fail to make a June 28, 2018 expenditure to Sam's Club in the amount of \$13.00 through his
campaign bank account, in violation of Section 8-13-1312.

COUNT SEVEN
FAILURE TO USE CAMPAIGN BANK ACCOUNT FOR EXPENDITURE
SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED

That James E. Smith, Marlboro County School District Trustee, did in Richland County,
fail to make a June 29, 2019 expenditure to Quill Corporation in the amount of \$125.00 through

his campaign bank account, in violation of Section 8-13-1312.

COUNT EIGHT
FAILURE TO USE CAMPAIGN BANK ACCOUNT FOR EXPENDITURE
SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED

That James E. Smith, Marlboro County School District Trustee, did in Richland County, fail to make a September 10, 2018 expenditure to Rufus McCollum in the amount of \$50.00 through his campaign bank account, in violation of Section 8-13-1312.

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 16th day,
of November 2023.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on the RESPONDENT James E. Smith, 307 King Street, Bennettsville, SC 29512 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 21st day of November 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

Columbia, South Carolina

(803) 253-4192

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 IN THE MATTER OF:)
 COMPLAINT C2022-005)
)
 State Ethics Commission,)
 Complainant,)
)
 James E. Smith,)
 Respondent.)
 _____)

BEFORE THE STATE ETHICS COMMISSION

CONSENT ORDER

This matter comes before the State Ethics Commission (Commission) by way of a Complaint filed on January 11, 2022. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against James E. Smith (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 was a successful candidate for Marlboro County School Board in a November 6, 2018 election.
2. On October 10, 2018, Respondent filed a 2018 Quarter 3 Campaign Disclosure Report (CDR) disclosing \$698.96 in on-hand contributions. Respondent thereafter failed to file any additional CDRs.
3. In a March 17, 2021 certified letter, the Commission notified Respondent of his failure to file any additional CDRs.
4. According to the United States Postal Service (USPS), the certified letter was delivered to Respondent's address of record on March 19, 2021 at 10:16 a.m.
5. On March 22, 2021, Respondent contacted Commission staff and attempted to come into

compliance.

6. On March 29, 2021, late-filing penalties began to accrue at \$10 per day per report.
7. On March 30, 2021, Respondent again contacted Commission staff and attempted to come into compliance.
8. On April 8, 2021, late-filing penalties began to accrue at \$100 per day per report.
9. Following the filing of the Complaint, Respondent advised a Commission investigator that he failed to use a campaign bank account to make four (4) campaign-related expenditures totaling \$212.29.
10. Based on a review of Respondent's campaign bank account records, Respondent's campaign bank account reached a zero balance on November 23, 2018, thereafter making the 2019 Quarter 1 CDR his last required CDR.
11. Following additional conversations with Commission staff and a review of his campaign bank account statements, Respondent filed the requisite CDRs and is now in compliance.

CONCLUSIONS OF LAW

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

1. At all times relevant, Respondent was a "candidate" pursuant to Section 8-13-1300(4) of the Ethics Act. Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-1308(B) provides, in relevant part:

Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election until the campaign account undergoes final disbursement pursuant to the provisions of Section 8-13-1370.

3. Section 8-13-1312 provides, in relevant part:

... expenses paid on behalf of a candidate or committee must be drawn from the campaign account and issued on a check signed by the candidate or a duly authorized officer of a committee . . .

4. Section 8-13-1510(A) provides:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows: (1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and (2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

5. Section 8-13-320(10)(l) allows the Commission to issue a civil penalty of up to \$2,000 for each violation of the Ethics Act.

6. Section 8-13-130 allows the Commission to “levy an enforcement or administrative fee on a person who is in violation” of the Ethics Act.

DISCUSSION

The Commission found probable cause to charge Respondent with three (3) counts of violating Section 8-13-1308(B) for failing to file a 2018 Quarter 2 CDR, a 2018 Quarter 4 CDR, and a 2019 Quarter 1 CDR and four (4) counts of violating Section 8-13-1312 for failing to use a campaign bank account.¹ Through this Consent Order, Respondent acknowledges he violated the Ethics Act when he failed to timely file these CDRs and use a campaign bank account. In mitigation, Respondent asserts he was confused about how to properly file his reports. Respondent

¹ The Commission also found probable cause to believe Respondent violated Section 8-13-1308(D) when he failed to timely file a 2018 Pre-Election CDR. However, following the filing of the Complaint, Commission staff discovered this failure to file was handled through the Commission’s normal non-compliance process and, therefore, should not have been included herein.

states he attempted to comply with disclosure requirements before the Complaint was filed, but he ultimately filed his CDRs incorrectly. Respondent states he believed his filings were corrected after a conversation with Commission staff in 2021.

DISPOSITION

1. The Commission hereby finds Respondent in violation of three (3) counts of Section 8-13-1308(B) and four (4) counts of Section 8-13-1312.
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 a Public Reprimand and orders the Respondent to pay the Commission, within six (6) months from receipt of this Order, a reduced late-filing penalty of \$300.00 for his violations of Section 8-13-1308, a reduced civil penalty of \$200.00 for failing to use a campaign bank account, and an administrative fee of \$300.00, for a total of \$800.00.

By executing this Consent Order, Respondent understands that he is not only admitting to violations of the Ethics Act, but also confessing to a judgment of \$800.00 (less any money paid to the Commission) in the event he does not make full and timely payment as provided for in this Order. In that event, the Commission shall file a Judgment against Respondent in the Clerk of Court's Office in the County of Respondent's last known residence. Upon said filing, the Clerk of Court shall enter this Order in the amount of \$800.00 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

AND IT IS SO ORDERED THIS 30th DAY OF March 2024.

STATE ETHICS COMMISSION


SCOTT E. FRICK, CHAIR


JAMES E. SMITH
RESPONDENT