

STATE OF SOUTH CAROLINA
STATE ETHICS COMMISSION

STATE ETHICS COMMISSION
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FOR COMMISSION USE ONLY:
CASE NUMBER
C 2023-035

COMPLAINT FORM

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

RESPONDENT: Kimberly M. Banks
ADDRESS: [REDACTED]
TELEPHONE NUMBER: [REDACTED]
TITLE: Candidate - City of Fountain Inn Mayor

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 an Initial Campaign Disclosure was due no later than March 29, 2019, and a Pre-Election Campaign Disclosure was due between October 16, 2019 and October 21, 2019. In addition, a quarterly Campaign Disclosure was due no later than July 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, January 10, 2022, April 10, 2022, July 10, 2022, October 10, 2022, and January 10, 2023. Respondent was sent an email reminder thirty days before each Campaign Disclosure deadline from July 2019 through October 2021 and was sent an email reminder thirty days before and ten days before each Campaign Disclosure deadline after October 2021.

Respondent was reminded of the filing requirements by letters dated October 3, 2022 and November 9, 2022 as described in the attached. To date, a properly completed Initial, Pre-Election, Quarter 2 2019, Quarter 4 2019, Quarter 1 2020, Quarter 2 2020, Quarter 3 2020, Quarter 4 2020, Quarter 1 2021, Quarter 2 2021, Quarter 3 2021, Quarter 4 2021, Quarter 1 2022, Quarter 2 2022, Quarter 3 2022, and Quarter 4 2022 Campaign Disclosure have not been received. All in violation of Section 8-13-1308(A), Section 8-13-1308(B), Section 8-13-1308 (D)(1), and Section 8-13-1308 (F), S.C. Code Ann., 1976, as amended.

If there is a finding of probable cause, the following documents become public record: the complaint, the response (if any) by respondent, and the notice of hearing. If a hearing is to be held, the final order and all exhibits become public record. If no hearing is held following a finding of probable cause, the final disposition of the matter becomes public record.

STATE OF SOUTH CAROLINA
COUNTY OF Richland

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

Sworn to and subscribed before me this 20th day of March, 2023

[REDACTED]
Meghan L. Walker, Executive Director

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

SEC-7 (Revised 3/2022)

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

STATE OF SOUTH CAROLINA)	
COUNTY OF RICHLAND)	BEFORE THE STATE ETHICS COMMISSION
)	
IN THE MATTER OF:)	
)	
Complaint C2023-035)	
)	
State Ethics Commission)	NOTICE OF HEARING
Complainant.)	
)	
Kimberly M. Banks)	
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, April 17, 2025 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 AN INITIAL CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(A), S.C. CODE ANN., 1976, AS AMENDED

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file a 2019 Initial Campaign Disclosure Report (CDR), in violation of Section 8-13-1308(A).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland

County, fail to file 2019 Quarter 1 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2019 Quarter 2 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2019 Quarter 3/Pre-Election CDR, in violation of Section 8-13-1308(D)(1).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2019 Quarter 4 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2020 Quarter 1 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2020 Quarter 2 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2020 Quarter 3 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2020 Quarter 4 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2021 Quarter 1 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2021 Quarter 2 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to file 2021 Quarter 3 CDR, in violation of Section 8-13-1308(B).

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

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland

County, fail to file 2021 Quarter 4/Final CDR, in violation of Section 8-13-1308(B).

COUNT FOURTEEN
FAILURE TO MAKE EXPENDITURE FROM CAMPAIGN BANK ACCOUNT
SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to make two (2) expenditures through her campaign bank account: (1) to Sweetgrass Restaurant in the amount of \$13.12 and (2) a cash withdrawal in the amount of \$37.47, in violation of Section 8-13-1312.

COUNT FIFTEEN
FAILURE TO MAINTAIN RECORDS
SECTION 8-13-1302(A)(4), S.C. CODE ANN., 1976, AS AMENDED

That Kimberly N. Banks, candidate for mayor of City of Fountain Inn, did in Richland County, fail to maintain records related to a cash withdrawal in the amount of \$37.47, in violation of Section 8-13-1302(A)(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 25th day,
of November 2024.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on the RESPONDENT Kimberly M. Banks, 414 Ross Acres Road, Gray Court, SC 29645 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 09th day of December 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
State Ethics Commission (803) 253-4192

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2023-034)
State Ethics Commission,)
Complainant,)
Kimberly M. Banks,)
Respondent.)

BEFORE THE STATE ETHICS COMMISSION

CONSENT ORDER

This matter comes before the State Ethics Commission (Commission) by way of a Complaint filed on March 20, 2023. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against Kimberly M. Banks (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 an unsuccessful candidate for Mayor of the City of Fountain Inn in a November 5, 2019 election.
2. Respondent failed to file a Pre-Election Campaign Disclosure Report (CDR) prior the November 5, 2019 election.
3. In an October 3, 2022 certified penalty letter¹, the Commission attempted to notify Respondent of her failure to file a 2019 Initial CDR, a 2019 Quarter 2 CDR, a 2019 Pre-Election CDR, and 2020 Quarter 1 through 2022 Quarter 2 CDRs.²

¹ The certified letter was mailed to 703 Sugar Maple Court, Fountain Inn, SC, which is the address Respondent provided in the Commission’s legacy system and on her Statement of Intention of Candidacy.

² In the Commission’s legacy system, Respondent had 2019 Initial CDR with a “saved, not filed” status, disclosing a positive balance of on-hand campaign contributions which gave the Commission cause to believe Respondent was required to file additional CDRs.

4. On November 8, 2022, the certified letter was returned as “Return to Sender – Unclaimed.”
5. On November 9, 2022, the October 3, 2022 penalty letter was mailed to Respondent via first-class mail with a United States Postal Service (USPS) tracking number.
6. According to the USPS, the penalty letter was delivered on November 12, 2022 at 4:24 p.m.
7. After to response, the Commission filed the Complaint on Mach 20, 2023.
8. Following the filing of the Complaint, the Commission’s investigation revealed that Respondent’s campaign bank account was opened January 18, 2019 and sat dormant following her 2019 election.³ The investigation further revealed that Respondent closed her campaign bank account on October 1, 2021 with a \$37.47 cash withdrawal, making her last required report a 2021 Quarter 4 CDR. Respondent did maintain records regarding the \$37.47 withdrawal.
9. On November 14, 2024, following contact from a Commission Investigator, Respondent came into compliance by filing all required CDRs with assistance from Commission staff.

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).
Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-1308 provides, in relevant part:
 - (A) Upon receipt or expenditure of campaign contributions or the making of independent expenditures totaling an accumulated aggregate of five hundred dollars or more, a candidate . . . must file an initial certified campaign report within ten days of these initial receipts or expenditures. However, a candidate who does not receive or expend campaign contributions totaling an accumulated aggregate of five hundred dollars or more must file an initial certified campaign report fifteen days before an election.

³ The Commission’s consideration is limited to its four-year statute of limitation. Therefore, any activity occurring prior to March 20, 2019 is not considered herein.

JM#2

(B) 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.

...

(D)(1) At least fifteen days before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate for the period ending twenty days before the election.

3. Section 8-13-1362(A) provides:

If a candidate or committee has not accepted any contributions and has not made any expenditures during a reporting period, the candidate or a duly authorized officer of the committee must file a statement of inactivity.

4. Regulation 52-504(C) provides:

Statement of Inactivity. The pre-election report and each quarterly report are required even when there have been no contributions or expenditures.

5. Section 8-13-1302(A) provides, in relevant part:

(A) A candidate, committee, or ballot measure committee must maintain and preserve an account of:

...

(4) the name and address of each person to whom an expenditure is made including the date, amount, purpose, and beneficiary of the expenditure;

...

(B) The candidate, committee, or ballot measure committee must maintain and preserve all receipted bills and accounts required by this article for four years.

6. Section 8-13-1510(A) provides, in relevant part:

... a person required to file a report or statement under this chapter who files a late 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

JKB #3

five thousand dollars.

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

DISCUSSION

The Commission found probable cause to charge Respondent with one (1) count of violating Section 8-13-1308(A) for failing to file a 2019 Initial CDR; one (1) count of violating Section 8-13-1308(D) for failing to file a 2019 Pre-Election CDR; eleven (11) counts of violating Section 8-13-1308(B) for failing to file CDRs for 2019 Quarter 1, 2019 Quarter 2, and 2019 Quarter 4 through 2021 Quarter 4/Final; one (1) count of violating Section 8-13-1312 for failing to process two (2) campaign related expenditures through the campaign bank account; and one (1) count of violating Section 8-13-1302 for failing to maintain records for the October 1, 2021 cash withdrawal.⁴ Through this Consent Order, Respondent admits she violated the Ethics Act as described herein. In mitigation, Respondent states the following:

After not winning the race in Fountain Inn, my father in law moved in with us and had terminal cancer, he passed away in February 2020 and shortly afterwards in May 2020, my husband and I moved . . .

I had no idea that I had outstanding reports to file with the SC. To my knowledge, everything was completed and I had moved on until I received a telephone call from Investigator Caldwell in the Summer of 2023. As soon as I realized that I had an issue, I have worked with Investigator Caldwell to the best of my ability to get everything in order and completed in a timely matter. I have climbed thru [sic] my attic looking for any and all information that I could provide to clear this matter. . . .

⁴ The Commission also found probable cause to charge Respondent with twelve (12) counts of violating Section 8-13-1308(F) for failing to report four (4) campaign contributions and eight (8) campaign expenditures. However, as Respondent has since disclosed the contributions and expenditures, the Commission declines to proceed on these counts.

JMB # 4

Respondent further stated that she believed she filed the 2019 Initial CDR in the Commission's legacy system. The Commission acknowledges that receipt of the penalty letters was not accompanied by a return receipt containing Respondent's signature.

DISPOSITION

1. The Commission finds Respondent in violation of one (1) count of 8-13-1308(A), one (1) count of 8-13-1308(D), eleven (11) counts of 8-13-1308(B), one (1) count of 8-13-1312, and one (1) count of 8-13-1302.
2. The Commission adopts the Statements of Fact, Conclusions of Law, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the Commission hereby issues this Public Reprimand and orders Respondent to pay the Commission, within one (1) year from receipt of this Order, a reduced late-filing penalty of \$700.00 (\$100.00 for the Pre-Election CDR and \$50.00 each for the remaining CDRs) and an administrative fee of \$500.00, for a total of \$1,200.00. The Commission believes the reduction of late-filing penalties with regard to the CDRs is warranted given the near dormancy of Respondent's campaign bank account following her 2019 election.

The Commission further orders Respondent to pay \$37.47 to the Children's Trust Fund and to provide proof of such payment to Commission within one (1) year from receipt of this Order. The Commission declines to assess a civil penalty for the violations of Section 8-13-1312 and Section 8-13-1302 provided Respondent remits the \$37.47 as described herein. Should the Respondent fail to remit the \$37.47 to the Children's Trust Fund as described herein, the Commission shall assess a civil penalty of \$2,000.00.

By executing this Consent Order, Respondent understands that she is confessing to a judgment of \$3,200.00 in the event she does not make payment as provided for in this Order, in

JAF #5

which case the Commission shall file a Judgment against Respondent with the County Clerk of Court in Respondent's last known County of residence, who shall enter this Order in the amount of \$3,200.00 (less any money paid) in its Judgment Rolls, without cost to the Commission.

AND IT IS SO ORDERED THIS 26th DAY OF March 2025.

STATE ETHICS COMMISSION


F. XAVIER STARKES, CHAIR

DocuSigned by:
Kimberly Banks
CD4277215CBA400...

KIMBERLY M. BANKS
RESPONDENT