

STATE OF SOUTH CAROLINA STATE ETHICS COMMISSION

FOR COMMISSION USE ONLY:
CASE NUMBER
C 2023-105

COMPLAINT FORM

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

RESPONDENT: James C. Kesler
ADDRESS: [REDACTED]
TELEPHONE NUMBER: [REDACTED]
TITLE: Trustee – John De La Howe School

Section 8-13-1120, SC Code Ann., 1976, as amended, requires disclosure of the source, type, and amount of income from a governmental entity and a listing of the private source and type of any income received by the filer or a member of the filer's immediate family during the reporting period. In addition, the identity of every business or entity in which the filer or a member of the filer's immediate family held or controlled, in the aggregate, securities or interests constituting five percent or more of the total issued and outstanding securities and interests which constitute a value of one hundred thousand dollars or more must be reported. Respondent failed to report income and business interests on the 2020 and 2021 Statement of Economic Interests.

Respondent was reminded of the filing requirement by a letter dated May 5, 2023 as described in the attached. To date, a properly amended 2020 and 2021 Statement of Economic Interests have not been received. All in violation of Section 8-13-1120, SC Code Ann., 1976, as amended.

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

STATE OF SOUTH CAROLINA
COUNTY OF Richland

Personally appeared before me Meghan Walker Dayson 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 25th day of August, 2023

[REDACTED]

Meghan Walker Dayson, 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 C2023-105)
)
State Ethics Commission) **NOTICE OF HEARING**
Complainant.)
)
James C. Kesler)
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 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 April 18, 2024 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 REPORT INCOME ON STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1120 S.C. CODE ANN., 1976, AS AMENDED

That James C. Kesler, John De La Howe Trustee, did in Richland County, fail to report Respondent's income on his 2020 Statement of Economic Interests (SEI), in violation of Section 8-13-1120.

COUNT TWO
FAILURE TO REPORT INCOME ON STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1120 S.C. CODE ANN., 1976, AS AMENDED

That James C. Kesler, John De La Howe Trustee, did in Richland County, fail to report

Respondent's income on his 2021 SEI, in violation of Section 8-13-1120.

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 22nd day,
of January 2024.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on RESPONDENT James C. Kesler, 1970 Trinity Church Road, Newberry, SC 29108 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 20th day of January 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 C2023-105)
))
) State Ethics Commission,)
) Complainant,)
))
) James C. Kesler)
) Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

CONSENT ORDER

This matter comes before the State Ethics Commission (Commission) by way of a Complaint filed on August 23, 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 James C. Kesler (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 entry of the following:

STATEMENTS OF FACT

1. Respondent has served on the John de la Howe Board of Trustees since 2018.
2. On January 21, 2020, Respondent timely filed his 2020 Statement of Economic Interests (SEI), failing to disclose any source of income. Respondent submitted an amended filing on February 11, 2021 but still failed to disclose any source of income.
3. Respondent timely filed his 2021 SEI on February 11, 2021, but he failed to disclose his family member's government income.
4. In a March 5, 2023 letter, the Commission notified Respondent of his failure to properly report sources of income on his 2020 and 2021 SEIs.¹
5. On June 7, 2023, a Commission staff member attempted to telephone Respondent regarding the

¹ The March 5, 2023 letter, and subsequent Complaint, also referenced Respondent's failure to report private sources of income pursuant to Section 8-13-1120(A)(10). The Commission investigation did not reveal that Respondent received income from his business, Trinity Farms. However, at the recommendation of Commission staff, Respondent updated his SEIs to disclose his ownership interest in the business.

letter, but his phone number was disconnected. The staff member followed up with an email to Respondent's email address of record.

6. On June 27, 2023, Respondent responded to the staff member's email with his updated telephone number and indicated he would amend his filings after receiving the information needed to update his SEIs.
7. On August 1, 2023, a staff member sent a second email to Respondent before contacting him by telephone. During the call, Respondent stated he would amend his SEIs to disclose government income by the following week.
8. After no response, the Complaint was filed on August 23, 2023.
9. On September 20, 2023, Respondent received a copy of the Complaint via email after speaking with Commission staff.
10. On September 28, 2023, Respondent spoke with a Commission investigator regarding his unamended filings. After admitting fault in his failure to comply with the Ethics Act, Respondent scheduled a meeting with Commission staff to amend his SEIs.
11. On September 29, 2023, Respondent amended his 2020 and 2021 SEIs with help from Commission staff. Respondent 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 public member pursuant to Section 8-13-100(26).
Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-1120(A)(2) of the Act requires public officials to report, in part:

the source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or a member of the filer's immediate family during the reporting period.
3. Section 8-13-320(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.

4. 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 two (2) counts of violating Section 8-13-1120 for failing to report sources of government income on his 2020 and 2021 SEIs. Through this Consent Order, Respondent admits he failed to disclose government income on his 2020 and 2021 SEIs. In mitigation, Respondent asserts he did not immediately update his SEIs after receiving the Commission’s communications because he could not access his account. He asserts the filing method confused him, and he grew frustrated when the system refused to accept his login information. Respondent states he remained confused when trying to navigate the filing system until finally receiving help from Commission staff.

DISPOSITION

1. The Commission finds Respondent in violation of two (2) counts of 8-13-1120.
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 written warning to Respondent, and orders Respondent to pay the Commission, within one (1) year from receipt of this Order, a civil penalty of \$500 and an administrative fee of \$300, for a total of \$800.

By executing this Consent Order, Respondent understands that he is not only admitting to a violation of the Ethics Act, but also confessing to a judgment of \$800 in the event he does not make payment as provided for in this Order, in 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 \$800 (less any money paid) in its Judgment Rolls, without cost

to the Commission.

AND IT IS SO ORDERED THIS 3rd DAY OF May 2024.

STATE ETHICS COMMISSION


SCOTT E. FRICK, CHAIR


JAMES C. KESLER
RESPONDENT