

STATE OF SOUTH CAROLINA  
STATE ETHICS COMMISSION

FOR COMMISSION USE ONLY:

CASE NUMBER

c 2023-117

COMPLAINT FORM

COMPLAINANT: Shawn Simmons  
ADDRESS: 445 SARDIS Church RD  
TELEPHONE NUMBER: Swansea SC 29160  
TITLE: 803 923-2234

RESPONDENT: Henry Summers  
ADDRESS: [REDACTED]  
TELEPHONE NUMBER: [REDACTED]  
TITLE: Public Works Director

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).

VIDEO & Photo Evidence

Mr Summers was caught by me using County Equipment at his Residence During work Hours building an asphalt milling Driveway & Pad for a shop. using County Employees & materials payed for by Orangeburg County Tax Payers I Reported it Directly to Harold Young, he gave him a little Slap on the wrist Just to make like he was punish There are also photos of his personal vehicle in a county shop Having the engine Replaced by County mechanics on County Time.

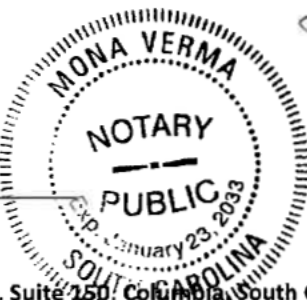
If there is a finding of probable cause, the following documents become public record: the complaint, the response (if any) by respondent, and the notice of hearing. If a hearing is to be held, the final order and all exhibits become public record. If no hearing is held following a finding of probable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

STATE OF SOUTH CAROLINA  
COUNTY OF Richland

Personally appeared before me Shawn M Simmons 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 fifth day of September 2023

Notary Public for South Carolina  
My Commission expires Jan 23, 2033



[REDACTED SIGNATURE]  
Complainant Signature

SEC-7 (Revised 3/2022)

REPLY TO: 201 Executive Center Drive, Suite 250, 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 C2023-117 )

Shawn Simmons )  
Complainant. )

Henry Summers )  
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 17, 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 allegation will be heard:

**COUNT ONE**  
**USE OF OFFICIAL POSITION TO OBTAIN ECONOMIC INTEREST**  
**SECTION 8-13-700(A), S. C. CODE ANNOTATED, 1976, AS AMENDED**

That Henry Summers, Orangeburg County Public Services Director, did in Richland County, knowingly use his official position to obtain an economic interest for himself by utilizing county equipment and materials for work on his private property, in violation of Section 8-13-700(A).

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 20<sup>th</sup> day,  
of May 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 Michael P. Horger, 160 Centre Street, Orangeburg, SC 29115 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 25<sup>th</sup> day of May 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

Columbia, South Carolina

(803) 253-4192

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
IN THE MATTER OF: )  
COMPLAINT C2023-117 )  
Shawn Simmons, )  
Complainant, )  
Henry Summers, )  
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 15, 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 Henry Summers (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. At all times relevant, Respondent was employed by Orangeburg County (County) as the Public Services Director and resided on Banbury Drive in Orangeburg, SC.
2. In 2023, Respondent was advised that the County would be paving Banbury Drive, which was then a dirt/gravel road.
3. Shortly after the County completed the paving work, Respondent’s driveway began to flood due to improper paving.
4. Respondent thereafter asked County employees to bring County equipment and materials to his residence during normal business hours. Using these materials and the equipment, Respondent personally corrected the improper paving to his driveway. Other than delivering and picking up the equipment, County employees did not participate in this work.
5. Following receipt of a complaint from a former County employee, the County conducted an investigation, found Respondent in violation of County policy, and suspended Respondent without

pay for five (5) days.

6. During the Commission's investigation, a Commission Investigator interviewed County Administrator Harold Young about the proper procedure for having the County repair improperly paved roads. According to Young, if a resident had an issue with the County's paving, Respondent (as Public Services Director) would assess the property, determine what repairs were necessary, and order County employees to make repairs or perform repaving.
7. During the Commission's investigation, a Commission Investigator interviewed Respondent. According to the Respondent, he estimated that the repairs to his driveway would have cost the County around \$35,000. However, Respondent opined that by performing the work himself, he saved the County many thousands of dollars. Commission Investigators confirmed with the County Administrator that Respondent's actions saved the County money and that the County Administrator would have authorized the work to be done.

### **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 employee, as defined by Section 8-13-100(25). The Commission therefore has personal and subject matter jurisdiction.
2. Section 8-13-700 provides, in relevant part:
  - (A) No [public employee] may knowingly use his [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 [public employee's] use that does not result in additional public expense.
  - (B) No [public employee] may make, participate in making, or in any way attempt to use his [public 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 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:

(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;

....

(3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest . . .

3. 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.”
4. Section 8-13-320(10)(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 one (1) count of violating Section 8-13-700 for using his public position to utilize County equipment and materials to work on his private property. Through this Consent Order, Respondent acknowledges that he violated the Ethics Act in this regard. The Commission finds, and Respondent agrees, that Section 8-13-700 required him to contact the County Administrator regarding any necessary repairs to his property and that the County Administrator should have then been responsible for making (or delegating to another employee) decisions regarding Respondent’s property.

In mitigation, Respondent states that it was not his intention to violate the Ethics Act or any County policy. Respondent further states that he believed he was acting appropriately because he was saving the County money by doing the work himself. Finally, Respondent states that he has been reprimanded by the County and suspended for five (5) days without pay.

**DISPOSITION**

1. The Commission hereby finds Respondent in violation of one (1) count of Section 8-13-700.
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 violation of the Ethics Act. The Commission declines to assess any additional penalties in this matter given that Respondent was suspended from his employment for five (5) days without pay.

AND IT IS ORDERED THIS 18<sup>th</sup> DAY OF December, 2024.

STATE ETHICS COMMISSION

  
SCOTT E. FRICK, CHAIR

  
HENRY SUMMERS  
RESPONDENT

  
MICHAEL P. HORGER  
RESPONDENT'S ATTORNEY