

STATE OF SOUTH CAROLINA  
STATE ETHICS COMMISSION

FOR COMMISSION USE ONLY:  
CASE NUMBER

C 2024-046

COMPLAINT FORM

COMPLAINANT: Debbie Heim

RESPONDENT: Gavin Smith

ADDRESS: [REDACTED]

ADDRESS: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

TITLE: TITLE: Town of Lexington Council Member

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).

At the Town of Lexington Council Work Session on June 17, 2024, Council Member Gavin Smith made the following statements:

“All I ask is, I ask that you go out and vote on Tuesday, June 25th for Senator Shealy.” (21:05)

“I ask that you consider voting for her.” (21:13)

“I highly and humbly ask you to please support her on June 25th.” (21:23)

This meeting is posted on the Town of Lexington’s YouTube page. The specific video is titled “Council Work Session – June 17, 2024” and Council Member Gavin Smith addresses the June 25th runoff election beginning at minute mark (18:35) and ending at (21:37). The timestamps for his comments are noted above.

The following day, on June 18, 2024, I saw Gavin Smith at the Town of Lexington’s press conference. Before the press conference began, which included Katrina Shealy, I asked Mr. Smith about his comments regarding Katrina Shealy from the previous night at the town council meeting. He said he consulted the town attorney and was advised that there were no ethics concerns. I asked if he read the state ethics law, to which he said he did and that I was talking down to him. I asked if he had read the law because, as I told him, I would not have had to consult with the town attorney if I had read the law because it is clear. Why would Gavin Smith consult with an attorney if he wasn't concerned with violating the SC Ethics Act? Gavin Smith's use of public property and time to influence an election were thoughtful, deliberate, and a violation of S.C. Code of Laws Section 8-13-1346.

I have included Section 8, Chapter 13 as an attachment for reference.

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 Lexington

Personally appeared before me Deborah Heim 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  
24 day of June, 2024

[REDACTED]

Notary Public for South Carolina  
My Commission expires 05/17/2028



[REDACTED]

Complainant Signature

SEC-7 (Revised 3/2022)

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

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**SECTION 8-13-1346. Use of public funds, property, or time to influence election prohibited; exceptions.**

(A) A person may not use or authorize the use of public funds, property, or time to influence the outcome of an election.

(B) This section does not prohibit the incidental use of time and materials for preparation of a newsletter reporting activities of the body of which a public official is a member.

(C) This section does not prohibit the expenditure of public resources by a governmental entity to prepare informational materials, conduct public meetings, or respond to news media or citizens' inquiries concerning a ballot measure affecting that governmental entity; however, a governmental entity may not use public funds, property, or time in an attempt to influence the outcome of a ballot measure.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Section 42, eff upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

**SECTION 8-13-1300. Definitions.**

(31) "Influence the outcome of an elective office" means:

(a) expressly advocating the election or defeat of a clearly identified candidate using words including or substantially similar to "vote for", "elect", "cast your ballot for", "Smith for Governor", "vote against", "defeat", or "reject";

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
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IN THE MATTER OF: )  
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Complaint C2024-046 )  
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)  
Debbie Heim )  
Complainant. )  
)  
Gavin Smith )  
Respondent. )  
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BEFORE THE STATE ETHICS COMMISSION

**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, April 17, 2025 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 PUBLIC RESOURCES TO INFLUENCE AN ELECTION**  
**SECTION 8-13-1346, S.C. CODE ANN., 1976, AS AMENDED**

That Gavin J. Smith, Town of Lexington Council Member, did in Richland County, use public time at the July 17, 2024 Lexington Town Council meeting to influence the outcome of a June 25, 2024 primary run-off election, in violation of Section 8-13-1346.

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.

  
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Meghan Walker Dayson, Executive Director  
State Ethics Commission

Dated this 19 day,  
of September 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 John R. Alphin, 6923 N. Trenholm Road, Columbia, SC 29206 by depositing said **NOTICE OF HEARING** in the United States mail, 304 Jersey Street, Laurens, South Carolina 29360 on this 23rd day of September 2024, by CERTIFIED MAIL, E-RETURN RECEIPT REQUESTED, appropriate postage affixed, and a return address clearly indicated on said envelope.

[REDACTED]

**Rachael O'Bryan, Administrative Assistant**  
State Ethics Commission

Columbia, South Carolina

(803) 253-4192

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BEFORE THE STATE ETHICS COMMISSION

**CONSENT ORDER**

This matter comes before the State Ethics Commission (Commission) by way of a Complaint filed on June 24, 2024. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against Gavin 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. At all relevant times, Respondent was a member of Lexington Town Council (Council).
2. During a June 17, 2024 Council meeting, Respondent raised a point of personal privilege and stated, in relevant part, as follows:

... we have an important election coming up on June 25th . . . Katrina [Shealy] is running for re-election in Senate District 23 and Katrina Shealy is someone that I believe all of you should take a hard look at. When you think about Katrina Shealy, you don't think about a politician who is all talk and no action and makes you false promises, you think about someone who produces real results . . . Katrina has secured crucial funding to help ensure the safety of our officers and their families while keeping criminals, including illegal immigrants, off our streets. She's tough on crime and illegal immigration. She advocates for children and family and that has earned her the distinction of 'the Senator for the Kids.' She delivers for taxpayers. She recently fought for the historic, largest [] tax cut in state history amounting to 2 billion dollars. That directly helps families in our towns . . . Katrina has secured millions for Lexington roads, including the Highway 1 from Lexington to Batesburg widening and resurfacing project . . . I ask that you go out and vote on Tuesday, June 25th for Senator Shealy. I ask that you consider voting for her. Do your research. She is a great woman. I would not normally take this moment of personal privilege to say that, but she is someone that I've known for a long time, and I highly and humbly ask you to please support her on June 25th ...

3. The Complaint alleged Respondent violated the Ethics Act by using the Council meeting to

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influence the outcome of an election when he advocated for the election of a particular candidate.

4. The Commission's investigation revealed Respondent sought the advice of Brad Cunningham, the Town's attorney, prior to making the aforesaid comments. More specifically, Respondent informed Cunningham via text message that he wanted to "encourage people to vote for [Shealy], and make a case for why she's so important to our community" during Councilmember's closing statements. Cunningham responded, "I don't think that violates any laws."

#### **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 official" pursuant to Section 8-13-1300(28). Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-1346(A) provides that a "person may not use or authorize the use of public funds, property, or time to influence the outcome of an election."
3. Section 8-13-320 allows the Commission to assess a civil penalty of no more than \$2,000.00 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 one (1) count of violating Section 8-13-1346 for using public resources to influence the outcome of an election by encouraging citizens to vote for a particular candidate during a June 17, 2024 Council meeting. Through this Consent Order, Respondent admits he violated the Ethics Act as described herein. In mitigation, Respondent states that he sought the advice of Cunningham prior to making the comments and was advised that the comments were permissible. Respondent further states it was not his intent to violate the Ethics Act.

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**DISPOSITION**

1. The Commission finds Respondent in violation of one (1) count of Section 8-13-1346.
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 and orders Respondent to pay the Commission, within ninety (90) days from receipt of this Order, a reduced civil penalty of \$200.00 and an administrative fee of \$400.00, for a total of \$600.00. Given the evidence demonstrating Respondent received improper legal advice regarding his actions, the Commission finds the reduced civil penalty is appropriate.

By executing this Consent Order, Respondent understands that he is confessing to a judgment of \$600.00 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 \$600.00 (less any money paid) in its Judgment Rolls, without cost to the Commission.

AND IT IS SO ORDERED THIS 12 DAY OF March 2025.

STATE ETHICS COMMISSION

  
F. XAVIER STARKES, CHAIR

  
GAVIN SMITH  
RESPONDENT

  
JOHN R. ALPHIN  
RESPONDENT'S ATTORNEY