

**STATE OF SOUTH CAROLINA
STATE ETHICS COMMISSION**

FOR COMMISSION USE ONLY:

CASE NUMBER

C 2020-049

COMPLAINT FORM

COMPLAINANT: State Ethics Commission
ADDRESS: 201 Executive Center Drive
Suite 150
Columbia, SC 29210

RESPONDENT: Joe Guess, Jr.

ADDRESS: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

TELEPHONE NUMBER: (803) 253-4192

TITLE: Councilmember – Bamberg County

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. Records of the State Ethics Commission indicate that a Pre-Election Campaign Disclosure was due between October 19, 2016 and October 24, 2016. Respondent was sent an email reminder thirty days before the Pre-Election Campaign Disclosure deadline.

Section 8-13-1140, SC Code Ann., 1976, as amended, requires the filing of an updated Statement of Economic Interests for the previous calendar year annually prior to March 30. Records in the State Ethics Commission indicate that the Respondent was required to file the 2019 and 2020 Statement of Economic Interests.

Respondent was reminded of the filing requirement by a letter dated May 19, 2020 as described in the attached. To date, no properly completed Pre-Election Campaign Disclosure, 2019 Statement of Economic Interests, or 2020 Statement of Economic Interests have been received. All in violation of Section 8-13-1140, Section 8-13-1308(D)(1), 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

24th day of August, 2020

[REDACTED]
Meghan L. Walker, Executive Director

Notary Public for South Carolina

My Commission expires August 11, 2025

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 C2020-049)

Joe Guess, Jr.)
Respondent.)

State Ethics Commission)
Complainant.)

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, to support the allegations made in the above-captioned complaint. The State Ethics Commission will, therefore, 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 15, 2021 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 FILE A PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(D)(1), S.C. CODE ANN., 1976, AS AMENDED

That Joe Guess, Jr., Bamberg County Councilmember, did in Richland County, fail to timely file a 2016 Pre-Election Campaign Disclosure Report, in violation of Section 8-13-1308(D)(1).

COUNT TWO
FAILURE TO FILE A STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED


That Joe Guess, Jr., Bamberg County Councilmember, did in Richland County, fail to file a 2019 Statement of Economic Interests, in violation of Section 8-13-1140.

COUNT THREE
FAILURE TO FILE A STATEMENT OF ECONOMIC INTERESTS
SECTION 8-13-1140, S.C. CODE ANN., 1976, AS AMENDED

That Joe Guess, Jr., Bamberg County Councilmember, did in Richland County, fail to file a 2020 Statement of Economic Interests, in violation of Section 8-13-1140.

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 L. Walker, Executive Director
State Ethics Commission

Dated this 31 day,
of January 2021.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on the RESPONDENT Joe Guess, Jr., 185 Country Club Rd, Denmark, SC 29042 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 5th day of February 2021, by CERTIFIED MAIL, E-RETURN RECEIPT REQUESTED, appropriate postage affixed and a return address clearly indicated on said envelope.


Richard A. Provencher, Administrative Assistant
State Ethics Commission (803) 253-4192

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2020-049)
State Ethics Commission,)
Complainant,)
Joe Guess, Jr.,)
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 August 21, 2020. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against Joe Guess, Jr. (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. At all times relevant, Respondent served on the Bamberg County Council. Most recently, Respondent was elected to a four-year term on November 8, 2016.
2. Respondent failed to file a Pre-Election Campaign Disclosure Report (CDR) fifteen days before his November 8, 2016 election.
3. Respondent failed to file a Statement of Economic Interests (SEI) on or before March 30, 2019.
4. Respondent failed to file a SEI on or before March 30, 2020.
5. The Commission notified Respondent of his failure to file a 2016 Pre-Election CDR and a 2019 SEI in a certified letter dated May 19, 2020. According to the U.S. Postal Service, the letter was delivered to Respondent's address of record on May 22, 2020 at 8:57 a.m.
6. Penalties began to accrue at \$20 per day (\$10 per report) on June 2, 2020.
7. Penalties began to accrue at \$200 per day (\$100 per report) on June 12, 2020.
8. Respondent came into compliance on December 15, 2020, having accrued the maximum late-

filing penalty of \$5,000 for the 2016 Pre-Election CDR and \$5,000 for the 2019 SEI.¹

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 8-13-100(27).

Therefore, the Commission has personal and subject matter jurisdiction.

2. Section 8-13-1308(A) provides, in relevant part:

. . . 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. Section 8-13-1140 provides, in relevant part:

A person required to file a [SEI] under this chapter annually shall file, pursuant to Section 8-13-365, an updated statement for the previous calendar year, no later than noon on March thirtieth of each calendar year . . .

4. Sections 8-13-130 and 8-13-320(10)(l)(i) allow the Commission to “levy an enforcement or administrative fee on a person who is in violation” of the Act and to require payment of a civil penalty of up to \$2,000 for each violation of the Act.

5. 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 the 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.

DISCUSSION

¹ No late-filing penalties have accrued with regard to the 2020 SEI because Respondent did not

The Commission found probable cause to charge Respondent with one (1) count of violating Section 8-13-1308 for failing to file a Pre-Election CDR fifteen (15) days before his November 8, 2016 election; one (1) count of violating Section 8-13-1140 for failing to timely file a 2019 SEI; and one (1) count of violating Section 8-13-1140 for failing to timely file a 2020 SEI. Through this Consent Order, Respondent acknowledges violating the Ethics Act by failing to timely file these reports. In mitigation, Respondent states he has been undergoing treatment for prostate cancer for the last several years and that it has impacted his ability to deal with his Commission filings. Respondent also asserts that he did not respond to the Commission's June 2020 correspondence because of his medical condition and also because of the COVID-19 pandemic. Respondent further states that his computer crashed around this time, causing him to lose a majority of his personal records.

DISPOSITION

1. The Commission hereby finds Respondent Joe Guess, Jr., in violation of one (1) count of Section 8-13-1308 and two (2) counts of Section 8-13-1140.
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 written warning to Respondent, and orders Respondent to pay the Commission, within sixty (60) days from receipt of this Order, a late-filing penalty of \$200² and an administrative fee of \$250, for a total of \$450.

By executing this Consent Order, Respondent understands that he is not only admitting to violations of the Act, but also confessing to a judgment of \$450 in the event he does not make payment as provided for in this Order, in which case the Commission shall file a Judgment against

receive certified notice of his failure to file a 2020 SEI.

Respondent with the County Clerk of Court in Respondent's last known County of residence, who shall enter this Order in the amount of \$450 (less any money paid) in its Judgment Rolls, without cost to the Commission

AND IT IS SO ORDERED THIS 22 DAY OF April 2021.

STATE ETHICS COMMISSION


CHILDS CANTEY THRASHER, CHAIR


JOE GUESS, JR.
RESPONDENT

² The Commission declines to assess the \$100 late-filing penalty associated with the 2020 SEI.