

STATE OF SOUTH CAROLINA
STATE ETHICS COMMISSION

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STATE ETHICS
COMMISSION

COMPLAINT FORM

FOR COMMISSION USE ONLY:
CASE NUMBER
c 2021-043

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

RESPONDENT: Donnie B. Porth
ADDRESS: [REDACTED]
TELEPHONE NUMBER: [REDACTED]
TITLE: Coroner – Calhoun County

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 thereafter 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.

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 April 4, 2020 and a Pre-Election Campaign Disclosure was due between October 14, 2020 and October 19, 2020. Respondent was sent an email reminder thirty days before the Statement of Economic Interests and Pre-Election Campaign Disclosure deadlines.

Respondent was reminded of the filing requirement by letters dated October 16, 2020 and May 19, 2021 as described in the attached. To date, no properly completed Initial Campaign Disclosure, 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(A), 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 26th day of May 2021

[REDACTED]
Meghan L. Walker, Executive Director

[REDACTED]
Notary Public for South Carolina
My Commission expires 8-11-2025

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 C2021-043)	
)	
Donnie B. Porth)	NOTICE OF HEARING
Respondent.)	
)	
State Ethics Commission)	
Complainant.)	
)	

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 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 21, 2022 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 A STATEMENT OF ECONOMIC INTERESTS REPORT
SECTION 8-13-1140 S.C. CODE ANN., 1976, AS AMENDED

That Donnie B. Porth, Calhoun County Coroner, did in Richland County, fail to timely file a 2019 Statement of Economic Interests report, in violation of Section 8-13-1140.

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

That Donnie B. Porth, Calhoun County Coroner, did in Richland County, fail to timely file a 2020 Statement of Economic Interests report, in violation of Section 8-13-1140.

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

That Donnie B. Porth, Calhoun County Coroner, did in Richland County, fail to file an initial campaign disclosure report for a November 3, 2020 general election, in violation of Section 8-13-1308.

COUNT FOUR
FAILURE TO FILE A PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308 S.C. CODE ANN., 1976, AS AMENDED

That Donnie B. Porth, Calhoun County Coroner, did in Richland County, fail to file an a pre-election campaign disclosure report for a November 3, 2020 general election, in violation of Section 8-13-1308.

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 7^h day,
of October 2021.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on the **RESPONDENT** Donnie B. Porth, 67 Bozard Dr, St. Matthews, SC 29135 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 22nd day of November 2021, 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

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2021-043)
State Ethics Commission,)
Complainant,)
Donnie B. Porth,)
Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

CONSENT ORDER

This matter comes before the State Ethics Commission (Commission) by way of a Complaint filed on May 26, 2021. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against Donnie B. Porth (Respondent) was considered by the Commission and probable cause was found to warrant an evidentiary hearing on two (2) counts of violating Section 8-13-1140 for failure to timely file a 2019 and 2020 Statement of Economic Interests (SEI) and two (2) counts of violating Section 8-13-1308 for failing to timely file a 2020 Initial Campaign Disclosure Report (CDR) and a 2020 Pre-Election CDR. Prior to the call of the case, Respondent agreed to entry of the following:

STATEMENTS OF FACT

1. At all relevant times, Respondent has served as the Calhoun County Coroner. Respondent's most recent election occurred on November 3, 2020.
2. On March 4, 2019, Respondent filed a 2018 SEI.
3. On August 20, 2019, Commission staff member Lessie Cheeseboro emailed Respondent and advised him he had filed a 2018 SEI instead of a 2019 SEI. Ms. Cheeseboro advised that no late-filing penalty would be assessed if Respondent filed a 2019 SEI within ten (10) days.
4. Respondent did not file his 2019 SEI within ten (10) days of August 20, 2019.
5. On March 25, 2020, Respondent signed a Statement of Intention of Candidacy for the office of Coroner and paid a \$1,018.74 filing fee.

6. Respondent did not file an Initial CDR within ten (10) days of paying the filing fee.
7. Respondent did not file a 2020 SEI on or before March 30, 2020.
8. On October 16, 2020, the Commission mailed a certified letter to Respondent's address of record advising him of his failure to timely file a 2019 and 2020 SEI.
9. According to the United States Postal Service, this letter was delivered to Respondent's address of record on October 19, 2020. However, the Recipient Signature on the proof of service related to this letter is illegible and has the notation "C19" above it.
10. On May 19, 2021, the Commission mailed a certified letter to Respondent's address of record advising him of his failure to file an Initial 2020 CDR within ten (10) days of raising or spending \$500 and of his failure to file a 2020 Pre-Election CDR between October 14, 2020 and October 19, 2020.
11. According to the United States Postal Service, this letter was delivered to Respondent's address of record on May 25, 2021 at 12:00 p.m. The Recipient Signature on the proof of service was similar to the one described in Paragraph Nine (9).
12. On August 13, 2021, following the filing of the Complaint, a Commission Investigator contacted Respondent. Respondent immediately came into compliance by filing his 2019 SEI, 2020 SEI, 2020 Initial CDR, and 2020 Pre-Election CDR.

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) and Section 8-13-1300(28). Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-1140 provides, in relevant part:

A person required to file a [SEI] under this chapter annually shall file . . . an updated statement for the previous calendar year, no later than noon on March 30 . . .

3. 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.

...

(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.

4. Section 8-13-1510(A) provides:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required 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 five thousand dollars.

5. 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 8-13-1140 for failing to timely file his 2019 and 2020 SEIs and two (2) counts of violating Section 8-13-1308 for failing to timely file a 2020 Initial CDR and a 2020 Pre-Election CDR. Through this Consent Order, Respondent acknowledges he violated the Ethics Act when he failed to timely file the required SEIs and CDRs. In mitigation, Respondent states he believed he filed his 2019 SEI on March 4, 2019. Respondent does not recall receiving the email from Ms. Cheeseboro. Respondent

further states that he did not receive the Commission's October 2020 correspondence or the May 2021 correspondence.

DISPOSITION

1. The Commission hereby finds Respondent in violation of two (2) counts of Section 8-13-1140 and two (2) counts of Section 8-13-1308.
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 orders the Respondent to pay the Commission, within ninety (90) days from receipt of this Order, a late-filing penalty of \$400 (\$100 for each SEI and \$100 for each CDR) and an administrative fee of \$300, for a total of \$700

By executing this Consent Order, Respondent understands that he is not only admitting to violations of the Ethics Act, but also confessing to a judgment of \$700 (less any money paid to the Commission) in the event he does not make full and timely payment as provided for in this Order. In that event, the Commission shall file a Judgment against Respondent in the Clerk of Court's Office in the County of Respondent's last known residence. Upon said filing, the Clerk of Court shall enter this Order in the amount of \$700 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

AND IT IS SO ORDERED THIS 26 DAY OF April 2022.

STATE ETHICS COMMISSION


AJ HOLLOWAY, CHAIR


DONNIE B. PORTH
RESPONDENT