

# SCSL Digital Collections

## 25th Annual Report of the State Ethics Commission

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August 13, 2002

TO HIS EXCELLENCY THE GOVERNOR AND THE HONORABLE MEMBERS OF THE  
GENERAL ASSEMBLY OF SOUTH CAROLINA

We have the honor to transmit the Twenty-fifth Annual Report of the State Ethics  
Commission for the fiscal year 2001, in accordance with the provisions of Section 8-13-  
340, Code of Laws for South Carolina, 1976, as amended.

Respectfully submitted,

Richard V. Davis, Charirman  
Andrew C. Marine, Vice-Chairman  
Jessamine D. Griffin  
John T. Mobley  
Pete G. Diamaduros  
Peter C. Coggeshall, Jr.  
Mary T. Williams  
Flynn T. Harrell  
Gregory P. Harris  
Herbert R. Hayden, Jr., Executive Director

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**State of South Carolina  
State Ethics Commission**

<b>District</b>	<b>Commissioners</b>	<b>Representing</b>
One	Jessamine D. Griffin (6/30/03)	Berkeley, Dorchester, Horry, and Georgetown Counties
Two	John T. Mobley (5/31/05)	Aiken, Allendale, Barnwell, Beaufort, Calhoun, Colleton, Hampton, Lexington, Orangeburg & Richland Counties
Three	Andrew C. Marine (6/30/03) Vice-Chairman	Abbeville, Aiken, Anderson, Edgefield, Greenwood, Laurens, McCormick, Pickens & Saluda Counties
Fourth	Pete G. Diamaduros (5/31/05)	Greenville, Laurens, Spartanburg & Union Counties
Fifth	Peter Coggeshall, Jr. (6/30/02)	Cherokee, Chester, Chesterfield, Darlington, Dillon, Fairfield, Kershaw, Lancaster, Lee, Marlboro, Newberry, Sumter & York Counties
Sixth	Mary T. Williams (6/30/03)	Bamberg, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Darlington, Dorchester, Florence, Lee, Marion, Orangeburg, Richland, Sumter & Williamsburg Counties
	Richard V. Davis, Chairman (6/30/01)	Member at Large
	Flynn T. Harrell (6/30/05)	Member at Large
	Gregory P. Harris (6/30/05)	Member at Large

**STAFF MEMBERS**

Herbert R. Hayden, Jr.	Executive Director
Linda Brazzel	Administrative Specialist
Terri W. Connor	Staff Assistant
Marjorie A. DeLee	Human Resource Manager
Ami R. Franklin	Executive Assistant
Cathy L. Hazelwood	Assistant Director/General Counsel
Mavin S. Lail	Data Coordinator II
Donald M. Lundgren	Investigator
Sandra D. McClellan	Administrative Specialist
Regina A. Washington	Administrative Assistant

**Legal Counsel**

Legal Counsel is provided to the State Ethics Commission by Attorney General Charles M. Condon and by Assistant Attorney General who he designates. Assistant Attorney General C. Havird Jones, Jr. is presently assigned to the State Ethics Commission.

# **State Ethics Commission**

## **ORGANIZATIONAL CHART**

## **SECTION I** **EXECUTIVE SUMMARY**

The General Assembly established the State Ethics Commission's mandate to restore public trust in governmental institutions and the political and governmental processes. The State Ethics Commission's mission is established by the statutory provisions of the Ethics Reform Act of 1991, Sections 2-17-5, et. seq., and 8-13-100, et. seq., Code of Laws for South Carolina, 1976, as amended. The State Ethics Commission has one program, Administration. This program encompasses four distinct areas of responsibility of the Ethics, Government Accountability and Campaign Reform Act of 1991: lobbying registration and disclosure; ethical rules of conduct; financial disclosure; and campaign practices and disclosure.

### **Major Achievements from Past Year**

Major achievements from the past year include a new filing system. The system has improved services to the public and press requesting access to financial disclosure and campaign disclosure records. In addition, staff upgraded the Commission's web-site to include information on resolved complaints, advisory opinions and the availability of all Commission forms online. The ability of filers to download and print Commission forms has been both a time-saver for staff and a cost-saver to the Commission. Through more aggressive enforcement efforts the Commission increased late filing penalties 238% and complaint fines by 58%. Finally, the Commission reduced the back-log of non-compliance matters.

### **Mission and Values**

The State Ethics Commission is an agency of state government responsible for the enforcement of the Ethics Reform Act of 1991 to restore public trust in government. The mission of the State Ethics Commission is to carry out this mandate by ensuring compliance with the state's laws on financial disclosure, lobbyist/lobbyist's principal disclosure and campaign disclosure; regulating lobbyists and lobbying organizations; issuing advisory opinions interpreting the statute; educating public officeholders and the public on the requirements of the state's ethics laws; conducting criminal and administrative investigations of violations of the state's ethics laws; and prosecuting violators either administratively or criminally.

### **Key Strategic Goals for Present and Future Years**

A continued key strategic goal is an electronic filing system. The system would enable public officials, candidates, public employees and lobbyists/lobbyist's principals to file registration and disclosure reports on line. A second strategic goal is the cross training of personnel to ensure smooth transitions in the event of promotions, retirement or turnover. Of particular concern is the retirement of the Commission's longest serving employee who has been the only data coordinator from the position's inception.

### **Opportunities and Barriers in Fulfilling Mission and Achieving Goals**

Enforcement of the very complex Ethics Reform Act is one of the major challenges before the State Ethics Commission. Citizen's and state agency's concern with public corruption and violations of the state's ethics laws have caused increased investigative and non-compliance caseloads. The Commission's mandate requires close analysis of critical issues of which the outcomes have significant impacts on the lives of the affected individuals, to include criminal prosecution. This, coupled with personnel and equipment needs, and limited funds, are major barriers to the fulfillment of the agency's mission and goals. The Commission must ensure that the latest technological advances are taken into account to balance the technology versus personnel scale. An information management system, to include electronic filing of campaign, financial, and lobbyist/lobbyist's principal disclosure, is another of the major challenges. Budgetary constraints make achieving this goal impossible.



## **SECTION II** **BUSINESS OVERVIEW**

The State Ethics Commission is composed of nine private citizens who are appointed by the Governor with the advice and consent of the General Assembly. The Commission sets the policy, recommends legislative changes to the statute, issues formal advisory opinions, and conducts hearings into complaint matters. The Commission has a ten-member staff (9 FTE's, 1 PTE and 1 PTE vacant).

The Executive Director is responsible for directing the operational and administrative management of the agency and providing oversight to investigations, and other activities of an extremely sensitive nature. The Executive Director reports directly to the State Ethics Commission. No other position reports to the Commission. The Executive Director advises the Commission regarding agency administrative matters and law enforcement. As necessary or upon request, he provides members of the General Assembly with information pertinent to matters before that body. He informs the Attorney General about matters of significant interest to the state's chief prosecutor. The Executive Director maintains contact with major components of the state criminal justice system such as SLED and circuit solicitors to assist in providing a coordinated investigation of matters of mutual interest.

The Commission's General Counsel/Assistant Director provides legal counsel to the Commission and agency staff; prosecutes complaint matters and administrative violations of the state's ethics laws before a Commission hearing panel; represents the Commission in both state and federal courts; researches and prepares advisory opinions; and acts as liaison with the Attorney General's office for criminal prosecution of violations, as needed. Under limited supervision, the General Counsel/Assistant Director plans, organizes, and directs statewide activities of the administrative and investigative operations of the agency; directs activities relating to the enforcement of the Ethics Reform Act; ensures compliance with all disclosure requirements; and assumes responsibilities of Executive Director in his absence.

The Chief Investigator assists the Executive Director in planning, organizing, and directing the enforcement of investigative and non-compliance activities; and conducts criminal and sensitive administrative investigations of violations of the state's ethics laws.

The Administrative Coordinator/Executive Assistant to the Director provides administrative support to the Executive Director; directs the agency-wide fiscal program, and supervises the agency budgetary process; directs the agency procurement operation; and supervises the Non-Compliance program.

The Human Resource Manager directs the agency personnel and payroll operations; manages employee participation in the state benefits program, and personal development training; supervises the lobbyists/lobbyist's principal program; maintains the agency web site; and supervises the production of the agency newsletter. The Administrative Coordinator/Executive Assistant to the Director and the Human Resource Manager

positions were created as a result of staff reorganization upon the resignation of the agency Business Manager. No additional FTE's were required.

The Data Coordinator supervises the receipt, audit, scanning, and maintenance of all financial and campaign disclosure documents; responds to public and agency requests for documents; and refers non-compliance matters to the Administrative Coordinator.

The Commission has only one location at 5000 Thurmond Mall, Suite 250, Columbia. The Commission's customers include public officials and public employees, candidates and political committees, other state and local agencies, the citizens of South Carolina, and the media. Beyond the computer support and services provided by IRM and the University of South Carolina, the Commission does not have key suppliers. All other services and supplies are obtained through the bid process. The Commission is in the business of processing information received by lobbyists/lobbyist's principals; public officials, public members and public employees; and candidates and political committees and ensuring compliance with the Ethics Reform Act.

## Accountability Report Appropriations/Expenditures Chart Example

### Base Budget Expenditures and Appropriations

Major Budget Categories	99-00 Actual Expenditures		00-01 Actual Expenditures		01-02 Appropriations Act	
	Total Funds	General Funds	Total Funds	General Funds	Total Funds	General Funds
Personal Service	\$311,601.62	\$297,993.62	\$327,470.73	\$327,470.73	\$324,880.00	\$324,880.00
Other Operating	\$195,692.86	\$153,988.37	\$168,541.38	\$92,379.09	\$159,998.00	\$109,998.00
Special Items	\$0	\$	\$0	\$0	\$(26,382)	\$(26,382)**
Permanent Improvements	\$0	\$	\$0	\$0	\$0	\$0
Case Services	\$0	\$	\$0	\$0	\$0	\$0
Distributions to Subdivisions	\$0	\$	\$(14,672)*	\$0	\$0	\$0
Fringe Benefits	\$84,119.67	\$79,401.01	\$92,383.01	\$92,383.01	\$79,201.00	\$79,201.00
Non-recurring	\$41,026.91	\$0	\$10,973.09	\$10,973.09	\$0	\$0
Total	\$632,441.06	\$531,383.01	\$584,696.21	\$523,205.92	\$537,697.00	\$487,697.00

\*Represents 1% reduction and carryover funds at end of FY2001

\*\*Represents 5% base reduction

### Other Expenditures

Sources of Funds	1999-2000 Actual Expenditures	00-01 Actual Expenditures
Supplemental Bills	\$0	\$0
Capital Reserve Funds	\$0	\$0
Bonds	\$0	\$0

### **SECTION III** **ELEMENTS OF MALCOLM BALDRIGE AWARD CRITERIA**

#### *Category I - Leadership*

The State Ethics Commission is a very small state agency with a staff of 10 people (9 FTE's and 1 PTE). Every employee, as well as volunteers, appears on the organizational chart. There are not layers of managers, supervisors, deputies, etc. between the Commission's senior leader, the Executive Director, and Commission staff. The Executive Director speaks to each employee everyday. The Executive Director discusses short term expectations at monthly staff meetings. The Executive Director reviews leave requests, determines the audit status of all forms and updates staff on matters of interest. Of particular interest this year was the budget shortfall and potential layoffs. The Executive Director communicated regularly with staff about the budget and also sought staff input on cost-saving strategies.

Long term performance expectations and direction are communicated at annual staff reviews conducted each September. This one month review period allows the Executive Director to plan merit raises and revise employee responsibilities as needed. During annual reviews employee performance expectations are discussed and set. Organizational values are discussed with new hires after a new employee reviews the Commission's Administrative Policies and Procedure Manual. All employees are required to stay up to date on changes in the manual.

The Executive Director is always prepared to listen to staff's suggestion on ways to improve a process for both the customer and the employee. Due to the size of Commission, the Executive Director is not removed from the "front line". Except for the newest employee, staff, to include the Executive Director, has audited forms during the dead-line rush. All members of staff have filled "Requests for Documents" requests. In fact it was while the Executive Director was locating a document to answer a caller's question that the discussion began on implementing a new filing system. Staff, not unlike various customers, often make suggestions that they believe would improve the process; however, many processes must be complied with because the Ethics Reform Act requires that process.

Training sessions and seminars were available to all employees; however, in January, 2001, the Commission froze the training budget as a result of anticipated midyear budget cuts and cuts in the FY2002 budget. Only essential training was taken by staff. The Executive Director continued to participate in agency director training throughout the year. In addition, the Executive Director and the Investigator are certified law enforcement officers and they must participate in regular training sessions to maintain their certification. This training is provided by the Criminal Justice Academy at no charge to agencies. General Counsel participates in a minimum of 14 hours of continuing legal education

training each year; however, the Commission does not pay for this training. In addition, General Counsel did participate in the Budget & Control Board's Executive Institute throughout FY2001. The two staff members who were promoted in the reorganization participated in human resource training and finance/budget training.

As the state agency that enforces the Ethics Reform Act, both the Executive Director and staff model ethical behavior. Commission members recuse themselves and leave the room when a potential, not actual, conflict exists. Policies and procedures are in place for the use of Commission equipment and supplies and subsequent reimbursement.

Staff is well aware of who the Commission's customers are as each employee interacts with customers everyday, whether on the phone or in person. The Commission's customers include the citizens of South Carolina, public officials and employees, candidates for public office, committees, lobbyists and lobbyist's principals, all state agency heads, the Governor's Office, and the media. Staff is courteous and knowledgeable in responding to the Commission's customers. The Executive Director and the rest of the staff have an open-door policy for walk-in customers.

The Executive Director receives and reviews monthly a compliance report which is a compilation of key performance measures which include the number of forms received; the number of complaints received; the number of complaints resolved; the number of both formal and informal opinions issued; and the amount of money received, to include late-filing penalties, complaint fines, administrative fees and lobbyist's/lobbyists' principals registration fees. This same information from the previous fiscal year is also provided on this compliance report for comparison.

The Commission does not normally address the current and potential impact of the Ethics Reform Act on the public, since the Commission is mandated to enforce the Act as written. Services are provided within the confines of the Act. If the General Assembly amends the Act, then the Commission must enforce it notwithstanding the impact, either negative or positive. The Commission must submit fiscal impact statements with proposed amendments.

Staff are encouraged to participate in community service projects. The Commission had approximately 90% participation in the United Way campaign and the Good Health Appeal, of which the Executive Director was the state chairman. Various members of staff also participated in Buck-A-Cup, Ask-a-Lawyer, the YWCA Legal Clinic, the Salvation Army Red Kettle Campaign and regular blood donations to the American Red Cross. In addition, many staff members are heavily involved in their churches and their churches community outreach programs.

### *Category 2 - Strategic Planning*

The Executive Director, with staff input and some input from Commission members, is sole participant in the strategic planning process. As noted, staff input is welcomed and the Executive Director formulates the strategic plan after reviewing input and process results from the previous year. The Commission is forced to conform any strategic planning to its small budget, its small staff and its outdated computer system. Customer needs and expectations are reviewed in line with the requirements of the Ethics Reform Act. Due to the Commission's limited budget, financial considerations are ever present in the strategic planning process, as are the human resource capabilities and needs and the operational capabilities and needs.

Of the two strategic goals in place, the electronic filing system action plan is in place. No monetary resources were expended, although a significant amount of staff time was devoted to reviewing various systems already in use. The cross training is ongoing and will require significant amounts of staff time but not of other resources. In presenting the Commission's budget to the General Assembly, the Commission communicated and deployed its key strategic goal for an electronic filing system. As for the second key strategic goal of cross training employees, staff meetings and one on one meetings between the Executive Director and staff are the means used to communicate and deploy its key strategic goal.

### *Category 3 - Customer Focus*

Key customers and stakeholders of the State Ethics Commission are training participants; opinion requesters; filers of forms; reviewers of forms; complainants and respondents; public officials, public members and public employees; candidates and committees; and the citizens of South Carolina. The largest percentage of the Commission's customers are determined by the Ethics Reform Act and it is the Act which determines those customer's requirements.

The Commission is constrained in keeping its listening and learning methods current with changing customer needs by two major factors: the Ethics Reform Act itself and the Commission's budget. Clearly, the trend in disclosure, to include financial, campaign and lobbyist/lobbyist's principal, is for the electronic filing of this information. The trend for making this information available to the public is also to provide it electronically; however, until such time as the Commission's budget includes funding for electronic filing, the Commission will not keep current with the changing customer needs. According to information provided by the Center for Governmental Studies of Los Angeles, California, South Carolina is one of only four states which do not provide some form of electronic filing/viewing.

Much of the information provided by customers cannot be used immediately by the Commission. In FY 2001, the Commission presented proposed amendments to the General Assembly to improve processes based in part on customer feedback. In addition, the Commission has reviewed additional amendments, but will not seek a sponsor until the

original set of amendments is acted on.

The Commission surveyed two key customer groups in FY2001: opinion requesters and training participants. One hundred percent of the responding opinion requesters agreed or strongly agreed that the requested informal opinion was clear and easy to understand and that the informal opinion answered the question posed. Staff does not assert that all requesters were completely satisfied; although, the 66% of requesters who returned the survey were clearly satisfied with the service provided. Training survey results are not as clear. When the Commission conducts its standard training, a training survey is provided to the participants to complete. In other training situations, staff is part of a program wherein survey results are compiled at the conclusion of the entire program and staff is notified of the results at a later date. Less than 10% of those receiving ethics training received and returned a Commission survey. The Commission's first attempt at surveying a key customer, training participants, was clearly less than successful

#### *Category 4 - Information and Analysis*

It is the Commission's belief that what gets measured is what gets done in an organization. The Commission measures the number of forms received; the number of complaints received; the number of complaints resolved; the number of both formal and informal opinions issued; and the amount of money received, to include late-filing penalties, complaint fines, administrative fees and lobbyist's/lobbyists' principals registration fees. The Commission relies on staff members whose duties include the compilation of the above information. The Commission uses the analysis to assist in developing the strategic plan. The Commission attempts to find other public agencies with comparable duties and mandates. The Commission partnered with Council on Governmental Ethics Laws (COGEL) to find similarly situated public agencies; however, the Commission has found only one other state agency with similar areas of responsibility regarding state government: lobbying registration and disclosure; ethical rules of conduct; financial disclosure; and campaign practices and disclosure. The Commission also found a city agency with the same responsibilities and the analysis for both entities appears in Category 7 Results.

#### *Category 5 - Human Resource Focus*

As noted before, the State Ethics Commission is a small state agency. The Executive Director speaks to each employee daily. While the Commission is unable to make significant financial rewards to its employees, the Commission does provide many non-financial rewards such as flexible scheduling; casual dress day on Friday; recognition of significant employment milestones; birthday celebrations, to include the afternoon off; holiday meals together; lunch for staff in observance of Employee Recognition Week; and training.

Training sessions and seminars were available to all employees; however, in January, 2001, the Commission froze the training budget as a result of anticipated midyear budget cuts and cuts in the FY2002 budget. Only essential training was taken by staff. The Executive Director continued to participate in agency director training throughout the year. In addition, the Executive Director and the Investigator are certified law enforcement officers and they must participate in regular training sessions to maintain their certification; however, the Criminal Justice Academy provides this training at no charge to state agencies. General Counsel participates in a minimum of 14 hours of continuing legal education training each year; however, the Commission does not pay for this training. In addition, General Counsel did participate in the Budget & Control Board's Executive Institute through out FY2001. The two staff members who were promoted in the reorganization participated in human resource training and finance/budget training. In prior years staff had participated in TQM (Total Quality Management) training. The Human Resource Manager researched the available Baldrige training for staff; however, the costs was prohibitively expensive.

The Employee Performance Management System provides an opportunity for the Executive Director and the employee to make changes to employee responsibilities in line with ongoing strategic goals and to revise position descriptions to accurately reflect actual duties. The process encourages high performance by realigning the position description and evaluation documents with the actual job responsibility.

The Commission monitors employee well being and satisfaction through two key measures. Measures of employee satisfaction are staff longevity and turnover. A long-time employee of the Commission did resign in FY 2001; however, a third of the staff averages 15 years employment with the Commission. The Commission attempted through informal discussion to discover why staff remains with the Commission; however, beyond the standard platitudes, no satisfactory reasons were given.

At the outset, the Commission's office is in a smoke-free building which provides a smoke-free work environment. Except for certified law enforcement officers, the Commission's office does not permit concealable weapons. Policies and procedures are in place regarding weapons and the use of force. The staff kitchen is a repository for various health newsletters and employees are welcome to post health articles and other articles of interest in the kitchen. Staff members take part in health screenings offered by the State Health Plan and results are informally discussed in staff meetings.

Employees are encouraged to participate in community service projects. These include the United Way, the Good Health Appeal, Buck-A-Cup, Ask-a-Lawyer, the YWCA Legal Clinic, the Salvation Army Red Kettle Campaign and regular blood donations to the American Red Cross. In addition, many employees are heavily involved in their churches and their churches community outreach programs.



### *Category 6 - Process Management*

The Commission's key design and delivery processes must fit within the confines of the Commission's budget. Within these confines, the newest technology used by the Commission has been its web site. The Commission's Human Resource Manager, in coordination with the Office of Information Resources, continued to upgrade the Commission's web site. As noted in the Commission's FY2000 Accountability Report, the web site includes all formal advisory opinions and summaries of all complaints resolved. Since September, 2000, the Commission's forms can also be printed from the web site. As a result, the Commission has not incurred any printing costs since September, 2000. Due to budget constraints, the Commission's newsletter is now only provided online. Additionally, minutes from the Commission's bi-monthly meetings are also available online. These efforts are directed at making the Commission's web site more user friendly, more responsive to the public's needs and more cost effective to the Commission, i.e. reduction in printing and postage costs.

The Commission's various measurements are not done on a day to day basis, but rather on a week to week and month to month based on the particular deadline. The Commission has a minimum of 8 deadlines throughout the year with more during an election year. The Commission attempts to ensure full staffing during these deadlines in order to ensure timely auditing and timely production of documents for requesters. The Commission is in the business of managing the information provided in the various forms received, as well as the enforcement of the Act.

Except for computer support and services the Commission does not have a key supplier, contractor or partner. The Commission meets yearly with the computer support and service providers to review the previous years service in order to make any changes in the contract needed to fulfill the Commission's strategic goals.

### *Category 6 - Business Results*

#### ***Performance levels and trends of customer satisfaction:***

(A) Training is essential to the 4 million residents of the State where approximately 232,000 citizens are engaged in government employment and approximately 10,000 are engaged in government service. As part of its public mission, the Commission feels that it is vital to educate public officials, public members, public employees and the general public regarding the standards of conduct and disclosure requirements of the Ethics Reform Act. Whenever possible, as personnel and resources are available, staff conducts training for its various customers throughout the state. Customers receiving training in 2000 included the following: public officials and public employees through the Municipal Association of South Carolina; South Carolina School Board Association members and candidates for school board; Budget and Control Board employees; public officials and public employees of the Worker's Compensation Commission; public employees of the Department of

Revenue; approximately 250 members of the South Carolina Bar Association; all public employees of the Florence County Department of Social Service office; members of the South Carolina Department of Corrections medical department and the members of the South Carolina Association of Clerk of Courts and Register of Deeds.

(B) Hand-in-hand with training is the advisory nature of the Commission's responsibility. The Commission advises its customers concerning the intricacies of the law through both informal and formal opinions. Staff answers approximately 135 telephone inquires per month. The Commission's policy of issuing informal opinions provides more timely advice to its customers. This advice is based on prior opinions, decisions, and staff experience and interpretation of the statute. The Commission has established the objective of responding to all informal advisory opinions within seven to ten calendar days. This target is met approximately 95% of the time and when it cannot be met the requestor is informed of the delay and when to anticipate his opinion. Formal opinions are handled as expeditiously as possible at regularly scheduled Commission meetings. This advice, either written or verbal, provides information to the various customers of the Commission.

The Commission has committed more time to investigating alleged violations of the Act, which a key component of the Ethics Reform Act and where the Commission's involuntary customers appear. A due process procedure is established in the statute and staff has worked to reduce the completion time from the receipt of a complaint to final disposition. Non-compliance matters, from issuance of complaint to final disposition, take approximately four months. Other complaints' completion time are approximately six months. Without compromising the due process rights of respondents, the Commission developed a streamed-line approach non-compliance complaint matters which was fully implemented in FY2001. Respondents who file the required form prior to the probable cause hearing avoid being placed on the hearing docket. No additional fine is assessed beyond the late-filing penalty assessed during the administrative procedure. Late-filing penalties that remain unpaid are pursued through the Department of Revenue's Set-off Debt Program and a judgment is filed in the county clerk's office. Of the 150 complaints resolved in FY2001, approximately 18 complaints were resolved under this procedure. In addition, 9 complaints were resolved by Consent Orders. Fines of \$10,593.32 were collected, as was restitution of \$5905.00. Twenty-eight hearings were held and fines totaling \$47,315 were assessed. No complaint in FY2001 was referred to the Attorney

General. One complaint was referred to a circuit solicitor for criminal prosecution; however, the solicitor referred back to the Commission. The remainder of the complaints were dismissed or further proceedings were waived due to compliance or extenuating circumstances.

In addition, the Commission collected \$62,186.00 in late filing penalties for failing to timely file Statement of Economic Interests, Campaign Disclosure Forms, and lobbyist and lobbyist's principal reports. This amount is an increase of over \$43,000.00 from the previous year and reflects the Commission emphasis on timely enforcement following disclosure deadlines. In the past the Commission only penalized those individuals who failed to file. Late filers were not penalized and thus timely disclosure did not occur.

### LEVELS OF PERFORMANCE

The report shows the current level of performance in the four key areas. They include:

<b>Training</b>	FY2001	FY2000	FY99	%Change from previous year
Training Sessions Held	26	24	24	8
# Trained	1600	1398	904	14
<b>Opinions</b>				
Formal	6	11	7	(45)
Informal	105	117	128	(10)
<b>Complaints</b>				
Received	144	107	54	35
Final Disposition	150	108	51	39
Pending	39	45	50	(13)
<b>Forms</b>				
Statement of Economic Interests	8683	9,588	8,378	(9)
Campaign Disclosure Form	5169	4,170	4,431	24
Lobby Registration & Reports	4786	4717	5,856	1

By and large the percentage changes from one year to the next are minimal and those significant percentage changes reflect activity over which the Commission has minimal control. Training is contingent on requests by public agencies, public office holders, and other interested groups, such as the Municipal Association of South Carolina and the South Carolina Bar Association.

Both formal and informal advisory opinion requests decreased; however, staff began keeping rack of telephone inquires. Staff answered approximately 145 telephone inquiries per month. Staff continues to reduce the response time in the issuance of informal advisory opinions and to publicize the availability of opinions in its on-line newsletter and at training sessions. Staff fully implemented surveying those customers requesting informal opinions throughout the fiscal year. Prior to January, 2001 staff enclosed a self-addressed, stamped envelope with each survey sent with the informal opinion. Due to ongoing budge concerns, staff stopped providing self-addressed, stamped envelopes; however, the response rate of 66% remained the same. One hundred percent of those responding agreed or strongly agreed that the requested informal opinion was clear and easy to understand and that the informal opinion answered the question posed. Staff does not

assert that all requesters were completely satisfied; although, the 66% who returned the survey were clearly satisfied with the service provided. The City of Chicago Board of Ethics' key responsibilities mirror the four distinct responsibilities of the Commission: lobbying registration and disclosure; ethical rules of conduct; financial disclosure; and campaign practices and disclosure. The Board of Ethics in providing advice responds to inquiries (verbal responses) and cases (written responses). The Board of Ethics handled 1200 inquiries in FY2000 and 89 cases. The Board of Ethics' staff is slightly larger with 12 FTE's and its FY2000 budget significantly larger at \$653,355.00.

A continued goal of staff was to reduce the backlog of non-compliance matters. In meeting that goal the Commission received 144 complaints, with a subsequent increase in the final disposition of 150 complaints. The increase in both figures are directly related to staff's goal to reduce the backlog of non-compliance matters. This goal was met. A non-compliance complaint takes approximately four months from the issuance of the complaint to final disposition. A complaint is not filed simultaneously to a missed deadline as the Commission by statute has an administrative late-filing penalty procedure which takes approximately two months to complete. This procedure begins immediately following a quarterly deadline and the annual financial disclosure deadline of April 15<sup>th</sup>. As the chart on page 21 illustrates complaint matters relating to disclosure are on the rise. The Commission received 144 complaints, with a subsequent increase in complaints resolved to 150. The increase in both figures are directly related to staff's goal to reduce the backlog of non-compliance matters. This goal was met.

The Commission had a decrease of filings of Statements of Economic Interests which appears to correspond to a non-election year decrease of candidates. A corresponding decrease in Campaign Disclosure Forms would be expected; however, the number of Campaign Disclosure Forms received increased and staff attributes the increase to improved compliance with the pre-election disclosure requirement by candidates. Staff believes that this improved compliance is a direct result of elected official and candidate training through the South Carolina School Board Association and the Municipal Association of South Carolina. The Kansas Governmental Ethics Commission enforces the Campaign Finance Act and State Governmental Ethics Law primarily on the state and to a very limited extent on the local level. In FY2000, the Kansas Commission received 1042 campaign finance forms and 5973 financial disclosure forms. The Kansas Commission reported an enviable rate of 96% compliance with financial disclosure.

A nominal increase occurred in lobbyists' and lobbyist's principals' registrations and disclosures. This nominal increase can be attributed to a slight increase in lobbying during the final reporting period, as well as a slightly larger number of lobbyist's principals registering.

In FY2001, a total of 1,205 requests to review statements were filed and honored with the Commission, compared to 1,104 in FY2000, an increase of 101. Staff devotes a significant

portion of each week to providing information in a timely manner to requesters. After reviewing the Commission's filing system, staff determined that a new system was required to ensure a timely response to requests and to maximize staff resources. A new filing system was implemented in calendar year 2001 with the assistance of Richland County Pre-trial Intervention participants. For those customers seeking current documents filed, staff response time to locate the documents is minutes.

The Commission again sought funds to implement the electronic filing of all documents received by the Commission. Electronic filing would allow for more timely filing. It would reduce incomplete filings and thus reduce repetitive auditing of forms by staff. Electronic filing would provide almost immediate access to information to all Commission customers. This goal was not met due to budget cuts. Although electronic filing will remain a goal, staff is not optimistic that it is goal that will be quickly met.

The Commission partnered with the Council on Governmental Ethics Laws (COGEL) to correspond with all members in the United States to determine what agencies perform similar tasks. The information provided has been useful in bench marking the Commission's performance against other similarly situated agencies. Of the responding agencies, no other state agency performs the same functions. To follow is a review of the previous seven years of Commission activity. The one significant trend is the increase in the number of complaints received which is directly related to staff's goal of reducing the backlog on non-compliance matters.

***Performance levels and trends to accomplish mission:***

**(1) Lobbyist Registration and Disclosure**

The State Ethics Commission utilizes registration fees obtained from lobbyists and lobbyists' principals to administer this requirement. In FY2001, the State Ethics Commission received \$69,650.00 from these registration fees.

Any person employed or retained to lobby for any person, group or business must register with the Commission within fifteen days after being employed or retained. Further, the person, group, or business which employs or retains a lobbyist must register within fifteen days after such employment or retention. Such lobbyists and lobbyist's principals are subject to strict restrictions on their activities while they are registered. Both the lobbyists and lobbyist's principals must file disclosures of income and expenditures by April 10, October 10, and December 31. Registrations and reports are audited and made available for public inspection. Registration and disclosure reports totaled 4786 in FY2001, a slight increase over FY2000. The Commission has very little control over these figures as they are dependent on legislative issues.

## **(2) Ethical Rules of Conduct**

The Ethics Reform Act provides certain standards for public officials and public employees, centered around prohibitions against the use of the public position to affect the officeholder's economic interests, those of family members, or individuals or businesses with whom the person is associated. These standards prohibit the misuse of public resources and confidential information, nepotism, revolving door contracts, receiving compensation to influence official actions, and establish representation restrictions.

Penalties for violations of the Act range from administrative penalties, including public reprimands and civil fines of up to \$2000 per violation, to criminal penalties ranging from \$5000 and one year in prison to \$10,000 and ten years in prison.

## **(3) Financial Disclosure**

Certain public officeholders, to include all public officials, either elected or appointed; candidates; public members of state boards; chief administrative officials or employees of political subdivisions; chief finance officials or employees of political subdivisions must file a Statement of Economic Interests at specified times to include an annual update by April 15<sup>th</sup>. The Commission develops the reporting form, distributes the form to required filers, receives and audits the filed reports, and makes those reports available for public inspection. In FY2001, approximately 8,683 Statements were processed. At the close of FY2001, the Commission began reviewing the Special Purpose District's entity lists to determine whether all the filers of Statements of Economic Interests were required by statute to file. Preliminary feedback showed that a significant number of individuals were filing who were not required to. This review is on-going for other entities and the results will be fully reported in the Commission's FY2002 Accountability Report.

## **(4) Campaign Practices and Disclosure**

Candidates and committees are required to file disclosures of their campaign finance activities. They are subject to contribution limitations, restricted use of campaign funds, and proper accountability. The Commission develops the reporting form, distributes the form to required filers, receives and audits the filed reports, and makes those reports available for public inspection. In FY2001 approximately 5,169 campaign disclosure forms were received, audited and made available to the public. The Commission receives Campaign Disclosure Forms from the House Ethics Committee and the Senate Ethics Committee which are made available to the public. The Senate Ethics Committee was unable to provide an accurate count for FY2001. The House Ethics Committee forwarded approximately 784 forms to the Commission.

**LEVELS OF PERFORMANCE-FY95 TO FY2001**

	FY95	FY96	FY97	FY98	FY99	FY00	FY01
<b>COMPLAINTS</b>							
Filed	15	18	37	49	54	107	144
Final Disposition	29	15	18	35	51	108	150
On Hand	15	17	33	47	50	45	39
<b>ADVISORY OPINIONS</b>							
Formal	15	6	6	13	7	11	6
Informal	172	240	296	292	128	117	105
<b>FORMS</b>							
STATEMENT OF ECONOMIC INTEREST	10,497	9,176	9,056	9,193	8,378	9,588	8683
CD	5,263	3,659	4,308	4,111	4,431	4,170	5169
Lobby	3,598	3,797	4,137	4,191	5,856	4,717	4786
<b>TRAINING SESSIONS</b>							
Conducted	13	32	34	33	24	24	26
Participants	683	1,522	1,452	1,515	904	1,398	1,600

*Performance levels and trends of employee satisfaction:*

The Employee Performance Management System provides an opportunity for the Executive Director and the employee to make changes to employee responsibilities in line with ongoing strategic goals and to revise position descriptions to accurately reflect actual duties. The process encourages high performance by realigning the position description and evaluation documents with the actual job responsibility.

*Performance levels and trends of supplier performance:*

Not applicable.

*Performance levels and trends of regulatory/legal compliance and citizenship:*

Not applicable.

*Current levels and trends of financial performance:*

Since September, 2000, the Commission's forms can also be printed from the web site. As a result, the Commission has not incurred any printing costs since September, 2000. Due to budget constraints, the Commission's newsletter is now only provided online. This results in a savings of materials, equipment use and postage. Additionally, minutes from the Commission's bi-monthly meetings are also available online. These efforts are directed at making the Commission's web site more user friendly, more responsive to the public's needs and more cost effective to the Commission, i.e. reduction in printing and postage costs.



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## APPENDIX A

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### ADVISORY OPINIONS

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**SEC AO2001-001**

**July 19, 2000**

**SUBJECT:** APPLICABILITY OF ETHICS REFORM ACT TO SCHOOL BOARD  
CREATED NONPROFIT  
CORPORATION.

**SUMMARY:** The School Board is advised that its nonprofit corporation, formed to secure financing and construct schools, is not a business with which the School Board Members are associated when they sit on the nonprofit corporation's board in their official capacity.

**QUESTION:** Whether a nonprofit corporation is a business with which a School Board member is associated when he sits on the board of the nonprofit in his official capacity as a school board member and the nonprofit corporation has been established by the School Board for the sole purpose of securing financing and constructing new schools?

**DISCUSSION:** The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

Section 8-13-700(B) provides as follows:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or 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 member of his immediate family, 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. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

\* \* \*

(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of any agency, commission, board, or of any county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes;

Section 8-13-100(3) defines business as:

(3) 'Business' means a corporation, partnership, proprietorship, firm, an enterprise, a franchise, an association, organization, or a self-employed individual.

Section 8-13-100(4) defines business with which he is associated as:

(4) 'Business with which he is associated' means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

Section 8-13-100(11) defines economic interest as:

(11)(a) 'Economic interest' means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official's, public member's, or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the

economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

Section 8-13-100(30) defines official capacity as:

(30) 'Official capacity' means activities which:

- (a) arise because of the position held by the public official, public member, or public employee;
- (b) involve matters which fall within the official responsibility of the agency, the public official, the public member, or the public employee; and
- (c) are services the agency would normally provide and for which the public official, public member, or public employee would be subject to expense reimbursement by the agency with which the public official, public member, or public employee is associated.

In AO2000-011, the Commission set forth a two-part test as an exception to the recusal requirement of Section 8-13-700(B) to assist public officials sitting on various boards and committees. When a public official sits in his official capacity on a board which is an arm or child of the council, i.e. created by council and existing solely at the discretion of council, then the board is not a business with which the public official is associated. The board is merely an extension of the council. Further, the Commission noted that many public officials are asked to sit on boards of non-profits because of their public status, but that status does not, in and of itself, fall within this exception to the recusal requirements.

The Greenville County School District created a nonprofit corporation, BEST, which sole purpose is to secure financing for the construction and renovation of schools in the district. The entire school board, the district superintendent, the district's general counsel and the district's finance director are the only board members of BEST. BEST exists completely at the discretion of the school board. BEST does not have an economic interest in the financing and construction distinct from the school board's economic interest. BEST meets the two-part test requirement outlined in AO2000-011. It is clearly an arm of the school district and the school board members sit on the BEST's board of directors in their official capacity as school board members.

**CONCLUSION:** Accordingly, the Commission believes that the BEST Corporation is not a business with which the Greenville County School Board Members are associated through their membership on BEST's Board of Director, because they sit on the board in their official capacity as School Board Members and BEST is an arm of the School Board.

KEY WORDS: Business With Which Associated, Economic Interest, Official Capacity

ANNOTATIONS: 8-13-100(3)(4) (11) and (30), 8-13-700(B)

**SEC AO2001-002**

**September 20, 2000**

**SUBJECT:** THE PAYMENT OF REFERRAL FEES TO LOBBYISTS BY A NEW INTERNET BUSINESS THAT WILL BE MARKETED TO LOBBYISTS' PRINCIPALS TO PROVIDE A WEB-BASED GRASSROOTS ORGANIZATION PRODUCT.

**SUMMARY:** An Internet business developer is advised that the Ethics Reform Act is silent on the issue of Internet businesses, their relationship to lobbying and the payment of referral fees to lobbyist.

**QUESTION:** Whether an Internet business developer, who is marketing a web-based grassroots organization product through lobbyists to lobbyists' principals, may pay a referral fee to a lobbyist for a successful referral?

**DISCUSSION:** The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

The Ethics Reform Act is silent on the issue of Internet businesses and their relationship to lobbying. Nothing in Title 2 addresses the payment of referral fees to a lobbyist for a successful referral to a lobbyist principal. The only restriction on payment to lobbyists is found in Section 2-17-110 which prohibits a lobbyist from soliciting or accepting "compensation dependent in any manner upon the passage or defeat of any pending or proposed legislation, covered agency actions, or covered gubernatorial actions." The Internet business developer, however, is only paying a referral fee based on a successful referral by the lobbyist to the lobbyist's principal. Absent some connection to "pending or proposed legislation, covered agency actions, or covered gubernatorial actions" the referral fee is a business transaction outside the jurisdiction of the Ethics Reform Act.

**CONCLUSION:** Accordingly, the Commission finds that absent some connection to "pending or proposed legislation, covered agency actions, or covered gubernatorial actions" as found in Section 2-17-110(A), the referral fee is a business transaction outside the jurisdiction of the Ethics Reform Act.

KEY WORDS: Lobbyist, Lobbyist's Principal

ANNOTATIONS:	2-17-110(A)
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**SEC AO2001-003**

**September 20, 2000**

**SUBJECT:** A TEMPORARY PART-TIME INSPECTOR FOR THE SOUTH CAROLINA BOARD OF PHARMACY SEEKS EMPLOYMENT WITH A PRIVATE PHARMACY.

**SUMMARY:** A temporary part-time inspector for the Board of Pharmacy may engage in off-duty employment with a private pharmacy, as long as he adheres to the off-duty employment guidelines, recusal provisions and financial disclosure requirements of the Act.

**QUESTION:** May a temporary part-time inspector for the Board of Pharmacy engage in off-duty employment with a private pharmacy as a “pharmacist-in-charge”?

**DISCUSSION:** The State Ethics Commission’s jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

In prior opinions, the State Ethics Commission has advised that a public employee may engage in outside employment consistent with established guidelines: (1) that no public materials or equipment are utilized, except as provided by Section 8-13-700(A); (2) such work is engaged in on the employee's own time; (3) the work does not interfere with the needs of the agency; and (4) the public position is not utilized to obtain or continue the employment. See AO92-066, AO92-093, AO92-202 and AO92-206.

The State Ethics Commission cites Section 8-13-700(A), which provides:

No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, 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 a public official's, public member's, or public employee's use which does not result in additional public expense.

Due to the regulatory nature of the Board of Pharmacy, the Board must implement internal restrictions to ensure that the part-time inspector and pharmacist-in-charge is not in violation of Section 8-13-700(A) by inspecting his own facility. If those restrictions are not in place then the inspector/pharmacist-in-charge must recuse himself from the

inspection process pursuant to Section 8-13-700(B)(1) and (3), which provides:

No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or 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 member of his immediate family, 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. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

Finally, the Commission cites Section 8-13-730, which provides:

Unless otherwise provided by law, no person may serve as a member of a governmental regulatory agency that regulates any business with which that person is associated. An employee of the regulatory agency which regulates a business with which he is associated annually shall file a statement of economic interests notwithstanding the provisions of Section 8-13-1110. No person may be an employee of the regulatory agency which regulates a business with which he is associated if this relationship creates a continuing or frequent conflict with the performance of his official responsibilities.

As Section 8-13-730 notes, the dual relationship between employment by a regulatory agency and association with a business being regulated by the agency may create an ongoing conflict that compromises the performance of the part-time inspector's official responsibilities. If that occurs then the part-time inspector must make a choice between his public employment and his off-duty employment. Additionally, Section 8-13-730 requires that a pharmacist file a Statement of Economic Interest each year that he

performs inspections of facilities and is employed by a facility.

**CONCLUSION:** Accordingly, the Commission opines that the Board of Pharmacy part-time inspector may engage in off-duty employment as a pharmacist-in-charge as long as he adheres to the guidelines for off-duty employment and the provisions of recusal and financial disclosure set forth in Sections 8-13-700(B) and 8-13-730. The same provisions for off-duty employment are applicable whether the temporary, part-time inspector is a pharmacist or a pharmacist-in-charge.

<b>KEY WORDS:</b> off-duty employment
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<b>ANNOTATIONS:</b> 8-13-700(A) and (B), 8-13-730
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**SEC AO2001-004**

**November 15, 2000**

**SUBJECT:** CANDIDATES FOR PUBLIC OFFICE USING GOVERNMENT PERSONNEL, EQUIPMENT, MATERIALS, OR AN OFFICE BUILDING IN AN ELECTION CAMPAIGN.

**SUMMARY:** If a government office building is available to all candidates on equal terms as required by Section 8-13-765(B), then candidates may use the office building in their election campaign.

**QUESTION:** This opinion is issued in response to the ongoing concern the State Ethics Commission has regarding potential violations of Section 8-13-765 of the Ethics Reform Act of 1991, by candidates for elective office who use photos of government office buildings in their campaign materials.

**DISCUSSION:** The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

The State Ethics Commission calls attention to Section 8-13-765, which provides:

Section 8-13-765. (A) No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.

(B) A government, however, may rent or provide public facilities for political meetings and other campaign-related purposes if they are available on similar terms to all candidates and committees, as defined in Section 8-13-1300(6).



(C) This section does not prohibit government personnel, where not otherwise prohibited, from participating in election campaigns on their own time and on nongovernment premises.

The Commission in AO2000-008 answered the question whether a constitutional officer may use the actual physical premises of his office for a ballot measure campaign? The Commission advised the officer to review both Sections 8-13-765 and 8-13-1346 which set forth a number of prohibitions related to the use of public resources to influence the outcome of an election. Specifically Section 8-13-765 provides that “no person may use government personnel, equipment, materials, or an office building in an election campaign.” Section 8-13-1346 provides in part that “a person may not use or authorize the use of public funds, property, or time to influence the outcome of an election.” Accordingly, the constitutional officer was advised that he may not use the actual physical premise of his office for the campaign.

In SEC Complaint No. C96-010, the State Ethics Commission brought a complaint alleging two violations of Section 8-13-765 against a candidate for re-election to the Spartanburg City Council. The candidate used city council chambers to film two campaign videos. The candidate did make an appointment to reserve city council chambers; however, he failed to inform the official that he would be filming a campaign video. According to city policy, council chambers were available for use by other governmental groups for meeting space; however, it was not available to the general public or non-governmental groups, nor was it available for election or campaign related meetings or activities. The Commission and the candidate entered a Consent Order. The candidate admitted to two violations of Section 8-13-765 for using a government office building in an election campaign.

A candidate may use a government office building or property as long as the building or property is available to all candidates on equal terms. An incumbent candidate must not have an advantage. Government officials must ensure their buildings or properties are available to either all candidates or to no candidates. Candidates must also ensure that the facility they seek to use in their election campaign is available on equal terms to all candidates.

**CONCLUSION:** Accordingly, the Commission finds that a government office building or property is not being used in an election campaign in violation of Section 8-13-765, if the building or property is available to all candidates on equal terms. Officials of county, city and other political subdivisions are advised to either review or develop policy on the use of governmental office buildings and property for election or campaign related meetings or activities.

ANNOTATIONS:	Section 8-13-765
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**SUBJECT:** OFF-DUTY EMPLOYMENT

**SUMMARY:** A Department of Transportation engineer is advised that he may provide consulting services to local engineering design firms while off-duty; however, he must adhere to the off-duty guidelines and other sections of the Ethics Reform Act.

**QUESTION:** A Department of Transportation engineer asks whether he may provide off-duty consulting services on private development projects to local engineering design firms.

**DISCUSSION:** The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

In prior advisory opinions, the State Ethics Commission has advised that a public employee may engage in outside employment consistent with established guidelines: (1) that no public materials or equipment are utilized, except as provided by Section 8-13-700(A), (2) such work is engaged in on the employee's own time, (3) the work does not interfere with the needs of the agency, and (4) the public position is not utilized to obtain or continue the employment.

In addition to the off-duty guidelines, the State Ethics Commission calls attention to Section 8-13-700(B). If the DOT engineer is required to take an official action as a public employee which will affect the economic interests of an engineering design firm for whom he is consulting, then he must follow the recusal procedures of Section 8-13-700(B), which provides:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or 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 member of his immediate family, 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. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

Further, the Commission calls attention to Section 8-13-720, which provides:

No person may offer or pay to a public official, public member, or public employee and no public official, public member, or public employee may solicit or receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

Finally, the Commission calls attention to Section 8-13-725, which provides

No public official, public member, or public employee may use or disclose confidential information gained in the course of or by reason of his official responsibilities in any way that would affect an economic interest held by himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

A public employee must not receive additional compensation from his off-duty employment, if he is being paid to provide those services through his public employment. Finally, a public employee must not use or disclose confidential information he gains in his public employment to affect the economic interest of himself, an immediate family member, an individual with which he is associated, or a business with which he is associated.

Provided such work is done consistent with the off-duty guidelines and discussed sections of the Ethics Reform Act, the Commission knows of no reason why the DOT engineer could not provide consulting services on private development projects to local engineering design firms.

**CONCLUSION:** Accordingly, the Commission believes that the DOT engineer may provide off-duty consulting services on private development projects to local engineering design firms, as long as he adheres to the off-duty guidelines, the recusal provisions of Section 8-13-700(B), dual payment prohibitions of Section 8-13-720 and the confidentiality provisions of Section 8-13-725.

KEY WORDS: off-duty employment
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ANNOTATIONS: Section 8-13-700(B), 720 and 725

## APPENDIX B

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### COMPLAINTS RESOLVED FY 2000-2001

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*Copies of these Orders may be obtained by contacting the State Ethics Commission. Complaints which were dismissed for lack of sufficient facts and those which were found to be groundless are not a matter of public record.*

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#### **C98-019 (SEC vs. Donald W. Helms)**

On July 5, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Donald W. Helms, a former chairman of the Horry County Planning Commission and a principal in Helms Realty, Inc., alleging that Mr. Helms participated in matters before the Horry County Planning Commission which affected his economic interests with regard to him being a principal in Helms Realty, Inc.

Mr. Helms was the buyer's agent for Burroughs and Chapin in the purchase of 900 acres of land known as Grande Dunes West in November 1997 and received a \$300,000 commission for brokering the transaction. In May 1998 Mr. Helms participated and voted on a motion pertaining to a change in the zoning on the Grande Dunes West property.

An investigation conducted by the State Ethics Commission resulted in one charge against Mr. Helms for use of public office to obtain an economic interest and participation in a governmental decision affecting a business with which associated.

The Commission found that Mr. Helms had a compensated agent relationship with Burroughs and Chapin in November 1997; however, evidence was presented to show that the relationship ceased upon the completion of the sale of property in November 1997. Absent evidence of a business with which associated relationship between Mr. Helms and Burroughs and Chapin in May 1998, there was no finding that Mr. Helms violated the State Ethics Act.

Based upon the evidence presented at a hearing on May 17, 2000, the Commission warned Mr. Helms to be very careful about voting on matters where an appearance of impropriety could be created and ordered that the allegations against him be dismissed.

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#### **C99-013 (SEC vs. Douglas M. Tompkins)**

On July 19, 2000 the State Ethics Commission issued a Consent Order as a result of a complaint filed by the State Ethics Commission against Douglas M. Tompkins, the Director of Public Works for Dorchester County. The complaint alleged that Mr. Tompkins and two other employees were operating a land survey business from the Public Works Department on county time with county equipment.

An investigation was conducted by the State Law Enforcement Division which resulted in five charges against Mr. Tompkins for use of public office for personal financial gain.

Mr. Tompkins, contends that he did not realize that transmitting and receiving documents over a county owned telefax machine, storing records, papers and other documents relating to the operation of his private land survey business in his public office and using

and authorizing other public employees under his supervision to use publicly owned cellular telephones to make telephone calls relating to the operation of his private land survey business would be violations of the Ethics Reform Act. He has voluntarily participated in two ethics seminars and closed his private land survey business.

Mr. Tompkins admitted he violated the Ethics Reform Act in that he used the Dorchester County fax machine to transmit and receive documents relating to the operation of his private land survey business, that he used his position as a public employee to house records, papers, and other documents relating to the operation of his private land survey business in a public office and that he used, and authorized other public employees under his supervision to use, publicly owned cellular telephones to make telephone calls relating to the operation of his private land survey business. The State Ethics Commission found Mr. Tompkins in violation of three of the five original counts and publicly reprimanded him.

**C2000-066 (SEC vs. Keith S. Smith)**

On July 19, 2000 the State Ethics Commission issued a Consent Order as a result of a complaint filed by the Commission against Keith S. Smith, a member of the Board of Trustees for Coastal Carolina University, alleging that Mr. Smith failed to file a Statement of Economic Interests Form by April 15, 1999.

An investigation was conducted by the State Ethics Commission which showed that Mr. Smith was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. Mr. Smith filed a Statement of Economic Interests Form on July 11, 2000 and paid the \$600 late filing penalty.

Mr. Smith admitted he violated the Ethics Reform Act. The State Ethics Commission found Mr. Smith in violation of the Ethics Reform Act and issued a public reprimand.

**C99-014 (SEC vs. Ronnie L. Whitfield)**

On July 12, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Ronnie L. Whitfield, former Business Manager for the Anderson-Oconee-Pickens Mental Health Center alleging that he used his position for personal gain.

At the request of the South Carolina Department of Mental Health, Division of Public Safety, the State Ethics Commission reviewed an investigative report on Mr. Whitfield.

As part of Mr. Whitfield's job responsibilities, he negotiated and entered into contracts with providers of services to the Center, as well as supervised the Center's maintenance crews.

In 1993, Mr. Whitfield moved into a house owned by the American Legion Post #14. At that time, he entered into an agreement with the American Legion to live in the house rent free in return for services rendered to the American Legion pursuant to a caretaker agreement. As caretaker, he was responsible for the overall maintenance of the American Legion Hut and for leasing the Hut for use by outside parties.

In 1994, he participated in the decision by the Center to lease the American Legion Hut for a daycare program. Beginning in 1995, he directed Center personnel to perform various tasks at the American Legion Hut including yard maintenance, interior repair and

maintenance, not provided for in the lease, and preparing the Hut for non-Mental Health Center events all of which were his responsibilities as caretaker. In addition, Mr. Whitfield later agreed on behalf of the Center to pay the electric bill for the American Legion Hut with Center funds.

On June 29, 1998, Dr. Norman Robertson, Executive Director of the Anderson-Oconee-Pickens Mental Health Center, issued a Notice of Intent to Terminate Respondent for misappropriating Center resources for his own gain. The Director of Community Mental Health Services approved the recommendation and Dr. Robertson issued a Notice of Termination to Mr. Whitfield on August 3, 1998. Mr. Whitfield appealed the termination to the South Carolina Department of Mental Health's Grievance Panel which upheld the termination. Mr. Whitfield then appealed the decision to the State Employee Grievance Hearing at which time the parties entered into a Mediation Agreement. On October 21, 1998, the State Ethics Commission issued a Notice of Hearing charging Mr. Whitfield with eight counts of violating the S. C. Code of Laws (Ethics Reform Act) by using his public office for personal financial gain. In February, 1999, Mr. Whitfield filed a civil action against the Center and Dr. Robertson asserting a cause of action for tortious interference with contract.

On May 17, 2000, information was presented to the Commission about the lawsuit and its affect on the Center's ongoing services. The Commission was asked to consider favorably the Department of Mental Health's request that the Commission end its Complaint matter against Mr. Whitfield in order for the Department to settle Mr. Whitfield's lawsuit.

Based on the evidence presented, the State Ethics Commission took into consideration the request of the Department of Mental Health to end this complaint matter in order for the Department to settle a civil lawsuit, and further the State Ethics Commission also considered Mr. Whitfield's termination from state employment. In view of the corrective action taken by the Department of Mental Health regarding Mr. Whitfield's employment, the Commission waived all further proceedings, and ordered the matter closed.

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**C2000-081 (SEC vs. Danny E. Vereen)**

On August 1, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Danny E. Vereen, alleging that Mr. Vereen failed to file a properly completed pre-election Campaign Disclosure Form by the required deadline.

An investigation was conducted by the State Ethics Commission which showed that Mr. Vereen was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Mr. Vereen was in violation of the Ethics Reform Act, publicly reprimanded him and issued a fine of \$2,000. However, if Mr. Vereen files the required pre-election Campaign Disclosure Form and pays the late filing penalty of \$600, the \$2,000 fine will be suspended. If the penalty is not paid within 30 days, a judgment will be filed against him for \$2,600.

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**C2000-071 (SEC vs. Herbert W. French)**

On July 28, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Herbert W. French, a Trustee for the Greenwood Number Fifty School District alleging that Mr. French failed to file a 1999 Statement of Economic Interests Form by the April 15, 2000 deadline.

An investigation was conducted by the State Ethics Commission which showed that Mr. French was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Mr. French was in violation of the Ethics Reform Act, publicly reprimanded him and issued a fine of \$2,000. However, if Mr. French files the required 1999 Statement of Economic Interests form and pays the late filing penalty of \$600, the \$2,000 fine will be suspended. If the penalty is not paid within 30 days, a judgment will be filed against him for \$2,600.

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**C2000-068 (SEC vs. George S. Jenkins)**

On August 1, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against George S. Jenkins, who was a candidate for the North Charleston City Council in an election held June 10, 1999, alleging that Mr. Jenkins failed to file a properly completed final Campaign Disclosure Form.

An investigation was conducted by the State Ethics Commission which showed that Mr. Jenkins was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection. The investigation resulted in Mr. Jenkins being charged with one count of failure to file a pre-election Campaign Disclosure Report.

Based on the evidence presented, the State Ethics Commission determined that Mr. Jenkins was in violation of the Ethics Reform Act, publicly reprimanded him and issued a fine of \$2,000 in addition to the late filing penalty of \$600. However, if Mr. Jenkins files the required final Campaign Disclosure Form and pays the late filing penalty of \$600, the \$2,000 fine will be suspended. If the penalty is not paid within 30 days, a judgment will be filed against him for \$2,600.

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**C2000-091 (William and Prinscillia Sumpter vs. Rembert Wrenn)**

On April 10, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by William and Prinscillia Sumpter of Russellville, South Carolina against Rembert Wrenn, Mayor of Bonneau, South Carolina. The complaint alleged that Mr. Wrenn's wife works for the Town of Bonneau and his family and friends are on the Town Council of Bonneau. The complaint further alleges that the Town of Bonneau had hired a new police officer, and that shortly thereafter, Mayor Wrenn removed the new officer and replaced him with Frank Fuda, who is the live-in boyfriend of Mayor Wrenn's daughter.

An investigation was conducted by the State Ethics Commission which found that Elizabeth Wrenn, Wife of Mayor Wrenn was first hired as a part-time clerk in 1988 by Bonneau Town



Council. She was hired as the Town Clerk in 1990 with Mayor Wrenn participating in the discussion and vote. The Mayor has the authority to hire and fire the Town Police Officers. Regardless of any relationship between the Mayor's daughter and Frank Fuda, Mayor Wrenn is not related to Mr. Fuda as a "Family Member".

From the minutes of the Bonneau Town Council meeting of September 17, 1990, it appeared that Mayor Wrenn initiated and participated in discussion which led to the hiring of his wife as Town Clerk. Although this action in 1990 was outside the jurisdiction of the State Ethics Commission due to the four year statute of limitations, the Commission cautioned Mayor Wrenn that similar acts within four years of the complaint would possibly be a violation of the Ethics Reform Act. The Commission found no evidence of a violation of the Ethics Reform Act concerning the appointment of Town Police Officer Fuda.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mayor Wrenn violated the Ethics Reform Act and dismissed the charges. The Commission cautioned Mayor Wrenn not to take any action regarding the employment, appointment, promotion, transfer, or advancement of his wife or any other family member to a position in which he supervises or manages.

**C2000-092 (SEC vs. Pris H. Wright)**

On August 10, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Pris H. Wright, a candidate for Chester County Council in an election on March 16, 1999, alleging that Ms. Wright failed to timely file a pre-election Campaign Disclosure Form.

An investigation was conducted by the State Ethics Commission which showed that Ms. Wright was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

As a candidate in an election, Ms. Wright was required to file a Pre-Election Campaign Disclosure Form. The Statement of Economic Interests form filed February 2, 1999 gave specific instructions as to when the form was due; however, Ms. Wright failed to file until May 22, 2000 after late filing penalties had increased to the maximum fine of \$600, but before the complaint was initiated against her.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Ms. Wright violated the State Ethics Act and dismissed the charges.

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**C2000-093 (Larry Hill vs. Larry Jennings)**

On August 10, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Larry Hill of Sumter against Larry Jennings of Sumter who is employed as Head mechanic at Santee Wateree Regional Transit Authority (SWRTA) in Sumter. The complaint alleged that Mr. Jennings used the facility and equipment at the SWRTA garage to work on personal vehicles for private citizens. SWRTA is a regional government entity which is funded by local counties and cities.

An investigation was conducted by the State Ethics Commission which found that over a period of several years, Mr. Jennings and other SWRTA mechanics performed mechanical work on private non-RTA vehicles using the facilities and equipment of the SWRTA garage. This work was done for profit during the employee's off-duty hours. Working on private vehicles was an accepted practice and done with the knowledge of the Executive Director and Deputy Director of SWRTA, however, there was no written policy authorizing this practice.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Jennings violated the State Ethics Act and dismissed the charges. The Commission also strongly urged the Executive Director of SWRTA that the practice of working on private vehicles for profit invites abuse and recommended that a clear policy statement prohibiting the practice be implemented.

**C2000-055 (Charlene P. Lawyer vs Donald Gist)**

On August 10, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Charlene P. Lawyer, Public Information Coordinator at the South Carolina Commission for the Blind (SCCB) against Donald Gist, a Commissioner with the South Carolina Commission for the Blind. The complaint alleged that Mr. Gist used his position to require Ms. Lawyer to perform various personal errands as a condition of employment. In addition, the complaint alleged that in 1996 Mr. Gist made long distance telephone calls using a state telephone and used an agency copy machine for personal matters.

An investigation was conducted by the State Ethics Commission which found that the South Carolina Commission for the Blind telephone records were unretrievable and two employees of SCCB while on duty as a SCCB employees typed two school reports for Mr. Gist's wife.

The allegations concerning Mr. Gist using Ms. Lawyer to run personal errands and use of agency telephones to make long distance calls could not be independently verified. The allegations involving SCCB employees providing typing services for Mr. Gist's wife do not constitute an economic interests as defined by the State Ethics Act.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Gist violated the Ethics Reform Act and dismissed the charges. The Commission cautioned Mr. Gist to be cognizant of the appearance of impropriety in the use of agency employees to perform typing services not related to agency business.

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**C2000-090 (SEC vs. Dr. Afsar Waraich)**

On April 10, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Dr. Afsar Waraich, a member of the Barnwell County Hospital Planning Committee. The complaint alleged that in early 1999 the Barnwell County Council requested the County Councils of Bamberg and Allendale to join with Barnwell County in appointing a three county hospital planning commission to review proposals from organizations to assume the responsibilities for the operations of the respective county hospitals. The County Councils of Allendale and Bamberg agreed to Barnwell County's request and each County Council appointed four members to the three county committee. The members from Barnwell County included Dr. Afsar Waraich, two Barnwell County Council Members and a fourth member who is a member of the Barnwell Hospital Board.

Dr. Waraich is also the Chief of Staff of the Barnwell County Hospital, President of Barnwell County Medical Society, owns his own practice, Palmetto Internal Medicine which employs other physicians, and owns Palmetto Emergency Medicine which employs physicians who contract to provide emergency room coverage to Allendale and Barnwell County hospitals.

As a member of the three member hospital planning committee, Dr. Waraich has participated in actions which may have a financial impact on the contracts between Palmetto Emergency Services and Allendale County and Barnwell County Hospitals.

An investigation was conducted by the State Ethics Commission which found that the Committee was not created by county ordinance and its purpose was to serve as an informal advisory group to Barnwell County Council. The Committee was to meet jointly with identical committees from Bamberg and Allendale counties to review various private business proposals to lease or manage the three county hospitals. BCHPC did not keep minutes and did not vote on any of the proposals. Dr. Waraich owns Palmetto Emergency Medicine (PEM), an incorporated business which provides emergency room physicians to Barnwell County Hospital. There is no information to suggest that Dr. Waraich, as a member of BCHPC, took any action to steer the committee away from any proposal which might have threatened his emergency room contract.

The Commission has previously ruled that "members of an advisory board appointed by a city manager are not public members and, thus, are not subject to the restrictions of the Ethics Reform Act".

Based on the evidence presented, the State Ethics Commission determined that Dr. Waraich was not a public member in his capacity as an appointed member of the Barnwell County Hospital Planning Committee, that there was not probable cause to indicate that he violated the Ethics Reform Act and dismissed the charges.

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**C2000-072 (SEC vs. Corrine E. Jones)**

On July 28, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Corrine E. Jones, a public member of the Florence County Board of Voter Registration, alleging that Ms. Jones failed to file a 1999

Statement of Economic Interests Form by the April 15, 1999 deadline.

An investigation was conducted by the State Ethics Commission which showed that Ms. Jones was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Ms. Jones was in violation of the Ethics Reform Act, publicly reprimanded her and issued a fine of \$2,000. However, if Ms. Jones files the required 1999 Statement of Economic Interests form and pays the late filing penalty of \$600, the \$2,000 fine will be suspended. If the penalty is not paid within 30 days, a judgment will be filed against her for \$2,600.

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**C2000-087 (SEC vs. Rudy Williams)**

On July 28, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Rudy Williams, a registered lobbyist in 1999 for the South Carolina Association of the Deaf and the South Carolina Dance Coalition. The complaint alleged that Mr. Williams failed to file Lobbyist Disclosure Reports for the April 1, 1999 through September 30, 1999 reporting period.

An investigation was conducted by the State Ethics Commission which showed that Mr. Williams was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600 per report.

Based on the evidence presented, the State Ethics Commission determined that Mr. Williams was in violation of the Ethics Reform Act, publicly reprimanded him and issued a fine of \$4,000 in addition to the late filing penalty of \$1,200. However, if Mr. Williams files the required 1999 Lobbyist Disclosure Statements for both the South Carolina Association of the Deaf and the South Carolina Dance Coalition and pays the late filing penalty of \$1,200, the \$4,000 fine will be suspended. If the forms are not received and the penalty is not paid within 30 days, a judgment will be filed against him for \$5,200. In addition, Mr. Williams will be prohibited from registering as a lobbyist until the forms are filed and the fines are paid.

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**C2000-064 (SEC vs. David J. Canty)**

On July 28, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against David J. Canty, a public member of the Horry County Election Commission alleging that Mr. Canty failed to file a 1999 Statement of Economic Interests Form by the April 15, 1999 deadline.

An investigation was conducted by the State Ethics Commission which showed that Mr. Canty was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Mr. Canty was in violation of the Ethics Reform Act, publicly reprimanded him and issued a fine of \$2,000. However, if Mr. Canty files the required 1999 Statement of Economic Interests

form and pays the late filing penalty of \$600, the \$2,000 fine will be suspended. If the penalty is not paid within 30 days, a judgment will be filed against him for \$2,600.

**C98-047 (Dr. Patricia A. Robinson vs. Dr. Lucy J. Reuben)**

On August 25, 2000 the State Ethics Commission issued an Order as a result of a complaint filed by Dr. Patricia A. Robinson, a former Professor of Business Administration at South Carolina State University, against Dr. Lucy J. Reuben, Dean for the School of Business at South Carolina State University. The complaint alleged that Dr. Reuben (1) participated in a decision to appoint her husband, Dr. John Cole, as the chair of the Curriculum Committee of the School of Business Administration and to allow additional release time for chairs of such committees, (2) attempted to use her office to influence the payment of tuition to Leadership South Carolina for her husband, and (3) used her position to obtain summer employment for her husband from a United States Department of Agriculture grant.

An investigation was conducted by the State Ethics Commission which resulted in three charges against Dr. Reuben for participation in a governmental decision affecting a member of her immediate family.

Dr. Reuben admitted to having a brief conversation with Dr. Leroy Davis, interim President, concerning her husband's continuing participation in Leadership South Carolina and the University's payment of his tuition. Despite the fact that the conversation was brief and did not result in any funding for his tuition, the Commission found that an inadvertent and unintentional violation had occurred. The Commission further noted that Dr. Cole's assignment as a professor in the School of Business while his wife was the Dean, placed both of them in a difficult position and that some inadvertent violation was almost inevitable.

Based upon the evidence presented, the State Ethics Commission cautioned Dr. Reuben to familiarize herself with the provisions of the State Ethics Act and to be alert for other potential conflicts of interests. The Commission also noted that Dr. Cole is no longer employed at South Carolina State University; therefore, violations of a similar nature should not occur in the future. As a condition of the agreement, the Commission dismissed the other two charges.

**C2000-099 (Michael T. Rose vs. unidentified agents and employees of the SC Department of Transportation (SCDOT))**

On October 5, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Michael T. Rose against unidentified agents and employees of the South Carolina Department of Transportation (SCDOT). The complaint alleged that SCDOT equipment and personnel were used in a campaign photograph of Senator Bill Branton which appeared in a Summerville newspaper. The photograph showed Senator Branton and a SCDOT employee standing in front of a marked SCDOT vehicle. The complaint alleged that Senator Branton and others affiliated with SCDOT violated the State Ethics Act by using SCDOT personnel, equipment, and materials in an election campaign. Also that Senator Branton and SCDOT violated the State Ethics Act by using or authorizing the use of public funds, property, or time to influence the outcome of an election.

An investigation was conducted by the State Ethics Commission which found that the SCDOT employee depicted in Senator Branton's campaign photograph was identified as a full-time summer employee. The employee was a college student who was working a summer job at SCDOT. The employee was working in Summerville when she was approached by someone wishing to take her photograph with Senator Branton. She agreed to the request without seeking supervisory authorization.

While the SCDOT employee did authorize the use of public equipment for a campaign advertisement, the Commission believes she did so without knowledge of the statute and without Department of Transportation authorization. The State Ethics Commission has no statutory authority to investigate matters involving actions of a candidate for the office of State Senator.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that the South Carolina Department of Transportation violated the State Ethics Act and dismissed the charges.

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**C2000-100 (Michael T. Rose vs. Charles "Bud" Ferillo)**

On October 5, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Michael T. Rose against Charles "Bud" Ferillo of Ferillo & Associates in Columbia, South Carolina. The complaint alleged that Mr. Ferillo, who was a paid campaign consultant for William S. Branton, Jr. in Branton's campaign for the South Carolina Senate in August 1997, assisted in the making of at least two cable television advertisements advocating the election of Mr. Branton. The advertisements were produced at the Summerville Fire Station using the Town of Summerville Fire Chief Richard G. Waring, III to speak for Branton.

An investigation was conducted by the State Ethics Commission which found that Mr. Ferillo is president of Ferillo and Associates, a public relations and advertising business in Columbia, South Carolina. He performed some public relations work for the Bill Branton Senate campaign in 1997. During Bill Branton's election campaign for the Senate in 1997, Mr. Ferillo requested that Mr. Branton arrange to video tape quick 30-second statements of support from citizens around Summerville, South Carolina. Mr. Ferillo and Mr. Branton drove around Summerville and did the taping at various locations which were selected by Mr. Branton. Mr. Ferillo was present at the Summerville Fire Station during the taping of a statement of support by Fire Chief Richard Waring.

The evidence indicates Mr. Ferillo did not participate in the selection of the locations to video the political advertisements and did not authorize the use of the Summerville Fire Hall. The State Ethics Commission has no statutory authority to investigate matters involving actions of a candidate for the office of State Senator.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Ferillo violated the State Ethics Act and dismissed the charges.

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**C2000-105 (Michael T. Rose vs. Berlin G. Myers)**

On October 5, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Michael T. Rose against Berlin G. Myers, Mayor of the Town of Summerville, South Carolina. The complaint alleged that in an election for the South Carolina Senate held August 12, 1997 at least two cable television advertisements supporting William S. Branton, Jr. were made on July 30, 1997 by Summerville, South Carolina Fire Chief Richard G. Waring in the Summerville Fire Station. These ads were known to have been made by Waring in the Summerville Fire Station and were widely construed by citizens to be an endorsement by officials of the Town of Summerville. Mr. Rose became aware on the day before the ads were made that they were to be made at Summerville Fire Department. He stated that he personally called Mayor Myers and informed him of Waring's intent to produce the ads; he informed Mayor Myers that this would be a violation of the State Ethics Act; and asked him to prevent Waring from making the ads at the Summerville Fire Station.

An investigation was conducted by the State Ethics Commission which found that Mayor Myers learned about the taping of the Branton campaign advertisement at the Summerville Fire Station after the fact. He believed he received a telephone call from Mr. Rose on the evening of the same day or the next day following the taping event. Richard G. Waring, III, who is presently employed part-time as Special Assistant to the Mayor of the Town of Summerville, on July 30, 1997 made a brief, approximately five second, statement of support for the Bill Branton campaign for State Senator. This statement was taped inside the Summerville Fire Department. Mr. Waring did not receive any instructions regarding the campaign advertisement from Mayor Myers.

Based upon the evidence presented, the Commission does not believe Mayor Myers failure to take action to prevent the airing of the Branton campaign advertisement produced at the Fire Hall constitutes probable cause that the Ethics Act was violated.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that the Berlin G. Myers violated the State Ethics Act and dismissed the charges.

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**C2000-107 (Michael T. Rose vs. John F. Wilbanks)**

On October 5, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Michael T. Rose against John F. Wilbanks, Administrator for the Town of Summerville, South Carolina. The complaint alleged that in an election for the South Carolina Senate held August 12, 1997 at least two cable television advertisements supporting William S. Branton, Jr. were made on July 30, 1997 by Summerville, South Carolina Fire Chief Richard G. Waring in the Summerville Fire Station. These ads were known to have been made by Waring in the Summerville Fire Station and were widely construed by citizens to be an endorsement by officials of the Town of Summerville. Mr. Rose became aware on the day before the ads were made that they were to be made at the Summerville Fire Department. Mr. Rose stated that he personally called the Mr. Wilbanks and informed him of Waring's intent to produce the ads and that this would be a violation of the State Ethics Act; and asked Mr. Wilbanks to prevent Waring from making the ads at the Summerville Fire Station.

An investigation was conducted by the State Ethics Commission which found that Mr. Wilbanks maintains that he did not have any knowledge of the proposed taping of a political advertisement at the Summerville Fire Station before the event occurred. He stated that he received a call from Mr. Rose during the evening hours on the day the taping had occurred. Mr. Waring is presently employed part-time as Special Assistant to the Mayor of the Town of Summerville, and on July 30, 1997 made a brief, approximately five second, statement of support for the Bill Branton campaign for State Senator. This statement was taped inside the Summerville Fire Department. He did not receive any instructions regarding the campaign advertisement from Administrator Wilbanks.

Based upon the evidence presented, the Commission does not believe Mr. Wilbanks failure to take action to prevent the airing of the Branton campaign advertisement produced at the Fire Hall constitutes probable cause that the Ethics Act was violated.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that the John F. Wilbanks violated the State Ethics Act and dismissed the charges.

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**C2000-002 (Harold W. Brookshire vs. Harvey Choplin, Roy Reynolds, Sandra Scarpa, and Edward R. Blakemore)**

On October 5, 2000 the State Ethics Commission issued Decision and Orders as a result of complaints filed by Harold W. Brookshire, a resident of the City of Travelers Rest, against Harvey Choplin, Roy Reynolds, Sandra Scarpa, and Edward R. Blakemore, who were all at the time of the alleged violations serving on the Council for the City of Travelers Rest. The complaint alleged that Mr. Choplin, Mr. Reynolds, Ms. Scarpa, and Mr. Blakemore violated the State Ethics Act by agreeing to allow the City of Travelers Rest to pay for a \$35 expense incurred by each members spouse through attendance at an event sponsored by the Municipal Association of South Carolina at a meeting in July 1996.

An investigation was conducted by the State Ethics Commission which found that sometime in the mid 1980's, the City's former administrator began advising city officials who attended Municipal Association of South Carolina meetings that events attended by their spouses at these meetings would be paid by the City of Travelers Rest when the expenses were submitted. In accordance with this position, the City Clerk paid for those events attended by a spouse of an official. No formal written policy was prepared to reflect this practice.

City of Travelers Rest records disclosed that in July 1996 Mr. Choplin, Mr. Reynolds, Ms. Scarpa, and Mr. Blakemore attended the Association meeting in Greenville and submitted an expense of \$35 for each of their spouses to attend "Closing Ceremonies". They relied upon the unofficial policy of the City and the \$35 was paid by the City for the spouses to attend the event.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Choplin, Mr. Reynolds, Ms. Scarpa, and Mr. Blakemore violated the State Ethics Act and dismissed the charges. The Commission cautioned Mr. Choplin, Mr. Reynolds, Ms. Scarpa, and Mr. Blakemore to be more



cognizant of the appearance of impropriety concerning any payment made by the City of Travelers Rest to pay for a spouse to attend an official function.

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**C2001-003 (Pat Crain vs. Roy Reynolds)**

On October 5, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Pat Crain, a council member for the City of Travelers Rest against Roy Reynolds, also a council member for the City of Travelers Rest and an insurance agent/owner of Reynolds-Cooper Insurance Agency located in Travelers Rest. The complaint alleged that Mr. Reynolds placed on the Personnel Committee Agenda, (which he is Chairman) and participated in the discussion and presentation of health insurance for the employees of the City of Travelers Rest. Also, that Mr. Reynolds instructed the City Administrator to place on the Ways and Means Committee Agenda without the knowledge of Chairperson Debbie Hughes, the discussion of his proposal for group insurance for the city employees.

An investigation was conducted by the State Ethics Commission which found that Mr. Reynolds is an elected member of the City of Travelers Rest and also chairman of the Council's Personnel Committee. In January 2000 Clifford Gaddy, Travelers Rest City Administrator sent letters to three insurance agents requesting quotes for Travelers Rest city employees' health insurance. Mr. Reynolds presented various insurance options and costs to the Travelers Rest Personnel Committee on February 8, 2000. The health insurance issue was transferred to the council's Ways and Mean Committee. At a meeting of the Ways and Mean Committee on July 17, 2000, Roy Reynolds presented insurance plans. As of August 16, 2000 Travelers Rest City Council had not taken any action concerning adoption of any health insurance plan. Mr. Reynolds maintained he was presenting various insurance plans to the committees because he had ready access to this information through his insurance agency. He denied that he was lobbying to secure the city's insurance contract for his agency.

Since he participated in discussions of and performed an official function relating to the proposed health insurance contract, he would be precluded from having any economic interests in the resulting contract. Since no formal vote concerning the insurance contract has occurred, there does not appear to be a violation of the Ethics Act on the part of Mr. Reynolds.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Reynolds violated the State Ethics Act and dismissed the charges. The Commission also cautioned Mr. Reynolds to be more cognizant of the appearance of impropriety when presenting health insurance plans and quotes obtained through his insurance agency.

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**C2001-019 (James A. Millsap, Jr. vs. Steven Murdaugh)**

On October 5, 2000 the State Ethics Commission issued Decision and Orders as a result of a complaint filed by Mr. James A. Millsap, Jr., a citizen of Cottageville, South Carolina against Steven Murdaugh, Chairman of the Colleton County Council. The complaint alleged that Mr. Murdaugh violated the State Ethics Act by voting on various issues regarding some \$40,000 which is owed to the county for "dumping fees" by a company which Mr. Millsap identifies as being associated with County Councilman John Gooding.

The complaint alleged that if Councilman Gooding was a client, Mr. Murdaugh should have abstained from voting on all issues relating to Councilman Gooding's business.

An investigation was conducted by the State Ethics Commission which found that Mr. Murdaugh participated in discussions of and voted on county ordinances to provide for procedures for the collection of delinquent fees owed to Colleton County for the depositing of commercial waste at the Colleton County Waste Transfer Station and Colleton County Landfill. Mr. Murdaugh stated for the record that since he had performed some special services in the form of accounting services for the company at some point, he would remove himself from voting on the issue. Low Country Waste Management Company (LCWM) was a business engaged in hauling residential and commercial trash. Mr. Murdaugh is a Certified Public Accountant in private practice in Walterboro. He performed some accounting services for LCWM, however, his accounting relationship with LCWM ceased in January 2000.

Mr. Murdaugh participated in discussions of and voted on ordinances affecting all future users of the county's waste facilities. Even though it is apparent that the large debt owed by LCWM caused council to act, the ordinances are clearly not directed toward LCWM but to all users. Inasmuch as Mr. Murdaugh ceased being a "Compensated Agent" of LCWM in January 2000, the Commission does not believe he had a conflict of interest in August 2000 and could have participated in the council vote.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Murdaugh violated the State Ethics Act and dismissed the charges.

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**C2001-020 (James A. Millsap, Jr. vs. John Gooding)**

On October 5, 2000 the State Ethics Commission issued Decision and Orders as a result of a complaint filed by Mr. James A. Millsap, Jr., a citizen of Cottageville, South Carolina against John Gooding, a member of the Colleton County Council. The complaint alleged that Mr. Gooding had a financial interest in "Waste Management" which did business with Colleton County. The company was delinquent on disposal fees owed to Colleton County and that Mr. Gooding voted on ordinances to collect all delinquent accounts. The Council then decided to begin discussion on retaining a lawyer to pursue collection of fees owed by Waste Management. Mr. Gooding recused himself from the discussion but voted on the matter when it came to a vote.

An investigation was conducted by the State Ethics Commission which found that Mr. Gooding participated in discussions of and voted on county ordinances to provide for procedures for the collection of delinquent fees owed to Colleton County for the depositing of commercial waste at the Colleton County Waste Transfer Station and Colleton County Landfill. A review of council meeting minutes contain an item seeking authorization for the county attorney to associate an attorney to pursue legal action against Low Country Waste Management, Inc. for delinquent land fill and transfer station fees. Councilman Gooding voted in favor of the authorization. Sometime around October 1997 Mr. Gooding invested \$42,000 in a new corporation being formed by Mark Stone identified as Low Country Waste Management Company (LCWM). He was not an officer of the corporation, but was

to receive 25% of the company stock. In November or December 1999 he learned that he was not a shareholder in LCWM since the stock was never issued. The ordinances passed by Colleton County were directed to apply to all users of the County landfill and transfer station. LCWM was not specifically named in the ordinances.

From a review of the definition of "business with which he is associated", it is apparent that Mr. Gooding is not associated with LCWM. He is not a director, officer, owner, employee, compensated agent or holder of stock worth one hundred thousand or more dollars at fair market value and which constitutes five percent or more of the total outstanding stock of any value. Thus the Commission found that Mr. Gooding did not have a conflict of interest when he voted on matters affecting LCWM.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Gooding violated the State Ethics Act and dismissed the charges.

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**C2000-098 (SEC vs. Jeffrey Gore)**

On October 5, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Jeffrey Gore, a candidate for Atlantic Beach City Council in a November 2, 1999 election. The complaint, filed June 6, 2000, alleged that Mr. Gore failed to file a Pre-Election Campaign Disclosure Form by October 18, 1999. A late filing penalty of \$100 was levied on December 22, 1999.

An investigation was conducted by the State Ethics Commission which found that Mr. Gore was not receiving the Commission's correspondence concerning his reporting violations until a correct address was obtained. Mr. Gore complied when he was duly notified.

The Commission found that there was not probable cause to indicate that Jeffrey Gore violated the State Ethics Act and dismissed the charges.

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**C2000-096 (SEC vs. Shirley A. Davis)**

On November 15, 2000 the State Ethics Commission released a Decision and Order as a result of a complaint filed by the Commission against Shirley A. Davis, who at the time was a member of the Board of School Commissioners for Richland One School District. The complaint alleged that Ms. Davis failed to file Statement of Economic Interests Forms for 1998, 1999 and 2000.

An investigation was conducted by the State Ethics Commission resulting in three charges against Ms. Davis for failure to file the required Statement of Economic Interests Forms. Late penalties of \$1,200 were levied and were referred to South Carolina Department of Revenue for collection through the Set-Off Debt Program.

Based upon the evidence presented, the Commission found Shirley A. Davis in violation of the State Ethics Act, issued a public reprimand and a fine of \$6,000 was assessed in addition to the late filing penalty of \$1,200. The Commission further ordered that a judgment in the amount of \$7,200 be entered against Ms. Davis, however, the judgment would be suspended if Ms. Davis files the 1998, 1999 and 2000 Statement of Economic Interests Forms and pays the \$1,200 late filing penalty within thirty days.

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**C2000-094 (James Reid vs. Alma White)**

On November 27, 2000 the State Ethics Commission issued a Consent Order as a result of a complaint filed by James Reid of Georgetown against Alma White, City Council Member/Mayor Pro Tem for the City of Georgetown. The complaint alleged that Ms. White used her official position in discussing and voting on matters pertaining to rezoning property that she owns.

An investigation was conducted by the State Ethics Commission resulting in one charge against Ms. White for participation in a governmental decision affecting oneself.

Ms. White acknowledged that she unintentionally violated the Ethics Reform Act. The Commission adopted the Statement of Facts, Admissions and Disposition as agreed upon by Ms. White, issued a written warning and order her to pay an administrative fee of \$91.78 within thirty days.

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**C2000-097 (SEC vs. Herman H. Felix)**

On November 15, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Herman H. Felix, a council candidate for the Town of Lynchburg in 1999. The complaint alleged that Mr. Felix failed to file a pre-election Campaign Disclosure Report which was due fifteen days before the election.

An investigation was conducted by the Commission which resulted in one charge against Mr. Felix for failing to file a pre-election Campaign Disclosure Form. Mr. Felix was advised on numerous occasions of his failure to file and was assessed a maximum late filing penalty of \$600. The late filing penalty was referred to the South Carolina Department of Revenue for collection through the Set-Off Debt Program.

A hearing was conducted and the State Ethics Commission found Mr. Felix to be in violation of the State Ethics Act, publicly reprimanded him, and assessed a fine of \$2,000 to be entered as a judgment in his county of residence. The fine shall be suspended upon his filing of a final corrected Campaign Disclosure Form and payment of the \$600 late filing penalty within thirty days of receipt of the order.

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**C2000-074 (SEC vs. Betty Jo Hall)**

On November 15, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Betty Jo Hall, who was a Commissioner with the South Carolina State Library. The complaint alleged that Ms. Hall failed to file the required Statement of Economic Interests Forms for 1998 and 1999.

An investigation was conducted by the State Ethics Commission which showed that Ms. Hall was a Commissioner with the South Carolina State Library from June 1997 through June 1999 and would have been required to file a Statement of Economic Interests Forms for 1998 and 1999. A late filing penalty was levied and reached the maximum \$600. On July 19, 2000 Ms. Hall submitted properly completed Statement of Economic Interests Forms and paid the late filing penalty of \$600.

Based on the evidence presented, the State Ethics Commission determined that while there was probable cause to indicate that a violation occurred, there was no evidence to indicate that Ms. Hall willfully and knowingly attempted to violate the State Ethics Act. In

view of the corrective action taken by Ms. Hall, the State Ethics Commission waived all further proceedings and order the matter closed.

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**C2001-032 (SEC vs. Mary C. McCollum)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Mary C. McCollum, a council candidate for the City of Clio in 2000. The complaint alleged that Ms. McCollum failed to file a pre-election Campaign Disclosure Report which was due fifteen days before the election.

An investigation was conducted by the Commission which found that Ms. McCollum was running for re-election in April 2000. A \$100 late filing penalty was levied for failing to file the required Campaign Disclosure Form. On October 11, 2000 the Commission received Ms. McCollum's Pre-Election Campaign Disclosure Form and the \$100 late filing penalty.

Based upon the evidence presented, the filing of the required form and the payment of a late filing penalty, the State Ethics Commission determined that Ms. McCollum had complied with the disclosure requirements of the State Ethics Act and waived further proceedings.

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**C2001-027 (SEC vs. Deidre O. Dove)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Deidre O. Dove, former Town Clerk for the Town of Eastover. The complaint alleged that Ms. Dove failed to file the required Statement of Economic Interests Form for 2000.

An investigation was conducted by the State Ethics Commission which showed that Ms. Dove was employed with the Town of Eastover until April 20, 2000 and would have been required to file a 2000 Statement of Economic Interests Form. On April 14, 2000 Ms. Dove filed her form, however, it was returned to her for correction. On October 11, 2000 a 2000 Statement of Economic Interests Form was received from Ms. Dove with a letter of explanation in which she asserted she did submit a corrected Statement of Economic Interests in May 2000.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Ms. Dove violated the State Ethics Act and therefore dismissed the charges.

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**C2001-015 (Michael T. Rose vs. Richard G. Waring, III)**

On November 27, 2000 the State Ethics Commission issued Decision and Order's as a result of two complaints filed by Michael T. Rose of Summerville against Richard G. Waring, III, the Fire Chief and Public Safety Director for the Town of Summerville. The complaints alleged that Mr. Waring engaged in illegal campaign tactics in an effort to support the election of William Branton to a South Carolina Senate seat in an election held on August 12, 1997 and that Mr. Waring used his Town of Summerville office and telephone to conduct business for his private construction company, Ricky Waring Construction Company, during regular working hours. It was also alleged that this construction business had been operated for private gain using town of Summerville employees and equipment.

An investigation into the allegations was conducted by the State Ethics Commission which found that Mr. Waring did make a statement of support for Bill Branton at a Summerville Fire Department business meeting in August 1997. At the time of the alleged incidents, the Town of Summerville did not have a written policy concerning the use of a Summerville public building in an election campaign. On November 15, 2000 the State Ethics Commission issued an advisory opinion stating that "A candidate may use a government office building or property as long as the building or property is available to all candidates on equal terms. An incumbent candidate must not have an advantage. Government officials must ensure their buildings or properties are available to either all candidates or to no candidates. Candidates must also ensure that the facility they seek to use in their election campaign is available on equal terms to all candidates."

As to the second allegation, beginning in 1985, Mr. Waring did own and operate an incorporated business identified as R. G. Waring Construction Company. Mr. Waring did on some occasions employ Town of Summerville Firemen to perform work on his construction projects. No evidence developed to indicate that Summerville Firemen were on duty while at work on Mr. Waring's construction projects. Mr. Waring did sporadically make and receive personal business-related telephone calls from his Town of Summerville office, and there were occasions when a customer of the construction business would appear at Mr. Waring's public office to discuss a construction project. Mr. Waring also occasionally visited his construction sites during normal working hours in his personal vehicle.

While it was clear that Mr. Waring authorized the use of himself and the fire department in an election campaign, it was unclear whether the fire station would have been available to all candidates. The Commission found insufficient evidence to support a probable cause finding that a violation of the Ethics Reform Act occurred regarding the taping incident and Mr. Waring's statement of support for Bill Branton.

The investigation disclosed that Mr. Waring did, occasionally, use his public office to make and receive telephone calls and receive visitors related to his private construction business. However, the evidence did not disclose that these events rise above the incidental use provision in the Ethics Reform Act. As Fire Chief or Director of Public Safety, Mr. Waring was on call twenty four hours a day and, therefore, did not work a standard eight hour day with weekends off. Taking time during a normal work day for him to visit a construction site did not rise to the level of a violation; however, did give the appearance of impropriety and should, therefore, be avoided.

Based on the evidence presented in both cases, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Waring violated the Ethics Reform Act and dismissed the charges. However, the Commission issued a warning to Mr. Waring to be more cognizant of the provisions of the Ethics Reform Act and take action to avoid even the appearance of impropriety.

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**C2001-024 (SEC vs. Barbara J. Butler)**

On January 17, 2001 the State Ethics Commission issued a Consent Order as a result of a

complaint filed by the State Ethics Commission against Barbara J. Butler, a member of the City of Elloree Council. The complaint alleged that Ms. Butler failed to file the required Statement of Economic Interests form for 2000.

An investigation was conducted by the State Ethics Commission which showed that Ms. Butler was required to file an annual Statement of Economic Interests Form in her capacity as a member of the City Council for Elloree. Ms. Butler was reminded of her failure to file and a late filing penalty was levied. This penalty increased to the maximum \$600 and was referred to the South Carolina Department of Revenue for Set-off Debt Collection. Ms. Butler filed a Statement of Economic Interests Form on October 11, 2000, however, the late filing penalty of \$600 remained unpaid.

Ms. Butler admits she violated the Ethics Reform Act. Based on the evidence presented and the filing of the required form, the State Ethics Commission reprimanded Ms. Butler for violating the State Ethics Act and ordered her to pay the late filing penalty of \$600 within one hundred and eighty days of the issuance of the order. Upon the failure to pay the late filing penalty under the terms agreed, the matter will be scheduled for a hearing by the State Ethics Commission.

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**C2001-030 (SEC vs. Julius W. Wall)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Julius W. Wall, a Councilman in Allendale County. The complaint alleged that Mr. Wall violated the Ethics Reform Act by failing to file a July 10, 2000 quarterly Campaign Disclosure Form or a statement of inactivity for the quarter ending June 30, 2000.

An investigation was conducted by the State Ethics Commission. During this investigation, Mr. Wall stated he did not receive the State Ethics Commission letter advising him that he must file a Statement of Inactivity or a Campaign Disclosure Form for the quarter ending June 30, 2000. A review of the Mr. Wall's file revealed that he filed an initial Campaign Disclosure Form on March 22, 2000, and disclosed expenditures of \$168.00; however, since he did not expend in excess of \$500.00 he was not required to file an initial form. Since he had filed an initial form, albeit not required, and indicated that he was a candidate in the June primary, his name came up on the non-compliance report for failure to file a pre-election form and the July 10 quarterly form. He had no opposition in the June 13, 2000 primary, therefore, he was not required to file a pre-election Campaign Disclosure Form at that time. In addition, technically, he was not required to file the July 10 quarterly form since he had not expended the required \$500.00.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Wall violated the Ethics Reform Act and dismissed the charges.

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**C2000-095 (Jurgen & Linda Zimmer vs. Chandler Brigham)**

On November 15, 2000 the State Ethics Commission issued a Consent Order as a result of a complaint filed by Jurgen and Linda Zimmer of Surfside Beach against Chandler Brigham, a member of the Horry County Council. The complaint alleged that Mr. Brigham appeared before the Horry County Zoning Commission and represented certain

homeowners who disagreed with a recommendation to re-zone their property, and the request was denied.

An investigation was conducted by the State Ethics Commission which found that Mr. Brigham appeared before a meeting of the Horry County Planning Commission at the request of the Harbour Towne Homeowners Association and relayed facts to the Commission which were favorable to the Homeowners' initiative within his district. Mr. Brigham appeared and spoke before the Commission on at least two occasions at the request of the Homeowners Association.

Mr. Brigham admitted that although he acted in good faith, he unintentionally violated the Ethics Reform Act by representing a person before an agency, unit, or subunit of Horry County for which he had official responsibility as a county council member.

The State Ethics Commission found Mr. Brigham in violation, albeit in good faith and unintentional, reprimanded Mr. Brigham for the violation and ordered him to pay an administrative fee of \$190.50 within thirty days of receipt of the signed order.

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**C2001-001 (Harold W. Brookshire vs. Murray Garrett)**

On November 7, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Harold W. Brookshire, a resident of Travelers Rest against Murray Garrett, the former Mayor of Travelers Rest. The complaint alleges that Mr. Garrett violated the Ethics Reform Act when the City of Travelers Rest paid for his spouse's expenses for two Municipal Association Meetings.

An investigation was conducted by the State Ethics Commission which indicated that at the time of the alleged violation Mr. Garrett was the elected Mayor of Travelers Rest. The investigation found that sometime in the mid 1980's, the city administrator began advising city personnel who attended Municipal Association Meetings that events attended by their spouses would be paid by the city when the expenses were submitted for payment. This was not a formal, written policy so a specific document could not be identified authorizing such payments.

A review of the city records indicated that in July 1996, Mr. Garrett attended the Association meeting in Greenville and claimed a \$35.00 expense for his spouse to attend the "Closing Ceremonies". At the July 1997 meeting in Charleston, Mr. Garrett claimed a total charge of \$56.00 for his spouse. On October 20, 2000, Mr. Garrett paid restitution of \$56.00 to the City of Traveler's Rest.

Based on the corrective action taken by Mr. Garrett in reimbursing the City of Traveler's Rest, the State Ethics Commission waived further proceedings and ordered the matter closed.

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**C2000-108 (SEC vs. Harrison Orr)**

On November 27, 2000 the State Ethics Commission issued a Consent Order as a result of a complaint filed by the State Ethics Commission against Harrison Orr, County Supervisor of Oconee County. The complaint alleged that in November 1999 and March 2000, Mr. Orr knowingly used his official position as County Supervisor to obtain an economic interest for



an individual with whom he was associated by extending Oconee County paving contracts with the individual's paving company.

An investigation was conducted by the State Law Enforcement Division and the State Ethics Commission, and no criminal charges were brought. The investigation focused on the relationship between Reese Hubbard, owner of Hubbard Paving, and Harrison Orr. The Commission investigation was directed at the official relationship between Hubbard and Orr after July 19, 1999, the date Hubbard and Orr entered into a partnership agreement with others in the purchase of a beach house at Garden City, South Carolina. In May, 1998, following a sealed bid process, Hubbard Paving was awarded a road paving contract in the amount of \$1,417,745.00. The contract listed certain roads in Oconee County to be paved. In accordance with accepted practice, the Oconee County Supervisor has the authority to modify the contract by adding or deleting roads to be paved. Increases or decreases in the contract are made through change orders. Over the course of this contract and additional contracts with Hubbard dated May 28, 1999 and June 25, 2000 change orders have increased the amount of the contracts. Through action by the County Supervisor the Hubbard paving contract of May, 1998 has been extended at least two times since July 19, 1999.

On or about July 1999, Harrison Orr and others signed a partnership agreement wherein they agreed to be owners of a property located in Garden City, South Carolina. Reese Hubbard, owner of Hubbard Paving, was identified as one of the partners.

Mr. Orr admits that he made changes in the Paving Contract since July 19, 1999. He insisted, however, that he made his decisions on road paving based upon the needs of the County and he never took any action detrimental to the County to the advantage of Mr. Hubbard. Mr. Orr admitted that his actions may appear to violate the Ethics Reform Act as alleged; however, he did not wish to contest same. He consented to the citation by the State Ethics Commission that he unintentionally violated the Ethics Reform Act.

Based on Mr. Orr's admissions, the State Ethics Commission found Mr. Orr in violation of the Ethics Reform Act, issued a public reprimand and ordered Mr. Orr to pay a fine of \$250 within thirty days of the signed Order.

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**2001- 012 (Joe P. Johnson, III vs. Ronald Charlton)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Joe P. Johnson, III of Pawleys Island against Ronald Charlton, a Georgetown County Councilman. The complaint alleges that Mr. Charlton used the official office building, equipment and fixtures of the Georgetown County Council Chambers to influence the June 13, 2000 primary election.

An investigation was conducted by the State Ethics Commission which indicated that Mr. Charlton was a candidate for a seat on the Georgetown County Council in an election held June 13, 2000. Mr. Charlton used the Georgetown County Council Chambers as a backdrop for a campaign photograph which was used in an election campaign. An Advisory Opinion was issued November 15, 2000 which stated that "a candidate may use a government office building or property as long as the building or property is available to all

candidates on equal terms. An incumbent candidate must not have an advantage.”.

Based upon information indicating that Georgetown County Council Chambers would have been made available to other candidates if requested and in view of the Advisory Opinion issued November 15, 2000, the Commission ruled that probable cause is not present. The Commission strongly recommended to all governmental bodies having jurisdiction over public buildings and properties that written policy be established concerning the use of public buildings in an election campaign.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Ronald Charlton violated the State Ethics Act and dismissed the charges.

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**C2001-022 (Harold Thomas vs. Ann Hughes)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by J. Harold Thomas of Walhalla against Ann Hughes, who at the time was a candidate for County Supervisor. The complaint alleged that Ms. Hughes violated the Ethics Reform Act by failing to disclose a cash payment for campaign materials, failing to disclose payments to a local newspaper or disclose in-kind contributions and that donors of money were not identified or source of funds not disclosed on her Campaign Disclosure Forms.

An investigation was conducted by the State Ethics Commission which found that Ms. Hughes was a candidate for Oconee County Supervisor in the election on November 7, 2000. The investigation conducted at the Kopy Shop and the Daily Journal/Daily Messenger Newspaper did not develop any evidence that Ms. Hughes made cash payments to either business. Documents were presented to verify all payments were made by check.

A party honoring Ms. Hughes was held at the Walhalla Depot on April 13, 2000. This was not a ticketed event. Approximately \$1,200 was contributed to Hughes' campaign fund at this party. There is no evidence to indicate that cash contributions were collected at this event.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Ms. Hughes violated the Ethics Reform Act and dismissed the charges.

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**C2001-033 (Boyd L. McLean vs. Jonathan McKown)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Boyd L. McLean of Gaffney against Jonathan McKown of Gaffney. The complaint alleged that Mr. McKown paid for a political advertisement in the *Gaffney Ledger* without placing his name and address on the printed matter.

An investigation was conducted by the State Ethics Commission which found that Mr. McKown, is a practicing attorney in the City of Gaffney. Mr. McKown paid for a political advertisement which appeared in the *Gaffney Ledger* on August 16, 2000. The advertisement consisted of previous newspaper articles concerning Henry Jolly. Mr.

McKown contacted Louis Sossamon, the editor of the *Gaffney Ledger* about the advertisement and asked Mr. Sossamon to prepare the advertisement. Mr. Sossamon prepared the ad and showed it to Mr. McKown before it was printed. Mr. Sossamon believed the statement "Paid political advertisement" was sufficient. Mr. McKown and Mr. Sossamon both claimed not to be aware of the law requiring the full identity of the person paying for the ad.

Based on the evidence presented, the State Ethics Commission determined that while there was probable cause to indicate that a violation had occurred, there was no evidence to indicate that Mr. McKown willfully and knowingly attempted to violate the Ethics Reform Act; however, he was advised to be more cognizant of the campaign practices of the Ethics Reform Act in any future political activities in which he may take part. Therefore, the State Ethics Commission waived further proceedings.

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**C2001-031 (SEC vs. Dryden G. Taylor)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Dryden G. Taylor, a City of Isle of Palms Council Member. The complaint alleged that Mr. Taylor failed to file the required Statement of Economic Interests form for 2000.

An investigation was conducted by the State Ethics Commission which showed that Mr. Taylor was required to file an annual Statement of Economic Interests Form in his capacity as a City Councilman for the Isle of Palms. Mr. Taylor was reminded of his failure to file and a late filing penalty was levied. This penalty increased to the maximum \$600 and was referred to the South Carolina Department of Revenue for Set-off Debt Collection. Mr. Taylor filed a Statement of Economic Interests Form on October 10, 2000.

Based on the evidence presented and the filing of the required form, the State Ethics Commission determined that Mr. Taylor had complied with the disclosure requirements, waived the payment of the late filing penalty and waived further proceedings.

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**C2001-029 (Herbert S. Anderson, Jr. vs. Florence School District Number Four School Board and Administrator)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by Herbert S. Anderson, Jr., a resident of Timmonsville, South Carolina against the Florence School District Number Four School Board and Administrator. The complaint alleges that the school board and administrator used public funds and time to influence the outcome of an election.

An investigation was conducted by the State Ethics Commission which indicated that in May 1997 there was a bond referendum in District #4 to approve the construction of a new school building. A document entitled "New K-12 School Building Concept Finance Figures," was mailed from School District #4 offices to members of the School Board and to other people in the community in May 1997. The complaint contained copies of two letters purportedly written by school children in District 4 in support of the bond referendum.

The letters appeared to be mailed from the District #4 office. Mr. Anderson stated that on election day in May 1997 a school van was used to transport District #4 students who were eligible to vote to the polls. Mr. Anderson advised that the campaign literature of Trisha C.

Caulder was being passed out to the District #4 Trustees by Trustee Reba Turner at the September 2000 Trustees meeting.

The document entitled "New K-12 School Building Concept Figures" was prepared for informational purposes and was not intended to be a solicitation for support of a bond referendum. The letters written by school children in support of the bond referendum were apparently mailed from the District #4 office using a postage meter. The letters were produced as a class activity without District knowledge or approval. School District #4 has taken steps to prevent this from happening again. The District Four van was used by a high school teacher to drive students to the polling location as a social studies field trip. The students were transported to the polls, but they were not instructed as to how they should vote.

Reba Turner, Trustee, Florence County School District #4, passed out about six copies of an invitation to a cook-out at the home of Rounder Saverance in Timmonsville for House Candidate Trisha Caulder. She presented these invitations to other Trustees following a Trustees meeting in September 2000 which was held on school property. She was not urging anyone to vote for Caulder, rather she was merely inviting them to a dinner.

Based upon the evidence presented Counts One, Three and Four were dismissed. As to Count Two the State Ethics Commission found probable cause to believe a violation had occurred; however, the School District and Administrator took corrective action in preventing this activity in the future. The State Ethics Commission waived further proceedings.

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**C2001-028 (SEC vs. Gerald Smith)**

On November 27, 2000 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Gerald Smith, a Clinical Counselor at Gregory's Community Care Home, a division of the South Carolina Department of Mental Health. The complaint alleged that Mr. Smith received a compensatory day off and \$50.00 cash from a relative of a patient for transporting him to a family funeral.

An investigation was conducted by the State Ethics Commission which found that Mr. Smith was requested by the Supervisor of Personnel serving psychiatric patients at Gregory's Community Care Home to assist a patients family by transporting the patient of Gregory's to the viewing and funeral of his mother in Honea Path, South Carolina. According to the supervisor, a relative of the patient gave \$50.00 in cash to Mr. Smith after the funeral. A discussion occurred among the employees at Gregory's concerning what Mr. Smith would do with the money. It was agreed that he would use the money to buy miscellaneous items for Danny Stone.

Using a state owned vehicle, Mr. Smith transported the patient to the viewing and funeral of his mother. Mr. Smith received \$50.00 in cash in an envelope from the patient's brother. Mr. Smith kept the money in a drawer in the facility's office to be disbursed for incidental items such as food for the patient. Mr. Stone estimated he had spent about ten dollars of the fifty dollars purchasing food and drinks for the patient. Receipts were not maintained

for the items purchased and therefore Mr. Smith could not provide an accurate accounting for the money. Mr. Smith returned the \$50.00 to the patient's brother.

The receipt of money by a public employee from the family of a patient under the public employee's care, for what appears to be assistance given in the course of his employment, at the very least, gives rise to the appearance of impropriety. Inasmuch as the investigation did not produce evidence that Mr. Smith converted the \$50.00 to his own use, and in view of his corrective action, the Commission found that there is not probable cause to order a hearing in this matter.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Smith violated the Ethics Reform Act, dismissed the charges, and cautioned Mr. Smith to be more cognizant of the South Carolina Ethics Act to avoid activity which may give the appearance of impropriety.

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**C2001-021 (SEC vs. Frankie H. Burden)**

On February 8, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Frankie H. Burden, a public member of the Environmental Certification Board. The complaint alleged that Mr. Burden failed to file a 2000 Statement of Economic Interests Form before the required deadline.

An investigation was conducted by the State Ethics Commission which showed that Mr. Burden was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection. Mr. Burden filed his Statement of Economic Interests Form and paid the late filing penalty of \$600 on January 16, 2001.

Based on the evidence presented, the filing of the required forms and the payment of the \$600 late filing penalty, the State Ethics Commission determined that Mr. Burden had complied with the disclosure requirements of the Ethics Reform Act and waived further proceedings.

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**C2001-047 (SEC vs. Tony C. Arnold)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Tony C. Arnold, a candidate for Greenwood City Council in an election on April 11, 2000. The complaint filed November 14, 2000, alleged that Mr. Arnold failed to timely file a Pre-Election Campaign Disclosure Form prior to March 27, 2000.

An investigation was conducted by the State Ethics Commission which determined that a late filing penalty was levied on August 14, 2000 which increased to the maximum \$600 penalty and was referred to the South Carolina Department of Revenue for Setoff Debt Collection. On December 4, 2000, Mr. Arnold filed his Pre-Election Campaign Disclosure Form; however, the late filing penalty of \$600 was not paid.

Based upon the evidence presented and the filing of the required forms, the State Ethics Commission determined that Mr. Arnold had not fully complied with the disclosure requirements of the Ethics Reform Act and ordered Mr. Arnold to pay the late filing penalty

of \$600 withing thirty days after receipt of the order or a judgment would be filed against him in his last known county of residence.

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**C2001-045 (SEC vs. Charlotte B. Terry)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Charlotte B. Terry, a candidate for the Town Council of Iva in an election held on May 9, 2000. The complaint filed November 14, 2000, alleged that Ms. Terry failed to timely file a Pre-Election Campaign Disclosure Form on or before April 24, 2000.

An investigation was conducted by the State Ethics Commission which determined that a late filing penalty was levied on August 14, 2000 which increased to the maximum \$600 penalty. On November 28, 2000, Ms. Terry filed her Pre-Election Campaign Disclosure Form and a letter explaining serious personal hardships.

Based upon the evidence presented, the filing of the required forms and the waiver of the payment of a late filing penalty, the State Ethics Commission determined that Ms. Terry had complied with the disclosure requirements of the Ethics Reform Act and waived further proceedings.

**C2001-039 (SEC vs. Henry K. Berry)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Henry K. Berry, a former council member of the Town of Ward. The complaint alleged that Mr. Berry failed to file the required Statement of Economic Interests form for 2000.

An investigation was conducted by the State Ethics Commission which showed that Mr. Berry was required to file an annual Statement of Economic Interests Form in his capacity as a councilman for the Town of Ward. Mr. Berry was reminded of his failure to file and a late filing penalty was levied. This penalty increased to the maximum \$600 and was referred to the South Carolina Department of Revenue for Set-off Debt Collection. Mr. Berry filed a Statement of Economic Interests Form on October 20, 2000.

Based on the evidence presented, the State Ethics Commission determined that Mr. Berry had not complied with the disclosure requirements and ordered that the late filing penalty of \$600 be paid within thirty days after receipt of the order. If the late filing penalty is not paid, a judgment will be entered against Mr. Berry for \$600 in his last know county of residence.

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**C2001-037 (SEC vs. Leroy N. Woods)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Leroy N. Woods, a council member of the Town of Clio. The complaint alleged that Mr. Woods failed to file the required Statement of Economic Interests form for 2000.

An investigation was conducted by the State Ethics Commission which showed that Mr. Woods was required to file an annual Statement of Economic Interests Form in his capacity as a councilman for the Town of Clio. Mr. Woods was reminded of his failure to file and a late filing penalty was levied. This penalty increased to the maximum \$600 and

was referred to the South Carolina Department of Revenue for Set-off Debt Collection. Mr. Woods filed a Statement of Economic Interests Form on October 20, 2000.

Based on the evidence presented, the State Ethics Commission determined that Mr. Woods had not complied with the disclosure requirements and ordered that the late filing penalty of \$500 be paid within thirty days after receipt of the order or a judgment will be entered against Mr. Woods for \$500 however, the Judgement shall be suspended if paid.

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**C2001-036 (SEC vs. American Bingo)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against American Bingo, a registered Lobbyist Principal. The complaint alleged that American Bingo failed to file a quarterly Lobbyist Principal Disclosure Report on or before April 10, 2000.

An investigation was conducted by the State Ethics Commission which showed that American Bingo was a registered Lobbyist Principal and was required to report to the State Ethics Commission no later than April 10 and October 10 concerning expenditures made in lobbying activities. A \$100 late filing penalty was levied and reached \$490. On June 21, 2000 American Bingo filed the Lobbyist Principal Disclosure Form however did not pay the penalty. American Bingo was notified of the complaint by certified letter dated October 30, 2000 and on November 2, 2000 the \$490 penalty was paid.

Based on the evidence presented, the filing of the required form and the payment of the \$490 late filing penalty, the State Ethics Commission determined that American Bingo had complied with the disclosure requirements of the Ethics Reform Act and waived further proceedings.

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**C2001-048 (SEC vs. Louis W. Tisdale)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Louis W. Tisdale, a candidate for Mayesville Town Council in an election on March 14, 2000. The complaint filed November 14, 2000, alleged that Mr. Tisdale failed to timely file a Pre-Election Campaign Disclosure Form prior to February 28, 2000.

An investigation was conducted by the State Ethics Commission which determined that a late filing penalty was levied on August 15, 2000 which increased to the maximum \$600 penalty and was referred to the South Carolina Department of Revenue for Setoff Debt Collection. On November 29, 2000, Mr. Tisdale filed his Pre-Election Campaign Disclosure Form; however, the late filing penalty of \$600 was not paid.

Based upon the evidence presented and the filing of the required forms, the State Ethics Commission determined that Mr. Tisdale had not fully complied with the disclosure requirements of the Ethics Reform Act and ordered Mr. Tisdale to pay the late filing penalty of \$600 withing thirty days after receipt of the order or a judgment would be filed against him in his last known county of residence.

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**C2001-055 (SEC vs. Geraldene Robinson)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a

result of a complaint filed by the Commission against Geraldene Robinson, a candidate for Mayor of the Town of Eastover in an election held April 11, 2000. The complaint alleged that Ms. Robinson failed to timely file a Pre-Election Campaign Disclosure Form prior to March 27, 2000.

An investigation was conducted by the State Ethics Commission which determined that a late filing penalty was levied on August 11, 2000 which increased to the maximum \$600 penalty and was being referred to the South Carolina Department of Revenue for Set-Off Debt Collection. On January 16, 2001, Ms. Brown filed her Pre-Election Campaign Disclosure Form and paid the \$600 late filing penalty.

Based upon the evidence presented, the filing of the required forms and the payment of the late filing penalty, the State Ethics Commission determined that Ms. Robinson had complied with the disclosure requirements of the Ethics Reform Act and waived further proceedings.

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**C2001-064 (SEC vs. Gregg Meyers)**

On February 9, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Mr. Gregg Meyers, a member of the Charleston County School Board. The complaint alleged that Mr. Meyers visited a classroom at W. B. Goodwin School. The school made a video tape of Mr. Myers reading to the students. Later, Mr. Myers obtained a copy of the video and used the video in his television campaign ads for election to the Charleston County School Board.

An investigation was conducted by the State Ethics Commission which found that Mr. Meyers campaigned for re-election in November 2000. When the video tape at issue was produced, Mr. Meyers was appearing at the invitation of the school to perform a function he was routinely doing since 1997. Mr. Meyers did use a portion of the video to produce a campaign advertisement.

There was no evidence presented to suggest that Mr. Meyers produced the video which he subsequently used in a campaign advertisement. The Commission found no basis that Mr. Meyers used government personnel, equipment or materials in an election campaign.

Based on the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Meyers violated the Ethics Reform Act and dismissed the charges.

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**C2001-056 (SEC vs. Gail O. Brown)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Gail O. Brown, a candidate for Blackville Town Council in an election held February 8, 2000. The complaint filed November 21, 2000, alleged that Ms. Brown failed to timely file a Pre-Election Campaign Disclosure Form prior to January 24, 2000.

An investigation was conducted by the State Ethics Commission which determined that a late filing penalty was levied on August 9, 2000 which increased to the maximum \$600 penalty. On January 8, 2001, Ms. Brown filed her Pre-Election/Final Campaign Disclosure



Form; however, the late filing penalty of \$600 was not paid.

Based upon the evidence presented and the filing of the required forms, the State Ethics Commission determined that Ms. Brown had not fully complied with the disclosure requirements of the Ethics Reform Act and ordered Ms. Brown to pay the late filing penalty of \$600 within thirty days after receipt of the order or a judgment would be filed against her in her last known county of residence.

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**C2001-061 (SEC vs. Joel Randall, Lawanda McKenzie and Ronnie Young)**

On February 9, 2001 the State Ethics Commission issued Decision and Orders as a result of complaints filed by the State Ethics Commission against Joel Randall, Lawana McKenzie and Ronnie Young, members of the Aiken County Council. Information was received from an Aiken County citizen indicating that Mr. Randall, Ms. McKenzie and Mr. Young, over the past 3 years were taking surplus turkeys, hams and fruit baskets which had been ordered by Aiken County Council for distribution to county employees in December of each year. The complaints alleged that Mr. Randall, Ms. McKenzie and Mr. Young were taking these excess items and using them for personal gain.

An investigation was conducted by the State Ethics Commission which found that beginning in 1996, Aiken County Council, pursuant to an ordinance, implemented a plan to reward Aiken County employees with a Christmas cash bonus and a free ham. The ordinance did not specify how many hams would be purchased. Hams, turkeys and some fruit baskets were distributed to eligible county employees. At the conclusion of the distribution activity in 1996, 1997 and 1998, excess items of ham remained and could not be returned to the supplier. Mr. Randall, Ms. McKenzie and Mr. Young and others present decided to distribute the surplus items to "needy" people in the county. In 1996, 1997 and 1998, Mr. Randall, Ms. McKenzie and Mr. Young did take some excess items which were given away to needy individuals. Beginning in 1999, Aiken County arranged for the surplus items to be returned to the supplier for credit. No evidence was developed to indicate that Mr. Randall, Ms.

McKenzie and Mr. Young converted the surplus hams for personal use or for political gain. They did not participate in the decision regarding how many hams would be ordered by the county for distribution to county employees.

From the evidence presented, the Commission was unable to find probable cause to indicate that Mr. Randall, Ms. McKenzie and Mr. Young intentionally violated the Ethics Reform Act. However, the Commission does express concern regarding the appearance of impropriety in the manner the surplus items were handled. In order to avoid an appearance of impropriety, the council members involved should have maintained an accurate record of the excess items and the items should have been donated to recognized local charities with appropriate receipts obtained. Allowing council members to decide who are "needy" contributed to the appearance problem. It is noted that Aiken County Council took action in 1999 to eliminate the surplus issue.

Based upon the evidence presented, the State Ethics Commission determined that there was not probable cause to indicate that Mr. Randall, Ms. McKenzie and Mr. Young violated the Ethics Reform Act and dismissed the charges.

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**C2001-042 (SEC vs. South Carolina Citizens for Life)**

On March 2, 2001 the State Ethics Commission issued a Consent Order as a result of a complaint filed by the Commission against South Carolina Citizens for Life, a registered Lobbyist Principal. The complaint alleged that South Carolina Citizens for Life failed to follow the group invitation rule as outlined in the State Ethics Act.

An investigation was conducted by the State Ethics Commission which found that the State Ethics Commission received a Lobbyist's Principal Disclosure Report filed by South Carolina Citizens for life on October 10, 2000. The report showed an expenditure of \$1417.00 for Life Conference 2000 on September 11, 2000. The expenditure was for \$13.00 per person and a list of those attending was attached. The entry contains a statement indicating, "The expenditures herein listed were incidental to a conference on euthanasia convened for the education of the general public and not specifically or primarily for public officials."

In a conversation with Commission General Counsel, Cathy Hazelwood, on October 9, 2000, Holly Gatling, a registered lobbyist for and Executive Director of South Carolina Citizens for Life, inquired as to how to calculate the cost per person for legislators who attended the legislative reception identified in the Lobbyist Principal Disclosure Report. Ms. Gatling stated that South Carolina Citizens for Life had invited the pro-life caucus to the reception. According to the Senate and House clerks' offices, neither the House nor the Senate has a committee or caucus known as the pro-life caucus.

During the investigation, Ms. Gatling was interviewed and furnished a copy of the invitation letter which was mailed out to approximately 100 of the legislators in the House and Senate. She stated the legislators who received invitations are not members of Citizens for Life. Their selection was based upon their pro-life voting record and their response to surveys. Other legislators were not invited because South Carolina Citizens for Life surmised they would not be receptive. Ms. Gatling stated five Representatives and Senators responded to the invitation and attended. Two others sent statements of regret that they could not attend. The list of names which were attached to the Lobbyist's Principal Report identified those legislators who received invitations.

South Carolina Citizens for Life admitted it unintentionally violated the Ethics Reform Act. The State Ethics Commission found South Carolina Citizens for Life in violation of the Ethics Reform Act, issued a written warning for the violation and ordered the Lobbyist Principal to pay a fine of \$100 within thirty days of receipt of the signed order.

**C2000-054 (Charlene P. Lawyer vs. Leslye B. Wheeler)**

On February 23, 2000 the State Ethics Commission issued a Consent Order as a result of a complaint filed by Charlene P. Lawyer against Leslye B. Wheeler, a public employee of the South Carolina Commission for the Blind. The complaint alleged that Ms. Wheeler violated the Ethics Reform Act by requiring Ms. Lawyer to perform personal errands as a term and condition of employment.

An investigation was conducted by the State Ethics Commission which resulted in two charges against Ms. Wheeler for using her official position to obtain an economic interest

for herself. Count one was for using her official position to obtain an economic interest for herself in allowing a subordinate to do personal errands while on State time and Count two was for using the Commission for the Blind's film and film processing for her personal use without reimbursing the Commission.

Ms. Wheeler admitted that she unintentionally violated the Ethics Reform Act as to Count Two.

The State Ethics Commission found Ms. Wheeler in violation of the Ethics Reform Act as to Count Two, reprimanded her, dismissed Count One, ordered restitution of \$80.00 to the South Carolina Commission for the Blind, and ordered Ms. Wheeler to pay a fine of \$100.00.

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**C2001-040 (SEC vs. Herbert W. French)**

On March 21, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Herbert W. French, a Trustee of the Greenwood 50 School District. The complaint alleged that Mr. French failed to file a 2000 Statement of Economic Interests Form before the required deadline.

An investigation was conducted by the State Ethics Commission which showed that Mr. French was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Mr. French was in violation of the Ethics Reform Act, publicly reprimanded him, and assessed a fine of \$2,000 in addition to the late filing penalty of \$600. If Mr. French files his 2000 Statement of Economic Interests Form and pays the \$600 late filing penalty within 30 days of receipt of the order, then the \$2,000 fine shall be suspended. However, if the form and \$600 penalty are not received a judgment for \$2,600 will be filed against Mr. French in his last known county of residence.

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**C2001-038 (SEC vs. David J. Canty)**

On March 21, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against David J. Canty, a public official of the Horry County Election Commission. The complaint alleged that Mr. Canty failed to file a 2000 Statement of Economic Interests Form before the required deadline.

An investigation was conducted by the State Ethics Commission which showed that Mr. Canty was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Mr. Canty was in violation of the Ethics Reform Act, publicly reprimanded him, and assessed a fine of \$2,000 in addition to the late filing penalty of \$600. If Mr. Canty files his 2000 Statement of Economic Interests Form and pays the \$600 late filing penalty within 30 days of receipt of the order, then the \$2,000 fine shall be suspended. However, if the form and \$600 penalty are not received a judgment for \$2,600 will be filed against Mr. Canty in his last known

county of residence.

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**C2001-039 (SEC vs. Henry K. Berry)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against Henry K. Berry, a former council member of the Town of Ward. The complaint alleged that Mr. Berry failed to file the required Statement of Economic Interests form for 2000.

An investigation was conducted by the State Ethics Commission which showed that Mr. Berry was required to file an annual Statement of Economic Interests Form in his capacity as a councilman for the Town of Ward. Mr. Berry was reminded of his failure to file and a late filing penalty was levied. This penalty increased to the maximum \$600 and was referred to the South Carolina Department of Revenue for Set-off Debt Collection. Mr. Berry filed a Statement of Economic Interests Form on October 20, 2000.

Based on the evidence presented, the State Ethics Commission determined that Mr. Berry had not complied with the disclosure requirements and ordered that the late filing penalty of \$600 be paid within thirty days after receipt of the order. If the late filing penalty is not paid, a judgment will be entered against Mr. Berry for \$600 in his last known county of residence.

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**C2001-046 (SEC vs. Patrick L. Gibson)**

On March 21, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Patrick L. Gibson, a candidate for the Eastover Town Council in an election held April 11, 2000. The complaint filed November 14, 2000, alleged that Mr. Gibson failed to timely file a Pre-Election Campaign Disclosure Form prior to March 27, 2000.

An investigation was conducted by the State Ethics Commission which determined that a late filing penalty was levied on August 9, 2000 which increased to the maximum \$600 penalty. This penalty was referred to the South Carolina Department of Revenue for Setoff Debt Collection.

Based upon the evidence presented, the State Ethics Commission determined that Mr. Gibson was in violation of the Ethics Reform Act, publicly reprimanded him, and assessed a \$2,000 fine in addition to the late filing penalty of \$600. If a final Campaign Disclosure Form and the \$600 late filing penalty is received within thirty days after receipt of the order, the \$2,000 fine will be suspended. However, if the form and late filing penalty are not received, a judgment will be filed against Mr. Gibson in his last known county of residence.

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**C2001-049 (SEC vs. Paul E. Scott, Jr.)**

On March 21, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Paul E. Scott, Jr., a candidate in an election for Horry County Council in an election on June 13, 2000. The complaint alleged that Mr. Scott failed to file a properly completed Statement of Economic Interests Form upon filing as a candidate.

An investigation was conducted by the State Ethics Commission which showed that Mr. Scott filed a Statement of Economic Interests Form on April 6, 2000, however, it was

returned to him on April 12, 2000 because of an incomplete answer. Mr. Scott was advised to return the corrected form within ten days.

On numerous occasions, Mr. Scott was reminded that the Statement of Economic Interests Form had not been received. A late filing penalty of \$100 was levied which increased to the maximum \$600 penalty. This penalty was referred to the South Carolina Department of Revenue for Setoff Debt Collection.

Based on the evidence presented, the State Ethics Commission determined that Mr. Scott was in violation of the Ethics Reform Act, publicly reprimanded him, and assessed a fine of \$2,000 in addition to the late filing penalty of \$600. If Mr. Scott files his 2000 Statement of Economic Interests Form and pays the \$600 late filing penalty within 30 days of receipt of the order, then the \$2,000 fine shall be suspended. However, if the form and \$600 penalty are not received a judgment for \$2,600 will be filed against Mr. Scott in his last known county of residence.

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**C2001-054 (SEC vs. Francis C. White)**

On March 21, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Francis C. White, a board member on the Sumter #17 School Board. The complaint alleged that Mr. White failed to file a 2000 Statement of Economic Interests Form before the required deadline.

An investigation was conducted by the State Ethics Commission which showed that Mr. White was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Mr. White was in violation of the Ethics Reform Act, publicly reprimanded him, and assessed a fine of \$2,000 in addition to the late filing penalty of \$600. If Mr. White files his 2000 Statement of Economic Interests Form and pays the \$600 late filing penalty within 30 days of receipt of the order, then the \$2,000 fine shall be suspended. However, if the form and \$600 penalty are not received a judgment for \$2,600 will be filed against Mr. White in his last known county of residence.

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**C2001-051 (SEC vs. Zelda E. Pelzer)**

On March 21, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the Commission against Zelda E. Pelzer, a member of the Bowman Town Council. The complaint alleged that Ms. Pelzer failed to file a 2000 Statement of Economic Interests Form before the required deadline.

An investigation was conducted by the State Ethics Commission which showed that Ms. Pelzer was notified of the filing requirement numerous times and a late filing penalty was levied which reached the maximum amount of \$600. This amount was sent to the Department of Revenue for set-off debt collection.

Based on the evidence presented, the State Ethics Commission determined that Ms. Pelzer was in violation of the Ethics Reform Act, publicly reprimanded her, and assessed a

fine of \$2,000 in addition to the late filing penalty of \$600. If Ms. Pelzer files her 2000 Statement of Economic Interests Form and pays the \$600 late filing penalty within 30 days of receipt of the order, then the \$2,000 fine shall be suspended. However, if the form and \$600 penalty are not received a judgment for \$2,600 will be filed against Ms. Pelzer in her last known county of residence.

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**C2001-058 (SEC vs. William T. Busha)**

On February 16, 2001 the State Ethics Commission issued a Decision and Order as a result of a complaint filed by the State Ethics Commission against William T. Busha, a candidate for Sheriff of Anderson County. The complaint alleged that Mr. Busha failed to file Campaign Disclosure Forms as required by the State Ethics Act.

An investigation was conducted by the State Ethics Commission which found that Mr. Busha failed to file a Pre-Election Campaign Disclosure Form and July 10, 2000 and October 10, 2000 quarterly Campaign Disclosure Forms. The penalty for the Pre-Election Form reached the maximum \$600 penalty and was sent to the South Carolina Department of Revenue for Setoff Debt Collection. On January 11, 2001 Mr. Busha filed both a Pre-Election and a final Campaign Disclosure Form showing the campaign account was closed on July 9, 2000; however, the late filing penalty of \$1,010 was not paid. Since the account was closed in July, an October 10, 2000 quarterly report would not have been due and the outstanding \$410 penalty was waived by the Executive Director.

Based upon the evidence presented and the filing of the required forms, the State Ethics Commission determined that Mr. Busha had not fully complied with the disclosure requirements of the Ethics Reform Act. The Commission ordered that Mr. Busha pay the late filing penalty of \$1,010 for failure to file a Pre-Election Campaign Disclosure Form and a July 10, 2000 quarterly Campaign Disclosure Form. The Commission further ordered that a judgment in the amount of \$1,010 will be entered against Mr. Busha in his county of residence; however, the judgment will be suspended upon Mr. Busha's payment of the \$1,010 late filing penalty within thirty days after receipt of the order. On April 2, 2001, Mr. Busha paid the outstanding late filing penalty of \$1,010 and is in full compliance. The South Carolina Department of Revenue was also notified to remove Mr. Busha from the Setoff Debt Collection List.

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**APPENDIX C**


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**STATE ETHICS COMMISSION  
SOURCE AND APPLICATION OF FUNDS  
FISCAL YEAR 2001**


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**PERSONAL SERVICES**

Executive Director .....	61,367.88
Classified Positions .....	259,442.85
Temporary Positions .....	4,350.00
Per Diem .....	2,310.00
<b>Total Personal Services</b>	<b>327,470.73</b>

**CONTRACTUAL SERVICES**

Office Equipment Services .....	951.69
Data Processing Services .....	43,036.66
Printing, Binding, Advertising .....	10,117.53
Legal Services .....	205.70
Freight Express Delivery .....	306.83
Telephone & Telegraph .....	9,032.47
Professional Services .....	259.25
Building Renovation .....	559.00
Copying Equipment Services .....	2,433.00
Temporary Services .....	1,805.44
<b>Total Contractual Services</b>	<b>68,707.57</b>

**SUPPLIES**

Office Supplies .....	3,813.84
Copying Equipment Supplies .....	1,375.44
Data Processing Supplies .....	817.41
Household .....	39.64
Motor Vehicle .....	0.00
Printing .....	1,524.95
Postage .....	15,489.68
Recognition Awards .....	77.39
<b>Total Supplies</b>	<b>23,138.35</b>

**FIXED CHARGES**

Rent-Office Equipment .....	3,055.98
Rent-Non State Owned Property .....	51,740.76
Rent-Other .....	18.00
Dues & Membership Fees .....	675.00
Insurance-State .....	2,932.00
Insurance-Non State .....	142.00
<b>Total Fixed Charges</b>	<b>58,563.74</b>

**TRAVEL**

In State-Meals .....	243.00
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In State-Lodging .....	890.97
In State-Auto Mileage.....	2,560.72
In State-Misc. Travel Expenses.....	16.00
In State-Registration .....	1,126.00
Out of State Meals .....	987.95
Out of State Lodging .....	2,791.83
Out of State Air Travel.....	1,794.10
Out of State Other Transportation.....	252.00
Out of State Auto Mileage .....	555.10
Out of State Misc.....	64.00
Out of State Registration.....	2,488.00
Meals-State Not Overnight .....	399.00
Leased Car-State Owned.....	11,731.45
<b>Total Travel</b>	<b>25,900.12</b>

**EQUIPMENT**

Office.....	490.11
Library Books .....	42.53
<b>Total Equipment</b>	<b>532.64</b>

**EMPLOYER CONTRIBUTIONS**

Retirement-State Retirement System.....	29,482.95
Retirement-Police Officers Retirement.....	4,151.31
Social Security .....	23,800.54
Workers Compensation Insurance.....	1,061.00
Unemployment Compensation.....	369.00
Health Insurance .....	25,584.53
Dental Insurance .....	1,265.00
Retirement Life Insurance .....	439.16
Police Pre-Retirement Death .....	64.76
Police Accidental Death .....	64.76
<b>Total Employer Contributions</b>	<b>86,283.01</b>

FY 01 State Appropriations.....	498,148.00
Earmarked Appropriations.....	50,000.00

<b>Total Appropriations</b>	<b>548,148.00</b>
Adjusted State Appropriations.....	521,764.00
Adjusted Earmarked Appropriations.....	87,534.00

<b>Total Adjusted Funds</b>	<b>609,298.00</b>
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Expenditures .....	599,169.00
Mid Year Budget Reduction.....	5,141.00
Carry Forward (State).....	9,531.44
Carry Forward (Earmarked).....	597.84



**INDEX-KEYWORD-TITLE**

APPLICABILITY OF ETHICS REFORM ACT TO SCHOOL BOARD CREATED NONPROFIT CORPORATION.	AO2001-001
THE PAYMENT OF REFERRAL FEES TO LOBBYISTS BY A NEW INTERNET BUSINESS THAT WILL BE MARKETED TO LOBBYISTS' PRINCIPALS TO PROVIDE A WEB-BASED GRASSROOTS ORGANIZATION PRODUCT.	AO2001-002
A TEMPORARY PART-TIME INSPECTOR FOR THE SOUTH CAROLINA BOARD OF PHARMACY SEEKS EMPLOYMENT WITH A PRIVATE PHARMACY.	AO2001-003
CANDIDATES FOR PUBLIC OFFICE USING GOVERNMENT PERSONNEL, EQUIPMENT, MATERIALS, OR AN OFFICE BUILDING IN AN ELECTION CAMPAIGN.	AO2001-004
OFF-DUTY EMPLOYMENT	AO2001-005

**INDEX-KEYWORD-SUBJECT**

Business with which associated

2001-001

Economic Interest

2001-001

Official Capacity

2001-001

Lobbyist/Lobbyist's Principal

2001-002

Off-Duty Employment

2001-003; 2001-005

**ADVISORY OPINIONS**  
**CODE SECTIONS**

<b>Code Sections</b>	<b>Advisory Opinions</b>
2-17-110(A)	AO2001-002
8-13-100(3)	AO2001-001
8-13-100(11)	AO2001-001
8-13-100(30)	AO2001-01
8-13-700(A)	AO2001-003
8-13-700(B)	AO2001-001, AO2001-003, AO2001-005
8-13-730	AO2001-003
8-13-720	AO2001-005
8-13-725	AO2001-005
8-13-765	AO2001-004