

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
Complaints C2021-078)
C2023-129)
Shirley Etheredge Mitchell)
Stephen D. Cain)
Complainants.)
Lancer Shull)
Respondent.)

BEFORE THE STATE ETHICS COMMISSION

APPEAL ORDER

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SC Court of Appeals

This matter comes before the State Ethics Commission (Commission) by way of a timely Notice of Appeal filed by Lancer Shull (Respondent), Mayor of Batesburg-Leesville (Town). Therein, Respondent seeks review of the March 7, 2025 Order of the Commission Hearing Panel (Hearing Panel or Panel) which found him in violation of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Ethics Act or Act). Present at the July 17, 2025 Appeal Hearing were Commissioners Bryant S. Caldwell, Helen Munnerlyn, Sara Parrish, Mary Hunter B. Tomlinson, Matthew N. Tyler, Neal D. Truslow, and F. Xavier Starkes, Appellate Panel Chair.¹

RELEVANT PROCEDURAL HISTORY

The above-referenced Complaints were filed on September 8, 2021 (C2021-078) and October 19, 2023 (C2023-129), alleging, among other things, that Respondent improperly participated in and voted on matters related to his appointment to the Lexington County Joint Municipal Water and Sewer Commission (JMWSC) during Batesburg-Leesville Town Council meetings held on January 13, 2020, January 21, 2020, and December 11, 2023. Following

¹ Pursuant to Reg. 52-805(A), the Appellate Panel is comprised of the full Commission "excluding the original hearing Commissioners." The Hearing Panel consisted of Commissioners Scott E. Frick, Brandolyn Thomas Pinkston, and AJ Holloway, whose terms all expired on March 30, 2025.

JS #1

investigations into the complaints, the Commission found probable cause existed to believe

Respondent violated the Ethics Act as follows:

COUNT ONE ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED. That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by participating in discussions regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

COUNT TWO ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED. That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

COUNT THREE FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED. That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 13, 2020 Town Council meeting, in violation of Section 8-13-700(B).

COUNT FOUR FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED. That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement regarding his appointment to the Joint Municipal Water and Sewer Commission at a January 21, 2020 Town Council meeting, in violation of Section 8-13-700(B).

COUNT FIVE ATTEMPT TO INFLUENCE A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED. That Lancer Shull, Mayor of Batesburg-Leesville, attempted to influence a governmental decision in which he had an economic interest by voting to appoint himself to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).

COUNT SIX FAILURE TO RECUSE FROM A GOVERNMENTAL DECISION IN WHICH RESPONDENT HAD AN ECONOMIC INTEREST SECTION 8-13-700(B), S.C. CODE ANN., 1976, AS AMENDED. That Lancer Shull, Mayor of Batesburg-Leesville, failed to provide a written recusal statement

JK #2

regarding his appointment to the Joint Municipal Water and Sewer Commission at a December 11, 2023 Town Council meeting, in violation of Section 8-13-700(B).

On February 20, 2025, the Panel conducted a hearing pursuant to Section 8-13-320(10)(j) of the Ethics Act. The Panel heard testimony from Respondent, the JMSWC's General Manager Jay Nicholson, and Commission Investigator Kevin Hinson. On March 7, 2025, the Panel issued an Order finding Respondent in violation of the Ethics Act as outlined in the Notice of Hearing. This appeal followed.

FACTS

1. Respondent has served as Town Mayor since 2018.
2. The JMWSC is a joint municipal water system that exists, in part, to meet water and wastewater service needs in certain areas of Lexington County. The members of the JMWSC are governmental entities. Each governmental entity is responsible for appointing a representative to the JMWSC. These appointed representatives constitute the board of the JMWSC.
3. The Town is a member of the JMWSC. Town Council initially appointed Respondent to serve as its JMWSC board member in 2018.
4. The JMWSC's meetings are typically held once a month and the JMWSC pays its board members \$250.00 each month for their service, for a total of \$3,000.00 each year.
5. From 2018 through 2023, the JMWSC met, and Respondent attended meetings as follows:
 - a. In 2018, the JMWSC met eight (8) times. Respondent attended eight (8) meetings.
 - b. In 2019, the JMWSC met ten (10) times. Respondent attended nine (9) meetings.
 - c. In 2020, the JMWSC met six (6) times. Respondent attended six (6) meetings.
 - d. In 2021, the JMWSC met eight (8) times. Respondent attended seven (7) meetings.
 - e. In 2022, the JMWSC met six (6) times. Respondent attended six (6) meetings.
 - f. In 2023, the JMWSC met eight (8) times. Respondent attended eight (8) meetings.

JL#3

6. From 2018 through 2023, Respondent received \$250.00 each month from the JMWSC, for a total of \$3,000.00 annually, for a cumulative total of \$18,000.00. Respondent was paid regardless of whether the JMWSC held a meeting and regardless of whether Respondent attended those meetings. The JMWSC did not maintain records related to Respondent's mileage or actual expenses. According to the JMWSC General Manager Jay Nicholson, the \$250.00 is a "*per diem*" payment issued under a "nonaccountable plan" in accordance with the Internal Revenue Code (IRC).² This amount is paid regardless of whether a board member attends a meeting or performs JMWSC-related duties throughout the month.
7. During a January 13, 2020 Council meeting, Council engaged in discussions regarding Respondent's reappointment to the JMWSC. Instead of reappointing Respondent, Council voted to replace Respondent with Councilman Steve Cain. Respondent voted against his removal from the JMWSC. Respondent did not provide a written recusal statement.
8. On January 21, 2020, Council held a meeting to reconsider Respondent's removal from the JMWSC. During the meeting, Respondent voted to reappoint himself to the JMWSC. Respondent did not provide a written recusal statement.
9. During a December 11, 2023 Council meeting, Respondent voted to reappoint himself to the JMWSC. Respondent did not provide a written recusal statement.
10. As outlined in its Order, the Hearing Panel found Respondent in violation of three (3) counts of Section 8-13-700(B) for his attempts to influence a governmental decision in which he had an economic interest by participating in discussions and votes related to his reappointment to

² According to Internal Revenue Service Publication 463 (2025), "a nonaccountable plan is a reimbursement or expense allowance arrangement" wherein employees are paid a daily flat rate and are not required to provide detailed accounts of their expenses to their employer.

SLP #4

the JMWSC during Council meetings held on January 13, 2020, January 21, 2020, and December 11, 2023. The Hearing Panel further found Respondent in violation of three (3) counts of Section 8-13-700(B) for failing to provide a written recusal statement with regard to his appointment on the aforementioned dates. The Hearing Panel assessed a \$50.00 civil penalty for each violation and an administrative fee of \$1,000.00, for a total of \$1,300.00.

STANDARD OF REVIEW

Within ten (10) days after service of a Hearing Panel Order, a respondent may apply to the Commission for a full Commission review. Section 8-13-320(10)(m). The review must be made on the record established in the Panel hearing. *Id.* After reconsidering the evidence, the Commission shall "enter an order amending, affirming or modifying the Panel's decision." Reg. 52-806(A).

DISCUSSION

On appeal, Respondent argues that Section 8-13-700 did not prohibit him from participating in his own appointment because he does not have an economic interest in the JMWSC monthly payments. Specifically, Respondent argues no economic interest exists because (1) the payments do not meet the statutory definition of economic interest under Section 8-13-100(11)(a); (2) the large class exception found in Section 8-13-100(11)(b) applies; (3) construing the monthly payments as an economic interest would lead to an absurd result; (4) the monthly payments are authorized by the Joint Water and Sewer Act; and (5) his JMWSC service is *ex-officio*.³ These arguments are addressed below, in turn.

³ Respondent also argues that Commission staff failed to meet its burden of proof because it did not present the Complainants as witnesses. However, there is no requirement in either the Ethics Act or the Administrative Procedures Act that a party prove its case using specific witnesses or evidence. Accordingly, the Commission finds this argument without merit.

JL #5

I. Statutory Definition of Economic Interest

Section 8-13-700(B) of the Ethics Act prohibits a public official from participating in any matter in which he, a family member, a business with which he is associated, or an individual with whom he is associated has an economic interest. When a public official is faced with a matter in which he has an economic interest, the public official must recuse himself following the procedures outlined in Section 8-13-700(B) of the Ethics Act:

No [public official] may make, participate in making, or in any way attempt to use his [office] to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [public official] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

...

(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 an agency, commission, board, or of a 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.

As defined in Section 8-13-100(11)(a) of the Act, "economic interest" means "an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or other arrangement involving property or services in which a [public official] may gain" more than \$50.00.

JL #6

Here, Respondent argues that his interest in the monthly JMWSC payments does not meet the statutory definition of economic interest because the payments are only for expense reimbursement. First, it is undisputed that the JMWSC pays its board members \$250.00 each month. Second, Respondent admitted during his Panel testimony that the work he does on the JMWSC is a “service.” Finally, because the JMWSC pays its board members each month without regard to meeting attendance or the performance of JMWSC-related duties, the payments constitute an arrangement in which Respondent *may* gain more than \$50.00. Accordingly, the Commission finds that Respondent’s interest in the monthly payments meets the statutory definition of “economic interest” found in Section 8-13-100(11)(a).

II. Applicability of the Large Class Exception

Section 8-13-700(B) requires a public official to recuse himself from any matter in which he, a family member, a business with which he is associated, or an individual with whom he is associated has an economic interest. However, there is an exception to the recusal requirement called the “large class exception” found in Section 8-13-100(11)(b).⁴ Under this exception, a public official may participate in a matter in which he has an economic interest if:

the only economic interest or reasonably foreseeable benefit that may accrue to the [public official] . . . accrues to the [public official] 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.

⁴ Section 8-13-100(11)(b) also contains an exception to the recusal requirement when the only benefit that accrues to a public official is “incidental” to the public official’s position. In his appeal, Respondent asks the Commission to apply this exception. However, the plain language of Section 8-13-100(11)(b) requires the economic interest to be “incidental to the public official’s . . . position” for the exception to apply. In the present case, while the payments may be incidental to JMWSC board members, they are *not* incidental to all Town Councilmembers because not all Town Councilmembers receive the payments – only those who are appointed to the JMWSC. Thus, this argument fails. See *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (finding a court must abide by the plain meaning of the words in a statute).

JX # 7

In his appeal, Respondent argues he was permitted to participate in his own appointment because his economic interest was no greater than that of any other JMWSC board member and, therefore, the “large class exception” applies. However, Respondent’s characterization of the remaining JMWSC board members as the “large class” is flawed. The “large class” consists of the individuals or entities impacted by Respondent’s conduct. See SEC AO92-155 (finding a public member could vote on matters affecting his own property as long as all owners of property in the affected area were similarly impacted by the public member’s vote).

In the present case, Respondent was the only person who had an economic interest in the discussion and vote that occurred on December 11, 2023 because the question considered by Town Council was limited to Respondent’s re-appointment. As to the January 13, 2020 and January 21, 2020 Council meetings, only two (2) people had an economic interest – Respondent, who was the existing appointee to the JMWSC, and the Councilmember who briefly replaced Respondent. However, two (2) people do not constitute a large class. See SEC AO2014-002 (finding 1 out of 9 does *not* constitute a large class); SEC AO2010-004 (finding 1 out of 56 constitutes a large class); SEC AO2008-004 (finding 1 out of 171 constitutes a large class, but 4 out of 19 does *not* constitute a large class). Accordingly, the Commission finds that large class exception does not apply.

III. Absurd Result

Section 8-13-700 prohibits a public official from participating in a matter in which he has a personal economic interest. On appeal, Respondent argues that any interpretation of the Ethics Act finding him in violation of Section 8-13-700 for participating in or voting on his appointment to JMWSC would lead to an absurd result because it would prohibit all Councilmembers from voting on a JMWSC appointment. However, this argument overlooks the specific facts of Respondent’s case.

JL #8

As explained above in Section II, infra, on January 13, 2020 and January 21, 2020, only two (2) people had an economic interest in the specific questions taken up by Council – Respondent and Councilman Cain, who briefly replaced him. On December 11, 2023, only one (1) person had an interest in the specific question taken up by Council – Respondent. The Commission finds that prohibiting a public official from participating in a matter in which he has a specific economic interest is not absurd. It is, in fact, the entire purpose of Section 8-13-700(B).

IV. Joint Water and Sewer Act

Section 6-25-60(C) of the Joint Water and Sewer Act⁵ provides, in relevant part:

. . . no commissioner of a joint system shall receive any compensation solely for the performance of duties as a commissioner, but each commissioner may be paid per diem, mileage, and subsistence expenses . . .

Respondent argues that there can be no economic interest in the JMWSC monthly payments because such payments are permissible under Section 6-25-60(C). However, this provision of the Joint Water and Sewer Act only addresses the *types* of payments the JMWSC may make to its board members. It does not address how Respondent must conduct himself as a member of Town Council when Council is considering his appointment to the JMWSC – this situation is governed by the Ethics Act. Contrary to Respondent’s position, the Joint Water and Sewer Act and the Ethics Act are not in conflict - they simply address different aspects of the same scenario. Accordingly, the Commission finds that the permissibility of the payments under Section

⁵ In his brief, Respondent asks the Commission to find that the accounting method utilized by the JMWSC “fully complies with the requirements of [S]ection 6-25-60” and the IRC. However, this Commission’s jurisdiction is limited to the enforcement and interpretation of the Ethics Act. See Section 8-13-320(9)-(12); SEC AO93-72; Hutto, S.C. Op. Atty. Gen., Dec. 23, 2013 (finding the Commission’s jurisdiction is limited to questions involving interpretation and administrative enforcement of the Ethics Act). Therefore, the Commission lacks the authority to make such a finding.

JL #9

6-25-60(C) is irrelevant for purposes of determining whether Respondent violated Section 8-13-700(B) when he participated in, and failed to recuse from, matters related to his appointment to the JMWSC. See SEC AO2025-001 (distinguishing between the permissibility of a school board member receiving pay and the methodology by which the school board member could participate in receiving such pay).

V. Ex-Officio Service

Section 8-13-700(B) requires a public official to recuse himself from any matter in which he, a family member, a business with which he is associated, or an individual with whom he is associated has an economic interest. The Commission has long held that when a public official's service on a secondary board is *ex-officio* then the public official is "not required to recuse himself on matters that c[o]me before [him] which would affect the economic interest of the board" because the secondary board is not considered a "business with which [Respondent] is associated" for purposes of Section 8-13-700. SEC AO2002-009. For a public official's service on a secondary board to be considered *ex-officio*, the service must (1) arise because of the position held by the public official; (2) involve matters which fall within the official responsibility of the agency or public official; and (3) be a service the agency would normally provide and for which the public official would be subject to expense reimbursement by the agency. See SEC AO2018-002.

On appeal, Respondent argues he was permitted to participate in matters related to his own appointment because the JMWSC is not a "business with which he is associated" for purposes of Section 8-13-700. In that regard, the Commission agrees. However, this fact is immaterial because Respondent did not improperly participate in matters in which the JMWSC had an economic interest. Rather, Respondent improperly participated in matters in which *he* had a personal economic interest. And the Commission has never held that a public official serving *ex-officio* on

JK # 10

a secondary board is permitted to participate in matters affecting his own personal economic interest – only that participation in matters affecting the economic interests of the secondary board is permissible. Accordingly, the Commission finds Respondent's argument without merit.

DECISION

In this matter, the Commission is essentially tasked with deciding whether Section 8-13-700(B) of the Ethics Act allows a public official to appoint himself to a position that pays \$3,000.00 per year. For the reasons outlined above, the Commission finds that such behavior is prohibited.

NOW, based on the evidence in the record and oral arguments presented, the Commission finds Respondent in violation of six (6) counts of Section 8-13-700(B) as outlined in the Notice of Hearing. Specifically, the Commission finds Respondent was not permitted to participate in discussions and/or votes related to his appointment or removal from the JMWSC. In addition, the Commission finds that Respondent was required to recuse himself pursuant to Section 8-13-700(B)(4) when such matters came before him on Town Council.

THEREFORE, pursuant to Section 8-13-320(10)(l)(i) of the Ethics Act, the Commission hereby issues a Public Reprimand and orders Respondent to pay a reduced civil penalty of \$300.00 (\$50.00 for each count);

AND, pursuant to Section 8-13-130 of the Ethics Act, and in addition to the civil penalty, the Commission hereby orders Respondent to pay an administrative fee of \$1,000.00, making Respondent's total amount owed to the Commission \$1,300.00.

AND, pursuant to Section 8-13-320 of the Ethics Act, if the \$1,300.00 is not paid within six (6) months from Respondent's receipt of this Order, a judgment in the amount of \$1,300.00 shall be entered against Respondent. In the event of a failure to pay, upon the Commission's filing

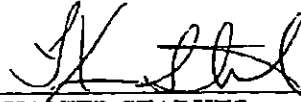
JX #11

of said Judgment with the Clerk of Court in Respondent's last known County of residence, the Clerk of Court shall enter this Order in the amount of \$1,300.00 in its Judgment Rolls, less any monies paid, without cost to the Commission.

FINALLY, in accordance with Section 8-13-320(10)(m) of the Ethics Act, this review is the final disposition of this matter before the Commission.

AND IT IS SO ORDERED THIS 16th DAY OF October 2025.

STATE ETHICS COMMISSION



F. XAVIER STARKES,
APPELLATE PANEL CHAIR

Columbia, South Carolina