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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM STATE ETHICS COMMISSION

Appellate Case No. 2025-000875

State Ethics Commission, ...Respondent,

v.

Kenneth Loveless, ...Appellant.

FINAL REPLY BRIEF

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ISSUE ONE

In its Initial Brief, the Commission adopts the same argument its counsel has made throughout these proceedings, that it cannot be required to read S.C. Code Ann. § 8-13-700(B) as it is written. Specifically, the Commission argues that it must be permitted to read S.C. Code Ann. §8-13-700(B) any way it wants to, because to hold otherwise would "reduce[] the Ethics Act to an empty formality, allowing open advocacy of (and interference in) a contract… as long as the public official's actions are not accompanied by an official vote or decision." (Res. Br. p. 13-14).

That's exactly what the Commission cannot do. It cannot construe the statute however it wants to in order to sanction a public official. Having found long ago that the statute was unambiguous, the Commission is required to apply the statute as written. *State Ethics Commission v. OHP and JDG*, Complaint No. 97-035 & 036 (R. Vol. I, pp. 167-176). The Commission goes further in its brief, to argue what the legislative intent must have been, which it also cannot do. The Commission is an administrative agency, with no special expertise in interpreting statutes, as pointed out by the United States Supreme Court in *Loper Bright Enterprises et al. v. Raimondo, Secretary of Commerce*, 603 U.S. 369, 144 S.Ct. 2244, 219 L.Ed.2d 832 (2024); *See* Loveless' Brief at pp. 10-12).

For reference, the statute at issue, S.C. Code Ann. § 8-13-700(B), provides in relevant part:

> (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…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…or a business with which he is associated shall:

> (1) Prepare a written statement describing the matter requiring action or decision 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…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;

S.C. Code Ann. § 8-13-700(B)(1) & (4). (Emphasis added).

A plain reading of S.C. Code Ann. § 8-13-700(B) clearly prohibits a public official from using his public office to influence a governmental decision in which he has a conflict of interest. The statute further explains that a public official is only required to comply with the mandates set forth in Subsections (1)-(5) if the public official, in the discharge of his official responsibilities, is required to take an action or make a decision. Only then would the public official be required to prepare a written statement describing the potential conflict of interest and furnish a copy of the statement to the presiding officer of the board, who would then require that the public official be excused from any votes, deliberations, and other actions.

The Commission argues that Loveless is urging the court to read the second clause of S.C. Code Ann. § 8-13-700(B) in isolation, which is simply not true. It is the Commission who has failed to consider the language of the statue in its entirety, including the second clause which sets forth what circumstances must exist in order to trigger the requirements of Subsections (1)-(5).

In its Initial Brief, the Commission argues that the "governmental action" at issue here is the PWES Contract between the District and Contract Construction. (Res. Br., pp. 11-12). The record clearly demonstrates that Loveless never participated in any votes, deliberations, or actions

that influenced or attempted to influence the PWES Contract. In opposing Loveless' Motion to Dismiss, Commission Counsel argued that the prohibited "action" by Loveless was "participation in the governmental decision." (R. Vol. I, p. 381, lines 9-16). However, Commission Counsel admitted that Loveless had nothing to do with awarding the PWES Contract at issue to Contract Construction.

> Q. [Presiding officer]: Even though the contract had already been awarded, it is my understanding he did not vote on this contract, is that correct?
>
> A. That's correct… but it's an ongoing government decision to be into the contract.[1] Obviously there are ways out of it. There are ways to modify it.

(R. Vol. I, p. 381, lines 17-23).

In the hearing on the Motion to Dismiss, Commission counsel was unable to point out any action or decision by Loveless that purportedly violated S.C. Code Ann. § 8-13-700(B).

> Q. [Presiding officer]: ... My question is how are these actions as defined in the statute. . . How are those violations of the statute?
>
> A. … [Commission counsel]: ... [I]t's participating in the governmental decision. The decision being the contract between the district and Contract Construction. And so he is attempting to participate in that contract matter by doing the letters, by discussing the matters during the board meetings and by doing the site visit.

(R. Vol. I, p. 381, lines 5-16).

The Commission's counsel admitted at that time the conduct that the Commission focused on had nothing to do with a decision being made. Commission counsel argued that the existing decision could have been changed. However, the decision was not changed. Loveless participated

[1] There is no allegation by the Commission that the contract was ever modified or restricted, certainly not rescinded and the facts demonstrate that did not occur. Counsel's argument that it "could" have been modified suggests the Commission wants to be able to sanction public officials for trying to prompt a public entity to take an action or make a decision.

in discussions, period. Not votes. Not decisions. He did not violate the statute in any way. He took no "action" and made no "decision" as prohibited by § 8-13-700(B). Nor were any alleged.

The Commission makes a different argument now, stating that Loveless' action was a demand for action to an employee of the district. (Res. Br., p. 11-12). This is a ridiculous argument, addressed more fully below.

In denying Loveless' Motion to Dismiss, Commissioner Starkes also incorrectly construed Subsection (4) of S.C. Code § 8-13-700(B)(4), which is *expressly* limited in its application only to "the presiding officer" after someone has recused themselves.[2] (R. Vol. I, pp. 18-19). Subsection (4) does not include any prohibition on the public official. Commission counsel dismisses this in the initial brief by asserting that would be a ridiculous reading of the statue when the words of the statute say exactly that. (Res. Br., pp.10-11).

Commissioner Starkes found that the issue raised by Loveless in the Motion to Dismiss was that "he did not participate in any 'governmental decision' that implicates § 8-13-700." That is not what Loveless argued then, and it is not what he argues now. Loveless' argument has always been that the Notice of Hearing did not allege a violation of the act because it did not allege any "action" or "decision" on his part, which remains true (it alleged only discussions, writing a letter, and site visits). It is also true that the Commission did not allege any specific "action" or "decision" by Loveless. Commissioner Starkes acknowledged, as did Commission Counsel, that

[2] "[I]f he is a public official, … he shall furnish a copy of the statement to the presiding officer of the governing body…, 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 8-13-700(b)(5). The only thing required of the public official in subsection (4) is "furnish a copy of the statement to the presiding officer." The remaining mandates of subsection (4) apply only to the presiding officer whose obligations are to "cause to be printed" and "excused" and "note the reasons in the minutes."

Loveless did not participate in the District's vote to award a construction contract to Contract Construction. Commission Counsel argued at the Motion to Dismiss hearing that Loveless could have influenced the District at some later point to change its award of the contract, but that never occurred.

In fact, Loveless never requested or demanded that the District change its award of the PWES contract to Contract Construction, nor did he attempt to influence the District to change its award of the contract. A review of the March 24, 2020 letter written by Loveless to then-Superintendent Christina Melton, serving the basis for Count One of the charges lodged by the Commission, clearly demonstrates that Loveless only raised concerns and questions about whether safety procedures and applicable building codes were being followed and whether the specifications, record keeping procedures, and the architectural/engineering designs related to PWES had been satisfied. (R. Vol. I, pp. 59-66). In his letter, Loveless submitted eight (8) questions to the District's Superintendent, as required by the Superintendent's own policy in place at that time. What the letter does request are answers and documents supporting the answers to Loveless' questions. What is not present within this letter is an "action" or an attempt to "interfere" with the PWES contract to Contract Construction as asserted by Commission counsel.

Commissioner Starkes also incorrectly held that the "primary jurisdiction" for interpretation of the Ethics Act is the Commission, citing a 19-year-old Attorney General opinion. (R. Vol. I, p. 16). That is clearly not the law, as argued more completely in Loveless' Initial Brief. *Loper-Bright* prohibits such an interpretation and specifically prohibits any executive agency from supplanting the role of the courts in construing what the law is and is not. Deference to an executive agency is allowed only when the agency has some specific expertise in the area of law

addressed. The State Ethics Commission is entitled to no deference on issues of law. *Loper-Bright,* 603 U.S. 369, 144 S.Ct. 2244, 219 L.Ed.2d 832 (2024).

The Commission argues that, notwithstanding the law, it must be allowed to interpret the statues in the State Ethics Act.

> [Loveless'] interpretation reduces the Ethics Act to an empty formality, allowing open advocacy of (and interference in) a contract... as long as the public officials' actions are not accompanied by an official vote or decision.

(Res. Br. pp. 13-14).

That is not Loveless' "interpretation." That is the law. Moreover, there was no "interference" and, even if there was, advocacy without action or a decision is not prohibited by the Ethics Act.

The Commission argues that Loveless "was prohibited from inserting himself into the contract's inner workings by demanding action from the Superintendent and engaging in the... discussions." (Res. Br. p. 14). The Ethics Act has nothing to do with a Board member's interactions with a School Superintendent, and the suggestion that a mere demand for action (which never came) from the administrative staff of a school district of which Loveless is a Board member, is somehow turned into a violation of the act is ludicrous. This argument also contradicts counsel's earlier statement to Commissioner Starkes that the "action" of which Loveless is guilty is "the contract" with Contract Construction.

The Commission has admitted its executive director made a false statement to Loveless claiming that the Commission had determined sufficient facts existed to proceed with an investigation. However, it is not willing to admit it is wrong on the law. The Commission opposes the argument that it cannot say what it presumes the legislature probably meant to say but did not,

since it has been doing so, unlawfully, for decades. In the face of *Loper-Bright*, it can no longer do so.

ISSUE TWO

The response by the Commission to Issue Two is alarming. The Commission states facts that are solely within its knowledge and not reflected in the record. Moreover, it misstates Loveless' argument, in an effort to avoid responding to it.

In denying Loveless' motion to engage in discovery relevant to the collaboration between the Commission's staff and the Inspector General, the Commission ruled that the evidence would not have been relevant. (R. Vol. I, pp. 29-35). On appeal, its counsel argues the same thing. But Loveless and this Court do not know what the evidence is to form an opinion as to whether the evidence was relevant or not. Not only was the Commission's ruling error, but the argument in response to the argument on appeal is misleading.

As set forth in more detail in his initial brief, Loveless attempted to engage in discovery after learning that personnel and/or officials of the State Ethics Commission had consulted with the Inspector General[3] about Loveless in connection with an investigation the Inspector General was conducting. Loveless sought to determine the content, extent and scope of those interactions through discovery. It is undisputed the interaction occurred.

The Commission referred to two emails exchanged between its staff and OIG and stated, "That is the extent of the 'collaboration' of which Appellant complains." (Res. Br. p. 15).

[3] Loveless is unaware of any other public officials from District Five who were interviewed or consulted by the Office of the Inspector General.

Neither this court nor Loveless knows whether that is true. Loveless attempted to find out the extent and content of the collaboration. He was denied that right, when it is clear that the Inspector General was grateful for the input of people at the State Ethics Commission. There is a lot Loveless and this Court don't know.

However, the Commission's argument is that nothing Loveless would have discovered in discovery is relevant or tells us anything we don't already know. But we don't know that. The Commission wants us to take its word for it. Loveless had a right to know the details of the collaboration between the Inspector General and the Commission. Only then could he or this Court determine whether it was relevant. The Commission simply asserts it isn't relevant without allowing Loveless to know what it was. Clearly the Commission knows what the collaboration was, and it asks this Court to take its word that none of it would be relevant.

As to the Commission's argument that Loveless should have raised this issue before he did, it is obvious that the collaboration did not occur until later in the process and Loveless raised the issue as soon as he became aware of it.

By re-stating Loveless' argument incorrectly, the Commission did not respond to Loveless' Issue Two. Since the Commission did not respond adequately to this argument at all (by incorrectly stating an easier issue to which it preferred to respond), this Court can determine the Commission has conceded the issue. *State v. Hill*, 394 S.C. 280, 715 S.E.2d 368 (Ct.App.2011); *Allen v. Pinnacle Healthcare Systems LLC*, 394 S.C. 268, 715 S.E.2d 362 (Ct.App.2011). *See also* Rule 208, SCACR.

Loveless will not reargue the issues set forth in his brief, other than to point out that the Commission attempts to avoid the argument by changing it to something else entirely, and not

answering the original argument. Discovery was absolutely necessary to determine what occurred.[4] Neither Loveless nor this Court can take the Commission's word for what the "extent" of the interaction was.

ISSUE THREE

At the commencement of the appellate hearing before the Full Commission, Chairman Truslow made the following announcement:

> THE CHAIR: At the end of the hearing, the panel will take arguments under advisement and issue an order in accordance with Sections 52-805 and 52-806 of the South Carolina Code of Regulations.

(R. Vol. II, p. 740, lines 10-13).

Section 52-805 of the South Carolina Code of Regulations addresses the composition of the Panel for Full Commission review and is comprised of seven (7) subsections setting forth the procedures and requirements for a Full Commission review. Section 52-805(D) provides that "If a commissioner is temporarily incapacitated or otherwise unable to appear at oral argument, review may be conducted by the remaining Commissioners, and the absent Commissioner may cast his vote based on the record."

The record from the appellate hearing clearly demonstrates that Chairman Truslow did not announce, as had been done in prior hearings, which Commissioners were present at oral argument and hearing the matter. (R. Vol. I, pp. 740, lines 1-pp. 742, line 6). (R. Vol. II, pp. 690, lines 4-15; R. Vol. II, pp. 692, lines 5-20); (R. Vol. I, p.409, lines 2-5). Additionally, Chairman Truslow did not announce or inform the parties that one of the Commissioners, Commissioner Caldwell, was

[4] Loveless did not argue due process as a grounds for reversing the Commission's decision, but he did mention it in passing. The Commission *did* respond to that issue, even though it was not an issue on which Loveless sought reversal. (Res. Br. p. 17).

not present or able to appear at the oral argument. At the end of the appellate hearing, Chairman Truslow requested that competing proposed orders be submitted by the parties within thirty (30) days of the hearing.

On or about March 14, 2025, Commission counsel submitted a proposed order which contained a footnote which stated, "Commissioner Bryant S. Caldwell was not present during the Appeal Hearing held on January 16, 2025, but hereby joins in the Order pursuant to S.C. Code Ann. Regs. 52-805(D)." (R. Vol. II, pp. 934-947). At no point between the conclusion of the appellate hearing and the submission of Commission counsel's proposed order did the Commission communicate to Loveless or his counsel that Commissioner Caldwell would be casting his vote on the matter pursuant to S.C. Code Ann. Regs. 52-805(D).[5] This information was not provided to Loveless, yet Commission counsel was made aware within sufficient time to incorporate it into her proposed order. The Commission does not dispute that this was not known or disclosed to Loveless or his counsel. In its Brief, the Commission again diverts the question: How did Commission counsel know that when she prepared her proposed order? There had to be some *ex-parte* communication in order for Commission counsel to know this information and to include it in her proposed order. Moreover, when Loveless raised this issue and objected to the proposed order prior to the issuance of the Commission's order, he was ignored.

The Commission asserts that a regulation, specifically S.C. Code Ann. Regs. 52-805(D), permits the participation of Commission Caldwell despite being absent from the appellate hearing. However, a regulation cannot expand on the authority of the Commission as established by statute.

[5] Chairman Truslow's announcement at the beginning of the appellate hearing that the Commission would issue an order in accordance with Sections 52-805 and 52-806 of the South Carolina Code of Regulations without informing the parties that there was in fact a Commissioner absent from the hearing was not sufficient to place Loveless or his counsel on notice that any absent Commissioner would be participating in the vote without having attending the appellate hearing.

See Hunter & Walden Company Inc. v. South Carolina State Licensing Board for Contractors, 272 S.C. 211, 251 S.E.2d 186 (1978); *Hospitality Ass'n of South Carolina Inc. v. County of Charleston*, 320 S.C. 219, 464 S.E.2d 113 (1994)(dissenting Finney).

S.C. Code Ann. § 8-13-320(12) grants the Commission with the authority to "promulgate and publish rules and regulations to carry out the provisions of [Chapter 13]. Provided, that with respect to complaints, investigations, and hearings the rights of due process as expressed in the Rules Governing the Practice of Law must be followed." (Emphasis added).

The Commission does not refute the argument about the improper dual roles played by its counsel, other than to state that Loveless makes disparaging remarks about its counsel. Disparaging or not, Loveless made true statements about Commission's counsel. The Commission doesn't respond to the clear applicability of Rule 1.8(l) of the Rules of Professional Conduct which absolutely prohibits its counsel from doing what she is doing and has prohibited it for decades. Not responding to the argument is essentially admitting the improper conduct.

PROCEDURAL IRREGULARITIES[6]

A. Misstatement of facts by the Executive Director

Loveless has repeatedly pointed out the improper action of the Commission in initiating this investigation. Loveless first pointed out this defect in his Motion to Dismiss filed September 11, 2022 (R. Vol. I, pp. 128-130) and argued the issue before the Commission. (R. Vol. I, pp. 387, line 7 – p. 388, line 12).[7] Loveless raised it on appeal in his brief (pp. 24-25) and again now.

[6] None of these issues are set forth as grounds for reversal, although perhaps they should have been. Loveless thought it sufficient to point out the many procedural irregularities that have occurred throughout this one-sided process.

[7] Both Counsel were given limited time to argue (10-10-5), and Loveless' counsel relied for some of the issues on her brief to the Commission. (R. Vol. I, p.365, lines 20-25; R. Vol. I, p. 379, lines 10-13). Commission Counsel did not

The Commission received a complaint (by a constituent of District 5) against Loveless on February 17, 2021. The Commission's Executive Director forwarded a copy of the complaint to Loveless by letter dated February 23, 2021. (R. Vol. II, p. 814). The letter affirmatively stated that "On February 17, 2021… the State Ethics Commission had reviewed the complaint and determined that sufficient facts existed to warrant an investigation." This was false.

It is now admitted by the Commission that the Commission's Executive Director, as opposed to the Commission, determined that the complaint alleged facts sufficient to warrant an investigation. (Res. Br. p. 2).

There was no Commission meeting between the time the complaint was received on February 17, 2021, and February 23, 2021, the date the complaint was sent to Loveless by the executive director), and therefore no opportunity for the Commission to review the complaint, determine whether it alleged sufficient facts to proceed, determine probable cause, or make any determination of any kind before the complaint was sent to Loveless. It is now admitted that the executive director's letter contained a false statement. The full Commission never reviewed the complaint before the investigation was initiated, and certainly did not determine that "sufficient facts exist to vote to determine that the complaint should proceed."[8] As Loveless has repeatedly argued, the executive director made a false statement by claiming the Commission had reviewed

address this issue in her presentation. (R. Vol. I, p. 379, line 21 – p. 382, line 15). Loveless' Counsel was given five minutes to reply and raised the issue again. (R. Vol. I, p. 387, lines 6-13).

[8] The letter of February 23, 2021 referenced S.C. Code §8-13-320(10) of the Code broadly, but did not specify which subsection of Section 10 applied. Subsection 10 contains 22 subsections, identified as subsections (a) through (o). The executive director did not specify which section she was relying on, nor has the Commission taken a position on that issue. In fact, § 8-13-320(10) does not provide in any subsection that the executive director can make this determination. There is authority in § 8-13-320(9)(a) but if that procedure was applied, a statement of the law would have to have been included. None was included.

the complaint and made the determination when that was not true. However, the Commission doesn't respond to this defect in the proceedings at all.

S.C. Code Ann. § 8-13-320(9)(a) authorizes the Commission to "commence an investigation on the filing of complaint by an individual... as provided in item (10)(d), upon a majority vote of the total membership of the commission."[9] While it is true that § 8-13-320(10)(c) allows the executive director to make that determination, that is not what the executive director stated. It is now known to be false.

In the Commission's Initial Brief to this Court, the Commission has admitted that falsehood. (Res. Br., p. 2). After doing so, however, the Commission glosses over the fact by stating "... the Commission's Executive Director determined that the Complaint alleged facts sufficient to constitute a violation of the Ethics Act and ordered an investigation." (Res. Br. p. 2). While that may be true, that is not what is stated in the letter to Loveless:

> **On February 17, 2021, in accordance with Section 8-13-320(10) Code of Laws for SC 1976 as amended, the State Ethics Commission reviewed the complaint provided and determined that there are sufficient facts to warrant an investigation. You will be contacted in the near future by an investigator concerning**

(R. Vol. II, p. 814). The Commission never reviewed the matter; the Executive Director did this on her own, which is now admitted by the Commission. The mandatory predicate of Commission review never occurred.

In denying Loveless' Motion to Dismiss, Commissioner Starkes made the same false finding (R. Vol. I, pp. 13-21), which should have supported the Motion to Dismiss but inexplicably

[9] Subsection 10(d) is not applicable because that section relates to probable cause. Although the executive director's letter of February 23, 2021 referred to S.C. Code §8-13-320(9) and (10), she did not specify which of the more than two-dozen subsections encompassed with Subsections (9) and (10) she was relying on. The Commissioner who heard the Motion to Dismiss asked Loveless' counsel if the executive director could have determined that facts were sufficient to constitute a violation, citing to § 8-13-320(10)(c), and Loveless' counsel admitted that she could, but that's not what happened. (R. Vol. I, p. 387, lines 4-15; R. Vol. I, p. 387, line 14- p. 388, line 12).

did not. Loveless' only option was to appeal, which he did. This issue is properly presented to this Court, and not even disputed by the Commission, which tries instead to ignore the issue.

B. Failure to Verify Complaint

In his Motion to Dismiss, Loveless argued that S.C. Code 8-13-320(10)(c) required that the complaint served on Loveless had to be verified. Commissioner Starkes erroneously concluded that only complaints by individuals have to be verified. He is right that those do have to be verified. However, Subsection 8-13-320(10)(d) requires that, if the Commission "finds probable cause to believe that a violation of the chapter has occurred" the procedure requires that the complaint is a "verified complaint." *Id*. In denying relief to Loveless, Commissioner Starkes conflated Subsections 10(a) of § 8-13-320(10)(a) with Subsection 10(c) of § 8-13-320. Section 10(a) applies only to initial complaints from individuals. Subsection 10(c) of § 8-13-320 applies only to a determination of **probable cause** by the Commission and expressly requires "a verified complaint." The two subsections (a) and (c) apply to distinctly different steps in the process.

It is true that the copy of the complaint forwarded to Loveless by the executive director on February 23, 2021 (with the false statement as to the Commission's finding) was verified by the complainant when it was delivered to the Commission and that complaint complied with Subsection 10(a). However, once the Commission's finding of **probable cause** was transmitted via a "Notice of Hearing" which appears to track the requirements of Subsection 10(c) by including "the particulars of the violation" as required by the Subsection. No "particulars of the violation" was contained in the February 23, 2021 letter to Loveless from the executive director; the enclosure was a partial copy (without videos) of the parent's complaint only. The Notice of Hearing was not verified and was therefore deficient.

The single Commissioner clearly erred in determining that Loveless' argument related to the original complaint received by the Commission from an individual. Yes, that was verified. However, the finding of **probable cause** and the "particulars of the violation" were relayed to Loveless only in the Notice of Hearing dated July 11, 2022, which was not verified. (R. Vol. I, pp. 115-118). The Act also requires the finding of probable cause to be relayed to a respondent "within ten days" of the "filing of the complaint." S.C. Code § 8-13-320(10)(d). That did not occur. The issue was raised in the Motion to Dismiss and not answered.

CONCLUSION

The Commission has asserted its intent to continue to violate the law by construing the statutes in the State Ethics Act any way it wants , despite knowing full well it lacks authority to do so. Specifically, the Commission doesn't care that

- It failed to articulate any statutory violation against Loveless;
- Its Executive Director usurped its authority and improperly found the constituent complaint stated facts sufficient to initiate an investigation;
- Its lawyer violated the Rules of Professional Conduct in order to do its bidding;
- It failed to follow the procedure prescribed by statute; or
- It's own Investigator acknowledged that Loveless had violated "the Commission's historic interpretation" of the statute, and not the statute itself.

Reversal is the only possible remedy for the Commission's blatant misconduct and the repeated egregious malfeasance of its members.

Respectfully submitted,

s/ Desa Ballard

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Final Reply Brief complies with Rule 211(b), SCACR.

Respectfully submitted,

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