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## House Legislative Ethics Committee



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**In the Matter of the South Carolina )  
House of Representatives Legislative )  
Ethics Committee Receipt of Complaint )  
Against Representative Donna C. Hicks, )  
District Number 37 )**

### CONSENT ORDER

Two complaints were filed against the Respondent on February 29, 2016 and March 1, 2016 with the House Ethics Committee (Committee). The complaints essentially alleged that Rep. Hicks' January 2016 Campaign Disclosure report (January 2016 Report)<sup>1</sup> 1) failed to accurately disclose the election type and/or date on her report filed late on January 19, 2016; 2) reported a negative amount for "contributions on hand;" 3) reported a "contribution on hand" balance in the January 2016 Report inconsistent with the actual applicable monthly campaign bank account ending balance; 4) used different names which was misleading, such as, on the House of Representatives' website she was listed as Donna C. Hicks but on the State Ethics Commission's website for her ethics filing she was listed as Donna H. Wood.

An investigation was then made into Respondent's campaign disclosure records. Specifically, Staff conducted a voluntary audit of Respondent's campaign disclosure records from her 2012, Initial Report, through her January 10, 2016 Campaign Disclosure report. Thus, the audit covered almost four years of Respondent's campaign disclosures. The audit found that for most of her reports the "contributions on hand" essentially matched the applicable month's ending bank account balance.

Respondent submitted a response and explained that her former political consulting firm who filed her ethics disclosures, imputed the incorrect election type as well as the incorrect balance. She explained that when she was first elected to the House of Representatives, she was married and her married name was Donna H. Wood. She stated that when she divorced Mr. Wood, her name was changed to Donna C. Hicks, her maiden name, by Court Order. Respondent

<sup>1</sup> The January 2016 Report referred to in the complaints is the original report Respondent filed. She has since filed two amendments to the report.

reported that she initially contacted the staff at the Committee with regard to changing her name on her ethics filings and she was informed that the Committee did not have the ability to make the name change. She stated that she followed up again on her name change request and the change was made. She admitted that she filed the January 2016 Report late.

Also, there was a delay in hearing this matter. After the complaints were filed, an additional extension of time to provide an answer was granted to Respondent's attorney. Furthermore, a voluntary audit of Respondent's campaign disclosures for an approximate four year period was conducted by Staff. Thus, the Committee could not make a determination on the complaints thirty days prior to an election. Respondent was in the June 14, 2016 Primary for re-election for House District 37, which resulted in the Committee's delay in making a determination of the complaints brought against her.

The relevant provisions of law that apply to the allegations are: S.C. Code Ann. §§ 8-13-530(4); 8-13-1360; and 8-13-1510, each of which will be discussed in the following sections. The Committee finds that it could not make a determination over these matters thirty days prior to the primary election in which the Respondent was a candidate. Additionally, the Committee finds that Respondent paid a fine of \$100 for filing her Report late, and subsequently on January 19, 2016, amended her Report to show a positive balance for the "contributions on hand," and now has her name changed to Donna C. Hicks on her ethics filings.

### **I. Delay in the Determination of the Complaints**

Section 8-13-530(4)(iii) states:

. . . Action on a complaint filed against a member or candidate which was received more than fifty days before the election but which cannot be disposed of or dismissed by the ethics committee at least thirty days before the election must be postponed until after the election.

The Committee finds that the Committee could not hear the complaints brought against Respondent until after the June 14, 2016 primary because the complaints could not be disposed of within thirty days before an election in which the Respondent was a candidate. While the Committee was not able to hear the two complaints against Respondent until after the primary, the issues alleged in the complaints are discussed below.

### **II. Campaign Disclosure Errors**

Section 8-13-1360 requires candidates filing a quarterly campaign disclosure report to accurately state the election type, the election date, and the name of the candidate, as well as other details, including reporting contributions and expenditures.

The Committee finds that Respondent retained a political consulting firm, to input her information into the campaign disclosure reports, including the January 2016 Report. Respondent claimed that the firm provided the incorrect information. Respondent has since retained another firm, who amended the January 2016 report to the correct election type and date (6/14/16 rather than 11/8/16). Respondent contended she then requested help from the Committee staff to assist her with a name change request to S.C. Interactive and the staff was unable to assist with this request. A follow-up request was made to the Committee by

Respondent. This change request was made to S.C. Interactive. Her name has now been changed to Donna C. Hicks on her ethics filings shown on the State Ethics Commission's website. Thus, the Committee finds this allegation was without merit.

### **III. Use of a Different Name**

Section 8-13-1360(2) requires campaign reports to contain:

(2) the candidate's name and address...

The Committee finds that Respondent initially reported her name as Donna H. Woods. Respondent changed her name back to her maiden name to Donna C. Hicks, by court order, following her divorce. On February 25, 2016, staff sent a Data Change Request form to SC Interactive requesting Respondent's name be changed on her ethics filings listed on the State Ethics Commission's website. On March 3, 2016, this request was completed and, Respondent was able to have her name change accomplished. Thus, the Committee finds this allegation was without merit.

### **IV. Untimely Filing**

Section 8-13-1510(A) provides,

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

- (1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and
- (2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

The Committee finds that Respondent filed her January 2016 campaign disclosure report on January 19, 2016, which was four days after the grace period ended. Respondent was assessed a fine of \$100, and she promptly paid the fine. Since Respondent filed her report prior to the Committee's certified mail notice of the late filing to Respondent, the maximum penalty she could be fined was \$100. Since Respondent has paid her fine for the late filing, the Committee finds this allegation was without merit.

### **V. Negative Contribution on Hand Inconsistent with Campaign Bank Account Balance**

Section 8-13-1360(3) requires campaign reports to contain:

(3) the balance of campaign accounts on hand at the beginning and at the close of the reporting period...

The Committee finds that Respondent initially reported a negative balance of \$679.75 on the January 2016 Report; however, the report has been amended (see Amendment Two) to reflect a positive balance of \$140.89. Thus, the Committee finds this allegation was without merit.

## **VI. Relationship with First Tuesday Strategies**

One complaint alleges that the relationship between Respondent and First Tuesday Strategies, her prior political consulting firm, ended in August of 2015 based upon a newspaper article in *GoUpstate.com* on January 20, 2016 and alleges that the Respondent has been untruthful regarding the relationship. Respondent denied that the article was factually correct. There is no evidence to substantiate this allegation in the complaint. Thus, the Committee finds this allegation was without merit.

### **PENALTY**

- A. Based on the above findings by the Committee, as well as the mitigating factors of the Respondent's full cooperation with Committee's Staff, the numerous amendments made by Respondent to correct her House Campaign Disclosure reports since her 2012 filings, the Committee does not find there is any additional penalty owed by Respondent.
- B. However, the Committee cautions Respondent about showing negative "contributions on hand" on her future Campaign Disclosure Reports and encourages her to timely reconcile her campaign bank account statements against her campaign disclosure reports.
- C. The Committee orders Respondent to submit campaign bank account records to the Committee with each quarterly campaign disclosure filing through the end of 2017 or until the Respondent leaves public office, whichever is sooner.

This Order shall serve as the Committee's final disposition of this matter pursuant to and in accordance with the terms set forth herein.

AND IT IS SO ORDERED, this 1st day of September 2016, by the following members of the House Legislative Ethics Committee:

Rep. Kenneth A. "Kenny" Bingham, Chairman

Rep. J. David Weeks, Vice-Chairman

Rep. Michael A. Pitts, Secretary

Rep. Beth E. Bernstein

Rep. Chandra E. Dillard

Rep. Jenny Anderson Horne

Rep. John Richard C. King

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G. Murrell Smith, Jr.  
Leonidas E. Stavrinakis

I consent to this Order, this 21 day of July, 2016:

Donna C. Hicks  
Representative Donna C. Hicks