

# AVOIDING THE \$10,000.00 FINE

ETHICS REFORM ACT OF 1991  
MEGHAN WALKER  
EXECUTIVE DIRECTOR  
STATE ETHICS COMMISSION

## HISTORY OF THE SOUTH CAROLINA STATE ETHICS COMMISSION

- Commission was founded in 1975.
- 1990 and 1991: The Ethics Reform Act of 1991 expanded the commission and gave it additional responsibilities.
- 2016: Commission is revamped and authority is expanded.

## SOUTH CAROLINA ETHICS COMMISSION

### PRIOR TO APRIL, 2017

- Nine commissioners appointed by the governor.
- The commission had no authority over members of the General Assembly.

### CURRENT COMPOSITION

- 8 commissioners appointed; 4 by the Governor, 1 by House Democrats, 1 by Senate Democrats, 1 by House Republicans and 1 by Senate Republicans.
- The commission has the authority to investigate complaints against members of the General Assembly.

## Who Does the Act Cover?

- Public Officials
  - Any elected or appointed official of the state (excluding judges) and any candidate for such office.
- Public Members
  - An individual appointed to a noncompensated, part-time position on a board, commission or council.
- Public Employees
  - Any person employed by the state.

## STATEMENTS OF ECONOMIC INTERESTS

Every member of a county council *must* file an SEI every year.

## WHEN TO FILE YOUR SEI

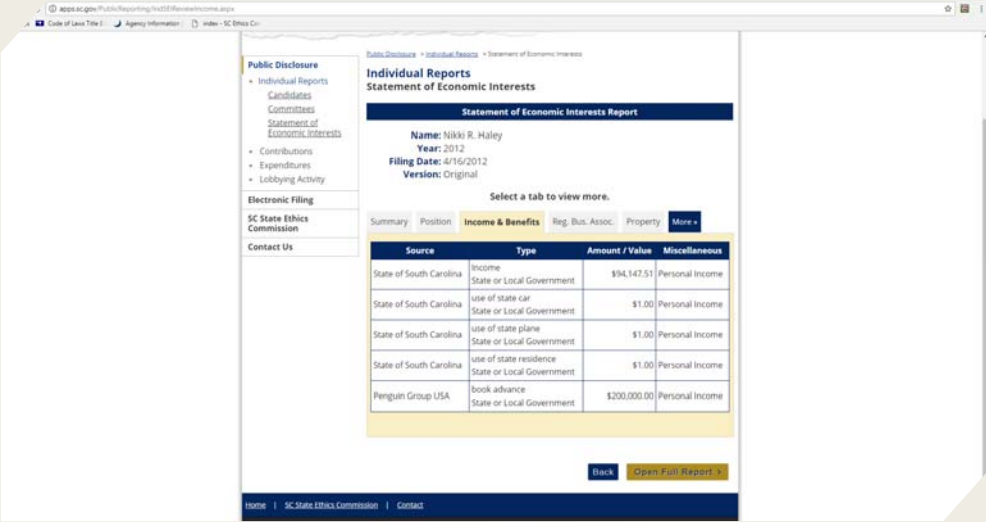
- WHEN FIRST ELECTED: FILE WITHIN TEN DAYS OF ASSUMING YOUR RESPONSIBILITIES
- EVERY YEAR THAT YOU'RE ON THE COUNCIL: FILE BY MARCH 30<sup>TH</sup>.

## Information Required On Your SEI

- The source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or the filer's immediate family during the reporting period.
- Description, value and location of real property owned/options to purchase real property during the reporting period by filer or immediate family if:
  - Public improvements were made in excess of \$200.00
  - OR
  - The interest can reasonably be expected to be the subject of a conflict of interest.
  - If a sale, lease, or rental of personal property is to a state, county or municipal instrumentality of government, a copy of the contract, lease or rental agreement must be attached to the SEI.

## Information Required On Your SEI

The name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date and location of the speaking engagement.



The screenshot displays the 'Statement of Economic Interests' for Nikki R. Haley, filed in 2012. The report is categorized under 'Individual Reports' and 'Statement of Economic Interests'. The filing date is 4/16/2012, and it is the original version. The report is divided into several tabs: Summary, Position, Income & Benefits, Reg. Bus. Assoc., Property, and More. The 'Income & Benefits' tab is selected, showing a table of income sources.

Source	Type	Amount / Value	Miscellaneous
State of South Carolina	Income State or Local Government	\$94,142.51	Personal Income
State of South Carolina	use of state car State or Local Government	\$1.00	Personal Income
State of South Carolina	use of state plane State or Local Government	\$1.00	Personal Income
State of South Carolina	use of state residence State or Local Government	\$1.00	Personal Income
Penguin Group USA	book advance State or Local Government	\$200,000.00	Personal Income

At the bottom of the report, there are buttons for 'Back' and 'Open Full Report'. The footer includes links for 'Home', 'SC State Ethics Commission', and 'Contact'.

## NONCOMPLIANCE

- Remember that this covers information from the previous year.
- Due upon assumption of official duties and then by March 30<sup>th</sup> of each calendar year.

## PENALTIES

- Initial \$100.00 penalty.
- After certified letter is delivered: \$10.00 dollars a day after ten days.
- After ten days: \$100.00 day until maximum penalty of \$5,000.00 is reached.
- There may also be a complaint filed which means possible additional fines and fees.

## NONDISCLOSURE

- Must disclose all information required in your SEI.
- If you fail to disclose the required information, you may be given a chance to correct the omission.

## PENALTIES

- Maximum fine of \$2,000.00
- Complaint can be filed which may mean additional fees.

## CONFLICTS OF INTEREST

# 700 violations

- Deals with self-dealing and nepotism.
- Section 8-13-700(A)
  - "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 family member, an individual with whom he is associated, or a business with which he is associated."
  - Exception for incidental use not resulting in additional public expense.
- Section 8-13-700(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 family member, an individual with whom he is associated, or a business with which he is associated has an economic interest."

## FAMILY MEMBERS

Your spouse, parent, brother, sister, child, mother-in-law, son-in-law, brother-in-law, sister-in-law, grandparent or grandchild.

Dictionary defines brother-in-law as:

- a - the husband of one's sibling
- b - the husband of one's spouse's sibling

## ECONOMIC INTEREST

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.

### Person with whom you are associated

- An individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, 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.

### Business with which you are associated

- 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.

## Violations of 740

- Representing a person before any agency, unit or subunit of your BOT for which the public member has official responsibility except as required by law.
  - Applies unless representation occurs in the normal course of business, is ministerial or is personal in nature.

### PENALTIES

- Maximum fine of \$2,000.00
- Complaint can be filed which may mean additional fees.



## UNDER NO CIRCUMSTANCES MAY YOU...

- RECEIVE ANYTHING OF VALUE WITH THE INTENT OF INFLUENCING YOU IN YOUR OFFICIAL CAPACITY.
- ACCEPT ADDITIONAL MONEY FOR ASSISTANCE GIVEN WHILE PERFORMING YOUR OFFICIAL DUTIES.
- USE CONFIDENTIAL INFORMATION GAINED THROUGH EMPLOYMENT FOR YOUR PERSONAL GAIN.
- REPRESENT ANOTHER PERSON BEFORE YOUR GOVERNMENT BODY.
- MAY NOT ACCEPT AN ADHONORARIUM FOR SPEAKING ENGAGEMENTS.

## WHEN IN DOUBT...

If you are unsure of your duties under  
the South Carolina Ethics Act...

**DO NOT ACT**

Take the following steps:

## EVALUATE WHAT, IF ANY, CONFLICT YOU HAVE

- 1) Is there an economic interest for you?
- 2) Is there an economic interest for a family member of yours?
- 3) Is there an economic interest for a person with whom you are associated?
- 4) Is there an economic interest for a business with which you are associated?

IF YOU ARE NOT SURE OF THE ANSWER TO ANY OF THESE QUESTIONS,  
CONTACT US AND REQUEST A FORMAL OR INFORMAL OPINION

If you answered yes to any  
of those questions, you  
have a conflict!

IF YOU HAVE A  
CONFLICT THEN  
YOU **MUST**  
RECUSE  
YOURSELF!

## HOW TO RECUSE YOURSELF

- 1) Prepare a written statement describing the matter requiring action or decision and the nature of your potential conflict of interest with respect to the action or decision.
- 2) Public Officials: Furnish a copy to the presiding officer of your board, who shall cause the statement to be printed in the minutes and shall require that you be excused from any votes, deliberation and other actions on the matter in question.

## REQUESTING AN OPINION

- As a public member, you can request either an informal or formal opinion from the State Ethics Commission.
- A formal opinion is issued by the Commission and is binding.
- An informal opinion is issued by Commission staff is not binding,
- For sensitive matters, you may request a confidential formal or informal opinion. Requests must be made in writing.

## PLEASE!

ASK US FOR GUIDANCE BEFORE YOU ACT!

<http://ethics.sc.gov/Pages/default.aspx>

South Carolina State Ethics Commission  
201 Executive Center Drive, Suite 150  
Columbia, South Carolina 29210

(803) 253-4192 (office)  
(803) 253-7539 (fax)

Office Hours: 8:30 a.m. - 5:00 p.m., Monday through Friday, excluding State Holidays

For questions about Statement of Economic Interests, please contact [lessie@ethics.sc.gov](mailto:lessie@ethics.sc.gov).

For questions about Campaign Disclosures, please contact [sandra@ethics.sc.gov](mailto:sandra@ethics.sc.gov).

For questions about the complaint process or the law, please contact [ami@ethics.sc.gov](mailto:ami@ethics.sc.gov).