

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
Kenneth A. Bingham,)
)
Plaintiff,)
)
v.)
)
William R. Folks, III, and FITSNEWS,)
)
LLC,)
)
Defendants.)
_____)

THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 15-CP-32-1764

AFFIDAVIT OF COLIN ROSS

PERSONALLY appeared before me the undersigned, Colin Ross, who being duly sworn on the 28th day of March, 2016, avers and states as follows:

1. I am adult over the age of 18 and competent to testify about the facts in this Affidavit.
2. On December 2, 2014, I sent Will Folks a text (attached as exhibit #1) and an email (attached as exhibit #2) setting forth an ethics complaint I drafted for filing against State House Rep. Kenny Bingham.
3. On December 3, 2014, I sent Will Folks an email (attached as exhibit #3) containing a press release in which I stated I would that day file an ethics complaint against Rep. Bingham.
4. I did in fact mail an ethics complaint against Rep. Bingham to the State Ethics Commission at 5000 Thurmond Mall in Columbia, South Carolina, on December 3, 2014, a fact that Will Folks corroborated in a text exchange with me (attached as exhibit #4) on that day.

FURTHER AFFIANT SAYETH NOT.



Colin Ross

SWORN to, before me on March 28, 2016.



Notary Public of South Carolina
Commission Expires: 8/21/18

Tue, Dec 2, 12:07 PM

Exhibit #1

Want to see the complaint I'm
filing agaisnt Bingham

Yes!

Sent it over

Tue, Dec 2, 1:34 PM

NICE

Let me know when it's filed!

Exhibit #2

From: Colin Ross <prospectross@gmail.com>
Date: December 2, 2014 at 12:45:15 PM EST
To: Will Folks <will.folks@gmail.com>
Subject: Re:

I will be when I file it tomorrow

On Tue, Dec 2, 2014 at 12:36 PM, Will Folks <will.folks@gmail.com> wrote:
NICE! Are you on the record as submitting it?

If so, do you want a quote associated with it?

-W

On Tue, Dec 2, 2014 at 12:28 PM, Colin Ross <prospectross@gmail.com> wrote:

1. Facts

I. Amendment No. 3 to S.0036 "Sales Tax Exemptions"- Amazon Exemption:

According to the Respondent's 2012 Statement of Economic Interest, he was paid \$7,500 in rental income for 2011 from Amazon.

In 2011, the Respondent was the chief sponsor of the Amendment No. 3 to S.0036, he also wrote an OP-ED for the news website FITSNEWS.COM, titled "Kenny Bingham: SC Should "Fix" Amazon Mistake" and voted Yea on the Amendment as well as the bill. Additionally, he was the sole sponsor for amendment 1 to H. 3488, which failed, that in essence did the same thing as Amendment 3 to S. 0036.

Fits Editorial: <http://www.fitsnews.com/2011/05/17/kenny-bingham-sc-should-fix-amazon-mistake/>

S. 0036 Amendment 3: <http://www.scstatehouse.gov/amendments.php?KEY=22330>

Vote #359 Roll Call: <http://www.scstatehouse.gov/votehistory.php?KEY=2866>

Vote #358 Roll Call: <http://www.scstatehouse.gov/votehistory.php?KEY=2865>

H.3488 Amendment 1: <http://www.scstatehouse.gov/amendments.php?KEY=22174>

Vote #280: <http://www.scstatehouse.gov/votehistory.php?KEY=2601>

I. H 5005 (Municipal Utilities):

According to the Respondent's 2014 Statement of Economic Interest was paid \$70,071.00 by SCANNA, \$182,397.00 by City of Columbia, \$163,615.91 by Town of Lexington & \$29,932.50 by Richland County. Voted against H 5005 (Municipal Utilities) which passed. This bill related "to the powers and duties of municipalities in regard to municipal utilities including a water system.

The bill amended SC Code 5-31-610 to allow a city, without a favorable vote in a referendum, to "Contract for the erection of plants for waterworks, sewerage or lighting purposes". Building water, sewer or electric plants is specifically what the Respondent's company, American Engineering Consultants, Inc. has done for municipalities in previous years. Currently, according to American Engineering Consultants, Inc's website "Richland County Public Works retained

the services of AEC as their Construction Manager to oversee the construction of their new \$27 million Broad River Wastewater Treatment Facility”.

City of Columbia website states, “The Department of Utilities & Engineering maintains the City's drinking water supply, collects and treats the City's wastewater, designs and oversees construction of many City construction projects, and performs other related duties.”

Town of Lexington website states, “The Town of Lexington provides water and sewer service to nearly 9,000 customers both within the town limits and in unincorporated areas of Lexington County.”

Richland County website states, “This office offers sewer service and limited water service in the northwest portion of Richland County as well as limited water and sewer in the Hopkins area.”

H 5005: http://www.scstatehouse.gov/sess120_2013-2014/bills/5005.htm

City of Columbia: <http://www.columbiasc.net/utilities-engineering>

Town of Lexington: http://www.lexsc.com/ws_index.htm

Richland County: <http://www.richlandonline.com/Government/Departments/Utilities.aspx>

American Engineering website: <http://www.aec-sc.com/6/15>

I. H. 4813 Appropriation Bill; Passage of Section 15A

Respondent's Company, American Engineering, has received the following amounts during, according to the University of South Carolina's Spending Transparency Page, 11-12: \$16,625 12-13: \$147,235; 13-14: \$93,892 from USC. In FY 2012-2013, Bingham voted to ratify Sec 15A (Vote #758) of H. 4813 which was the section that allocated the funds to USC for that FY.

This is a violation of S.C. Code Ann. § 8-13-700(B) even if he complied with § 8-13-700(B)(2) he still participated in the vote. His Statement of Economic Interests from 2012-13 do mention money he received from USC but we do not know if he presented this to the “presiding officer” [which is required under § 8-13-700(B)(2)], thus he may have committed a violation there as well. Regardless, he still voted for the bill which had a consulting contract to “a business with which he is associated [that] has an economic interest”. Therefore it seems like a pretty clear violation.

Furthermore, he has not voted for this section in the future versions of the budget. Which could lead someone to believe that he knows he that he is unable to vote for these sections.

Transparancy: <http://spend.admin.sc.edu/payee.php?Vendor=AMERICAN+ENGINEERING&FY=1213&FM=%25%25&Campus=%25>

Vote #758 Roll Call: <http://www.scstatehouse.gov/votehistory.php?KEY=3792>

SEIs: <http://apps.sc.gov/PublicReporting/SEIPrintView.aspx>

SC Code: <http://www.scstatehouse.gov/code/t08c013.php>

1. House Rules or Statutes:

S.C. Code Ann. § 8-13-700 states,

“§8-13-700. Use of official position or office for financial gain; disclosure of potential conflict of interest.



1. *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. 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 that does not result in additional public expense.*

2. *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. 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 family member, an individual with whom he is associated, or a business with which he is associated shall:*
 - A. *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;*
 - B. *if the public official is a member of the General Assembly, he shall deliver a copy of the statement to the presiding officer of the appropriate house. The presiding officer shall have the statement printed in the appropriate journal and require that the member of the General Assembly be excused from votes, deliberations, and other action on the matter on which a potential conflict exists;*
 - C. *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;*
 - D. *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;*
 - E. *if he is a public member, he shall furnish a copy to the presiding officer 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 shall 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 such disqualification and the reasons for it to be noted in the minutes.*



3. *Where a public official, public member, or public employee or a member of his immediate family holds an economic interest in a blind trust, he is not considered to have a conflict of interest with regard to matters pertaining to that economic interest, if the existence of the blind trust has been disclosed to the appropriate supervisory office.*
 4. *The provisions of this section do not apply to any court in the unified judicial system.*
 5. *When a member of the General Assembly is required by law to appear because of his business interest as an owner or officer of the business or in his official capacity as a member of the General Assembly, this section does not apply.”*
1. Names, Addresses: American Engineering Employees
 2. Dates, Places and times: See Above
 3. Names of any person present:
 4. Documents: See Links Above... Print Screen Shots and Attach
 5. Other facts: Cite the nerve article

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Exhibit #3

From: Colin Ross <prospectross@gmail.com>
Date: December 3, 2014 at 11:34:45 AM EST
To: Will Folks <will.folks@gmail.com>
Subject: what do you think

Today I'm taking a step that I feel is necessary to improve the condition of the state of South Carolina. I will be filing an ethics complaint against Kenny Bingham, chairman of the South Carolina ethics committee. I believe very strongly that Bingham is using his powerful position to enrich himself personally and that he has some very serious questions to answer regarding his behavior. After I file this complaint I will not be able to speak about it because of confidentiality clauses. I would therefore ask Kenny Bingham to waive this clause so that as a state we can discuss these issues openly with the public.

I live in South Carolina: home to the Clemson Tigers, the USC Gamecocks, and one of the most corrupt state government in the entire country. Seriously the Center for Public integrity has consistently ranked South Carolina in the bottom 10 for transparency. In 2013 we were ranked **45th in the nation when it came to corruption**. Now our state legislators have pulled all kinds of shenanigans to earn this reputation but here are just a few examples:

Our state legislators exempt themselves from the freedom of information act.

South Carolina is the only state in the country that doesn't require its legislators to disclose private sources of income.

Attempted to move \$1.5 billion in spending into an unbudgeted account so that it looked like the budget was smaller than it really was. Why does our state even have an unbudgeted account?

Probably the worst issue though is that the state legislature policies themselves. So they can honestly say that, "we investigated ourselves and found we did nothing wrong."

Our ethics laws are a bad joke and nobody is laughing. We have reforms right now that would take South Carolina's transparency laws from worst to first. However before these reforms will be passed the people of South Carolina need to realize just how bad the situation is. That is why we are going to make a documentary that delves deep into the corruption in Columbia, SC to bring these issues to light. This is not a partisan issue.

Weather you are Democrat, Republican, Libertarian or independent, we all want a more open and honest government.

The few legislators that are in Columbia to serve this state have nothing to fear. Those that are using public dollars to enlarge their own bank accounts should know that this will be the first of many ethics complaints to be filed against our public officials.

Colin Ross
501 St Andrews Blvd
Charleston, SC 29407
843-501-4335



Fri, Dec 5, 2:25 PM

Exhibit #4

So did you file the complaint?

Mailed it Wednesday

So u can't talk about it?

I'm not even supposed to
admit I filed it

Why what's up

Understood

Did they make you sign some
oath?

No

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

But according to my attorney
if kenny Bingham waives
confidentiality clause then i
can openly talk about ot

A handwritten signature in blue ink, consisting of several loops and a final horizontal stroke extending to the right.