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MEGHAN L. WALKER
EXECUTIVE DIRECTOR

November 20, 2019

Mr. James D. Martin
10 Williams St
Greenville, SC 29601

Certified Mail No.: 9171969009350101048458

RE: COMPLAINT C2017-088

In the Matter of James D. Martin

Dear Mr. Martin:

Please find enclosed a copy of the Consent Order which was signed by the Commission Chair.

Fee and fine payments are to be made out to "SC State Ethics Commission" and mailed to the Commission's address shown above. Full payment must be made no later than thirty (30) days after receipt of this Order to avoid an entry of judgment. You are encouraged to contact either Susan Bickley at sbickley@ethics.sc.gov or Richard Provencher at rprovencher@ethics.sc.gov to confirm the date that the complete payment is due.

If you have any questions or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Courtney M. Laster".

Courtney M. Laster
General Counsel

MLW:rp
Enclosure

CF: ~~Mark D. Dyer, Esq.~~ Bannister, Wyatt & Stalvey, LLC, PO Box 10007, Greenville, SC
29603

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
2019 OCT 19 AM 11:36

RECEIVED
STATE ETHICS COMMISSION
2019 OCT 19 AM 11:36

IN THE MATTER OF)
COMPLAINT C2017-88)
STATE ETHICS)
COMMISSION)

Samuel Weaver,)
Complainant,)
James D. Martin,)
Respondent.)

STATE ETHICS
COMMISSION

CONSENT ORDER

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STATE ETHICS
COMMISSION

This matter comes before the South Carolina State Ethics Commission (Commission) by way of a complaint filed by Samuel Weaver (Complainant) on April 10, 2017. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Act), the complaint against James D. Martin (Respondent) was considered by the Commission, and probable cause was found to warrant an evidentiary hearing on one (1) violation of Section 8-13-700(B). Prior to the call of the case, Respondent agreed to entry of the following Statements of Fact, Conclusions of Law, Discussion, and Disposition in this matter.

FACTS

1. At all times relevant, Respondent served on the Board of Commissioners for Renewable Water Resources (ReWa), a special purpose district providing wastewater treatment services in and around Greenville County. Respondent also served as a member of ReWa's Operations and Planning Committee (Planning Committee).
2. At all times relevant, Respondent owned and operated Arbor Engineering, LLC (Arbor), a civil engineering and architectural design firm.
3. At all times relevant, Respondent/Arbor maintained a business relationship with, and performed work for, Cothran Properties, LLC (Cothran Properties), a real estate development company owned by Mark Cothran (Cothran).

4. At all times relevant, Complainant owned and operated Condor Environmental, LLC (Condor), a company specializing in the installation, operation, and maintenance of wastewater systems.
5. In 2013, Cothran Properties began developing the Jones Mill Crossing (JMC) Subdivision in the City of Fountain Inn (City). Cothran Properties retained Respondent/Arbor as the Engineer of Record and retained Complainant/Condor to design and install an off-site pump station which would connect the JMC Subdivision to a sewer line operated by ReWa.
6. Pursuant to ReWa regulations, a connection permit could not be issued unless the pump station was publicly owned. In that regard, the City agreed to own the pump station and Cothran Properties intended to pay Complainant/Condor \$54,000 for the pump station's operation and maintenance.
7. In late 2016, the City waffled on its commitment to own the pump station. According to Cothran, such a change would have delayed the project and jeopardized his investment.
8. Cothran contacted Respondent, who suggested ReWa (a public entity) as a possible owner/operator of the pump station. Cothran informed Respondent that he did not want to spend more than the \$54,000 already allocated to the pump station's operation and maintenance.
9. Respondent subsequently contacted ReWa's Executive Director Graham Rich and asked if ReWa's pump station policy would permit ownership of the JMC Subdivision pump station. Rich believed ReWa's pump station policy was too restrictive and would need to be amended before ReWa could assume ownership of the JMC Subdivision pump station.
10. At 4:00 p.m. on January 23, 2017, ReWa's Planning Committee met and considered the Board's pump station policy. Respondent thereafter voted to recommend to the full Board that

Rich be permitted "to initiate a pump station ownership and operation study, specifically regarding the [City]."

11. At 6:00 p.m. on January 23, 2017, the full Board convened and Respondent voted to approve the study.

12. At 4:00 p.m. on February 27, 2017, the Planning Committee met and considered the pump station policy as follows:

[Rich] gave an update on the discussion with the [City] concerning the possibility of ReWa operating a pump station and providing services in areas where no service is currently provided. No action is required by the [Planning Committee] at this time, but this matter will be addressed by the full Board as unfinished business. [Respondent] recused himself regarding this matter.

13. At 6:00 p.m. on February 27, 2017, Rich provided a written summary of the study to the Board.

A motion was made to enter into a Letter of Intent with the City to develop a contract between ReWa and the City for the ownership and operation of the JMC Subdivision pump station. Respondent recused himself from this vote.

CONCLUSIONS OF LAW

Based upon the Statements of Fact, the Commission concludes, as a matter of law:

1. At all times relevant, Respondent was a public member as defined by Section 8-13-100(26).

Therefore, the Commission has personal and subject matter jurisdiction.

2. Section 8-13-700(B) provides:

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.

3. At all times relevant, Arbor Engineering, LLC and Cothran Properties, LLC were businesses with which Respondent was associated as defined by Section 8-13-100(4).
4. At all times relevant, Cothran Properties, LLC, and Arbor Engineering, LLC, possessed an economic interest in ReWa's potential ownership of the JMC Subdivision pump station.
5. At all times relevant, Mark Cothran was an individual with whom Respondent was associated as defined by Section 8-13-100(21).
6. Sections 8-13-130 and 8-13-320(10)(l)(i) allow the Commission to "levy an enforcement or administrative fee on a person who is in violation" of the Act and to require payment of a civil penalty of up to \$2,000 for each violation of the Act.

DISCUSSION

The Commission found probable cause to charge Respondent with one (1) count of violating Section 8-13-700(B) for making, participating in making, or attempting to use his public membership to influence a governmental decision in which an individual/business with which he was associated had an economic interest.¹ Through this Consent Order, Respondent admits that he violated Section 8-13-700(B) when he voted on January 23, 2017, to initiate an ownership and operation study with regard to the JMC Subdivision sewer system.

In mitigation, Respondent believed his January 23, 2017 vote was proper because it applied to ReWa's Pump Station Policy as a whole. Respondent subsequently recused himself when he realized the actions to be taken dealt more specifically with the JMC Subdivision. Prior to January

¹ The Complainant alleged Respondent improperly sought information related to Complainant/Condor's proposed cost of operating and maintaining the pump station, then used the information to allow ReWa to offer a lower bid. The Commission found no evidence to support this allegation.

23. 2017. Arbor Engineering, LLC had already received all payments it could have received from Cothran Properties, LLC related to the JMC Subdivision. Respondent did not believe he had an economic interest because neither he nor Arbor Engineering, LLC would receive any additional funds regardless of which entity owned the JMC Subdivision pump station.

DISPOSITION

1. The Commission hereby finds Respondent James D. Martin in violation of one (1) count of Section 8-13-700(B).
2. The Commission hereby adopts the Statements of Fact, Conclusions of Law, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the Commission hereby issues this written warning to Respondent.


AND orders Respondent to pay the Commission, within thirty (30) days from receipt of this Order, an administrative fee of \$200 and a reduced civil penalty of \$800, for a total of \$1,000.

By executing this Consent Order, Respondent understands he is confessing to a judgment of \$1,000 (less any money paid to the Commission) in the event he does not make full and timely payment as provided for in this Order. In that event, the Commission shall file a Judgment against Respondent with the Clerk of Court of the County of Respondent's last known residence. Upon said filing, the Clerk of Court shall enter this Order in the amount of \$1,000 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

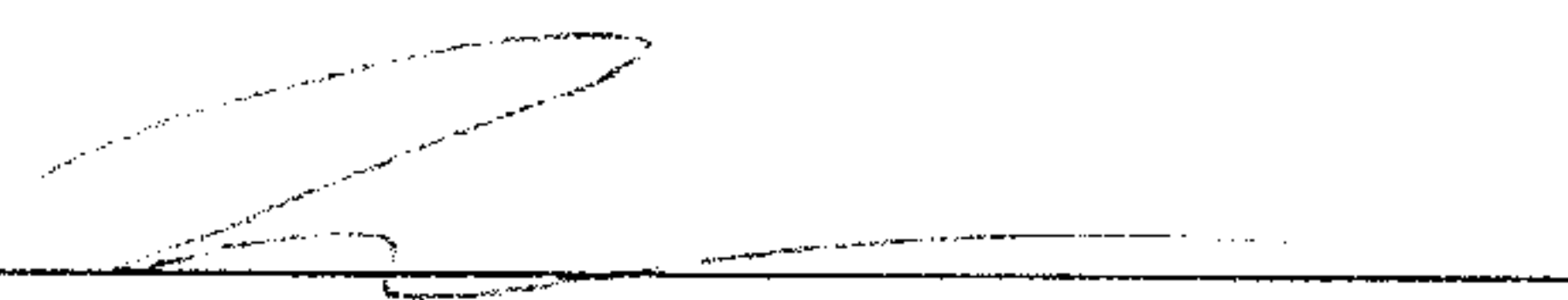
AND IT IS SO ORDERED THIS 25 DAY OF October 2019.

STATE ETHICS COMMISSION


CHILDs CANTEY THRASHER, CHAIR



JAMES D. MARTIN
RESPONDENT



BRUCE BANNISTER OR
••LUKE A. BURKE
RESPONDENT'S ATTORNEY