

# Senate Ethics Committee

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## **ORDER OF PUBLIC REPRIMAND AND CIVIL FINES**

The South Carolina Senate Ethics Committee (the "Committee") met October 24, 2016, to review six allegations of noncompliance pertaining to Senator Raymond E. Cleary, III ("Senator Cleary"). Senator Cleary was a member of the South Carolina Senate therefore, the Committee has jurisdiction in this matter. The six allegations are as follows: (1) Senator Cleary misrepresented a refund of \$7,900 on his campaign report; (2) Senator Cleary misrepresented the payees and amounts on campaign expenses; (3) Senator Cleary failed to report campaign expenditures; (4) Senator Cleary reimbursed himself inappropriately from his campaign account; (5) Senator Cleary misrepresented the direct payment to credit card companies and (6) Senator Cleary failed to report campaign contributions.

The Committee's investigation originated with a review of the following documents: 1. Senator Cleary's 2013, 2014 and 2015 Campaign Reports; 2. Senator Cleary's 2013, 2014, and 2015 bank statements for his campaign checking and money market accounts; 3. Senator Cleary's 2013, 2014 and 2015 cancelled checks and check stubs; and 4. Senator Cleary's partial credit card statements. After several written and verbal requests from the Committee, and being granted several extensions of time to comply, Senator Cleary failed to amend his Initial Report to verify and identify his expenditures, his campaign deposits or supply the Committee with all records supporting his reports.

Based on the documents received in response to the Committee's subpoenas and the documents submitted by Senator Cleary, the Committee finds substantial evidence to support a finding that probable cause exists to support each of the alleged violations on its face. The details of the Committee's findings and its Orders are addressed below for each of the violations.

### **VIOLATION #1: MISREPRESENTED REFUND OF \$7,900.00**

Senator Cleary failed to refund his campaign fund in the amount of **\$7900.00** after representing that he had made this refund. Specifically, on January 10, 2015 he filed an Amended Campaign Report which included an item dated February 2, 2015 indicating a \$7900.00 reimbursement for a trip to Israel and Turkey to allegedly cover airfare, hotel and meals. This trip was not taken. There was a deposit item listed for \$7,500 as reimbursement on the 4<sup>th</sup> quarter 2014 report which was subsequently amended and reported on the 3<sup>rd</sup> quarter report for 2015. The deposit actually made August 12, 2015 for \$7,500 was \$400 short of full reimbursement.

The Committee finds that Senator Cleary misrepresented the refund of \$7,900.00 in violation of Section 8-13-1308(F). Consequently, the Committee hereby imposes a **civil fine of \$2,000, which is the maximum monetary fine possible**, against Senator Cleary for this misrepresentation. The Committee further directs Senator Cleary to **remit \$7,500 to the Childrens' Trust Fund of South Carolina**, which is attributable to the \$7,500 cash deposit made to his campaign account in violation of S.C. Code Ann. Section 8-13-1324 (Supp. 2015).

## **VIOLATION #2: MISREPRESENTED IDENTITY OF PAYEE OR AMOUNTS**

The review of Senator Cleary's documentation uncovered nine (9) items that were misrepresented on the campaign forms from January 2013 through December 2015. The following items were unsubstantiated or had illegible documentation to support reimbursement to Senator Cleary:

- a) Check #1103 dated April 18, 2013 in the amount of \$3,700 was reported on the campaign form as payable to "Marcom Strategies", but the check was actually payable to "Tom Herron".
- b) Check #1110 dated August 11, 2013 in the amount of \$1,358.96 was payable to Raymond Cleary, but was reported as being payable to "ALEC Meeting".
- c) Check #1125 dated January 2, 2014 in the amount of \$1,056.22 was represented as an expense reimbursement to Senator Cleary. Insufficient handwritten notes were submitted to attempt to explain this reimbursement, but there was no official or authentic documentation offered to support this reimbursement.
- d) Check #1134 dated June 6, 2014 in the amount of \$1,500 was reported on the campaign form as being payable to "SC Dialogue Foundation", but the actual payee was Raymond Cleary.
- e) Check #1139 dated June, 21 2014 in the amount of \$2,099.81 was payable to Raymond Cleary, but was reported on the campaign form as three separate reimbursements for various dates during the first and second quarter. The receipts submitted are illegible and did not total the full amount reimbursed.
- f) Check #1156 dated December 27, 2014 in the amount of \$505.00 was reported on the campaign form as payable to "Glenn's Bay Dental", but the actual payee was "Hal Capps". The receipt submitted was from Glenn's Bay Dental.
- g) Check #1185 dated November 11, 2015 in the amount of \$959.76 was reported on the campaign form as payable to "Cardmember Services" in the amount of \$1,315. Insufficient handwritten notes were submitted which indicated that state purchases for Christmas gifts for staff members but no documentation provided.
- h) Check \$1188 dated November 20, 2015 in the amount of \$959.76 was reported on campaign form as payable to Cardmember Services, but the actual payee was Capital One. Insufficient documentation was provided to support this payment.

- i) Check #1190 dated December 1, 2015 in the amount of \$653.74 was reportedly payable to Cardmember Services, but the actual payee was American Express. Insufficient documentation was provided to support this payment.

The total amount of misrepresented expenses was **\$13,152.49**. However, the actual amounts on the documentation submitted for these expenses totaled **\$12,793.25**.

The Committee finds that Senator Cleary misrepresented the payee and/or the amounts of these expenses in violation of Section 8-13-1308(F). Consequently, the Committee hereby imposes a **civil fine of \$9,000, which represents a \$1,000 fine for each of these nine (9) violations.** against Senator Cleary for his misrepresentations relating to these campaign expenditures.

### **VIOLATION #3: UNREPORTED EXPENSES**

The Committee also discovered in its review that Senator Cleary failed to report six (6) item campaign expenditures that he made from January 2013 through December 2015. The expenses unreported totaled **\$7,700.83**. Section 8-13-1308(F) also requires, generally, that the name and address of each person to whom any expenditure is made from campaign funds, along with the date, amount, purpose and beneficiary of the expenditure, be reported on the campaign disclosure report. Additionally, S.C. Code Ann. Section 8-13-1360(8) (Supp. 2014) mandates that credit card expenses be itemized so that the purpose and recipient of the expenditure are identified.

The unreported campaign expenditures are as follows:

a) Check #1100 to Raymond Cleary dated April 1, 2013 in the amount of \$1,052.17 was not included on the campaign form. Insufficient documentation was submitted to support these expenses;

b) Check #1131 to Raymond Cleary dated April 10, 2014 in the amount of \$1918.83 was not included on the campaign form. Handwritten notes were provided, but these notes do not substantiate the reimbursement.

c) Check #1147 to Raymond Cleary dated September 11, 2014 in the amount of \$1,070.40 was not included on the campaign form. No documentation was offered to substantiate this reimbursement;

d) Check #1155 to Cardmember Services dated December 1, 2014 in the amount of \$1,324.81 was not included on the campaign report. There was insufficient documentation to substantiate payment to the credit card company. Insufficient document was provided to support this reimbursement.

e) Check #1178 to Costco dated October 22, 2015 in the amount of \$1,978.78 was not listed on the campaign form. No documentation was provided to support this expense. Reimbursement was made to the campaign account on October 29, 2015;

f) Check #1193 to Raymond Cleary dated December 24, 2015 in the amount of \$355.84 was not included on the campaign form. No documentation was provided to substantiate reimbursement.

The total amount of Senator Cleary's unreported expenses equals **\$9,241.77**.

The Committee finds that Senator Cleary should have listed these expenses to fulfill the campaign expenditure reporting obligations imposed by Section 8-13-1308(F). Consequently, the Committee hereby imposes a **civil fine of \$6,000, which represents a \$1,000 fine for each of these six (6) violations**, against Senator Cleary for his failure to report these campaign expenditures.

#### **VIOLATION #4: REIMBURSEMENTS TO SENATOR CLEARY**

There were numerous unsubstantiated reimbursements made to Senator Cleary totaling **\$6,950.16**. These were not supported by documentation or there were duplicate listings on different dates for the same expenses. Additional documentation is needed to reconcile the discrepancies. Also the majority of the reimbursements have been addressed above in Violation #3. The others are addressed herein below:

- a) Check #1088 dated January 8, 2013 payable to A. Cleary in the amount of \$3,985.07 and reported on campaign form as political function. Notes were provided that indicated it was reimbursement for a Christmas Party. No documentation is provided to substantiate this reimbursement.
- b) Check #1118 dated October 9, 2013 in the amount \$381.55 to Raymond Cleary for reimbursement for various meetings. No documentation was provided to substantiate this reimbursement.
- c) Check #1143 dated July 30, 2014 in the amount \$485.31 to Raymond Cleary reported as reimbursements for various lunches, meetings, and mileage. Appropriate documentation was not provided for this reimbursement.
- d) Check #1144 dated July 30, 2014 in the amount of \$315.32 to Raymond Cleary was reported as reimbursements for various lunches, meetings and mileage. Appropriate documentation was not provided for this reimbursement.
- e) Check #1148 dated September 3, 2014 in the amount \$868.36 to Raymond Cleary reported as reimbursements for various lunches, meetings and mileage. Appropriate documentation was not provided for this reimbursement.
- f) Check #1149 dated September 3, 2014 in the amount of \$596.70 to Raymond Cleary was reported as reimbursements for various lunches, meetings and mileage. Appropriate documentation was not provided for this reimbursement.
- g) Check #1150 dated September 24, 2014 in the amount \$317.85 to Raymond Cleary. Appropriate documentation was not provided for this reimbursement.

The total amount of Senator Cleary's inappropriate reimbursements to himself is **\$6,950.16**.

The Committee finds that Senator Cleary should not have reimbursed himself in these amounts and in doing so violated Section 8-13-1308(F). Consequently, the Committee hereby



imposes a **civil fine of \$7,000, which represents a \$1,000 fine for each of these seven (7) violations**, against Senator Cleary for these actions.

**VIOLATION #5: DIRECT PAYMENT TO CREDIT CARD COMPANIES**

Senator Cleary made a number of direct payments to credit card companies totaling **\$7,267.61**. Some of these payments were reported and others were not reported. Insufficient documentation was submitted to verify that all of the transactions were business expenses. Numerous meal and entertainment receipts were submitted, however they were not paid for using the credit card at issue and in some instances were dated after reimbursement was made.

<u>Year</u>	<u>Check No.</u>	<u>Payee</u>	<u>Amount</u>	<u>Posted</u>	<u>Notes</u>
2015	1166	Cardmember (Chase)	\$ 540.92	5/15/15	
2015	1171	American Airlines Mastercard	\$3318.27	8/11/15	
2015	1185	Cardmember (Chase)	\$ 959.76	11/6/15	
2015	1189	Bank of America	\$ 835.16	12/4/15(Reported as Cardmember Ser.)	
2015	1188	Capital One	\$ 959.76	12/10/15(Reported \$1315 as Card. Ser.)	
2015	1190	American Express	\$ 653.74	12/10/15(Reported as Cardmem. Ser.)	

The total amount of Senator Cleary's inappropriate credit card payments is **\$7,267.61**.

The Committee finds that Senator Cleary should not have reimbursed himself in these amounts and in doing so violated S.C. Code Ann. Section 8-13-1360(8) (Supp. 2014) which mandates that credit card expenses be itemized so that the purpose and recipient of the expenditure are identified. Consequently, the Committee hereby imposes a **civil fine of \$6,000, which represents a \$1,000 fine for each of these six (6) violations**, against Senator Cleary for these actions.

**VIOLATION # 6: UNREPORTED CAMPAIGN CONTRIBUTIONS**

There were numerous failures by Senator Cleary to report campaign contributions during certain quarters of the reporting periods of the years 2013, 2014, and 2015.

Specifically, in the fourth quarter of 2013, a contribution of \$250.00 was omitted.

In the second quarter of 2014, contributions were under reported by \$1,250.00, but \$565.00 was included in the third quarter report. There were unreported contributions in the third quarter of \$10,120.00 of which \$565.00 should have been on the second quarter report. On the fourth quarter report, \$3,200 in contributions should have been reported on the third quarter report and an additional \$500.00 was omitted from the fourth quarter report.

In the first quarter of 2015, reported contributions are correct, but a refund payment from a law firm for \$459.52 was omitted. The second quarter report for 2015 did not identify a deposit of \$500.00 to Senator Cleary's campaign money market account. Moreover, the fourth quarter report did not include a reimbursement from ALEC of \$1,443.20 and a \$500 deposit to the money market account.

A total of **\$13,120.00** in campaign contributions was unreported on Senator Cleary's campaign contribution reports during the years 2013, 2014 and 2015.

The Committee finds that a civil fine is warranted for this violation based on Senator Cleary's deception to the Committee and the public. Consequently, the Committee hereby imposes a **civil fine of \$7,000, which represents a civil fine of \$1,000 for each reporting quarter for which contributions were unreported.**

#### **COMMITTEE ORDERS**

1. The Committee hereby Orders that Senator Cleary be and is hereby **PUBLICLY REPRIMANDED** for the hereinabove violations of Article 13 of South Carolina's Ethics, Government Accountability, and Campaign Reform Act.
2. The Committee hereby Orders the following civil fines be imposed against Senator Cleary: (1) a civil fine of \$2,000 for Senator Cleary's misrepresentation of a refund of \$7,900 on his campaign report; (2) a civil fine of \$9,000 for Senator Cleary's misrepresentation of the payees and amounts on campaign expenses; (3) a civil fine of \$3,000 for Senator Cleary's failure to report campaign expenditures; (4) a civil fine of \$7,000 for Senator Cleary's reimbursement to himself inappropriately from his campaign account; (5) a civil fine of 6,000 for Senator Cleary's misrepresentation of the direct payment to credit card companies and (6) a civil fine of 7,000 for Senator Cleary's failure to report campaign contributions.
3. These civil fines total **\$41,900** and should be remitted to the Senate Ethics Committee **on or before December 1, 2016.**
4. The Committee hereby Orders that Senator Cleary **remit \$7,500 to the Childrens' Trust Fund of South Carolina.**
5. The Committee hereby Orders that Senator Cleary **remit \$47,831.85 to his campaign account.**
6. The Committee further directs that Senator Cleary reimburse the South Carolina Senate for all profession legal and accounting fees incurred by the Committee in investigating and prosecuting this matter. These fees total **\$27,415.00.**

**AND IT IS SO ORDERED**, this 31st day of October, 2016.

Senator Luke A. Rankin, Chairman

Senator Nikki G. Setzler

Senator John W. Matthews, Jr.

Senator Hugh K. Leatherman, Sr.

Senator Harvey S. Peeler, Jr.

Senator John E. Courson

Senator Robert W. Hayes, Jr.

Senator Glenn G. Reese

Senator Darrell Jackson

Senator C. Bradley Hutto

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