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The House Ethics Committee received a complaint alleging that Representative William M. "Bill" Chumley (Respondent) violated the South Carolina Ethics Act when he authorized the use of a state airplane to transport a witness from Manassas, VA to Columbia, SC on March 20, 2013 to testify before a House subcommittee meeting. On November 26, 2013, the Committee determined that the allegations presented a possible violation of the Ethics Act and determined that the complaint warranted a finding of probable cause thereby opening the proceedings to the public. On December 13, 2013, Representative Chumley, pursuant to House Rule 4.16(d)(1), formally requested that the Committee hold a hearing which the Committee subsequently granted and scheduled for December 23, 2013, the earliest mutually agreeable date. At the conclusion of the hearing, the Committee voted to dismiss the complaint with a formal written order to follow. The following serves as the final determination of the Committee dismissing the complaint against Representative Chumley.

The relevant provisions of law which apply to the allegations are Proviso 89.24 of the 2012-2013 General Appropriations Act and S.C. Code Section 8-13-700(A). Under House Rule 4.16, any finding of a violation must be based on substantial and competent evidence. After a thorough review of the allegations, testimony, and relevant provisions of law, the Committee hereby dismisses the complaint on the basis that there is insufficient proof of any knowing violation, as required by Section 8-13-700(A), and insufficient proof of any economic interest gained on the part of Representative Chumley, as required by Section 8-13-700(A).

Budget Proviso 89.24

The proviso sets out a requirement that certain steps be undertaken before the use of the state airplane is appropriate. The proviso requires that the state airplane must be used only for "official state business" and also lays out a series of technical requirements meant to substantiate the use as official state business.

The proviso provides in pertinent part, "[v]iolation of the above provisions of this section *is prima facie evidence of a violation of Section 8-13-700(A)* of the 1976 Code and shall subject a violating member of the General Assembly to the ethics procedure of his appropriate house..." (emphasis added). Violation of the proviso itself does not provide for an actual violation of the Ethics Act. Rather, a violation is merely prima facie evidence of a violation of Section 8-13-700(A). Prima facie evidence is evidence that will establish a fact or sustain a judgment unless contradictory evidence is produced. Therefore, pursuant to the terms of the proviso, the Committee must determine whether the alleged conduct violated Section 8-13-700(A) while considering any contradictory evidence produced.

S.C. Code Section 8-13-700(A)

The relevant portion of Section 8-13-700(A) provides that "[n]o public official...may knowingly use his official office, membership, or employment to obtain an economic interest for himself." Further, economic interest is defined as:

"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." S.C. Code Section 8-13-100(11)(A).

The Committee finds that there is not substantial and competent evidence that Representative Chumley gained an economic interest, as defined by the Ethics Act, for himself and, therefore, insufficient proof of a violation of 8-13-700(A).

Further, Section 8-13-700(A) requires proof that the respondent knowingly violated the statute as an essential element of a violation. Prior to authorizing the use of a state airplane, Representative Chumley received an informal opinion from staff counsel stating that it was counsel's opinion that the proposed authorization of a state airplane would not violate the Ethics Act. Representative Chumley testified that he relied upon that advice in deciding to authorize the use of a state airplane.

The Committee finds that Representative Chumley's reliance on the informal opinion is substantial evidence which would strongly contradict a finding of a knowing violation of Section 8-13-700(A). Accordingly, the Committee finds that there is not substantial and competent evidence that Representative Chumley knowingly violated Section 8-13-700(A) and, therefore, insufficient proof of a violation of Section 8-13-700(A).

Conclusion

Accordingly, the Committee hereby dismisses the complaint on the basis that there is insufficient proof of any knowing violation, as required by Section 8-13-700(A), and insufficient proof of any economic interest gained on the part of Representative Chumley. The matter is now closed and no further action will be taken by the Committee.