

State of South Carolina
Executive Department

FILED

NOV 10 2016

Mark Hammond
SECRETARY OF STATE



Office of the Governor

EXECUTIVE ORDER NO.

2016-45

WHEREAS, pursuant to Section 1-3-240(A)(3) of the South Carolina Code of Laws, when it appears to the satisfaction of the governor that a county officer is guilty of malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity, the county officer is subject to removal by the governor after having been informed in writing of the specific charges brought against him or her and after having been given an opportunity on reasonable notice to be heard; and

WHEREAS, I have been asked by members of the Richland County Legislative Delegation to remove members of the Richland County Recreation Commission ("RCRC") Board for the foregoing causes by letter dated October 13, 2016, allegations to which the RCRC Board responded by letter dated October 18, 2016; and

WHEREAS, although I believe that local matters should be resolved at the local level and thus have encouraged the Delegation to initiate legislation to give removal authority of RCRC Board members to local officials, Section 1-3-240(A)(3) authorizes the governor to remove RCRC Board members for cause; and

WHEREAS, upon receiving information from the Delegation and the RCRC Board, I requested additional information from the RCRC Board by letter dated October 19, 2016, to which a response with documentation was sent by the RCRC Board by letter dated October 28, 2016; and

WHEREAS, from the information presented to me from the Delegation and from the RCRC Board, I find that sufficient evidence exists to move forward under Section 1-3-240(A)(3) in further consideration of removal by providing written notice of specific charges brought against individual members and by providing an opportunity on reasonable notice to be heard.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Laws of the State of South Carolina, I hereby provide written notice to all members of the Richland County Recreation Commission ("RCRC") Board of the specific charges

brought against them showing cause for removal from office. I hereby provide reasonable notice of an opportunity to be heard at a public hearing to be held on November 30, 2016 in Columbia, South Carolina at a specific time and location to be determined.

FURTHER, I hereby declare that I shall appoint a three-person panel to preside at the hearing to serve as hearing officers for the limited purpose of taking testimony and receiving additional evidence in order to find facts and make recommendations to me.

FURTHER, I hereby present in writing specific charges brought against all seven members of the RCRC Board as follows with additional details included in the attached "Charges" report:

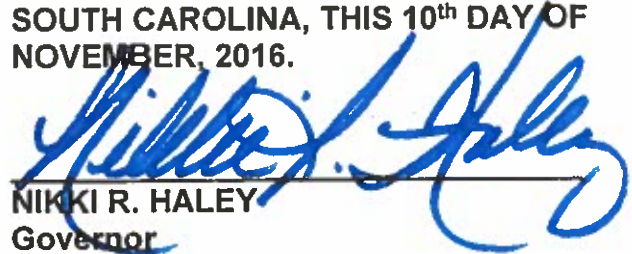
- Charge I Neglect of Duty and Incompetency Section 1-3-240(A)(3): The Board neglected its duty to review nepotism complaints involving the Executive Director James Brown III and had knowledge he had family members working at the RCRC.
- Charge II Neglect of Duty Section 1-3-240(A)(3): The Board neglected its duty in making compensation decisions regarding the Executive Director James Brown III.
- Charge III Neglect of Duty, Misfeasance, and Malfeasance, Section 1-3-240(A)(3): The Board neglected its duty and was misfeasant and malfeasant by failing to investigate claims of harassment, retaliation, and intimidation and in improperly delegating its duty to investigate Brown to Brown's subordinate.

FINALLY, I hereby order that any member of the RCRC Board not exercising his or her opportunity to be heard shall accordingly be removed from office on December 1, 2016.

This Order shall take effect immediately.



GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 10th DAY OF NOVEMBER, 2016.


NIKKI R. HALEY
Governor

ATTEST:



MARK HAMMOND
Secretary of State

CHARGES

Against Members of the Richland County Recreation Commission

As set forth pursuant to Section 1-3-240(A)(3) of the South Carolina Code of Laws
In accordance with Executive Order 2016-45 issued November 10, 2016

Summary of Events

On October 13, 2016, a majority of the Richland County Legislative Delegation¹ requested the Governor exercise her power of removal under Section 1-3-240(A)(3) of the South Carolina Code of Laws to remove five commissioners from the Richland County Recreation Commission (RCRC). The five Commissioners are J. Marie Green, Chairman; Barbara Mickens, Vice-Chairman; Weston A. Furgess, Jr., Secretary; George D. Martin, Jr.; and Joseph B. Weeks. The Delegation did not request the removal of Commissioners Wilbert Lewis and Thomas Clark, who are also Commissioners on the RCRC Board. On October 18, 2016, the five Commissioners responded. On October 19, 2016, the Governor requested additional documents from all seven Commissioners. The RCRC Commissioners provided a response on October 28, 2016. All documents have been reviewed and the Governor has determined that sufficient facts exist to find that all seven members of the RCRC Board are subject to removal under Section 1-3-240(A)(3) of the South Carolina Code of Laws for the causes of neglect of duty in office, malfeasance, misfeasance, and incompetency.²

Charge I

Neglect of Duty, Incompetency under Section 1-3-240(A)(3)

The Board neglected its duty to review nepotism complaints involving Executive Director James Brown III and had knowledge he had family members working at the RCRC.

Facts

The RCRC has a Nepotism Policy that does not allow family members to supervise or manage other family members. The RCRC employs several relatives of James Brown III, the former Executive Director. As the Executive Director, Brown supervises and manages all employees. Brown approved decisions promoting and giving raises to various family members. A list of the family members and their promotions and raises is attached as Exhibit A.

The RCRC Board knew or should have known of the nepotism indicated by the facts on Exhibit A. First, the RCRC Board received a letter from a Richland County resident on

¹Ten of the seventeen members of the Richland County Legislative Delegation signed the letter: Senators Joel Lourie, John Courson and Thomas McElveen, and Representatives Beth Bernstein, James Smith, Nathan Ballentine, Kirkman Finlay, Mary Gail Douglas, Joe McEachern, and Mia McLeod.

²The Governor has determined that all seven RCRC Board members are subject to removal for cause because, upon information and belief, the Board as a whole has taken actions or failed to take actions, as set forth in the Charges Report.

June 24, 2014 stating that Brown's children are working at RCRC. Second, in August of 2014, the RCRC Board received an anonymous complaint stating that Brown's family members worked at RCRC and received promotions and pay raises despite not having the qualifications. Third, in January of 2015, three employees grieved terminations, and the grievances stated that Brown's children were being unfairly advanced through the organization. Last, in May of 2016, Brown's son, James Anthony, was arrested and it was publicly reported by the media that Brown's son held a high-level position at the RCRC.

The documents show the RCRC Board knew of these nepotism complaints against Brown and continued to allow Brown to employ family members. First, the Nepotism Policy was revised on June 15, 2015. The documents indicate the RCRC Board added the word "directly" to the policy at this time so that the policy stated "family members could not *directly* supervise or manage relatives and immediate family members." The January 2016 RCRC Board Minutes show a review of the Nepotism Policy again in January of 2016. Although consulting with the Ethics Commission on the policy, there is no indication the RCRC Board explained the Executive Director had family members working at the RCRC Board. There is no indication the RCRC Board reviewed the records of family members working for Brown in making these decisions. Brown violated the Nepotism Policy prior to the June 15, 2015 change, and, even with the addition of the word "direct" continued to have a direct chain of command over all RCRC employees³.

Conclusion

The evidence shows the RCRC Board neglected its duty or showed incompetence in reviewing nepotism complaints involving former Executive Director James Brown III.

Charge II

Neglect of Duty, Section 1-3-240(A)(3)

The Board neglected its duty in making compensation decisions regarding Executive Director James Brown III.

Facts

The RCRC Board gave the former Executive Director James Brown III, a 60% raise over the course of five years. The documents show that the RCRC Board reviewed what it deemed comparable salaries, which included state-wide and county directors, and set Brown's salary well-above those comparators. The RCRC Board continued to provide Brown large raises without justification as provided by Exhibit B.

³The records show Chairman Marie Green had relatives working at the RCRC, all of whom started since she became a Board member. Many of these relatives received pay raises and promotions. Whether Chairman Green encouraged family members to apply or went as far as influencing hiring decisions is irrelevant as Chairman Green is not technically subject to the Nepotism Policy. However, this information supports that the Chairman of the Board did not understand the reason and spirit of the Nepotism Policy.

Conclusion

The evidence shows that the RCRC Board showed a neglect of its duty in making compensation decisions of the Executive Director of the RCRC.

Charge III

Neglect of Duty, Misfeasance, and/or Malfeasance, Section 1-3-240(A)(3)

The Board neglected its duty and was misfeasant and malfeasant by failing to investigate claims of harassment, retaliation, and intimidation and in improperly delegating its duty to investigate Brown to Brown's subordinate.

Facts

The RCRC Board had a duty to investigate claims that the Executive Director intimidated, harassed, and retaliated against employees. The record is replete with concerns and complaints voiced by employees. The record indicates the Human Resources Director reviewed and responded to some of the individual complaints. The complaints indicate that James Brown III also questioned employees regarding complaints received and retaliated against those he believed authored an anonymous complaint. Notably the Human Resources Director who responded and investigated complaints reported to Brown. There is no indication the RCRC Board met with Brown or itself investigated the truth of these matters until receiving a formal lawsuit in December of 2015. A timeline of matters pertaining to the investigation of complaints is detailed in Exhibit C.

Conclusion

The RCRC Board showed a neglect of duty, misfeasance, and/or malfeasance in failing to investigate claims of harassment, retaliation, and intimidation and in improperly delegating its duty to investigate Brown to Brown's subordinate.

EXHIBIT A

RELATIVES EMPLOYED AT THE RICHLAND COUNTY RECREATION COMMISSION

Relatives of JAMES BROWN III, former executive director:

All actions, except for those italicized, occurred after James Brown III was promoted to Interim Executive Director on March 21, 2010.

JEFFERY A. BROWN (brother):

- 3/19/10 *Hired as part-time Assistant Park Manager \$8/hr;*
- 5/30/10 Became Park Manager with a salary of \$31,786.92;
- 3/06/11 Pay Increase of 12.58% to \$35,786.92;
- 7/1/11 Received cost of living increase of 3% to \$36,860.46;
- 5/27/12 Received pay increase of 8.14% to \$39,860.60;
- 9/2/12 Changed departments and became Program Coordinator;
- 7/21/13 Received pay increase of 6% to \$45,860.10;
- 11/24/13 Received title change from Program Coordinator to Program Manager;
- 10/14/14 Received title change to Manager of Adult Activity Center Parklane;
- 10/1/15 Promoted to Site Manager with a pay increase of 8.72% to \$49,860.20.

JAMES ANTHONY BROWN (son):

- Aug. 2002 *Hired as Assistant Park Director;*
- 1/13/08 Received pay increase of 5.06% to \$27,372.28;
- 3/08/09 Promoted to Athletic Compliance Officer with a pay increase of 4.415% to \$31,787.34;
- 6/14/09 Promoted and received pay increase of 5% to \$33,376.72;
- 7/01/09 Received cost of living increase 3% to \$34,377.98;
- 1/09/11 Promoted to Director of Programming with a pay increase of 39.62% to \$48,000.16;
- 7/1/11 Received cost of living increase of 3% to \$49,440.04;
- 11/13/11 Received pay increase of 17% to \$58,000;
- 6/09/13 Promoted to Director of Recreation with a pay increase of 20% to \$70,000.06;
- 5/27/16 Suspended without pay.

JEWEL BROWN (niece):

- 5/18/2010 Hired as seasonal counselor;
- Feb. 2012 Hired as seasonal counselor at \$8/hr;
- 5/22/12 Hired as Counselor with a pay raise to 9.50/hr;
- 6/22/14 Became Assistant Director with a raise to 10.50/hr as job was no longer seasonal;
- 5/24/15 Promoted to After School/Summer Camp Director with a pay raise to \$11.50/hr.

JADA BROWN (niece):

- 6/4/15 Hired as part-time Counselor, Seasonal at \$9/hr.

JENAI BROWN (niece):

-6/4/15 Hired as Seasonal Counselor \$9/hr.

TIFFANI BROWN (niece):

-1/9/11 Hired as part-time Technology Center Administrative Coordinator at \$10/hr;
 -6/12/11 Hired into full time position as Administrative Assistant at \$25,000;
 -6/30/11 Received cost of living increase of 3% at \$25,750;
 -5/27/12 Received pay increase to \$28,750.14;
 -7/1/13 Promoted to Technology Center Manager with pay increase to \$36,000;
 -2/1/15 Received pay Increase to \$42,000.14.

Relatives of J. MARIE GREEN, Chairman:

All actions occurred after J. Marie Green was appointed to the RCRC Board on February 13, 2002.

ROBERT DAVIS (nephew):

-4/12/08 Hired with salary of \$24,636 as Assistant Rec Center Director;
 -7/16/08 Received increase in pay with no provided explanation to \$25,374.96;
 -6/14/09 Promoted to Park Manager with 5% increase to \$26,643.76;
 -7/01/09 Received cost of living increase of 3% to \$27,443;
 -8/09/09 Received pay increase of 2.03% to \$27,999.92;
 -1/24/10 Received pay increase of 13.53% to \$31,787.60;
 -7/01/11 Received cost of living increase of 3% to \$32,741.28;
 -5/27/12 Received pay increase of 9.16% to \$35,741.42;
 -9/1/13 Changed facilities and received increase in pay to \$40,000.

TODD DUCKETT (nephew):

-5/17/2012 Hired as part-time Counselor at \$8.5/hr estimated at \$17,680;
 -5/24/2015 Hired to full-time position with increase to 9.5/hr estimated at \$19,760;
 -7/03/16 Promoted to Director Cross Roads Community Center at 11.5/hr estimated at \$23,930.

CHARLES DUCKETT (nephew):

-8/24/09 Hired as part-time Assistant Park Manager at \$8/hr estimated at \$16,640;
 -8/09/10 Promoted to Building and Grounds Worker with a salary at \$22,485;
 -6/12/11 Received pay increase to \$24,475.28;
 -7/01/11 Received cost of living of 3% at \$25,475.588;
 -8/25/14 Reassigned Districts;
 -10/01/15 Changed job to Facility Repairman with pay increase of 39% to \$35,474.70.

JASMINE DUCKETT (niece):

-Hired as part-time Summer Camp Counselor.

EXHIBIT B

PAY RAISES TO JAMES BROWN III, FORMER EXECUTIVE DIRECTOR

Date	Salary	Information on Decision
March 21, 2010	\$92,000	Promoted to Interim Director.
December 17, 2010	\$114,400	Received pay raise with permanent Executive Director position. Decision based on comparison of comparators. The highest two comparators the Board reviewed were the Director of SC Parks, Recreation and Tourism (\$112,504) and the County Director of Parks and Recreation for Greenville County (\$107,016).
November 1, 2012	\$126,500	Received pay raise. Decision based on a summary of accomplishments provided by Brown.
November 16, 2015	\$152,800	Received pay raise. Decision based on the success of \$50 Million Bond Project and meeting performance appraisal goals. No documentation provided.

EXHIBIT C

TIMELINE OF MATTERS PERTAINING TO THE INVESTIGATION OF COMPLAINTS

Date	Event	Information
Undated	Anonymous letter	Anonymous letter to RCRC Board stating employees are scared to talk or put their names on things. Complains of nepotism. Alleges Jeff Brown, son of former Executive Director, harasses, "hits," and "touches" staff. Alleges Brown's niece promoted from receptionist to head of Technology Center. Alleges Brown yells and threatens. Alleges employees are afraid and that Brown punishes those who talk.
August 11, 2014	Anonymous letter	Anonymous complaint alleges nepotism, favoritism of pay, intimidation, and bullying by Brown. Alleges low morale.
September 22, 2014	Commission's approval of investigation	RCRC Board voted 5-2 in favor of internal investigation. (Two Commissioners, Chairman Green and Vice-Chairman Mickens, voted against investigation.)
September 24, 2014	Brown's letter to Board	Brown wrote letter to RCRC Board expressing his disappointment at its decision to have internal investigation based on "rumor and innuendo."
October 20, 2014	Special Called Meeting (Reversed decision to conduct internal investigation)	RCRC Board voted to rescind decision to conduct internal investigation. Commissioners Furgess and Martin changed their votes to vote with Chairman Green and Vice-Chairman Mickens. Commissioner Latiff made a motion to "remove Ms. Green as Chairwoman of the RCRC for failure to perform her duties as outlined by the by-laws and support the decision by the Board." Seconded by Commissioner Weiss.
January 27, 2015	Letter alleging retaliation	Letter from Zenethia Brown, RCRC employee, appealing termination. Alleges retaliation by Brown due to his belief she was involved in August 11, 2014 anonymous letter.
January 28, 2015:	Letter alleging bullying, harassment, retaliation, and threats	Letter from Comilla Sampson, RCRC employee, appealing termination. Alleges bullying and harassment by Brown. Also alleges retaliation and threatening behavior due to August 11, 2014 anonymous letter. Alleges her job was changed in retaliation.
February 3, 2015:	Letter alleging harassment, intimidation, and retaliation	Complaint to Chairman Green appealing termination. Alleges harassment. Alleges Brown had intimidating and retaliatory conduct for anonymous August 11, 2014 letter and gave names of staff questioned and threats made. Alleges he has a taped conversation of threats to him and others over the anonymous letter.

Charges Report

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December 8, 2015	Complaint filed by Andrea Fripp	Complaint to RCRC Board and Chairman Green on December 8, 2015 by Andrea Fripp, RCRC employee. Formal Complaint with David Stringer, RCRC Human Resources, on December 9, 2015.
December 8-9, 2015	Affidavits of current employees supporting Fripp	Three employees provided Affidavits of support of Andrea Fripp.
December 10, 2015	Hiring of Linda Edwards to investigate	Attorney Linda Edwards of Gignilliat Savitz and Bettis hired on December 10, 2015. Began investigation.
December 10, 2015	David Stringer email to Andrew Fripp	Email from David Stringer to Andrea Fripp on December 10, 2015 states RCRC hired Attorney Linda Edwards to conduct an investigation to address her concerns.
December 11, 2015	Lewis Cromer Letter to Linda Edwards	Attorney Lewis Cromer letter to Attorney Linda Edwards with notice of Fripp lawsuit. Copied RCRC Board.
Undated - Estimated date to be late January 2016		Anonymous Complaint, undated, following grievance by Darrell Davis, RCRC employee, alleges Brown threatened staff and is having persons followed. Alleges low morale.
July 13, 2015		Media released recording of RCRC Staff Meeting allegedly from January 2016. RCRC Board responded they did not receive complaints regarding January meeting so did not review tape.