

EXECUTIVE ORDER NO.

2022-34

WHEREAS, on November 3, 2022, a Grand Jury convened in Marion County returned an Indictment charging Oscar Jay Foxworth, a member of Marion County Council, with one count of Receiving Goods or Services Fraudulently Obtained, in violation of section 16-14-80 of the South Carolina Code of Laws, as amended, and one count of Criminal Conspiracy (to commit Breach of Trust with Fraudulent Intent), in violation of section 16-17-410 of the South Carolina Code of Laws, as amended; and

WHEREAS, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted” and “[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law”; and

WHEREAS, Oscar Jay Foxworth, as a member of Marion County Council, is an officer of the State or its political subdivisions; and

WHEREAS, under South Carolina law, moral turpitude “implies something immoral in itself, regardless of whether it is punishable by law as a crime,” involves “an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man,” or otherwise includes conduct “contrary to justice, honesty[,] and good morals,” *State v. Horton*, 271 S.C. 413, 414–15, 248 S.E.2d 263, 263–64 (1978); *see also Baddourah v. McMaster*, 433 S.C. 89, 112, 856 S.E.2d 561, 573 (2021) (“Under South Carolina’s moral turpitude framework, we focus ‘primarily on the duty to society and fellow man [that] is breached by the commission of the crime.’”); and

WHEREAS, upon consideration of the circumstances presented, to include the particularized facts alleged in the Indictment and classification of the offenses, the undersigned has determined that one or both counts of the aforementioned Indictment charge Oscar Jay Foxworth with “a crime involving moral turpitude” for purposes of article VI, section 8 of the South Carolina Constitution, *see Horton*, 271 S.C. at 414, 248 S.E.2d at 263 (“An act in which

fraud is an ingredient involves moral turpitude.”); *see also In re Derrick*, 301 S.C. 367, 368, 392 S.E.2d 180, 180 (1990) (classifying “breach of trust with fraudulent intent” as “a crime of moral turpitude” (citing *In re Sipes*, 297 S.C. 531, 377 S.E.2d 574 (1989))); *Op. Att’y Gen.*, 1988 WL 485245, at *1 (S.C.A.G. Mar. 11, 1988) (“Because the substantive offense would involve moral turpitude, conspiring to commit the offense would also involve moral turpitude.”); and

WHEREAS, for the foregoing reasons, and in accordance with article VI, section 8 of the South Carolina Constitution, the undersigned is authorized to suspend Oscar Jay Foxworth from office as a member of Marion County Council until such time as he shall be acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby suspend Oscar Jay Foxworth from office as a member of Marion County Council until such time as he shall be formally acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first. This action in no manner addresses the guilt or innocence of Oscar Jay Foxworth and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 3rd DAY OF
NOVEMBER, 2022.**

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State