

MINUTES OF THE STATE ETHICS COMMISSION MEETING
March 20, 2014

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:11 a.m. Also in attendance were Commissioners Paula Finley Mangum, Martin F. Murphy, William J. Trach and Regina L. Quinlan.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Quinlan, seconded by Commissioner Murphy, the Commission voted 4-0 to waive the reading and approve the minutes of the February 20, 2014 public and executive sessions. Commissioner Mangum abstained because she did not attend the February meeting.

The Commission reviewed the public session minutes of the February 20, 2014 Legal Committee meeting. There were no questions, and no action by the Commission was required.

EXECUTIVE DIRECTOR'S REPORT

Legal Committee Meeting

Executive Director Karen L. Nober reported that the Legal Committee met prior to today's meeting, and she invited Commissioner Trach, as Chair of the Legal Committee, to summarize the discussion. Commissioner Trach reported that draft Advisory 14-1 on public employees' private business dealings with those under their official authority is coming into shape, and he expects to have another Legal Committee meeting to discuss the draft prior to the April Commission meeting. General Counsel Deirdre Roney will prepare a draft for the Commission's consideration in April. Commissioner Trach reported that the Legal Committee also discussed whether the Commission should develop a standard procedure for soliciting feedback from outside parties prior to the adoption of Advisories. Ms. Roney offered to draft a memo to the Commission concerning the procedures that have been taken with previous Advisories.

January Meeting Minutes Correction

Ms. Nober reported that the January 2014 executive session minutes, which were approved by the Commission in February, required a minor correction as to the date of the meeting. She stated that the minutes had been corrected. No action by the Commission was required.

Budget

Ms. Nober reported that she and Chief Financial Officer Michael Memmolo met with the Commission's Senate budget analyst at the end of February, after scheduling issues delayed the meeting from taking place earlier. They previously met with the Commission's House budget analyst. Ms. Nober stated she expects the House to issue its budget sometime around mid-April.

SFI Funding

Ms. Nober reported that the Commission has submitted its final application to ITD last week for ITD bond monies to fund the replacement of the Commission's SFI electronic filing and management system. Ms. Nober stated the Commission's initial request of \$600,000 was increased to \$850,000 in response to a recommendation by ITD to add funding for an IT professional project manager for two years. Ms. Nober stated that Financial Disclosure Administrator and Analyst Rob Milt, Mr. Memmolo and Information Technology Specialist Tony Webb worked hard to put the applications together, and they did a nice job.

Access to RMV Records

Ms. Nober reported that Legal Division Deputy Chief David Wilson has done a nice job in working with the Registry of Motor Vehicles so that the Commission can gain access to certain RMV records, such as Social Security numbers and home addresses, which will help the Commission to collect outstanding civil penalties and avoid the need to go to court in pursuit of payment. The Comptroller's Intercept program, which allows agencies to collect delinquent payments by intercepting payments made by the state, such as state income tax refunds, requires information contained in the RMV records. Ms. Nober stated that Mr. Memmolo is being trained to use the RMV's system, and that he will be the only person at the Commission with access to this information. Ms. Nober reported that of the monies currently owed to the Commission, a significant amount is owed by one person who has filed for bankruptcy.

Personnel

Ms. Nober reported that Enforcement Division Chief Stephen P. Fauteux is retiring at the end of this month, and that a search is underway to fill his position. She stated that the State House News Service ran a brief posting announcing Mr. Fauteux's retirement and the search for his successor, and that, in addition to the Commonwealth's job posting website and the Commission's website, the job was also posted in the Boston Bar Association's newsletter, at Commissioner Murphy's recommendation. The position was also posted in Lawyers Weekly for

two weeks. The Commission received 35 applications, which Ms. Nober said seemed low, but 10 were selected to be interviewed. First round interviews were completed by Ms. Nober, General Counsel Deirdre Roney, Mr. Memmolo and Public Education and Communications Division Chief David Giannotti, and a decision will be made shortly on which candidates to ask back for second interviews. Chairman Dortch-Okara asked whether Ms. Nober thought she would be able to hire from this pool of candidates, and Ms. Nober said she believes she could, and that she hopes to have the position filled within the next month.

Ms. Nober stated that today is Mr. Fauteux's last Commission meeting after nearly 32 years in his position, and said it has been a pleasure to work with Mr. Fauteux. Mr. Fauteux said it has been a privilege to serve the Commission. A small staff event for Mr. Fauteux is planned at the Commission's office for April 1st at about 5:00 p.m., followed by an off-site retirement party to which friends and family and former colleagues have been invited.

Commissioner Trach asked Ms. Nober if there was a timetable to fill the vacant Legal Division staff counsel position. Ms. Nober stated that she still plans to fill the position, but is waiting to do so for financial reasons.

Next Meeting

Ms. Nober reported that the next Commission meeting will be held on Thursday, April 17, 2014 at 9:00 a.m. A Legal Committee meeting will likely be held at 8:00 a.m. on the same date.

PUBLIC EDUCATION DIVISION MATTERS

Public Education and Communications Division Chief David Giannotti presented his report of Public Education and Communications Division activities for the month of February 2014. Mr. Giannotti reported that the new online form application that provides security encryption for online complaints and requests for advice had to be taken down from the website temporarily until the website privacy policy can be updated. The forms will be reloaded to the website 30 days after the website privacy policy has been updated.

LEGAL DIVISION MATTERS

SFI Update

Legal Division Deputy Chief/SFI Lauren Duca presented an update on the 2013 calendar year Statements of Financial Interests filing season. Ms. Duca reported that the filing season opened on February 26, 2014, more than two weeks earlier than the previous year, and that to date, 774 of approximately 4,200 filers have submitted their SFIs. Prior to opening the application for 2013 SFIs, Ms. Duca, Mr. Milt and Public Education and Communications Division Administrative Assistant Carolyn Teehan reviewed designation lists submitted by each public agency. Ms. Duca stated that because of a technical glitch, some filers did not receive the initial email notification of their obligation to file an SFI, and so staff has been working with agency

liaisons to make sure all SFI filers have been notified. Ms. Duca stated that she intends to reach out to the liaisons about three weeks prior to the May 1, 2014 deadline, with the goal of reducing the number of Formal Notices of Lateness that will have to be issued this year.

Legal Division Metrics

Ms. Roney presented the following Legal Division metrics for February 2014.

- **Written advice.** In February 2014, the Legal Division answered by letter or email 28 written requests for advisory opinions under G.L. c. 268A and c. 268B.

For comparison:	2008 monthly average (pre-Ethics Reform):	31
	2010 monthly average (post-Ethics Reform):	52
	February 2013 (same month last year):	28
	January 2014 (previous month):	21

- **Oral advice.** During this same period, Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 466 state, county and municipal officials.

For comparison:	2008 monthly average (pre-Ethics Reform):	280
	2010 monthly average (post-Ethics Reform):	450
	February 2013 (same month last year):	433
	January 2014 (previous month):	438

- **Review of municipal letters.** The Legal Division reviewed 4 letters issued by city solicitors/town counsel pursuant to G.L. c. 268A, § 22 and 930 CMR 1.03.

For comparison:	2008 monthly average (pre-Ethics Reform):	6
	2010 monthly average (post-Ethics Reform):	8
	February 2013 (same month last year):	0
	January 2014 (previous month):	6

- **Backlog.** As of today, there are 29 pending requests for written advice that are more than 30 days old: one from August 2013, two from September 2013, two from October 2013, one from November 2013, four from December 2013, seventeen from January 2014, and two from February 2014. The Legal Division has a total of 43 pending requests for written advice.

Ms. Roney stated that the Legal Division has welcomed back Staff Counsel Norah Mallam following her maternity leave, and that her return will help the division address the high volume of requests for advice. Ms. Roney stated that to date, the number of pending requests for written advice more than 30 days old has been reduced to 22 (down from the 29 reported in her submission to the Commission one week earlier) which is still higher than she would like to have. Commissioner Trach asked whether the attorneys are awaiting more information from

requestors in the backlogged requests, and Ms. Roney stated that is the case for some of the requests.

Legal Division Special Projects

Ms. Roney provided the Commission with a list of the special projects currently being worked on by members of the Legal Division. There were no questions.

Adjudicatory Matters

Ms. Roney presented the calendar of hearing dates and pre-hearing conferences in pending Commission adjudicatory proceedings.

Ms. Roney requested that the Commission assign a hearing officer for *In Re Atsalis*. Chairman Dortch-Okara assigned herself to be the hearing officer in the matter. Ms. Mallam will serve as the legal advisor.

The Commission had no questions.

Litigation Matters

Ms. Roney stated that the Commission's answer to the complaint filed by Richard McClure, who is seeking judicial review of the Commission's August 2, 2013 finding that he violated c. 268A, § 17, is due on Monday, March 24, 2014. Ms. Roney said she believed the Commission would file its answer on Friday, March 21, 2014.

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics

Enforcement Division Deputy Chief/Investigations Katherine Gallant presented a report of the Investigations Unit activities for February 2014. The Commission had no questions.

EXECUTIVE SESSION

At 9:35 a.m., on the motion of Chairman Dortch-Okara, seconded by Commissioner Murphy, the Commission voted 4-0 to enter into executive session to discuss matters subject to the provisions of G.L. c. 30A, § 21, subparagraph (a)(7) and G.L. c. 268B, §§ 3 and 4. Chairman Dortch-Okara stated that these matters will include investigatory matters, cases deferred, preliminary inquiry recommendations and reports, summons authorization requests, disposition agreements, public and private education letters and advisory opinions.

VOTE:	Chairman Dortch-Okara	<u>yes</u>
	Commissioner Mangum	<u>yes</u>
	Commissioner Murphy	<u>yes</u>
	Commissioner Trach	<u>yes</u>
	Commissioner Quinlan	<u>yes</u>

Chairman Dortch-Okara stated that the Commission would not reconvene in public session following the executive session.

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of March 20, 2014.
2. Minutes of the State Ethics Commission Meeting for the February 20, 2014 Public and Executive Session.
3. Minutes of the Legal Committee Meeting for the February 20, 2014 Public Session.
4. Memorandum dated March 13, 2014 from David Giannotti to the Commission concerning Public Education and Communications Division activities for February 2014.
5. Memorandum dated March 13, 2014 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
6. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
7. Report of Enforcement Division Investigations Metrics, dated March 4, 2014.

Respectfully submitted,

Marisa Donelan
Public Education and Communications
Division Deputy Chief