



Commonwealth of Massachusetts **STATE ETHICS COMMISSION**

One Ashburton Place - Room 619
Boston, Massachusetts 02108

Hon. Barbara A. Dortch-Okara (ret.)
Chair

Karen L. Nober
Executive Director

MINUTES OF THE STATE ETHICS COMMISSION MEETING **June 18, 2015**

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:03 a.m. Also in attendance were Commissioners Martin F. Murphy, William J. Trach, Regina L. Quinlan and David A. Mills.

EXECUTIVE SESSION

At 9:03 a.m., on the motion of Chairman Dortch-Okara seconded by Commissioner Mills, the Commission voted 5-0 to enter into executive session to discuss adjudicatory matters subject to the provisions of G.L. c. 30A, § 21, subparagraph (a)(7) and G.L. c. 268B, § 4(i).

Chairman Dortch-Okara stated that the Commission will reconvene in public session following the executive session.

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

PUBLIC SESSION

At 9:43 a.m., the Commission reconvened in public session. Chairman Dortch-Okara, Vice-Chairman Murphy, Commissioner Trach, Commissioner Quinlan and Commissioner Mills were present. The Commission took a short break and reconvened at 9:49 a.m. with all members present.

HEARING

In re Robert Nichols, Docket No. 15-0001: The Respondent was not present. The Commission informed the Petitioner, the Enforcement Division of the State Ethics Commission, represented by Attorney Candies Pruitt-Doncaster, that the Commission voted to continue the matter to the July Commission meeting. Enforcement Division Chief Kelly Downes asked the Commission if Attorney Pruitt-Doncaster would have the opportunity to be heard on this issue. The Commission responded that it would issue an order.

APPROVAL OF MEETING MINUTES

On the motion of Vice-Chairman Murphy, seconded by Commissioner Quinlan, the Commission voted 5-0 to waive the reading and approve the minutes of the May 21, 2015 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Budget

Executive Director Karen Nober reported that there was no news on the Commission's budget, as the budget is still with the Legislature. She said the Commission's line item is in conference committee.

Personnel

Ms. Nober said that, assuming there is sufficient funding, she will look to fill two positions. The first position would be a part-time receptionist. The second position would be a Director of Communications, who would report directly to her. Ms. Nober said that both positions are backfills of currently vacant positions, and that the Director of Communications position was a reconfiguration of the deputy chief position in the Public Education Division. Ms. Nober described the Director of Communications' responsibilities as including the development of a communications strategy for the agency, oversight of the Commission website and publications, and being the primary point of contact for press calls and press releases. Ms. Nober stated that David Giannotti's title would change to Director of Public Education and Technology.

Performance Evaluations

Ms. Nober reported that she has distributed performance evaluation forms to the Commission's managers. She said that she planned to provide a self-evaluation to the Commission, as she has in the past. She also noted that in the last few years, former Commissioner Paula Mangum and Commissioner Trach took the lead in handling her evaluation, and asked how the Commission would like to proceed this year. Commissioner Trach stated that he is willing to continue that practice. Commissioner Quinlan volunteered to assist him in that process.

Chairman Dortch-Okara asked when Vice-Chairman Murphy's term ends, so that the Commission could schedule its evaluation of Ms. Nober while Commissioner Murphy was still a member. Ms. Nober said that Commissioner Murphy's term expires on September 21, 2015, and noted that the September Commission meeting falls on September 17, 2015. The Commission agreed that Ms. Nober should submit her self-evaluation so that the Commission could vote at the September Commission meeting.

Annual Report

Ms. Nober reported that the Commission's FY14 Annual Report was issued earlier that week and noted that she provided copies of the report to the Commissioners. She thanked Mr. Giannotti for his work in completing the work that his former deputy had started. She said she hopes to issue the FY15 Annual Report sooner in the fiscal year. Ms. Nober stated that she would be interested in hearing feedback from the Commissioners on the report.

Trainings

Ms. Nober reported that she and General Counsel Deirdre Roney conducted a training, in conjunction with Mike Sullivan, Director of OCPF, for members of the House. She reported that the training went very well.

Next Meeting

Ms. Nober stated that the next Commission meeting would be held on July 16, 2015, at 9:00 a.m., and that typically the Commission does not hold a meeting in August.

PUBLIC EDUCATION DIVISION REPORT

Public Education and Communications Division Chief David Giannotti presented the Public Education and Communication Division's report for the month of May 2015. The Commission had no questions.

LEGAL DIVISION MATTERS

Legal Division Update

Legal Division Deputy Chief David Wilson reported that last month, Staff Counsel Amy Nee conducted a training session for the Executive Director and Enforcement Division staff concerning issues pertaining to §§ 7 and 20. Ms. Nee stated that the training was effective and the Enforcement Division staff had good questions. Ms. Nober stated that she had asked for this training and agreed that it was very helpful, since §§7 and 20 are particularly difficult and confusing sections of the conflict of interest law, and there are a number of regulatory exemptions to those sections.

SFI Status Report and Current Projects

Legal Division Deputy Chief/SFI Lauren Duca presented a report on the status of the SFI filing season and other current projects. Ms. Duca reported that the CY 2014 SFI filing deadline for elected public officials was May 26, 2015. She said that only two elected officials missed that deadline, but filed before the grace period ended. Ms. Duca also reported that four individuals were referred to the Enforcement Division for follow-up – one was a late filer for CY 2013; two were late filers for CY 2014; and one was a non-filer for CY 2014. Ms. Duca noted that the number of delinquent and non-filers this year may be one of the lowest. Ms. Duca stated that this is likely the last year that filers will need to use the old legacy SFI filing system, because the new SFI filing application should be ready for the upcoming filing season.

Development of New SFI Filing and Management Application

Chief Financial Officer/Director of Budget & Administration Michael Memmolo reported on the procurement process for the development of the new SFI Filing and Management Application that will replace the Commission's current SFI electronic filing system. Mr. Memmolo reported that the Project Management Team (PMT) Negotiation Team, consisting of Deirdre Roney, Pauline Nguyen, himself, and the Project Manager Susan Laniewski, with assistance from MassIT staff, successfully negotiated and executed a contract with PCC, the successful bidder for the project. Mr. Memmolo further reported that the contract was signed last Friday, and on the following Monday, the PMT and PCC held a kick-off session, which included a meeting with the entire agency. Mr. Memmolo explained that given the aggressive deadlines under the contract, PCC is working on two simultaneous tracks to: 1) develop the new application; and 2) migrate existing data into the new system. Chairman Dortch-Okara asked whether it would be possible to migrate all data to the new system. Mr. Memmolo responded that the migration process consists of phases to test the quality of the data and that they would try to migrate data as far back as possible, but migrating even one year of data would be very helpful to filers. Mr. Memmolo stated that he would provide a progress report to the Commission on a monthly basis.

Legal Division Metrics

Mr. Wilson presented the following Legal Division metrics for May 2015. He noted that the volume of requests for advice continues to remain high, consistent with the increased volume of requests received post-Ethics Reform. The Commission had no questions.

- **Written advice.** The Legal Division answered by letter or email 53 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
	May 2014 (same month last year):	69
	April 2015 (previous month):	47

- **Oral advice.** The Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 651 requests for advice from state, county and municipal officials.

For comparison:	2008 monthly average (pre Ethics Reform):	280
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2010 monthly average (post Ethics Reform):	450
May 2014 (same month last year):	648
April 2015 (previous month):	652

- **Review of municipal letters.** We reviewed 1 letter 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
	May 2014 (same month last year):	5
	April 2015 (previous month):	5

- **Backlog.** As of today, we have 20 pending requests for written advice that are more than 30 days old, of which the oldest was received on December 31, 2014. We have a total of 32 pending requests for written advice.

Legal Division Special Projects

Mr. Wilson provided the Commission with a list of the special projects currently being worked on by members of the Legal Division. The Commission had no questions.

Adjudicatory Matters

Mr. Wilson presented the calendar of hearing dates and pre-hearing conferences in pending Commission adjudicatory proceedings. The Commission had no questions.

Litigation Matters

Mr. Wilson reported that the Commission's cross-motion for judgment on the pleadings with respect to Richard McClure's complaint seeking judicial review of the Commission's August 2, 2013 decision that he violated c. 268A, § 17 has been served and filed. A hearing has not yet been scheduled. The Commission had no questions.

REPORT OF ENFORCEMENT COMMITTEE CHAIR

Vice-Chairman Murphy reported to the full Commission on the Enforcement Committee meeting that was held following last month's Commission meeting. He reported on four main topics that were covered at the meeting. The first topic concerned the use of public education letters. Vice-Chairman Murphy stated that typically the Commission issues public education letters in cases raising novel or complex issues. He reported that the Committee agreed to extend the use of public education letters to resolve matters that have been appropriately addressed by the subject's employer but which still merit a public resolution, and to publicly resolve cases involving issues that are recurring in similar situations in other communities. The second topic involved how the Enforcement Division reports its metrics to the Commission. Vice-Chairman Murphy stated that he asked Enforcement Division Chief Kelly Downes to provide the Commission each month with a list of cases for which the Commission has authorized a

preliminary inquiry, and Ms. Downes agreed to do so. The third major topic covered at the Committee meeting was the Litigation Manual currently being produced under the direction of Enforcement Chief Kelly Downes. The fourth topic addressed at the Committee meeting related to the Enforcement Division's written materials. Vice-Chairman Murphy reported that since Ms. Downes began working at the Commission, the Enforcement staff has been including credibility assessments in its written materials to the Commission. The Committee agreed that this would be helpful so long as the factual basis for credibility conclusions made by staff is also included in the reports. Vice-Chairman Murphy also noted that he had suggested that the Enforcement Division decrease the use of acronyms in its written work, as the use of too many acronyms is confusing for the reader, and also suggested that it would be a good practice to include the Enforcement attorney's recommendation to the Commission earlier in the report. Chairman Dortch-Okara commended the Enforcement staff for producing high quality written materials. Commissioner Murphy noted that "a lot of good things are happening in the Enforcement Division."

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics report

Enforcement Division Deputy Chief/Investigations Katherine Gallant presented the monthly report of Investigations Unit activities for May 2015. Ms. Gallant reported that the backlog of complaints remains under 100. She also noted that some older cases involve multiple complaints on the same issue, and when a matter has been closed, all of the associated complaints are closed with it, which significantly reduces the number of backlogged complaints. The Commission had no questions.

EXECUTIVE SESSION

At 10:20 a.m., on the motion of Chairman Dortch-Okara, seconded by Commissioner Quinlan, the Commission voted 5-0 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, advisory opinions and deliberations.

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

VOTE:	Chairman Dortch-Okara	yes
	Vice-chairman Murphy	yes
	Commissioner Trach	yes
	Commissioner Quinlan	yes
	Commissioner Mills	yes

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of June 18, 2015.
2. Minutes of the State Ethics Commission Meeting for the May 21, 2015 Public and Executive Sessions.
3. Memorandum dated June 11, 2015 from David Giannotti to the Commission concerning Public Education and Communications Division activities for May 2015.
4. Memorandum dated June 12, 2015 from Deirdre Roney and Pauline Nguyen to the Commission setting forth Legal Division matters for the meeting.
5. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
6. Report of Enforcement Division Investigations Unit Metrics, dated June 1, 2015.
7. Minutes of the Enforcement Committee meeting on May 21, 2015.

Respectfully submitted,

A handwritten signature in blue ink that reads "Pauline H. Nguyen". The signature is written in a cursive, flowing style with a large, stylized initial "P".

Pauline Nguyen
Assistant General Counsel