

STATE
ETHICS
COMMISSION



MASSACHUSETTS

ANNUAL REPORT • FISCAL YEAR 1990

STATE ETHICS COMMISSION ANNUAL REPORT FISCAL YEAR 1990

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STATE ETHICS COMMISSION

This Report covers the activities of the Massachusetts State Ethics Commission during FY90. It is issued pursuant to the mandate of Section 2 (1) of Chapter 268B and is intended to serve as a guide to the responsibilities of the Commission and as a record of its major activities and decisions during FY90. Copies of the Annual Report provided to the Governor and General Court include a breakdown of the Commission's expenditures over the fiscal year.

INTRODUCTION TO THE COMMISSION

History

In 1978, the Massachusetts Legislature passed, and Governor Michael S. Dukakis signed, landmark legislation creating the State Ethics Commission. The enabling statute, Chapter 210 of the Acts and Resolves of 1978, revised and strengthened the existing conflict of interest law. In addition, it created a second law to provide for annual disclosure of private business associations and financial interests by certain public officials and employees. The new, independent Commission was empowered to interpret these two laws and to enforce them with civil penalties and sanctions.

General Laws c. 268A, the Massachusetts conflict of interest law, has regulated the conduct of public officials and employees in the Bay State since 1963. The law limits what public employees may do on the job, what they may do after hours or "on the side," and what they may do after they leave public service and return to the private sector. The conflict law also sets the standards of conduct required of all state, county and municipal employees in Massachusetts, articulating the premise that public employees owe undivided loyalty to the government they serve, and must act in the public interest rather than for private gain.

Until 1978, the conflict law was only enforced on the criminal level, under the jurisdiction of the Attorney General and District Attorneys. The Ethics Commission was established to serve as the primary civil enforcement agency for the conflict of interest and financial disclosure laws. The non-partisan Commission also provides education, advice and information to public officials and employees regarding these laws, and administers the financial disclosure process, which covers some 5,000 candidates, elected officials, and employees holding major policy-making positions in the legislative, executive and judicial branches of state and county government.

The Commission consists of five members appointed to staggered, five-year terms. Three of the commissioners are selected by the Governor, one by the Secretary of State and one by the Attorney General. No more than two of the gubernatorial appointments, and no more than three members in all, may be from the same political party. The commissioners serve part-time, are paid on a per diem basis, and employ a full-time staff.

The Commission staff is made up of four separate divisions: Legal, Statements of Financial Interest (SFI), Public Education and Enforcement.

The Legal Division provides free, confidential legal advice regarding the conflict law, and issues both formal and informal opinions on how the law would apply to actual and specific future actions being considered by public employees. The Legal Division also represents the Commission in court. The SFI Division administers the financial disclosure law and inspects SFIs filed with the agency. The Public Education Division conducts free educational seminars for public employees and issues explanatory materials and other publications detailing the Commission's activities. The Enforcement Division investigates alleged breaches of the laws, and represents the state at Commission hearings involving individuals charged with conflict violations.

Annual Overview

In FY90, there was continued demand -- and in most cases *increased* demand -- for the services of the four divisions of the State Ethics Commission. Limitations caused by budget cuts have severely hampered the Commission's ability to serve those demands; however, all of the Divisions of the State Ethics Commission have managed to increase their productivity in vital areas despite cutbacks in other important aspects of their mandate.

The Legal Division saw a 6% increase during FY90 in the demand for written advisory opinions regarding public employees' prospective conduct under the Conflict of Interest and Financial Disclosure Laws, answering 836 formal requests for advice. The number of opinion requests was the highest in the Commission's history, and was more than double the number received in FY86. The Division also reviewed 173 opinions regarding the conflict law issued by city solicitors and town counsel.

The Statements of Financial Interests Division has operated with 50% of its staff positions unfilled for the entire fiscal year. The loss of one investigator whose job was to review financial disclosure statements (SFIs) for accuracy and completeness resulted in a 96.5% decrease in the number of filers who amended their statements -- 1,200 filers amended their SFIs in FY89; 42 filers did so in FY90. However, the SFI Division saw a 4% increase in the number of on-time filers in FY90, despite the fact that the financial disclosure form was redesigned and contained additional disclosure requirements.

The Public Education Division had a 16.6% increase in the number of educational seminars it presented to public employees and interested private parties in FY90, holding a total of 70 sessions throughout Massachusetts. Budget cuts forced the Division to reduce the number of educational materials it distributed in FY90 by 34.6% compared with FY89. A majority of these reductions were in the form of publications that had previously been provided as part of the Public Education Division's seminar presentations. The Division has had to pass on the cost of printing these publications to the "sponsors" of the seminars by asking them to photocopy all materials for those who attend. Even with these reductions, the Public Education Division's budget has been reduced to the point that existing materials cannot be reprinted in sufficient quantities to supply even the reduced number of persons wishing or requiring the information, and new publications needed to address pressing or topical Conflict of Interest Law questions cannot be published.

The Enforcement Division of the Ethics Commission, which lost 28% of its staff during the course of the year, received 677 complaints in FY90. This is a 12.2% reduction in the number of complaints received compared to FY89, yet the Division had more than a 10.6% increase in FY90 in the number of complaints it had not yet acted upon at the close of the fiscal year as compared with FY89. In addition, the number of informal investigations conducted by the Division was down 42.5% below FY89. This reduction in the number of informal investigations was the result of the Division's personnel limitations requiring closure of "borderline" cases without independent investigation, and efforts to concentrate the staff's limited resources on formal investigations. As a result of these efforts, the Enforcement Division completed 18.75% more formal inquiries in FY90 than it had in FY89. In addition, although the number of individuals and entities fined for violations of the Conflict of Interest and Financial Disclosure Laws remained the same from FY89 to FY90, the fines imposed as a result of these violations increased nearly 69% in FY90.

MEMBERSHIP

During FY90 the members of the Commission were:

Edward F. Hennessey, Chair Former Chief Justice Supreme Judicial Court Boston, MA	Joseph J. Basile, Jr. Senior Counsel United Technologies Hartford, CT	Constance Doty Administrator Rent Equity Board Boston, MA	Archie Epps Dean of Students Harvard College Cambridge, MA
Herbert Gleason Counsel Smith, McNulty & Kearney Boston, MA	Rev. F. Washington Jarvis Headmaster Roxbury Latin School Boston, MA	A. John Pappalardo Chief Criminal Bureau-Attorney General's Office Boston, MA	

ADVISORY OPINIONS

Introduction

Individuals covered by the conflict of interest and financial disclosure laws are entitled to receive advice about whether their proposed activities are permissible under G.L. c. 268A or G.L. c. 268B. State, county and municipal employees may submit a written request to the Commission for an advisory opinion. Most requests will be answered fully within two weeks, and all formal opinions of the Commission serve as a legal defense in subsequent proceedings concerning the requesting employee's conduct, unless the request omits or misstates material facts.

Although advisory opinions issued by the Commission are confidential, the Commission publishes summaries of advisory opinions and prepares public versions of the opinions with identifying information deleted. Copies of these opinions are available from the Commission.

Summary of FY90 Opinions

The Commission received 836 formal requests for advisory opinions during FY90. This represents approximately a 6% increase over the 790 formal requests received in FY89. Twenty-eight of the FY90 requests were answered with formal Commission advisory opinions; the remaining requests were handled through informal letters issued by the Commission's Legal Division. Among the topics addressed by the Commission's formal advisory opinions during FY90 were the following:

1. The jurisdiction of the Conflict of Interest Law, G.L. c. 268A, to quasi-state organizations (See EC-COI 89-24, 90-3, 90-7).
2. Disqualification of public employees from certain official participation (See EC-COI-89-29, 89-33).
3. Limitations the conflict law places on former public employees (See EC-COI- 89-24, 89-26, 90-6).
4. The limitations the conflict law places upon the private professional activities of public employees (See EC-COI-89-25, 89-29, 89-30, 89-31,90-4).

Municipal Advisory Opinion Regulations

A Commission regulation requires all conflict of interest opinions issued by city solicitors or town counsels to be filed with the Commission for review. The regulation is intended to insure that opinions issued to municipal employees and officials are consistent with Commission precedent. The rule requires the Commission to be bound by all municipal opinions, unless the Commission notifies the city or town counsel within 30 days of any objections to the opinion.

The opinion will be binding on the Commission in any subsequent proceedings only with respect to the person who requested the opinion and those upon whose behalf he or she requested the opinion. The Commission will not be bound by municipal opinions if material facts were omitted or misstated by the person or if the person acted in bad faith in securing the opinions.

In FY90 the Commission reviewed 173 municipal opinions. The Commission staff concurred with 110 of the opinions, concurred with additional comments on 53 municipal opinions, and informed municipal lawyers in four instances that their advice was inconsistent with Commission decisions, and therefore, would not be binding on the Commission. Six other opinions were moot.

FINANCIAL DISCLOSURE

Introduction

Massachusetts G.L. c. 268B requires annual disclosure of interests and associations that might result in conflict or the appearance of conflict between a person's public duties and private interests. The law covers all elected state and county officials, candidates and certain "designated" state and county employees. Municipal officials and employees are not covered by the disclosure requirements of 268B.

Designations and Action Toward Compliance

In order to determine which state and county employees are required to file SFIs, the Commission requests that by the first of each year, the administrative heads of each state and county agency submit a "designation list" of individuals holding major policy-making positions within their departments. By January 1, 1990, the Commission had received lists from over 200 agencies requiring SFI filing by a total of 4676 employees and officials. In FY90, the Commission fined nine people \$1,490 for failure to file their SFIs in a timely fashion. Two filers had not submitted their SFIs to date, and face \$2000 fines.

Failure to file on time, or to amend a deficient or incomplete Statement within 10 days of receipt of a Formal Notice of Delinquency, is a violation of G.L. c. 268B. The Commission may levy fines of up to \$2,000 for each violation, and may also levy additional fines, withhold pay or seek criminal penalties for filing a false Statement.

In FY90, all but 353 of the 4,676 designated public employees and elected officials (over 92 percent) filed their SFIs on time. This is a substantially higher percentage than in FY89, when 88 percent of the designated filers submitted their statements in a timely fashion. The increase in on-time filers was a result of increased awareness by filers of the Commission's strict enforcement of its regulation requiring that statements be received at the Commission office before the filing deadline (as opposed to being post-marked by the deadline). This year, formal Notices of Delinquency were mailed to 154 individuals (all appointed employees) who missed the May filing deadlines. Of these 154 filers, only 12 individuals failed to file in a timely manner after receiving notice of delinquency. This is an improvement over FY89, when 19 people failed to file after formal notice. Of the 12 individuals who failed to file within 10 days of receipt of a Formal Notice:

1. The Commission authorized five preliminary inquiries, which are in the process of being resolved.
2. Four individuals filed shortly after an 8-10-day grace period, incurring fines of less than \$100.
3. Three filers could not be located and their cases were closed.

Public Inspection of SFI Forms, Commission Assistance and Review

Chapter 268B provides that any individual who submits a written request to the Commission may inspect and obtain a copy of any Statement filed with the Commission. In FY90, the Commission honored such requests from 243 sources, including private citizens, the media and law enforcement agencies. The statements of 1,776 filers were reviewed through this public inspection process in FY90, which is more than a 45% increase over the 987 filers whose SFIs were inspected in FY89. The increase is credited largely to the fact that this was an election year. In addition, certain filers had more than one requestor asking to view their SFIs -- a total of 4,738 statements were provided to requestors in FY90.

In FY90, the Commission redesigned the SFI forms and instructions to update and clarify certain aspects of the financial disclosure process. Throughout the year, Commission staff is available to assist filers in completing their Statements. To date, 42 individuals have amended their FY90 SFIs. This is a 96.5% decrease from FY89, when 1,200 filers were required to amend their Statements. The dramatic reduction in the number of amendments is the result of budget reductions that eliminated a staff position to review SFIs for completeness and accuracy.

PUBLIC EDUCATION

Introduction

The Public Education Division provides public employees, the media, concerned citizens and the communities of the Commonwealth with educational materials and a forum in which to learn about the Ethics Commission and the laws which the Commission enforces and interprets.

Seminars

The Public Education Division conducts seminars for public employees and officials to help them avoid conflicts between their private interests and public duties, and to make them aware of the resources available to them for answering questions regarding the laws, and for reporting alleged violations. The Division also provides seminars to private groups or associations (such as the League of Women voters or newspaper staffs) to help them better understand the conflict law and the Commission's purpose.

The Public Education Division conducted 70 seminars during FY90, with 2,385 people attending. This represents a 16.6% increase over the 60 seminars given in FY89. The seminars were sponsored by:

25 state agencies	34 municipalities
7 municipal associations	3 private interest groups or associations
1 county association	

Publications

The Commission writes, publishes, and distributes educational materials that explain various provisions of the conflict law and keep constituents informed of recent Commission rulings. The Division also writes and distributes the Commission's tri-annual newsletter to an estimated 2,500 subscribers.

In FY90, approximately 20,610 publications/educational materials were distributed as follows:

- 3,900 On average ten callers (including reporters) per day request information and five "walk-ins" take information from the lobby;
- 5,400 Educational materials were provided to seminar sponsors and copied for 2,385 seminar attendees;
- 3,710 Educational materials sent to individuals as part of Commission legal opinions, enforcement actions, or written requests for information;
- 7,100 The Bulletin/issued three times a year;
- 400 The Annual Report;
- 100 Rulings;

In FY90, the Public Education Division distributed several new educational materials:

Commission Advisory No. 14 Regarding prospective private sector employment negotiations by public employees; A Practical Guide to the Conflict of Interest Law for Police Officers; A Fact Sheet for public employees regarding business travel and related expenses; and A Summary of the Conflict of Interest Law for Housing Authority employees. During FY90, the Commission also updated its Commission Advisory No. 7 -- Multiple Office Holding at the Local Level to include recent amendments to the statute and clarify certain issues, as well as updating 930 CMR, the Commission's Enforcement Procedures. In addition, the Public Education Division continued its work with both the Criminal Justice Training Council and the Department Of Correction to add educational sessions on the conflict law to the standard curriculum for DOC employees, Police Academy recruits and continuing education sessions for in-service police officers.

INVESTIGATION AND ENFORCEMENT

Introduction

The Commission may initiate a confidential inquiry into any alleged violation of the conflict of interest or financial disclosure law. Anyone may call, write or visit the Commission to make a complaint. Complaints that do not suggest problems within the Commission's jurisdiction or that are clearly not worth pursuing are closed without delay. The remaining complaints are reviewed by the staff in an informal review process. Many complaints involve situations which raise concerns under the conflict law, but formal investigation and enforcement is not considered appropriate because of the nature of the violation or mitigating circumstances. In these cases, a private educational letter providing information to ensure future compliance with the law is sent to the subject of the complaint.

After the informal staff review, if the staff determines a case should be investigated further, authorization is sought from the appointed Commissioners to conduct a formal investigation called a "Preliminary Inquiry." The Staff investigates the matter and prepares a report of its findings for the Commission to consider. If the inquiry indicates that there is "no reasonable cause to believe" that either the Conflict of Interest Law (G.L. c. 268A) or Financial Disclosure Law (268B) has been violated, the Commission terminates the inquiry confidentially. On the other hand, if "reasonable cause" is found, the case proceeds in one of the following ways:

1. The Commission may authorize the issuance of an Order to Show Cause. The Order serves as a formal complaint and initiates an adjudicatory hearing to determine whether a violation of the law has occurred. After the hearing is held, the Commission issues a Decision and Order deciding the case.
2. The Commission may agree to enter into a Disposition Agreement. A Disposition Agreement is a negotiated document in which the subject admits to having violated the law and agrees to pay a civil fine. The Commission has the authority to impose up to a \$2,000 fine for each violation of either G.L. c. 268A or 268B.
3. The Commission may authorize the issuance of a Public Enforcement Letter, with the subject's consent. A Public Enforcement Letter lays out the facts of the case and violations of law. The subject, however, does not have to admit to having violated the law or pay a civil fine.
4. The Commission may sue in Superior Court to recover any economic advantage gained by individuals or businesses in violations of the conflict law and may seek to recover up to three times that amount in additional damages.
5. The Commission may refer any matter to the Attorney General, a district attorney or the United States Attorney for criminal investigation and prosecution.

Short of finding reasonable cause, and in lieu thereof, the Commission may issue a confidential compliance letter to advise an individual of violations and to explain the consequences of future misconduct. The issuance of a compliance letter is limited to situations which do not involve willful misconduct, significant economic advantage or gain by the subject, significant economic loss to the commonwealth, the use of undue influence or confidential information for personal gain, or the potential for serious impact on public confidence in government.

REVIEW OF FY90 ACTIVITIES

Complaints

In FY90, 677 complaints were brought to the Commission for investigation, a 12.2% decrease from the 771 complaints filed in FY89. There were 149 complaints from FY89 that were not opened until FY90; therefore, a total of 826 complaints were before the Enforcement Division during FY90.

518 (about 76.5%) of the 677 complaints made to the Commission's Enforcement Division in FY90 alleged violations by municipal officials or employees. Another 107 (about 20.7%) involved individuals who work for the commonwealth, 18 complaints were made regarding county officials, 22 involved private individuals or corporations, and 12 complaints involved allegations against combinations of the above-mentioned groups.

Of the 677 complaints, 439 came from private citizens or public officials; 18 were referrals from law enforcement or other state, county or municipal agencies or officials; 25 were internally generated by Commission staff members from reports in the media or other sources; 13 were "self-reports" made by public employees regarding their own conduct; 4 resulted from staff review of financial disclosure forms and 178 were anonymous.

The Commission addressed the 826 complaints received or pending in FY90 as follows:

- 436 complaints were closed because the allegations made in the complaint did not suggest sufficient facts within the Commission's jurisdiction;
- 196 cases were assigned to an attorney/investigator team in the Commission's Enforcement Division for informal review;
- 48 complaints were consolidated with existing cases;
- 146 complaints had not yet been acted upon as of June 30, 1990.

Informal Reviews

In FY90 the staff closed 153 cases following informal staff reviews. Another 37 reviews led to formal investigations. These reviews were based on complaints received during FY90 and previous years. As of June 30, 1990, there were 63 ongoing reviews.

Of the 153 cases closed after informal review:

- 93 cases were closed because the staff determined there clearly was no violation of the conflict law, or that there was so little likelihood of a violation that the matter was not worth pursuing further;
- 48 cases were closed because the situation was one in which a private educational letter was appropriate;
- 1 case was closed after the subject sought advice from the Commission's Legal Division.
- 11 cases were dismissed, consolidated with existing cases or referred to other agencies.

Formal Investigations

The Commission authorized a total of 37 formal inquiries in FY90. These inquiries were based on complaints received during FY90 and previous years.

Of those 37 inquiries:

- 8 involved alleged violations of the financial disclosure law by state officials or employees;
- 29 involved alleged violations of the conflict of interest law by:
 - 15 municipal officials or employees 3 county officials or employees
 - 9 state officials or employees 2 private sector individuals or entities

The Enforcement Division staff completed 57 formal inquiries during FY90. These inquiries included investigations initiated during FY90 and previous years.

These 57 cases resulted in the following findings:

- 24 "reasonable cause" findings that the law was violated (19 conflict law, 4 financial disclosure law);
- 21 Confidential Compliance Letters were approved (all conflict law);
- 8 Public Enforcement Letters were issued in lieu of finding "reasonable cause";
- 4 "no reasonable cause" findings that the law was violated (all conflict law);

Public Resolutions

In FY90, 24 "reasonable cause" findings from FY90 and previous years resulted in:

- 1 Decision and Order involving a violation of the conflict law;
- 12 Disposition Agreements involving violations of the conflict law;
- 11 Disposition Agreements involving a violation of the financial disclosure law;

As of June 30, 1989, there were two public proceedings pending for which an Order to Show Cause had been issued after a reasonable cause finding.

Penalties

In FY90 the Commission assessed civil penalties totaling \$26,200 from 24 individuals and public entities found to have violated the conflict of interest or the financial disclosure law.

FY90 ENFORCEMENT ACTIONS

In the Matter of Rockland Trust Company (July 25, 1989)

The State Ethics Commission fined Rockland Trust Company \$4000 for continuing to sponsor a summer cruise for municipal treasurers despite a published report from the Inspector General indicating that such behavior raised serious conflict of interest concerns.

In a Disposition Agreement reached with the Ethics Commission, Rockland Trust admitted to violating Section 3 of G.L. c. 268A in both 1986 and 1987, and agreed to pay the fine. The bank was fined \$2000 for each of the two cruises. Section 3 of the conflict law prohibits the giving of anything of substantial value (\$50 or more) to public employees for or because of their official position, or anything done or to be done by them in their official capacity. This prohibition includes providing meals, entertainment, or any other item of substantial value to a public employee in an attempt to foster good will. Prior to November of 1985, the Agreement said, there was a widespread practice of banks paying for entertainment of public officials who managed municipal funds. However, on November 23, 1985, the Office of the Inspector General (IG) issued a document entitled "Report on Municipal Banking Relations," which among other things warned that conduct of this type raised serious concerns under the conflict law. Following the publication of the IG's report, officials in the marketing department of Rockland Trust discussed what, if any, impact the report should have on their annual summer outing, to which it invited all members of the Plymouth County Collectors and Treasurers Association (PCCTA). Without consulting the IG or the State Ethics Commission, they concluded the report did not apply to their function.

Rockland Trust held its annual dinner cruises in 1986 and 1987, and both times invited all members of the PCCTA and other municipal treasurers were invited to attend. The bank cancelled its 1988 summer outing after being contacted and questioned by the Ethics Commission regarding the previous cruises.

In the Matter of Lawrence Cibley
(September 6, 1989)

The State Ethics Commission fined Lawrence J. Cibley, chairman of the Bellingham Board of Selectmen, \$1000 for violating the state's Conflict of Interest Law by trying to "fix" a speeding ticket given to a friend.

In a Disposition Agreement reached with the Commission, Cibley admitted to violating Section 23 of the conflict law, and agreed to pay the fine. Section 23 prohibits public employees from using their official position to garner unwarranted privileges for themselves or others. It also prohibits public employees from acting in a manner that would cause a reasonable person to conclude they will act with bias in their official capacity.

In February of 1989, Bellingham Police Officer Allan Graham Jr. stopped Alfred DaPrato in his vehicle, having clocked DaPrato's car at 50 miles per hour in a 25 miles per hour zone, the Disposition Agreement said. DaPrato was issued a \$200 speeding ticket.

Shortly after receiving the ticket, DaPrato called Cibley and told him he had been issued a speeding ticket. Cibley then called the Police Department and was referred to Officer Graham. The call took place on the Department's recorded line. Cibley acknowledged the accuracy of the tape, and that he was in effect trying to "fix" DaPrato's ticket.

Graham did not "fix" the ticket, but filed an incident report regarding the ticket and ensuing conversation.

In the Matter of John P. O'Brien
(September 6, 1990)

Hampden County Register of Probate John P. O'Brien was fined \$500 for his failure to disclose certain real estate transactions and loans on his 1986 and 1987 Statements of Financial Interests (SFIs).

In a Disposition Agreement reached with the Commission, O'Brien agreed to pay the fine and admitted he violated Section 7 of G.L. c. 268B, the state's Financial Disclosure Law, by omitting reportable information on his SFIs relating to his purchase and resale of several Springfield properties, and to loans taken out on behalf of his son. Section 7 of the Financial Disclosure Law prohibits the filing of a false SFI. A false filing need not be willful nor intentional to violate the law; the statute requires a commitment to a "reasonable degree of care and diligence in filing the forms," and the Commission determines whether an individual filer has exercised such care on a case by case basis, the Disposition Agreement said.

Omissions that the Commission deems to reflect a lack of reasonable care and ordinary diligence are omissions that either involve a party or transaction over which the filer could exercise official responsibilities as a public employee, involve total omissions of required information, or are material in number and amount to the filer's overall real estate holdings, the Disposition Agreement said. O'Brien did not prepare his 1986 and 1987 SFIs personally, but delegated the task to his executive assistant, the Agreement said. O'Brien instructed the assistant to use the previous year's SFI in preparing the current SFI; however, O'Brien both failed to provide his assistant with the documents and other information necessary to fully update the Statements, and in reviewing and signing the SFIs, failed to identify the omissions.

In the Matter of Anthony Rizzo
(September 6, 1989)

The State Ethics Commission fined former Revere School Committee member Anthony Rizzo \$1000 for voting to create a school security guard position that he knew his son would occupy.

Rizzo admitted in a Disposition Agreement reached with the Commission to violating Section 19 of the Conflict of Interest Law, and agreed to pay the fine. Section 19 prohibits municipal employees from participating in any matter that affects the financial interests of their immediate family members. In October of 1986, the Disposition Agreement said, Rizzo presided over a special School Committee meeting and moved and voted to accept a recommendation regarding security at the Roland Merullo Field House. The School Committee voted in favor of this motion, although the matter was not on the scheduled agenda. The motion had recommended that a senior citizen be hired as a security person for the Field House; however, Richard Rizzo was given the job.

While not expressly stated in the recommendation or motion, Rizzo admitted he knew that the School Committee was creating a position that his son would occupy. Richard Rizzo was employed as a special police officer for the Revere School Department from October of 1986, until he resigned effective April 7, 1989. He earned \$3,840 in 1986, \$19,048.49 in 1987, and \$19,148.46 in 1988, according to the Agreement.

In the Matter of Richard L. Reynolds
(November 15, 1989)

Former Saugus Selectman Richard L. Reynolds was found to have violated the state's Conflict of Interest Law on two occasions in 1985 by acting as the agent of a family trust before the town's Planning Board; however, the Ethics Commission declined to impose a fine in the case.

In a Decision and Order, the Commission said Reynolds violated Section 17 of Massachusetts G.L. c. 268A, which prohibits municipal officials from acting as agent or attorney for anyone other than the municipality they serve in matters of direct and substantial interest to the municipality.

In discussing its decision not to impose a fine against Reynolds, the Commission found that Reynolds made a "good faith, albeit ineffectual, attempt" to comply with a formal legal advisory opinion issued to him by the Commission's Legal Division before the violations occurred. The Commission said it found Reynolds credible in his testimony that he had not intended to act as the representative of the trust, but felt compelled to respond to the Board when he was addressed by it. While Reynolds is not entitled to any Section 17 exemptions as a matter of law, his actions, reviewed in the context of a fiduciary relationship to a family trust, do not merit the imposition of a fine, the Agreement said.

In the Matter of John DeOliveira
(December 13, 1989)

Former Berkley Selectman John DeOliveira was fined \$250 for violating the conflict law by signing his wife's employment contract for her job as a Berkley police department dispatcher.

In a Disposition Agreement reached with the Ethics Commission, DeOliveira admitted to violating Section 19 of G.L. c. 268A, and agreed to pay the fine. Section 19 prohibits municipal employees from participating in matters that affect the financial interest of members of their immediate family. "Immediate family" is defined in the Conflict of Interest Law as public employees themselves, their spouses, and both the employee's and the spouse's parents, children, and siblings. The Commission imposed the relatively small fine here in view of the fact that the violation of Section 19 consisted of DeOliveira participating in only the formal acceptance and execution of Elaine DeOliveira's employment contract rather than in the actual negotiation of the contract.

In the Matter of Carol Corso, David Kincus, William Marble, Joyce Pavlidakes, Laval Wilson and Woodward Spring Shop (January 18, 1990)

The State Ethics Commission issued Public Enforcement Letters in three cases involving job-related trips which were taken by municipal officials and employees, but paid for by private businesses. Taken together, the Letters further clarify how the Massachusetts Conflict of Interest Law applies to private parties paying for public employees' business travel and related expenses.

The Public Enforcement Letters explain certain options available within the confines of the conflict law to allow private entities to pay for business travel in connection with contracts made with cities and towns. While the conflict law prohibits direct payment of travel expenses by vendors, legitimate business trips may be lawfully accomplished in the following ways, according to the Letters:

1) Cities and towns may adopt an ordinance or bylaw regulating vendor payments for travel expenses. Such ordinances ensure the travel expenses are legitimate and directly related to the public purposes served by the travel.

2) A municipality can reimburse an employee for trip expenses incurred for business travel. The city or town may then bill the vendor for the costs of the public employee's travel expenses. This alternative should be reviewed with the city solicitor or town counsel before any action is taken.

3) G.L. c. 44, §53A may provide a statutory vehicle by which a private party may pay travel expenses for public officials. This section of the municipal finance law appears to allow a city or town to accept grants from a private corporation or individual and, in turn, expend such funds for the specific purpose intended with the approval of the mayor and/or the board of selectmen.

Boston School Superintendent Laval Wilson, Holbrook Fire Chief William Marble, Holbrook Firefighter David Kincus, Haverhill Council on Aging Director Carol Corso and Volunteer Coordinator Joyce Pavlidakes, and Woodward Spring Shop all received Public Enforcement Letters issued in three separate cases. Although the actions of the six parties raised concerns under Section 3 of M. G.L. c. 268A, the conflict law, the Commission ruled that adjudicatory proceedings were not warranted and that issuance of the public letters should ensure future compliance with the law.

**In the Matter of D. John Zeppieri
(February 14, 1990)**

Former North Adams License Board Chair D. John Zeppieri was fined \$1000 for violating the conflict law by negotiating for a real estate "exclusive" from a local restaurateur whose license was being considered for revocation by the Board.

In a Disposition Agreement reached with the Commission, Zeppieri admitted his actions violated Section 23 of the Conflict of Interest Law, and agreed to pay the fine. Section 23 prohibits public employees from using their official position to secure unwarranted privileges for themselves or anyone else; it also prohibits public employees from acting in a manner that would give an objective observer reason to believe they would act with bias in their official capacity.

**In the Matter of John P. King
(March 1, 1990)**

Former Wareham Planning Board Chair John P. King was fined \$750 by the Ethics Commission for violating the Conflict of Interest Law by representing a private client before his own board.

In a Disposition Agreement reached with the Commission, King admitted that his actions violated Section 17 of G.L. c. 268A, the conflict law, and agreed to pay the fine. Section 17 prohibits municipal employees from representing any private party in a matter that is of substantial interest to their municipality.

In addition to King's post on the Planning Board, he also worked privately as a registered professional engineer, the Disposition Agreement said. At a Planning Board meeting in November of 1987, King addressed the other members in his capacity as a structural engineer, representing a personal friend in his application for a Site Plan Review for a building the friend wanted to construct. King did not participate in the hearing or the vote as a member of the Planning Board, the Agreement said. King did not get paid for his representation, the Disposition Agreement said; however, the conflict law prohibits municipal employees from acting as agent for another party in matters of interest to their city or town regardless of whether they are paid or not.

In the Matter of Charles H. Forest
(March 6, 1990)

The State Ethics Commission charged Chatham Housing Authority (CHA) Executive Director Charles H. Forest with violating multiple sections of the Massachusetts Conflict of Interest Law in connection with his conduct regarding two elderly women who sought CHA housing.

In an Order to Show Cause (OTSC), the Commission's Enforcement Division alleged Forest violated Sections 2, 3, 17, 19, 20, and 23 of the conflict law between 1985 and 1987 in his dealings with Chatham residents Janet Lorenzo and Margaret Hull. According to the OTSC, Forest, in his capacity as CHA Executive Director, placed the women on the waiting list for barrier-free housing and obtained rental assistance for them when they were not eligible for either benefit; purchased the women's home from them and charged them rent while they awaited barrier-free housing; collected a portion of the CHA rental subsidy in addition to the women's rent payments; and concealed his interest in the property.

Section 2 prohibits public employees from corruptly seeking or receiving anything of value in return for being influenced in the performance of their official duties. Section 3 prohibits public employees from seeking or receiving anything of value that is given to them for or because of their official position, or to engender an employee's good will. Section 17 prohibits municipal employees from acting as agent or attorney for anyone other than their city or town in a matter in which the municipality has a substantial interest. Section 19 prohibits municipal employees from participating in their official capacity in any matter in which they or a member of their immediate family have a financial interest. Section 20 prohibits municipal employees from having a financial interest in more than one municipal contract. Section 23 prohibits public employees from using their official position to secure substantial unwarranted privileges for themselves or anyone else, and also prohibits them from acting in a manner that would cause an objective observer to believe the employee would act with bias in his or her official capacity.

Further proceedings regarding Forest were stayed pending the outcome of a criminal indictment against Forest concerning the same activities.

In the Matter of Vincent J. Lozzi
(March 8, 1990)

State Representative Vincent J. Lozzi was fined \$2,000 by the State Ethics Commission for violating the Conflict of Interest Law by submitting vouchers for state reimbursement of a private trip to San Francisco and by accepting state funds to pay for the trip.

Lozzi admitted violating Section 23(b)(2) of the conflict law in a Disposition Agreement reached with the Commission. Section 23 prohibits public employees from using their official position to secure substantial unwarranted privileges for themselves or anyone else.

According to the Disposition Agreement, Lozzi flew to San Francisco on a personal trip in October of 1986, and by vouchers dated November 4, 1986, and December 12, 1987, submitted requests for state reimbursement for the above-mentioned personal trip. The vouchers characterized the \$1552.20 in expenses as being incurred in connection with Lozzi's attendance at an insurance seminar while on state business. The Ethics Commission initiated a preliminary inquiry into Lozzi's conduct in April of 1989, and on December 26, 1989, Lozzi reimbursed the Commonwealth \$1552.20, the Disposition Agreement said.

In the Matter of John F. Aylmer
(March 21, 1990)

The State Ethics Commission issued a Public Enforcement Letter to Massachusetts Maritime Academy President John F. Aylmer in connection with his taking personal friends and members of his family on two Academy training cruises as "observers."

The Public Enforcement Letter, which did not require Aylmer to pay a fine or admit to violating the conflict law, states that Aylmer's conduct raised questions under Sections 6 and 23 of G.L. c. 268A. Section 6 prohibits state employees from participating in their official capacity in any matter in which they or a member of their immediate family has a financial interest. Section 23 prohibits public employees from using or attempting to use their official position to secure unwarranted privileges for themselves or anyone else, and also prohibits public employees from acting in a manner that would cause a reasonable person to conclude that the employee could be unduly influenced in his or her official position. Exemptions to Sections 6 and 23 could allow state employees to participate in a matter in which they or their family members have a financial interest, or which could result in the appearance of a conflict of interest, provided that the employee discloses the matter in writing to his or her appointing authority and receives written permission to participate in the matter prior to participating.

In the Matter of George Simard
(March 26, 1990)

The State Ethics Commission cited Brookline Police Chief George Simard in connection with his acceptance of a number of free tickets to the 1988 U.S. Open Golf Tournament and his distribution of those tickets to various criminal justice agencies and individuals in the greater Boston area.

In a Public Enforcement Letter, the Commission said Simard's conduct appeared to violate Section 23(b)(3) of the Conflict of Interest Law, which prohibits public employees from acting in a manner that would cause a reasonable person to conclude anyone could unduly enjoy their favor in the performance of their official duties. The Public Enforcement Letter did not require Simard to pay a fine or admit he violated the law.

Several days prior to the 1988 U.S. Open, the Public Enforcement Letter said, the U.S. Open Committee delivered approximately 40-60 sets of tickets for the event to Brookline Police Department. Each set contained seven tickets with individual face values between \$18 and \$20, giving each set of tickets a total value between \$126 and \$140, the Commission's letter said.

Simard purchased eight sets of tickets to the 1988 U.S. Open as a member of the Brookline Municipal Golf Course, and distributed these tickets to his family and friends, according to the Public Enforcement Letter. None of the tickets provided by the U.S. Open Committee were given to any of Simard's family or friends. In addition, Simard declined a request from the Country Club to waive the 10-percent surcharge fee for the police details. However, the Enforcement Letter said, additional safeguards were necessary in order to completely dispel any appearance of bias on Simard's part.

In the Matter of Deirdre Ling
(April 17, 1990)

Deirdre Ling, the University of Massachusetts-Amherst Vice Chancellor for university relations and development, was cited by the Ethics Commission for violating the Conflict of Interest Law by participating in awarding and monitoring several university contracts to a private corporation with whom she had current and future employment arrangements.

Although Ling disclosed her dealings with the corporation to her appointing authority, UMass Chancellor Joseph Duffey, and verbally received his permission to participate in the matters, the Commission found that both the disclosure and the permission were inadequate to avoid a violation of the conflict law. However, because there was disclosure, the Commission determined a fine was not appropriate. In a Disposition Agreement reached with the Commission, Ling admitted she violated Section 6 of M.G.L. c. 268A by her actions as a UMass-Amherst employee in connection with Enrollment Management

Consultants, Inc., and/or Advanced Marketing Technologies. Section 6 of the conflict law prohibits state employees from participating in their official capacity in any matter in which a person with whom they have an arrangement for employment has a financial interest.

In the Matter of George Keverian
(April 23, 1990)

In a Disposition Agreement reached with the State Ethics Commission, Massachusetts House Speaker George Keverian (D-Everett) admitted to violating the Conflict of Interest Law by engaging members of the House maintenance staff to perform substantial renovations on his private residence, and by participating in a number of private transactions involving oriental rugs with Michael Mouradian, a rug vendor who does significant business with the State House.

The Commission declined to impose a fine against Keverian for the violations of the so-called "appearances of impropriety" provision of the law, for two reasons, the Disposition Agreement said. First, the House employees and Mouradian appeared to have entered willingly into their private commercial relationships with the Speaker; and second, the Commission found no evidence that any of the maintenance employees or Mouradian received preferential treatment from Keverian in the performance of his official duties.

According to the Disposition Agreement, Keverian violated Section 23(b)(3) by hiring the House maintenance workers and paying them more than \$18,000 to do over 1200 hours of carpentry work on his private residence between 1987 and 1988; and by accepting more than \$500 in rug storage, cleaning and repair costs, approximately \$200 in packing services, three oriental rugs at nearly \$1500 below retain cost, and 10 oriental rugs on consignment for between 10 and 20 months from Mouradian, who is a life-long friend of Keverian's. Section 23(b)(3) prohibits public employees from acting in a manner that would cause an objective observer to believe that the public employee would act with bias in his official duties.

In the Matter of Jeffrey Zager
(May 1, 1990)

The State Ethics Commission fined Jeffrey Zager, the administrative assistant to the Mayor of Gloucester, \$1750 for participating in hiring his sister to a city job and subsequently negotiating a city contract with the union to which his sister belonged. When he recommended to the Mayor that his sister be hired, Zager failed to disclose the family relationship. In addition, Zager pushed for the hiring despite objections from the city treasurer that Zager's sister lacked sufficient experience for the job.

In a Disposition Agreement reached with the Commission, Zager admitted his actions violated Section 19 of G.L. c. 268A, and agreed to pay the fine. Section 19 prohibits municipal employees from officially participating in any matter that could affect the financial interests of a member of their immediate family. Zager was fined \$1500 for his role in the 1984 hiring, and \$250 for participating in the contract talks.

In the Matter of Gary P. Mater
(May 4, 1990)

The State Ethics Commission fined former Hubbardston Board of Health member Gary P. Mater \$5000 for using the town's Board of Health Agent as a "straw" to collect inspection fees Mater was prohibited from receiving.

Mater admitted in a Disposition Agreement that he violated Sections 19 and 20 of Massachusetts G.L. c. 268A by procuring inspection fees from Hubbardston's Board of Health Agent using payment vouchers that falsely identified the agent as the person who performed the inspections, and by knowingly approving these vouchers as a member of the Board of Health.

Section 19 prohibits municipal employees from acting in their official capacity on any matter that affects their own financial interests. Section 20 prohibits municipal employees from having a financial interest in any contract (other than their own employment contract) made with the city or town for which they work.

In the Matter of Charles O. Baldwin
(May 16, 1990)

Charles O. Baldwin, the former chairman of the Swansea Planning Board, was fined \$6000 by the Ethics Commission for violating the Conflict of Interest Law by participating in Planning Board actions regarding real estate properties and developments in which either he or his wife had a financial interest.

In a Disposition Agreement reached with the Commission, Baldwin admitted to violating Section 19 of Massachusetts G.L. c. 268A, the conflict law, and agreed to pay the fine. Section 19 of the conflict law prohibits municipal employees from participating in their official capacity in matters in which they or a member of their immediate family has a financial interest.

According to the Agreement, Baldwin participated on four occasions during 1987 in Planning Board discussions and votes regarding subdivisions owned by P&H Inc., a business of which Baldwin was an unnamed but beneficial owner. Baldwin also participated on two occasions in 1986 in Planning Board votes to approve ANR (Approval Not Required) plans for property owned by himself and by Patricia Baldwin, who was then his wife, the Agreement said.

In each of the instances where Baldwin participated in the discussion or vote regarding the corporations' properties, he did not disclose, nor did any of the papers filed with the Planning Board otherwise reveal, his financial interest in the corporations that owned the properties, the Disposition Agreement said. In addition, from at least July of 1987 Baldwin made attempts to conceal his interests in P&H, the Agreement said. This effort to conceal his interests was an exacerbating factor.

In the Matter of Vito Trodella
(June 12, 1990)

The State Ethics Commission fined Vito Trodella, a member of the Board of Registration in Veterinary Medicine, \$500 for violations of the state's Conflict of Interest Law. Trodella violated the law by requesting and receiving free season passes to Suffolk Downs Racetrack, which had veterinarians under the Board's supervision, and by attempting to secure additional passes by falsely asserting that other Board members also desired season passes.

The Commission issued an Order to Show Cause in the case on March 9, 1990, charging Trodella with violating Sections 3 and 23 of M.G.L. c. 268A. In a Disposition Agreement reached with the Commission and released June 12, Trodella admitted violating both sections of the law and agreed to pay the fine. Section 3 prohibits public employees from requesting or receiving anything of substantial value for or because of any action within their official responsibility. Section 23 prohibits public employees from using or attempting to use their official position to secure unwarranted privileges or exemptions of substantial value for themselves or anyone else; Section 23 also prohibits public employees from acting in a manner that would cause a reasonable person to conclude they would act with bias in their official capacity.

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ETHICS
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