

MINUTES OF THE STATE ETHICS COMMISSION MEETING

June 19, 2014

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:04 a.m. Also in attendance were Commissioners Martin F. Murphy, William J. Trach and Regina L. Quinlan. Commissioner Paula Finley Mangum arrived at 9:14 a.m.

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 May 22, 2014 public and executive sessions.

The Commission reviewed the public session minutes of the May 22, 2014 Audit, Finance and Human Resources Committee meeting. There were no questions, and no action by the Commission was required.

EXECUTIVE DIRECTOR'S REPORT

Personnel

Executive Director Karen L. Nober welcomed new Enforcement Division Chief Kelly Downes, who started June 9. The Commissioners welcomed Ms. Downes.

Ms. Nober also reported that Enforcement Division Deputy Chief/Investigations Katherine Gallant and Chief Financial Officer Michael Memmolo recently completed the Commonwealth Manager Certificate Program, and both described the management development program as a positive experience. Ms. Gallant and Mr. Memmolo attended one full-day session every month for six months, and there was a graduation ceremony at the conclusion recognizing those who completed the program. Ms. Nober stated that she would like to send two more managers to the program next year. The Commissioners applauded Ms. Gallant and Mr. Memmolo.

Ms. Nober reported that the new assistant general counsel position has been posted on the state's Commonwealth job site and in Massachusetts Lawyers Weekly, and so far the Commission has received 86 applicants. Many of the applicants appear to be recent law school graduates, and, while the position is relatively junior, Ms. Nober stated that she is looking for a person with at least three years of experience and with some government experience. Ms. Nober stated that she, General Counsel Deirdre Roney and Mr. Memmolo are reviewing the resumes to decide which candidates to invite in for the first round of interviews.

Ms. Nober stated that she has distributed performance evaluation forms to the managers, and that the process of staff evaluations is underway. She stated that she is planning to provide her own self-evaluation to the Commission by mid-July.

Budget

Ms. Nober reported that the Commission is on track with its spending for this fiscal year, which ends on June 30. She stated that Mr. Memmolo has budgeted the remaining funds, and that if we need to revert any unexpended funds to the state, it will be a minimal amount.

Ms. Nober stated that Mr. Memmolo, Public Education and Communications Division Chief David Giannotti and Information Technology Specialist Tony Webb have been working to update the Commission's IT infrastructure, including the replacement this year of two servers at a cost of about \$19,000. The two new servers run the Commission's network. This was completed yesterday, and the cost covered two servers, a consultant to help install and transfer data and a back-up tape. The Commission has six servers in total; two Ethos servers were replaced last year, two this year, and the remaining two are scheduled to be replaced next year. The final two servers support the Commission's email system, and Ms. Nober said she and staff are looking into whether the Commission should return to the state MassMail system. Chairman Dortch-Okara asked why the Commission no longer uses MassMail, and Ms. Nober reported that she believes that concerns about confidentiality caused the move away from the system, but noted that other state law enforcement agencies continue to use it. Ms. Nober stated that we will follow up with some of those agencies to ask about their experience using the state email system.

Ms. Nober also reported that in May, the Comptroller's Office completed its review of the Commission's internal controls, which began last December. The review included an audit of the Commission's financial procedures and a review of the Commission's Internal Controls Plan, which was revised last year. The review included a few minor recommendations, but overall their report was extremely positive, and the cover letter accompanying the final report stated that the Commission is a "well-run organization." Ms. Nober stated that she plans to further revise the Internal Controls Plan to reflect the recommendations, and will schedule an Audit, Finance and Human Resources Committee meeting this summer to review the revised Internal Controls Plan.

Draft Advisory 14-1

Ms. Nober reported that after the May Commission meeting, draft Advisory 14-1: Public Employees' Private Business Relationships And Other Private Dealings With Those Over Whom They Have Official Authority Or With Whom They Have Official Dealings was posted on the website and sent to the Commission's distribution list of interested parties. We asked for comments and suggestions with a deadline of June 23, and so far have received very little feedback. Ms. Nober stated that the advisory will be brought back to the Commission in July for final approval.

Next Meeting

Ms. Nober reported that the next meeting will be held on Wednesday, July 16, 2014 at 9:00 a.m. After discussion by the Commission, Chairman Dortch-Okara stated that the Commission will continue to meet on the third Thursday of the month at 9:00 a.m. through December. There will be no meeting in August.

PUBLIC EDUCATION DIVISION MATTERS

Public Education and Communications Division Chief David Giannotti presented a report concerning Public Education and Communications Division activities for the month of May 2014. Mr. Giannotti stated that since the division began offering webinars in January 2014 for its seminars, every in-house seminar has offered its attendees the opportunity for remote attendance by webinar, and Public Education and Communications Division Deputy Chief Marisa Donelan has hosted two seminars entirely by webinar. Mr. Giannotti said he is pleased with the new system. The division has also received an invitation from the Attorney General's Open Government Division to team up for some educational seminars, and he is working on coordinating with them. Chairman Dortch-Okara stated that she recently appeared on the public access television program "Discovering the Law" to discuss the Commission, and thanked Mr. Giannotti for helping her prepare for her interview.

LEGAL DIVISION MATTERS

Legal Division Metrics

Ms. Roney presented the following Legal Division metrics for May 2014:

- **Written advice.** In May 2014, the Legal Division answered by letter or email 37 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 2013 (same month last year):	20
	April 2014 (previous month):	69

- **Oral advice.** During this same period, Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 581 state, county and municipal officials.

For comparison:	2008 monthly average (pre-Ethics Reform):	280
	2010 monthly average (post-Ethics Reform):	450
	May 2013 (same month last year):	704
	April 2014 (previous month):	648

- **Review of municipal letters.** The Legal Division reviewed 5 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
	May 2013 (same month last year):	4
	April 2014 (previous month):	5

- **Backlog.** As of today, there are 11 pending requests for written advice that are more than 30 days old: two from March 2014, five from April 2014 and four from May 2014. We have a total of 27 pending requests for written advice.

Ms. Roney stated that she is pleased with the SFI Team's work during the calendar year 2013 filing season and their impressive reduction in the number of Formal Notices of Lateness that were sent to filers. She stated that Legal Division Deputy Chief/SFI Lauren Duca will present a full report to the Commission next month.

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. She stated that the division is working on a draft advisory concerning public employees' job searches, which the Commission will receive soon.

Adjudicatory Matters

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

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, was filed on March 21, 2014. She stated that Mr. McClure has yet to file a motion for judgment on the pleadings.

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics

Enforcement Division Deputy Chief/Investigations Katherine Gallant presented a report of the Investigations Unit activities for May 2014. Ms. Gallant stated that the number of complaints pending continues to come down, due to the hard work of the investigators. As of this morning, the number was 208, down from 350 last year.

EXECUTIVE SESSION

At 9:23 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.

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 June 19, 2014.
2. Minutes of the State Ethics Commission Meeting for the May 22, 2014 Public and Executive Session.
3. Minutes of the Audit, Finance and Human Resources Committee Meeting for the May 22, 2014 Public Session.
4. Memorandum dated June 12, 2014 from David Giannotti to the Commission concerning Public Education and Communications Division activities for May 2014.

5. Memorandum dated June 12, 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 June 3, 2014.

Respectfully submitted,

Marisa Donelan
Public Education and Communications
Division Deputy Chief