



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 **April 16, 2015**

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:02 a.m. Also in attendance were Commissioners Martin F. Murphy, William J. Trach and David A. Mills.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Murphy, seconded by Commissioner Trach, the Commission voted 3-0, with Chairman Dortch-Okara abstaining because she was absent from the last meeting, to waive the reading and approve the minutes of the March 19, 2015 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Personnel

Executive Director Karen L. Nober reported that the Commission's Deputy Chief of the Public Education and Communications Division, Marisa Donelan, resigned to take a position at a social media marketing company. Ms. Donelan's last day at the Commission was April 10, 2015. Ms. Nober stated that, depending on the outcome of the FY16 budget process, she hopes to fill this position.

Budget

Ms. Nober reported that she testified on behalf of the Commission at the Commission's budget hearing on March 25 in Worcester. She and Chief Financial Officer Michael Memmolo attended

the hearing. Regarding the Governor's proposed Early Retirement Incentive Program, Ms. Nober informed the Commission that she originally requested to have the Ethics Commission included in the program due to an employee's strong interest in participating. However, because that employee no longer wants to participate in the program, she has notified the Legislature that the Ethics Commission is no longer interested in being included in the program. Ms. Nober said that the Commission would have realized a substantial savings if the employee participated in the early retirement program.

Ms. Nober reported that yesterday the House released its FY16 budget recommendation, which proposes to level-fund the Commission at its FY15 funding level prior to the Governor's 9C cut, restoring \$35,000 of the Commission's budget. Ms. Nober stated that the House's budget is a more favorable budget for the Commission than the Governor's proposal. She said that she asked the Joint Committee on Ways and Means for \$60,000 more than the Governor's budget, so the House's proposed budget, while better for the Commission, is still \$25,000 less than the amount she requested. Ms. Nober has asked Representative Kocot to file a budget amendment giving the Ethics Commission an additional \$25,000, which he has agreed to do. Chairman Dortch-Okara asked whether it was Ms. Nober's sense that the Senate would follow the House's proposal. Ms. Nober responded that she did not know, but thought that there was a good possibility the Senate could match the House's proposed budget.

Training

Ms. Nober reported that last week she and General Counsel Deirdre Roney conducted a training session on the conflict law with members of the Senate.

Enforcement Committee Meeting

Ms. Nober stated that there will be an Enforcement Committee meeting scheduled to follow the Commission meeting on May 21. The Commission meeting will begin at 9:00 am.

PUBLIC EDUCATION DIVISION REPORT

Mr. Giannotti presented the Public Education and Communication Division's report for the month of March 2015. He noted that the Commission, in collaboration with the Inspector General's Office, worked with the Board of Higher Education to provide training to state colleges' boards of trustees, which resulted in two programs – one at Massasoit Community College and one at Mount Holyoke College. He stated that this may be a training that the Ethics Commission will continue to provide on a regular basis.

LEGAL DIVISION MATTERS

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 stated that the inclement weather this past winter may have impeded filers' ability to file. Therefore, in hopes of achieving full compliance, the

SFI team is in the process of following up with and sending reminder notices to liaisons about the upcoming May 1 filing deadline. Ms. Duca also reported that the impending filing deadline has caused a large increase in the number of calls regarding SFI filings, and reported that there were about 200 more calls in March than in February. Ms. Duca stated that the SFI team continues to work on getting CY13 filings. Chairman Dortch-Okara asked how large the outstanding group of CY13 filers is. SFI Administrator and Analyst Robert Milt responded that there are about 12 filers.

Chief Financial Officer 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 stated that on April 2, Ms. Roney and IT Specialist Tony Webb traveled to the Connecticut Ethics Commission to learn about their SFI filing application, which was built by the same vendor proposing to build the Commission's SFI Filing and Management Application. Mr. Memmolo also reported that on April 8, the vendor held an all-day demonstration at the Commission as part of its response to the Commission's RFP. In addition to the Project Management Team and some Commission staff members, in attendance were liaisons from the Treasurer's Office, Secretary of State's Office, Legislature, Administrative Office of the District Court, MassIT, State Auditor's Office and EOHHS. Mr. Memmolo stated that the PMT is on schedule and will be completing its final part of the evaluation in the next couple of weeks.

Chairman Dortch-Okara asked what was learned from the trip to Connecticut. Ms. Roney responded that the Connecticut State Ethics Commission made clear the importance of doing the front-end work, such as defining business requirements, and that the Connecticut State Ethics Commission subsequently ended up hiring a contractor to make additions and do updates for its system. Furthermore, Ms. Roney stated that she and Mr. Webb were able to view the application and discuss in detail the technical requirements involved. Ultimately, the visit to Connecticut and seeing the application showed that the vendor would be able to build a system that is demonstrably better than the current legacy system being used by the Commission. For example, the Connecticut application provides a way for responses to public records requests to be more automated. Ms. Roney reported that the Commission's project manager, Susan Laniewski, has been very helpful in ensuring that the SFI team does the front-end work and the team has put in a lot of time in defining our business needs, which are detailed in the RFP. Ms. Roney further reported that she continues to be confident that the team will meet its aggressive deadline, which would allow the next SFI filing cycle to occur on the new system. Vice-Chairman Murphy asked whether the new application would be able to roll over data from previous filing seasons. Ms. Roney responded that it would and the team is focused on this particular feature because it would be more convenient for filers and because of public records retention requirements. However, because the SFI form is currently being revised, it could complicate the rollover process.

[At 9:17 a.m., Commissioner Quinlan entered the room.]

Legal Division Metrics

Ms. Roney presented the following Legal Division metrics for March 2015, noting that the number of requests for advice has nearly doubled from February, presumably due in large part to

employees taking the conflict of interest law online training and to towns' elections:

- **Written advice.** The Legal Division answered by letter or email 46 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
	March 2014 (same month last year):	47
	February 2015 (previous month):	44

- **Oral advice.** The Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 568 requests for advice from state, county and municipal officials.

For comparison:	2008 monthly average (pre Ethics Reform):	280
	2010 monthly average (post Ethics Reform):	450
	March 2014 (same month last year):	581
	February 2015 (previous month):	300

- **Review of municipal letters.** We 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
	March 2014 (same month last year):	7
	February 2015 (previous month):	12

- **Backlog.** As of today, we have 7 pending requests for written advice that are more than 30 days old, of which the oldest was received on December 10, 2014. We have a total of 21 pending requests for written advice.

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.

Adjudicatory Matters

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

Litigation Matters

Ms. Roney 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.

ENFORCEMENT DIVISION MATTERS

Attorney Metrics and Investigations Unit Metrics

Enforcement Division Chief Kelly Downes presented the monthly report of Investigations Unit activities for March 2015, noting a correction to the number of complaints resolved by investigators so far this fiscal year as 591. Enforcement Division Deputy Chief/Investigations Katherine Gallant presented the report and stated there were almost twice as many complaints filed last month as compared to most other months. Chairman Dortch-Okara asked if there was an explanation for the sudden increase in complaints. Ms. Gallant stated that the upcoming town meeting and town elections season was probably the biggest factor contributing to the increase, and that most of the complaints involved municipal employees.

Ms. Downes presented the quarterly report of attorney metrics. Ms. Downes noted that for the first time, the attorney metrics include data for private Education Letters, and so far 50 confidential Education Letters have been sent by the Commission in FY15. The Commission had no questions.

EXECUTIVE SESSION

At 9:28 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, closing memoranda, public and private education letters, and advisory opinions.

Chairman Dortch-Okara stated that the Commission will not 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>

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of April 16, 2015.
2. Minutes of the State Ethics Commission Meeting for the March 19, 2015 Public and Executive Sessions.
3. Minutes of the Legal Committee Meeting held on March 19, 2015.

4. Memorandum dated April 9, 2015 from David Giannotti to the Commission concerning Public Education and Communications Division activities for March 2015.
5. Memorandum dated April 9, 2015 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 Unit Metrics, dated April 2, 2015.

Respectfully submitted,

A handwritten signature in blue ink that reads "Pauline H. Nguyen". The signature is fluid and cursive, with a prominent flourish at the end.

Pauline Nguyen
Assistant General Counsel