

**MINUTES OF THE STATE ETHICS COMMISSION MEETING**  
**December 18, 2014**

One Ashburton Place, Room 619  
Boston, MA 02108

**PUBLIC SESSION**

**MEETING CONVENED**

Chairman Barbara Dortch-Okara called the meeting to order at 9:05 a.m. Also in attendance were Commissioners Martin F. Murphy, William J. Trach, Regina L. Quinlan and David A. Mills.

**APPROVAL OF MEETING MINUTES**

On the motion of Commissioner Quinlan, seconded by Commissioner Trach, the Commission voted 4-0, with Commissioner Mills abstaining because he did not participate in the last meeting, to waive the reading and approve the minutes of the November 20, 2014 public and executive sessions.

**EXECUTIVE DIRECTOR'S REPORT**

**Appointment of Committee Chair**

Executive Director Karen L. Nober requested that the Commission appoint a member to chair the Audit, Finance and Human Resources Committee. After discussion by the Commission, the Commission agreed by consensus to appoint Commissioner Mills to chair the Committee.

Ms. Nober officially welcomed Commissioner Mills to his first meeting as a Commissioner.

**Council on Governmental Ethics Laws (COGEL) Conference**

Ms. Nober reported that she and Enforcement Division Chief Kelly Downes attended the annual COGEL conference in Pittsburgh last week, and stated that she and Ms. Downes attended different sessions to cover many of the subjects that were discussed. Ms. Nober reported that it was a good opportunity to network and meet with other ethics commission staff from other states. Ms. Nober stated that she served as a panelist during a session on financial disclosure forms, and she led a breakfast discussion one morning as well. The COGEL conference will be held in Boston in 2015, and Ms. Nober stated that during the coming year, she will be having discussions about the conference with Commissioners and staff.

### **Meetings with New Legislators**

Ms. Nober reported that when she returned from COGEL, she went to UMass-Amherst to meet with the newly elected Representatives to provide an introduction to training on the conflict of interest law. The Office of Campaign and Political Finance also provided training at that session. Before she left for COGEL, Ms. Nober met with four of the five new Senators as well. She stated that she expects there will be additional training with the new and returning Legislators.

### **Budget**

Ms. Nober reported that she and Chief Financial Officer Michael Memmolo have been in touch with the Commission's budget analysts from the House Ways and Means Committee and the Senate Ways and Means Committee to discuss the potential 9C cuts and their impact on the Commission. Ms. Nober stated that she had told the analysts that a 1.5% cut would not be sustainable for the Commission, and that she had asked the Senate Ways and Means budget analyst whether there was any way for us to access funds from the collective bargaining reserve account to fund the collective bargaining increases scheduled to go into effect in January 2015. She said she had also raised this with the Executive Office for Administration and Finance prior to the 9C issue. We have not yet heard back on whether this is possible. Ms. Nober stated that it looks as though the Legislature is waiting to take action until the Baker administration is in place and able to weigh in. Ms. Nober stated that if the Commission had to make a 1% cut, rather than a 1.5% cut, it would still be a very tight budget, but we could do it in a way that it would not affect the scheduled collective bargaining increases. Chairman Dortch-Okara asked what the difference between a 1% and 1.5% cut would be for the Commission's budget, and Ms. Nober responded that the difference is an additional \$10,000.

### **Personnel**

Ms. Nober reported that Enforcement Division Administrative Assistant Mary Murphy retired this week. She stated that we had a nice luncheon in Ms. Murphy's honor and wished her well in retirement.

Ms. Nober also reported that the Commission had its office holiday outing on Tuesday, and that a party for former Commissioner Paula Finley Mangum is being planned for January 14, 2015.

Ms. Nober stated that Public Education and Communications Division Chief David Giannotti is not in attendance at today's meeting because he is attending a session of the Commonwealth Management Certificate Program.

### **Next Meeting**

Ms. Nober stated that the next Commission meeting will be held on Thursday, January 15, 2015 at 9:00 a.m.

## **PUBLIC EDUCATION DIVISION MATTERS**

Public Education and Communications Division Deputy Chief Marisa Donelan presented Mr. Giannotti's report on Public Education and Communications Division activities for the month of November 2014. Ms. Donelan stated that the new compliance cycle for the conflict of interest law education and training requirements will begin soon, and she expects that it will significantly increase the number of calls to the Division. The Commission had no questions.

## **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 the ongoing project to replace the Commission's SFI electronic filing system. Ms. Duca reported that she and SFI Administrator and Analyst Robert Milt are working on reviewing the SFI filer designation lists filed with the Commission by state and county agencies. She stated that the deadline for submitting designation lists was this week, and that the response has been much better this year.

Ms. Duca provided an update on the SFI electronic filing system project, and stated that the SFI Team has met weekly with the MassIT project advisor and that the project manager has been in the office several days a week. Ms. Duca stated that she is hopeful that we will be able to issue an RFQ for a vendor to develop the system by the end of this month or early next month, and that the project remains on schedule. Ms. Duca stated that MassIT has been very helpful during this process. Commissioner Murphy asked whether the transition following the state administration change will affect the SFI designation and filing process. Ms. Duca responded that we are working closely with the agencies to track filers as they enter or leave the agencies, and that those newly designated as SFI filers in early 2015 will be given until the regular deadline of May 1, 2015 to file. Ms. Nober stated that the SFI Team has done a good job of coordinating with the agencies. General Counsel Deirdre Roney stated that one of the things we hope to accomplish with the new filing system will be an automated tracking process for when a filer changes jobs or leaves public service. Ms. Roney noted that the Operational Services Division has also been very helpful during the SFI electronic filing system project.

### **Legal Division Metrics**

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

- **Written advice.** The Legal Division answered by letter or email 43 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 |

|                                       |    |
|---------------------------------------|----|
| November 2013 (same month last year): | 34 |
| October 2014 (previous month):        | 53 |

- **Oral advice.** During this same period, Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 323 state, county and municipal officials.

|                 |                                            |     |
|-----------------|--------------------------------------------|-----|
| For comparison: | 2008 monthly average (pre Ethics Reform):  | 280 |
|                 | 2010 monthly average (post Ethics Reform): | 450 |
|                 | November 2013 (same month last year):      | 362 |
|                 | October 2014 (previous month):             | 450 |

- **Review of municipal letters.** The Legal Division reviewed 3 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  |
|                 | November 2013 (same month last year):      | 4  |
|                 | October 2014 (previous month):             | 10 |

- **Backlog.** As of today, there is one pending requests for written advice that is more than 30 days old, which was received on October 28, 2014. We have a total of 9 pending requests for written advice.

Ms. Roney stated that the Division has done a good job of managing its workload, and that having a sixth attorney in the Division has been a big help.

### **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 to develop a confidentiality agreement with MassIT, so that when the Commission transitions its email to MassMail, we can ensure compliance with our statutory confidentiality requirements.

### **Adjudicatory Matters**

Ms. Roney presented the calendar of hearing dates and pre-hearing conferences in pending Commission adjudicatory proceedings. There were no questions.

### **Litigation Matters**

Ms. Roney reported that on March 21, 2014, we answered Richard McClure's complaint seeking judicial review of the Commission's August 2, 2013 decision that he violated c. 268A, § 17. His motion for judgment on the pleadings was due to be filed by April 24, 2014. Ms. Roney stated that Legal Division Deputy Chief David Wilson has been in contact with the court and has

attempted to contact Mr. McClure regarding the Commission's plan to dismiss the complaint for failure to prosecute. Ms. Roney stated that because attempts to contact Mr. McClure have been unsuccessful, the Commission will move forward with filing its motion to dismiss.

## **ENFORCEMENT DIVISION MATTERS**

### **Attorney Metrics and Investigations Unit Metrics**

Ms. Downes presented the monthly report of Investigations Unit activities for November 2014. She stated that there has been a decrease in the number of complaints the Enforcement Division has received since the election on November 4. Ms. Downes stated that the Division is continuing to work on pending investigations. Ms. Downes also reported that she intends to work on revising the Commission's discovery manual, confidentiality manual and investigative procedures, and possibly combine the three into one litigation manual for the staff. She also stated that all Enforcement Division attorneys, including herself, will attend a Massachusetts Continuing Legal Education training program on discovery, and that she also has signed up the attorneys for an MCLE writing workshop. Additionally, Ms. Downes stated that she hopes to work with the Attorney General's Office to develop a training program for the Investigations Unit staff.

Enforcement Division Deputy Chief/Investigations Katherine Gallant reported that the investigators are working to address the complaints that came in prior to July 1, 2014, and that as of today, the number is down to 31 from 48 at the end of November. Ms. Gallant stated that the investigators have been working hard to reduce the backlog of older complaints.

Ms. Gallant also reported that she is working on a procedure to address the use of SFI filings in our investigations. She stated that at a certain point in an investigation involving an SFI filer, it would make sense for staff to review their SFIs. Chairman Dortch-Okara asked whether the Division receives many SFI complaints, and Ms. Gallant responded that we receive very few complaints related to SFI filings, but that the information included in an individual's SFI, such as a property holding, could be relevant to a conflict of interest law investigation. Commissioner Trach noted that this could increase the investigators' workloads, and asked whether it was necessary to review SFIs in all complaints related to filers. Ms. Gallant responded that SFIs would be examined only when the case has reached the preliminary inquiry stage, and, therefore, the step would not be taken in every complaint.

## **EXECUTIVE SESSION**

At 9:41 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 and advisory opinions.

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

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

**LIST OF DOCUMENTS USED AT THIS MEETING**

1. Agenda for the Commission Meeting of December 18, 2014.
2. Minutes of the State Ethics Commission Meeting for the November 20, 2014 Public and Executive Session.
3. Memorandum dated December 12, 2014 from David Giannotti to the Commission concerning Public Education and Communications Division activities for November 2014.
4. Memorandum dated December 12, 2014 from Deirdre Roney 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 December 10, 2014.

Respectfully submitted,

Marisa Donelan  
Public Education and Communications  
Division Deputy Chief