

AUDIT REPORT

2010 STATEMENTS OF FINANCIAL INTERESTS

SEPTEMBER 15, 2011



SUMMARY & BACKGROUND

SUMMARY:

We have performed an audit of a random sampling of 2010 Statements of Financial Interests (SFI). Our audit was based on a sample of 258 randomly selected SFIs, or 10% of the 2576 required filers as of the filing date of May 1, 2011. Our audit procedures were designed to reveal the level of statutory compliance, and were similar in nature to those employed in the audits of client and lobbyist registrants.

The audit revealed that, among the audit pool, the vast majority of required filers (74%) timely filed their forms and fully disclosed those items which formed the basis of review. The percentage represents an increase from the previous year (72.2%). The highest occurring examples of errors and/or non-compliance were:

1. Approximately 22% of audited forms either failed to fully answer, or failed to check as "not applicable," various questions on the 2010 form. In the majority of these forms, the filer failed to fully identify his or her source of income.
2. Approximately 3% of audited forms failed to adequately disclose the name of a person or entity that provided income to the filer's spouse in 2010.
3. Approximately 1% failed to adequately disclose the name of securities with a market value over \$5,000 owned by the filer in 2010.¹
4. Of the audit group, ten persons failed to timely file the form, or 3.9%. (All ten filed their forms, but did so after the filing deadline). This percentage is statistically identical to the previous year.

Adverse findings were generally at lower rates than those identified in the previous year's audit. As further discussed below, the inevitable conclusion is that the accuracy of SFI filings has improved from the previous year.

BACKGROUND:

A. The Filing Requirement

Connecticut General Statutes § 1-83 (a)(1) designates that:

All state-wide elected officers, members of the General Assembly, department heads² and their deputies, members of the Gaming Policy Board, the executive director of the

¹ Some SFI forms contained multiple errors. Thus, the percentage total of errors exceeds the percentage total of forms that contain errors.

² Pursuant to General Statutes § 4-5 (as applicable to the 2010 filing):

"[D]epartment head" means Secretary of the Office of Policy and Management, Commissioner of Administrative Services, Commissioner of Revenue Services, Banking Commissioner, Commissioner of Children and Families, Commissioner of Consumer Protection, Commissioner of Correction, Commissioner of Economic and Community Development, State Board of Education, Commissioner of Emergency Management and Homeland Security, Commissioner of Environmental Protection, Commissioner of Agriculture, Commissioner of Public Health, Insurance Commissioner, Labor Commissioner, Liquor Control Commission, Commissioner of Mental Health and Addiction Services, Commissioner of Public Safety, Commissioner of Social Services, Commissioner of Developmental Services, Commissioner of Motor Vehicles, Commissioner of Transportation, Commissioner of Public Works, Commissioner of Veterans' Affairs, Chief Information Officer, the chairperson of the Public Utilities Control Authority, the executive director of the Board of Education and Services for the Blind, the

Division of Special Revenue within the Department of Revenue Services, members or directors of each quasi-public agency, members of the Investment Advisory Council, state marshals and such members of the Executive Department and such employees of quasi-public agencies as the Governor shall require, shall file, under penalty of false statement, a statement of financial interests for the preceding calendar year with the Office of State Ethics on or before the May first next in any year in which they hold such a position.³

Per Governor's order, the designation of "such members of the Executive Department and such employees of quasi-public agencies" has been delegated by the Governor to agency heads. In delegating this statutory function to the heads of agencies, Governor Malloy has continued the standard established by the previous Governor, which directs each agency head to identify members and employees of the agency:

. . . who exercise (i) significant policy-making, regulatory or contractual authority; (ii) significant decision-making and/or supervisory responsibility for the review and/or award of State contracts; or (iii) significant decision-making and/or supervisory responsibility over staff that monitor State contracts.

Each executive branch agency and each quasi-public agency, acting through its ethics liaison (see General Statutes at § 1-101rr), maintains access to the SFI filing system at the Office of State Ethics for the purpose of specifying the personnel within the agency that fall within the Governor's standard.⁴

As of May 1, 2011, there were 2,576 persons who were required to file SFIs for calendar year 2010. The random selection of the audit pool was performed using this group of 2,576.⁵

B. Submitting the SFI Form

Per statute, filers are not required to file online, but may file instead on a paper form, available for download on the agency's website or at the Office of State Ethics. As of May 2, 2011⁶, 84% of required filers had filed their SFI forms electronically. This number reflects a consistent increase in the number and percentage of on-line filers over the past four filing years.

executive director of the Connecticut Commission on Culture and Tourism, and the executive director of the Office of Military Affairs. As used in sections 4-6 and 4-7, "department head" also means the Commissioner of Education.

³ In addition to those identified in section 1-83, other provisions of the General Statutes identify members of other state agencies that, in 2011, were also required to file the 2010 statements of financial interests by May 1: members of the State Property Review Board (§ 4b-4); members and employees of the State Contracting Standards Board (§ 4e-2); and members of the SustiNet Health Partnership board of directors (§ 19a-711).

⁴ The Office of State Ethics does not have any statutory authority to add to or subtract from the list of required filers. "It is the State Ethics Commission's responsibility, not to designate, or "un-designate," the positions to file, but to provide certain notifications and to enforce the designations made pursuant to § 1-83(a)(1)." Advisory Opinion 2002-15.

⁵ In addition, the Office of State Ethics receives SFIs from a number of state employees and public officials who are not required by statute to file, but nonetheless elect to file the SFI form on a voluntary basis. These individuals were not part of the audit pool.

⁶ In 2011, the statutory filing date of May 1 fell on a Sunday. Because the Office of State Ethics is typically closed on Sunday, and because the cost of keeping the Office open on that date for the purpose of receiving forms was unjustifiable given the budgetary difficulties faced by the state, the Citizen's Ethics Advisory Board ordered that the Ethics Enforcement Officer refrain from enforcing the filing requirement until May 2, 2011.

C. Changes From the Previous Year

The results of the previous year's audit, in addition to subsequent conversations with filers, identified areas of focus for the Office. The three primary issues of focus were: (1) ensuring that the Office of State Ethics had received current and accurate information from Executive Branch agencies and quasi-public agencies regarding the identities of employees who were designated as required filers by the agencies; (2) addressing the need to educate filers on the instructions for filling out the SFI form; and, (3) addressing the need to ensure timely compliance with the filing deadline.

Following the previous year's audit, the Office revamped the manner in which it received information from the agencies as to the persons who had been designated as required filers pursuant to the Governor's criteria. Previously, the Office received updated information from each agency and, using the information provided by each agency, manually updated the designation lists for each agency between January and March each year. For the 2010 SFI, the Office of State Ethics allowed agencies direct access to the Office's computerized SFI database. Each agency was then instructed on how to establish, maintain, and edit its own lists of designated filers throughout the year. The Office of State Ethics provided training, and infrequent reminders to ethics liaisons at the agency to ensure that the designation lists were current and accurate.

Leading up to the required filing date, the Office of State Ethics expanded its outreach to filers and agencies to further educate filers. For example, the Office:

- Provided written outreach to ethics liaisons at each agency, giving them information that allowed them to directly answer questions of filers at their respective agencies;
- Provided live education sessions to the new gubernatorial administration and agency heads;
- On two occasions immediately prior to the filing deadline, the Office established a presence in the Legislative Office Building, that included Office staff available to respond to questions, as well as a computer terminal through which filers could file their forms (with, if needed, the assistance of staff);
- Because the final filing day fell on a Sunday, by order of the Citizen's Ethics Advisory Board, the effective filing date was extended to Monday, May 2, affording filers with last minute questions an opportunity to consult with OSE staff prior to filing.

In order to ensure the timely filing of forms, the Office:

- Sent multiple reminders to filers and to their agency ethics liaisons;
- Set up a communication network with each ethics liaison to provide real-time information regarding the status of each of the agency's required filers;
- Drafted and circulated sample reminder text for agency liaisons to distribute to designated filers;
- Provided public recognition to each agency that achieved 100% timely compliance [See Exhibit B for list of agencies with 100% compliance];
- For the few filers that did not file the SFI form after multiple reminders and a "grace period," enforced the requirement through enforcement actions, resulting in the imposition of penalties.⁷

⁷ This year, 9 matters were docketed for agency hearing for the failure to timely file the SFI form. This was a significant drop from the 17 such matters the previous year.

These various efforts supplemented the outreach and educational efforts in which the Office was already engaged, including providing legal advice through the attorneys in the Legal Division of the Office, providing technical assistance, and providing hands-on filing assistance through computer terminals at the Office of State Ethics.

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

A. AUDIT OBJECTIVES:

The primary objective of the audit is to ascertain, at a base level, the level of compliance with the disclosures required by Connecticut General Statutes § 1-83. Particular focus is devoted to facial compliance with the statute, including whether all entries are completed, and internal consistency. Except where otherwise specifically noted, the audit objectives do not include any substantive analysis of financial disclosures.

B. SCOPE AND METHODOLOGY:

1. SCOPE:

Review of the audit sample consisted of a facial review of 10% of required filer forms which were randomly selected. Scope did not include non-required, volunteer filers. The scope included only annual filings, and did not include any forms that were filed by departing officials (a supplemental SFI that is required to be filed following an official's departure from state service). Nor did the selection pool include state marshals, who file a distinct and separate disclosure form pursuant to General Statutes § 1-83(b)(2).

The selection of the audit pool was done without regard to whether the filings were made on paper or online.

2. METHODOLOGY:

a. Selection of the Audit Pool

To select the audit pool, the entire pool of required filers was randomized and numerically ordered using a computer randomization process. From that pool, the first 10% of the numerically ordered list were audited (the "audit pool" or "audit sample"). Within the audit pool, if an individual was identified as not a required filer (e.g., the employee had left state service in the previous year and thus was not statutorily required to file, but the designating agency had inadvertently failed to remove the former employee from its designation list), the individual was stricken from the audit pool and an additional individual was added to the audit pool in numerical order from the previously randomized list.

b. Establishment of Examination Protocol

Methodology for examination was developed by the Office of State Ethics prior to the random selection process. Methodology was developed with reference to audit protocols developed by the Office for lobbyist filings, as well as reference to Generally Accepted Accounting Principles, Generally Accepted Auditing Standards, and protocols of the Auditors of Public Accounts. The audit methodology included two distinct sets of protocols. The first protocol included steps to individually analyze each response in

order to determine whether an appropriate response was made to the SFI inquiry. The second set of protocols sought to analyze whether the responses were internally consistent, as well as consistent with other filings. [The audit protocols are attached hereto as Exhibit A].

C. AGENCY RESPONSE TO FINDINGS:

The audit process is designed to be non-punitive. Rather, the primary goal of the audit process is educational. Where errors are apparent on the face of a form, and where there is no evidence of deliberate attempts to conceal or otherwise misrepresent by the filer, the filer is notified of the error and instructed to correct the form.

RESULTS OF AUDIT AND CONCLUSIONS

The following results and conclusions can be gleaned from the audit. First, the percentage of forms that were timely filed, and filed without errors, even of a technical sort, was relatively high, 74%, thus suggesting that a majority of filers were able to understand and adequately comply with instructions. This compares favorably with the 72.2% rate from the previous year, and represents a significant improvement from the 52.6% from the year prior to that. Second, of the forms for which there were findings, the most common findings were as follows:

1. Filers who failed to identify the income from their state positions in the section seeking "source of income" (15.9% of audited forms).
2. Filers who filed their forms after the statutory deadline (3.9%).
3. Filers who failed to disclose whether their spouses earned "income" during 2009 and, if so, what the source of that income was (2.7%).
4. Filers who failed to disclose securities valued over \$5,000 and, in particular, securities held through mutual funds, retirement accounts (particularly state retirement accounts), etc. (0.8%).

In addition, a small minority of forms contained sporadic questions that had incomplete and/or inadequate responses. There was no ascertainable pattern to these deficiencies.

A total of 37 letters were sent to filers whose forms contained deficiencies that required correction. Thus, 14.3% of audited filers were notified of deficiencies that the filers were asked to correct.

As to filers who failed to adequately disclose all sources of income, the majority of filers within this category were those who failed to disclose the source of their state income. In the past, this tendency has been associated with the filer's mistaken assumption (despite the form's instruction), that only outside income "and not state income" - should be disclosed on the SFI.

As to filers who failed to disclose whether, or from whom, their spouses received income, in the past this tendency has been associated with a mistaken belief (in spite of the form's instruction), that only the filer's source of income is required to be disclosed.

As to the SFI forms with questions containing incomplete and/or inadequate responses, anecdotal contacts with filers have suggested the following reasons: not understanding the question; no clear examples of how to answer or what information to disclose; a rush to complete the form in time; not taking seriously the requirement to file completely and accurately; or answering the "easy" (readily available answers) question first, then not returning to complete the unanswered questions.

This marks the third consecutive year that the Office of State Ethics has audited SFIs.

The results of this year's audit compare favorably with the previous two years' audits, with reductions in many of the major areas of concern.

	Failure to Disclose Source of Income	Failure to Disclose Source of Spousal Income	Failure to Identify Securities Over \$5000	Failure to Fully Respond to SFI ⁸	Late Filings
2008	15.6%	15.6%	5.2%	29.6%	5.9%
2009	14.4%	3.8%	1.9%	23.2%	3.8%
2010	16.9%	2.7%	0.8%	22.1%	3.9%
Change from 2009 to 2010	+1.5%	-1.2%	-0.9%	-1.1%	+0.1%

In areas that saw an increase in percentage, the increase was modest.

Although a number of errors or non-compliant responses were discovered, none rose to the level of apparent willful non-compliance.

As is apparent from the above chart, in all but one of the major problem areas, the number and percent of forms with errors are decreasing over time.

Over the coming months, the agency will revisit the SFI form and the filing process to determine what, if any, adjustments to make for the coming year. Topics for discussion will include (1) a potential revamping of the instructions, based on this year's audit findings; (2) improving outreach to ethics liaisons at the agencies; (3) potential adjustments to the on-line filing system; and (4) methods to increase the percentage of on-line filers.⁹

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⁸ This category includes the data from each of the previous three columns.

⁹ Increased usage of the on-line filing system benefits the Office of State Ethics and the state of Connecticut in a number of ways. First, the on-line system lowers the cost of administering the SFI system due to reduced paper/supplies costs. Second, use of the on-line filing system increases accuracy of filings ó largely due to the system's inability to accept blank spaces or facially incorrect data. This is proven out by the data in the audit. Although only 17% of the forms audited were filed on paper, these forms represent 22% of the total number of forms that contained errors.

EXHIBIT A

PROTOCOL FOR AUDIT OF 2010 SFI FILINGS

SELECTION: An initial selection of 10% of names of all required filers shall be made on or about May 1, 2010. The selection shall be made through the use of computerized randomization of all required filers, with no weighted criteria.

REVIEW FOR COMPLETENESS: The following initial tasks will be performed:

1. Check if signed
2. Check if Confidential Addendum filed
3. Check if timely filed and dated
4. Ensure that form is the 2010 form
5. Ensure that the form is not a "Departing Official" form
6. Check to ensure that each question was answered
7. Check to ensure state income is disclosed as a "source of income" (Question #11)
8. Determine whether patterns of responses suggest intentional deficiencies (e.g., filer enters no substantive info and checks all "none applicable" boxes)

ANALYSIS: The following analytical tasks will be performed:

1. Compare with previous year's filings (if any)
2. Perform asset search to confirm accuracy of property disclosure (Question #6)
3. Search any "business associated with," "non-profit" or "trust" (Questions #7-10) to determine if any conflict exists and/or whether the business is:
 - a. Associated with someone regulated by filer's agency
 - b. Associated with a lobbyist who lobbies filer's agency
 - c. Associated with a contractor who has contracts with filer's agency
4. Compare with filings made by spouse (if a filer) or a dependent child (if a filer)
5. Review state contractors list to determine if any income or business association is related to a state contractor (Questions #7, 10, 11)
6. Search disclosed securities and entities that hold them (Question #13) to determine if any conflict exists and/or whether the ownership or the holder is:
 - a. Associated with someone regulated by filer's agency
 - b. Associated with a lobbyist who lobbies filer's agency
 - c. Associated with a contractor who has contracts with filer's agency
7. Search any disclosed lease or contract (Questions #14-15) to determine if the contract or lease is held with the filer's agency

Additional analysis may be necessary or appropriate if any adverse findings occur as a result of the above. If it is determined that an underdisclosure exists, but no other ethics code violation is indicated or suggested, the filer will be given a nominal grace period to amend the form. Upon expiration of the grace period, if the deficiencies have not been corrected, a notice of a UAPA hearing will be issued to the filer, at which point the Enforcement Division will seek penalties pursuant to Gen. Stat. sec. 1-88(b). If additional substantive ethics code violations are indicated or suggested by the audit, the Division will make a determination on a case-by-case basis as to how to proceed.