

DOCKET NUMBER 2010-63 : OFFICE OF STATE ETHICS  
: :  
IN THE MATTER OF A : 18-20 TRINITY STREET  
: :  
COMPLAINT AGAINST : HARTFORD, CT 06106  
: :  
JAMES BIRCH : JANUARY 13, 2011

### **CONSENT ORDER**

Pursuant to the Code of Ethics, General Statutes § 1-79, et seq., Thomas K. Jones, Ethics Enforcement Officer for the Office of State Ethics (“OSE”), issued a Complaint against the Respondent James Birch (“Mr. Birch” or “Respondent”) for violations of the Code of Ethics, Connecticut General Statutes § 1-84 (i). On December 20, 2011, a probable cause hearing was held. Based on the investigation by the Enforcement Division of the OSE, the Office of State Ethics finds there is probable cause to believe that the Respondent violated the Code of Ethics as set forth in the Complaint.

The Parties have entered into this Consent Order following the issuance of the Complaint, but without any adjudication of any issue of fact or law herein.

### **I. STATE’S POSITION**

Based on the investigation of the Enforcement Division, and the evidence presented at the probable cause hearing held on December 20, 2011, the Ethics Enforcement Officer has probable cause to believe the following facts:

1. At all times relevant hereto, the Respondent was employed part-time as a University Assistant for the Music Department at Western Connecticut State University (hereinafter “WCSU”), a state university.

2. At all times relevant hereto, the Respondent was a "State Employee" as that term is defined in General Statutes § 1-79 (m).
3. At all times relevant hereto, the Respondent was also engaged in the private business of servicing and tuning pianos.
4. Beginning on or around September 4, 2007, and continuing until at least on or around December 31, 2009, the Respondent entered into several part-time contracts with WCSU, valued at \$100 or more, in exchange for the Respondent servicing and tuning pianos for the Music Department of WCSU.
5. During multiple periods when the Respondent was employed by WCSU, he also entered into several independent contracts, valued at \$100 or more, with individual departments of WCSU to service and tune pianos.
6. None of the independent contracts entered into by the Respondent and the individual departments of WCSU were awarded through an open and public process.
7. By entering into the independent contracts with WCSU valued at one hundred dollars or more without such contracts being awarded through an open and public process, while the Respondent was employed by the Music Department, the Respondent violated General Statutes § 1-84 (i).

## **II. RESPONDENT'S POSITION**

1. The Respondent denies that his actions violated the Code of Ethics but, in order to avoid what he believes would be lengthy and costly legal proceedings, agrees to settle the matter.
2. The Respondent did not interpret arrangements to service pianos for departments, outside of the Music Department, as contracts.
3. The Respondent states that he did not willfully or knowingly use his public position to obtain financial gain for himself in violation of General Statutes §1-84 (c).

4. The Respondent understands that he has the right to counsel and has expressly waived such right.

### **III. JURISDICTION**

1. The Ethics Enforcement Officer is authorized to investigate the Respondent's acts as set forth herein, to issue a Complaint against the Respondent, and to enter into this Stipulation and Consent Order.

2. The provisions of this Stipulation and Consent Order apply to and are binding upon the Respondent.

3. The Respondent hereby waives all objections and defenses to the jurisdiction of the Ethics Enforcement Officer over matters addressed in this Stipulation and Consent Order.

4. The Respondent waives any rights he may have under General Statutes §§ 1-80, 1-82, 1-82a, 1-87 and 1-88, including the right to a hearing or appeal in this case, and agrees with the Ethics Enforcement Officer to an informal disposition of this matter as authorized by General Statutes § 4-177 (c).

5. The Respondent consents to jurisdiction and venue in the Connecticut Superior Court, Judicial District of Hartford, in the event that the State of Connecticut seeks to enforce this Stipulation and Consent Order. The Respondent recognizes that the Connecticut Superior Court has the authority to specifically enforce the provisions of this Stipulation and Consent Order, including the authority to award equitable relief.

6. The terms set forth herein are in addition to, and not in lieu of, any other existing or future statutory, regulatory, or other legal obligation that may be applicable to the Respondent.

**IV. ORDER**

**NOW THEREFORE**, pursuant to General Statutes § 4-177 (c), the Office of State Ethics hereby **ORDERS**, and the Respondent agrees, that:

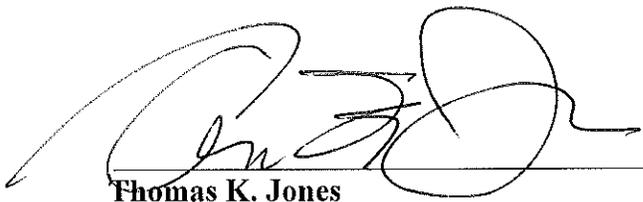
1. Pursuant to General Statutes § 1-88 (a) (1), the Respondent will heretofore cease and desist from any future violation of General Statutes § 1-84 (i).
2. Pursuant to General Statutes § 1-88 (a) (3), the Respondent will pay civil penalties to the State in the amount of \$110.00 for his violations of General Statutes § 1-84 (i) as set forth in the Complaint.

**WHEREFORE**, the Ethics Enforcement Officer and the Respondent hereby execute this Stipulation and Consent Order dated January 13, 2011.

Dated: 1/13/2012

  
\_\_\_\_\_  
**James Birch**  
56 Nashville Road  
Bethel, CT 06801

Dated: Jan. 17, 2012

  
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**Thomas K. Jones**  
Ethics Enforcement Officer  
Connecticut Office of State Ethics  
18-20 Trinity Street  
Hartford, CT 06106  
(860) 263-2390