

In the Matter of a Complaint by

Final Decision

Ethics Enforcement Officer,
Office of State Ethics,

Complainant

Docket # 2011-03UP

against

Michael Sanders,

Respondent

July 11, 2011

The above-captioned matter was heard as a contested case on June 22, 2011, with the complainant appearing and presenting testimony, exhibits and argument on the complaint. The respondent did not appear even though the record reflects he received notice of the hearing.

After considering the entire record, the following facts are found and conclusions of law are made:

1. It is found that, having failed to receive the respondent's Statement of Financial Interests ("SFI") filing by May 1, 2011, the complainant informed the respondent, by letter dated May 3, 2011, that a hearing on this matter was scheduled for June 22, 2011. It is found that the May 3, 2011 letter was accompanied by a formal Notice of Hearing, also dated May 3, 2011. Such notice was issued pursuant to the authority and jurisdiction vested in the Office of State Ethics ("OSE") by General Statutes § 1-88 (b).
2. It is found that the May 3, 2011 notice of hearing informed the respondent that, if the Citizen's Ethics Advisory Board ("Board") finds that a violation has occurred, it may impose a penalty of up to ten dollars (\$10) per day for each day that the form was late.
3. It is found that the May 3, 2011 notice of hearing was returned to the complainant as "return to sender – unclaimed – unable to forward" on May 24, 2011.

4. It is found that on May 27, 2011, the complainant resent the May 3, 2011 notice of hearing electronically to the respondent's work email address.
5. It is found that the OSE issued proper notice to the respondent.
6. It is found that the issues presented are:
 - a) whether the respondent violated § 1-83 (a) (1) by failing to file, on or before May 1, 2011, a SFI form for calendar year 2010;
 - b) whether the Board should impose a civil penalty in this matter, if it finds that the respondent violated § 1-83 (a) (1).
7. Section 1-83 (a) (1) provides, in relevant part:

All . . . 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.
8. Section § 1-88 (b) provides, in relevant part:

[The Board] may, after a hearing conducted in accordance with sections 4-176e to 4-184, inclusive, upon the concurring vote of six of its members present and voting, impose a civil penalty not to exceed ten dollars per day upon any individual who fails to file any report, statement or other information as required by this part In no event shall the aggregate penalty imposed for such failure to file exceed ten thousand dollars.
9. It is found that the respondent was a member of the Department of Public Works and, as such, a member of the executive department and a required SFI filer for calendar year 2010, within the meaning of § 1-83 (a) (1).
10. It is found that the respondent received notice of his designation as a required filer.
11. It is found that the respondent did not file the 2010 SFI form with the OSE on or before the first of May 2011 as required by § 1-83 (a) (1).
12. It is therefore concluded that the respondent violated § 1-83 (a) (1), by failing to file the required 2010 SFI form with the OSE on or before the first of May 2011.

13. It is found that the respondent filed his 2010 SFI form with the OSE on May 6, 2011.
14. It is found that on April 21, 2011, the Citizen's Ethics Advisory Board ordered the Ethics Enforcement Officer to refrain from enforcement of §1-83 until May 2, 2011, because the filing deadline of May 1, 2011 was a Sunday, a day on which the OSE is typically closed.
15. It is found that, as of May 6, 2011, the date the respondent filed his 2010 SFI form with the OSE, the respondent was four (4) days late in filing his 2010 SFI form.
16. It is concluded that, under § 1-88 (b), the Board may impose on the respondent a maximum civil penalty of ten dollars (\$10.00) per day for every day the form is late.

The following order by the Board is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The respondent shall, within ten (10) days of the mailing of the notice of final decision in this case, remit to the OSE a civil penalty in the amount of forty dollars (\$40.00), representing ten dollars (\$10.00) for May 3, 2011 through May 6, 2011, inclusive.
2. Henceforth, the respondent shall, if designated an SFI filer within the meaning of § 1-83 (a) (1), file the SFI in a timely fashion.
3. The board notes that this is the third consecutive year that the respondent has failed to timely file the SFI form.
4. The Office of State Ethics shall immediately send notice of the Final Decision in this matter to the Commissioner of the Department of Public Works for such action as he deems appropriate.



Martin Margulies
Hearing Officer