

In the Matter of a Complaint by

Final Decision

Ethics Enforcement Officer,
Office of State Ethics,

Complainant

Docket # 2014-09UP

against

Vincent Messina,

Respondent

November 21, 2014

The above-captioned matter was heard as a contested case on October 16, 2014. Both the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

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

1. It is found that the respondent filed a Marshal Statement of Income (“SFI”) by May 1, 2014 with the Office of State Ethics (“OSE”).
2. It is found that the complainant informed the respondent by email dated August 20, 2014, that “you are one of only two marshals who has refused to identify the ‘amounts’ received from the sources you list [on the SFI, described in paragraph one, above].”
3. Having failed to receive the respondent’s amended SFI filing, it is found that by letter dated September 3, 2014, the complainant informed the respondent that a hearing on this matter was scheduled for October 16, 2014. It is found that the September 3, 2014 letter was accompanied by a formal Notice of Hearing, also dated September 3, 2014. Such notice was issued pursuant to the authority and jurisdiction vested in the OSE by General Statutes § 1-88 (b).

4. It is found that the issues presented are:
 - a) whether the respondent violated General Statutes § 1-83 by failing to file, on or before May 1, 2014, an SFI form for calendar year 2013 that comports with such provision;
 - b) whether the respondent was justified in relying on Advisory Opinion No. 2001-2 when he refrained from reporting the amounts and sources of income earned in his capacity as state marshal;
 - c) whether the Citizen's Ethics Advisory Board ("Board") should impose a civil penalty in this matter, if it finds that the respondent violated § 1-83.
5. Section 1-83 (a) (1), provides, in relevant part:

All . . . state marshals . . . 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.
6. Section 1-83 (b) (2), further provides, in relevant part:

The statement of financial interests filed by state marshals shall include only *amounts and sources of income earned in their capacity as state marshals*. (Emphasis added.)
7. 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.
8. It is found that the respondent was a state marshal during calendar year 2013 and, as such, a required filer of the SFI for 2013, within the meaning of §§ 1-83 (a) (1) and 1-83 (b) (2).
9. It is found that the respondent filed a 2013 SFI form with the OSE on or before the first of May 2014.

10. However, it is found that while the respondent's filing included sources of income earned in his capacity as state marshal, it did not include any "amounts" of income earned as required by § 1-83 (b) (2).
11. It is found that in previous years the respondent similarly filed SFIs that did not report "amounts" of income earned in his capacity as state marshal.
12. It is found that in previous years upon discovering the respondent's omissions, complainant inquired about the missing information.
13. It is found that in previous years, the respondent sent complainant a letter explaining his position, i.e., that he believed he was not required to report amounts associated with non-state work in his capacity as state marshal.
14. It is found that in previous years, the complainant did not require the respondent to amend his filing, which the respondent claimed caused him to assume that his filing was deemed sufficient and consistent with what was required.
15. It is found that by way of email dated August 21, 2014, complainant asked that the respondent reach out to the Legal Division of the Office of State Ethics for a legal opinion regarding an interpretation of §§ 1-83 (a) (1) and 1-83 (b) (2) and Advisory Opinion No. 2001-2 so as to clarify what information he needed to file on the SFI in order to be compliant with the state Code of Ethics.
16. It is found that the respondent never contacted the Legal Division of the Office of State Ethics for an interpretation of §§ 1-83 (a) (1) and 1-83 (b) (2) and Advisory Opinion No. 2001-2.
17. It is found that at the hearing of October 16, 2014, through his attorney, the respondent stated that he chose not to disclose the amounts received from the sources he listed on his calendar year 2013 SFI due to concerns about the confidentiality of his clients and his interpretation of Advisory Opinion 2001-2.
18. It is also found that at the hearing the respondent failed to prove that a statute or law supported his confidentiality concerns.
19. It is found that Advisory Opinion No. 2001-2 does not address SFIs or § 1-83 and does not absolve respondent from having to include the amounts he received from the sources he listed on his SFI, as specifically required by § 1-83 (b) (2).
20. It is therefore concluded that the respondent violated § 1-83 (b) (2), by failing to file a complete 2013 SFI form with the OSE that includes all amounts and sources of income earned in his capacity as a state marshal.

21. It is further concluded that, pursuant to § 1-88 (b), the Board may impose on the respondent a maximum civil penalty not to exceed ten dollars (\$10.00) per day for each day he failed to file a complete 2013 SFI, up to and including the date the complete form is filed.

The following order 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, file an amended 2013 SFI form with the OSE which includes all amounts received from all sources of income earned in his capacity as state marshal.
2. 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 five (\$5) dollars per day for every day between May 1, 2014, and until a complete form is filed, not to exceed ten thousand dollars (\$10,000).
3. Henceforth, the respondent shall strictly comply with the SFI filing requirements of §§ 1-83 (a) (1) and 1-83 (b) (2).

Approved by Order of the Citizen's Ethics Advisory Board at its regular meeting of November 20, 2014.



Diane Buxo, Acting Clerk of the Board

PURSUANT TO CONNECTICUT GENERAL STATUTES § 4-180 (c), THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS PROVIDED TO THE OFFICE OF STATE ETHICS, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVES.

THE PARTIES TO THE CONTESTED CASE ARE:

ETHICS ENFORCEMENT OFFICER
OFFICE OF STATE ETHICS
18-20 TRINITY STREET, SUITE 205
HARTFORD, CT 06106

MARSHAL VINCENT MESSINA
P.O. BOX 6292
WOLCOTT, CT 06716

ATTORNEY ANTHONY J. BENTO
COUNCIL 4 AFSCME, 444 E. MAIN STREET
NEW BRITAIN, CT 06051

A handwritten signature in cursive script that reads "Diane Buxo".

Diane Buxo, Acting Clerk of the Board