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STATEMENTS OF FINANCIAL INTERESTS

Statements of Financial Interests (“SFIs”) serve as a tool to maximize public confidence in governmental decision making. The policy underlying this requirement has been in effect since the enactment of the Ethics Codes in 1977. An SFI provides a checklist or reminder to the official/employee to be mindful of potential conflicts of interest, and it provides a baseline of information which can be compared to subsequent years for the purpose of determining potential misuse of office for financial gain.

Legislators, as well as certain other public officials and senior state employees, must file SFIs with the OSE by May 1 each year. These statements describe businesses with which the filers associated; the category or type (not amount) of all sources of income over \$1,000; securities in excess of \$5,000; real estate holdings; and leases or contracts with the state. A *confidential* portion of the statement requires disclosure of sources of any debts over \$10,000. (The confidentiality of this portion may be waived.) These examples are not exhaustive; refer to Conn. Gen. Stat. [§1-83 \(b\)](#) for a complete list.

AUDIT SUMMARY AND BACKGROUND

Summary

We have performed an audit of a random sampling of the annual 2012 Statement of Financial Interests (“SFI”) forms filed with the Office of State Ethics (“Office”). Our audit was based on a sample of 238 randomly selected SFI forms, or approximately 10% of the 2,376 required filers¹ as of May 1, 2013. Our audit procedures were designed to reveal the level of technical 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 timely filed their SFI forms and fully disclosed those items which formed the basis of review. Overall, approximately 88% of the audited forms presented no errors or omissions and were timely filed. For forms that were not in complete compliance, the highest occurring examples of errors and/or non-compliance were: (1) failure to disclose the filer’s state income (5.9% of audited forms); and, (2) failure to timely file the form (1.7% of audited forms).

In each of the compliance areas stated above, there has been a significant decline in the problem since the inception of the audit program five years ago.

The continued rise in accuracy and completeness of the SFI forms is largely attributable to a combination of (1) increased education, advice, and assistance; (2) increased online

¹ The 2,376 required filers includes those who filed annual forms pursuant to General Statutes section 1-83, but does not include officials who departed and, as required by statute, filed a one-time “departing official” SFI.

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filing, and the continued improvement of the online filing system; (3) improvement in communications with the ethics liaisons at Executive branch agencies; (4) a change in intake procedure for paper SFI forms; and, (5) select, but impactful, enforcement.

Background

A. Who Must File

For forms due May 1, 2013, Connecticut General Statutes § 1-83(a) (1) designated that:

All state-wide elected officers, members of the General Assembly, department heads² and their deputies³, members of the Gaming Policy Board⁴, members or directors of each quasi-public agency⁵, members of

² Pursuant to General Statutes § 4-5, as of May 1, 2013, “department head” was defined as “the 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 Construction Services, Commissioner of Consumer Protection, Commissioner of Correction, Commissioner of Economic and Community Development, State Board of Education, Commissioner of Emergency Services and Public Protection, Commissioner of Energy and 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 Social Services, Commissioner of Developmental Services, Commissioner of Motor Vehicles, Commissioner of Transportation, Commissioner of Veterans’ Affairs, director of Rehabilitation Services 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 and the president of the Board of Regents for Higher Education.”

Subsequent to May 1, 2013, Special Session Public Act 12-1 added “Commissioner of Housing” to the definition of Department Head, and replaced “director of Rehabilitation Services” with “Commissioner of Rehabilitative Services,” effective June 15, 2013.

³ The term “deputies” of “department heads” is not defined by statute, and has not been the subject of interpretive opinion by the Office of State Ethics or its predecessor. However, General Statutes § 4-8 commands each “department head” to “designate one deputy who shall in the absence or disqualification of the department head or on his death, exercise the powers and duties of the department head until he resumes his duties or the vacancy is filled.”

⁴ Pursuant to General Statutes § 12-557d, the Gaming Policy Board consists of five members selected by the Governor, with advice and consent of the General Assembly. As of July 1, 2013, the Gaming Policy Board was subsumed into the Department of Consumer Protection.

⁵ Pursuant to the Code of Ethics, General Statutes § 1-79(1), “Quasi-Public agency” was defined for calendar year 2012 (effective July 1, 2012) as the Connecticut Innovations, Incorporated, and the Connecticut Health and Education Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, State Housing Authority, Connecticut Resources Recovery Authority, Capital Region Development Authority, Connecticut Lottery Corporation, Connecticut Airport Authority, Health Information Technology Exchange of Connecticut, Connecticut Health Insurance Exchange and Clean Energy Finance and Investment Authority.

In addition, several of the above quasi-public agencies are empowered by statute to establish subsidiaries, each of which “shall be deemed a quasi-public agency.” For example, General Statutes § 10a-194d(a) empowers the Connecticut Health and Education Facilities Authority to establish its own quasi-public agencies for the purpose of improving access to high quality day care.

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the Investment Advisory Council⁶, 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.

In addition, several separate statutes require that certain additional persons file an annual statement of financial interests. These individuals (and corresponding statutes) are:

- Members of the State Properties Review Board (Gen. Stat. § 4b-4)
- Members and employees of the State Contracting Review Board (Gen. Stat. § 4e-2(j))
- Members of the Public Utilities Regulatory Authority (Gen. Stat. § 16-2(d))

In addition to the statutory filers, § 1-83 calls upon the Governor to designate others within the Executive branch who must file SFI forms. In January 2013, the Governor adopted a specific set of standards for Executive agency heads to utilize in designating which agency officials and employees must file the SFI form with the Office. This set of standards states that Executive agency heads should designate the following individuals as those who must file an annual SFI:

1. The executive or administrative head of each agency, authority, board, bureau, commission, council, department, division, or other entity within the Executive Branch, including any quasi-public agency.
2. Any person who reports directly to the executive or administrative head specified in #1.
3. The head of any administrative unit, whether established by statute or administrative action, who has primary responsibility for:
 - a. a geographic region;
 - b. contracting or procurement;
 - c. inspecting, licensing, regulating, or auditing any person or entity;
 - d. interpreting or enforcing laws, rules or regulations; or who has substantial responsibility requiring the exercise of discretion and independent judgment.

⁶ The Investment Advisory Council membership is set forth in General Statutes § 3-13b: (1) The Secretary of the Office of Policy and Management who shall serve as an ex-officio member of said council; (2) the State Treasurer who shall serve as an ex-officio member of said council; (3) five public members all of whom shall be experienced in matters relating to investments. The Governor, the president pro tempore of the Senate, the Senate minority leader, the speaker of the House of Representatives and the minority leader of the House of Representatives shall each appoint one such public member to serve for a term of four years.

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4. Any person who actually assumes the above responsibility of any of the positions designated herein for more than thirty consecutive days, not including exercising such authority by virtue of acting during a normal vacation or sick leave period in such a position.
5. The members, officers, and employees of state boards, commissions, and quasi-public agencies if they have the authority to expend, or to approve expenditure of, public funds (other than to authorize payments or increases of state employee salaries or to approve reimbursements for expenses), or if they have authority to recommend any particular private company or person for a state contract exceeding \$10,000, or authority to recommend the standards for such state contract.
6. Any consultant or independent contractor employed by, or whose services have been engaged by the agency or other entity, described in item (1) above, if he or she exercises the same or similar authority as any person in a designated position as described herein or who otherwise holds a position which exercises any of the functions, in whole or in part, of any position set forth herein.
7. Any person who is a voting member of any committee that, during the calendar year, votes on, awards, or approves a contract to expend public funds of \$10,000 or more.
8. Any person who is a voting member of any committee that, during the calendar year, votes on or otherwise selects any persons or entities to be on a “pre-approved” list of potential contractors for future or present contracts with the agency, the state, or any political subdivision of the state.
9. Any person in the “senior executive service” as defined by General Statutes § 5-196 (31) who is not otherwise identified as a designated filer in these guidelines.
10. Any person holding a position that is exempt from classified service pursuant to General Statutes § 5-198(e), (g), (h), (i), (j), (k), (n), (r), (w), (aa), and (dd).
11. Any employee or officer of a quasi-public agency who reports directly to the executive director, or the board, of such quasi-public agency, and whose position includes either: (a) decision-making authority; or (b) any managerial authority over other quasi-public agency employees or contractors.
12. Any employee in a designated position who occupied a position for 30 days or more in the calendar year even if they have left state service. This requirement applies regardless of the conditions of termination: voluntary, retirement lay off, etc. If an employee is deceased, notify the OSE and the individual will be removed from the designation list immediately. The family of the deceased employee is not required to file an SFI.

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13. Any vacant positions if they satisfy the definition of "substantial policy-making positions."

The Executive agencies are responsible for identifying the individuals who fit the Governor's designation. The Office has no statutory authority to add to, or subtract from, the designation lists provided by the agencies, and must enforce the designations as received.⁷

As of May 1, 2013, including all statutory filers and those designated pursuant to the Governor's standard, there were 2376 persons who were required to file SFI forms for calendar year 2012. The list of filers was randomly sorted by computer, and the first 10% of the list (238) were subject to audit.⁸

B. What Must Be Disclosed

Pursuant to General Statutes § 1-83 (b) (1), each filer must report, with respect to the individual required to file the statement and the individual's spouse and dependent children residing in the individual's household:

- (A) the names of all businesses with which associated;
- (B) all sources of income, including the name of each employer, with a description of each source, in excess of one thousand dollars, without specifying amounts of income;
- (C) the name of securities in excess of five thousand dollars at fair market value owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children;
- (D) the existence of any known blind trust and the names of the trustees;
- (E) all real property and its location, whether owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children;
- (F) the names and addresses of creditors to whom the individual, the individual's spouse or dependent children, individually, owed debts of more than ten thousand dollars;
- (G) any leases or contracts with the state held or entered into by the individual or a business with which he or she was associated; and,

⁷ "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.

⁸ In addition, the Office of State Ethics annually 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.

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- (H) a description of any partnership, joint ownership or similar business affiliation between (i) a business included under subparagraph (A) of this subdivision with which the individual filing the statement, the individual's spouse or a dependent child of the individual is associated, and (ii) a lobbyist, a person that the individual filing the statement knows or has reason to know is doing business with or seeking to do business with the state or is engaged in activities that are directly regulated by the department or agency in which the individual is employed, or a business with which such lobbyist or person is associated.

All information filed with the SFI form is subject to the Freedom of Information Act, with the exception of information submitted in response to (F) – names and addresses of creditors owed more than ten thousand dollars – which must remain confidential except upon waiver of the filer, or upon vote of the Citizen's Ethics Advisory Board.⁹

C. Submitting the SFI Form

Per statute, filers are not required to file online, but may file instead on a paper SFI form, available for download on the agency's website or at the Office of State Ethics. As of May 1, 2013, nearly 92% of required filers had filed their SFI forms electronically.

D. Changes From the Previous Year

a. Law

Since the previous year's filing deadline (May 1, 2012) there were no substantive changes to General Statutes § 1-83, and no Board Advisory Opinion has been issued addressing the requirements for SFIs.

b. Internal/Procedural Changes

Based on the success of the previous year, leading up to the required filing date, the Office expanded its outreach to filers and agencies to further educate filers. For example, the Office:

- Increased the number of trainings at Executive branch agencies, which sessions include training for filing of SFIs.
- Continued to provide an "Ethics Liaison Guide to SFIs" to the ethics liaisons at each agency, giving them information that allowed them to directly answer questions of filers at their respective agencies;

⁹ Gen. Stat. § 1-83 (c).

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- 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 SFI forms (with, if needed, the assistance of staff).

In order to ensure the timely filing of SFI 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 language 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.¹⁰

In order to minimize errors in SFI forms, the Office:

- Instituted a "check-list" procedure for acceptance of paper SFI forms (which, in previous years, contained a significantly higher percentage of errors and omissions than online forms) that were received by the Office. Paper forms that did not pass this technical review were returned to the filer for completion.
- Conducted a facial review of all paper forms received by the Office to ensure completeness and, if incomplete, returned the form to the filer for correction.

These various efforts supplemented the outreach and educational efforts in which the Office of State Ethics 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 publicly available computer terminals located at the Office.

¹⁰ This year, 8 matters were docketed for agency hearing for the failure to timely file the SFI form. This was an uptick from the 3 enforcement matters that were docketed the previous year. In the two years prior to that, enforcement matters were opened against 9 filers (2010) and 17 filers (2009).

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

Audit Objectives

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

Scope and Methodology

A. Scope:

Review of the audit sample consisted of a facial review of 10% of required filer SFI forms, which were randomly selected. Scope did not include non-required, volunteer filers. Nor did the selection pool include state marshals, who file a distinct and separate disclosure form pursuant to General Statutes § 1-83 (b) (2).

B. Methodology:

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 GAAP, GAAS and protocols of the Auditors of Public Accounts. In previous years, 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. Because of staff and budget cuts, including loss of an Associate Accounts Examiner, the audit was limited this year to the first set of protocols. The audit protocols are attached hereto as Exhibit C.

RESULTS OF AUDIT AND CONCLUSIONS

Results of Audit and Conclusions

The following results and conclusions can be gleaned from the audit.

1. The percentage of persons who file the SFI forms online continues to increase.

Online filing of the SFI forms was initiated in the 2008 filing year (due May 1, 2009). Since that time, the percentage of individuals who file the forms online has steadily increased.

Required Filers Filing Online					
Filing Year	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Filers	2709	2633	2576	2351	2376
Online Filers	2126	2122	2164	2089	2179
Percent	78%	81%	84%	89%	92%

As is apparent from the above chart, the increased percentage in online filers has occurred during a time when the overall number of required filers has decreased over the same period (in fact, in pure numerical terms, the *number* of online filers has remained relatively constant, even though the *percentage* of online filers has continued to increase). The decrease in total required filers over this period corresponds with a decrease in the total number of state employees during the same time.

State Employees					
	<u>FY</u> <u>08/09</u>	<u>FY</u> <u>09/10</u>	<u>FY</u> <u>10/11</u>	<u>FY</u> <u>11/12</u>	<u>FY</u> <u>12/13</u>
All Employees	86,149	87,761	76,528	73,995	64,445
Percentage +/- from Previous FY	N/A	2%	-13%	-3%	-13%
Executive Branch Employees	35,131	32,798	31,972	32,063	31,050
Percentage +/- from Previous FY	N/A	-7%	-3%	0%	-3%
source: DAS Digest					

As shown in the above chart, the number of state employees (including quasi-public employees) has shrunk over the past five fiscal years by approximately 25%, while the number of Executive branch employees has shrunk over the same period by 9%. Over that same period, the number of required SFI filers has shrunk by approximately 12%.

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The increase in the percentage of online filers over the past few years can be attributed to a variety of factors:

- The ability to save, store, and retrieve data from previous year's filings provides ease and time-saving in filling out the SFI form and thereby encourages online filers to continue filing online once they have started to do so.
 - The increasing ease of use of the online filing system, which continues to be tweaked and improved.
 - The increasing familiarity of the SFI filers with the filing process.
 - The 24 hour access of the online filing system, coupled with the ability to save data for completion at a later time, provides user-controlled filing experience.
 - Continued efforts by Office staff to encourage online filing.
2. The percentage of SFI forms filed with errors or omissions continues to decline

The percentage of SFI forms in the audit sample that were filed without errors, even of a technical sort, was relatively high, 88%, thus suggesting that a vast majority of filers were able to understand and adequately comply with instructions. This is equal to the previous year, where 88% of audited forms were filed without error or omission. Because online filings have a lower percentage of errors than paper filings, the accuracy of filings should continue to rise as the percentage of online filings increases.

Of the SFI forms for which there were findings of errors or issues, the most common findings were as follows:

- Filers who failed to disclose their state income in the section seeking "income" disclosures (5.9% of audited forms).
- Filers who failed to submit the SFI form by the May 1, 2011 deadline (1.7% of all filings).

In addition, many SFI forms contained responses to sporadic questions that did not have complete and/or adequate responses, such as misidentifying the state position of the filer; misidentifying the owner of real property as "owner"; failure to identify the nature of, or the interest in, a business with which the filer is associated; failure to adequately identify securities in excess of \$5,000 (e.g., by identifying such securities only as "mutual funds" or "IRA").

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Of the major areas of SFI form errors, there has been a substantial decrease over the past four filing years and, for the most part, a decrease over the previous year's audit:

Percentage of Forms with Errors or Omissions				
	Failure to Disclose Income Source	Failure to Identify Securities with Particularity	Late Filings	Forms With Error of Any Kind
2008	15.6%	5.2%	5.9%	29.6%
2009	14.4%	1.9%	3.8%	23.2%
2010	16.9%	0.8%	3.9%	22.1%
2011	5.5%	3.0%	2.1%	11.9%
2012	5.9%	0.4%	1.7%	11.8%
Percentage +/- from Previous Yr	+4%	-2.6%	-4%	-1%
Percentage +/- 2008-2012	-9.7%	-4.8%	-4.2%	-17.8%

Among the major problem areas, the failure to adequately disclose securities over \$5,000 saw the biggest decrease from the previous year: from 3% of audited SFI forms in 2011 to .4% of forms in 2012. This specific decrease may be attributed to increased awareness of the obligations for specificity, as conveyed to filers through training, interactions with liaisons, and independent requests to the Legal division regarding the level of accuracy required by the statute. With regard to this item, no changes to the instructions on the form were made from 2011 to 2012.

Late filings also continued their five year decline. Of the audited forms, only 4 failed to file their SFI forms in a timely manner, representing 1.7% of audited filers (compared with 2.1% in the previous year).

The necessity for enforcement, however, increased. This year, the Enforcement Division was forced to file 8 Notices of Hearing for failure to timely file the SFI form (all other late filers filed within the brief grace period). Last year (2012), the Division was forced to file only three actions. The Division filed nine such actions in 2011, and seventeen in the previous year (2010). The increase of enforcement activity from the previous year appears to a combination of: (a) first-time filers who were newly designated by their agencies pursuant to the Governor's designation standard; and (b) lack of adequate support and/or notification by ethics liaisons at the designating agencies.

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The decline in errors on the SFI form over time owes significantly to the increase in online filings, which “force” responses to each question, and maintain data from previous years, thereby lowering the opportunity for error. With respect to the filers of paper forms (which include a significantly higher error rate), the Office instituted a procedure this year whereby paper SFI forms were not accepted (and were given back to the filer for correction) unless they satisfied a set of criteria (for example, forms were checked for certification signatures; the existence of a confidential addendum; whether the form was completed; etc.). Thus, the omissions on paper forms were virtually eradicated.

Continued success in the decrease in error rate also owes to the hiring of a full-time Director of Education and Communication in late 2011. This position plays the role of primary contact with Ethics liaisons at the agencies, and provides assistance (and encouragement) to facilitate the agencies’ timely and accurate filings. In addition, the Office has increased its training of agencies, which includes training on the SFI form.