

AUDIT REPORT
2009 MARSHALS STATEMENTS OF INCOME
OCTOBER 20, 2010



SUMMARY & BACKGROUND

SUMMARY:

State marshals are required to file a limited financial disclosure form, known as a Statement of Income (“SOI”), with the Office of State Ethics (“Office”) on an annual basis. We have performed an audit of the 2009 SOIs filed by all 234 state marshals. Our audit procedures were designed to reveal the level of statutory compliance, and were similar in nature to those employed in the audits of Statements of Financial Interests (“SFIs”) filed by state employees and public officials, as well as audits of lobbyist financial reports.

The audit revealed that approximately 60.5% of state marshals timely filed their forms *and* fully disclosed those items that formed the basis of review. The highest occurring examples of errors and/or non-compliance were:

1. Approximately 8.5% of audited forms either failed to fully answer, or failed to check as “not applicable,” various questions on the 2009 form.
2. Approximately 22% of audited forms either left blank or miscalculated the “gross total income” from the various sub-categories of types of marshal income (e.g., service of process).
3. Approximately 13.7% of the audited forms indicated income from individual sources in amounts of over \$1,000 which, when aggregated, exceeded the total income reported.
4. Approximately 9% of audited forms were submitted with supporting documents¹ that were incomplete (e.g., they did not provide an amount or list the source of the income from which they received an amount of \$1,000 or more).

Additionally, we found among the SOIs that 48 marshals (20.5% of all marshals) failed to timely file the form.

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 heads and their deputies, members of the Gaming Policy Board, the executive director of 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*

¹ Supporting documents consist of pages attached by marshals as a continuation of or in lieu of the information provided on page 3 of the SOI.

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.

Emphasis added. In contrast to the more detailed SFIs also included in Section 1-83(a) (1), SOIs include the amounts and sources of income earned by state marshals strictly in their capacity as marshals, per General Statutes § 1-83(b) (2). SOIs also include expenses that are directly attributable to their official duties as marshals, per Regulations of Connecticut State Agencies § 1-81-13.

Other than enforcing the filing requirements of Section 1-83, this Office does not have jurisdiction over marshals.

B. Submitting the SOI Form

Marshals are not required by statute to file on line, and currently this Office does not have an electronic system which would allow marshals to file on line.

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

AUDIT OBJECTIVES:

The primary objective of the audit is to ascertain, at a base level, the level of facial compliance with the disclosures required by Section 1-83. Particular focus is devoted to completeness of answers and internal consistency. Except where otherwise specifically noted, the audit objectives do not include the substantive analysis of financial disclosures.

SCOPE AND METHODOLOGY:

1. SCOPE:

Review of the SOIs consisted of a facial review of 100% of the marshals' forms, or 234 forms altogether. Because of the relatively small number of marshals (as opposed to SFI filers, which number in the thousands), it was practical to review all marshal forms. The results of the audit are therefore more accurate than the results of an audit that is limited to a small sample size.

A separate audit was performed on a sample of SFIs, and is not the subject of this report.

2. METHODOLOGY:

Methodology was developed with reference to audit protocols developed by the Office for lobbyist filings, as well as reference to GAAP², GAAS³, 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 SOI 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.

3. AGENCY RESPONSE:

The audit process is designed to be non-punitive. Rather, the primary goals of the audit process are to educate the filer and to promote compliance. 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: 60.5%. This suggests that many filers were able to understand and adequately comply with instructions. Second, the most common findings were as follows:

1. Approximately 8.5% of audited forms either failed to fully answer, or failed to check as “not applicable,” various questions on the form.
2. Approximately 22% of audited forms either left blank or miscalculated the “gross total income” from the various sub-categories of types of marshal income (e.g., service of process).
3. Approximately 13.7% of the audited forms indicated income from individual sources in amounts of over \$1,000 which, when aggregated, exceeded the total income reported.
4. Approximately 9% of audited forms were submitted with supporting documents⁴ that were incomplete (e.g., they did not provide an amount or list the source of the income from which they received an amount of \$1,000 or more).

There was no ascertainable pattern to these deficiencies. A total of 75 letters were sent to filers whose forms contained deficiencies that required correction.

² Generally Accepted Accounting Principles.

³ Generally Accepted Auditing Standards.

⁴ Supporting documents consist of pages attached by marshals as a continuation of or in lieu of the information provided on page 3 of the SOI.

This marks the first time that this Office has audited SOIs. The results of this audit, on the whole, demonstrated less compliance and more errors than the results of the audit of SFIs conducted this year by this Office (“2009 SFI audit”).⁵ While approximately 60.5% of SOIs were submitted on time and without errors, 72.2% of the audited 2009 SFIs were submitted timely and without errors. While this may show that a majority of marshals (60.5%) were able to understand the form and comply with the instructions and the deadline, other information gleaned from the audit demonstrates there is a clear need for improvement in statutory compliance. For example, the most notable difference between the marshal audit and the 2009 SFI audit relates to the timely filing of their forms: While only 3.8% of the sample size of 2009 SFI filers failed to file their form on time, a much higher percentage of all marshals, 20.5%, failed to file their form in a timely manner.

One reason for the difference in those who timely filed their SFIs may be the heightened role that ethics liaisons play in shepherding their agencies’ employees and officials to submit on time. SFI filers are also now capable of filing their forms electronically. In contrast, this Office has not traditionally contacted state marshals directly prior to the May 1 deadline. This Office does not have access to state marshals’ e-mails addresses, and therefore has been unable to send electronic pre-deadline reminders to state marshals, unlike the case with SFI filers. This Office provides reminders and notices to the State Marshal Commission, the state entity responsible for overseeing the state marshal system, and relies on the Commission to notify and remind the marshals. See General Statutes §6-38b. State marshals are not state employees and are not required to submit e-mail addresses to this Office. However, it should be noted that the vast majority of marshals - almost 80% - filed their forms by the May 1 deadline. Additionally, all but one marshal filed before the end of the grace period, May 24, 2010.

As to filers who failed to fully answer or failed to check as “not applicable” various questions on their 2009 form (8.5% of filers), this problem may be associated with some of the following reasons: the assumption that leaving a response blank was the same as indicating the question was “not applicable”; the filer inadvertently missed the question in a rush to submit the form; and/or the mistaken assumption that, because the total income and/or expenses were provided, questions which called for components of the total income and/or expenses were not required.

As to filers who failed to provide a correct total for gross income paid to them in 2009, the audit revealed that most marshals simply committed arithmetic mistakes in calculating total income. Additionally, other cases suggest that the marshals may not have understood to which category (e.g., service of process, collection services, etc.) certain income belonged.

As to filers whose audited forms indicated income from sources in amounts of over \$1,000 which, when aggregated, exceeded their total income reported on page 1 of the form, the audit revealed that marshals may have committed arithmetic mistakes and/or may not have understood which income should have been reported in certain categories.

⁵ Audit Report of the 2009 Statements of Financial Interests (September 9, 2010). The sample size used in the audit described in the report was 263 SFIs, or 10% of the total SFIs.

Finally, as to the filers who failed to submit attached pages that were complete, the audit revealed that most filers simply omitted the same information as required on page 3 of the SOI (which pertains to the names, addresses and amounts of income from sources which exceeded \$1,000). The audit revealed other examples which suggested that the filers may not have understood what should be counted toward income on page 3, and therefore submitted incomplete information on the attached page(s).

The 2009 SFI audit had different results, in terms of the percentage of SFI filers who filed with errors. For example, although the 2009 SFI audit indicated that 14.4% of filers failed to disclose their income, only 3.8% of filers failed to disclose their spouses' income sources and only 1.9% of filers failed to disclose securities valued over \$5,000. In contrast, the percentage of marshals who committed errors on their forms was significantly higher than those in the 2009 SFI audit. Although the two forms are vastly different, SFI filers provided more accurate and complete responses when compared to state marshals.

However, it should be noted that the success in SFI filers submitting their forms without errors and in a timely manner is likely related to changes in SFI procedures undertaken by this Office prior to the May 1, 2010 filing deadline. Such changes in procedures (such as clarifying the form's instructions and increased education of filers carried out with ethics liaisons) were instituted following a previous audit of SFIs which revealed several areas of concern.

As in the case of last year's first ever SFI audit ("2008 SFI audit"), this Office has gained valuable insight and information from the first ever marshal audit. This Office will use this to improve marshal filings in the future. Several changes that may lead to improved compliance on the part of marshals include:

- 1) Clarify SOI instructions to emphasize that all questions on the form must be answered, even questions that may not be applicable to the marshal (with the answer being "not applicable"),
- 2) Provide a detailed worksheet with the SOI that marshals can use in calculating income and expenses.
- 3) Encourage marshals to disclose e-mail addresses to allow the Office to communicate directly regarding upcoming filing requirements.

This Office will consider the above and other changes as necessary and continue to audit marshal filings annually, which will allow this Office to track progress and foster improvement of marshal compliance.

EXHIBIT A

PROTOCOL FOR AUDIT OF 2009 MARSHAL SOI FILINGS

SELECTION: For 2009 filings, all marshal filings will be audited.

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

1. Check if signed.
2. Check if timely filed and dated.
3. Ensure that form is the 2009 form.
4. Check to ensure that each question was answered.
5. Check to ensure that the names, addresses, and amounts received (page 3) are completed and that the totals are correct and are reflected on page 1.
6. Determine whether patterns of responses suggest intentional deficiencies (e.g., filer enters no substantive information; expenses (page 2) appear overstated in relation to work performed; etc.).
7. If additional pages are attached, check to ensure that the attachments are complete and do not contradict answers given to questions on the form.
8. Note whether each marshal identifies the state, or any state or quasi-public agency, as a person from whom the marshal received \$1,000 or more.

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, uniform 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 General Statutes § 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.