

Audit Report: 2011 Statement of Financial Interests

Contact Us



Agency Address: Connecticut Office of State Ethics
18-20 Trinity Street
Suite 205
Hartford, CT 06106

Telephone: 860-263-2400

Facsimile: 860-263-2402

Website: www.ct.gov/ethics

Business Hours: 8:00 am to 5:00 pm

TABLE OF CONTENTS

Statements of Financial Interests	4
Audit Summary and Background	5
Summary	5
Background	6
A. Who Must File	6
B. What Must Be Disclosed	8
C. Submitting the SFI Form	9
D. Changes From the Previous Year	9
Audit Objectives, Scope and Methodology	11
Audit Objectives	11
Scope and Methodology	11
Results of Audit and Conclusions	12
Required Filers Filing Online	12
Full-time State Employees	12
Percentage of Forms with Errors or Omissions	14

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 you are 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 2011 Statement of Financial Interests (“SFI”) forms filed with the Office of State Ethics (“Office”). Our audit was based on a sample of 235 randomly selected SFI forms, or approximately 10% of the 2,351 required filers as of May 1, 2012. 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, 89% 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 (5.5% of audited forms); (2) failure to adequately identify the name of securities held in excess of \$5,000 (3% of audited forms); and, (3) failure to timely file the form (2.1% of all forms).

In each of the three compliance areas stated above, there has been a significant decline in the problem since the inception of the audit program four years ago. In addition, although the failure to adequately disclose securities rose slightly over the past year, each of the other problem areas – and problems overall – were significantly less than the previous year.

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 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 in-take procedure for paper SFI forms; and, (5) select, but impactful, enforcement.

Background

A. Who Must File

Connecticut General Statutes § 1-83(a) (1) designates that:

All state-wide elected officers, members of the General Assembly, department heads¹ and their deputies², members of the Gaming Policy Board³, the executive director of the Division of Special Revenue within the Department of Revenue Services, members or directors of each quasi-public agency⁴, members of the Investment Advisory Council⁵, state marshals and such members of the Executive

¹ Pursuant to General Statutes § 4-5, “department head” is 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, the director of the Bureau of Rehabilitative Services and the executive director of the Office of Military Affairs. Also included in the definition are the Commissioner of Education and the president of the Board of Regents for Higher Education.

² 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.”

³ 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.

⁴ Pursuant to the Code of Ethics, General Statutes § 1-79(1), “Quasi-Public agency” was defined for calendar year 2011 (the provision was modified by Public Act 12-1, effective July 1, 2012) as “the Connecticut Development Authority, Connecticut Innovations, Incorporated, Connecticut Health and Education Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Authority, Connecticut Resources Recovery Authority, Lower Fairfield County Convention Center Authority, Capital City Economic Development Authority, Connecticut Lottery Corporation, Connecticut Airport Authority, Health Information Technology Exchange of Connecticut and Connecticut Health Insurance Exchange.” In addition, pursuant to General Statutes § 13b-57e(g), the Transportation Strategy Board is deemed a quasi-public agency for purposes of the Code of Ethics. By statute, the Connecticut Development Authority is also permitted to establish its own subsidiaries, each of which is its own quasi-public agency. Gen. Stat. § 32-11a(1). However, for future years, Public Act 12-1 subsumed the CDA into Connecticut Innovations, Inc. (another quasi-public agency) and transferred the authority to establish subsidiary quasi-publics over to Connecticut Innovations. The Act specifically identifies the Connecticut Brownfields Redevelopment Authority as one such subsidiary that is also a quasi-public agency (Public Act 12-1 became effective July 1, 2012).

⁵ 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

Audit Report: 2011 Statement of Financial Interests

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 Board of Directors of the Sustinet Health Partnership (Gen. Stat. § 19a-711(c))

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 2011, Governor Malloy adopted the practice of the previous two Governors in delegating this designation authority to Executive branch agency heads, with instructions that SFI forms had to be filed by:

... all persons in the Executive Branch and Quasi-Public Agencies who exercise (i) significant policy-making, regulatory or contractual authority; (ii) significant decision-making and/or supervisory responsibility for the review and/or award of State contracts; or (iii) significant decision-making and/or supervisory responsibility over staff that monitor State contracts.⁶

Each executive branch agency and each quasi-public agency, acting through its ethics liaison (see General Statutes at § 1-101rr), maintains access to the electronic SFI filing system at the Office of State Ethics for the purpose of specifying the personnel within the agency that fall within the Governor's standard. 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

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.

⁶ This standard has since been revised. In December 2012, Governor Malloy adopted the recommendation of the Office of State Ethics to more clearly delineate the persons who are required to file the SFI. For the 2012 annual filing (due no later than May 1, 2013), the applicable standard is found at: http://www.ct.gov/ethics/lib/ethics/guides/2012/2012_statements_of_financial_interests_governors_standard_december_2012.pdf.

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.

Audit Report: 2011 Statement of Financial Interests

As of May 1, 2012, there were 2351 persons who were required to file SFI forms for calendar year 2011. The random selection of the audit pool was performed using this group of 235.⁸

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,
- (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.

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.

Audit Report: 2011 Statement of Financial Interests

All information filed with the SFI form is a matter of public record and 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.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, 2012, 89% 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, 2011) there have been 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

Following the findings of the audit report of the 2010 SFI filings, the Office of State Ethics hired a full-time Director of Education and Communication who has, among her other functions, the role of interacting with the ethics liaisons of state agencies.¹⁰

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:

- Provided 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;
- 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).

⁹ Gen. Stat. § 1-83 (c).

¹⁰ Pursuant to General Statutes § 1-101rr, each state agency and quasi-public agency must appoint either an ethics compliance officer (if the agency or quasi-public agency is a party to a large construction contract), or an ethics liaison, to coordinate with the Office of State Ethics regarding the Code of Ethics.

Audit Report: 2011 Statement of Financial Interests

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.¹¹

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.

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.

¹¹ This year, 9 matters were docketed for agency hearing for the failure to timely file the SFI form. This was a significant drop from the 17 such matters the previous year.

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.

Audit Report: 2011 Statement of Financial Interests

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>
Filers	2709	2633	2576	2351
Online Filers	2126	2122	2164	2089
Percent	78%	81%	84%	89%

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.

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

source: DAS Digest

As shown in the above chart, the number of full-time state employees (including quasi-public employees) has shrunk over the past four fiscal years by 14%, while the number of full-time 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 11%.

Audit Report: 2011 Statement of Financial Interests

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 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, 88.1%, thus suggesting that a vast majority of filers were able to understand and adequately comply with instructions. This compares favorably with the previous year, where 77.9% of 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 (5.5% of audited forms).
- Filers who failed to adequately disclose securities valued over \$5,000 and, in particular, securities held through mutual funds, retirement accounts (particularly state retirement accounts), etc. (3% of audited forms).
- Filers who failed to submit the SFI form by the May 1, 2011 deadline (2.1% 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; failure to check a box (paper filings only); failure to disclose a business with which the filer is associated (1.7% of audited forms); and, overuse or misuse of the term "not applicable" (paper filings only).

Audit Report: 2011 Statement of Financial Interests

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	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%	
Percentage +/- from Previous Yr	-11.4%	2.2%	-1.8%	-10.2%	
Percentage +/- 2008-2011	-10.1%	-2.2%	-3.8%	-17.7%	

Among the major problem areas, the failure to disclose state income saw the biggest decrease from the previous year: from 16.9% of audited SFI forms in 2010 to 5.5% of forms in 2011. This specific decrease may be attributed to highlighted language that was placed in both the printed SFI form and the online form this past year in response to the significant number of errors in this area the previous year ("Please ensure to include your state salary/state wages.").¹² The Office will continue this highlighted language in the 2012 SFI form.

The failure to adequately identify securities over \$5,000 increased slightly from the previous year, from 0.8% of audited SFI forms to 3% of audited forms (however, the error rate has declined from the 5.2% in 2008). A review of the audited forms shows that a sizable percentage of the errors in this area were volunteer board members who, contrary to the statutory requirement to "name" each security over \$5,000, instead disclose only vague identification of the securities (i.e., "various stocks," "mutual fund," etc.). Currently, the online filing system allows the entry of this vague information. However, the Office is reviewing the online filing process to further mitigate this problem. Such mitigation will not, however, affect those who file on paper and fail to fully disclose securities consistent with the statute.

¹² Within this year's audit pool, all but one of the forms with this type of error were online filings.

Audit Report: 2011 Statement of Financial Interests

Late filings also continued their four year decline. Of the 2,351 required filers, only 50 failed to file their SFI forms in a timely manner, representing 2.1% of total filers (compared with 3.9% in the previous year). The need for enforcement also continued to decline. This year, the Enforcement Division filed only three Notices of Hearing for failure to timely file the SFI form (all other late filers filed within the brief grace period). Last year (2010), the Division was forced to file nine actions, and seventeen in the previous year (2009).

The decline in errors on the SFI form owe 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.

Success in the decrease in error rate this year also owes to the hiring of a full-time Director of Education and Communication in late 2010. 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.