



2010

Annual Report

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Organization and Staffing

CURRENT COMMISSIONERS

There are seven commissioners; one each appointed by the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House, and the Minority Leader of the House, and three appointed by the Governor only two of whom may be of the same political party. All are appointed without confirmation. Commissioners currently serving are:

LOUIS W. FRYMAN, CHAIR

Louis W. Fryman was appointed to the State Ethics Commission on March 9, 1998, by Robert C. Jubelirer, President Pro Tempore of the Senate. He was reappointed March 14, 2001, and was elected Chair of the Commission May 2, 2002.

Mr. Fryman is a partner of the law firm Conrad O'Brien, P.C. and has served the community in many leadership capacities in professional, social, and educational positions. Mr. Fryman is a Fellow and was a Regent of the American College of Trial Lawyers and a Fellow of the International Academy of Trial Lawyers. He is the past president of the Philadelphia Bar Foundation and The Lawyers' Club of Philadelphia and recipient of the Bar Association's prestigious Obermayer Award for his contribution to education. Mr. Fryman was a Commissioner for Lower Merion Township, past president of Big Brothers/Big Sisters Association of Philadelphia, and now serves on the Board of Big Brothers/Big Sisters of America Foundation, and was the recipient of its Berwind Lifetime Achievement Award. Mr. Fryman has also been recognized by the State of Israel Bonds with their Heritage Award and has received the Learned Hand Award, presented by the American Jewish Committee, as well as the Villanova Alumni Award for Public Service and the Service Award from the CORA Catholic Service Organization. Mr. Fryman was an adjunct faculty member of Temple University's School of Law Masters Program in Trial Advocacy and serves on the Executive Board of the Academy of Advocacy. He has also lectured at Drexel Law School and Villanova Law School. Mr. Fryman was president of the Board of the Walnut Street Theatre in Philadelphia and past chairman of the Episcopal Academy Board of Trustees. He was a member of the Panel of the Senate of the Commonwealth of Pennsylvania for Judicial Selection 1988. He was appointed by then-U.S. Senators Arlen Specter and Rick Santorum to the Federal Judiciary Nominating Commission of Pennsylvania in 1996, 1997, and 1998, and was appointed by then-Governor Ridge to the Judicial Advisory Committee in 1995, 2001, and 2002. He also was appointed by then-Mayor Rendell of Philadelphia to serve on the Philadelphia Refinancing Task Force, as counsel to the Charter Reform Commission, and as a member of the Election Reform Task Force.

Mr. Fryman also serves on the Board of Directors of numerous community services, healthcare, and arts organizations including Lankenau Hospital Foundation, Main Line Health Board of Governors, and as Past President of the Louis D. Brandeis Law Society Foundation.

JOHN J. BOLGER, VICE CHAIR

John J. Bolger was appointed to the State Ethics Commission on October 2, 1998, by the Honorable Thomas J. Ridge, Governor of the

Commonwealth of Pennsylvania, and reappointed by the Honorable Mark Schweiker, Governor of the Commonwealth of Pennsylvania, on March 25, 2002. Mr. Bolger was elected Vice Chair on May 2, 2002.

Mr. Bolger, who is currently retired, served for 28 years with the Pennsylvania Bankers Association in various positions including director of Public Affairs, vice president for Governmental Affairs, and vice president, secretary, and chief administrative officer. Mr. Bolger has also been involved in numerous civic activities including the Holy Spirit Hospital Fund Raising Campaign, the Hospice of Central Pennsylvania, the American Heart Association Jail Bond Program, the Allied Arts Fund Raising Campaign, the United Way Campaign where he served as coordinator, and as a board member of the Harrisburg Rotary Club.

Professionally, Mr. Bolger served as the past president of the Pennsylvania Society of Association Executives. He was named as the Notre Dame Club "Man of the Year" and also served as the past president of the Notre Dame Club of the Harrisburg Area. Mr. Bolger is a graduate of the University of Notre Dame where he received a Bachelor of Science degree in Business Administration.

In 2001, Mr. Bolger received the Award of Excellence from the Pennsylvania Alliance for Association Advancement (PA 3) for his outstanding commitment to profession, service, and community.

DONALD M. MCCURDY, COMMISSIONER

Donald M. McCurdy was appointed to the Pennsylvania State Ethics Commission on February 22, 2001, by the Speaker of the House, Matthew Ryan.

Mr. McCurdy, an attorney from Springfield, Pennsylvania, is a member of the Delaware County Court, the Pennsylvania Supreme Court, and the U.S. Supreme Court. He is a graduate of Dickinson College and Dickinson School of Law, Carlisle, Pennsylvania. Mr. McCurdy served as the Special Assistant Deputy Attorney General for the Commonwealth of Pennsylvania from 1963 to 1966. Mr. McCurdy was also a Member of the State House of Representatives, 165th District, from 1967 through 1974.

Mr. McCurdy served in active duty as a helicopter pilot for the United States Navy from 1955–1959. He is a retired Commander USNR with 27 years of service.

RAQUEL KENNEDY BERGEN, COMMISSIONER

Raquel Kennedy Bergen was appointed as a member of the State Ethics Commission on March 3, 2004, by the Honorable Edward G. Rendell, Governor of the Commonwealth of Pennsylvania.

Raquel Kennedy Bergen, Ph.D. is professor and chair of the Department of Sociology at Saint Joseph's University in Philadelphia, Pennsylvania. She graduated from Saint Joseph's University with a B.S. in Sociology in 1989 and she received her Ph.D. from the University of Pennsylvania in 1994. She has been a member of the faculty at Saint Joseph's University since 1993. Her area of expertise is the Sociology of Gender and specifically, the sociological study of violence against women. She is the author of several scholarly publications and books, including *Wife Rape: Understanding the Response of Survivors and Service Providers*, and *Issues in Intimate Violence*.

With Claire Renzetti and Jeff Edleson, she edited *Sourcebook on Violence Against Women* and the anthology *Violence Against Women: Classic Statements*. She also co-edited the collection *Violence Against Women* with Claire Renzetti. As a result of her research on violence against women, Dr. Bergen was awarded the McShain Chair in Ethics from Saint Joseph's University for 2002–2004.

Dr. Bergen has been involved in various forms of service at Saint Joseph's University. She has served as a member of the Faculty Senate, University College, Gender Studies Committee, the Board of Rank and Tenure, and the Institutional Review Board, and she served as the chair of the Sexual Harassment Panel. For the past 14 years, she has been the faculty moderator for REPP (the Rape Education Prevention Program) at Saint Joseph's University. This group is responsible for providing educational programs on sexual assault and crisis counseling for survivors of sexual violence within the community. Dr. Bergen volunteers as a crisis counselor for battered and sexually-abused women, and speaks nationally about women's experiences of sexual violence in intimate partnerships. Her current research is a study of physical, sexual, and emotional violence against women during pregnancy.

NICHOLAS A. COLAFELLA, COMMISSIONER

Nicholas A. Colafella, Ph.D. was appointed as a member of the State Ethics Commission on December 27, 2004, by the Honorable H. William DeWeese, Minority Leader of the Pennsylvania House of Representatives.

Dr. Colafella was a member of the Pennsylvania House of Representatives from 1981 to 2002, serving the 15th Legislative District (Beaver County). As a member of the House of Representatives, Dr. Colafella served as the Democratic Chairman of the House Insurance Committee (1992–1998), and the House Education Committee (1999).

During this time period, Dr. Colafella also served as a member of the Board of Directors of the Pennsylvania Higher Education Assistance Agency, the Pennsylvania State Board of Education, the Council of Higher Education, and the State Board of Vocational Education. From 1969 until 1980, Dr. Colafella served as the Dean of Continuing Education and Community Service for the Community College of Beaver County as well as its Director of Evening Education. He also served as a Business instructor at the same institution, and previously served as a high school Business teacher at Center High School and Northwestern High School.

In 1992, Dr. Colafella was recognized as the Outstanding Legislator of the Year by the College and University Public Relations Association of Pennsylvania, and also was named Man of the Year in 1982 by the Upper Beaver Valley Jaycees.

Dr. Colafella has devoted substantial efforts towards community involvement, including his service as chairman of the Beaver County Drug and Alcohol Commission, the University of Pittsburgh Medical Center Beaver Valley Hospital Advisory Committee, board member of the Pennsylvania State University Beaver Campus Advisory Committee, and the Beaver County Mental Health and Mental Retardation Agency.

From 1956 to 1958, he served in the United States Navy. He received his Ph.D. from the University of Pittsburgh, where he published his dissertation entitled *A Study of Voluntary Support for*

Pennsylvania Community Colleges. He received his Masters of Arts in Education from Duquesne University and his Bachelor of Sciences in Education from Youngstown State University.

MARK VOLK, COMMISSIONER

Col. (Ret.) Mark Volk was appointed as a member of the State Ethics Commission on July 2, 2009, by the Honorable Robert J. Mellow, Minority Leader of the Pennsylvania Senate.

Col. Volk is the executive vice president at Lackawanna College, having joined the administration in July 2004. A retired Army colonel, he holds both Bachelor's and Master's degrees in History from the University of Scranton as well as a Master's of Science in National Security Strategy from the National War College. During his 26-year Army career, he served in a variety of staff and command positions in both the United States and Germany. He also trained as a Middle East/North Africa specialist. During the Los Angeles riots in 1992, he was the Joint Task Force liaison officer to Central Bureau, LAPD. Col. (Ret.) Volk also served as the senior intelligence staff officer for the 3rd Infantry Division in Germany and as Commander of the 103rd/101st Military Intelligence Battalion. He deployed the 101st MI to Bosnia in September 1996 where it was the intelligence support force for Task Force Eagle in Multi-National District–North.

Since joining Lackawanna College in July 2004, Col. (Ret.) Volk has held positions as special assistant to the President, vice president of Operations and Planning, and was promoted to his present position in April 2006. An active community volunteer, he helps coordinate volunteer support for the Children's Advocacy Center of Northeast PA and serves on the boards of The Greater Scranton Chamber of Commerce, Leadership Lackawanna, and the Northeast Council of the Boy Scouts of America.

STAFF

EXECUTIVE DIVISION

John J. Contino, Executive Director

Robert P. Caruso, Deputy Executive Director/Director of Investigations

Claire J. Hershberger, Executive Secretary

OFFICE OF CHIEF COUNSEL

Robin M. Hittie, Chief Counsel

Martin W. Harter, Senior Assistant Counsel

Alecia Peddigree, Secretarial Support

ADMINISTRATIVE DIVISION

Cynthia Lynch, Director for Administration

Sean M. Firestine, IT Generalist

Helen Johns, Clerk Typist

Stanley G. Weaver, Clerk Typist

Esther Torres Rivera, Clerk Typist

INVESTIGATIVE DIVISION (HEADQUARTERS)

Brian D. Jacisin, Assistant Counsel

Mary Fox, Assistant Counsel

Daniel M. Bender, Senior Special Investigator

Gregory Curran, Special Investigator

Jonathan Millinder, Special Investigator

Jody Zeiders, Secretarial Support

INVESTIGATIVE DIVISION (WESTERN REGIONAL OFFICE)

Jason P. Bricker, Supervising Investigator
 Daniel Cali, Special Investigator
 Joseph Grado, Special Investigator
 Cynthia L. Hershberger, Secretarial Support

COMMISSION MEMBER AND EMPLOYEE RESTRICTIONS

The Ethics Act places certain obligations upon the Commission and staff members. No individual while a member or employee of the Commission, shall:

1. hold or campaign for any other public office.
2. hold office in any political party or political committee.
3. actively participate in or contribute to any political campaign.
4. directly or indirectly attempt to influence any decision by a governmental body, other than a court of law or as a representative of the Commission on a matter within the jurisdiction of the Commission.
5. be employed by the Commonwealth or a political subdivision in any other capacity whether or not for compensation.
6. no member of the Commission shall have served as an officer in a political party for one year prior to appointment.

The State Ethics Commission has also implemented an internal Code of Conduct to govern the members of the Commission. That

code is set forth later in this report as part of the Commission’s regulations.

ADDRESSES AND TELEPHONE NUMBERS

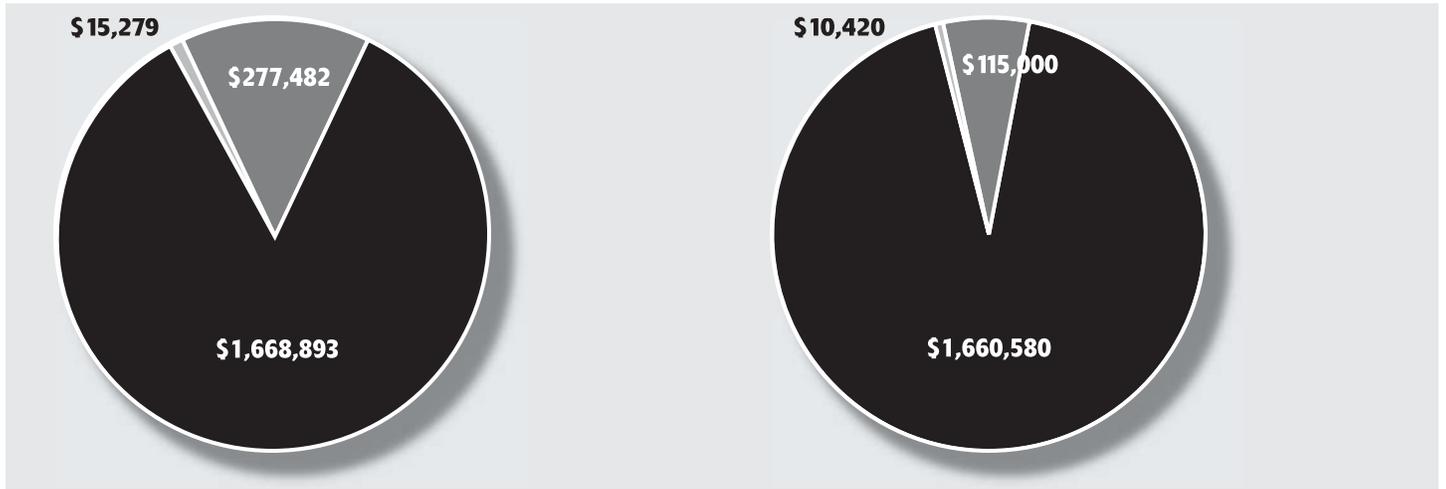
The Commission is located in **Room 309 Finance Building, Commonwealth Avenue and North Street, Harrisburg.** The office is open from **8 a.m. to 5 p.m., Monday through Friday.** Mail should be addressed to the **Pennsylvania State Ethics Commission, Room 309 Finance Building, P.O. Box 11470, Harrisburg, Pennsylvania 17108-1470.** Members of the staff may be reached at **(717) 783-1610.** The fax number is **(717) 787-0806.**

The Commission also maintains a **Pittsburgh Regional Office, located at 1 Forestwood Drive, Suite 102, Pittsburgh, Pennsylvania 15237.** Members of the staff may be reached at **(412) 635-2816.** The fax number is **(412) 635-2818.**

The Commission’s Home Page on the Worldwide Web is located at **www.ethics.state.pa.us.** The Commission’s e-mail address is **ethics@state.pa.us.**

A toll-free line is available for candidates, public officials, public employees, and citizens who have questions about the Act. The number is **800-932-0936.**

For information on filing and inspections of Statements of Financial Interests, ask for Stanley Weaver or Helen Johns.



Budget

TWO-YEAR BUDGET ANALYSIS

APPROPRIATION 2009–2010

Employee salaries/benefits	\$ 1,668,893
Miscellaneous personnel services*	\$ 277,482
Agency operations	\$ 15,279
Total	\$ 1,961,654

APPROPRIATION 2010–2011

Employee salaries/benefits	\$ 1,660,580
Miscellaneous personnel services*	\$ 115,000
Agency operations	\$ 10,420
Total	\$ 1,786,000

* Miscellaneous personnel services includes Commissioner Per Diems, Training, and Leave Pay-Outs.

Statement of Purpose and Goals

The Preamble to the Public Official and Employee Ethics Act sets forth the legislative intent that generated the enactment of the Act. That Section of the Act provides as follows:

SECTION 1. PURPOSE

- (a) The legislature hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In order to strengthen the faith and confidence of the people of the State in their government, the legislature further declares that the people have a right to be assured that the financial interests of holders of or nominees or candidates for public office do not conflict with the public trust. Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this act shall be liberally construed to promote complete financial disclosure as specified in this act. Furthermore, it is recognized that clear guidelines are needed in order to guide public officials and employees in their actions. Thus, the General Assembly by this act intends to define as clearly as possible those areas which represent conflict with the public trust. 65 Pa.C.S. §1101.
- (b) It is recognized that many public officials, including most local officials and members of the General Assembly, are citizen-officials who bring to their public office the knowledge and concerns of ordinary citizens and taxpayers. They should not be discouraged from maintaining their contacts with their community through their occupations and professions. Thus, in order to foster maximum compliance with its terms, this act shall be administered in a manner that emphasizes guidance to public officials and public employees regarding the ethical standards established by this act. 65 Pa.C.S. §1101.
- (c) It is the intent of the General Assembly that this act be admin-

istered by an independent commission composed of members who are cognizant of the responsibilities and burdens of public officials and employees and who have demonstrated an interest in promoting public confidence in government.

In an effort to effectuate this mandate and fulfill the statutory duties and responsibilities delegated to the Commission the following precepts are intended to be the operative methods of accomplishing these goals:

1. To provide guidance to public officials and public employees in plain and simple language and in an expeditious manner regarding the provisions of the Ethics Act and their duties and responsibilities thereunder.
2. To offer information, guidance, and direction on issues within the Commission's jurisdictional mandate to any public official, public employee or other person seeking such, and in those instances not within the Commission's jurisdiction, to offer alternative sources of such information, guidance and direction.
3. To conduct the affairs of the Commission in an open and public manner within the parameters of the Ethics Act so as to afford all citizens of the Commonwealth of Pennsylvania with a public accounting of the Commission's activities.
4. To afford all individuals subject to the Commission's jurisdiction or appearing before the Commission due process of law in the review and adjudication of matters coming before the Commission.
5. To independently and in an apolitical manner evaluate, interpret, and decide issues arising under the Act.
6. To provide continuing educational services to public officials, public employees, and citizens of Pennsylvania regarding the provisions of the Act and the decisions of the State Ethics Commission.
7. To abide by the highest standard of conduct in carrying out the mandates of the Public Official and Employee Ethics Act.

Powers and Duties

The powers and duties of the State Ethics Commission are statutorily mandated in Section 1107 of the State Ethics Act. These requirements of the Act have been delineated in furtherance of the stated purpose of the Act; "to strengthen the faith and the confidence of the people of the State in their government." While the Commission's duties as outlined below are a condensed version of those in the Act, they serve to depict the parameters of the Commission's jurisdiction.

- Render prospective advisory opinions to present or former public officials and public employees, their appointing authority or employer regarding such individual's duties and responsibilities under the Ethics Act.
- Receive and review Statements of Financial Interests of persons required to file; inspect such statements to ascertain whether any reporting person has failed to file such statement or has filed a deficient statement.
- Prescribe forms for filing.
- Accept and file information voluntarily supplied that exceeds the requirements of the Act.

- Preserve statements and reports filed with the Commission for a period of five years.
- Make statements available for public inspection and copying.
- Maintain a master index of statements filed with the Commission.
- Instruct other state and local agencies in the maintenance of systems which facilitate public access to such statements.
- Investigate alleged violations of the Ethics Act and issue decisions in relation to said investigations.
- Prepare and publish an annual report, prepare and publish special reports, educational materials, and technical studies to further the purposes of the Act.
- Hold hearings, take testimony, issue subpoenas, and compel the attendance of witnesses.
- Prescribe rules and regulations to implement the provisions of the Ethics Act. (*See 51 PA. Code §1.1 et seq.*)
- Hold at least two public hearings each year to seek input from persons and organizations who represent individuals subject to the Ethics Act.

Restricted Activities

The Public Official and Employees Ethics Act provides certain restricted activities in which public officials and employees may not engage. These restrictions provide the basis upon which Commission rulings are issued.

- (a) No public official or public employee shall engage in conduct that constitutes a conflict of interest. A conflict of interest is defined as use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family, or a business with which he or a member of his immediate family is associated. "Conflict" or "conflict of interest" does not include an action having a *de minimis* economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation, or other group which includes the public official or public employee, a member or his immediate family, or a business with which he or a member of his immediate family is associated.
- (b) No person shall offer or give to a public official, public employee, or nominee or candidate for public office or a member of his immediate family or a business with which he is associated, anything of monetary value, including a gift, loan, political contribution, reward, or promise of future employment based on the offeror's or donor's understanding that the vote, official action, or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.
- (c) No public official, public employee, or nominee or candidate for public office shall solicit or accept, anything of monetary value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding of that public official, public employee, or nominee that the vote, official action, or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.
- (d) (1) No public official or public employee shall accept an honorarium.
- (e) (1) No person shall solicit or accept a severance payment or anything of monetary value contingent upon the assumption or acceptance of public office or employment.
 - (2) This subsection shall not prohibit:
 - (i) Payments received pursuant to an employment agreement in existence prior to the time a person becomes a candidate or is notified by a member of a transition team, a search committee, or a person with appointive power that he is under consideration for public office or makes application for public employment.
 - (ii) Receipt of a salary, fees, severance payment, or proceeds resulting from the sale of a person's interest in a corporation, professional corporation, partnership, or other entity resulting from termination or withdrawal therefrom upon the assumption or acceptance of public office or employment.
 - (3) Payments made or received pursuant to paragraph (2) (i) and (ii) shall not be based on the agreement, written or otherwise, that the vote or official action of the prospective public official or employee would be influenced thereby.
- (f) No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract. Any contract or subcontract made in violation of this subsection shall be voidable by a court of competent jurisdiction if the suit is commenced within 90 days of the making of the contract or subcontract.
- (g) No former public official or public employee shall represent a person, with promised or actual compensation, on any matter before the governmental body with which he has been associated for one year after he leaves that body.
- (h) No person shall use for any commercial purpose information copied from Statements of Financial Interests required by this Act or from lists compiled from such statements.
- (i) No former executive-level state employee may for a period of two years from the time that he terminates his state employment be employed by, receive compensation from, assist, or act in a representative capacity for a business or corporation that he actively participates in recruiting to the Commonwealth of Pennsylvania or that he actively participated in inducing to open a new plant, facility, or branch in the Commonwealth or that he actively participated in inducing to expand an existent plant or facility within the Commonwealth, provided that the above prohibition shall be invoked only when the recruitment or inducement is accomplished by a grant or loan of money from the Commonwealth to the business or corporation recruited or induced to expand.
- (j) Where voting conflicts are not otherwise addressed by the Constitution of Pennsylvania or by any law, rule, regulation, order, or ordinance, the following procedure shall be employed. Any public official or public employee, who in the discharge of his official duties, would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, provided that whenever a governing body would be unable to take any action on a matter before it because the number of members of the body required to abstain from voting under the provisions of this section makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if disclosures are made as otherwise provided herein. In the case of a three-member governing body of a political subdivision, where one member has abstained from voting as a result of a conflict of interest, and the remaining two members of the governing body have cast opposing votes, the member who has abstained shall be permitted to vote to break the tie vote if disclosure is made as otherwise provided herein.

Financial Disclosure

Section 1104 of the Ethics Act (65 Pa.C.S. §1104) requires that public officials, public employees, and candidates for public office file Statements of Financial Interests. Section 1105 of the Ethics Act (65 Pa.C.S. §1105) of the Act describes the information to be reported.

In preparation for the May 1, 2011 filing for calendar year 2010, the annual mailing of the Statements of Financial Interests was completed during the week of December 20, 2010. As mandated by the United States Postal Service (USPS), this year the entire mailing list was run through National Change of Address (NCOA) software. The NCOA software corrects any addresses that are incorrect and provides a greater delivery success rate. A total of 243,968 forms were mailed to 7,872 state, county, and local government entities for distribution to public officials, public employees, and candidates required to comply with the State Ethics Act. Individuals who file with the State Ethics Commission are also required to file a Statement of Financial Interests with their respective governmental bodies. Local public officials and public employees file only with their county or local governmental body, and state employees file Statements of Financial Interests with their respective agencies.

Included with the mailings of the Statement of Financial Interests form was an instructional booklet that delineates and explains all of the filing requirements including who needs to file, when and where to file and how to complete the form.

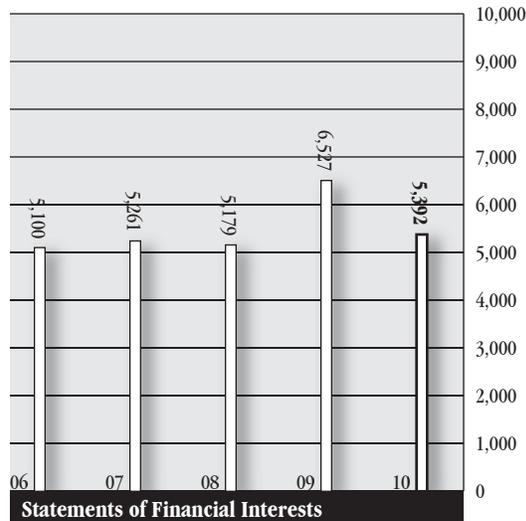
More than 5,300 individuals filed Statements of Financial Interests with the State Ethics Commission for calendar year 2009 (filing year 2010). Of these filings, 806 were candidates for public office; 1,802 were constables and deputy constables (this included candidates); the remaining filings were by public officials such as members of the legislature, cabinet members, deputy secretaries, members of state boards and commissions, and other individuals who filed voluntarily. Since Statements of Financial Interests filed with the State Ethics Commission are public documents, as they are received they are scanned into the Commission's document management system and are subsequently posted to the Commission's web site in the e-Library.

CIVIL CITATIONS

Pursuant to Section 1107(5) of the Public Official and Employee Ethics Act (65 Pa.C.S. §1107(5)), the State Ethics Commission, upon discovery that an individual who is required to file a Statement of Financial Interests in accordance with the Act has either failed to file said Statement or has filed a Statement that is deficient, shall notify the individual of the failure or deficiency.

Information regarding deficient and delinquent Statements of Financial Interests is provided to the Commission via letters received from the public as well as Compliance Reviews performed by staff members of the Commission's Investigative and Administrative Divisions. The Compliance Reviews are randomly conducted throughout the Commonwealth.

The individuals in question receive a notice letter from the Commission which advises that the failure to file or deficiency must be corrected within 20 days.



If such individual fails to correct the failure or deficiency, the Commission, upon a majority vote of its members, may levy a civil fine of not more than \$25 per day up to a maximum of \$250 and order the filing of the Statements of Financial Interests.

Upon the failure of an individual to comply with the notice letters, a Rule to Show Cause is issued requiring the individual to file an answer indicating the reasons, if any, that said filing was not made or deficiency corrected. Individuals may request a hearing on such matters.

After the conclusion of the process, the Commission will issue an order deciding the matter. Enforcement of the order, if necessary, takes place through an original jurisdiction proceeding in Commonwealth Court.

During calendar year 2010, the Commission's Investigative Division conducted 14 Statement of Financial Interests Compliance Reviews throughout the Commonwealth. These reviews consisted of four school districts, three boroughs, two authorities, two county offices, and three townships. In addition, in conjunction with the Investigative Division, the Commission's Administrative Division also conducted a series of in-house Compliance Reviews of Statements of Financial Interests. These reviews consisted of 10 school districts, one intermediate unit, one vocational technical school, and six charter schools. These reviews resulted in the identification of 290 delinquent filers (individuals who were required to file but failed to do so), and 480 deficient filers (individuals who filed incomplete or deficient forms). As such, 770 civil penalty notices were issued resulting in 752 filers.

Other in-house Compliance Reviews were conducted by the Administrative Division on Statements of Financial Interests filed annually with the State Ethics Commission. During 2010, these in-house Compliance Reviews were performed on Statements of Financial Interests filed by members of the House of Representatives and the Senate, and public officials such as the Governor, Treasurer, Attorney General, and Auditor General along with their respective cabinet members. The reviews also included other public officials such as members of the 274 State Boards and Commissions, and

public officials within the 27 various agencies under the Governor’s jurisdiction.

In addition to the foregoing, a Compliance Review was conducted with regards to constables and deputy constables. In 2010 (for calendar year 2009), however, very few delinquent filers were identified. The reason for this increase in overall compliance is the result of mailing blank Statement of Financial Interests forms to a listing of constables and deputy constables received from the Pennsylvania Commission on Crime and Delinquency (PCCD). This concerted effort resulted in the aforementioned 1,802 constables/deputy constables filing Statements of Financial Interests.

All of the aforementioned compliance activities along with information obtained from other Investigative and Administrative Compliance Reviews, as well as from members of the public, resulted in the issuance of 2,050 notices of civil penalties for delinquent and/or deficient filers. Of these notices, 1,491 were first notice letters

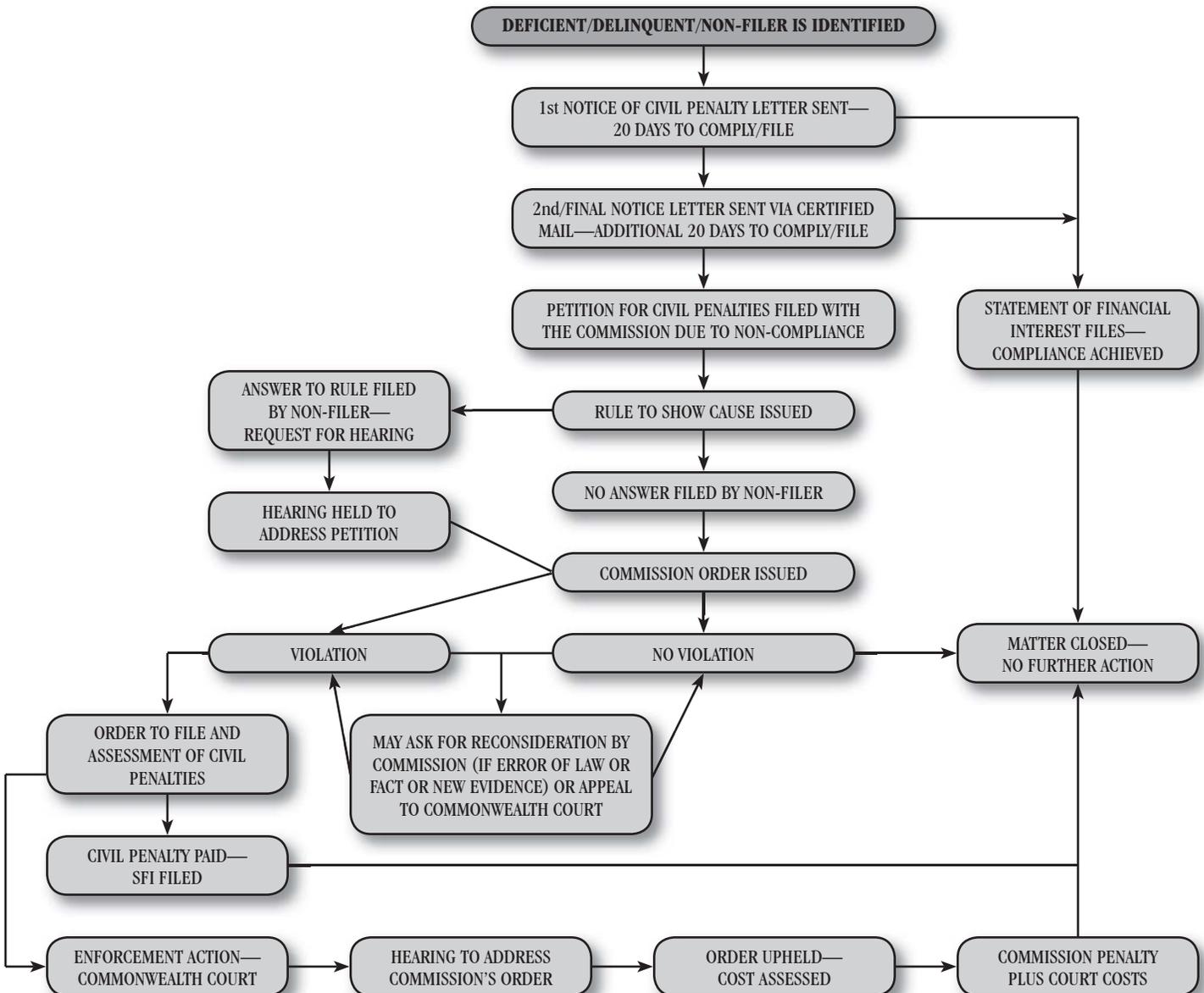
and 559 were second/final notice letters. In summary, there were approximately 1,491 delinquent filers and 559 deficient filers identified via Compliance Reviews. As of year-end 2010, 1,263 individuals have filed as a result of compliance efforts.

CIVIL PENALTY ORDERS—2010

Pursuant to Section 1109(f) of the Ethics Act, 65 Pa.C.S. §1109(f), the State Ethics Commission has the authority to levy civil penalties upon persons who fail to timely file Statements of Financial Interests, or who file Statements of Financial Interests which are deficient under the Ethics Act. Civil Penalty Orders are numbered sequentially, and bear the designation “S” to distinguish them from other Commission Orders.

In 2010, 17 Civil Penalty (“S”) Orders were issued by the State Ethics Commission. All of the Orders were directed to various State and Local Public Officials and employees. A total of \$5,900 in fines was levied by the Commission as a result of these Orders.

Notice of Non-Compliance Flow Chart





COMMONWEALTH OF PENNSYLVANIA
STATE ETHICS COMMISSION

P.O. BOX 11470
ROOM 309 FINANCE BUILDING
HARRISBURG, PA 17108-1470
(717) 783-1610 or Toll Free 1-800-932-0936
www.ethics.state.pa.us



STATE ETHICS COMMISSION STATEMENT OF FINANCIAL INTERESTS

DO NOT USE FORMS PRINTED PRIOR TO YEAR 2011 (Rev. 01/11)

**THIS FORM IS CONSIDERED DEFICIENT IF ANY BLOCK IS NOT COMPLETED OR
SIGNATURE IS MISSING**

SIGN THE FORM USING THE CURRENT DATE - DO NOT BACK DATE SIGNATURE

MAKE A COPY FOR YOUR RECORDS

THIS FORM MUST BE COMPLETED AND FILED BY:

- A** Candidates - Persons seeking elected state, county and local public offices, including first-time candidates, incumbents seeking re-election, and write-in candidates who do not decline nomination/election within 30 days of official certification of same.
- B** Nominees - Persons nominated for public office subject to confirmation.
- C** Public Officials - Persons serving as current state/county/local public officials (elected or appointed). The term includes persons serving as alternates/designees. The term excludes members of purely advisory boards.
- D** Public Employees - Individuals employed by the Commonwealth or a political subdivision who are responsible for taking or recommending official action of a non-ministerial nature with regard to: contracting or procurement; administering or monitoring grants or subsidies; planning or zoning; inspecting, licensing, regulating or auditing any person; or any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person. The term does not include individuals whose activities are limited to teaching.
- A former public official or former public employee must file the year after termination of service with the governmental body.**
- E** Solicitors - Persons elected or appointed to the office of solicitor for political subdivision(s).

IMPORTANT: Please read all instructions carefully prior to completion of form. Also, **review the filing chart (Page 4) for proper filing location.** Any questions may be directed to the State Ethics Commission at (717) 783-1610 or Toll Free at 1-800-932-0936.

This Form is required to be filed pursuant to the provisions of the Public Official and Employee Ethics Act, 65 Pa C.S. §1101 et seq.

This form is considered deficient if any block is not completed, or signature is missing.

STATEMENT OF FINANCIAL INTERESTS INSTRUCTIONS

Please print neatly in capital letters. If you require more space than has been provided, please attach an 8 1/2" x 11" piece of paper to the form. Items 01 through 06 are for current information.

- Block 1** Please fill in your last name, first name, middle initial and suffix (if applicable) in the boxes provided. Public office candidates should use the exact name used on official nomination petition or papers.
- Block 2** Listing a business/governmental address and daytime telephone number is sufficient.
- Block 3** Please check the block or blocks to indicate your status. See definitions on page 1. If you are correcting a prior filing, please check the block designating an amended form.
- Block 4** Please check the appropriate block (seeking, hold, held) for each position you list in the blocks below. List all of the public position(s) which you are seeking, currently hold or have held in the **prior** calendar year. Please be sure to include job titles and official titles such as "member" or "commissioner" (even if serving as alternate/designee).
- Block 5** Please list all political subdivision(s)/agency(ies) as to which you either: (1) are presently seeking a public position or public office as a candidate (incumbent or non-incumbent) or nominee; (2) presently hold a public position or public office; and/or (3) previously held a public position or public office during all or any portion of the calendar year listed in Block 7. (The term "political subdivision" includes a county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned.)
- Block 6** Please list your current occupation or profession. This information may have already been stated in block 4.
- Block 7** List the prior calendar year for which you are filing this form. All information provided in blocks 08 through 15 pertain to the calendar year designated in block 07.
- Block 8** **REAL ESTATE INTERESTS:** This block contains the address of any property which was involved in transactions (leasing, purchasing, or condemnation proceedings of real estate interests) with the Commonwealth or any other governmental body within the Commonwealth. If you have no direct or indirect interests in such a property, then check "NONE."
- Block 9** **CREDITORS:** This block contains the name and address of any creditor and the interest rate of any debt over \$6,500 regardless of whether such debt is held solely by you or jointly by you and any other individual, including your spouse, where each obligor is fully responsible for the obligation. A joint obligation with other persons, for which the filer is responsible only for a proportional share that is less than the reporting threshold, is not required to be reported. Do not report a mortgage or equity loan on your home (or secondary home), or loans or credit between you and your spouse, child, parent or sibling. Car loans, credit cards, personal loans and lines of credit must be listed on the form if the balance owed was in excess of \$6,500 at any time during the calendar year. If you do not have any reportable creditor, then check "NONE."
- Block 10** **DIRECT OR INDIRECT SOURCES OF INCOME:** List the name and address of each source of \$1,300 or more of gross income regardless of whether such income is received solely by you or jointly by you and another individual such as a spouse. "Income" includes any money or thing of value received or to be received as a claim on future services or in recognition of services rendered in the past, whether in the form of a payment, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, reward, severance payment, proceeds from the sale of a financial interest in a corporation, professional corporation, partnership or other entity resulting from termination/withdrawal therefrom upon assumption of public office or employment or any other form of recompense or combination thereof. The term refers to gross income; it includes prize winnings and tax-exempt income but does not include gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official or employee, or miscellaneous, incidental income of minor dependent children. If you do not have ANY reportable source of income, check "NONE."
- Block 11** **GIFTS:** For each source of gift(s) valued at \$250 or more in the aggregate, list the following information: the name and address of the source; the circumstances, including a description, of each gift; and the value of the gift(s). Do not report political contributions otherwise reportable as required by law, gift(s) from friends or family members (although the term "friend" does not include a registered lobbyist or employee of a registered lobbyist), or any commercially reasonable loan made in the ordinary course of business. If you did not receive any reportable gift, then check "NONE."
- Block 12** **TRANSPORTATION, LODGING, OR HOSPITALITY EXPENSES: NOTE: Per amendments to the Ethics Act effective 1/1/07, the threshold for disclosure in Block 12 has changed. For forms due to be filed in 2007 or thereafter, the following instructions apply.** List the name and address of each source and the amount of each payment/reimbursement by the source for transportation, lodging or hospitality that you received in connection with your public position if the aggregate amount of such payments/reimbursements by the source exceeds \$650 for the calendar year for which you are reporting. Do not report reimbursements made by a governmental body or by an organization/association of public officials/employees of political subdivisions that you serve in an official capacity. If you do not have any reportable expense payments/reimbursements, then check "NONE."
- Block 13** **OFFICE, DIRECTORSHIP OR EMPLOYMENT IN ANY BUSINESS ENTITY:** List both the name and address of the business entity for any office that you hold (for example, President, Vice President, Secretary, Treasurer), any directorship that you hold (through service on a governing board such as a board of directors), and any employment that you have in any capacity whatsoever, as to any business entity. This block focuses solely on your status as an officer, director or employee, regardless of income.
- Block 14** **FINANCIAL INTERESTS:** List the name and address and interest held in any business for profit of which you own more than 5% of the equity or more than 5% of the assets of economic interest in indebtedness. If you do not have any such financial interest to report, then check "NONE."
- Block 15** **TRANSFERRED BUSINESS INTERESTS:** List the name and address of any business as to which you transferred a financial interest (as defined in Item 14) to a member of your immediate family (parent, spouse, child, brother or sister), as well as the interest held, relationship to the individual, and date of transfer. If you did not transfer any such business interest, then check "NONE."

Please sign the form and enter the current date. Do not back date your signature.

(2 of 4)

SEC-1 (Rev. 01/11)

STATEMENT OF FINANCIAL INTERESTS

PLEASE PRINT NEATLY

01 LAST NAME FIRST NAME MI SUFFIX

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02 ADDRESS City State Zip Code Area Code Phone

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NOTE: IF YOU ARE INCLUDING ATTACHMENTS, DO NOT INCLUDE ANYTHING THAT BEARS YOUR SOCIAL SECURITY NUMBER OR FINANCIAL ACCOUNT NUMBERS.

03 STATUS Check applicable block or blocks, more than one block may be marked. (See instructions on page 2)

A Candidate (including write-in) C Public Official (Current) D Public Employee (Current) E Check this block if you are filing as a solicitor

B Nominee C Public Official (Former) D Public Employee (Former)

Check this block if you are amending an original filing

04 PUBLIC POSITION OR PUBLIC OFFICE (administrator, member, Commissioner, job title, etc.) seeking hold held

A

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 seeking hold held

B

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05 GOVERNMENTAL ENTITY in which you are/were an Official, Employee, Candidate or Nominee (e.g., dept, agency, authority, borough, board, commission, county, school district, twp, etc.)

A

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B

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06 OCCUPATION OR PROFESSION (This may be the same as block 4)

07 YEAR The information in blocks 8 through 15 below represents financial interests for the PRIOR calendar year indicated:

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08 REAL ESTATE INTERESTS (See instructions on page 2) If NONE, check this box.

09 CREDITORS (See instructions on page 2). Creditor (Name and Address) If NONE, check this box. <input type="checkbox"/>	Interest Rate
Name: _____ Address: _____	

10 DIRECT OR INDIRECT SOURCES OF INCOME including (but not limited to) all employment. (See instructions on pg. 2) ONLY IF NONE, check this block. <input type="checkbox"/>	(OFFICIAL USE ONLY)
Name: _____ Address: _____	

11 GIFTS (See instructions on page 2) If NONE, check this box.

Source of Gift	Value of Gift																														
<table border="1"><tr><td colspan="25"></td></tr></table>																										<table border="1"><tr><td></td><td></td><td></td><td></td><td></td></tr></table>					
Address of Source of Gift	Circumstances (including description) of Gift																														

12 TRANSPORTATION, LODGING, HOSPITALITY (See instructions on page 2) If NONE, check this box.

Source (Name and Address)	Value																														
<table border="1"><tr><td colspan="25"></td></tr></table>																										<table border="1"><tr><td></td><td></td><td></td><td></td><td></td></tr></table>					

13 OFFICE, DIRECTORSHIP OR EMPLOYMENT IN ANY BUSINESS (See instructions on page 2) If NONE, check this box.

Business Entity (Name and Address)	Position Held
Name: _____ Address: _____	

14 FINANCIAL INTEREST IN ANY LEGAL ENTITY IN BUSINESS FOR PROFIT (See instructions on page 2) If NONE, check this box.

Name and Address of Business	Interest Held

15 BUSINESS INTERESTS TRANSFERRED TO IMMEDIATE FAMILY MEMBER (See instructions on page 2) If NONE, check this box.

Business (Name and Address)	Interest Held
Transferee (Name and Address)	Relationship
	Date Transferred

The undersigned hereby affirms that the foregoing information is true and correct to the best of said person's knowledge, information and belief; said affirmation being made subject to the penalties prescribed by 18 Pa.C.S. §4904 (unsworn falsification to authorities) and the Public Official and Employee Ethics Act, 65 Pa.C.S. §1109(b).

Signature _____ Enter Current Date _____

THIS FORM IS CONSIDERED DEFICIENT IF ANY BLOCK ABOVE IS NOT COMPLETED. MAKE A COPY FOR YOUR RECORDS.

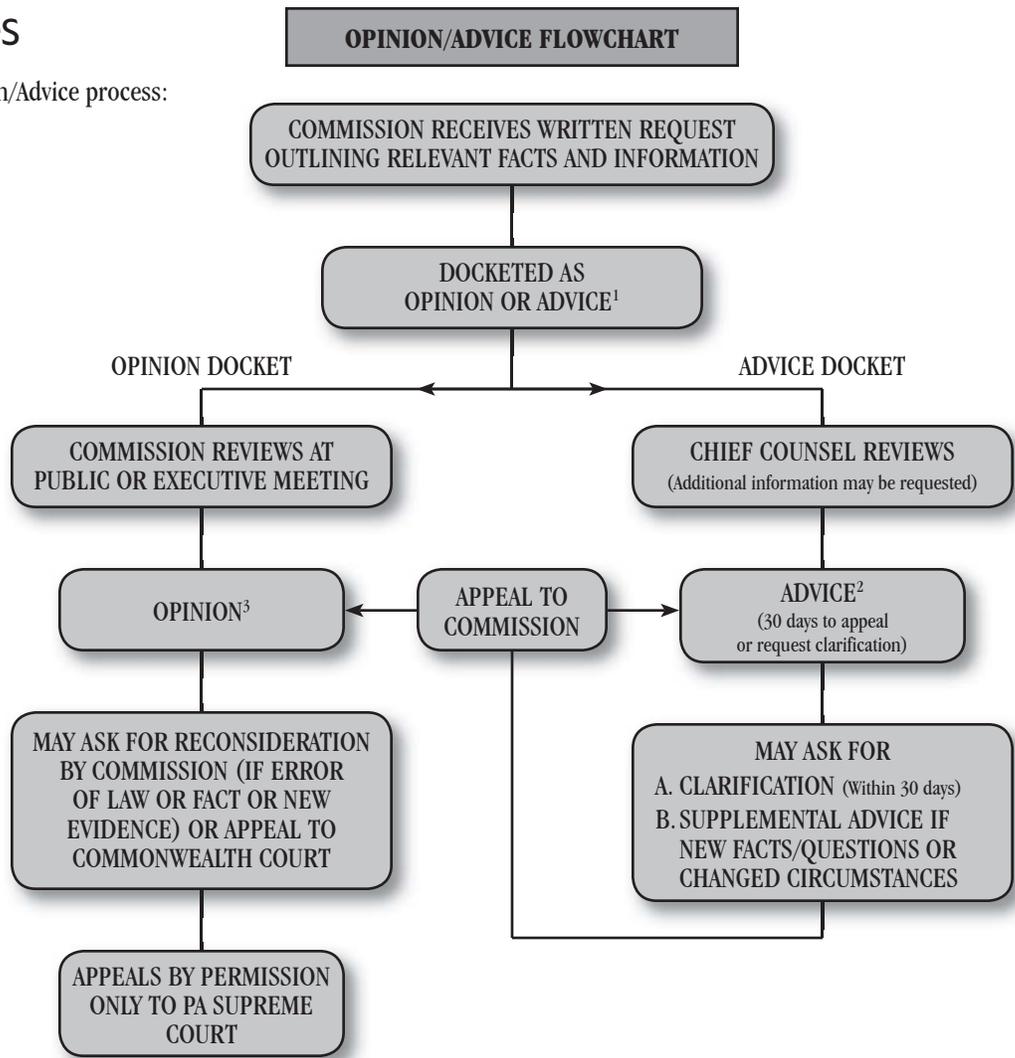
WHO MUST FILE, WHERE TO FILE, AND WHEN TO FILE

WHO MUST FILE	ORIGINAL WHITE COPY	YELLOW COPY	WHEN TO FILE
A. STATUS BLOCK A - CANDIDATES Statewide State Senate State House Supreme Court Superior Court Common Pleas Court Traffic Court Municipal Court Commonwealth Court	State Ethics Commission P.O. Box 11470 Room 309 Finance Building Harrisburg, PA 17108-1470	Append to nomination petition when filed with the State Bureau of Elections 210 North Office Building Harrisburg, PA 17120-0029	ON OR BEFORE THE LAST DAY FOR FILING A PETITION TO APPEAR ON THE BALLOT FOR ELECTION
Constables / Deputy Constables	State Ethics Commission	Append to nomination petition when filed with County Board of Elections	
Countywide City Borough Township Municipality (home rule charter)	File with the Clerk/ Secretary in the Municipality in which you are a candidate		
Magisterial District Judges	File with the County in which the Magisterial District is located		
School Director	File in the School District where you are a candidate		
Announced Write-in	For state office file with State Ethics Commission . For county or local office file with governing authority of political subdivision.	This copy is not required to be filed.	Within 30 days of official certification of having been nominated or elected unless such person declines the nomination of office within that time frame.
Unannounced Write-in Winners of Nominations			
Unannounced Write-in Winners of Elections			
B. STATUS BLOCK B - NOMINEE State Level	State Ethics Commission	File with the Official or Body vested with the power of confirmation	10 days before official or body approves or rejects the nomination.
County/Local Level	Governing authority of political subdivision		
C. STATUS BLOCK C - PUBLIC OFFICIAL Commonwealth Public Officials such as: Members of Boards and Commissions (including alternates/designees); Heads of executive, legislative and independent agencies, boards and commissions; and persons appointed to positions designated as offices.	State Ethics Commission P.O. Box 11470 Room 309 Finance Building Harrisburg, PA 17108-1470	File with each Agency, Board, Commission, Department, or Government Body in which employed or to which appointed. (make additional copies if needed)	FILE NO LATER THAN MAY 1 OF EACH YEAR A POSITION IS HELD AND OF THE YEAR AFTER LEAVING SUCH A POSITION.
State House Member State Senate Member		File with the House Chief Clerk or Senate Secretary (whichever applies)	
Local Public Officials serving in/as: Counties; Boroughs; Townships; Home Rule Municipalities; Municipal Authorities; School Districts	File only with the governing authority of the respective local political subdivision	Yellow copy is not required to be filed (unless serving in multiple capacities, then file with each entity as required)	
(Incumbent Judges and Magisterial District Judges who are not candidates do not file)			
Constables / Deputy Constables	State Ethics Commission		
D. STATUS BLOCK D - PUBLIC EMPLOYEE Commonwealth PUBLIC EMPLOYEE (Executive, Leg. & Independent Agencies)	File only with your Employer	This copy is not required to be filed	
County City Borough Township Municipal (home rule) Municipal Authority School District	File only with your political subdivision		
E. STATUS BLOCK E - SOLICITOR	File with the governing authority of each political subdivision for which you are Solicitor	Yellow copy is not required to be filed (unless serving in multiple capacities, then file with each entity as required)	

Opinions and Advices

The following chart depicts the Opinion/Advice process:

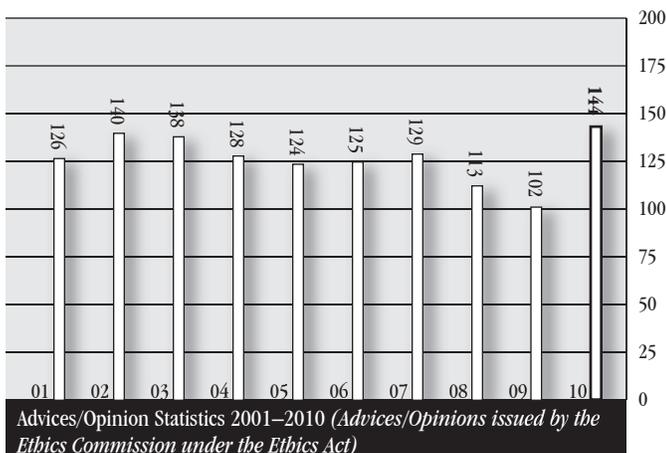
1. Chief Counsel will designate the type of advisory that will be issued.
2. Issued as a public record, but identity is protected if confidentiality is requested.
3. If confidentiality is requested, the matter is reviewed at an executive rather than public meeting.



OPINIONS AND ADVICES

From January 1, 2010, through December 31, 2010, the State Ethics Commission issued a total of 144 advisories under the Public Official and Employee Ethics Act, consisting of 4 Opinions and 144 Advices of Counsel.

Opinions and Advices are public records. However, a requester may require that the Opinion or Advice contain such deletions and changes as shall be necessary to protect the identity of the person involved.



Pursuant to the Ethics Act, the Commission is required to provide specified libraries throughout the Commonwealth with copies of advices of counsel, opinions, and orders that are a matter of public record. The Commission provides these copies to the libraries on a quarterly basis. Paper copies of opinions and advices are available at cost from the Commission.*

Sections 1107(10)-(11) direct the Commission to provide an Opinion or Advice to any person about his or her duties under the Act. An Opinion or Advice may also be provided to the employer or appointing authority of such person. Opinions and Advices provide a complete defense against enforcement action initiated by the Commission. An Advice of Counsel is evidence of good faith conduct in any other civil or criminal proceeding if the requester truthfully disclosed all material facts. An Opinion is an absolute defense to any criminal or civil penalty provided all material facts are truthfully disclosed and the requester acts in good faith on the Opinion. The following is a summary of Opinions issued by the Commission during 2010.

* Opinions and advices are also available at the Commission's "e-Library," which may be accessed via the Commission's Web site at www.ethics.state.pa.us.

Opinion 10-001 (Heckman/Monforte)

Decided: March 25, 2010

Issued: April 9, 2010

In this appeal from Advice of Counsel 09-522, the Commission held that Income Maintenance Casework Supervisors with the Pennsylvania Department of Public Welfare under job code 44730 would be considered “public employees” subject to the Ethics Act and the Regulations of the Commission and would be required to file Statements of Financial Interests pursuant to the Ethics Act. Advice of Counsel 09-522 was affirmed.

Opinion 10-002 (Baker/Becker/Brilhart-Keiser/Hall/Huber/Klunk/Miller/Minnich/Hrycenko)

Decided: March 25, 2010

Issued: April 9, 2010

In these appeals from Advice of Counsel 09-519, Advice of Counsel 09-523, Advice of Counsel 09-524, and Advice of Counsel 10-531, the Commission held that Income Maintenance Caseworkers with the Pennsylvania Department of Public Welfare under job code 44720 would be considered “public employees” subject to the Ethics Act and the Regulations of the Commission and would be required to file Statements of Financial Interests pursuant to the Ethics Act. The appeals were denied. Advices of Counsel 09-519, 09-523, 09-524, and 10-531 were affirmed.

Opinion 10-003 (Beck/Orczyk/Patrick/Pelczar/Ross/Santoliquido/Tate)

Decided: June 22, 2010

Issued: July 9, 2010

In these appeals from Advice of Counsel 10-537, the Commission held that Income Maintenance Caseworkers with the Pennsylvania Department of Public Welfare under job code 44720 would be considered “public employees” subject to the Ethics Act and the Regulations of the Commission and would be required to file Statements of Financial Interests pursuant to the Ethics Act. The appeals were denied. Advice of Counsel 10-537 was affirmed.

Opinion 10-2003/10-004 (Confidential)

Decided: October 19, 2010

Issued: November 4, 2010

The Commission determined that as a C, each of the individuals on whose behalf an advisory was requested was a “public official” as that term is defined by the Gaming Act and by the Ethics Act. Based upon the submitted facts that: (1) the Cs seek guidance as to the propriety or impropriety of their securing lodging at a reduced rate offered specifically to Cs at the [name of hotel] (the “Hotel”), while attending to official business in [geographic location] (the “Area”); (2) the Cs would pay a reduced nightly lodging rate (the “Rate”) offered by the Hotel specifically to Cs; (3) the Rate would be significantly lower per night than the advertised nightly government rate offered by the Hotel; (4) the Hotel’s general manager refers to this type of reduced rate as a “local negotiated rate”; (5) the Hotel offers various local negotiated rates to others on a case-by-case basis; (6) local negotiated rates are lower than generally advertised rates for which the group or organization would otherwise qualify; (7) the Hotel’s manager has indicated that at least one private company from the Area receives a local negotiated rate that is less per night than the Rate; (8) per Governmental Body F’s G expense process, the

Cs [feature of G expense process]; and (9) the Hotel is involved with a pending application (“the Application”) for a gaming license in Pennsylvania, specifically, [description of involvement], the Commission advised as follows.

As public officials, the Cs on whose behalf an advisory was requested are subject to the restrictions of Section 1512(a.2)(1) of the Gaming Act. The Commission lacks statutory jurisdiction to interpret Section 1512(a.2)(1) of the Gaming Act or the definition of the term “complimentary service” at Section 1103 of the Gaming Act to determine whether the particular Rate in question would constitute a complimentary service prohibited by the Gaming Act.

For purposes of the Ethics Act, the Rate would not be deemed to be available to a C as a result of a “marketplace transaction.” The discount provided by the Rate would constitute a private pecuniary benefit calculated as the difference between the Rate and the advertised government rate, or such other rate for the lodging that would otherwise be available to the C in the ordinary course of business through a disinterested third party, for example, “AAA,” Expedia.com, or Priceline.com. For purposes of the Ethics Act, the Rate itself would not be deemed to be available to a C in the ordinary course of business.

Under the submitted facts, where a C would stay at the Hotel while attending to official business, and would pay the Rate for such lodging, the C’s actions would constitute a use of the authority of public office for a private pecuniary benefit. A C’s acceptance of the discount provided by the Rate would transgress Section 1103(a) of the Ethics Act unless the “de minimis exclusion” or the “class/subclass exclusion” to the definition of “conflict” or “conflict of interest” as set forth above would be applicable. The question of whether the de minimis exclusion would apply would be determined on a case-by-case basis and would depend upon the aggregate amount involved. The class/subclass exclusion would not apply unless receipt of the discount provided by the Rate would otherwise be lawful. If the Gaming Act would prohibit a C from receiving the discount provided by the Rate, the class/subclass exclusion would not be applicable.

To the extent the discount provided by the Rate would be received by a C, it would be received “in connection with public office.” The discount provided by the Rate would constitute “payment for or reimbursement of actual expenses” for lodging calculated as the difference between the Rate and the advertised government rate, or such other rate for the lodging that would otherwise be available to the C in the ordinary course of business through a disinterested third party, for example, “AAA,” Expedia.com, or Priceline.com. For purposes of the Ethics Act, the Rate itself would not be deemed to be available to a C in the ordinary course of business. To the extent the reporting threshold of Section 1105(b)(7) of the Ethics Act would be met, a C would be required to satisfy the disclosure requirements of Section 1105(b)(7) of the Ethics Act as to all discounts received from the Rate and as to all other transportation, lodging, and/or hospitality received from the source of same during the applicable calendar year.

Litigation

LEGAL DIVISION

Edward G. Rendell, Governor of Pennsylvania v. Pennsylvania State Ethics Commission, and Edward G. Rendell, Governor of Pennsylvania v. Pennsylvania State Ethics Commission, Nos. 268 and 269 M.D. 2007; 44 and 45 MAL 2008; 79, 80, 82, and 83 MAP 2008 (consolidated):

A. *Commonwealth Court*: These cases were initiated by Petitions for Review filed May 31, 2007, in the Commonwealth Court of Pennsylvania, as to Commission advisory Opinions pertaining to then-Pennsylvania Secretary of Environmental Protection Kathleen McGinty and then-Pennsylvania Secretary of Conservation and Natural Resources Michael DiBerardinis. The Petitions for Review combined appeals from the Commission Opinions with declaratory judgment actions. On June 4, 2007, Petitioners filed Applications for consolidation and for a stay pending judicial review. On June 5, 2007, the Commonwealth Court consolidated the two cases. On June 18, 2007, the Commission filed an Answer to Petitioners' Application for a Stay. Subsequently, the parties reached an amicable settlement as to Petitioners' Application for a Stay.

On June 29, 2007, the Commission filed Motions to Quash the appeal portions of the Petitions for Review and Preliminary Objections to the declaratory judgment portions of the Petitions for Review.

Petitioners filed answers/responses to the Commission's Motions to Quash and Preliminary Objections. Briefs were filed. Argument was held October 31, 2007.

By Order dated December 19, 2007, Commonwealth Court granted the Commission's Motions to Quash and sustained in part and overruled in part the Commission's Preliminary Objections. The Court directed that the case would move forward on the following two issues:

- (1) Whether a non-profit organization may be included in the definition of "business" in Section 1102 of the Public Official and Employee Ethics Act ("Ethics Act"), 65 Pa.C.S. § 1102; and
- (2) Whether, when a department head is affected by a conflict of interest, the Ethics Act requires the Governor to appoint a person outside that head's chain of command in order for the conflict to be avoided.

The Court directed the Commission to file Answers to the Petitions for Review, and the Commission did so.

Petitioner Rendell and the Commission filed cross Applications for Summary Relief. The Commission filed an Answer in Opposition to Petitioner Rendell's Application for Summary Relief. Both parties filed briefs/memoranda in support of their respective positions. Argument was held before the Commonwealth Court *en banc* on April 9, 2008.

On October 3, 2008, Commonwealth Court issued a 5–2 decision granting the Governor's Application for Summary Relief and denying the Commission's Application for Summary Relief. The majority concluded that it was bound by the Supreme Court's earlier decision in an election case, specifically *In re Nomination Petition of Carroll*, 586 Pa. 624, 896 A.2d 566 (2006), and held that a non-profit corporation/organization is not included in the definition of "business"

under Section 1102 of the Ethics Act, 65 Pa.C.S. § 1102. Based upon its disposition of the non-profit issue, the majority did not reach the chain-of-command issue.

On October 20, 2008, the Commission appealed the October 3, 2008, Opinion and Order of Commonwealth Court.

B. *Supreme Court*: On January 18, 2008, Petitioners Rendell, McGinty, and DiBerardinis filed with the Pennsylvania Supreme Court a "Petition for Allowance of Appeal" (docket Nos. 44 MAL 2008 and 45 MAL 2008) from the portion of the December 19, 2007 Opinion and Order of Commonwealth Court quashing their appeals from Commission Opinions 07-009 and 07-010 (*see above*). On January 31, 2008, the Commission filed a Brief in Opposition to the Petition for Allowance of Appeal. On October 16, 2008, the Supreme Court issued an Order granting the Governor's and Secretaries' Petitions for Allowance of Appeal as to the procedural issues of whether Commission advisory Opinions are appealable.

On October 20, 2008, the Commission appealed from the October 3, 2008 Opinion and Order of Commonwealth Court, which held that a non-profit corporation/organization is not included in the definition of "business" under Section 1102 of the Ethics Act, 65 Pa.C.S. § 1102.

All of the aforesaid appeals—on the procedural issues and on the merits—were consolidated by the Supreme Court for briefing and argument. Briefs were filed. Prior to argument, Petitioners discontinued (terminated) their appeals on the procedural issues, leaving only the issue of whether non-profits are businesses for review by the Supreme Court. Argument was held on May 12, 2009.

On November 30, 2009, the Supreme Court issued an Order reversing Commonwealth Court and holding that non-profit entities are "businesses" under the Ethics Act. These matters were remanded to the Commonwealth Court.

Commonwealth Court scheduled oral argument on an issue that the Court believed remained pending. The parties filed a joint motion indicating their belief that no issues remained pending and that the matter should be discontinued. Commonwealth Court then directed that these cases be marked closed. These matters are final.

Stilp v. John Contino, et al.:

This case was initiated by a Complaint and a Motion for a Preliminary Injunction filed by Gene Stilp ("Stilp") in the United States District Court for the Middle District of Pennsylvania on March 20, 2009, (Civil Action No. 1:09-CV-0524). The Complaint alleges that Sections 1108(k), 1110(a)(1), and 1110(d)(1) of the Ethics Act, pertaining to the confidentiality of proceedings before the Commission and wrongful use of the Ethics Act, violate the Free Speech clause of the First Amendment of the United States Constitution.

Initially, the Commission, the Executive Director, and the Attorney General were named as Defendants. However, the parties subsequently stipulated to the dismissal of the Commission as a party based upon Eleventh Amendment immunity. The Executive Director and Attorney General remain Defendants.

On April 1, 2009, a hearing was held on Stilp's Motion for a Preliminary Injunction.

The parties subsequently filed Proposed Findings of Fact and Conclusions of Law as well as briefs regarding the Motion. Additionally, on May 1, 2009, the Defendants filed an Answer to the Complaint.

On June 26, 2009, Judge Conner issued an Order granting the Motion for a Preliminary Injunction in part. Specifically, on First Amendment grounds, the Order preliminarily enjoined the Executive Director and the Attorney General from enforcing Section 1108(k) of the Ethics Act against a complainant who discloses the fact that he or she filed a complaint with the State Ethics Commission.

On July 9, 2009, an appeal was filed to the United States Court of Appeals for the Third Circuit from Judge Conner's June 26, 2009 Order.

On August 31, 2009, in the District Court, both parties filed Motions for Summary Judgment and supporting briefs.

In the Third Circuit Court of Appeals (the appeal from the order granting a preliminary injunction) the parties filed briefs, and argument was held May 11, 2010.

On July 22, 2010, the United States Court of Appeals for the Third Circuit affirmed Judge Connor's decision granting the preliminary injunction.

On September 30, 2010, Judge Connor issued a final Order granting Stilp's Motion for Summary Judgment, denying the Executive Director's and Attorney General's Motion for Summary Judgment, and permanently enjoining the Executive Director and the Attorney General from enforcing Section 1108(k) of the Ethics Act against a complainant who discloses the fact that he or she filed a complaint with the State Ethics Commission.

This matter is final.

Quaglia v. State Ethics Commission:

This case was initiated by a Petition for Review filed in Commonwealth Court (docket no. 555 C.D. 2009). This is an appeal from *Ludwig*, Opinion 09-001. The aforesaid Opinion affirmed Advice of Counsel 08-591 and determined that Eugene Quaglia ("Quaglia"), in his capacity with the Pennsylvania Department of Public Welfare as an Income Maintenance Caseworker under job code 44720, would be considered a "public employee" subject to the Ethics Act and would be required to file Statements of Financial Interests pursuant to the Ethics Act.

The Petition for Review was filed with Commonwealth Court on April 3, 2009. The Petitioners are Quaglia and his union, the Pennsylvania Social Services Union, Local 668 of the Service Employees International Union ("Union").

In addition to filing the Petition for Review, the Petitioners filed an Application for Stay, which was subsequently resolved amicably through a Stipulation and Agreement of the parties approved by the Court.

Meanwhile, Quaglia, another individual, and the Union also filed a lawsuit against the Commonwealth, the Governor, and various Executive Branch officials seeking, *inter alia*, to enjoin the disclosure of information contained within Statements of Financial Interests filed by Income Maintenance Caseworkers and Income Maintenance Casework Supervisors. The Commission is not a party to the second lawsuit.

In the case against the Commission, the parties filed briefs, and argument was held on November 9, 2009.

On January 5, 2010, Commonwealth Court issued an Order affirming the Commission's Opinion and holding that Income Maintenance Caseworkers are public employees subject to the Ethics Act.

On February 3, 2010, Quaglia and the Union filed a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania (docket no. 94 MAL 2010). On February 17, 2010, the Commission filed a Brief in Opposition to the Petition for Allowance of Appeal.

On August 12, 2010, the Supreme Court issued a Per Curiam Order denying the Petition for Allowance of Appeal. This matter is final.

INVESTIGATIVE DIVISION

Kenneth Kistler v. State Ethics Commission (59 MAP 2009)

On June 29, 2007, the Commission issued *Kistler*, Order No. 1441, finding that Kenneth K. Kistler, in his capacity as a board member of the Carbon-Lehigh Intermediate Unit #21 (CLIU), unintentionally violated section 1103(a) of the Ethics Act when he used the authority of his office to award Dale Roth, an individual/business with which Kistler had an ongoing business relationship, the right to pursue the construction of a building for the CLIU. Additionally, Kistler was found to have violated section 1103(f) of the Ethics Act when he subsequently entered into subcontracts with Roth to construct the above-mentioned, plus one additional, building for the CLIU, knowing that the awarding of the initial contracts to Roth were done so absent an open and public process. Despite being found in violation of the Ethics Act, Kistler was not assessed any monetary penalty.

On July 19, 2007, Kistler, through his counsel, filed a Petition for Review with the Commonwealth Court of Pennsylvania appealing the findings of the Commission. Both parties filed briefs in the matter and on April 8, 2008, the Commission presented oral argument before a panel of judges for the Commonwealth Court. The Court did not issue an immediate opinion in this matter, but rather scheduled *en banc* argument for September 10, 2008. Following *en banc* argument, on October 17, 2008, the Commonwealth Court in a six to one (6:1) Opinion reversed the Order of the State Ethics Commission on all findings.

On November 13, 2008, the State Ethics Commission filed a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania, which was granted on May 19, 2009. The issues before the Supreme Court on appeal are: 1) whether the Ethics Act requires a specific finding of intent in order for one to violate the Act; and 2) whether §1103(f) of the Act requires competitive bidding in meeting the requirements of an open and public process.

On June 30, 2009, the State Ethics Commission filed its initial brief, followed by Appellee, Kistler, on July 28, 2009. On December 1, 2009, this matter was argued before the Supreme Court of Pennsylvania. At the time of this publication, an Order has yet to be issued.

Selma Russell v. State Ethics Commission:

On March 27, 2009, the Commission issued Order No. 1509 regarding Selma Russell, a member of the Municipal Authority of Washington Township. The Commission found that Russell violated Section 1103(a) of the Ethics Act when she participated in actions of the Authority Board to authorize an additional expenditure of Authority funds for Board Members' compensation for attendance at both a water and a sewer portion of an Authority meeting when the

sewer portion was held immediately following the water portion of the meeting, and when such compensation was in excess of that approved by the appointing authority, the Washington Township Board of Supervisors. The Commission further found that Russell violated Section 1103(a) of the Ethics Act when she accepted an increase in meeting pay prior to the beginning of a new term of office. The Commission ordered that Russell pay restitution to the Authority in the amount of \$5,025, which represented the unauthorized sewage meeting pay that Russell had received.

On April 27, 2009, Russell filed a Petition for Review, asking that the Commonwealth Court find that: (1) the meeting pay received by Russell for her attendance at both the water and sewage portions of the Authority meetings was authorized, and (2) the State Ethics Commission erred as a matter of law when it determined that Russell engaged in a “conflict of interest, as defined by the Ethics Act, when she voted to approve payments to herself and other Authority members.” Russell filed a brief on July 20, 2009, and the Commission filed its brief on August 20, 2009. Argument on the matter was held on October 13, 2009, before a panel of three Members of the Commonwealth Court.

On December 17, 2009, the Commonwealth Court issued an Order and Opinion affirming the Commission’s Order in this matter.

On January 19, 2010, Russell filed a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania. The Investigative Division filed its Answer to the Petition for Allowance of Appeal on January 29, 2010. Currently, the parties are awaiting the Supreme Court’s decision as to whether to grant Allowance of Appeal.

On August 11, 2010, the Supreme Court denied Russell’s Petition for Allowance of Appeal and the matter is now final.

The Investigative Division filed a Petition for Enforcement against Russell with the Commonwealth Court of Pennsylvania on September 13, 2010. A hearing was scheduled on that Petition for October 20, 2010. Prior to the date of the Enforcement hearing, Russell made a payment to bring herself up-to-date with the payment plan outlined by the Commission, and the hearing was then cancelled. Russell has continued to make timely payments.

GSG v. State Ethics Commission, 1716 C.D. 2009

On or about September 2, 2009, George Gobel filed a Petition for Review seeking to appeal Commission Order No. 1395-2. On August 4, 2009, the State Ethics Commission issued its order involving Respondent George S. Gobel, a solicitor for various municipalities in the Commonwealth of Pennsylvania. The Commission had determined that Gobel had failed to file Statements of Financial Interests for several of the municipalities where he served as solicitor and subsequently filed backdated Statements of Financial Interests in those municipalities. Although the Commission found violations of the Public Official and Employee Ethics Act financial interests disclosure requirements, the Commission did not impose any penalty or other referrals in relation to this matter.

Gobel has filed an appeal in the Commonwealth Court of Pennsylvania. Gobel has asserted a number of objections to the Commission’s Order. His primary contention is that the Commission has no authority to issue an order which contains a finding, conclusion, or provi-

sion that any individual has “violated” the provisions of the Act. In this respect, Gobel asserts that the Commission only has the authority to issue an order containing a finding that Petitioner has failed to comply with the Act rather than violated it. Gobel also asserts that the Ethics Commission did not comply with a prior order of the Commonwealth Court of Pennsylvania requiring the Commission to provide him with written notice regarding the alleged violations of the State Ethics Act. Finally, Gobel has asserted that the Commission erred in denying nine motions that he filed with the Commission during the course of hearing in the instant matter.

On February 22, 2010, Gobel filed his Brief as well as an application to be excused from filing a Reproduced Record. The State Ethics Commission filed both its Brief and Supplemental Reproduced Record on March 31, 2010.

On September 2, 2010, the Commonwealth Court issued a Memorandum Opinion upholding the ruling of the State Ethics Commission.

Specifically, the Commonwealth Court held that in response to Gobel’s argument that the Commission “has no authority to issue an order which contains a finding, conclusion, or provision that [Gobel], or any other person, violated 65 Pa. C.S. §1104(a).” The Court upheld the Commission’s finding of a violation of the Ethics Act, further ruling that “[h]ere, the Commission did precisely what it was authorized to do. It conducted an investigation with respect to whether Petitioner violated 65 Pa. C.S. § 1104(a), issued its findings, and concluded that Petitioner violated the Act, in that he failed to file SFIs.”

The Court further upheld the Commission’s finding that the Statement of Financial Interests forms require a date in order to be complete; Gobel had previously argued that the Ethics Act does not require a date on the forms. Additionally the Court found that the Commission complied with the prior Commonwealth Court’s Order of remand and provided Gobel with all necessary notice requirements.

Lastly, the Court essentially dismissed Gobel’s final argument that the Commission violated the confidentiality provisions of the Act. The Court found that since Gobel raised this issue for the first time on appeal, the argument was waived.

Following the issuance of the Commonwealth Court’s Opinion, Gobel did not seek permission to appeal this matter to the Supreme Court; as such this matter is now final.

GL v. State Ethics Commission, 106 C.D. 2010

In *Lucas*, Order No. 1546, the Commission determined that Gary Lucas, in his capacity as a member of the Chalfont Borough Council, Bucks County, Pennsylvania, violated the Ethics Act when, as Borough Council President, he signed the mylar and the development agreement evidencing the Borough’s approval of a pizzeria construction project at a time when he was aware of the fact that his company, Lucas Construction, would be performing contractual services for the project. Lucas was directed to make payment of restitution in the amount of \$25,000. On January 27, 2010, Lucas filed a Petition for Review in the Commonwealth Court of Pennsylvania appealing the Commission’s adjudication. On appeal, Lucas raised issues regard-

ing the timeliness of the issuance of the Commission’s Investigative Complaint. In this respect, Lucas has asserted that the Commission may not issue an amended Investigative Complaint after the passage of 360 days even if the initial Investigative Complaint was timely issued. Lucas further asserted that the Commission has made an error of law in concluding that his actions were volative of the Ethics Act. In this respect, Lucas asserted that the signing of the mylars and development agreement were ministerial acts and do not evidence the use of the authority of his position as Borough Council President.

In June and July of 2010, Lucas filed his brief and reproduced record and the Commission filed a reply brief and supplemental reproduced record. Oral argument was held on October 12, 2010 before a panel of Commonwealth Court judges in Philadelphia, Pennsylvania.

David Seropian v. State Ethics Commission (948 CD 2010)

On December 29, 2009, the Commission issued *Seropian*, Order No. 1547, finding that David Seropian, a public official/public employee in his capacity as Business Manager for the McKeesport Area School District (“MASD”), Allegheny County, violated Section 1103(a) of the Ethics Act when he utilized the facilities and equipment of MASD for his personal benefit, including but not limited to his candidacy for School Director for West Jefferson Hills School District

and his position as a baseball team official. Based upon a finding of an Ethics Act violation, Seropian was directed to make payment of restitution to MASD in the total amount of \$640.11.

On January 27, 2010, Seropian filed a *pro se* Request for Reconsideration with the Commission. This request was denied by the Commission via Order 1547-R, issued April 21, 2010.

On May 19, 2010, Seropian, through his counsel, filed a Petition for Review with the Commonwealth Court of Pennsylvania appealing what appeared to be both Commission Orders 1547 and 1547-R. On May 24, 2010, counsel for the State Ethics Commission filed a Motion to Quash the Petition for Review—as it related to Commission Order 1547, arguing that the applicable appeal period had expired. The State Ethics Commission’s Motion was granted by the Court on June 1, 2010.

The Court subsequently denied Seropian’s request for Reconsideration and directed the parties to address within their principal briefs on the merits, the State Ethics Commission’s jurisdiction to act on Seropian’s Request for Reconsideration filed with the Commission, following the time frame from which Order 1547 became final.

On October 15, 2010, the Court directed that the matter be submitted on Briefs without Oral Argument. On October 22, 2010 the matter was submitted to the Court for a decision.

Complaints/Investigations

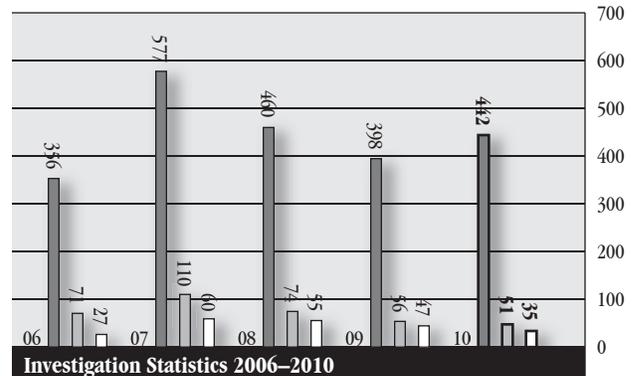
The State Ethics Commission is mandated to investigate sworn complaints and to initiate investigations on its own motion. A sworn complaint must include full names and addresses of the complainant and respondent, contain allegations related to specific individuals, be signed by the complainant, and be properly notarized.

The Commission’s Investigative Division will initially acknowledge receipt of a complaint. If the matter is not within the Commission’s jurisdiction or if the complaint lacks sufficient information, it will not be processed and the complainant so notified. The Commission’s Investigative Division may initiate either a preliminary or full investigation. A preliminary investigation must be completed within 60 days and either terminated or opened as a full investigation. The complainant will be notified within 72 hours of the commencement of a full investigation and both the complainant and subject of the investigation will be notified every 90 days thereafter of the status of the matter. The subject of an investigation must be notified prior

to the initiation of such investigation of the allegations against said person. If after a preliminary investigation the matter is terminated, both the complainant and subject of the inquiry will be notified. If a complaint is frivolous, the Commission must so state. If a full investigation has been conducted, upon the conclusion of the field investigation the subject of the complaint will be issued a findings report containing the relevant findings of fact. Such reports must be issued within 360 days of the initiation of the full investigation. The subject of the investigation must respond to said report within 30 days after the issuance thereof. Upon completion of the field investigation and the issuance of and response to the findings report, the subject will be afforded a full and fair opportunity to challenge the findings and allegations. Such may include evidentiary hearings and arguments of law. Upon the conclusion of the investigation and all other proceedings, the Commission will issue a final order containing findings of fact and conclusions of law. Final orders issued by the Commission may be appealed to the Commonwealth Court of Pennsylvania.

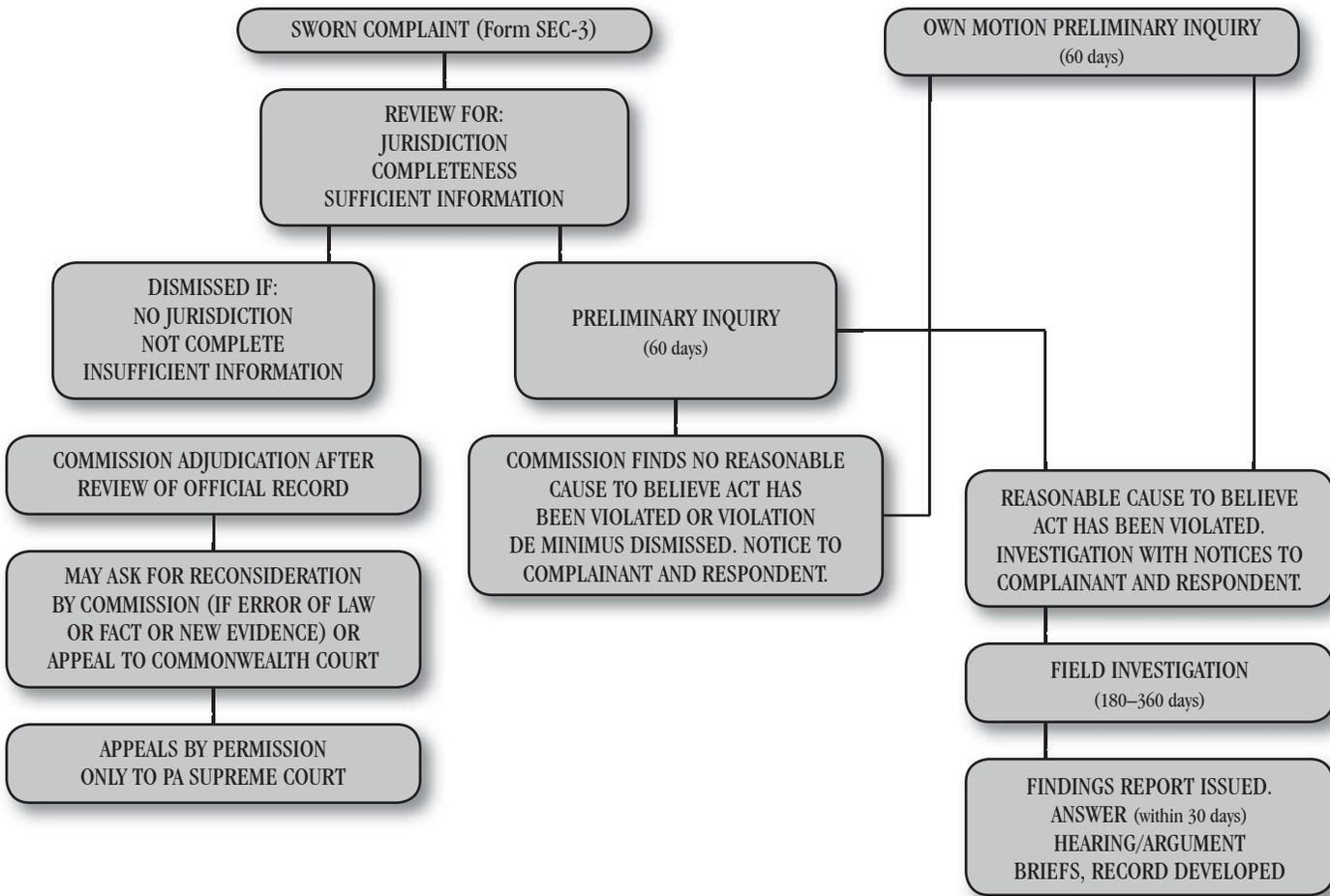
COMPLAINT/INVESTIGATION STATISTICAL SUMMARY

Complaints received in 2010	442
Investigations opened in 2010	51
Ethics Orders issued in 2010	34
Lobbying Orders issued in 2010	1
Total Orders issued in 2010	35
Orders where violations were found	33
Restitution ordered	\$361,665
Cases referred to law enforcement agencies	1



INVESTIGATION FLOWCHART

The following chart depicts the investigation process.



INVESTIGATION ORDERS SUMMARY

The State Ethics Commission issued the following Orders based upon alleged violations of the Public Official and Employee Ethics Act (“Ethics Act”), 65 Pa.C.S. §1101, *et seq.* and Lobbying Disclosure Law, 65 Pa.C.S. §13A01, *et seq.* While the following summaries of Orders are pertinent only to the involved individuals and their circumstances, the principles can be used as general guidelines.

PUBLIC OFFICIAL AND EMPLOYEE ETHICS ACT ORDERS—2010

Order No. 1546 (Lucas)

Decided: December 15, 2009

Issued: December 29, 2009

Gary Lucas, a public official in his capacity as a council member of Chalfont Borough from approximately April 15, 2003 through December 2007, did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when, prior to March 2005, he engaged in actions as a borough council member in matters relating to the Tolomello land use application/construction of Pina’s Pizzeria at 215 East Butler Avenue in the borough, based upon a lack of sufficient evidence to establish that prior to March 2005, Lucas or Lucas Construction Inc., a business with which Lucas is associated, had a contract or reasonable expectation of performing work for the project.

Lucas violated Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), when, as borough council president, he signed the mylar and the development agreement for the project in June 2005, at a time when he knew that Lucas Construction, a business with which he is associated, would be performing contractual services for the project.

Lucas did not violate Section 1103(c) of the Ethics Act, 65 Pa.C.S. §1103(c), as alleged, based upon a lack of evidence to support the alleged violation.

Lucas is directed to make payment of restitution in the amount of \$25,000 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order, for deposit in the State Treasury.

Order No. 1547 (Seropian)

Decided: December 15, 2009

Issued: December 29, 2009

Order No. 1547-R (Seropian)

Decided: April 19, 2010

Issued: April 21, 2010

David Seropian, a public official/public employee in his capacity as Business Management for the McKeesport Area School District, Allegheny County, from October 1997 to the present, did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65

Pa.C.S. §1103(a), with respect to campaign contributions made by MASD vendors Lawrence Fagan, Michael Gleason, Scott Palmquist, or Gregory Jacobs to Seropian and/or committees on his behalf for Seropian's candidacy for school director for West Jefferson Hills School District, in that Seropian did not solicit such contributions or otherwise use the authority of his public position to obtain such contributions.

Seropian did not violate Section 1103(a) of the Ethics Act when he solicited a campaign contribution from Gerald Moore, President of MASD vendor Nutrition Inc., for Seropian's candidacy for school director for WJHSD in that the resulting private pecuniary benefit was *de minimis*.

Seropian violated Section 1103(a) of the Ethics Act when he utilized the facilities and equipment of MASD for his personal benefit, including but not limited to his candidacy for school director for West Jefferson Hills School District and his position as a baseball team official.

Seropian is directed to make payment of restitution to MASD in the total amount of \$640.11 by no later than the 30th day after the mailing date of this Order, by forwarding a check payable to the McKeesport Area School District in the amount of \$640.11 to this Commission for processing.

The Request for Reconsideration of *Seropian*, Order No. 1547 is denied.

Order No. 1548 (Dotts)

Decided: February 18, 2010

Issued: February 22, 2010

Dorothy Dotts, a public official/public employee in her capacity as Secretary/Treasurer of Green Township, Indiana County from October 1, 1990 through March 28, 2008, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when she utilized township credit cards to make personal purchases and subsequently signed township checks issued to vendors for personal purchases.

Dotts violated Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), when she authorized township payments to herself, including altering of township checks, without approval of the Township Board of Supervisors.

Dotts violated Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), when she prepared and signed township payroll checks issued to her for hours not worked to conceal payments owed to her husband.

Dotts violated Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), when she failed to timely file Statements of Financial Interests with the township for the 2003 through 2007 calendar years.

Dotts violated Section 1105(b)(5) of the Ethics Act, 65 Pa.C.S. §1105(b)(5), when she failed to disclose all direct and/or indirect sources of income on SFIs for the 2005 and 2006 calendar years.

Dotts is directed to make payment of restitution in the amount of \$42,007.76 payable to Green Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order for processing.

Dotts is directed to file SFIs with the township for calendar years 2003, 2004, and 2007, and to file amended SFIs with the township for calendar years 2005 and 2006, disclosing all required informa-

tion, and to do so by no later than the 30th day after the mailing date of this Order, with copies of all such filings forwarded to the Pennsylvania State Ethics Commission for compliance verification purposes.

This matter shall be referred to the Pennsylvania Attorney General and the District Attorney of Indiana County for review for whatever action they may deem appropriate.

Order No. 1549 (Wansacz, Jr.)

Decided: March 25, 2010

Issued: April 9, 2010

John Wansacz, Jr., a public official/public employee in his capacity as Director of Transportation for the Lakeland School District since June 22, 2005, and as Transportation Director/Coordinator for the Carbondale Area School District from March 1, 2008 through June 30, 2009, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when, as Director of Transportation for the LSD, he participated in the selection, recommendation, and/or awarding of contracts to Northeast Student Transportation, Inc. and/or Kimberly Nemeth to provide services to the LSD, at a time when he had a reasonable expectation that he would receive a financial benefit from NEST/Nemeth.

A violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. § 1103(a), occurred when, as Transportation Director/Coordinator for the CASD, Wansacz participated in the selection, recommendation, and/or awarding of contracts to NEST to provide services to the CASD, at a time when he had a reasonable expectation that he would receive a financial benefit from NEST.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. § 1104(a), occurred when Wansacz failed to file Statements of Financial Interests for the 2006 and 2007 calendar years by May 1, 2007, and May 1, 2008, with the LSD.

A violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. § 1105(b), occurred when Wansacz failed to disclose all direct and indirect sources of income in excess of \$1,300 on the SFIs that he filed on or after September 30, 2008 for calendar years 2006 and 2007, and the SFIs that he filed on April 29, 2009 for calendar year 2008.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. § 1104(a), occurred when Wansacz failed to file an SFI for the 2007 calendar year with the CASD by May 1, 2008.

Per the Consent Agreement of the parties, Wansacz is directed to make payment in the amount of \$49,529.20 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Wansacz is directed to file full and accurate SFIs for calendar years 2006 and 2007 with the LSD, through the Pennsylvania State Ethics Commission, by no later than the 30th day after the mailing date of this Order.

Wansacz is directed to file a full and accurate SFI for calendar year 2007 with the CASD, through the Pennsylvania State Ethics Commission, by no later than the 30th day after the mailing date of this Order.

Per the Consent Agreement of the parties, Wansacz is directed that he is to neither seek nor hold any position of public office or public employment in the Commonwealth of Pennsylvania, or any political subdivision thereof, in which by virtue of said office or employment

Wansacz would possess either actual or implied authority concerning the recommendation, consideration, discussion, authorization, approval, execution, or supervision of any contract between the public entity and any contractor/subcontractor from the date of the Consent Agreement (January 28, 2010) forward. This is not intended to prohibit Wansacz from rendering services to any governmental body as an independent contractor (either directly or through subcontractors) where Wansacz had no involvement in the selection/approval of the initial contract as a public official/public employee.

Compliance of this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1550 (Payne, Louis)

Decided: March 25, 2010

Issued: April 9, 2010

Louis Payne, a public official in his capacity as Mayor of East Pittsburgh Borough from January 5, 1998 to the present, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when he recommended to Borough Council that his daughter, Lori Payne, be promoted to the positions of Sergeant and Police Chief with the Borough Police Department.

No violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. § 1103(a), occurred regarding allegations that Payne scheduled work hours for his daughter and approved time sheets with payroll for hours not worked.

An unintentional violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. § 1104(a), occurred when Payne did not file a Statement of Financial Interests for the 2007 calendar year by May 1, 2008.

Per the Consent Agreement of the parties, Payne is directed to make payment in the amount of \$2,000 payable to East Pittsburgh Borough and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Payne is directed to file with the Borough an SFI for calendar year 2007 and to forward a copy of such filing to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance of this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1551 (Payne, Lori)

Decided: March 25, 2010

Issued: April 9, 2010

Lori Payne, a public official/public employee in her capacities as Code Enforcement Officer of East Pittsburgh Borough from May 9, 1999 to the present, and as Borough Chief of Police from 2008 to the present, did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), in relation to the allegation that she submitted hours for compensation that she did not work.

Unintentional violations of Section 1104(a) of the Ethics Act, 65 Pa.C.S. § 1104(a), occurred when Payne failed to file Statements of Financial Interests as Code Enforcement Officer for calendar years 2003, 2004, 2005, 2006, and 2007, and as Chief of Police for the 2007 calendar year.

Per the Consent Agreement of the parties, Payne is directed to make payment in the amount of \$250 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Payne is directed to file with the borough SFIs for the 2003, 2004, 2005, 2006, and 2007 calendar years as the Code Enforcement Officer, and for calendar year 2007 as Police Chief, and to forward copies of all such filings to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with Paragraphs 3 and 4 of this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1552 (Karpa, John)

Decided: March 25, 2010

Issued: April 9, 2010

As a member of the Sto-Rox School District Board of Directors, John Karpa violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), in relation to his receipt of a private pecuniary benefit consisting of payments/reimbursements by the school district for personal expenses as to his attendance at the 2004, 2005, and 2006 National School Board Association annual conferences, which expenses were not related to any official board function.

Per the Consent Agreement of the parties, Karpa is directed to make payment in the amount of \$1,214.97 payable to the Sto-Rox School District and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance of this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1553 (Karpa, Lenora)

Decided: March 25, 2010

Issued: April 9, 2010

As a member of the Sto-Rox School District Board of Directors, Lenora Karpa did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), in relation to her receipt of a private pecuniary benefit consisting of payments/reimbursements by the school district for personal expenses as to her attendance at the 2006 and 2008 National School Board Association annual conferences, in that any private pecuniary benefit received was *de minimis*.

Order No. 1554 (Jacobs)

Decided: March 25, 2010

Issued: April 9, 2010

As a member of the Sto-Rox School District Board of Directors, Linda Jacobs violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), in relation to her receipt of a private pecuniary benefit consisting of payments/reimbursements by the school district for personal expenses as to her attendance at the 2004, 2005, 2006, and 2008 National School Board Association annual conferences, which expenses were not related to any official board function.

Per the Consent Agreement of the parties, Jacobs is directed to make payment in the amount of \$1,382.60 payable to the Sto-Rox School District and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1555 (Yerke)

Decided: March 25, 2010

Issued: April 9, 2010

As a supervisor of Covington Township, Thomas Yerke unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when he voted to appoint himself as Roadmaster and/or Director of Public Works for the township.

A violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. § 1103(a), occurred in relation to Yerke's utilization of a township-provided cellular telephone for his personal purposes.

Per the Consent Agreement of the parties, Yerke is directed to make payment in the amount of \$1,350 payable to Covington Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

NOTE: Commissioner Mark Volk did not participate in this matter.

Order No. 1556 (Christy)

Decided: April 19, 2010

Issued: April 21, 2010

As Secretary/Treasurer for Muddy Creek Township, Butler County, Dixie Christy violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when, during the time period of 2004 through 2008, she used the authority of her public position for private pecuniary benefit by authorizing payments to herself which were neither approved nor authorized by the township Board of Supervisors.

Christy is directed to make payment of restitution in the amount of \$95,755.34 payable to Muddy Creek Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order for processing.

Non-compliance with this Order will result in the institution of an order enforcement action.

Order No. 1557 (Shevchik)

Decided: June 22, 2010

Issued: July 9, 2010

As a member of the Mid Valley School District Board of Directors, Deborah Shevchik violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when she incurred expenses of a personal nature while attending National School Board Association annual conferences and subsequently submitted and participated in the approval of said personal expenses to be paid for by the MVSD.

Per the Consent Agreement of the parties, Shevchik is directed to make payment in the amount of \$1,600 payable to the Mid Valley

School District and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1558 (Rovinsky)

Decided: June 22, 2010

Issued: July 9, 2010

As a member of the Mid Valley School District Board of Directors, Lisa Rovinsky violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when she incurred expenses of a personal nature while attending the 2008 National School Board Association annual conference and subsequently submitted and participated in the approval of said personal expenses to be paid for by the MVSD.

Per the Consent Agreement of the parties, Rovinsky is directed to make payment in the amount of \$708.31 payable to the Mid Valley School District and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1559 (Gilgallon)

Decided: June 22, 2010

Issued: July 9, 2010

As a member of the Mid Valley School District Board of Directors, John Gilgallon violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when he incurred expenses of a personal nature while attending National School Board Association annual conferences and subsequently submitted and participated in the approval of said personal expenses to be paid for by the MVSD.

Per the Consent Agreement of the parties, Gilgallon is directed to make payment in the amount of \$2,500 payable to the Mid Valley School District and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1560 (Carini)

Decided: June 22, 2010

Issued: July 9, 2010

As a council member for Carnegie Borough, Allegheny County, Fred Carini violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), in relation to his use of borough employees, equipment, and supplies for personal purposes.

A violation of Section 1103(f) of the Ethics Act, 65 Pa.C.S. § 1103(f), occurred when Carini contracted with the borough without an open and public process to provide repair services to borough computers.

A violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S.

§1103(a), occurred when Carini failed to reimburse the borough for health insurance premiums.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S.

§1104(a), occurred in relation to Carini's failure to file Statements of Financial Interests for the 2006, 2007, and 2008 calendar years.

Per the Consent Agreement of the parties, Carini is directed to make payment in the amount of \$1,500 payable to the borough of Carnegie and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Carini is directed to file SFIs for calendar years 2006, 2007, and 2008 with the borough through the Pennsylvania State Ethics Commission, by no later than the 30th day after the mailing date of this Order.

Per the Consent Agreement of the parties, Carini is directed that he is to neither seek nor hold any position of public office or of public employment in the Commonwealth of Pennsylvania at any time. This is not intended to prohibit Carini from rendering services to a governmental body as an independent contractor (either directly or through subcontractors), except to the extent such conduct would be prohibited by Section 1103(g) of the Ethics Act.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1561 (Logan)

Decided: June 22, 2010

Issued: July 9, 2010

As a member of the Mid Valley School District Board of Directors, Thomas Logan violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he incurred expenses of a personal nature while attending National School Board Association annual conferences and subsequently submitted and participated in the approval of said personal expense to be paid for by the MVSD.

Per the Consent Agreement of the parties, Logan is directed to make payment in the amount of \$1,978.93 payable to the Mid Valley School District and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1562 (Calhoun)

Decided: August 16, 2010

Issued: August 17, 2010

Norwood Anthony Calhoun, a public official/public employee in his capacity as the Executive Deputy Treasurer for the Pennsylvania Department of the Treasury from approximately June 5, 2007 through March 27, 2009, did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), as to his acceptance of tickets to a sporting event from Treasury vendor "Public Financial Management Advisors" based upon an insufficiency of evidence.

Calhoun violated Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), when he authorized a contract between Treasury and

Harmelin Media that included 2008 World Series tickets, which tickets Calhoun obtained only as a result of his public position and converted for the personal use of his brother.

No violation of Section 1105(b)(6) of the Ethics Act, 65 Pa.C.S. §1105(b)(6), occurred in this case as tickets received by Respondent were not "gifts" as that term is defined by the Ethics Act.

Calhoun violated Section 1105(b)(7) of the Ethics Act, 65 Pa.C.S. §1105(b)(7), when he failed to provide an accurate and timely Statement of Financial Interests for calendar year 2008 disclosing the source and value of Philadelphia Eagles football game tickets that he received from PFM in 2008.

No violation of Section 1105(b)(7) of the Ethics Act, 65 Pa.C.S. §1105(b)(7), occurred with respect to Calhoun's non-disclosure on his SFI form of 2008 World Series tickets that Calhoun obtained as a result of a contract between Treasury and Harmelin Media, as such tickets were the property of Treasury, a governmental body, and were converted by Calhoun for the personal use of his brother.

Calhoun is directed to make payment of restitution in the amount of \$1,736 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order for processing.

To the extent he has not already done so, Calhoun is directed to file a complete and accurate SFI for calendar year 2008 with the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order.

Non-compliance will result in the institution of an order enforcement action.

Order No. 1563 (Bashore)

Decided: October 19, 2010

Issued: October 22, 2010

David Bashore, a public official/public employee in his capacity as the Manager of Radnor Township, Delaware County from November 13, 2000 to April 13, 2009, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he used the authority of his public position for private pecuniary benefit by annually authorizing lump sum payments to himself without the approval of the township Board of Commissioners, and when he directed township staff to issue leave payments to him that were not approved by the Board and were not part of his compensation package.

Per the Consent Agreement of the parties, Bashore is directed to make payment in the amount of \$55,331.21 payable to Radnor Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1564 (Ahner)

Decided: October 19, 2010

Issued: October 22, 2010

As the Tax Collector for Penn Forest Township, Barbara Ahner violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when she received compensation by charging real estate tax certification fees and duplicate tax bill fees as Tax

Collector, which fees were not approved by the township Board of Supervisors.

A violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when Ahner filed deficient Statements of Financial Interests for calendar years 2005, 2006, and 2007, when she failed to list all sources of income in excess of \$1,300.

Per the Consent Agreement of the parties, Ahner is directed to make payment in the amount of \$20,000 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Ahner is further directed to file with the township, through this Commission, amended SFIs listing all sources of income in excess of \$1,300 for calendar years 2005, 2006, and 2007 by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1565 (Burchfield)

Decided: October 19, 2010

Issued: October 26, 2010

A technical violation of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), occurred when David Burchfield Sr., in his capacity as a supervisor for Blair Township, Blair County, approved payments and/or donations to the Duncansville Volunteer Fire Company—Blair Township Fire Department, which said funds were used to pay rental on a facility owned by a business with which Burchfield is associated.

Per the Consent Agreement of the parties, Burchfield is directed to neither seek nor accept any consideration, in any form, from DVFC, representative of unpaid rent for any of the months in which DVFC occupied any buildings owned by Burchfield, The Burchfield Organization, The Burchfield Limited Partnership, past or present employees of Burchfield, or members of Burchfield's immediate family.

Per the Consent Agreement of the parties, Burchfield is further directed to neither seek nor hold any position of public office or of public employment in the Commonwealth of Pennsylvania at any time.

Per the Consent Agreement of the parties, any future contracts between DVFC and Burchfield, a member of Burchfield's immediate family, or any business with which Burchfield or a member of his immediate family is associated, must be made at fair market value to be determined by an independent and disinterested party. This is not intended to prohibit Burchfield, a member of Burchfield's immediate family, or any business with which Burchfield or a member of his immediate family is associated from providing goods or services to DVFC for less than fair market value as a gift or donation.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1566 (Haywood)

Decided: October 19, 2010

Issued: October 26, 2010

As a member of the South Pymatuning Township Municipal

Authority, David Haywood unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he participated in increasing his rate of compensation as an authority board member without approval of the South Pymatuning Township Board of Supervisors (the appointing authority), and received said compensation.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to Haywood's failure to file Statements of Financial Interests for the 2005 and 2006 calendar years with the authority.

Per the Consent Agreement of the parties, Haywood is directed to make payment in the amount of \$400 payable to the South Pymatuning Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

To the extent he has not already done so, Haywood is directed to file with the Authority SFIs for calendar years 2005 and 2006 and to forward copies of such filings to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1567 (DeJulia)

Decided: October 19, 2010

Issued: October 26, 2010

As a member of the South Pymatuning Township Municipal Authority, Vincent DeJulia unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he participated in increasing his rate of compensation as an authority board member without approval of the South Pymatuning Township Board of Supervisors (the appointing authority), and received said compensation.

An unintentional violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to the allegation that DeJulia failed to file Statements of Financial Interests for the 2005, 2006, and 2007 calendar years with the authority.

An unintentional violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when DeJulia failed to list all direct or indirect sources of income on his SFI for calendar year 2008.

Per the Consent Agreement of the parties, DeJulia is directed to make payment in the amount of \$1,500 payable to the South Pymatuning Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

To the extent he has not already done so, DeJulia is directed to file with the authority an amended SFI for calendar year 2008 listing all sources of income and SFIs for calendar years 2005, 2006, and 2007 and to forward copies of all such filings to this Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1568 (Schenker)
Decided: October 19, 2010

Issued: October 26, 2010

As a member of the South Pymatuning Township Municipal Authority, Jason Schenker did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he participated in increasing his rate of compensation as an authority board member without approval of the South Pymatuning Township Board of Supervisors (the appointing authority), and received said compensation, because based upon the Consent Agreement of the parties, the net amount of the private pecuniary gain was *de minimis*.

An unintentional violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to the allegation that Schenker failed to file Statements of Financial Interests for the 2006 and 2008 calendar years with the authority.

An unintentional violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when Schenker failed to list all direct or indirect sources of income on his SFI for calendar year 2007.

Per the Consent Agreement of the parties, Schenker is directed to make payment in the amount of \$250 payable to the South Pymatuning Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

To the extent he has not already done so, Schenker is directed to file with the authority an amended SFI for calendar year 2007 listing all sources of income and SFIs for calendar years 2006 and 2008 and to forward copies of all such filings to this Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1569 (DeVries)
Decided: October 19, 2010

Issued: October 26, 2010

As a member of the South Pymatuning Township Municipal Authority, Burt DeVries unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he participated in increasing his rate of compensation as an authority board member without approval of the South Pymatuning Township Board of Supervisors (the appointing authority), and received said compensation.

No violation of Section 104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to the allegation that DeVries failed to file Statements of Financial Interests for 2005 and 2006 calendar years with the authority, as there is insufficient evidence to establish that the forms in question were not appropriately filed.

Per the Consent Agreement of the parties, DeVries is directed to make payment in the amount of \$1,300 payable to the South Pymatuning Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1570 (Nashtock, Jr.)
Decided: October 19, 2010

Issued: October 26, 2010

Michael P. Nashtock, Jr., a public official in his capacities as a supervisor for South Pymatuning Township, Mercer County, and as a member of the South Pymatuning Township Municipal Authority, unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when, after having voted as a township supervisor in 2002 to appoint himself to the authority board and to set the compensation of authority board members, he voted as an authority board member on January 5, 2005, January 4, 2006, and January 18, 2008, to increase compensation for members of the authority without approval of the township Board of Supervisors (the appointing authority).

Nashtock did not violate Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), as alleged, based upon insufficient evidence.

A technical violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when Nashtock failed to list all direct/indirect sources of income on his 2004, 2005, and 2008 Statements of Financial Interests; namely the authority on SFIs filed for calendar years 2004, 2005, and 2008; and the township on SFIs (original and amended) filed for calendar year 2008.

Per the Consent Agreement of the parties, Nashtock is directed to make payment in the amount of \$3,000 payable to the South Pymatuning Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

To the extent he has not already done so, Nashtock is directed to file with the authority amended SFIs for calendar years 2004, 2005, and 2008 listing all sources of income, and SFIs for calendar years 2006 and 2007, and to forward copies of all such filings to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1571 (Reisinger)
Decided: October 19, 2010

Issued: October 26, 2010

Jonathan Reisinger, a public official/public employee in his capacities as the Dickinson Township Zoning Officer, Sewage Enforcement Officer, and Codes Enforcement Officer from January 2, 2002 until October 21, 2008, and as the SEO/Alternate SEO for Cooke Township (April 5, 2000 to June 1, 2009), Lower Mifflin Township (January 2, 2001 to present), Hopewell Township (January 5, 2004 to at least July 6, 2010), and North Middleton Township (January 7, 2008 to December 31, 2008), violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he used the authority of his public position(s) with Dickinson Township for private pecuniary benefit by utilizing the resources of Dickinson Township, including but not limited to office space, computers, telephones, copy machines, and fax equipment for his outside employment/busi-

ness interests, and when he performed work for non-Dickinson Township entities while on Dickinson Township time.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred when Reisinger, in his capacity as the Cooke Township SEO, failed to file Statements of Financial Interests with Cooke Township for the 2005, 2006, 2007, and 2008 calendar years; when in his capacity as the Hopewell Township Assistant SEO/SEO he failed to file SFIs with Hopewell Township for the 2005, 2006, and 2008 calendar years; when, as the Lower Mifflin Township SEO, he failed to file SFIs with Lower Mifflin Township for the 2005 and 2008 calendar years; and when, in his capacity as the North Middleton Township Assistant SEO/SEO, he failed to file an SFI with North Middleton Township for the 2007 calendar year.

A violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when Reisinger failed to list Dickinson Township as a direct or indirect source of income on his SFIs filed with Dickinson Township for the 2005 and 2006 calendar years; when, in his capacity as the Hopewell Township Assistant SEO/SEO, he failed to list all direct or indirect sources of income on his SFI for the 2007 calendar year; and when, as the Lower Mifflin Township SEO, he failed to list all direct or indirect sources of income and office, directorship, or employment in any business on his SFI for the 2006 calendar year, and failed to list all direct or indirect sources of income on his SFI for the 2007 calendar year.

Per the Consent Agreement of the parties, Reisinger is directed to make payment in the amount of \$2,683.21 payable to Dickinson Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

To the extent he has not already done so, Reisinger is directed to file complete and accurate SFIs for calendar years 2005, 2006, 2007, and 2008 disclosing all required information with each municipality for which he served as a public official or public employee, as set forth above, and to forward copies of such filings to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1572 (Sindiri)

Decided: October 19, 2010

Issued: October 26, 2010

Atreia Sindiri, a public employee in his capacity as a Business Operations Supervisor for the Bureau of Integrated Enterprise System within the Commonwealth of Pennsylvania, Office of Administration from March 4, 2006 until March 21, 2009, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he utilized Commonwealth equipment and time for the benefit of his private business interests.

A violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), occurred when Sindiri inappropriately utilized sick leave for purposes of conducting business in furtherance of his private pecuniary interests.

A violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), occurred when Sindiri failed to utilize leave for hours not worked.

An unintentional violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to Sindiri's failure to file Statements of Financial Interests for the 2006, 2007, and 2008 calendar years, in that Sindiri was incorrectly advised by the Office of Administration that he was not required to file.

Per the Consent Agreement of the parties, Sindiri is directed to make payment in the amount of \$9,772.46 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

To the extent he has not already done so, Sindiri is directed to file SFIs with the IES for calendar years 2006, 2007, and 2008 and to forward copies of all such filings to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1573 (Klein)

Decided: October 19, 2010

Issued: October 26, 2010

As a member of the South Pymatuning Township Municipal Authority, Evelyn Klein unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when she participated in increasing her rate of compensation as an authority board member without approval of the South Pymatuning Township Board of Supervisors (the appointing authority), and received said compensation.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to Klein's failure to file Statements of Financial Interests for the 2006, 2007, and 2008 calendar years with the authority.

Per the Consent Agreement of the parties, Klein is directed to make payment in the amount of \$500 payable to the South Pymatuning Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Compliance with this Order will result in the closing of this case with no further action by this Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1574 (Propst) WUA

Decided: October 19, 2010

Issued: November 3, 2010

The matter of the Subject's request for a finding as to wrongful use of the Ethics Act by Complainant A having been brought before this Commission, following review, it is the preliminary determination of this Commission that Complainant A did not wrongfully use the Public Official and Employee Ethics Act ("Ethics Act"), 65 Pa.C.S. § 1101 et seq., with respect to the complaint against the Subject under case number 09-049.

If no timely appeal is filed, this preliminary determination will become absolute and will become the final determination of this Commission in this matter regarding wrongful use of the Ethics Act and will be released as a public document.

Order No. 1575 (Wilson)**Decided: December 15, 2010****Issued: December 20, 2010**

As a supervisor of East Finley Township, Washington County, Paul Wilson violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when, as a member of the township Board of Supervisors, he participated in discussions and actions of the township Board of Supervisors to award contracts to Wilson's Outdoor Services, a business owned by his son.

Per the Consent Agreement of the parties, a violation of Section 1103(f) of the Ethics Act, 65 Pa.C.S. §1103(f), occurred when township projects valued at in excess of \$500 were awarded to Wilson's Outdoor Services, a business owned by Wilson's son, without an open and public process.

A violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), occurred when Wilson participated in actions of the township Board of Supervisors to authorize payments to Wilson's son's company, Wilson's Outdoor Services.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred when Wilson failed to file a Statement of Financial Interests for the 2006 calendar year by May 1, 2007.

A violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when Wilson failed to disclose all direct/indirect sources of income on SFIs filed for the 2004, 2005, 2007, and 2008 calendar years.

Per the Consent Agreement of the parties, Wilson is directed to make payment in the amount of \$8,000 payable to East Finley Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order.

To the extent he has not already done so, Wilson is directed to file with the township, by no later than the 30th day after the mailing date of the Commission's Order, amended SFIs for the 2004, 2005, 2007, and 2008 calendar years, appropriately disclosing all required information, and an SFI for the 2006 calendar year, and to forward copies of all such forms to the Pennsylvania State Ethics Commission for compliance verification purposes.

Per the Consent Agreement of the parties, Wilson is directed that he is to neither seek nor hold any position of public office or of public employment in the Commonwealth of Pennsylvania at any time.

Compliance with the Consent Agreement and the Commission's Order will result in the closing of this case with no further action by the Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1576 (Obernier)**Decided: December 15, 2010****Issued: December 20, 2010**

As a supervisor for West Brandywine Township, Chester County, Josef G. Obernier did not violate Section 1103(f) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(f), when the township awarded contracts in excess of \$500 to a business with which Obernier is associated, OAC Network Solutions, as the initial work was completed through a state contract and in that the township issued RFPs for the additional work.

An unintentional violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), occurred in relation to Obernier's approval of payments to OAC, a business with which he is associated.

A violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when Obernier failed to disclose all sources of income on his Statements of Financial Interests filed for the 2006, 2007, and 2008 calendar years.

Obernier is directed to make payment in the amount of \$1,275.20 payable to West Brandywine Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order.

To the extent he has not already done so, Obernier is directed to file with the Township amended SFIs for calendar years 2006, 2007, and 2008, disclosing all direct/indirect sources of income, and to forward copies of all such filings to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order.

Compliance with this Order will result in the closing of this case with no further action by the Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1577 (Hockenberry)**Decided: December 15, 2010****Issued: December 20, 2010**

As a supervisor of Connoquenessing Township, Evelyn Hockenberry violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), in relation to her actions to set her compensation as township Secretary/Treasurer without auditor approval.

A violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), occurred when Hockenberry, as a Secretary/Treasurer for the township, issued unauthorized payments to herself.

A technical violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred when Statements of Financial Interests for Hockenberry for calendar years 2005 and 2006 were not on file with the township.

A technical violation of Section 1105(b) of the Ethics Act, 65 Pa.C.S. §1105(b), occurred when Hockenberry failed to disclose all direct/indirect sources of income on her SFI(s) filed for the 2008 calendar year.

Per the Consent Agreement of the parties, Hockenberry is directed to make payment in the amount of \$15,000 as follows: (a) \$10,000 payable by certified check or money order made payable to Connoquenessing Township and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order; and (b) \$5,000 in reimbursement representing a portion of the expenses and costs incurred by the Pennsylvania State Ethics Commission in the investigation and administrative prosecution of the instant matter, payable by certified check or money order made payable to the Pennsylvania State Ethics Commission, with said payment of \$5,000 tendered upon the execution of the Consent Agreement by Hockenberry.

To the extent she has not already done so, Hockenberry is directed to file with the township SFIs for calendar years 2005 and 2006 and an amended SFI for calendar year 2008, appropriately disclosing

all required information, by no later than the 30th day after the mailing date of the Commission's Order and to forward copies of all such filings to the Pennsylvania State Ethics Commission for compliance verification purposes.

Compliance of this Order will result in the closing of this case with no further action by the Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1578 (Peck)

Decided: December 15, 2010

Issued: December 20, 2010

A technical violation of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), occurred when Dennis Peck, as a council member for Falls Creek Borough, awarded borough business to DuBois Car Care Center, a business owned by him.

A technical violation of Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), occurred in relation to Peck's approval of payments to his company, DCCC.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred when Peck failed to file a Statement of Financial Interest for calendar year 2005.

No violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to Peck's filing of calendar years 2006 and 2007 SFIs, as they appear to have been timely filed.

No violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to Peck's failure to file a calendar year 2003 SFI, as the allegation appears to have occurred outside of the five-year statute of limitation time period (65 Pa.C.S. §1108(m)).

Per the Consent Agreement of the parties, Peck is directed to make payment in the amount of \$500 payable to Falls Creek Borough and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order.

To the extent he has not already done so, Peck is directed to file with the Borough, through the Pennsylvania State Ethics Commission, an SFI for calendar year 2005 by no later than the thirtieth (30th) day after the mailing date of the Commission's Order.

Compliance with this Order will result in the closing of this case with no further action by the Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

Order No. 1579 (Cole)

Decided: December 15, 2010

Issued: December 20, 2010

As mayor of the city of Monongahela, Washington County, Kenneth Cole, Sr. violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he participated in the award of contracts to JK Networking, the purchase of computer equipment and computer-related services from JK Networking, and the authorization of payments to JK Networking, a business with which Cole was associated.

A violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to Cole's failure to file Statements of Financial Interests for 2003, 2004, 2005, 2006, and 2007 calendar years.

No violation of Section 1104(a) of the Ethics Act, 65 Pa.C.S. §1104(a), occurred in relation to Cole's alleged failure to file a Statement of Financial Interests for the 2008 calendar year as Cole was not required to file a Statement of Financial Interests form for that calendar year.

Per the Consent Agreement of the parties, Cole is directed to make payment in the amount of \$7,000 as follows: (a) \$5,500 payable by certified check or money order made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order; and (b) \$1,500 in reimbursement representing a portion of the expenses and costs incurred by the Pennsylvania State Ethics Commission in the investigation and administrative prosecution of the instant matter, payable by certified check or money order made payable to the Pennsylvania State Ethics Commission, with said payment of \$1,500 tendered upon the execution of the Consent Agreement by Cole.

Per the Consent Agreement of the parties, Cole is further directed to not accept any reimbursement, compensation, or other payment from the city representing a full or partial reimbursement of the amount paid in settlement of this matter.

Cole is directed to file Statements of Financial Interests for calendar years 2003, 2004, 2005, 2006, and 2007 with the city, through the Pennsylvania State Ethics Commission, by no later than the 30th day after the mailing date of the Commission's Order.

Compliance with this Order will result in the closing of the case with no further action by the Commission.

- a. Non-compliance will result in the institution of an order enforcement action.

UPDATE ON PREVIOUS COMMISSION ORDERS

Joseph Glenn (Order No. 1531): In *Glenn*, Order No. 1531, the Pennsylvania State Ethics Commission issued a ruling finding Joseph Glenn in violation of various provisions of the Public Official and Employee Act in relation to the use of office by Glenn in various positions on authorities and as an employee of the Rochester Area School District to award contracts to a business with which he was associated. The Commission imposed restitution in the amount of \$80,811.09. The Commission also found various violations in relation to Glenn's failure to file Statements of Financial Interests in accordance with the Ethics Act.

On or about September 30, 2008, Rochester Borough Councilman Joseph Glenn was charged with theft, Ethics Act violations, and related offenses. Charges relate to a use of grant funds so the Authority could buy more than \$25,000 worth of computers from a business that Glenn co-owned. He was also charged with stealing some of the equipment after the Authority was dissolved.

On November 15, 2009, Glenn pled guilty to two counts of Ethics Act violations and one count of criminal conspiracy. Glenn was thereafter sentenced to two years probation and \$8,792 in fines and restitution.

Edwin Evans, Order No. 1457: On February 15, 2008, the Commission issued an order in relation to Edwin A. Evans determining that, in his position as Executive Director of the Venango County Housing Authority and other positions he held in relation to related

Housing Authority corporations, he violated the Ethics Act when he used his position in order to obtain various financial benefits from said Authorities and corporations. The Commission, based upon a consent agreement, found Evans in violation and ordered restitution in the amount of \$40,000, which funds were paid after issuance of the order.

On April 15, 2010, Evans was charged by the Office of Attorney General with various counts in relation to the Commission's investigation, including theft by unlawful taking, conflict of interest, and misapplication of entrusted property or governmental funds. Prior to the conduct of the preliminary hearing in this matter, Evans died and as a result the matter was terminated.

Dorothy Marie Dotts (Dotts Order No. 1548): On February 22, 2010, the Commission issued Order No. 1548 regarding Dorothy Dotts, the former Secretary/Treasurer of Green Township, Indiana County. The Commission found Dotts in violation of the Ethics Act when she utilized township credit cards to make personal purchases and subsequently signed township checks issued to vendors for personal purchases. Dotts was also found to have violated the Ethics Act when she authorized township payments to herself, including altering of township checks, without approval of the Township Board of Supervisors, and when she prepared and signed township payroll checks issued to her for hours not worked to conceal payments owed to her husband. The Commission directed that this matter be referred to the Pennsylvania Attorney General and the District Attorney of Indiana County for review for whatever action they may deem appropriate.

By way of two separate criminal proceedings, Dotts was charged with various crimes by the District Attorney of Indiana County. The first matter stems from Dotts alleged theft of public monies through a position she held with Indiana County. On January 21, 2010, a criminal complaint was filed against Dotts alleging one count of Theft

by Unlawful Taking (Felony) and one count Theft by Deception. On May 4, 2010, a second criminal complaint was filed in relation to the findings of the Commission as set forth in Order No.: 1548. The second set of charges relate to Dotts' position with Green Township and allege one count Theft by Unlawful Taking.

Both set of charges were waived to court at the Preliminary Hearing held May 20, 2010. On October 7, 2010, Dotts pled guilty to one count Theft by Unlawful Taking, graded as a Felony of the Third Degree, in each case in which she was charged; the remaining charge(s) in both matters were *not proessed*.

On December 14, 2010 a Motion to Continue Sentencing was filed with the court.

Dixie Christy (Order No. 1556): In Christy, Order No. 1556, the Commission found that Respondent Dixie Christy, in her capacity as Secretary/Treasurer for Muddy Creek Township, Butler County, violated Section 1103(a) of the Ethics Act when, during the time period of 2004 through 2008, used the authority of her public position for private pecuniary benefit by authorizing payments to her which were neither approved nor authorized by the Township Board of Supervisors. The Commission ordered that Respondent make payment of restitution in the amount of \$95,755.34, payable to Muddy Creek Township and forwarded to the Pennsylvania State Ethics Commission by no later than May 22, 2010, 30 days after the mailing date of the Order.

On March 16, 2010, in the Butler County Court of Common Pleas, Christy pleaded guilty to 100 counts of Forgery and one count of Theft by Unlawful Taking for the same actions that formed the basis of the Commission's Order in this matter. Christy was sentenced to a period of incarceration of no less than nine and no more than 18 months incarceration on July 6, 2010. Christy began her sentence immediately.

Legislative Proposals

The following represent legislative proposals that were introduced or acted upon during the course of the legislative session, and which proposals affect the operations of the State Ethics Commission or amend the Public Official and Employee Ethics Act.

SENATE:

Senate Bill No. 440, P.N. 444:

This proposal would amend the Ethics Act Statement of Financial Interests filing requirements for a candidate to include in the filing requirements individuals seeking nomination or election to judicial office except those who are seeking retention. The bill was referred to the State Government Committee on February 24, 2009.

Senate Bill No. 604, P.N. 654:

This proposal is an amendment to Section 1103(g) (post-employment restrictions) of the Public Official and Employee Ethics Act and would prohibit a former public official or public employee from representing any person before their former governmental body for a period of two years after leaving government service. This bill was referred to the Committee on State Government on March 12, 2009.

Senate Bill No. 619, P.N. 685:

This bill is a proposal to amend the Ethics Act to expand the post employment restrictions contained therein. Specifically, the new provisions would prohibit a former executive-level state employee for a period of two years from obtaining or seeking employment from any entity that has entered into a contract with his state agency or from representing that entity before an agency or the Governor's Office. The proposed restrictions would also prohibit any private individual who comes into government employment as an executive-level employee from participating in the award of a contract regarding his former private employer. The bill was referred to the State Government Committee on March 19, 2009.

HOUSE:

House Bill No. 2, P.N. 4190:

This bill is the Pennsylvania Public Integrity Commission Act and would recreate the Pennsylvania State Ethics Commission. The bill would incorporate the current duties and functions of the Pennsylvania State Ethics Commission with the duties and responsibilities of the Agency previously known as the Pennsylvania State Crime

Commission. The Crime Commission was terminated sometime in the 1990s). The proposal would be a complete modification of the Commission's operating procedures, its jurisdictional mandate, and its Commission membership. It was introduced on September 9, 2010, and referred to the State Government Committee.

House Bill No. 236, P.N. 246:

This proposal is an amendment to the Ethics Act and would require the filing of a Statement of Financial Interests by write-in candidates only if the candidate wins the election and intends to take the oath of office. This bill was referred to the Committee on State Government on February 4, 2009.

House Bill No. 293, P.N. 313:

This bill is a proposal to place limitations on outside earned income of the Members of the General Assembly. The proposal also places limits on certain types of outside employment in which Members of the General Assembly can engage while serving as a Member. The proposal places enforcement of the provisions of this proposal in the hands of the State Ethics Commission. One of the penalties provided for in this law in the event that a violation has been determined to be continuing or with an attempt to conceal the violation is the forfeiture of the legislative office. This bill was referred to the Committee on State Government on February 6, 2009.

House Bill No. 385, P.N. 1140:

This proposal is an amendment to the Ethics Act and would add a new section to the restricted activities provisions of the Ethics Act. Specifically, the proposal would prohibit any state employee from participating in a matter that related to a former private employer or client for a period of two years after taking public service. The restrictions would also prohibit an individual who had previously been employed as a lobbyist from participating in any matter in which the individual lobbied for a period of two years after they secure public service. The provision would also prohibit any individual who had previously been employed as a lobbyist from accepting employment with an agency that they had lobbied for a period of two years. The proposal also has additional restrictions regarding the duties and responsibilities of a public employee or public official regarding their former clients and employees. The bill was referred to the State Government Committee on March 18, 2009.

House Bill No. 1433, P.N. 1763:

This bill is an amendment to the Lobbying Disclosure Law and would require forfeiture by a principal of any financial gain realized as a result of violating the Lobbying Law. It also vests responsibility in the Commission to determine the amount of forfeiture. This bill was referred to the Committee on State Government on May 5, 2009.

House Bill No. 1434, P.N. 1764:

This bill is an amendment to the Lobbying Disclosure Law and would amend the penalty section thereof to increase the per diem fine for negligent failure to register and report from \$50 to \$250 for each day and to also increase the criminal penalties from second degree misdemeanors to first degree misdemeanors. The bill was referred to the Committee on State Government on May 5, 2009.

House Bill No. 1439, P.N. 1769:

This proposal is an amendment to the restricted activity provisions of the Ethics Act and would add a Section 1103(k) to prohibit

Members of the House, Members of the Senate, and executive-level state employees from accepting an appointment by the Governor which is subject to the approval of the Senate. This bill was referred to the Committee on State Government on May 5, 2009.

House Bill No. 1595, P.N. 2207:

This bill is an amendment to the Ethics Act Statement of Financial Interests filing requirement provisions and would permit a filing of Amended Statements of Financial Interests for non-fraudulent errors or omissions contained in the Statement of Financial Interests. This bill was referred to the Committee on State Government on June 3, 2009. The bill was thereafter amended and reported on first consideration on June 17, 2009. The matter was reported in and out of Committee throughout the month of June and also in September and was recommitted to Appropriations on September 11, 2009.

House Bill No. 1751, P.N. 2228:

This proposal would add a Section to 1103 (restricted activities of the Ethics Act) to prohibit a Member of the General Assembly from receiving or requesting preferential treatment or priority with respect to the consideration of any bill, the hiring of staff, the approval of a grant application, or the release of funds for any capital project in return for that Member's vote. The proposal would also prohibit a Member of leadership in either party from requesting or soliciting another Member's vote based upon the promise or pledge of such preferential treatment. This bill was referred to the Committee on State Government on June 22, 2009.

House Bill No. 2494, P.N. 3727:

This provision is an amendment to the Ethics Act that would create a ban on gifts in excess of \$25 from a lobbyist or a principal. The bill also provides for certain exceptions and types of tokens that would be permissible. The bill was referred to the Committee on State Government on May 11, 2010.

MISCELLANEOUS LEGISLATIVE ACTIVITIES

Testimony Before House of Representative Urban Affairs Committee:

On October 7, 2010, the Executive Director testified before the House of Representative Urban Affairs Committee. This testimony was given at the specific request of the Committee which had convened to hearing in order to consider ways to update and improve the Housing Authorities Act of 1937. Areas of specific focus for the Committee included the role of the state in overseeing Housing Authorities, how to focus greater corroboration between Housing Authorities and their establishing entities, and the make-up of Housing Authority Boards.

The Commission was specifically asked to comment on the need for any additional oversight of Housing Authorities by the Ethics Commission and the application of the Ethics Act to such Authorities.

State Senate Testimony:

On February 2, 2010, the Executive Director testified before the State Senate Committee on Rules and Executive Nominations regarding House Resolution No. 228. The testimony was provided as a result of a request by that Committee to provide input to the Committee on the noted proposed Senate Resolution. That Resolution deals with the establishment of prohibitions and guidelines regard-

ing the use of Senate facilities, equipment, personnel, and funds for personal or election/political-related purposes. A written statement was provided to the Committee regarding the comments made by the Executive Director on behalf of the Commission.

Pennsylvania Lobbying Disclosure Law

OVERVIEW

On November 1, 2006, Act No. 134-2006, the Pennsylvania Lobbying Disclosure Law, was signed into law, following a decision in 2002 by the Pennsylvania Supreme Court invalidating the prior Lobbying Disclosure Act as an unconstitutional regulation of attorneys engaged in the practice of law.

Under the Lobbying Disclosure Law, 65 Pa.C.S. § 13A01 *et seq.*, the State Ethics Commission's responsibilities include enforcement, issuing advisories, and participating on the Lobbying Disclosure Regulatory Committee through the Commission Chair or his designee. Responsibility for the administration of the registration and reporting requirements is vested in the Pennsylvania Department of State.

The substantive provisions of the Lobbying Disclosure Law took effect January 1, 2007.

ADVISORIES

The Commission issues advisories under the Lobbying Disclosure Law to persons with standing (legal authority) to submit such requests. The process for issuing advisories under the Lobbying Disclosure Law is similar to the process under the former lobbying law and under the Ethics Act. Advisories are issued as to prospective conduct only.

ENFORCEMENT

Also as of January 1, 2007, the Commission has authority to enforce the registration and reporting requirements (Sections 13A04 and 13A05) and, to some extent, the "prohibited activities" section (Section 13A07) of the Lobbying Disclosure Law.

With regard to enforcement of the registration and reporting requirements, the Lobbying Disclosure Law provides a process (*see*, Section 13A09) whereby the Commission is to issue a "Notice of Alleged Noncompliance" to a person (hereinafter referred to as the "non-filer") who has failed to register or report as required. The non-filer is given an opportunity to appeal to the Commission and to request a hearing. Intentional violations are referred to the Office of Attorney General and in some instances to the Disciplinary Board of the Supreme Court of Pennsylvania ("Disciplinary Board") as discussed below. For negligent violations, the Commission may impose an administrative penalty of up to \$50 for each late day. The Commission may also prohibit a non-filer from lobbying for economic consideration for up to five years if the non-filer fails to comply after notice of noncompliance and a hearing, if requested.

With regard to enforcement of the "prohibited activities" section of the Lobbying Disclosure Law, Section 13A07, the Commission has authority to receive complaints, conduct investigations, hold hearings, and impose administrative penalties as to: (1) lobbying "conflicts of interest" as described in subsection (d); and (2) 10 cat-

On March 10, 2010, based upon a specific request made by the Chief Counsel for the Senate Majority Leader, a more detailed analysis of the Resolution was provided. Senate Resolution 228 was adopted on June 15, 2010, and incorporated into the Rules of the Senate.

egories of "unlawful acts" listed in subsection (f). For violations as to these particular types of "prohibited activities," the Commission has authority to impose financial penalties of up to \$2,000 per violation and to prohibit a lobbyist from lobbying for economic consideration for up to five years.

Subject to certain statutory exceptions, it is a "conflict of interest" under the Lobbying Disclosure Law for a registrant to lobby on behalf of a principal "on any subject matter in which the principal's interests are directly adverse to the interests of another principal currently represented by the lobbyist or previously represented by the lobbyist during the current session of the General Assembly or the lobbyist's own interests." 65 Pa.C.S. § 13A07(d)(1).

The 10 categories of "unlawful acts" listed in Section 13A07(f) involve: (1) instigating the introduction of legislation for the purpose of obtaining employment to lobby against it; (2) knowingly counseling a person to violate the Lobbying Disclosure Law or any other state/federal statute; (3) engaging in or counseling a person to engage in fraudulent conduct; (4) attempting to influence a State official or employee on legislative or administrative action through a loan; (5) refusing to disclose to a State official or employee, upon request, the identity of the principal while lobbying on behalf of the principal; (6) committing a criminal offense arising from lobbying; (7) using coercion, bribery, or threat of economic sanction to influence a State official or employee in the discharge of his official duties; (8) extorting or otherwise unlawfully retaliating against a State official or employee because of his position or vote as to legislative action or administrative action; (9) attempting to influence a State official or employee on legislative or administrative action through a promise of financial support or the financing of opposition to the candidacy of the State official or employee at a future election; or (10) engaging in conduct that brings the practice of lobbying or the Legislative or Executive Branches of State government into disrepute.

For all of the other prohibited activities detailed in Section 13A07 of the Lobbying Disclosure Law, the Commission may initiate investigations through the Executive Director and hold hearings pursuant to the Commission's general authority under Section 13A08(g). Such prohibited activities are listed in Section 13A07, subparagraphs (a)-(c) and (e) and involve: service by a lobbyist as an officer of a candidate's political committee or a candidate's political action committee where the candidate is seeking a statewide office or the office of state legislator (subsection (a)); fee restrictions where all or a portion of a lobbyist's fee would be converted into a contribution to a candidate or political committee subject to reporting under the Election Code (subsection (b)); falsification in the course of lobbying (subsection (c)); and compensation for lobbying that is contingent upon achieving certain outcomes (subsection (e)).

However, the only penalty the Commission may impose for these

types of violations is a prohibition against lobbying for economic consideration for up to five years in the event of an intentional violation. 65 Pa.C.S. § 13A09(e)(4).

For all of the above types of matters, if the Commission has reason to believe that an intentional violation of the Lobbying Disclosure Law has been committed, the Commission must refer all relevant information to the Office of Attorney General and, if the lobbyist or principal is an attorney, to the Disciplinary Board. 65 Pa.C.S. § 13A09(h). Referrals to the Attorney General and Disciplinary Board would generally not preclude the Commission from conducting its own proceedings. However, matters involving alleged conflicts of interest on the part of attorneys would be handled exclusively by the Disciplinary Board. 65 Pa.C.S. § 13A07(d)(8).

An alleged violation of the “unlawful acts” provision by an attorney would be referred to the Disciplinary Board. 65 Pa.C.S. § 13A07(f)(3)(ii). Matters involving an attorney’s failure to register or report would be heard by the Commission with the Commission referring cases involving intentional conduct to the Disciplinary Board as well as the Attorney General. In the event of an attorney’s negligent failure to register/report, the Commission could impose an administrative/civil penalty but would be required to inform the Disciplinary Board of such action. 65 Pa.C.S. §§ 13A09(b)(2)-(3), (c)(3).

LOBBYING COMPLIANCE ACTIVITIES

During calendar year 2009, the State Ethics Commission commenced conducting compliance reviews of lobbying disclosure registration statements and quarterly expense reports filed with the Pennsylvania Department of State.

DEFICIENT REGISTRATIONS

The following summarizes compliance activities with regards to deficient registrations:

REGISTRATION PERIOD 2009–2011

Lobbyists failing to pay registration fee and to submit photo.....	2
Lobbyists submitting photo, but failing to pay registration fee....	3
Lobbyists paying fee, but failing to submit photo.....	5
Lobbying firms failing to pay registration fee	2
Principals failing to pay registration fee	12
TOTAL WARNING NOTICES SENT	24

FEES COLLECTED AS A RESULT OF REGISTRATION-RELATED COMPLIANCE ACTIVITIES (Registration Period 2009–2011)

14 registrations totaling \$1,400 in delinquent fees collected

DEFICIENT/DELINQUENT QUARTERLY EXPENSE REPORTS

Lobbying Notices of Alleged Noncompliance

On April 21, 2010, the Department of State provided the Commission with a listing of all registered principals who failed to file the requisite quarterly expense reports as of that date. For the registration period January 2009 through December 2010, there were 369 principals registered that failed to file quarterly expense reports for

various years and quarters. Several principals had never filed a quarterly expense report for any year. Warning notices were issued to all delinquent principals. As a result of these compliance efforts, to date, 363 principals have filed, and only six were remaining. These six principals were forwarded to the Investigative Division for enforcement action and were still pending as of the end of 2010.

Lobbying Enforcement Orders

During 2010, the Commission issued the following adjudications as a result of its enforcement activities:

Order No. 001-SL (O’Connell)

Decided: March 25, 2010

Issued: April 9, 2010

As a lobbyist subjected to the requirements of Pennsylvania’s Lobbying Disclosure Law, 65 Pa.C.S. §13A01 *et seq.*, Michael O’Connell filed a deficient registration statement on July 10, 2007 for the time period of January 1, 2007 through December 31, 2008, when he failed to pay the requisite registration fee of \$100 and failed to submit a photograph of himself in compliance with Sections 13A04 and 13A10 of the Lobbying Disclosure Law, 65 Pa.C.S. §§13A04, 13A10.

This Commission hereby levies one administrative penalty against O’Connell in the total amount of \$2,500 for his deficient registration statement filed for the time period of January 1, 2007 through December 31, 2008. O’Connell is directed to make payment in the amount of \$2,500 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission’s Order. Compliance will result in the closing of this case with no further action by the Commission.

PARTICIPATION ON THE LOBBYING DISCLOSURE REGULATORY COMMITTEE

The Commission through its representative actively participates in the work of the Lobbying Disclosure Regulatory Committee (*see*, 65 Pa.C.S. § 13A10(d)). The Committee has published a Manual for Accounting and Reporting and promulgated regulations under the Lobbying Disclosure Law.

OPINIONS AND ADVICES

From January 1, 2010 through December 31, 2010, the State Ethics Commission issued a total of two advisories under the Lobbying Disclosure Law, consisting of two opinions.

Opinions and Advices are public records. However, a requester may require that the Opinion or Advice contain such deletions and changes as shall be necessary to protect the identity of the person involved.

The Commission provides specified libraries throughout the Commonwealth with copies of advices of counsel, rulings, and orders that are a matter of public record on a quarterly basis. Paper copies of opinions and advices are available at cost from the Commission or via the Commission’s “e-Library,” which may be accessed via the Commission’s Web site at www.ethics.state.pa.us.

Pursuant to Section 13A08, subsection (a) of the Lobbying Disclosure Law, 65 Pa.C.S. § 13A08(a), in conjunction with Sections 1107(10) and (11) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §§ 1107(10), (11), the Commission will issue an Advice of Counsel (“Advice”) or Opinion of the Commission (“Opinion”)

to a requester with standing who requests an advisory regarding compliance with the Lobbying Disclosure Law. The following have standing to request an advisory under the Lobbying Disclosure Law: a principal, lobbying firm, lobbyist, State official or employee, the Pennsylvania Department of State, the Disciplinary Board of the Supreme Court of Pennsylvania, or the authorized representative of any of the aforesaid. See, 65 Pa.C.S. § 13A08(a); 51 Pa. Code § 59.2(a). Advisories may only be issued as to prospective (future) conduct.

Pursuant to Section 13A08(a) of the Lobbying Disclosure Law, a requester who truthfully discloses all material facts in a request for an advisory and who acts in good faith based upon a written Opinion or Advice issued to the requester shall not be held liable for a violation of the Lobbying Disclosure Law. The protection afforded for reliance upon an Opinion or Advice remains in effect until such time as any regulation, statutory enactment, or ruling precludes further reliance upon same.

OPINIONS

Opinion 10-1001 (Stine)

Decided: March 25, 2010

Issued: April 9, 2010

As a registered lobbyist in Pennsylvania, the requester is subject to the prohibitions, restrictions, and requirements imposed upon lobbyists by Pennsylvania's Lobbying Disclosure Law. The Lobbying Disclosure Law would not prohibit the requester as a registered lobbyist from accepting stock in a client's/principal's company as a retainer for lobbying services as long as such compensation arrangement would not involve contingent compensation contrary to Section 13A07(e) of the Lobbying Disclosure Law.

Opinion 10-1002 (Confidential)

Decided: June 22, 2010

Issued: July 9, 2010

As a registered lobbying firm in Pennsylvania, the firm of [name of firm] ("the Firm") is subject to the prohibitions, restrictions, and requirements imposed upon lobbying firms by Pennsylvania's Lobbying Disclosure Law. Based upon the submitted facts that the Firm was contacted by a prospective client (hereinafter referred to as "the Company") to represent the Company in seeking financial assistance/funding through the Commonwealth, and the Company would like to compensate the Firm on a contingency fee basis, the Commission advised as follows. Pursuant to Section 13A07(e) of the Lobbying Disclosure Law, the Firm would be prohibited from accepting a contingency fee for lobbying except to the extent the statutory exclusion for procurement lobbying would be applicable. The Firm would not be subject to the registration or reporting requirements of the Lobbying Disclosure Law with respect to representation of a client/the Company in the pursuit of financial assistance or funding through the Commonwealth except to the extent that such effort(s) would constitute effort(s) to influence "legislative action" or "administrative action" as those terms are defined by the Lobbying Disclosure Law.

AMENDMENTS TO THE ETHICS ACT WITHIN ACT 134 OF 2006

In addition to promulgating the new Lobbying Disclosure Law,

Act 134 of 2006 includes amendments to the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1101 *et seq.* First, the "definitions" section (Section 1102) of the Ethics Act has been amended so that the Ethics Act will use the same definitions for the terms "gift" and "hospitality" that are used in the Lobbying Disclosure Law. The new definitions are as follows:

"Gift." Anything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business. The term shall not include hospitality, transportation or lodging.

"Hospitality." Includes all of the following:

- (1) Meals.
- (2) Beverages.
- (3) Recreation and entertainment.

The term shall not include gifts, transportation or lodging.

65 Pa.C.S. § 13A03.

These new definitions make gifts, hospitality, and transportation/lodging mutually exclusive categories, so that any given item may only be considered to fall within one of the categories. This change will eliminate questions that previously existed under the Ethics Act as to the differences between these categories and whether a single item could be subject to disclosure under more than one category.

An additional amendment modifies the financial reporting threshold for transportation, lodging, or hospitality received in connection with public office or employment under Section 1105(b)(7) of the Ethics Act. Previously, disclosure had to be made if the amount involved exceeded \$650 per event. With the amendments, the threshold will no longer be a per event threshold, but rather, will be an aggregate amount per year like the gift threshold.

AFFIRMATIVE DEFENSES UNDER THE LOBBYING DISCLOSURE LAW AND ETHICS ACT

Section 13A09(g) of the Lobbying Disclosure Act provides:

§ 13A09. Penalties.

- (g) Affirmative defense.—Any of the following is an affirmative defense to an action brought under Chapter 11 (relating to ethics standards and financial disclosure) or this chapter:
- (1) The respondent or defendant relied on advice and opinions of the commission.
 - (2) The respondent or defendant relied on notice under section 13A05(b)(3)(iv).
 - (3) The respondent or defendant did not receive notice under section 13A05(b)(3)(iv).

Subsection (g)(1) provides an affirmative defense—under both the Ethics Act and the Lobbying Disclosure Law—to a respondent or defendant who relies on advices and opinions of the Commission. Subsections (g)(2) and (3) provide affirmative defenses to public officials and public employees who fail to disclose on their Statements of Financial Interests reportable items received from a registrant under the Lobbying Disclosure Law if the registrant fails to notify the public official or public employee of the need to make such disclosure.

Pennsylvania Race Horse Development and Gaming Act

Pursuant to the Pennsylvania Race Horse Development and Gaming Act (“Gaming Act”), 4 Pa.C.S. § 1101 *et seq.*, the Commission has responsibilities for:

- (1) Biennially publishing a list of all state, county, municipal, and other government positions meeting the definitions of the terms “public official” set forth in Section 1512(b) of the Gaming Act or “executive-level public employee” set forth in Section 1103 of the Gaming Act, for the purpose of enabling the identification of persons who would be subject to certain prohibitions of Section 1512 of the Gaming Act;
- (2) Biennially publishing a list of all positions of employment with the Gaming Control Board or with independent contractors to the Board that are subject to the “revolving door/post-termination” restrictions of Sections 1201(h)(13) and (13.1) of the Gaming Act;
- (3) Biennially publishing a list of all positions within the Pennsylvania State Police, the Office of Attorney General, and the Pennsylvania Department of Revenue that are subject to the “revolving door/post-termination” restrictions of Section 1512.1(a) of the Gaming Act;
- (4) Making a determination, upon request, as to whether a particular individual/person would be subject to various prohibitions or “revolving door/post-termination” restrictions within the Gaming Act (see, 4 Pa.C.S. §§ 1201(h)(14), 1512(a.5)(1), 1512.1(e)(1)); and
- (5) Determining whether to extend deadlines by which executive-level public employees, public officials, party officers, or their immediate family members would be required to divest themselves of financial interests that they would be prohibited from holding under Section 1512 of the Gaming Act.

GAMING ACT DETERMINATIONS

From January 1, 2010 through December 31, 2010, the State Ethics Commission issued three Determinations under Sections 1201 (h)(13)-(14) of the Pennsylvania Race Horse Development and Gaming Act (“Gaming Act”), 4 Pa.C.S. §§ 1201 (h)(13)-(14). Determinations under Sections 1201 (h)(13)-(14) of the Gaming Act are public records.

Paper copies of Commission determinations are available at cost from the Commission or via the Commission’s “e-Library,” which may be accessed via the Commission’s Web site at www.ethics.state.pa.us.

The following is a summary of Determinations issued by the Commission during 2010 under Sections 1201(h)(13)-(14) of the Gaming Act.

DETERMINATIONS

Determination 10-2001 (Sturgeon)

Decided: June 22, 2010

Issued: July 9, 2010

Upon retiring on December 30, 2009 from his position as the Director of Casino Compliance for the Pennsylvania Gaming Control Board (“Board”), Thomas K. Sturgeon (“Mr. Sturgeon”) became subject to the restrictions of Section 1201(h)(13) of the Gaming Act

as set forth in Act 135 of 2006, Section 2. The restrictions of Section 1201(h)(13)(i) would apply to Mr. Sturgeon for one year following his retirement. The restrictions of Section 1201(h)(13)(ii) would apply to Mr. Sturgeon for two years following his retirement. Additionally, as a former “executive-level public employee,” Mr. Sturgeon will remain subject to the restrictions of Section 1512(a.1) as set forth in Act 135 of 2006, Section 10, for a period of one year following his December 30, 2009 retirement from the Board. It is clear from the face of Section 1201(h)(13)(i) and Section 1512(a.1) that while the restrictions of those Sections would remain applicable to Mr. Sturgeon, he would be prohibited from accepting employment with or being employed by an entity that has applied for a gaming license in Pennsylvania. The Commission lacks statutory jurisdiction to interpret the restrictions of Section 1201(h)(13)(i), Section 1201(h)(13)(ii), or Section 1512(a.1) as set forth in Act 135 of 2006 to determine whether the restrictions would apply with respect to consulting work. The Commission recommended that Mr. Sturgeon obtain legal advice in that regard. Based upon the submitted facts that Mr. Sturgeon returned to work for the Board in 2010 as an annuitant under the 95-day “return to state service” provision at 71 Pa.C.S. § 5706(A.1), and that as an annuitant, his duties/authority are limited to assisting the Board with hiring employees including Casino Compliance Representatives, and specifically interviewing and performing background investigation duties as to such prospective Board employees, Mr. Sturgeon’s limited duties/authority as an annuitant would have no impact upon the duration of the applicability of the restrictions of Section 1201(h)(13) or Section 1512(a.1) to him.

Determination 10-2002 (Doherty)

Decided: October 19, 2010

Issued: October 29, 2010

As of the time of issuance of the determination, Bernard A. Yannetti, Esquire (“Mr. Yannetti”), as a Special Prosecutor/Assistant District Attorney for Adams County, Pennsylvania, was not a “public official” as that term is defined by Section 1512(b) of the Gaming Act, because, based upon the submitted facts, neither Adams County nor the Adams County District Attorney’s Office had directly received a distribution of revenue under the Gaming Act and Mr. Yannetti’s job duties did not include involvement in matter(s) relating to the Gaming Act. The Commonwealth noted that Mr. Yannetti may, if he chooses, seek further review by the Commission based upon additional facts to be submitted.

Opinion 10-2003/10-004 (Confidential)

Decided: October 19, 2010

Issued: November 4, 2010

The Commission determined that as a C, each of the individuals on whose behalf an advisory was requested was a “public official” as that term is defined by the Gaming Act and by the Ethics Act. Based upon the submitted facts that: (1) the Cs seek guidance as to the propriety or impropriety of their securing lodging at a reduced rate offered specifically to Cs at the [name of hotel] (the “Hotel”), while attending to official business in [geographic location] (the “Area”); (2) the Cs would pay a reduced nightly lodging rate (the “Rate”) offered by the Hotel specifically to Cs; (3) the Rate would be signifi-

cantly lower per night than the advertised nightly government rate offered by the Hotel; (4) the Hotel's general manager refers to this type of reduced rate as a "local negotiated rate"; (5) the Hotel offers various local negotiated rates to others on a case-by-case basis; (6) local negotiated rates are lower than generally advertised rates for which the group or organization would otherwise qualify; (7) the Hotel's manager has indicated that at least one private company from the Area receives a local negotiated rate that is less per night than the Rate; (8) per Governmental Body F's G expense process, the Cs [feature of G expense process]; and (9) the Hotel is involved with a pending application ("the Application") for a gaming license in Pennsylvania, specifically, [description of involvement], the Commission advised as follows.

As public officials, the Cs on whose behalf an advisory was requested are subject to the restrictions of Section 1512(a.2)(1) of the Gaming Act. The Commission lacks statutory jurisdiction to interpret Section 1512(a.2)(1) of the Gaming Act or the definition of the term "complimentary service" at Section 1103 of the Gaming Act to determine whether the particular Rate in question would constitute a complimentary service prohibited by the Gaming Act.

For purposes of the Ethics Act, the Rate would not be deemed to be available to a C as a result of a "marketplace transaction." The discount provided by the Rate would constitute a private pecuniary benefit calculated as the difference between the Rate and the advertised government rate, or such other rate for the lodging that would otherwise be available to the C in the ordinary course of business through a disinterested third party, for example, "AAA," Expedia.com, or Priceline.com. For purposes of the Ethics Act, the Rate itself would not be deemed to be available to a C in the ordinary course of business.

Under the submitted facts, where a C would stay at the Hotel while attending to official business, and would pay the Rate for such lodging, the C's actions would constitute a use of the authority of public office for a private pecuniary benefit. A C's acceptance of the discount provided by the Rate would transgress Section 1103(a) of the Ethics Act *unless* the "de minimis exclusion" or the "class/subclass exclusion" to the definition of "conflict" or "conflict of interest" as set forth above would be applicable. The question of whether

the de minimis exclusion would apply would be determined on a case-by-case basis and would depend upon the aggregate amount involved. The class/subclass exclusion would not apply unless receipt of the discount provided by the Rate would otherwise be lawful. If the Gaming Act would prohibit a C from receiving the discount provided by the Rate, the class/subclass exclusion would not be applicable.

To the extent the discount provided by the Rate would be received by a C, it would be received "in connection with public office." The discount provided by the Rate would constitute "payment for or reimbursement of actual expenses" for lodging calculated as the difference between the Rate and the advertised government rate, or such other rate for the lodging that would otherwise be available to the C in the ordinary course of business through a disinterested third party, for example, "AAA," Expedia.com, or Priceline.com. For purposes of the Ethics Act, the Rate itself would not be deemed to be available to a C in the ordinary course of business. To the extent the reporting threshold of Section 1105(b)(7) of the Ethics Act would be met, a C would be required to satisfy the disclosure requirements of Section 1105(b)(7) of the Ethics Act as to all discounts received from the Rate and as to all other transportation, lodging, and/or hospitality received from the source of same during the applicable calendar year.

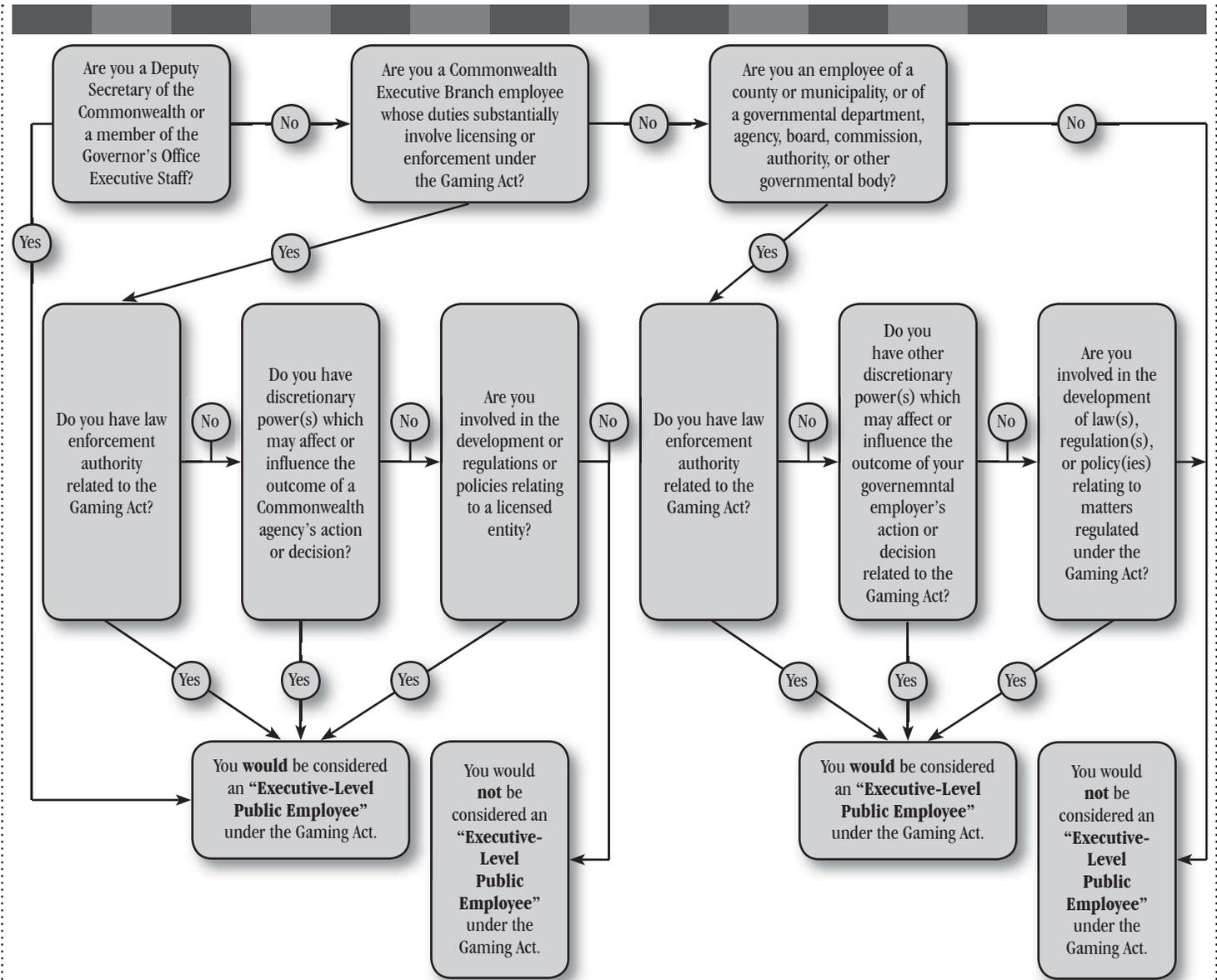
GAMING LISTS

Lists developed by the Commission pursuant to the Gaming Act are published biennially in the *Pennsylvania Bulletin*, and they are also accessible via the Commission's Website within its e-Library at www.ethics.state.pa.us and via the PA Gaming Control Board's Website at www.pgcb.state.pa.us, which features a link to the Commission's e-Library.

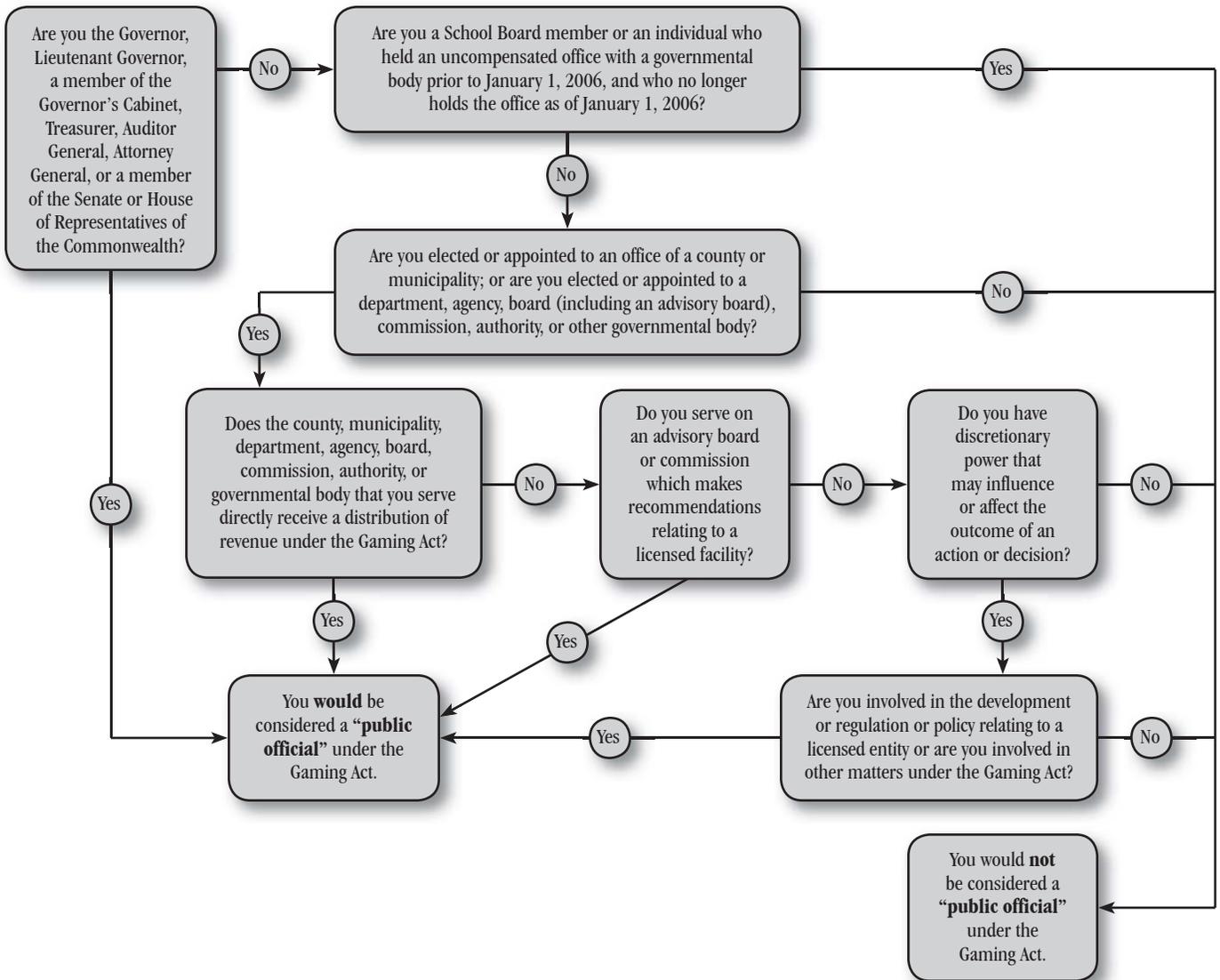
STATUS AS AN EXECUTIVE-LEVEL PUBLIC EMPLOYEE OR PUBLIC OFFICIAL:

The term "executive-level public employee" is defined in Section 1103 of the Gaming Act. The term "public official" is defined in Section 1512(b) of the Gaming Act.

The following flow chart outlines questions used during 2010 to determine whether an individual would be considered an "**executive-level public employee**" under the Gaming Act:



The following flow chart outlines questions used during 2010 to determine whether an individual would be considered a “public official” under the Gaming Act:



COGEL: Council on Governmental Ethics Laws

The Commission has continued to be active in the activities of the Council on Governmental Ethics Laws (COGEL). COGEL is an international professional association of agencies, organizations, and individuals with duties and responsibilities relating to conflicts of interest, lobbying registration and reporting, campaign finance reporting and administration, election, and freedom of information laws. The Commission’s Executive Director is currently a member of the Past President’s Committee and Global Affairs Committee. Chief Counsel Robin M. Hittie is currently a member of the Past President’s Committee and Nominating Committee.

More information on the Council on Government Ethics Laws may be found at www.COGEL.org.

THE COGEL AWARD

In 2010, the Commission’s Executive Director, John J. Contino,

was selected to receive the Council on Government Ethics Laws (COGEL) Award. The award was presented at a luncheon held during COGEL’s Annual Conference in Washington, D.C. on December 6. COGEL is an international professional organization of governmental agencies, organizations and individuals with responsibilities in governmental ethics, elections, campaign finance, lobbying, and Freedom of Information laws. The COGEL Award is the highest form of recognition conferred by the international organization. Candidates for this award must have made a significant, demonstrable, and positive contribution to the fields of campaign finance, elections, ethics, and freedom of information or lobbying over a significant period of time. Past recipients include President Jimmy Carter, Senators John McCain, Russ Feingold, and Carl Levin, and U.S. Representative Chris Shays. Chairman Fryman stated, “John is a forceful advocate of good government.”

Public Outreach and Training

The Ethics Commission strives to fulfill its educational role by providing guidance to public officials and public employees regarding their responsibilities under the Public Official and Employee Ethics Act. The Commission believes that it is important for government officials to always remember that they have been entrusted to serve in the public's best interest. As such, public officials and employees must keep abreast of their duties and responsibilities under the Ethics Act.

To reach out to more public officials across the state regarding their duties and responsibilities under the Ethics Act, and to augment the appearances and presentations made at annual events, the Commission expanded its already active educational outreach and training program. To facilitate this endeavor, the Commission partnered with organizations such as the PA State Boroughs Association, the PA State Association of Township Supervisors, the PA Commission on Crime and Delinquency, the Department of Community and Economic Development Center for Local Government Services, the State Association of County Commissioners, the PA League of Cities, the PA County Controllers Association, and the Local Government Academy. Meetings were held with representatives of these organizations in order to plan future ethics training sessions that would be geared towards a variety of local public officials such as Borough Managers and Council members, Township Supervisors, Solicitors, Municipal Authority members, Mayors, Controllers, Commissioners, and Tax Collectors. Typical topics covered during Commission presentations include how to avoid conflicts of interest, financial disclosure, restricted activities, jurisdiction, the intent of the Ethics Act and relevant advisory opinions.

During calendar year 2010, 23 presentations were made. Topics included basic Ethics Act instruction, local government and school district conflicts of interests. Organizations sponsoring presentations included the Public School Employees Retirement System (PSERS), Pennsylvania County Controllers Association, Philadelphia Community College, Lancaster County Businessman's Association, Local Government Academy, Pennsylvania Municipal Authority Association (PMAA), Westmoreland County Tax Collectors Association, Pennsylvania State Association of Township Supervisors (PSATS), Schuylkill County, AIIM International 2010 Conference, Pennsylvania Charter School Coalition, Pennsylvania State Treasury Department, York County Association of Boroughs, Pennsylvania Institute of CPAs, Pennsylvania State Association of Boroughs, Pennsylvania State County Controllers Association, Temple University, and Central Pennsylvania Financial Advisory Group.

Those interested in scheduling a speaker or a training session for their particular group, organization, or association can contact the

PA State Ethics Commission at 1-800-932-0936 or 717-783-1610. There is also a speaker request form available for download on the Commission's Web site at www.ethics.state.pa.us that can be completed and forwarded to the Commission.

PUBLIC INFORMATION

Ethics Commission Web site:

<http://www.ethics.state.pa.us>

The following information is available on-line:

- Who is covered by the Ethics Act
- Restricted activities
- Publications
- Regulations
- Filing a Statement of Financial Interests
- Filing a Complaint
- Requesting an Opinion
- Commissioners
- Ethics Staff
- e-Library containing rulings and Statements of Financial Interest
- Statement of Financial Interests (Form)
- Complaint (Form)

Pamphlets and Guides:

- Guide to the Pennsylvania Public Official and Employee Ethics Act
- Consolidated Rulings Digest 1979–1987
- Consolidated Rulings Digest 1988–1991
- Annual Report
- e-Library Pamphlets

Statement of Financial Interests Filings:

All Statements of Financial Interests forms filed with the Commission are available for public inspection and copying. There is a charge of 25 cents per page for copies.

Statements of Financial Interests are also available for public inspection via the Commission's Web site at www.ethics.state.pa.us.

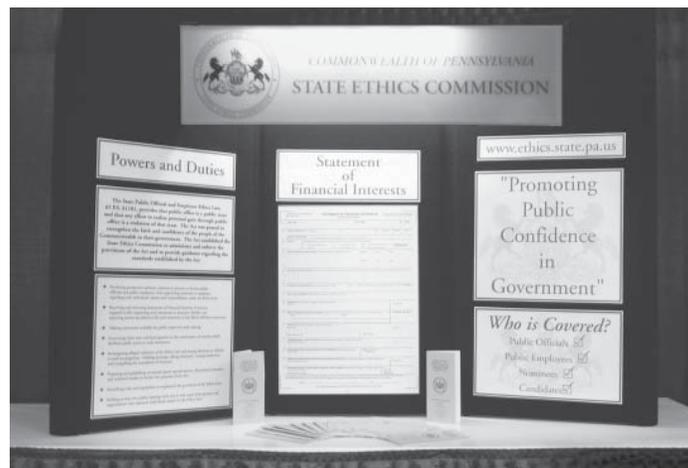
Commission Decisions:

Commission decisions, (orders, opinions, and advice of counsel) are available at the offices of the State Ethics Commission and may also be available at county law and public libraries and via the Commission's Web site at www.ethics.state.pa.us.

Opinions and Advices are issued to public officials and public employees at their request.

Orders are issued at the conclusion of an investigation and contain allegations, findings, discussion of the findings, and the conclusion of the Commission.

The Commission may require payment for a large quantity of pamphlets or decisions.



Ethics and the Right-to-Know Law

During calendar year 2010, the Commission received and responded to 38 requests for documents. Since December 26, 2002, through the end of calendar year 2010, a total of 279 requests have been received and responded to. The most common request received is for Statements of Financial Interests.

THE NEW RIGHT-TO-KNOW LAW

The Right-to-Know Law, Act 3 of 2008, 65 PS. § 67.101 *et seq.*, took effect January 1, 2009. The Commission's Web site includes information regarding the law and a link to the Commonwealth's Open Records Office (www.openrecords.state.pa.us). In addition, a specific e-mail address, ra-ethicsRTKL@state.pa.us, is on the Commission's Web site for requests under the new Right-to-Know Law.

POLICIES OF THE PENNSYLVANIA STATE ETHICS COMMISSION UNDER THE PENNSYLVANIA RIGHT-TO-KNOW LAW

The Pennsylvania State Ethics Commission has established the following policies **effective January 1, 2009**, for providing access to public records of the Commission pursuant to the Pennsylvania Right-to-Know Law, Act 3 of 2008, 65 PS. § 67.101 *et seq.*

Submission of requests for access: Written requests for access to public records of the Commission shall be submitted using either the form designated as SEC-5 or the request form developed by the Office of Open Records. Requests for access to public records of the Commission must sufficiently identify or describe the requested records so as to enable a determination of which records are being requested. Requests shall be submitted to the following Open-Records Officer at the Commission's Harrisburg Office:

John J. Contino, Esquire, Executive Director
Pennsylvania State Ethics Commission
309 Finance Building | P.O. Box 11470
Harrisburg, PA 17108-1470
Telephone: (717) 783-1610 or 1-800-932-0936
FAX: (717) 787-0806
E-mail: ra-ethicsRTKL@state.pa.us

Written requests must be submitted in person, by mail, by e-mail, or by facsimile transmission (FAX). Written requests must provide the name and address of the person to whom the response is to be sent.

Fees for processing requests for access: The following fees shall apply to the provision of access to public records of the Commission:

- The fee(s) for duplication will be as established by the Office of Open Records.
- The fee for postage for mailing will be the actual cost of mailing. Prepayment of fees may be required at the discretion of the Executive Director.

CONTACT INFORMATION

For the Open-Records Officer of the Pennsylvania State Ethics Commission:

John J. Contino, Esquire, Executive Director
Pennsylvania State Ethics Commission
309 Finance Building | P.O. Box 11470
Harrisburg, PA 17108-1470
Telephone: (717) 783-1610 or 1-800-932-0936
FAX: (717) 787-0806
E-mail: RA-ethicsRTKL@state.pa.us

For the Pennsylvania Office of Open Records:

PHYSICAL ADDRESS:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225

MAILING ADDRESS:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: 717-346-9903

Fax: 717-425-5343

E-mail: openrecords@state.pa.us

Executive Director: Terry Mutchler

State Ethics Commission
Room 309 Finance Building
PO. Box 11470
Harrisburg, PA 17108-1470



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