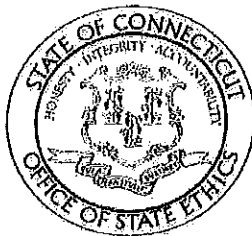


OFFICE OF STATE ETHICS



DOCKET NUMBER 2014-32
IN THE MATTER OF A
COMPLAINT AGAINST
DAVID AUDIBERT

OFFICE OF STATE ETHICS
18-20 TRINITY STREET
HARTFORD, CT 06106
APRIL 5, 2016

STIPULATION AND CONSENT ORDER

Pursuant to the Code of Ethics, General Statutes § 1-79, et seq., Thomas K. Jones, Ethics Enforcement Officer for the Office of State Ethics ("OSE"), issued an Amended Complaint against the Respondent David Audibert ("Respondent") for alleged violations of the Code of Ethics, General Statutes §§ 1-84b (a), (b), (f), 1-84 (c), 1-86 (a), and 1-83 (a) (1).

Based on the investigation by the Enforcement Division of the OSE, the Ethics Enforcement Officer finds there is probable cause to believe that the Respondent, a former state employee at Connecticut Innovations, Incorporated ("Connecticut Innovations"), violated the Code of Ethics as set forth in the Amended Complaint.

The Parties have entered into this Stipulation and Consent Order following the issuance of the Amended Complaint, but without any adjudication of any issue of fact or law herein.

I. STIPULATION

The Office of State Ethics and the Respondent stipulate to the following facts:

1. From on or around March 2012 through on or around April 2014, the Respondent held the position of Managing Director, Investments, for Connecticut Innovations.

2. Connecticut Innovations is a quasi-public agency, as defined by General Statutes § 1-79 (12), whose mission is, in part, to infuse state finances into Connecticut businesses for research, invention and innovation, to take equity stakes in Connecticut businesses through investment, and to assist Connecticut businesses in raising private capital.

3. As a Managing Director, Investments, for Connecticut Innovations, the Respondent was a "state employee" as that term is defined by General Statutes § 1-79 (13).

4. As a part of his duties for Connecticut Innovations, in 2013, the Respondent prepared, negotiated, recommended and otherwise facilitated a contractual agreement between Connecticut Innovations and a Connecticut business located in New Haven ("the New Haven business"), whereby Connecticut Innovations provided up to \$500,000 to the New Haven business (the "2013 investment effort").

5. As part of his duties for Connecticut Innovations, in 2013 and 2014, and in addition to the 2013 investment effort, the Respondent performed tasks – including developing lists of potential investors, contacting potential investors, analyzing financial need of the New Haven business, communicating with the New Haven business regarding financial needs, working with the New Haven business' contractor to develop financial forecasts to use in soliciting investors, successfully securing an informal financing commitment from Connecticut Innovations – related to securing financing for the New Haven business from both Connecticut Innovations and other potential investors (the "2013-14 financing effort").

6. The Respondent substantially participated in the 2013 investment and the 2013-14 financing effort.

7. The state had and has a substantial interest in the 2013 investment and the 2013-14 financing effort.

8. On April 24, 2014, Connecticut Innovations terminated Respondent involuntarily. After Respondent's termination from Connecticut Innovations, the New Haven business' CEO asked Respondent to help raise capital for the 2013-14 financing effort and offered to pay Respondent based on the amount of capital raised.

9. Respondent agreed to assist the New Haven business with raising capital.

10. The 2013 investment effort and the 2013-14 financing effort began during Respondent's state service, and continued after his termination from state service.

11. Following his termination from Connecticut Innovations, the Respondent represented parties other than the state in the 2013 investment effort and the 2013-14 financing efforts.

12. Pursuant to General Statutes § 1-84b (a):

No former executive branch or quasi-public agency official or state employee shall represent anyone other than the state, concerning any particular matter (1) in which he participated personally and substantially while in state service, and (2) in which the state has a substantial interest.

13. By representing parties other than the state concerning a particular matter in which he participated personally and substantially while in state service and in which the state has a substantial interest, the Respondent violated General Statutes § 1-84b (a).

14. Following his termination from Connecticut Innovations, the Respondent represented parties other than the state for compensation before Connecticut Innovations.

15. Pursuant to General Statutes § 1-84b (b):

No former ... quasi-public agency public official or state employee .. shall, for one year after leaving state service, represent anyone, other than the state, for compensation before the department, agency, board, commission, council or office in which he served at the time of his termination of service, concerning any matter in which the state has a substantial interest.

16. By representing parties other than the state for compensation before Connecticut Innovations within one year after leaving state service, concerning matters in which the state has a substantial interest, the Respondent violated General Statutes § 1-84b (b).

17. The 2013 investment effort that Respondent worked on as a state employee resulted in a contract between Connecticut Innovations and the New Haven business valued at an amount of fifty thousand dollars or more (the "contract").

18. While employed by the state, the Respondent participated substantially in the negotiations and/or award of the contract, and/or supervised the negotiation or award of the contract.

19. The Respondent was terminated from Connecticut Innovations less than one year after the contract was signed.

20. The Respondent accepted employment with the New Haven business less than one year after his employment was terminated at Connecticut Innovations.

21. Pursuant to General Statutes § 1-84b (f):

No former public official or state employee (1) who participated substantially in the negotiation or award of (A) a state contract valued at an amount of fifty thousand dollars or more, [] or (2) who supervised the negotiation or award of such a contract, shall accept employment with a party to the contract. . . other than the state for a period of one year after his resignation from his state office or position if his resignation occurs less than one year after the contract. . . is signed.

22. By accepting employment with a party to a state contract of fifty thousand dollars or more, after he had participated substantially in the negotiation or award of such contract, or had supervised the negotiation or award of such contract, the Respondent violated General Statutes § 1-84b (f).

23. As a part of his duties at Connecticut Innovations, the Respondent communicated with, and cultivated relationships with, businesses who were seeking potential financial relationships with Connecticut Innovations ("CI Businesses").

24. As a part of his duties at Connecticut Innovations, the Respondent gained access to CI businesses, and the financial information of those CI businesses.

25. Respondent was asked to participate on the board of a CI business, and did participate on the board of the CI business.

26. General Statutes § 1-84 (c) states in pertinent part:

No public official or state employee ... shall use his public office or position ... to obtain financial gain for himself.. or a business with which he is associated.

27. By using information provided to him through his position at Connecticut Innovations, for the purpose of obtaining a financial gain for himself and/or a business with which he is associated, the Respondent violated General Statutes § 1-84 (c).

28. Each time the Respondent used information to benefit himself, and/or a business with which he is associated, constitutes a distinct and separate violation of General Statutes § 1-84 (c).

29. During his employment at Connecticut Innovations, the Respondent took action that potentially financially benefited himself and/or a business through which he was associated.

30. Pursuant to General Statutes §1-86 (a):

Any public official or state employee . . . who, in the discharge of [his] official duties, would be required to take an action that would affect a financial interest of . . . such official's or employee's spouse . . . has a potential conflict of interest. Under such circumstances, such official or employee shall, in the case of either a substantial or potential conflict of interest, prepare a written statement signed under penalty of false statement describing the matter requiring action and the nature of the conflict and deliver a copy of the statement to such official's or employee's immediate superior, if any, who shall assign the matter to another employee, or if such official or employee has no immediate supervisor, such official shall take such steps as the Office of State Ethics shall prescribe or advise.

31. During his employment at Connecticut Innovations, the Respondent was, in the discharge of his official duties, required to take actions that would affect the financial interest of himself and/or a business with which he is associated.

32. Each time the Respondent was required to take action affecting the financial interest of himself and/or a business with which he was associated, the Respondent had a substantial or potential conflict of interest and was therefore required, pursuant to General Statutes § 1-86 (a), to prepare a written statement, signed under penalty of false statement, describing the matter requiring action and the nature of the conflict and deliver a copy of the statement to his immediate superior.

33. The Respondent, when required to take action affecting the financial interest of himself and/or a business with which he was associated, at no time contacted the Office of State Ethics to solicit advice.

34. By failing to prepare a written statement to his superior and/or failing to take steps prescribed or advised by the Office of State Ethics as set forth herein, the Respondent violated General Statutes §1-86 (a).

35. Each time the Respondent was required to take action affecting the financial interest of himself and/or a business with which he was associated, but failed to prepare a written statement to his superior as set forth herein, constitutes a separate and distinct violation of General Statutes §1-86 (a).

36. For the year 2013, the Respondent was required, pursuant to General Statutes §1-83 (a) (1), to file a Statement of Financial Interests ("SFI") with the Office of State Ethics ("OSE").

37. For the year 2013, pursuant to General Statutes §1-83 (b) (1), the Respondent was required to disclose on his SFI the names of all businesses with which he was associated.

38. For the year 2013, Respondent reported all sources of income on his SFI, but failed to list a business with which he was associated.

39. By failing to disclose the one or more businesses with which he was associated on the 2013 SFI, Respondent filed an incomplete SFI for the year 2013, in violation of General Statutes §1-83 (a) (1) and §1-83 (b) (1).

40. The Respondent admits to all of the foregoing facts, and admits that his conduct constitutes a violation of the Code of Ethics as set forth above.

II. RESPONDENT'S POSITION

1. Respondent states that he attempted to act in good faith at all times and believed that his conduct was not inconsistent with the interests of the State. Respondent states that the violations of the

Code of Ethics above resulted from a misunderstanding of the Code and its applications to Respondent's situations. Respondent states that he now understands that the conduct above violated the Code of Ethics and he states that he intends to seek advice regarding the application of the Code to any future endeavors he may pursue that may fall within the purview of the Code. Since the filing of the underlying complaint, Respondent states that he has sought the advice of the Office of State Ethics more than once and that he will continue to do so if ethical issues arise in the future.

2. With regard to the New Haven business, Respondent began work for it based on an incorrect interpretation of the ethics rules regarding post-state conduct. Because he had not voluntarily resigned from state service, but rather had been terminated, Respondent did not believe the post-state employment prohibitions applied to his situation. Respondent states that he now understands that all of the post-state employment provisions of the Code apply to him, irrespective of whether he left state service voluntarily or involuntarily. Respondent states that, after he was made aware of his misinterpretation of the applicability of the Code to his situation, he ceased the pending negotiations to receive financial compensation from the New Haven business and instead continued to assist the New Haven business with its funding efforts without compensation from the New Haven business. Respondent believed that so long as he was not being actually compensated for these efforts that it was permissible to continue with the efforts, but now understands fully that he cannot represent anyone other than the state – even uncompensated - on a matter in which he substantially participated while with the state, if the state has a substantial interest in the matter.

3. Based on conversations with others, Respondent believed that he was allowed to participate on the board of directors of outside companies, even if those companies had previously been considered and rejected by Connecticut Innovations for financing. Respondent states that he now understands how his actions constituted a violation of the Code, particularly with regard to his failure to get written permission to participate in this company. Respondent states that, while acting as a board

member for outside companies, he never took any action with regard to that company that he believed was inconsistent with the state's financial interests.

4. With regard to his failure to list all businesses with which he was associated on the 2013 SFI, Respondent admits he failed to list one such business in that particular section of the form. But, Respondent states that he did list and disclose that business in the section on the form that required him to list all sources of income. In other words, Respondent states that he had no intent to conceal his relationship with that business. Respondent's states that his failure to list that business was unintentional and inadvertent.

III. JURISDICTION

1. The Ethics Enforcement Officer is authorized to investigate the Respondent's acts as set forth herein, and to enter into this Stipulation and Consent Order.

2. The provisions of this Stipulation and Consent Order apply to and are binding upon the Respondent.

3. The Respondent hereby waives all objections and defenses to the jurisdiction of the Ethics Enforcement Officer over matters addressed in this Stipulation and Consent Order.

4. The Respondent waives any rights he may have under General Statutes §§ 1-80, 1-82, 1-82a, 1-87 and 1-88, including the right to a hearing or appeal in this case, and agrees with the Ethics Enforcement Officer to an informal disposition of this matter as authorized by General Statutes § 4-177 (c).

5. The Respondent consents to jurisdiction and venue in the Connecticut Superior Court, Judicial District of Hartford, in the event that the State of Connecticut seeks to enforce this Stipulation and Consent Order. The Respondent recognizes that the Connecticut Superior Court has the authority to specifically enforce the provisions of this Stipulation and Consent Order, including the authority to

award equitable relief.

6. The Respondent understands that he has a right to counsel and has been represented by counsel during the OSE's investigation and in connection with this Stipulation and Consent Order.

IV. ORDER

NOW THEREFORE, pursuant to General Statutes §4-177 (c), the Office of State Ethics hereby ORDERS, and Respondent agrees, that:

1. Pursuant to General Statutes § 1-88 (a) (1), Respondent will cease and desist from any future violations of the Code of Ethics, General Statutes §§ 1-84b (a), (b), (f), 1-84 (c), 1-86 (a), and 1-83 (a) (1).

2. Pursuant to General Statutes § 1-88 (a) (3), Respondent will pay civil penalties to the State in the amount of twelve thousand dollars (\$12,000.00) for his violations of General Statutes §§ 1-84b (a), 1-84b (b), and 1-84b (f) as set forth in the Amended Complaint and herein.

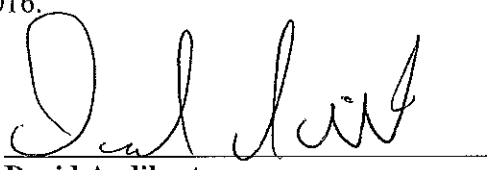
3. Pursuant to General Statutes § 1-88 (a) (3), Respondent will pay civil penalties to the State in the amount of three thousand dollars (\$3,000.00) for his violations of General Statutes §§ 1-84 (c), and 1-86 (a) as set forth in the Amended Complaint and herein.

4. Pursuant to General Statutes § 1-88 (a) (3), Respondent will pay civil penalties to the State in the amount of one thousand dollars (\$1,000.00) for his violation of General Statutes § 1-83 (a) (1) as set forth in the Amended Complaint and herein.

5. Pursuant to General Statutes § 1-88 (a) (2), Respondent will amend his 2013 Statement of Financial Interests to comply with General Statutes §1-83 (a) (1) and §1-83 (b) (1) as set forth in the Amended Complaint and herein.

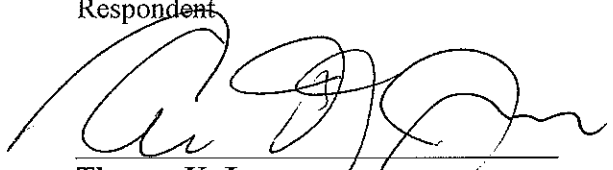
WHEREFORE, the Ethics Enforcement Officer and Respondent hereby execute this Stipulation and Consent Order dated April 5, 2016.

Dated: 4/5/16



David Audibert
Respondent

Dated: 4/5/16



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