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In the Matter of	*	Before the State Ethics Commission
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Dwight Fleming, Respondent	*	Complaint No. C-2-12
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FINAL REPORT AND ORDER

This case was commenced by the State Ethics Commission (hereafter “the Commission”) by the Complaint issued by the Commission on January 19, 2012 alleging that Respondent failed to file a properly completed Financial Disclosure Termination Statement for the appropriate portion of calendar year 2011 within 60 days of terminating his State employment in violation of §§15-601(a), 15-602, 15-604, and 15-607 (Md. Code Ann., State Gov’t Article, Title 15 (Supp. 2012), hereafter “the Ethics Law”).

On June 28, 2012, the Commission considered a preliminary report submitted pursuant to §15-403 of the Ethics Law, and subsequently on August 13, 2012, the Commission issued a Notice of Hearing setting forth its intention to hold a hearing on October 25, 2012 to determine whether Respondent failed to properly file a Financial Disclosure Termination Statement within 60 days of leaving State service in violation of §§15-601(a), 15-602, 15-604, and 15-607 of the Ethics Law.

A confidential hearing was held on October 25, 2012, by the Commission in its office at 45 Calvert Street, Annapolis, Maryland. The hearing was conducted in accordance with Commission procedural regulations at COMAR 19A.01.03, issued pursuant to §§15-401 to 15-408 of the Ethics Law and the Maryland Administrative Procedure Act (Md. Code Ann, State Gov’t Article, Title 10, (Supp. 2012)). Respondent did not appear at the hearing and was not represented by counsel. Documents were introduced reflecting that the Notice of Hearing, along with copies of the Complaint and other correspondence had been mailed to Respondent at his address. Based on this information, the Commission concluded that Respondent had actual notice of the hearing as provided in COMAR 19A.01.03.10 and the hearing proceeded in his absence.

In accordance with §15-404 of the Ethics Law, evidence was presented by the Staff Counsel. One witness was called by Staff Counsel and several Exhibits were entered into evidence. These included among other things, copies of employment and related documents from the Respondent’s former employer, the Maryland Stadium Authority, as well as financial disclosure statements and related correspondence contained in Respondent’s financial disclosure file.

FINDINGS OF FACT

From the evidence produced at the hearing, the State Ethics Commission finds as follows:

1. Respondent, at times relevant to this Complaint, was an employee of the State of Maryland with the Maryland Stadium Authority, as a Maintenance Senior Technician. He was employed as such from November 27, 2006 to September 16, 2011, the date of the termination of his State service.
2. Respondent was identified as a public official required to file the annual Financial Disclosure Statement and did file such disclosure for reporting periods covering calendar years 2006-2010.
3. The Respondent had notice of the requirement to file a Financial Disclosure Termination Statement covering the period of January 1, 2011 to September 16, 2011, the date of his termination of State Service within 60 days of that termination.
4. As of the date of the Hearing, Respondent has failed to file a Financial Disclosure Termination Statement covering the period of January 1, 2011 to September 16, 2011.

APPLICABLE STATUTES

The Notice of Hearing charged Respondent with violations of §§15-601, 15-602, 15-604 and 15-607 of the Ethics Law. Section 15-601(a) of the Ethics Law provides that “each official and candidate for offices as a State official shall file a statement as specified in [Subtitle 6],” and §15-602 defines the reporting period as the preceding calendar year, established an April 30 filing deadline and requires the statement to be under oath. Section 15-604 generally provides that an “individual who...leaves an office for which a statement is required by §15-601(a)...shall file the statement within 60 days after leaving the office.” The statement is to cover the preceding calendar year (if not already filed) and the portion of the current calendar year during which the individual held the office. Section 15-607 sets forth detailed requirements as to the information to be included in disclosure statements.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Ethics Commission reaches the following conclusions of law:

1. Respondent was between January 1, 2011 and September 16, 2011, a public official as set forth in §15-103 of the Ethics Law and was therefore required to file a Financial Disclosure Termination Statement covering the period of January 1, 2011 to September 16, 2011.
2. Respondent’s failure to a Financial Disclosure Termination Statement for the period of January 1, 2011 to September 16, 2011, within 60 days of his termination of State service constitutes a violation of §§15-601(a), 15-602, 15-604 and 15-607 of the Ethics Law.

FINAL ORDER

Based upon the evidentiary hearing and the Findings of Fact and Conclusions of Law contained herein, the State Ethics Commission finds that Respondent, Dwight Fleming, violated §§15-601(a), 15-602, 15-604 and 15-607 of the Ethics Law. Respondent is hereby ordered to submit the required Statement properly and for the proper period, not later than thirty (30) days from the date this Order become final. If Respondent fails to submit the statement as required, then the Commission staff is directed to seek court relief as provided in §15-902 of the Law, including imposition of a civil fine of not more than \$5,000. Also, pursuant to §15-405(c) of the Ethics Law, Respondent is hereby officially reprimanded, and notice of this determination of violation and reprimand is directed to be transmitted to his former agency, the Maryland Stadium Authority, to the State Department of Budget and Management and to the Governor. Further, in accordance with §15-405(g)(2), Respondent is hereby ordered to pay a late fee of \$250 for the violation, representing \$2 per day for each day of violation up to 125 days. Such fee is to be paid to the State of Maryland by certified check or money order no later than 30 days after this order becomes final, after which it may be subject to collection by the appropriate State authority pursuant to the State Finance and Procurement Article and other appropriate enforcement action.

Date: 11/16/12



Paul M. Vettori, *Chairman*
For the Commission

CERTIFICATE OF SERVICE

I hereby certify that on this November 16, 2012, the foregoing Final report and Order in State Ethics Commission Complaint proceeding C-2-12, was forwarded via regular mail, postage prepaid to the Respondent, Dwight Fleming, at his last known address of 714 Kahn Drive, Pikesville, Maryland 21208 and was hand delivered to William J. Colquhoun, Staff Counsel to the State Ethics Commission, 45 Calvert Street, 3rd Floor, Annapolis, Maryland, 21401.



Jennifer K. Allgair, General Counsel