

In the Matter of

Bruce C. Bereano,
Respondent

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Before the
State Ethics Commission
Complaint No. C-19-02

FINAL ORDER

Having reviewed, at its meeting on April 16, 2009, the Stipulation of Settlement Agreement entered into between Respondent, Bruce C. Bereano, and William J. Colquhoun, Staff Counsel to the State Ethics Commission, on April 16, 2009, the State Ethics Commission has determined that the matter complained of herein has been settled by Respondent's execution of the Stipulation of Settlement Agreement, attached hereto and made a part hereof, in which:

1. Respondent admitted (without admission of liability) that sufficient evidence exists to construe his fee agreement with Mercer Ventures, Inc. d/b/a Social Work Associates, complained of herein, as a contingency agreement that violates Md. Code Ann. § 15-713(1);
2. Respondent agreed to pay the sum of Twenty-Nine Thousand and Seventy (\$29,070.00) dollars to the State of Maryland within ten days of this Order; and
3. Respondent agreed to inspection of his fee agreements with his lobbying employers subject to State registration for up to three years from the date of the Commission's acceptance of the Stipulation of Settlement Agreement.

It is, this 24th day of April 2009, hereby

ORDERED, that, pursuant to paragraph b of page 2 of the Stipulation of Settlement Agreement, Respondent is admonished;

ORDERED, that, pursuant to this admonition, Respondent is directed:

1. Not to enter into any future lobbying fee agreements on a contingency basis with State lobbying clients; and
2. Not to violate any other provision of the Maryland Public Ethics Law;

ORDERED, that a copy of this Order and the executed Stipulation of Settlement Agreement be transmitted to the Governor, the Speaker of the Maryland House of Delegates, and the President of the Maryland Senate; and

ORDERED, that, upon Respondent's completion of the requirements of the Stipulation of Settlement Agreement, the complaint in this matter is hereby dismissed without further order of the State Ethics Commission.

STATE ETHICS COMMISSION

Date: April 24, 2009

SIGNATURE APPEARS ON
ORIGINAL AGREEMENT

By:

Robert F. Scholz, Chair

STIPULATION OF SETTLEMENT AGREEMENT

15 This Stipulation of Settlement Agreement (hereinafter the "Agreement") was made this day of April, 2009, by and between Bruce C. Bereano, Respondent, a regulated lobbyist ["Respondent"] and William J. Colquhoun, Esq., Staff Counsel to the State Ethics Commission ["Staff Counsel"].

The State Ethics Commission (hereinafter the "Commission") is an executive agency of the State of Maryland established by Chapter 513, Acts of 1979 for the purpose of enforcing the Maryland Public Ethics Law (Title 15, State Government Article, Annotated Code of Maryland) [hereinafter the "Ethics Law"].

AGREED STATEMENT OF FACT

1. The Commission issued a complaint against Respondent, a regulated lobbyist, on September 19, 2002. The complaint alleged that Respondent committed three violations of Md. Code Ann., State Gov't Art. § 15-713(1). The allegations pertained to Respondent's lobbying activities on behalf of three employers and alleged that Respondent had entered into unlawful contingency fee agreements with them.

2. At a hearing on June 25, 2003, the Commission dismissed two of the three violations alleged in the complaint. Following the hearing, the Commission sustained the third count of the complaint, alleging that an agreement between Respondent and his client, Mercer Ventures, constituted an unlawful contingency agreement under the provisions of Md. Code Ann., State Gov't Art. §15-713(1). The Commission imposed a \$5,000.00 fine, a ten month suspension of the Respondent's registration and a requirement that all fee agreements be reviewed by the Commission for three years.

3. Respondent appealed the Commission's decision, which was affirmed by the Circuit Court for Howard County and the Court of Special Appeals. The Court of Appeals reversed the Commission's decision and remanded the matter to the Commission, holding that "[t]he Commission's decision in the present case was predicated in part on an improperly drawn inference flowing from an inappropriate application of the missing witness rule. That portion of the final administrative decision was unavailable as proper support for the agency's action." *Bereano v. State Ethics Commission*, 403 Md. 716, 756, 944 A.2d 538, 561 (2008).

4. On remand, Staff Counsel and Respondent have entered into this Agreement to resolve all matters arising out of the Mercer Ventures fee agreement. As part of the Agreement, Staff Counsel and Respondent agree and stipulate to the following facts:

a. Respondent has continued to be a regulated lobbyist since the Commission's original complaint was issued on September 19, 2002.

b. Respondent represents that he has attended classes concerning the work of a lobbyist, including the mandatory Maryland State Ethics training, most recently on September 4, 2007. Respondent also represents that he has also provided pro bono

lobbying services for community based organizations, including Associated Black Charities, the Baltimore Streetcar Museum, Greater Baltimore Urban League, Inc., the Maryland Association of Community Action Agencies, the Maryland Community Action Partnership, the Maryland Chapter of the National Motorist Association, the Maryland Hall for Creative Arts, and the Mission of Love.

c. Staff Counsel and Respondent continue to disagree on whether or not the language at issue was an unlawful contingency agreement in violation of Md. Code Ann., State Gov't Art. §15-713(1). Without admission of liability, Respondent admits that sufficient evidence exists to construe the agreement as a contingency agreement that violates Md. Code Ann., State Gov't Art. §15-713(1). Respondent agrees to exercise greater care in the drafting and execution of fee agreements.

NOW THEREFORE in consideration of the agreed facts contained herein, and effective on the date of the Commission's acceptance of the terms of his Agreement, Bruce C. Bereano, Respondent and William J. Colquhoun, Staff Counsel, agree as follows:

a. Respondent hereby agrees to pay the amount of Twenty Nine Thousand and Seventy Dollars (\$29,070.00) as a voluntary settlement in lieu of adjudicated fees and in recognition of the costs sustained by the State of Maryland in this matter within ten (10) days of the Commission issuing a Final Order.

b. Respondent accepts that the Commission will issue an admonition regarding compliance with Section 15-713 of the Public Ethics Law and agrees to its inclusion in a Final Order of the Commission. Respondent acknowledges the importance of this law in terms of compliance with this law as to all future fee agreements complying with Section 15-713 of the Public Ethics Law.

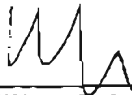
c. Respondent represents that he will in the future take care in the use of language in fee agreements with his lobbying clients. Respondent proffers that he has always taken notice of the effect and intent of the Public Ethics Law and that since the inception of this matter he has strived to comport himself in a manner that exceeds both the effect and intent of the law. Respondent agrees that, upon reasonable notice, and at Staff Counsel's discretion, Staff Counsel may inspect his fee agreements with lobbying employers subject to State registration for a period of up to 3 years from the date of the acceptance of the Agreement.

d. That Respondent waives any formal hearing or proceedings on this matter and agrees that acceptance of this Agreement by the Commission would constitute a final action by the Commission, and that pursuant to Section 15-407 of the Ethics Law this Agreement is not subject to the confidentiality provisions of the Ethics Law, and will be public information unless otherwise protected.

e. That the Respondent accepts that the Commission will transmit a copy of the Agreement and Final Order to the Governor, Speaker of the House and President of the Senate.

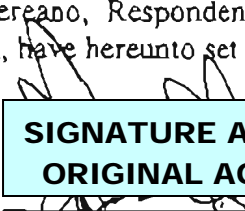
f. That the Staff Counsel will, upon execution of this Agreement by Respondent, recommend that the Commission postpone any pending hearing on this Complaint and suspend further complaint proceedings against Respondent in this matter, and recommend further that the Commission issue a Final Order consistent with this agreement that will terminate all proceedings in this matter. Should Respondent fail to comply with the provision of this Agreement the Commission may issue a further order in this matter for violation of the terms of this agreement. It is understood by the Respondent that the Commission is under no obligation to accept this Stipulation of Settlement Agreement and may decide to take other action, including holding a hearing.

IN WITNESS WHEREOF, Bruce C. Bereano, Respondent and William J. Colquhoun, Staff Counsel, State Ethics Commission, have hereunto set their hands.



William J. Colquhoun, Staff Counsel
State Ethics Commission
45 Calvert Street, 3rd Floor
Annapolis, Maryland 21401

SIGNATURE APPEARS ON ORIGINAL AGREEMENT



Bruce C. Bereano, Respondent

SIGNATURE APPEARS ON ORIGINAL AGREEMENT



Timothy E. Maloney, Esq.
Counsel for Respondent

State of Maryland
County of Anne Arundel, to wit:

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Bruce C. Bereano, Respondent, who made oath on this ~~11th~~ day of April, 2009, in due form of law that the matters and facts hereinabove set forth are true to the best of his knowledge, information and belief, and are his voluntary act and that he executed this document for the purposes set forth herein.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT



Notary Public

ASHLEY B. PETRICK
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires February 22, 2012

My Commission expires:

State of Maryland

County of Anne Arundel, to wit:

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared William J. Colquhoun, Staff Counsel to the State Ethics Commission, who made oath on this 16th day of April, 2009, in due form of law that he executed this agreement for the purposes set forth herein.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Notary Public

DONALD M. STRETT
Notary Public-Maryland
Anne Arundel County
My Commission Expires
November 09, 2010

My Commission expires

Accepted by the Commission

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Robert F. Scholz, Chair
for the Commission

Date: