

In the Matter of

Robin M. Koontz,

Respondent

* Before the
* State Ethics Commission
* Complaint No.
* C-84-08
*

ORDER

Having reviewed at its meeting on May 28, 2009, a report on the results of an investigation as to whether this case merits further proceedings, and having considered the Stipulation of Settlement Agreement entered into between Respondent, Robin M. Koontz, and William J. Colquhoun, Staff Counsel to the State Ethics Commission on May 28, 2009, the State Ethics Commission hereby determines that the matter complained of herein has been settled by the Respondent's execution of the Stipulation of Settlement, attached hereto and made part hereof, and Respondent's anticipated compliance with salary reduction provision of paragraph E of the Stipulation. Pursuant to paragraphs D and F, it is hereby

ORDERED, that the Respondent is reprimanded, and that this reprimand be transmitted to the Governor and the Superintendent of the Maryland School for the Deaf.

~~STATE ETHICS COMMISSION~~

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Date: May 28, 2009

By:

Robert F. Scholz, Chair

CERTIFICATE OF SERVICE

I hereby certify that on this 1 day of May, 2009, a copy of the foregoing Order and executed Stipulation of Settlement Agreement in Commission proceeding C-84-08 was forwarded via regular first class mail, postage prepaid, to the Respondent Robin M. Koontz, State Highway Administration, Office of Procurement and Contracts, 707 North Calvert Street, C-405, Baltimore, Maryland 21202 and was hand delivered to William J. Colquhoun, Staff Counsel to the State Ethics Commission, at 45 Calvert Street, 3rd Floor, Annapolis, Maryland 21401.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Jennifer K. Allgair, General Counsel

In the Matter of

ROBIN M. KOONTZ,

Respondent

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STATE ETHICS COMMISSION

Before the

State Ethics Commission

Complaint No. C-84-08

STIPULATION OF SETTLEMENT AGREEMENT

This Stipulation of Settlement Agreement (hereinafter "the Agreement") was made on the 21st day of MAY, 2009, by and between Robin M. Koontz, Respondent, and William J. Colquhoun, Staff Counsel to the State Ethics Commission ("Staff Counsel").

The State Ethics Commission ("the Commission") is the executive agency of the State of Maryland established by Chapter 513, Acts of 1979 for the purpose of enforcing the Maryland Public Ethics Law (State Government Article, Title 15, Annotated Code of Maryland, hereinafter the Ethics Law), including the provisions of Subtitle 5, Conflicts of Interest.

RECITALS

1. Robin M. Koontz ("the Respondent") was an employee of the Maryland School for the Deaf (MSD), an executive agency of the State of Maryland, at times relevant to this complaint, and was defined as a public official subject to the conflict of interest and financial disclosure provisions of the Ethics Law.
2. The Respondent was employed at MSD as a Procurement Officer from 1998 until March 3, 2006, and was responsible for and supervised the procurement process for goods and services at MSD, including solicitation of vendors, tabulation and recordation of bids, and selection of the vendor for award of the contract.
3. On September 26, 2008, the Commission issued a Complaint against the Respondent, alleging the Respondent violated Section 15-501 of the Ethics by participating in her official capacity in matters between 2001 and 2006 in which she selected her brother-in-law's company, who employed her son, as the vendor for a lawn maintenance services contract. In addition the complaint alleged that the Respondent violated Section 15-506 of the Ethics Law in the same procurement. The complaint also alleged that the Respondent failed to file a financial disclosure statement for calendar year 2005 by April 30, 2006, and failed to file a financial disclosure termination report within 60 days of her last day of State service on March 3, 2006 in violation of Sections 15-602 and 15-604 of the Ethics Law.
4. Following the issuance of the complaint, the Commission staff conducted interviews of MSD employees and the Respondent, as well as reviewed documents provided by MSD. The Commission staff also reviewed documents obtained by the

Office of Legislative Audits (OLA) during their Audit of MSD covering the period July 1, 2002 through November 30, 2005. As a result of its audit in June 2006, OLA found that:

"...An MSD employee [the Respondent] appeared to violate State ethics laws by being involved in the procurement of a contract awarded to a firm that was owned by and employed certain relatives of the MSD employee. Payments to this vendor for the past six years totaled approximately \$107,000. This annual contract was awarded in consecutive years, since at least fiscal year 2001, to a company owned by the employee's brother-in-law. In addition, the employee's son was employed by the company..."
(OLA Audit Report, June 2006, page 5)

During the investigation of this matter, the Legislative Auditor and his staff cooperated and provided assistance to Commission staff.

5. Based upon the OLA audit, MSD terminated the Respondent's employment. The Respondent contested her termination and ultimately entered into an agreement wherein MSD would accept her resignation effective March 3, 2006.

6. In March 2001, the Respondent on behalf of MSD solicited bids for lawn maintenance services at the Columbia Campus. The Respondent awarded the contract to a company wholly-owned by the Respondent's brother-in-law. The contract period was from April 9, 2001 through December 1, 2001, with a provision to extend the contract period an additional term of eight (8) months two (2) times. MSD subsequently exercised this option. During this period, the brother-in-law's company billed MSD for its services in the amount of \$6,070.00 in 2001, \$30,040.00 in 2002, and \$27,835.00 in 2003.

7. In March 2004, the Respondent once more solicited bids for the lawn maintenance contract, and awarded the contract to her brother-in law's company. The term of this contract was from April 1, 2004 through December 1, 2004, and it also contained the provision for MSD to extend the contract period an additional term of eight (8) months two times. MSD subsequently exercised this option as well. The company billed MSD for its services in the amount of \$24,982.50 in 2004, \$17,220.00 in 2005, and \$2,160.00 in 2006. The Respondent awarded the contract in 2004 to her brother-in-law's company with the knowledge that her son was employed by the company.

8. Section 15-501 of the Ethics Law prohibits a State employee or official from participating in his or her official capacity in any matter in which a qualifying relative, as defined in § 15-102(gg) or the employer of a qualifying relative has a specific interest. Section 15-102(gg) of the Ethics Law defines a "qualifying relative" as a spouse, parent, child or sibling. Through its published opinions, the State Ethics Commission has defined a "matter" as a "any proceeding, application, submission, request for ruling, or other determination, contract, claim, case or other such particular matter" (Opinion No. 80-17).

9. Section 15-506 of the Ethics Law prohibits an official or employee from intentionally using the prestige of his or her office for the private gain of that official or employee or the private gain of another individual.

10. Section 15-602 of the Ethics Law requires that financial disclosure statements shall be filed under oath with the Ethics Commission on or before April 30 of each year and cover the calendar year immediately preceding the year of filing.

11. The Respondent failed to file her 2005 financial disclosure statement by April 30, 2006. On February 13, 2009, the Respondent submitted the required financial disclosure statement.

12. Section 15-604 of the Ethics Law requires that an individual who, other than by reason of death, leaves an office for which a financial disclosure statement is required by § 15-601(a) shall file the statement within 60 days after leaving office. The statement shall cover the calendar year immediately preceding the year in which the individual left office and the portion of the current calendar year during which the individual held the office.

13. The Respondent failed to file her 2006 financial disclosure termination statement within 60 days of leaving State service. On February 13, 2009, the Respondent submitted the required financial disclosure statement.

14. The Respondent has voluntarily entered into this Stipulation of Settlement Agreement to admit certain violations of the Ethics Law, to accept certain sanctions, and to resolve the matter now pending against her without a hearing before the Commission.

15. The Respondent has been advised as to the opportunity to be represented by counsel pursuant to the regulations of the Commission and has decided not to be represented by counsel.

16. On December 15, 2008, the Respondent attended the mandatory two-hour ethics training class for State employees.

NOW THEREFORE, in consideration of the agreements herein contained, and effective on the Commission's acceptance of the terms of this Agreement, Robin M. Koontz, Respondent, and William J. Colquhoun, Staff Counsel, agree as follows:

A. That the Respondent admits she violated the prohibitions against participation contained in Section 15-501 and prohibitions against the use of prestige of office contained in Section 15-506 of the Ethics Law when she selected her brother-in-law's company where her son, a qualifying relative, was employed, as the vendor for the lawn maintenance contract in 2004.

B. That the Respondent admits she violated Sections 15-602 and 15-604 by failing to timely file her 2005 financial disclosure statement and her 2006 financial disclosure termination statement.

C. That the Respondent submitted the required financial disclosure statements on February 13, 2009. The Respondent understands a financial disclosure filing violation of the Ethics Law can subject an official or employee to late fees of \$2 per day for each late day, not to exceed \$250, and to fines for each violation pursuant to section 15-405(d)(2) and 15-902(b)(1)(i) of the Ethics Law respectively.

D. That the Commission will issue an official reprimand to the Respondent for the above admitted violations of the Ethics Law effective the date of the Commission's acceptance of the Agreement.

E. That the Respondent further understands that violations of the conflict of interest provisions of the Ethics Law may result in civil fines pursuant to Section 15-902 of the Ethics Law and that such fines may be in an amount up to \$5,000 for each violation of the law. As a settlement for the above admitted violations, in lieu of adjudicated late fees and/or fines the Respondent hereby agrees to a voluntary demotion in her present State of Maryland salary. Respondent's demotion will be in the form of a voluntary step back in pay from Grade 16/Step 19 to Grade 16/Step 18. The Respondent agrees to cooperate with her current State employer, any other State agency and Staff Counsel as may be necessary to effectuate the terms of her voluntary salary demotion. The Respondent agrees that said salary demotion will be effective June 1, 2009 or by no later than the first day of the first pay period beginning after that date.

F. That the Commission will transmit a copy of the reprimand and this Agreement to the Governor and the Superintendent of the Maryland School for the Deaf pursuant to § 15-407 of the Public Ethics Law.

G. That the Respondent waives any formal proceedings and hearing in this matter if the Commission accepts the Agreement, and further waives the confidentiality requirements of the Public Ethics Law.

H. That upon execution of this Agreement by the Respondent, Staff Counsel will recommend that the Commission suspend further proceedings against the Respondent and recommend further that the Commission issue a Final Order consistent with the terms of this Agreement. Should the Respondent fail to comply with the provisions of the Agreement, the Commission reserves the right to issue a further order regarding this matter, to refer the matter to the Attorney General for collection, or to schedule a hearing in this matter.

I. That in the event that the Commission declines to accept this Agreement, both the Respondent and Staff Counsel are relieved of their respective obligations

hereunder; and neither this Agreement nor any admission it may contain shall be admissible in any subsequent proceeding of the Commission.

J. That the Respondent and Staff Counsel are entering into this agreement for the sole purpose of resolving the matters arising under the Commission's Complaint and for no other purpose.

IN WITNESS WHEREOF, Robin M. Koontz, Respondent, and William J. Colquhoun, Staff Counsel, State Ethics Commission, have hereunto set their hands.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

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

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Robin M. Koontz



State of Maryland
County of Anne Arundel

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Robin M. Koontz who made oath on this 29th day of April, 2009 in due form of law that the matters and facts hereinabove set forth are true to the best of her knowledge, information and belief and it is her voluntary acts that she executed this document for the purpose set forth herein.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Notary Public

My Commission Expires: 3/16/2010



State of Maryland
County of ANNE ARUNDEL

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared William J. Colquhoun, Staff Counsel, who made oath on this 21st day of MAY, 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 that he executed this document for the purposes set forth herein.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Notary Public

DONALD M. STREET
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: 5/28, 2009