

Office of State Ethics
State of Connecticut
18-20 Trinity Street
Hartford, CT 06106

In the Matter of a Complaint by

Findings of Special
Enforcement Counsel

John Kardaras,

Complainant

against

Docket Number 2005-006

Rachel Rubin,

Respondent

July 8, 2005

Pursuant to §1-82(a), G.S., the Office of State Ethics conducted an investigation to determine whether there is probable cause to believe that the respondent, Rachel Rubin, violated any provisions of the Code of Ethics for Public Officials, §1-79, G.S., et seq., as alleged in the complaint filed herein on May 9, 2005 by John Kardaras. For the reasons set forth in the summary below, the Office of State Ethics makes a finding that there is no such probable cause. Pursuant to §1-82a, G.S., this matter shall remain confidential, except upon written request of the respondent.

Summary

After conducting an investigation into this matter, the following facts are found and conclusions of law are reached:

1. It is found that the respondent, Rachel Rubin, is a state employee, within the meaning of §1-79(m), G.S.
2. It is found that the complaint in this matter sets forth an allegation that the respondent is violating the Code of Ethics for Public Officials by holding two state positions, as Special Counsel for Ethics Compliance, within the Office of the Governor, and as Director of Compliance for Storrs and Regional Campuses, for the University of Connecticut. Specifically, the complainant alleges that holding such dual roles violates §§1-84(a) and 1-84(b), G.S.
3. At all times material to this complaint, §1-84(a), G.S., provided:

“no public official or state employee shall, while serving as such, have any financial interest in, or engage in, any business, employment, transaction or professional activity, which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of this state, as defined in section 1-85.”

4. At all times material to this complaint §1-85, G.S., in turn provided:

“A public official, including an elected state official, or state employee has an interest which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of this state, if he has reason to believe or expect that he, his spouse, a dependent child, or a business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. A public official, including an elected state official, or state employee does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the laws of this state, if any benefit or detriment accrues to him, his spouse, a dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group. A public official, including an elected state official or state employee who has a substantial conflict may not take official action on the matter.”

6. At all times material to this complaint §1-84(b), G.S., provided:

“No public official or state employee shall accept other employment which will either impair his independence of judgment as to his official duties or employment or require him, or induce him, to disclose confidential information acquired by him in the course of and by reason of his official duties.”

7. The complainant alleges that Ms. Rubin’s dual roles create an inherent and substantial conflict of interest, contending first that she has oversight over herself, and that thus is prohibited from investigating matters surrounding any alleged improprieties at the University of Connecticut. The complainant also

contends that, as Special Counsel, she could inappropriately influence the decision making process of other government agencies charged with regulating the conduct of University of Connecticut employees. The complaint on its face does not allege any specific instances of wrongdoing by the respondent under the Ethics statutes. Rather, the complainant alleges that the structure of her employment violates the code.

8. It is found that, on July 9, 2004, a Memorandum of Understanding was executed between the Office of the Governor and the University of Connecticut, which provides for the assignment of the respondent to the Office of the Governor. It is further found that, by such memorandum, the respondent shall remain an employee of the University and shall allocate 80% of her time to the Office of the Governor and 20% of her time to the university. It is also found that the Office of the Governor reimburses the university the equivalent of 80% of the respondent's salary. It is also found that the State Office of Labor Relations and the Department of Administrative Services approved such memorandum.

9. It is found that the respondent's duties in her capacity at the university are outlined in a May 25, 2004, letter from the university president to the respondent, which letter is a public record. Specifically, in her position at the university, the respondent's responsibilities are to develop, implement and monitor compliance initiatives and coordinate institutional-wide efforts to heighten faculty and staff awareness of compliance requirements and best practices through communication, education, and training, and to review and ensure that university policies and procedures are coherently codified and consistent with all applicable laws and regulations.

10. It is found that, the respondent's duties in her capacity at the Governor's office are outlined in a separate public record, Executive Order No.1 (July 1, 2004). It is found that, as Special Counsel for Ethics Compliance in the Office of the Governor, the respondent reports directly to the Governor and that her responsibilities include advising the Governor on public integrity issues; advising the Executive Branch, staff of the Office of the Governor and all agency heads, on ethics laws and any ethics guidelines adopted by the Governor; bringing directly to the Governor's attention any conduct or business practices that, in the opinion of the Special Counsel, may violate current ethics laws or are inconsistent with ethics guidelines adopted by the Governor or give the appearance of unethical conduct; reviewing all proposed legislation or regulations involving ethics, campaign finance law, freedom of information, and procurement procedures; serving as the Office of the Governor's liaison to the Office of State Ethics, State Elections Enforcement Commission, the Freedom of Information Commission, and the General Assembly regarding initiatives related to ethics, the state's electoral process, and freedom of information issues; recommending legislative initiatives following a comprehensive examination of existing laws, regulations, policies and procedures relating to issues of public integrity; ensuring that the Governor's guidelines and the advice of the Special Counsel are consistent with the intent of said laws as interpreted by the respective agency or office charged with their enforcement; working in cooperation with the appropriate agencies regarding any matter involving corruption, unethical practices, mismanagement,

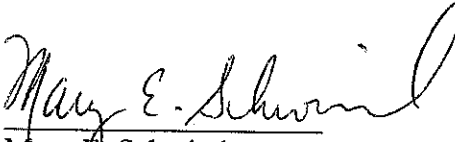
gross waste of funds, or any alleged abuse of public authority; and coordinating efforts with the Auditors of Public Accounts to cause ethics compliance to be part of the state audit process.

11. It is found that the complainant's contentions as described in paragraph 7, above, are hypothetical, speculative and based on erroneous assumptions, rather than on publicly available records. Specifically, it is found that as Special Counsel, the respondent does not have oversight of herself in her university capacity, since she has no authority to investigate ethics complaints. Moreover, it is further found that, as Special Counsel, the respondent has no authority to influence the decision-making process of other government agencies, unnamed by the complainant, charged with regulating the conduct of University of Connecticut employees.

12. It is found that, by virtue of her dual roles, the respondent does not have any financial interest in, or engage in, any business, employment, transaction or professional activity, which is in substantial conflict with the proper discharge of her duties or employment in the public interest and of her responsibilities as prescribed in the laws of Connecticut, within the meaning of §§1-84(a) and 1-85, G.S. In fact, under the memorandum described in paragraph 8, above, the respondent derives no financial interest at all from her dual roles, other than her university salary, which has not changed by virtue of the dual role arrangement.

13. It is also found that, by virtue of her dual roles, the respondent has not accepted "other employment" which will either impair her independence of judgment as to her official duties or employment or require her, or induce her, to disclose confidential information acquired by her in the course of and by reason of her official duties, within the meaning of §1-84(b), G.S.

14. It is therefore found that the respondent has not violated §§1-84(a) and 1-84(b), G.S., as alleged in the complaint.


Mary E. Schwind
Special Enforcement Counsel,
Office of State Ethics

Office of State Ethics
State of Connecticut
18-20 Trinity Street
Hartford, CT 06106

In the Matter of a Complaint by

Notice of Findings of Special
Enforcement Counsel

John Kardaras,

Complainant

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Docket Number 2005-006

Rachel Rubin,

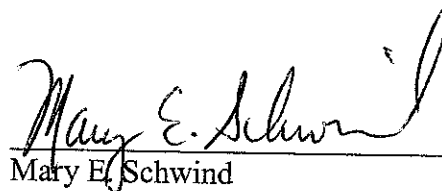
Respondent

July 8, 2005

TO: John Kardaras, 124 Jefferson Street, Hartford, CT 06106; and

Attorney Aaron S. Bayer, Wiggin and Dana LLP, One City Place, 185 Asylum
Street, Hartford, CT 06103, for the respondent.

This will serve as notice of the Findings of Special Enforcement Counsel in the above matter
as provided by §1-82a(c), G.S.



Mary E. Schwind
Special Enforcement Counsel
Office of State Ethics

OSE/2005-006/NFSC/mes/07/08/2005

Via Certified Mail