

DOCKET NUMBER 2007-39	)	OFFICE OF STATE ETHICS
	)	
IN THE MATTER OF A	)	18-20 TRINITY STREET
	)	
COMPLAINT AGAINST	)	HARTFORD, CT 06106
	)	
DANIEL CUNNINGHAM	)	DECEMBER 19, 2008

STIPULATION AND CONSENT ORDER

Pursuant to the Code of Ethics, Conn. Gen. Stat. §§ 1-79, *et seq.*, Thomas K. Jones, Ethics Enforcement Officer for the Office of State Ethics ("OSE"), issued a complaint ("Complaint") against the respondent Daniel Cunningham ("Cunningham" or "Respondent") for violations of the Code of Ethics, Connecticut General Statutes §§ 1-84(i) and 1-84(b). Based on the findings of an investigation by the Enforcement Division of the OSE, and further based on the admission of Respondent as set forth herein, the Ethics Enforcement Officer was prepared to prove at a hearing of the Citizens' Ethics Advisory Board that the Respondent, while a state employee, entered into contracts with the state without an open and public process, in violation of § 1-84(i).

The Parties have entered into this Stipulation and Consent Order following issue of the Complaint, but without adjudication of any issue of fact or law herein. This Stipulation and Consent Order relates solely to the specific allegations of the Complaint.

I. STIPULATION

The Ethics Enforcement Officer and Respondent hereby stipulate to the following facts:

1. From on or around October 9, 2002 through at least January 1, 2007 Respondent, Daniel Cunningham was a state employee employed by Norwalk Community College ("NCC").

2. From on or about November 6, 2004 through at least May 17, 2006, in addition to his state employment, Mr. Cunningham owned and operated a private business as a caterer ("Cunningham's catering business").

3. From on or around November 6, 2004 through at least May 17, 2006, Cunningham's catering business entered into, and received payment pursuant to, multiple contracts with NCC to provide catering services, each valued at \$100.00 or more.

4. The contracts between Cunningham's catering business and NCC were not awarded after an open and public process as required by law.

5. On more than one occasion, Cunningham performed services pursuant to the contracts at a time when he was also being compensated by the state for his state employment, even though he was not performing his state employment duties at the time for which he was compensated by the state.

6. By entering into contracts with the NCC, each valued at one hundred dollars or more, where such contracts were not awarded through an open and public process, the Respondent or a business with which he was associated, on multiple occasions, violated General Statutes § 1-84(i).

7. By performing contracts with NCC during times at which he was already compensated for the performance of his state office, the Respondent, on multiple occasions, violated General Statutes § 1-84(b).

8. Respondent admits that he engaged in the acts set forth herein, and admits that his conduct violated General Statutes §§ 1-84(i) and 1-84(b).

II. RESPONDENT'S POSITION

1. Respondent states that he did not actively solicit catering work from NCC. Rather, he states that each contract was solicited and initiated by NCC.

2. Respondent states that he was unaware that NCC was required to use an open and public bidding process when contracting with a state employee to perform work outside of his official duties, and does not recall NCC stating that such a process was required.

3. Respondent admits that the time records he submitted demonstrate that he was paid by the state for time that was actually spent performing services under the contracts with NCC. However, Respondent states that these occasions were isolated, inadvertent, and a result of poor record-keeping rather than intentional double-billing.

4. Respondent states that he was unaware that his conduct violated the Code of Ethics for Public Officials.

NOW THEREFORE, the Ethics Enforcement Officer of the Connecticut Office of State Ethics and the Respondent hereby enter into this Stipulation and Consent Order and hereby agree as follows:

III. JURISDICTION

1. The Ethics Enforcement Officer is authorized to investigate the Respondent's employment practices, to issue a Complaint against the Respondent, 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 undersigned Parties.

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 Conn. Gen. Stat. §§ 1-82, 1-82a, 1-87 and 1-80, 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 the right to counsel and has been represented by counsel of his choice.

III. ORDER

NOW THEREFORE, pursuant to General Statutes § 4-177(c), the Office of State Ethics hereby **ORDERS** as follows:

1. Pursuant to General Statutes § 1-88(a)(1), the Office of State Ethics orders and the Respondent agrees to cease and desist from any future violation of General Statutes § 1-84(i).

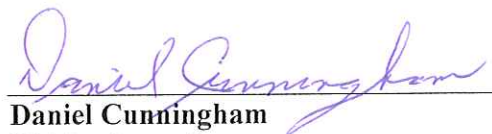
2. Pursuant to General Statutes § 1-88(a)(1), the Office of State Ethics orders and the Respondent agrees to cease and desist from any future violation of General Statutes § 1-84(b).

3. Pursuant to General Statutes § 1-88(a)(3), the Office of State Ethics orders and the Respondent agrees that the Respondent pay civil penalties to the State in the amount of five hundred dollars (\$500.00) for his violation of General Statutes § 1-84(i).

4. Pursuant to § 1-88(a)(3), the Office of State Ethics orders and the Respondent agrees that the Respondent pay civil penalties to the State in the amount of five hundred dollars (\$500.00) for violation of General Statutes § 1-84(b).

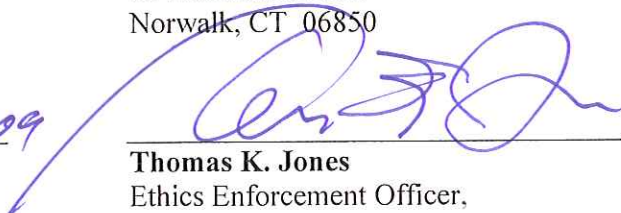
WHEREFORE, the Ethics Enforcement Officer and the Respondent hereby execute this Stipulation and Consent Order dated December 19, 2008.

Dated: Jan 7, 2009


Daniel Cunningham

25 Morehouse Lane
Norwalk, CT 06850

Dated: February 17, 2009


Thomas K. Jones

Ethics Enforcement Officer,
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