

**STATE OF RHODE ISLAND  
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**In Re: John A. Celona**

**Complaint No. 2003-9  
2004-4  
2004-8**

**DECISION AND ORDER**

Pursuant to the Rhode Island Code of Ethics, R.I.G.L. § 36-14-1 et seq. and Regulation 1015 enacted thereto, the Rhode Island Ethics Commission (the "Commission") held an adjudicative hearing in open session on the above complaints on July 25, 2006. Thereafter, the Commission immediately began deliberations. A stenographer was present during all open sessions of the adjudicative proceedings. The following Commissioners were present for the taking of all testimony and participated in the deliberations and in this Decision and Order: James Lynch, Sr., Chair; Barbara R. Binder, Vice-chair, George E. Weavill, Jr., Secretary; James C. Segovis; James Murray, Ross Cheit and Richard Kirby.

Jason Gramitt, Attorney at Law prosecuted the case. Respondent John A. Celona was present and was represented at the hearing by counsel Lauren Jones. Kathleen Managhan attended all the hearings as legal counsel to the Commission.

**TRAVEL OF COMPLAINTS**

*Complaint No. 2003-9* was filed on December 9, 2003 by Robert P. Arruda and Beverly M. Clay in their respective capacities as Chair and Vice-chair of Operation Clean Government. Pursuant to Regulation 1003 the Commission made an initial determination on January 6, 2004 that that Complaint alleged facts sufficient to constitute a violation of the Code of Ethics and approved a full investigation. Thereafter the matter was heard before the Commission on October 4, 2004 pursuant to RIGL § 36-14-12(c)(4) and Commission Regulation 1006. Upon consideration of the Complaint, an investigative report and arguments of counsel, an Order and Finding of Probable Cause was entered on the same date and is attached hereto as *Exhibit A*.

*Complaint No. 2004-4* was filed on March 3, 2004 by Robert P. Arruda and Beverly M. Clay in their respective capacities as Chair and Vice-chair of Operation Clean Government. Pursuant to Regulation 1003 the Commission made an initial determination on May 26, 2004 that that Complaint alleged facts sufficient to constitute a violation of the Code of Ethics and approved a full investigation. Thereafter the matter was heard before the Commission on December 7, 2004 pursuant to RIGL § 36-14-12(c)(4) and Commission Regulation 1006. Upon consideration of the Complaint, an investigative report and arguments of counsel an Order and Finding of Probable Cause was entered by the Commission on December 10, 2004, a copy of which is attached hereto as *Exhibit B*.

*Complaint No. 2004-8* was filed on June 29, 2004 by Peter J. Mancini, in his capacity as Deputy Chief Investigator of the Rhode Island Ethics Commission. Pursuant to Commission Regulation 1003 the Commission made an initial determination on July 20, 2004 that the Complaint alleged facts sufficient to constitute a violation of the Code of Ethics and approved a full investigation. Thereafter the matter was heard before the Commission on February 15, 2005 pursuant to RIGL § 36-14-12(c)(4) and Commission Regulation 1006. Upon consideration of the Complaint, an investigative report and arguments of counsel an Order and Finding of Probable Cause was entered by the Commission on February 23, 2005, a copy of which is attached hereto as *Exhibit C*.

At the hearing on July 25, 2006, at the request of Prosecutor Jason Gramitt, and there being no objection on behalf of the Respondent, it was moved, seconded and unanimously voted to consolidate the three Complaints and Orders and Findings of Probable Cause for disposition. Thereafter at the request of Prosecutor Jason Gramitt it was moved, seconded and unanimously voted to consolidate Counts 9 and 10 of the Order and Findings of Probable Cause in Complaint No. 2003-9 with Count 1 of the Order and Findings of Probable Cause in

Complaint No. 2004-4 to form a single Count to be referred to as "Count 10 of the Consolidated Orders and Findings of Probable Cause" and reading as follows:

The Respondent, by failing to timely list his occupation or profession from which he received one thousand dollars (\$1,000) or more gross income from each of CVS Pharmacy, CRI Communications and New England Ambulance Service in calendar year 2002, failed to timely file with the Commission a financial statement for calendar year 2002 in compliance with the requirements of R.I. Gen. Laws §§ 36-14-16, 36-14-17 and Regulation 36-14-17002.

Thereupon at the request of Prosecutor Jason Gramitt it was moved, seconded and unanimously voted to dismiss Count 3 of the Order and Findings of Probable Cause in Complaint No. 2003-9, and to dismiss Count 3 of the Order and Findings of Probable Cause in Complaint No. 2004-8 (both relating to failure to file recusal statements).

Following the granting of said Motions the remaining Counts as to the Consolidated Complaints were contained in a "Consolidated Findings of Probable Cause" attached hereto as *Exhibit D*.

#### **TRAVEL OF JULY 25, 2006 HEARING**

A. Thereupon Chairman Lynch inquired of Respondent's attorney whether he had advised Respondent of his rights, the consequences of any admissions to violations of the Code of Ethics and the possible penalties that may be imposed. Pursuant to that request, Attorney Lauren Jones, on the record, advised Respondent Celona of his rights, consequences of any such admissions and possible penalties that might be imposed by the Commission.

B. Chairman Lynch then proceeded to read in their entirety each of the ten remaining Consolidated Findings of Probable Cause, asking Respondent after each Count to admit or deny the violation.

1. As to Complaint No. 2003-9, Count 1, Respondent admitted committing said violation of the Code of Ethics.
2. As to Complaint No. 2003-9, Count 2, Respondent admitted committing said violation of the Code of Ethics.
3. As to Complaint No. 2004-8, Count 1, Respondent admitted committing said violation of the Code of Ethics.
4. As to Complaint No. 2004-8, Count 2, Respondent admitted committing said violation of the Code of Ethics.
5. As to Complaint No. 2003-9, Count 4, Respondent admitted committing said violation of the Code of Ethics.
6. As to Complaint No. 2003-9, Count 5, Respondent admitted committing said violation of the Code of Ethics.
7. As to Complaint No. 2003-9, Count 6, Respondent admitted committing said violation of the Code of Ethics.
8. As to Complaint No. 2003-9, Count 7, Respondent admitted committing said violation of the Code of Ethics.
9. As to Complaint No. 2003-9, Count 8, Respondent admitted committing said violation of the Code of Ethics.
10. As to Consolidated Counts from Complaint No. 2003-9, Counts 9 & 10; and Complaint No. 2004-4, Count 1, Respondent admitted committing said violation of the Code of Ethics.

C. Chairman Lynch thereupon requested Prosecutor Jason Gramitt to recount sufficient facts that he was prepared to prove at trial to support the ten Counts pending against Respondent. Following is a summary of Mr Gramitt's presentation.

COMPLAINT NO. 2003-9

**CVS**

Respondent was first elected to the Rhode Island Senate in 1994 and served continuously until his resignation in 2004. In January 2001, the Respondent was appointed by Senate Majority Leader William Irons to be the Chairperson of the Senate Committee on Corporations. In 2003 that Committee was re-named the Senate Committee on Commerce, Housing and Municipal Government. Respondent remained chairperson of this Committee until his resignation in December, 2003.

CVS Pharmacy, headquartered in Rhode Island, operates fifty-three of its over four thousand one hundred U.S. stores in this State. In addition CVS owns a prescription management company called Pharmacare. Blue Cross/Blue Shield of Rhode Island (BCBSRI) is a Rhode Island based non-profit healthcare insurance provider. In November 1998, Pharmacare and BCBSRI entered into an agreement whereby Pharmacare would manage BCBSRI's covered prescription drug services to BCBSRI subscribers. Pursuant to this agreement Pharmacare developed and maintained a restricted network of pharmacies (including CVS) at which BCBSRI members could obtain maximum coverage for their prescriptions. Restricting the network financially benefited CVS, because the restricted network increased the volume of customers filling prescriptions at CVS pharmacies. Restricting the network financially benefited BCBSRI because CVS's increased volume allowed it to discount the prices paid by BCBSRI for covered prescriptions.

Opposition to this agreement led the Rhode Island General Assembly in 1999 to introduce seven bills aimed at opening up restricted pharmacy networks. Those bills, commonly referred to as "Pharmacy Freedom of Choice" and "Any Willing Provider" legislation, would make it unlawful for any health insurance policy to prevent members from

selecting the pharmacy of their choice or from denying willing pharmacies the right to participate as a pharmacy provider. CVS was and remains opposed to the so-called "Pharmacy Freedom of Choice" legislation and worked through its government affairs department and outside lobbyists to communicate to legislative leaders the negatives of the legislation.

Respondent in 1999 was known to be a proponent of Pharmacy Freedom of Choice and in fact co-sponsored two of the bills. In the fall of 1999, Respondent met with CVS employees Carlos Ortiz and Jack Kramer, and lobbyist Joseph Walsh at Respondent's Senate office at the State House. According to Ortiz the primary issue discussed was Pharmacy Freedom of Choice. A second meeting was held a few weeks later at the CVS headquarters in Woonsocket, Rhode Island between Respondent, Kramer and Ortiz. There was a general discussion concerning CVS' public relations issues and Respondent indicated that he might be able to help CVS in this regard.

Both Ortiz and Kramer understood Respondent to be suggesting some kind of consulting work for CVS in return for remuneration, and Ortiz inquired as to whether the Ethics Commission might prohibit such a relationship. Ortiz and Kramer confirmed that Respondent stated that he had already spoken by telephone with someone from the Ethics Commission and had received verbal approval. The Commission in fact has no record of such communication. Respondent later admitted to CVS representatives that he did not have any Commission ruling regarding consulting for CVS.

Thereafter on or about February 10, 2000, a consulting agreement was signed between CVS and Respondent. In return for certain public relations services Respondent was to be paid by CVS, \$1,000.00 per month. In fact Respondent invoiced CVS and was paid this amount from February 23, 2000 through September 2003.

In January 2001, Respondent replaced Senator William Irons as Chairman of the Senate Committee on Corporations as it was then called. In the 2003 legislative session, House Bill 5828, incorporating Pharmacy Freedom of Choice legislation, passed the House on a 62 to 0 and was transmitted to the Senate. There it was referred to the Senate Committee on Commerce, Housing and Municipal Government (formerly Corporations) chaired by Respondent. Despite being twice contacted by Representative Eileen Naughton, sponsor of House Bill 5828, inquiring about a hearing date for her bill, Respondent did not schedule such a hearing and it died without leaving his Committee.

In the spring of 2003, staffing changes occurred in the CVS corporate structure and it was decided that CVS would end the consulting agreement with Respondent. The agreement was thereupon terminated in August of 2003 and respondent's final invoice was submitted and paid in September of 2003.

### **CRI and BCBSRI**

During his tenure in the Senate, Respondent had hosted several public access television programs on health and State House issues. A former Cox Cable employee, Edward Cattucci, operating a business called CRI Communications, ("CRI") began taping and producing Respondent's cable programs. Cattucci claims that Respondent was not charged for these services but instead provided some consulting work to CRI free of charge. Respondent claimed that he paid CRI out of his own pocket for the production work for his programs.

In March of 2002, Cattucci and Respondent put together a proposal to BCBSRI to tape twelve, thirty minute cable programs co-hosted by Respondent entitled "Blue Cross Blue Shield of Rhode Island Cable Magazine presented by John Celona and CRI Communications." A meeting was held in April 2002 between Respondent, BCBSRI Representatives and Cattucci at Respondent's State House office. Based upon this and a later meeting, Cattucci and

Respondent moved ahead with the program for which Respondent was to be paid approximately \$1,000.00 per episode. Respondent co-hosted and conducted interviews for the first three segments, but thereafter stopped hosting the program, having received a telephone call from someone telling him "it didn't look good with him hosting the show." In all Respondent sought and received payment from CRI for the Rhode Island Health Update programs totaling \$10,605.00. CRI invoiced BCBSRI for costs of the programs. This was during the same period of time in 2003 that Respondent was declining to schedule a hearing on the Pharmacy Freedom of Choice legislation.

#### **FINANCIAL STATEMENTS**

Respondent filed financial statements with the Commission in 2000, 2001 and 2002. In none of these statements did Respondent list any income from CVS or CRI, nor did he list CVS, CRI or BCBSRI as an employer. Respondent later in April 2004 filed amended statements for 2000, 2001 and 2002 listing his self-employment as a consultant.

#### **COMPLAINT NO. 2004-4**

In late 2001, Respondent approached John Vernancio of New England Ambulance, indicating that he could help out Vernancio's ambulance business and suggested a consulting relationship. A consulting agreement was thereafter entered into for Respondent to learn New England Ambulance's business model, identify areas for service development and growth, educate other businesses of New England Ambulance's services and to produce, moderate and edit one cable television program detailing said services. Respondent was to be paid \$1,200.00 per month and was in fact paid during 2002 a total of \$14,400.00. The same amount was

received by Respondent in 2003. Despite this, in filing his 2002 Financial Statement with the Commission, Respondent failed to disclose this income.

#### **COMPLAINT NO. 2004-8**

In 2001, CVS (having previously entered into the aforesaid consulting agreement with Respondent in February of 2000) decided to seek legislation in Rhode Island that would allow CVS to return excess, recalled, outdated or damaged prescription drugs to their manufacturers for up to thirty-six months after a drug's expiration date in return for a credit. CVS employees drafted proposed legislation embodied in Senate Bill 2001-0993. Because the bill was drafted late in the 2001 legislative session it was necessary to seek its introduction from a legislator, such as Respondent as Chair of the Corporations Committee, who could get the bill heard. On June 12, 2001, Respondent introduced Senate Bill 0993 and it was ultimately referred to his Committee. Respondent scheduled a committee hearing, but prior to the hearing was informed by CVS lobbyists that CVS wished to withdraw the bill due to significant opposition. Based on this request the Respondent cancelled the previously scheduled hearing and allowed the bill to die in his committee.

Reference may also be had to the stenographic transcript of the July 25, 2006 hearing before the Ethics Commission for further details concerning Prosecutor Jason Gramitt's representations.

**D.** Thereafter based upon the Prosecutor's representations and the Respondent's admissions and pleas, Chair James Lynch entertained motions to find that the Respondent John A. Celona committed the violations enumerated in the Consolidated Findings of Probable Cause. It was thereafter moved, seconded and unanimously voted by the Commission that Respondent John A. Celona had committed the violations enumerated in each of the ten Consolidated Findings of Probable Cause.

E. The Commission then moved onto the penalty phase of the adjudication hearing. The Commission heard arguments from Respondent's Counsel Lauren Jones regarding imposition of penalties and heard also arguments from Prosecutor Jason Gramitt concerning imposition of penalties. The Commission members were given the opportunity to, and did in fact query each counsel concerning their arguments.

Respondent John A. Celona was given the right to make and did in fact make a pre-sentence/allocation. It was thereafter moved, seconded and unanimously voted by the Commission to go into Executive Session for the purpose of deliberating on appropriate penalties. Counsel Kathleen Managhan thereafter left the hearing and only returned during Executive Session to respond to specific legal questions posed to her by Commission members.

Thereafter the Commission returned to open session and voted as to penalties. The Commissioners voted separately as to each of the ten separate Consolidated Findings of Probable Cause and the moveant as to each of the Consolidated Findings included in his or her Motion, not only as the Complaint reference, but also the description of the violation.

1. Complaint No. 2003-9, Count 1 – It was moved by Richard Kirby, seconded by James Murray and unanimously voted to impose a penalty of \$25,000.00.
2. Complaint No. 2003-9, Count 2 – It was moved by Richard Kirby, seconded by James Murray and unanimously voted to impose a penalty of \$25,000.00.
3. Complaint No. 2004-8, Count 1 – It was moved by Barbara Binder, seconded by Ross Cheit and unanimously voted to impose a penalty of \$10,000.00.
4. Complaint No. 2004-8, Count 2 – It was moved by Barbara Binder, seconded by Ross Cheit and unanimously voted to impose a penalty of \$15,000.00.
5. Complaint No. 2003-9, Count 4 – It was moved by Barbara Binder, seconded by Ross Cheit and unanimously voted to impose a penalty of \$10,000.00.

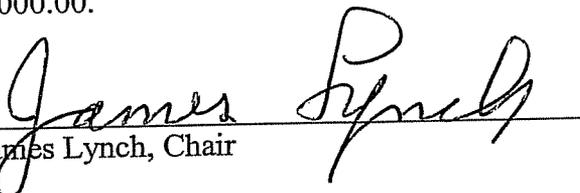
6. Complaint No. 2003-9, Count 5 – It was moved by Barbara Binder, seconded by Ross Cheit and unanimously voted to impose a penalty of \$7,500.00.

7. Complaint No. 2003-9, Count 6 – It was moved by Barbara Binder, seconded by Ross Cheit and unanimously voted to impose a penalty of \$7,500.00.

8. Complaint No. 2003-9, Count 7 – It was moved by George Weavill, seconded by James Segovis and unanimously voted to impose a penalty of \$10,000.00.

9. Complaint No. 2003-9, Count 8 – It was moved by George Weavill, seconded by James Segovis and unanimously voted to impose a penalty of \$10,000.00.

10. Consolidated Counts from Complaint No. 2003-9, Counts 9 & 10 and Complaint No. 2004-4, Count 1 – It was moved by George Weavill, seconded by James Segovis and unanimously voted to impose a penalty of \$10,000.00.

  
James Lynch, Chair  
August 22, 2006