

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

In re: Lynne A. DeStefano
Respondent

Complaint No. NF2013-11

DECISION AND ORDER OF THE ETHICS COMMISSION

This matter was adjudicated before the State of Rhode Island Ethics Commission ("Commission") on April 29, 2014, pursuant to R.I. Gen. Laws § 36-14-13 and § 42-35-9 and Ethics Commission Regulation 36-14-1015. The following Commissioners were present for the adjudicative hearing and participated in the deliberations and rendering of this Decision and Order: Ross E. Cheit, Chair; Mark B. Heffner; John M. LaCross; Edward A. Magro; and Robert A. Salk.

Katherine D'Arezzo, staff attorney for the Commission, prosecuted the case. The Respondent did not appear. Edmund L. Alves, Jr. attended all proceedings as legal counsel for the Commission.

At the conclusion of the adjudicative hearing, the Commission, by unanimous vote of 5-0, found that the Respondent committed a knowing and willful violation of § 36-14-16 by failing to file a 2012 Financial Disclosure Statement, ordered the Respondent to file the 2012 Financial Disclosure Statement, and imposed a civil penalty of One Thousand Five Hundred (\$1,500.00) Dollars.

TRAVEL OF THE CASE

On October 29, 2013, the Executive Director of the Commission through his designee, Peter J. Mancini, Deputy Chief Investigator, filed a Complaint with the Commission. The

Complaint alleged that the Respondent violated § 36-14-16 by failing to file an annual Financial Disclosure Statement for the 2012 calendar year.

Pursuant to § 36-14-12(c)(4) and Ethics Commission Regulation 36-14-1006, the Commission conducted a probable cause hearing in this matter on February 11, 2014. The Respondent was provided notice of the hearing by regular mail. The Respondent did not appear. After considering the Complaint, the Investigative Report and the arguments of counsel, the Commission unanimously adopted the following finding of probable cause:

There is probable cause to believe that the Respondent, Lynne A. DeStefano, a former Foster Town Council member, violated R.I. Gen. Laws § 36-14-16 by failing to file a Financial Disclosure Statement for calendar year 2012 with the Ethics Commission.

The adjudicative hearing was conducted during the open session of the Ethics Commission meeting held on April 29, 2014. A stenographer was present during the entirety of the proceeding. The Respondent was provided notice of the adjudicative hearing by both regular and certified mail. The Commission received notification from the US Postal Service that the Respondent did not claim the certified mailing. The Respondent did not appear or offer any evidence. The Prosecution offered evidence through the affidavits of Michelle Berg, Commission Administrative Officer, and Peter J. Mancini, Deputy Chief Investigator.

At the conclusion of the adjudicative hearing, the Commission deliberated during the open session and, by a unanimous vote of 5-0, found that the Respondent committed a knowing and willful violation of § 36-14-16 and imposed a civil penalty in the amount of One Thousand Five Hundred (\$1,500.00) Dollars for said violation. The Commission also ordered the Respondent to file a 2012 Financial Disclosure Statement.

FINDINGS OF FACT

Based upon the uncontroverted evidence presented by the Prosecution in this matter, the Commission hereby makes the following findings of fact:

1. On March 12, 2013, the Commission received a certified list of appointed and elected officials from the Foster Town Clerk which reflected that the Respondent was a member of the Foster Town Council during calendar year 2012.

2. The Foster Town Clerk list reflected a mailing address for the Respondent of 35 Cucumber Hill Road, Foster, Rhode Island 02825.

3. The Respondent had designated 35 Cucumber Hill Road, Foster, Rhode Island 02825, as her mailing address on the 2010 and 2011 Financial Disclosure Statements that she previously filed with the Commission.

4. On or about March 28, 2013, a Financial Disclosure Statement form for the 2012 calendar year with instructions and information relative to online filing were mailed to the Respondent at her designated address of 35 Cucumber Hill Road, Foster, Rhode Island 02825.

5. The Commission did not receive a 2012 Financial Disclosure Statement from the Respondent by the statutory deadline of April 26, 2013.

6. On or about July 15, 2013, a reminder notice indicating that the Commission had not received the Respondent's 2012 Financial Disclosure Statement was mailed to her at her designated address of 35 Cucumber Hill Road, Foster, Rhode Island 02825.

7. Neither the March 2013 mailing nor the July 2013 mailing was returned to the Commission as undeliverable.

8. In a telephone conversation with Investigator Mancini on November 13, 2013, the Respondent confirmed that 35 Cucumber Hill Road, Foster, Rhode Island, 02825 is her mailing address.

9. On November 13, 2013, the Respondent informed Investigator Mancini that she does not recall receiving a Reminder Letter regarding the 2012 Financial Disclosure Statement.

10. Investigator Mancini received no response to his November 13, 2013 request that the Respondent contact him after she retrieved the certified mailing of the instant Complaint from the Post Office.

11. Investigator Mancini received no response to the November 18, 2013 voice mail message that he left for the Respondent asking her to contact him.

12. Investigator Mancini received no response to the November 22, 2013 voice mail message that he left for the Respondent asking her to contact him.

13. Investigator Mancini received no response to the December 3, 2013 voice mail message that he left for the Respondent, in which he advised her that the Complaint would proceed to a probable cause hearing if he did not hear back from her.

14. On December 4, 2013, the certified mailing of the instant Complaint, addressed to the Respondent at 35 Cucumber Hill Road, Foster, Rhode Island 02825, was returned to the Commission Office as "Unclaimed" after the US Postal Service attempted to effectuate delivery on the following dates: October 30, 2013; November 5, 2013; and November 15, 2013.

15. On December 4, 2013, copies of the Complaint materials were forwarded to the Respondent by regular US mail, postage prepaid, at the address of 35 Cucumber Hill Road, Foster, Rhode Island, 02825 and were not returned to the Commission as undeliverable.

16. As of the date of the adjudicative hearing, the Respondent failed to file a 2012

financial disclosure statement with the Commission.

CONCLUSIONS OF LAW

Upon consideration of the Findings of Fact set forth herein, and the argument presented at hearing, the Commission concludes the following as a matter of law:

1. As an elected member of the Foster Town Council during calendar year 2012, the Respondent was, at all times relevant, a municipal elected official subject to the Rhode Island Code of Ethics in Government, pursuant to R.I. Gen. Laws § 36-14-4(1).

2. As a municipal elected official during the calendar year 2012, the Respondent was required to file a 2012 Financial Disclosure Statement on or before the statutory deadline of April 26, 2013, pursuant to R.I. Gen. Laws § 36-14-16.

3. By failing to file a 2012 Financial Disclosure Statement with the Commission, the Respondent committed a violation of R.I. Gen. Laws § 36-14-16.

4. The Respondent's violation of R.I. Gen. Laws § 36-14-16 was knowing and willful.

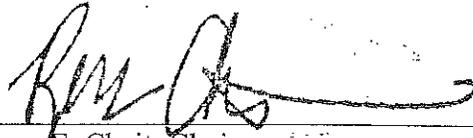
Wherefore, based upon the foregoing Findings of Fact and Conclusions of Law, by a unanimous 5-0 vote of the Commission, it is hereby

ORDERED ADJUDGED AND DECREED

1. That the Respondent shall file a 2012 Financial Disclosure Statement with the Commission, pursuant to R.I. Gen. Laws § 36-14-13(d)(2); and

2. That the Commission hereby imposes on the Respondent, pursuant to R.I. Gen. Laws § 36-14-13(d)(3), a civil penalty of One Thousand Five Hundred (\$1,500.00) Dollars for her violation of R.I. Gen. Laws § 36-14-16.

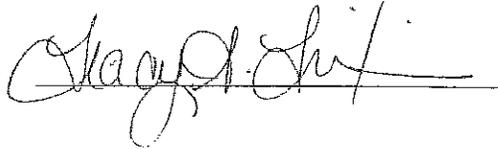
Entered as an Order of the Rhode Island Ethics Commission this 2nd day of June, 2014.



Ross E. Cheit, Chair
Rhode Island Ethics Commission

CERTIFICATION

I hereby certify that on the 2nd day of June, 2014, I caused a true copy of the within Decision and Order to be forwarded by both certified mail and first-class mail, postage prepaid, to Lynne A. DeStefano, 35 Cucumber Hill Road, Foster, RI 02825.



NOTICE OF APPELLATE RIGHTS

THIS DECISION AND ORDER CONSTITUTES A FINAL ORDER OF THE RHODE ISLAND ETHICS COMMISSION PURSUANT TO R.I. GEN. LAWS § 42-35-15. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT FOR PROVIDENCE COUNTY WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION AND ORDER. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A COMPLAINT IN SUPERIOR COURT. A COPY OF THE COMPLAINT MUST BE SERVED UPON THE COMMISSION WITHIN TEN (10) DAYS AFTER IT IS FILED IN COURT; PROVIDED, HOWEVER, THAT THE TIME FOR SERVICE OF THE COMPLAINT MAY BE EXTENDED BY ORDER OF THE COURT FOR GOOD CAUSE. THE FILING OF THE COMPLAINT ITSELF DOES NOT STAY ENFORCEMENT OF THIS ORDER. THE COMMISSION MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.