

Pennsylvania State Ethics Commission



Pennsylvania Public Official and Employee Ethics Act
65 Pa. C.S. § 1101 *et seq.*

2021 Board Leadership Series
Pennsylvania Association of Conservation Districts (PACD)

February 17, 2021

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Robert Morris

1734-1806

- As the central civilian in the government, Morris was, next to General George Washington, "the most powerful man in America."
- He had lost one of the largest private navies in the world during the War, personally supplied the funding for eighty percent (80%) of all bullets fired during the war and almost seventy five percent (75%) of all other expenses for the fledgling government, though he never asked to be reimbursed for these expenses.
- Accused of Conflicts of Interest while his privateer vessel carried merchandise while in the service of the Continental Congress.



Conflict of Interests:

"A conflict of interest is a set of circumstances that creates a risk that professional judgement or actions regarding a primary interest will be unduly influenced by a secondary interest."

Thompson, Dennis (1993). "Understanding financial conflicts of interest." *New England Journal of Medicine* 329 (8): 573-76. 1]

Primary Interests:

Primary interest refers to the principal goals of the profession or activity, such as the protection of clients, the health of patients, the integrity of research, **and the duties of public office.**

Secondary Interests:

Secondary interest includes not only **financial gain** but also such motives as the desire for professional advancement and the wish to do **favors for family** and friends.

Conflict of interest rules usually focus on financial relationships because they are relatively more objective, fungible, and quantifiable.

Generally, secondary interests are not treated as a wrong in among themselves, but become objectionable when they are believed to have greater weight than the primary interests.

The *conflict* in a conflict of interest exists whether or not a particular individual is actually influenced by the secondary interest.

Core Mission

The Pennsylvania State Ethics Commission's core mission and guiding principle is that public office is a public trust and that any effort to realize personal financial gain through one's public office is a violation of that trust.

Executing Core Mission

Administer and enforce personal financial disclosure requirements

Issue advices and opinions

Investigate alleged violations of the Ethics Act

Conflict of Interest – Ethics Act

Use of the authority of his/her office

Confidential information

For the private pecuniary benefit of:

- Himself / Herself
- Member of his/her immediate family, or
- Business with which he/ she or a member of his/her immediate family is associated

Public Official:

Elected by the public

Appointed by a governmental body

Appointed official

Any political subdivision

Public Employee:

- Employed by the Commonwealth or a political subdivision
- Responsible for taking or recommending official action of a non-ministerial nature with regard to:
 - Contracting or procurement; Administering or monitoring grants or subsidies
 - Planning or zoning; Inspecting, licensing, regulating or auditing any person, or
 - Any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person"

Authority of Office or Employment

- Actual power
- Provided by law
- Necessary to the performance of duty or responsibility

The Commission has repeatedly and consistently held that "[u]se of authority of office is more than the mere mechanics of voting and encompasses all of the tasks needed to perform the functions of a given position. Use of authority includes . . . discussing, conferring with others, and lobbying for a particular result."

In re Gallen, Commission Order No. 1198 at 37

Pecuniary Benefit

[W]e derive the proposition that pecuniary gain (or loss) consistently is defined in ways that imply amenability to quantification. A pecuniary benefit or detriment must be financial. While it may not be possible to come up with a to-the-dollar value of a given pecuniary benefit, various statutes make clear that difficulties with precise quantification do not preclude grading of the offense by assessment of value.

Commonwealth v. Veon, 637 Pa. 442, 460, 150 A.3d 435, 446 (2016)

Immediate Family

*"A parent, spouse,
child, brother or sister."*

Business With Which Associated

Any business

Public official

Immediate family member

Director, officer, owner, employee or financial interests

Restricted Activities:

No public official or public employee shall engage in conduct that constitutes a conflict of interest.

No person shall offer or give AND No public official, public employee shall solicit or accept:

- Anything of monetary value
- A gift, loan, political contribution, reward or promise of future employment
- Donor's understanding
- Vote, official action or judgment of the public official
- Influenced thereby

No public official or public employee
shall accept an honorarium.

REVOLVING DOOR

65 Pa.C.S. §1103 (g)

- No FORMER public official/employee shall:
 - Represent a person
- Promised or actual compensation
- Former governmental body
- One year (Executive Level two year)

Exceptions

Action having a *de minimis* economic impact

Affects to the same degree a class consisting of the general public

Subclass consisting of an industry, occupation or other group

Red Flags



- Action with financial implication
- Connection to public employment
- Relationship connection ...
family/friend
- Is public disclosure a problem?

Advisory Opinions

- Formal – Informal
- Prospective
- Non adversarial
- Basic information
- Confidential – Public
- Protective status

Statements of Financial Interest:

Who is required to file:

All local “public officials,” elected or appointed,
and “public employees employed by a political
subdivision

County and local level nominees

Candidates for county and local public office

Where to File

Officials/Employees

- local filing

Candidates

- local/Election Board

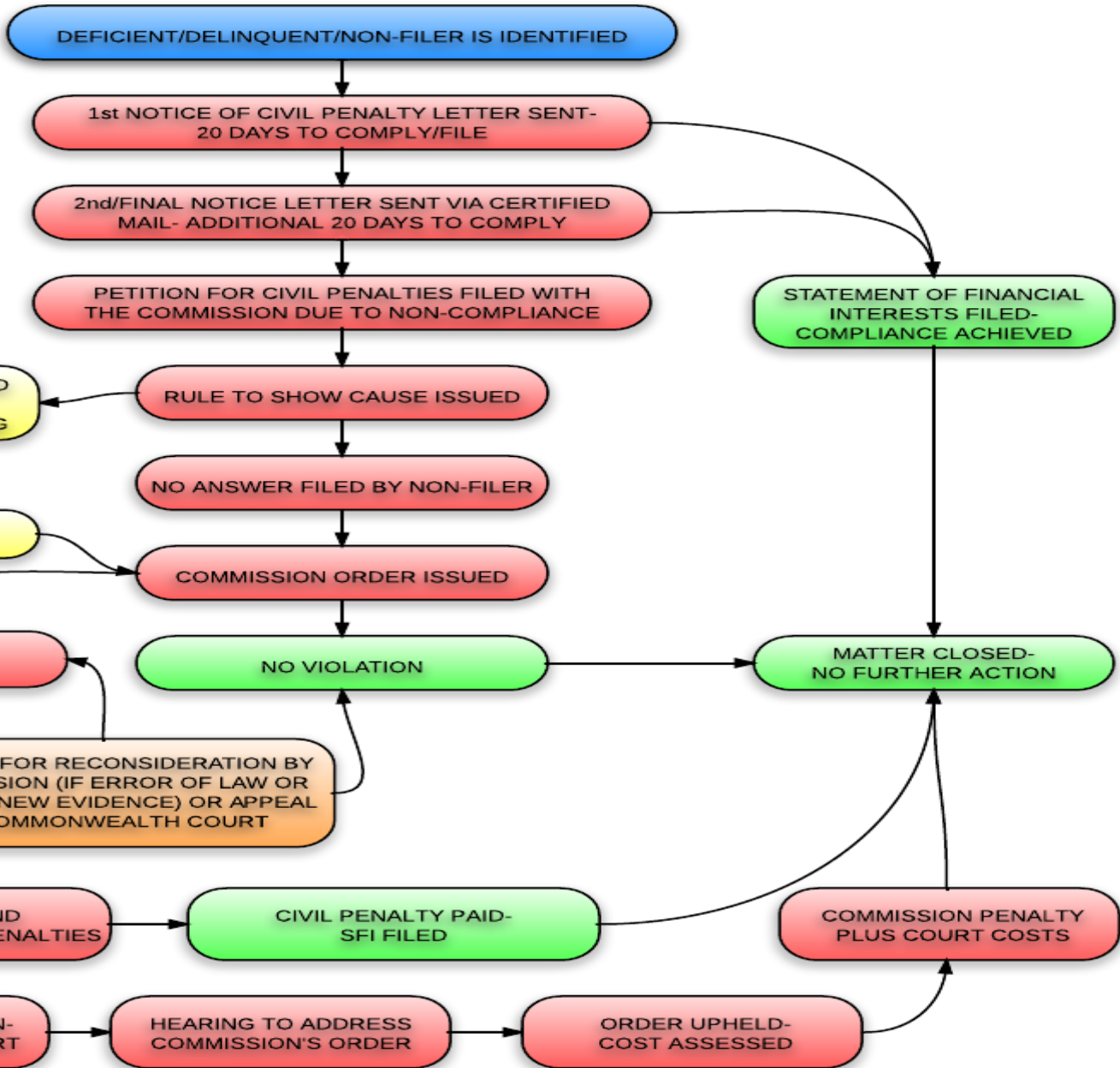
Write-In Winners

- local filing

Statement of Financial Interests

Issues of Interest

- Back-Dating of Statements of Financial Interests.
- Allowing Municipal Administrator (Secretary Manager) to fill out and file governing board forms.
- Public access to forms.
- Prohibition on receipt of compensation from public funds and service in office.



Investigations

TOP SECRET

- ❑ Proceedings and records relating to an investigation are confidential.
- ❑ Identity of a complainant is confidential.
- ❑ The final order is public record.

Penalties

Administrative and Civil:

- Violation of Act (Public Order)
- Restitution
- Treble Penalty (Restitution + Penalty)
- Statements of Financial Interests \$25/\$250

Criminal:

- Any person who violates the provisions of section 1103(a), (b) and (c) (relating to restricted activities) commits a felony and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 or to imprisonment for not more than five years, or both. 65 Pa.C.S. §1109 (a).
- Other violations of the Ethics Act punishable by a fine of not more than \$1,000 or to imprisonment for not more than one year, or both.

Where to Get More Information

Visit the Commission's website at:

www.ethics.pa.gov

Contact the Commission at:

1-800-932-0936

Write to the Commission at:

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613 North Street, Room 309
Harrisburg, PA 17120-0400