

STATE OF NEW JERSEY
STATE ETHICS COMMISSION
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STATE OF NEW JERSEY
STATE ETHICS COMMISSION
COMMISSION CASE NO. 14-14

IN THE MATTER OF)	
Edward E. Mercer,)	Administrative Action
State Energy Manager,)	
Board of Public Utilities)	CONSENT ORDER

WHEREAS, the State Ethics Commission (“Commission”) is authorized to initiate, receive, investigate, review, and hear complaints regarding violations of the New Jersey Conflicts of Interest Law (“Conflicts Law”), *N.J.S.A. 52:13D-12 et seq.*, applicable rules of the Commission, *N.J.A.C. 19:61-1.1 et seq.*, the Uniform Ethics Code and any agency code of ethics by any State officer or employee or special State officer or employee; and

WHEREAS, this matter was brought before the Commission by a complaint filed with the Commission; and

WHEREAS, the Commission conducted an investigation of all the matters and issues raised by the complaint;

WHEREAS, as a result of the investigation, the Commission and Edward E. Mercer (“Mercer”) desire to enter into a final and complete resolution of all of the matters and issues raised thereby;

IT IS THEREFORE agreed by the parties as follows:

1. Mercer met Joseph Sullivan (“Sullivan”) in 1999 when Sullivan served as Mercer’s supervisor at the Department of the Treasury (“Treasury”). In 2010, while Sullivan was working at the Board of Public Utilities (“BPU”), he hired Mercer as BPU’s State Energy Manager. In this capacity, Mercer reported directly to Sullivan from 2010 to 2011, when Sullivan left the BPU for a position with Concord Engineering Group (“Concord”).

2. Mercer and Sullivan have maintained a friendly relationship over the past fifteen years. They have regularly exchanged documents and reviewed and discussed ideas on energy-related matters. They sometimes meet outside of normal business hours and discuss business in social settings. Mercer considers Sullivan to be a personal friend.

3. In July of 2012, the Department of Human Services emailed a draft Scope of Work to Mercer for a project to install new chillers and cooling towers at the Woodbine Developmental Center, requesting his review and comments. Mercer forwarded the email to Sullivan and requested his assistance in reviewing the 63-page Scope of Work within the required timeframe.

4. Mercer did not compensate Sullivan in any way for his review of the Scope of Work for the Woodbine project. Concord did not submit a bid for the project, nor was it involved in the project design or construction administration in any way.

5. In September of 2011, Mercer received an email from Treasury asking him to review a previous Energy Consulting Services Request for Proposal (“RFP”) and provide comments so that the Energy Consulting Services contract could be re-bid. Mercer forwarded the previous RFP to Sullivan, noting that the old RFP was outdated. In August of 2012, Mercer

advised Sullivan that the RFP had not yet been issued for the contract, and that it would likely be issued in October.

6. In early 2013, BPU issued an RFP for Energy Consulting Services worth \$200,000 over a period of three years. Mercer served on the consultant selection committee that evaluated bids for the Energy Consulting Services contract. The Energy Consulting Services contract was awarded to Concord.

7. Mercer is also the chair of the Energy Capital Committee that must approve tasks proposed under the Energy Consulting Services contract, and he oversees the fulfillment of task orders assigned to Concord. BPU utilized Concord to perform various engineering services throughout the State pursuant to the contract, and Mercer regularly exchanged emails with Sullivan regarding Concord's work pursuant to the contract.

8. It is the Commission's position that Mercer violated sections 23(e)(7), and 25 of the Conflicts Law by disclosing information not generally available to members of the public as well as *N.J.A.C. 19:61-7.4* for failing to recuse himself on matters involving Sullivan.

9. It is Mercer's position that he sought Sullivan's input on draft RFPs to ensure that the RFPs were done properly, and that he never sought to provide any improper advantage to Sullivan or to Concord.

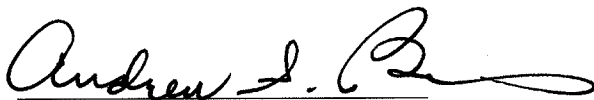
10. With hindsight, Mercer acknowledges that he violated sections 23(e)(7), and 25 of the Conflicts Law as well as *N.J.A.C. 19:61-7.4* by disclosing information not generally available to members of the public and failing to recuse himself from matters involving Sullivan and his employer, Concord.

11. The parties agree to enter into this Consent Order in settlement of all matters and issues that are involved herein. In consideration thereof, Mercer agrees to pay a civil penalty of \$500.00. \$250.00 shall be due within thirty (30) days of the date on which this Consent Order is fully executed, and the remaining \$250.00 shall be due within thirty days after the first payment.



Edward E. Mercer

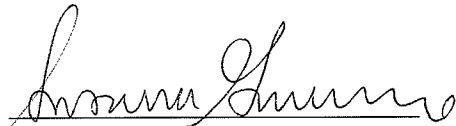
Dated: 11/12/14



State Ethics Commission

By: Andrew S. Berns, Chair

Dated: 12/2/14



State Ethics Commission

By: Susana E. Guerrero, Executive Director

Dated: 12/2/14