



COLUMBIA COUNTY BOARD OF ETHICS

401 STATE STREET
HUDSON, NEW YORK 12534
PHONE: (518) 828 – 1527
FAX: (518) 822 – 0684

RICHARD H. A. WASHBURN
GREG MOSLEY
JAMES KEEGAN
PETER BUJANOW
MICHAEL NABOZNY
BRUCE A. BURNS

ADVISORY OPINION No. 12-02

Multiple required filers, as defined in § 48-15, have requested clarification and assistance in the Financial Disclosure Statement (FDS) portion of the Code of Ethics of the County of Columbia. Individual interpretations of the questions as stated in § 48-18 by current, and former, reporting individuals has proven to be a source of repeated “informal” advisory opinions.

INTRODUCTION

The Columbia County Board of Ethics issues this advisory opinion in response to multiple similar and repeated questions asked by both sitting and former required filers as stated in § 48-15. The Board hereby renders its opinion with respect to the Code of Ethics of the County of Columbia § 48-27 adopted pursuant to Article 18 of the General Municipal Law. This advisory opinion of the Board of Ethics of the County of Columbia shall be made available to any officer, employee, or appointed official whom may be expected to file a Financial Disclosure Statement, but shall contain no detailed information as originator of any specific question as to maintain confidentiality pursuant to § 48-31. The Board may, in its discretion, revisit this opinion concerning the questions or specific circumstances of any future reporting individual’s request.

DISCUSSION

The Board through continuous review of the Code of Ethics of Columbia County pursuant to Article 18 of the General Municipal Law hereby promulgates the understood interpretation of the seven (7) questions asked in the annual statement of financial disclosure (§ 48-18) of this said Article. It includes:

1. “*Name*” is hereby understood to be the full legal name of a required filer, including, but not limited to, any middle or alias names.
2. (a) “*Title of Position*” is understood to be the specific name of office, or title, as described in § 48-15. A. and the individuals functional title within the government entity, if it differs from the before mentioned title.
(b) “*Department, Agency, or other Governmental Entity*” is the governmental body which you are employed with, appointed to, or volunteer at; if multiple entities apply, the filer is expected to indicate all that apply.
(c) “*Address of Present Office*” is understood to be the primary physical location of your governmental entity.
(d) “*Office Telephone Number*” is the telephone number associated with the governmental entity which you are employed with, appointed to, or volunteer at; if multiple entities apply, the filer is expected to indicate all that apply.
3. “*Date of Assuming Office*” is understood to be the date which you assumed your title, or occupied the name of office, which made you eligible to file this financial disclosure statement.
4. “*I hereby list below any office, trusteeship, directorship, or position of any nature, whether compensated or uncompensated, held by me with any firm, corporation, association, partnership, or other organization who or which is known by me to do or have any matter pending with, or to be in any contractual relationship with, or to be having contractual negotiations with, or to be*

licensed or regulated by, any agency or department of the County of Columbia or any municipality within the County.” This statement is understood to mean the position, volunteer, paid, compensated, honorary, or otherwise, by which any filer is an active member within its leadership structure is considered reportable. In addition, any position of leadership within any community, civic, or political organization is inherently understood to potentially have matters before the County or any municipality within the County; therefore, it is understood that any filer would always report these leadership positions regardless of whether you are aware of any issues, contract negotiations, business relationships, or regulatory responsibilities pending before the County or its municipalities, or not.

5. *“Statement of my assets and liabilities as of December 31, for calendar year ____: I hereby list below the nature of all assets and liabilities with an individual value in excess of Five Thousand Dollars (\$5,000.00), in which a direct or indirect interest is held by me, either in whole or in part, jointly or severally, as of the date I took office or as of December 31 of the calendar year for which this Annual Statement of Financial Disclosure is filed, whichever is earlier.”* This question is meant to be all inclusive in nature and is understood as such; unless specifically stated otherwise in the said question and its explanation.

(a) *“ASSETS”* is understood to mean the reporting individual must list each property, possession, and investment with a value of five-thousand dollars (\$5,000.00) or more; which would include an interest in a proprietorship, partnership, or corporation with an estimated valued of five-thousand dollars (\$5,000.00) or more, or five percent (5%) of the entire value of the said business, corporation, partnership, or other asset. An investment, is understood to be stocks, bonds, loans, pledged collateral, or other promissory notes of which are owed to you, partially or fully. Property shall be considered real estate, rental or otherwise, and possessions are understood to be trusts, estates, or similar beneficial interest with an estimated value in excess of the previously stated threshold. It should be understood that you must clearly and transparently list the nature of your assets with an estimated value of five-thousand dollars (\$5,000.00) or more; however, there is no need for you to declare actual dollar value, estimated or actual, of those assets.

(b) *“LIABILITIES”* is understood to mean all those liabilities, promises, or guaranties made by the reporting individual, directly or indirectly, to the creditor with a value of five-thousand dollars (\$5,000.00) or more. The statute is quite clear that the filer should, *“include the name of the creditor and any collateral pledged by you to secure payment of any such liability.”* It is further understood that the filer must include liabilities that are partially, or fully, pledged by them to a creditor in excess of the previously stated threshold. A reporting individual is not expected to list the liabilities of any proprietorship, partnership, or corporation when used as an ordinary course of the trade, business, or professional practice, of which (s)he has an interest unless it is a sole-proprietorship of which (s)he is the owner. The statute also indicates, *“a reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony, or child support payments.”* When a reporting individual has a revolving charge account, that information shall only be included as a liability wherein it meets the minimum threshold on the last day of the calendar year for which the annual statement of financial disclosure is filed; however, if that liability meets or exceeds the five-thousand dollar (\$5,000.00) threshold on the first day of the calendar year, it shall be included in your statement. A loan issued in the ordinary course of business by an accredited financial institution

to finance educational costs, the cost to purchase a home for a primary or secondary residence, or in the purchase of a personally-owned motor vehicle, household furniture or appliances specifically for the reporting individual, may be excluded as a liability for the purposes of filing your annual statement of financial disclosure for the Columbia County Code of Ethics § 48-1. If the reporting individual places information that is incomplete, intentionally misleading, or willfully inaccurate on their financial disclosure statement (FDS) regarding their liabilities, they may be held in violation of the Code of Ethics in accordance with § 48-21 with penalties up to one-thousand dollars (\$1,000.00) per stated omission or inaccuracy.

6. *“I hereby list below all my sources of income, which, standing alone, were in excess of Five Thousand Dollars (\$5,000.00) during the taxable year which is the taxable year last occurring prior to the date of my filing this Annual Statement of Financial Disclosure.”* This question is meant to be all inclusive in nature and is understood as such; unless specifically stated otherwise in the same said question and its instructions. Any source of income by which the reporting individual receives compensation. This is understood to mean if the reporting individual has employment outside the office or position which is the reason for their filing, an investment vehicle, honorariums, forgiveness of debt, or a gift which has an estimated value of five-thousand dollars (\$5,000.00) or more for the reported time period. The statute is specific in that it is, *“necessary to identify the particular sources of income”* on your Annual Statement of Financial Disclosure; however, it is not a requirement that the reporting individual give the actual, or estimated, dollar value of the declared income. If the income for the reported period, whether it be monetary or otherwise, is in the nature of a gift as defined in Columbia County Code of Ethics § 48-8. A. the individual gift need-not exceed the threshold, but a summary of all said gifts from the same source, or individual, would need to meet or exceed the value of five-thousand dollars (\$5,000.00). As stated in Code of Ethics (§ 48-8. A.) any gift which *“under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part”* would not be permitted over the value of seventy-five dollars (\$75.00), in circumstances where it would be permissible, these sources of income, monetary or otherwise, must be listed in compliance with this statute. Any gift which could reasonably be expected to create conflict of interest between a reporting individual and an outside source, regardless of the dollar value involved, should to be vetted by the Board of Ethics of Columbia County by virtue that an individual is required to file a financial disclosure statement in accordance with § 48-15 of the Code of Ethics.

7. *“If additional space is needed to supply information, I have set forth the additional information on the attached pages.”*

(Signature of Reporting Individual)

Date (month/day/year)”

This question reiterates to the reporting individual that (s)he is encouraged to be as thorough and complete as possible when answering the seven questions in the annual statement of financial disclosure. The requirements of this law and relevant elaboration provided by this advisory opinion in relation to the reporting of financial interests are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with

these requirements. The reporting individual needs to sign and date the statement for it to be considered filed and on-time, otherwise a penalty may result. If additional sheets are required for the filer to properly answer the questions, the reporting individual should write “*see attached sheets*” or similar words in response to question number seven (7) and physically affix the additional sheets to the said form. It is only necessary for the initial form to have the signature of the reporting individual, and the signature should match the full legal name of the filer as indicated in question one (1) of the Code of Ethics of Columbia County (§ 48-18).

CONCLUSION

Columbia County Code of Ethics § 48-13 defined purpose is to provide a mechanism and format for the disclosure of financial information for designated reporting individuals as set forth in § 48-15. This advisory opinion is rendered to officers and employees of the County of Columbia with respect to the Code of Ethics of the County of Columbia adopted pursuant to Article 18 of the General Municipal Law and with respect to the filing of the annual statement of financial disclosure promulgated by the County of Columbia pursuant to Article 18 of the General Municipal Law. The Board of Ethics of the County of Columbia wishes to make it clear that the purpose of this annual statement of financial disclosure is not as a repository of financial worth for persons required to file statements, but as a tool and process for required filers to review their current fiscal standing within the County and municipal government and to evaluate the potential of a conflict of interest.

This advisory opinion is intended to clarify the existing questions and instructions on the Financial Disclosure Statement (FDS) form that was promulgated through Article II of the Code of Ethics and provide a clear understanding of how required filers will be expected to respond here forward. It shall not be acceptable for a reporting individual to leave a question unanswered or to provide a “N / A” as a response. Any questions a required filer may have regarding the financial disclosure statement should be made directly to the Board through the designated agent of the Board of Ethics, the Clerk of the Board of Supervisors of the Columbia County or the designated counsel for ethics with the County Attorney’s Office.

CONCURRING

Richard H. A. Washburn, Chairman

George P. Jahn, Member

Kenneth Wilber, Member

Robert Galluscio, Member

DATED: August 20, 2012