

STATE OF NEW YORK
JOINT COMMISSION ON PUBLIC ETHICS

In the Matter of

STATE ADVISERS, LLC,

NOTICE OF HEARING

Alleged Violations of §§1-e and 1-h of
Article 1-A of the New York State Legislative Law.

TO: STATE ADVISERS, LLC
100 Quintin Roosevelt Boulevard, Suite 101
Garden City, New York 11530

PLEASE TAKE NOTICE that you are in breach of the Settlement Agreement entered between State Advisers, LLC and the New York State Joint Commission on Public Ethics (“Commission”) and that the Commission shall hold a hearing to determine whether you violated Article 1-A of the Legislative Law §§ 1-e and 1-h and whether a civil penalty should be assessed for your failure to timely file Lobbyist Statements of Registrations, Bimonthly Reports, and supporting documents as required by Article 1-A of the Legislative Law (“Lobbying Act”).

The hearing is scheduled for Wednesday, July 27, 2016 at 11:00 a.m., at the Joint Commission on Public Ethics, at 540 Broadway, Albany, New York, 12207. The hearing officer of record will be Judge Elaine Jackson Stack. The rules governing the hearing are set forth in 19 NYCRR Part 941. The hearing is scheduled to be concluded within one day, unless you indicate that you need additional time to present evidence.

An adjournment may be granted upon a showing of good cause that you are unavailable to attend at the scheduled time. You may submit a written request for adjournment to the hearing officer of record at the address noted above accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request. **Failure to appear for the scheduled hearing may result in the disposition of your case and the assessment of a civil penalty in your absence.**

The Commission will provide interpretation for hearing impaired parties and participants on request. Any such request must be made in writing and received by the Commission at least one week prior to the hearing date.

You have the right to be represented, to testify, to produce witnesses, to present documentary evidence and to examine opposing witnesses and evidence. You may submit all or part of your evidence in written form, subject to the discretion of the hearing officer.

Attached is a plain language summary of the Commission's regulations governing adjudicatory proceedings.

Please be advised that, pursuant to Lobbying Act §1-o, a finding that you knowingly and willfully failed to file Statements of Registrations, Bimonthly Reports, and supporting documentation subjects you to a civil penalty in an amount not to exceed \$25,000 per violation or three times the amount you failed to report properly or unlawfully contributed, expended, gave or received, to be assessed by the Commission.

NYS STATE JOINT COMMISSION ON PUBLIC ETHICS

Dated: June 30, 2016

Adjudicatory Proceedings and Appeals Procedures

Sections

941.1 Intent and purpose

941.2 Definitions

941.3 Substantial basis investigation report

941.4 Notice of hearing (form)

941.5 Time and place of hearing and service of filings

941.6 Evidence and proof

941.7 Representation

941.8 Oaths

941.9 Adjournments

941.10 Time limits

941.11 Decision after hearing or proceeding

941.12 Conduct of hearings

941.13 Hearing officer

941.14 Powers and duties of hearing officers

941.15 Decisions

941.16 Fines, penalties

941.17 Record of hearing

941.18 Privacy/confidentiality

941.19 Appeals from executive director's denials to delete or exempt certain information from the financial disclosure statement

941.20 Savings Clause

Section 941.1 Intent and purpose.

Executive Law, section 94 subdivision (14) authorizes the Joint Commission on Public Ethics to adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties; rules relating to appeals taken pursuant to denials of requests to delete or exempt certain information from a financial disclosure statement authorized in paragraph (h) or paragraph (i) of subdivision (9) of section 94 of the Executive Law; and rules relating to appeals taken from hearing officer final decisions. In adjudicatory proceedings and appeals undertaken pursuant to the Ethics in Government Act, Section 107 of the Civil Service Law and Article one-A of the Legislative Law, as amended by the Public Employee Ethics Reform Act of 2007 (Chapter 14, Laws of 2007) and the Public Integrity Reform Act of 2011 (Chapter 399, Laws of 2011), it is the intention and purpose of the Joint Commission on Public Ethics to strengthen the public's trust and confidence in government through fair and just adjudicatory procedures that afford all parties due process protection and fair and just resolution of all matters.

Section 941.2 Definitions.

- (a) *Appellant* shall mean the recipient of a denial by the executive director for deletion or exemption of certain information from a financial disclosure statement who wishes to appeal or has appealed that denial to the members of the commission.
- (b) *Commission* shall mean New York State Joint Commission on Public Ethics established pursuant to section 94 of the Executive Law, which may delegate the authority to act as provided in these rules and regulations to its executive director.
- (c) *Executive director* shall mean executive director of the Joint Commission on Public Ethics as appointed pursuant to section 94(9)(a) of the Executive Law.
- (d) *Financial disclosure* statement shall mean annual statement of financial disclosure which is required to be filed pursuant to section 73-a of the Public Officers Law.
- (e) *Hearing officer* shall mean the presiding officer in adjudicatory hearings conducted pursuant to this Part.
- (f) *Hearing* shall mean any adjudicatory proceeding held by the commission to determine whether a violation of sections 73, 73-a or 74 of the Public Officers Law, section 107 of the Civil Service Law or article one-A of the Legislative Law has occurred.
- (g) *Respondent* shall mean any State officer or employee covered by the provisions of sections 73, 73-a or 74 of the Public Officers Law or section 107 of the Civil Service Law, or any lobbyist or client, as such terms are defined in article one-A of the Legislative Law, who is the subject of a hearing held by the commission.

Section 941.3 Substantial basis investigation report.

- (a) With respect to the investigation of any individual or entity subject to the jurisdiction of the commission other than a member of the legislature or a legislative employee or candidate for member of the legislature, if after its investigation the commission has found a substantial basis to conclude that the individual has violated the public officers law, civil service law or the legislative law, the commission shall send a substantial basis investigation report containing its findings of fact and conclusions of law to the individual or entity.
- (b) Following the release of the report to the subject of the investigation, the commission shall release such report publicly within forty-five days of its issuance.
- (c) A substantial basis investigation report issued pursuant to Executive Law section 94(14-a) shall be delivered to the legislative ethics commission and to the individual who is the subject of the report. Any policies and procedures of the legislative ethics commission pertaining to adjudication and disposition shall apply to these matters.

Section 941.4 Notice of hearing (form).

- (a) Where the commission elects to go forward with a hearing to determine whether a civil penalty should be assessed for a violation of sections 73, 73-a or 74 of the Public Officers Law, section 107 of the Civil Service Law or article one-A of the Legislative Law, it shall serve a written notice, by certified mail or other appropriate method of service authorized under the Civil Practice Law and Rules, to the parties and their representatives of record at least 20 calendar days prior to the date of any hearing under these rules. The notice of hearing shall contain the following:
 - (1) a statement of the time and place of the hearing;
 - (2) a statement of the nature of the hearing;
 - (3) reference to particular statutes and rules relevant to the hearing;
 - (4) a short, plain language statement of the violations asserted; and
 - (5) a statement for hearing impaired parties and participants concerning the provision of deaf interpretation without charge.
- (b) A plain language summary of these rules shall accompany each notice of hearing which is sent to a party cited for a violation of sections 73, 73-a or 74 of the Public Officers Law, section 107 of the Civil Service Law or article one-A of the Legislative Law.
- (c) The notice of hearing shall contain information concerning circumstances under which an adjournment may be granted and the result of failure to appear for a scheduled hearing.

(d) The notice of hearing shall inform the parties and their representatives of the right of each party to be represented, to testify, to produce witnesses, to present documentary evidence, and to examine opposing witnesses and evidence.

Section 941.5 Time and place of hearing and service of filings.

(a) The notice of hearing shall inform the parties of the time and place of hearing.

(b) The time and place of hearing shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in section 941.9 of this Part and the hearing officer determines that sufficient cause has been set forth for such a change of time and place in a timely manner.

(c) The time and place of hearing shall be determined by the commission and shall, as much as practicable, take into account the convenience of the parties and the availability of witnesses.

(d) Any written notice or filing shall be served upon the hearing officer and the commission at the offices of the commission as specified in the notice of hearing.

Section 941.6 Evidence and proof.

(a) The formal rules of evidence do not apply with respect to any hearings under the commission's jurisdiction. Objections to evidentiary offers may be made and shall be a part of the record. Subject to these rules, any party may, for the purpose of expediting the hearing, and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.

(b) The hearing officer may exclude irrelevant or unduly repetitive evidence or cross examination from any hearing.

(c) The burden of proof shall be on the Commission unless otherwise provided by statute.

(d) No decision or determination by the hearing officer, the executive director or the commission shall be made except on consideration of the record as a whole or such portions thereof as may be cited by any party to the hearing and as supported by and in accordance with substantial evidence.

(e) Each party shall have the right of cross examination.

(f) Official notice may be taken of all facts of which judicial notice could be taken and of other facts within the specialized knowledge of the commission. When official notice is taken, every party shall be given notice thereof and shall on timely request be afforded an opportunity prior to decision to dispute the fact or its materiality.

Section 941.7 Representation.

Any person compelled to appear in person or who voluntarily appears in any hearing herein described shall be accorded the right to be accompanied, represented and advised by counsel. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others in any hearing.

Section 941.8 Oaths.

(a) All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.

(b) Oaths shall be administered to all witnesses who testify or appear in any hearing conducted pursuant to these rules.

Section 941.9 Adjournment.

(a) A hearing officer shall grant an adjournment of any hearing conducted pursuant to these rules only for good cause.

(b) Written requests for adjournment shall be submitted to the hearing officer of record in the hearing for which the adjournment is sought. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request.

Section 941.10 Time limits.

(a) Except by consent of the parties, every hearing conducted pursuant to these rules shall be brought to conclusion within 180 days of the date of the hearing specified in the notice of hearing. An adjournment or continuance granted at the request of the respondent or by mutual consent of the parties will extend the period of time for conclusion by the length of time the adjournment or continuance is granted.

(b) The commission, the executive director, or the hearing officer may, at any time prior to the expiration of the time limits delineated above, extend the time period by making a determination that the time provided is insufficient to complete the hearing and shall state sufficient reasons therefor. This extension shall not continue for a period longer than 90 days after the expiration of the original 180 day period during which the hearing should have been concluded.

(c) Parties to any hearing are required to file all papers, statements, proofs, and other evidence with the hearing officer, executive director or commission at a time to be designated by such officer. The hearing officer, executive director or the commission will grant an extension of time for filing such matters only upon formal request.

(d) Failure by the hearing officer, the executive director or the commission to adhere to time limits established by this section shall be reviewable under article 78 of the Civil Practice Law and Rules in a proceeding in the nature of mandamus.

Section 941.11 Decision after hearing.

(a) All final recommendations of the hearing officer and all of the decisions of the executive director and the commission shall be in writing or stated in the record and shall include findings of fact, conclusions of law, reasons for the decision and when appropriate, direct that specific action be taken by the commission. The final decisions of the commission and the executive director shall be binding upon the commission.

(b) The commission shall mail or deliver to each party to the hearing and to its representatives of record a copy of all recommendations of the hearing officer and all final decisions of the executive director and the commission.

(c) Except in matters ex parte, members or employees of the commission assigned to make a decision or to make findings of fact and conclusions of law in any hearing shall not communicate, directly or indirectly, in connection with any issue of law, with any person, party or its representative of record, except upon notice and opportunity for all parties to participate. Any such member or employee may communicate with other commission members or employees and may have the aid and advice of agency staff including counsel to the commission, other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or factually related case.

(d) The commission shall maintain the final decision in each hearing where a notice of civil assessment has been imposed, indexed by name or party and subject matter. The index and the notice of civil assessment, if any, shall be made available for public inspection and copying except as provided in section 941.17 of this Part. Such decisions shall be so filed and indexed within 60 days after having been rendered.

Section 941.12 Conduct of hearings.

(a) The hearing officer, exercising discretion, may elect to conduct any hearing under these rules ex parte after a showing that respondent and its representative of record have been notified by certified mail of the pending hearing or otherwise served with notice of the hearing. The respondent shall at no time be deprived of the opportunity to appear; however, failure to appear after service of notice shall not preclude a decision by the hearing officer and the commission, upon proof of service, to proceed with the scheduled hearing. Proof of service shall consist of a signed certified mail receipt or signed affidavit.

Section 941.13 Hearing officer.

(a) The commission shall maintain a list of independent hearing officers in accordance with the commission's policies and procedures.

(b) The commission shall select at random from the list of independent hearing officers, a hearing officer to preside at each hearing. Such hearing officer shall be an individual who has in no way been involved with the case in question.

(c) The hearing officer shall conduct all hearings under these rules and shall exercise the power and authority of presiding officers or hearing officers as defined by the State Administrative Procedure Act (SAPA), any other pertinent statute and these regulations.

Section 941.14 Powers and duties of hearing officers.

(a) A hearing officer is authorized to do the following in any hearing to which the hearing officer is assigned:

(1) Administer oaths or affirmations.

(2) Sign and issue subpoenas in the name of the commission, at the request of any party or the direction of the commission, requiring attendance and testimony by witnesses and the production of books, papers, documents and other evidence. Subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the authority of an attorney for a party to issue such subpoenas under the provisions of the Civil Practice Law and Rules.

(3) Provide for the taking of testimony by deposition as agreed by both parties where a potential witness is unavailable to testify in a hearing.

(4) Regulate the course of the hearings, set the time and place for continued hearings and fix the time for filing of briefs and other documents for review by the hearing officer prior to the issuance of findings of fact and recommendations.

(5) Direct the parties to appear and confer to consider the simplification or settlement of the issues and/or stipulations as to the underlying facts by consent of the parties.

(6) Prepare findings of fact and recommendations.

Section 941.15 Decisions.

(a) Within 60 days of the conclusion of the hearing, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty to be assessed or any other action to be taken. The hearing officer shall transmit proposed findings of fact and recommendation to the parties and their representatives and to the commission for approval. The hearing officer may request from the commission an extension of time in which to transmit the proposed findings of fact and recommendation. The commission shall notify the hearing officer and all parties and their representatives should an extension be granted.

(b) The parties shall have an opportunity to respond in writing in the form of a brief to the findings of fact and recommendation of the hearing officer. The briefs shall be directed to the commission for its consideration within 10 days of the hearing officer's transmittal of the findings of fact and recommendation to the commission. The briefs may not include or discuss evidence which is not a part of the official record of the hearing.

(c) The commission shall have 60 days from receipt of the briefs, or as soon thereafter as possible, in which to issue a final decision. The commission may adopt the findings of fact and recommendation of the hearing officer in whole or in part, or it may reverse, remand and/or dismiss the hearing officer's finding of fact and recommendation based upon the record produced at the hearing.

Section 941.16 Fines, penalties.

(a) The commission's assessment of civil penalties made pursuant to section 94(14) of the Executive Law shall not preclude its referral of violations of law to a prosecutor for criminal prosecution.

(b) If the alleged violation has been established, and the commission determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty, the commission, in its discretion, may take such other action as appropriate including, but not limited to, a written admonition or a recommendation that disciplinary action be taken. The commission may forward a copy of such admonition or recommendation for disciplinary action to the individual's appointing authority, as appropriate.

Section 941.17 Record of hearing.

(a) The record in hearings under these rules shall include:

- (1) all notices, pleadings, motions, and intermediate rulings;
- (2) evidence presented;
- (3) a statement of matters officially noticed except matters so obvious that a statement of them would serve no useful purpose;
- (4) questions and offers of proof, objections thereto, and rulings thereon;
- (5) proposed findings and exceptions, if any; and
- (6) any decision, determination, opinion, order or report rendered.

(b) The commission shall make available a complete record of all hearings in which the commission has issued a final decision to any party to that hearing. The commission shall make this record available upon reasonable notice and written request prior to the commencement of any judicial review. The commission shall charge the reasonable cost of preparing such record to the requesting party.

(c) A written transcript for all hearings conducted pursuant to these rules shall be provided to any party to a hearing. This transcript shall be made available upon reasonable notice and written request following the conclusion of the hearing. The commission shall charge the requesting party for the reasonable cost of preparing such transcript.

Section 941.18 Privacy/confidentiality.

The records or documents made available for public inspection and copying are set forth in Executive Law section 94(19).

Section 941.19 Appeals from executive director's denials to delete or exempt certain information from financial disclosure statements.

(a) Grounds for appeal of the executive director's denial to delete or exempt certain information from the financial disclosure statement.

(1) Any person required to file a financial disclosure statement whose written request for deletion of one or more items of information as provided in Executive Law section 94(9)(h) has been denied in writing by the executive director, may file a written appeal of such denial, called a notice of appeal, within 15 calendar days of receipt of such denial, with the members of the commission pursuant to these rules.

(2) Any person required to file a financial disclosure statement whose written request for exemption from any requirement to report one or more items of information that pertain to such person's spouse or unemancipated children as provided in Executive Law section 94(9)(i) has been denied in writing by the executive director, may file a written appeal of the denial within 15 days of receipt of such denial, with the members of the commission pursuant to these rules.

(b) Confidentiality of information related to the executive director's denials to grant deletion or exemption requests.

(1) Pending any application for deletion or exemption to the executive director or notice of appeal filed with the members of the commission, all information which is the subject or a part of the application or appeal shall remain confidential. Upon an adverse determination by the members of the commission, the reporting individual may request, within five calendar days of receipt of an adverse determination, and upon such request the commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns from office and holds no other office subject to the jurisdiction of the commission, the information shall not be made public and shall be expunged in its entirety from the financial disclosure statement.

(c) Notice and procedure for appeal from the executive director's denial to grant a deletion or exemption request.

(1) A notice of appeal must be filed with the members of the commission within 15 calendar days of receipt by the appellant of a denial by the executive director. The notice of appeal must be in writing, must provide a clear statement of the reasons for appeal, and shall be addressed to the chairman of the commission at the address provided on a

document accompanying the denial by the executive director which shall include such information and the procedure for appeals.

(2) Upon receipt of the notice of appeal by the chairman of the commission, the chairman, or his/her designee, shall issue a notice of docketing which sets forth a time and date for submission only of written arguments and documentary evidence in support of the appellant's position. This time and date shall be no sooner than 15 days after receipt of the notice of appeal and no later than 30 days thereafter.

(d) Record on appeal.

(1) The members of the commission shall consider the record provided by the executive director and the written submissions of the appellant in making a determination on the appeal of the executive director's denial. The members of the commission may request the appellant to file additional information.

(2) The formal rules of evidence shall not apply in the appeals process.

(3) The burden is on the appellant to show that the executive director made an erroneous determination in deciding not to grant appellant's deletion or exemption request.

(e) Decision on appeal from executive director's denials.

(1) The members of the commission shall review the written appeal filed pursuant to these rules, and shall render a decision by a majority vote of a quorum being present. Such decision shall be based upon the entire record submitted to the executive director and the written submission of the appellant.

(2) The written decision of the members of the commission shall affirm, reverse, remand and/or dismiss the decision of the executive director and, as appropriate, shall set forth a concise statement of the reasons for the commission members' decision and shall be issued within 60 days of the receipt of the written notice of appeal filed with the commission members pursuant to these rules, or as soon thereafter as possible.

Section 941.20 Savings Clause

All matters commenced by written notice of the predecessor agency prior to August 15, 2011 will be governed by the laws and adjudicatory rules in effect prior to the effective date of this Part and will remain in full force and effect for the pendency of those matters. Any investigations commenced after August 15, 2011 will be governed by the provisions of this Part.

STATE OF NEW YORK
JOINT COMMISSION ON PUBLIC ETHICS

Case No. 15-062

IN THE MATTER OF STATE ADVISERS, LLC

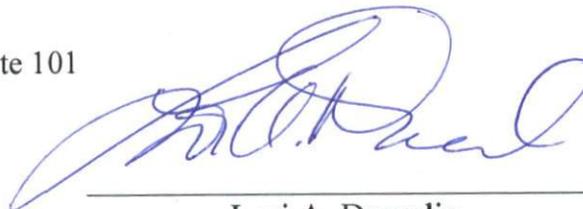
AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

I, Lori A. Donadio, being first duly sworn on oath, depose and say:

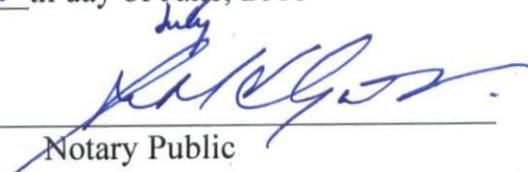
1. I am an employee of the New York State Joint Commission on Public Ethics.
2. I am not a party to this action and over 18 years of age.
3. On the 30th day of June, 2016 I served a true copy of the annexed Notice of Hearing and Adjudicatory Regulations by mailing the same in a sealed envelope, with postage prepaid thereon, via First Class Regular Mail and certified return receipt requested, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York in the City of Albany, as addressed below:

Keith Sernick
State Advisers, LLC
100 Quintin Roosevelt Boulevard, Suite 101
Garden City, NY 11530



Lori A. Donadio

Sworn to before me, this
5th day of ~~June~~ ^{July}, 2016


Notary Public

SETH H. AGATA
NOTARY PUBLIC, STATE OF NY
NO. 4999773
QUALIFIED IN COLUMBIA COUNTY
COMM. EXPIRES JULY 27, 20 18

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Keith Sernick
 State Advisers. LLC
 100 Quintin Roosevelt Boulevard, Suite 401
 Garden City, NY 11530

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X C Ernst

- Agent
- Addressee

B. Received by (Printed Name)

C. Ernst

C. Date of Delivery

JUL - 8 2016

D. Is delivery address different from item 1? Yes
 If YES: Note the address below: No

3. Service Type

- Certified Mail
- Express Mail
- Registered
- Return Receipt for Merchandise
- Insured Mail
- C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Art
(Tr)

7007 3020 0002 1238 8771

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540