

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 10-0009

IN THE MATTER

OF

MARK RIVERA

DISPOSITION AGREEMENT

The State Ethics Commission and Mark Rivera ("Rivera") enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On December 18, 2009, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Mark Rivera. On May 21, 2010, the Commission concluded its inquiry and found reasonable cause to believe that Rivera had violated G.L. c. 268A, § 23.

The Commission and Rivera now agree to the following findings of fact and conclusions of law:

Findings of Fact

1. Rivera was, during the time relevant, the Lawrence School Department's Urban Affairs Liaison and then, the Special Assistant to Lawrence School Superintendent Wilfredo Laboy ("Superintendent Laboy").
2. LexisNexis is a searchable database of public and non-public records.

3. In or about December 2007, the Lawrence School Department (the "School Department") obtained a LexisNexis account in order to access the LexisNexis database.

4. The School Department paid \$120 monthly for this access.

5. As the Urban Affairs Liaison and the Special Assistant to the Superintendent, Rivera, along with one other School Department employee, was authorized by LexisNexis to access the LexisNexis database through the School Department account. This authorized access was for legitimate School Department purposes only, such as locating parents who had moved out of the school district without informing the School Department and for contacting parents and students regarding attendance issues.

6. From 2007-2009, Rivera repeatedly misused his School Department authority to access the LexisNexis database through the School Department's account to conduct hundreds of searches of non-public information on individuals, including state and local elected officials, professional athletes and Hollywood celebrities, for his own private purposes, and, according to Rivera, to some extent for the private purposes of Superintendent Laboy.

Conclusions of Law

7. Section 23(b)(2)¹ of G.L. c. 268A prohibits a municipal employee from, knowingly, or with reason to know, using or attempting to use his official position to secure for himself or others unwarranted privileges or exemptions, which are of substantial value, and which are not properly available to similarly situated individuals.

8. As the Urban Affairs Liaison and the Special Assistant to the Superintendent, Rivera was a municipal employee as that term is defined by G.L. c. 268A, § 1(g).

9. Access to the LexisNexis database was a benefit, and, therefore a privilege.

10. The privilege was unwarranted because it involved the use of public resources for a private purpose.

11. This privilege was of substantial value because the School Department paid \$120 monthly to access the LexisNexis database.

12. Rivera was an officially authorized user of the School Department's LexisNexis account. But for this authorization, he would not have had the above-described access to the LexisNexis database. Therefore, by using this authorization to access the non-public information described above, Rivera used his official position to secure this unwarranted privilege for himself and Superintendent Laboy.

13. This privilege was not properly available to similarly situated individuals.

¹ General Laws chapter 268A was amended by c. 28 of the Acts of 2009. The language of § 23(b)(2) now appears in § 23(b)(2)(ii) of G.L. c. 268A as amended.


14. Thus, by using his official positions as the Urban Affairs Liaison and the Special Assistant to the Superintendent to conduct hundreds of searches of non-public information on individuals, including state and local elected officials, professional athletes and Hollywood celebrities over a 2-year period, Rivera knowingly, or with reason to know, repeatedly used his positions to obtain an unwarranted privilege of substantial value for himself and Superintendent Laboy, which was not properly available to similarly situated individuals. Therefore, Rivera repeatedly violated § 23(b)(2).

In view of the foregoing violations of G.L. c. 268A by Rivera, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Rivera:

- (1) that Rivera pay to the Commission the sum of \$5,000 as a civil penalty for repeatedly violating G.L. c. 268A, § 23(b)(2); and
- (2) that Rivera waive all rights to contest, in this or any other administrative or judicial proceeding to which the Commission is or may be a party, the findings of fact, conclusions of law and terms and conditions contained in this Agreement.

STATE ETHICS COMMISSION


Mark Rivera Date 05/13/10

 6/14/10
Karen L. Nober Date
Executive Director

I, Mark Rivera, have personally read the above Disposition Agreement. I understand that it is a public document and that by signing it, I will have agreed to all of the terms and conditions therein including payment of \$5,000 to the State Ethics Commission.

Mark Rivera 05/13/10
Mark Rivera Date