

COMMONWEALTH OF MASSACHUSETTS  
STATE ETHICS COMMISSION

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 11-0001

IN THE MATTER

OF

ROBERT FORTES

**ORDER TO SHOW CAUSE**

1. The State Ethics Commission is authorized to enforce G.L. c. 268B, the Financial Disclosure Law, and in that regard to initiate and conduct adjudicatory proceedings.
2. On November 19, 2010, the Commission found reasonable cause to believe that Robert Fortes violated G.L. c. 268B, § 5 and authorized the initiation of adjudicatory proceedings.
3. Fortes served as the Massachusetts Bay Transportation Authority Assistant General Manager for Strategic Planning and Performance for more than 30 days in 2009. As the Massachusetts Bay Transportation Authority Assistant General Manager for Strategic Planning and Performance, Fortes was a state employee as that term is defined in G.L. c. 268A, § 1.
4. In accordance with G.L. c. 268B and 930 CMR 2.00, Fortes' position of Massachusetts Bay Transportation Authority Assistant General Manager for Strategic Planning and Performance was designated as a major policy-making position for calendar year 2009. As such, Fortes was required to file a Statement of Financial Interests ("SFI")

for calendar year 2009 in accordance with G.L. c. 268B and 930 CMR 2.00.

5. The SFI was required to be filed by May 17, 2010, in accordance with G.L. c. 268B and 930 CMR 2.00. Fortes was informed of his obligation to file an SFI for calendar year 2009.

6. Fortes did not file an SFI on or before May 17, 2010. On June 7, 2010, the Commission sent by first class mail a Formal Notice of Lateness ("Notice") to Fortes. The Notice advised Fortes that his SFI had not been filed and was, therefore, delinquent. The Notice further advised Fortes that failure to file his 2009 SFI within 10 days of receipt of such Notice would result in the imposition of civil penalties. The Commission allows three days for receipt of the Notice if sent by first class mail. Therefore, Fortes would not incur a civil penalty if he filed his SFI by June 20, 2010.

7. Fortes filed an SFI with the Commission on September 14, 2010.

8. Fortes failed to timely file his SFI after receiving the Notice, and, therefore, violated G.L. c. 268B, § 5.

9. General Laws c. 268B, § 4 authorizes the Commission to impose a civil penalty of up to \$10,000 for each violation of c. 268B. During the relevant time, the Commission had two schedules of penalties for SFIs filed more than 10 days after the receipt of the Notice.

**For first time late submission of an SFI:**

1-10 Days Late: \$100  
11-20 Days Late: \$200  
21-30 Days Late: \$400  
31 or More Days Late: \$1,000  
Non-filing of an SFI: \$10,000

**For the repeated late submission of an SFI:**

1-10 days delinquent: \$200  
11-20 days delinquent: \$400  
21-30 days delinquent: \$800  
31 days or more: \$2,000  
Non-filing of an SFI: \$10,000

10. This is the first time Fortes submitted his SFI late.
11. Fortes' SFI was more than 31 days late, and based on the Commission's fine schedule for first time late submission of an SFI, the civil penalty is \$1,000.

WHEREFORE, Petitioner asks that the Commission:

- a) find that Robert Fortes violated G.L. c. 268B, § 5 by failing to file his 2009 SFI within ten (10) days of receiving the Formal Notice of Lateness; and
- b) impose a \$1,000 civil penalty pursuant to G.L. c. 268B, § 4(j).

Date: January 20, 2011

Respectfully submitted,  
Petitioner State Ethics Commission  
By its attorney,

*/s/ Karen Beth Gray*  
Karen Beth Gray  
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State Ethics Commission  
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