

**MINUTES OF THE PUBLIC SESSION OF THE  
NOVEMBER 20, 2012  
COMMISSION MEETING  
OF THE JOINT COMMISSION ON PUBLIC ETHICS  
HELD AT THE COMMISSION'S OFFICE LOCATED AT  
540 BROADWAY  
ALBANY, NEW YORK**

**Present:**

**Chair:** Hon. Janet DiFiore

**Members:** Patrick J. Bulgaro  
Hon. Joseph Covello  
LaShann M. DeArcy  
Hon. Vincent A. DeIorio  
Mitra Hormozi  
Daniel J. Horwitz  
Marvin E. Jacob  
Seymour Knox, IV  
Gary J. Lavine  
Mary Lou Rath (*via* Telephone @ 10:35 a.m. to 11:30 a.m.)  
David A. Renzi  
George H. Weissman  
Ellen Yaroshefsky

**Staff:** Ellen N. Biben, Executive Director  
Monica J. Stamm, Chief of Staff and Deputy Counsel  
Kitty Kay Chan, Chief Economist & Director of Audit and Review  
John T. Milgrim, Director for External Affairs  
Letizia Tagliafierro, Director of Investigations and Enforcement  
Patrick Coultry, Chief Investigator  
Jack Patterson, Confidential Investigator  
Robert Cohen, Special Counsel and Director of Ethics and Lobbying  
Compliance  
Shari Calnero, Associate Counsel  
Louis Manuta, Associate Counsel  
Michele Petruzzelli, Manager of Training  
Jeannine Clemente, Director of Administration  
Deborah Novak, Executive Assistant

**I. OPENING STATEMENT**

Chair DiFiore opened the Public Session and welcomed Commissioner LaShann DeArcy to the Commission.

David Grandeau publicly delivered a complaint on behalf of his client Chevron Corporation concerning NYS Comptroller Thomas DiNapoli.

**II. MINUTES - PUBLIC SESSION – SEPTEMBER 27, 2012**

Upon motion made by Commissioner DeIorio, which was seconded by Commissioner Horwitz, the Minutes from the Public Session of the September 27, 2012 Commission Meeting were approved by unanimous vote. Commissioner Rath was not present for this vote.

**III. EXECUTIVE DIRECTOR’S REPORT**

**Staff Update**

Executive Director Biben provided a staff update and announced that the Commission has hired two auditors, one of whom has already started and another who will be starting shortly.

**2nd Quarter Financial Report**

Director of Administration Jeannine Clemente reported that through the end of September 2012, the Commission has spent \$1.2 million on personal services expenses and \$355,000 on non-personal services. The Commission has spent a total of \$1.57 million for the year, which is approximately 39% of the Commission's budget.

**Academic FDS filing date - November 15, 2012**

Executive Director Biben announced that the academic financial disclosure statement filing date was November 15, 2012. The filings went smoothly and she thanked staff for handling the process as well as they did.

### **Training Update**

Executive Director Biben introduced Manager of Training Michele Petruzzelli, an experienced attorney who served for a number of years at the Department of Health, to brief the Commission on the progress of her team.

Michele Petruzzelli announced that the Education Resource Group is comprised of herself and Training Associates Marlena Diaz and Carol Mirabelli, who have been working hard to achieve the Commission's educational goals. She discussed the Group's accomplishments to date and plans going forward, including the creation of a community of practice among State ethics officers, an outreach program conducted in October, upcoming instructor-led trainings on the new Lobbying Law disclosure requirements in December, instructor-led upcoming ethics trainings in December and January, and regular additional of training materials on the Commission's website.

### **Regulations**

The Executive Director announced the Records Access Regulations which were proposed and adopted earlier this year pursuant to SAPA are now effective and are posted on the Commission's website.

The Executive Director informed the Commission that the 45-day public comment period has concluded on the proposed Source of Funding regulations which the Commission adopted on July 31, 2012 to effectuate one of the new disclosure requirements in Public Integrity Reform Act ("PIRA). Prior to the adoption of the proposed regulations, the Commission held a public hearing on the disclosure requirements after which informal public comments were solicited to assist staff in drafting the proposed regulations.

The Commission must now consider whether to adopt the regulations as proposed or to modify the regulations and submit them to a another period of public comment for 30 days. It was discussed that the Commission could

adopt the regulations on an emergency basis in order to have clarity for the first relevant filing date on January 15, 2013 and proceed on a parallel track with the proposed final regulations.

Staff has had the opportunity to be informed by the thoughtful and productive comments from the regulated community and good government groups throughout this process. Ms. Biben commended the Commission and staff for spending so much time and thought and deliberation on these regulations. Staff has concluded, that notwithstanding the public comments, the proposed regulations are sound, thoughtful and legally defensible and they provide for the disclosure that is intended by the statute. However, some of the comments raise questions about the statutory language relating to "used to fund lobbying activities." Ms. Biben discussed a viable alternative to the proposed regulations which would address this concern but remain true to the statutory intent: require disclosure of the identity of any source of funding of more than \$5,000, but limiting disclosure of the amount of the contribution from that source to a share proportional to the Client's lobbying expenses.

The Commissioners discussed the proposed change to the regulations. It would require a definition of "amount of contribution" as follows:

Amount of Contribution(s) shall mean, for each Contribution not specifically designated for lobbying in New York, the product of (i) the dollar amount of the Contribution and (ii) the Reportable Compensation and Expenses divided by the Total Expenditures. The Amount of Contribution shall also include, in addition to the amount yielded by this formula, any Contribution specifically designated for lobbying in New York.

A motion was made by Chair DiFiore, which was seconded by Commissioner Hormozi, to approve the regulations as modified to include the proposed definition. The motion was approved by unanimous vote.

A was motion made by Commissioner Horwitz, which was seconded by Commissioner Yaroshefsky, to adopt the proposed regulations on an emergency basis. This motion was approved by unanimous vote.

**Staff Recusal Policy**

Chair DiFiore noted that the discussion concerning the staff recusal policy will reference pending investigative matters and therefore the agenda item will be moved into Executive Session.

**IV. NEW AND OTHER BUSINESS**

There was no new business.

**V. MOTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO EXECUTIVE LAW §94(19)(b)**

A motion to enter into Executive Session pursuant to Executive Law §94(19)(b) was made by Commissioner Horwitz, seconded by Commissioner Covello, and was approved by unanimous vote.

**VI. PUBLIC ANNOUNCEMENT OF ACTIONS FROM EXECUTIVE SESSION**

Executive Director Biben announced that there has been discussion about developing new regulations for gifts and related issues. Until staff has the proposed regulations on gifts and related provisions, and in anticipation of the holiday season, staff suggested the Commission adopt interim guidance to clarify the Commission's current position based on recent amendments to the relevant statutes and former advisory opinions with respect to the gift provisions.

A motion was made by Commissioner Bulgaro, which was seconded by Commissioner DeArcy, to authorize staff to issue interim guidance consistent with the current precedent with respect to the gift prohibition and was approved by unanimous vote.

**VII. MOTION TO ADJOURN THE PUBLIC MEETING**

Upon motion made by Commissioner Yaroshefsky, seconded by Commissioner DeArcy, which was approved by unanimous vote, the meeting was adjourned.