

**MINUTES OF THE PUBLIC SESSION OF THE  
JUNE 28, 2016  
COMMISSION MEETING  
OF THE JOINT COMMISSION ON PUBLIC ETHICS  
HELD AT THE COMMISSION'S OFFICE LOCATED AT  
540 BROADWAY  
ALBANY, NEW YORK**

**Chair:** Daniel J. Horwitz (ALB)

**Members:**

Seymour Knox, IV (ALB)  
Hon. Eileen Koretz (NYC)  
Gary J. Lavine (ALB)  
Hon. Mary Lou Rath (BUF)  
David A. Renzi (Webex)  
Michael A. Romeo, Sr. (ALB)  
Hon. Renee R. Roth (NYC)  
Dawn L. Smalls (NYC)  
George H. Weissman (ALB)

**Members**

**Absent:**

Marvin Jacob  
Michael K. Rozen

**Staff:**

Seth H. Agata, Executive Director  
Monica J. Stamm, General Counsel  
Martin L. Levine, Director of Lobbying and Financial Disclosure Compliance and  
Senior Counsel  
John P. Harford, Special Counsel and Director of Ethics and Lobbying Guidance  
Walter J. McClure, Director for External Affairs  
Pei Pei Cheng-deCastro, Director of Investigations and Enforcement  
Emily A. Logue, Investigative Counsel  
Patrick E. Coultry, Chief Investigator  
Terence Mulderrig, Senior Investigator  
Peter J. Smith, Investigator  
Michael Sande, Associate Counsel  
Leah Ramos, Associate Counsel  
Lori Donadio, Confidential Legal Assistant  
Deborah Novak, Executive Assistant

**I. CALL TO ORDER**

Chair Horwitz called the June 28, 2016 Commission Meeting to order.

**II. APPROVAL OF MINUTES – PUBLIC SESSION**

**May 24, 2016**

A motion was made by Commissioner Weissman, which was seconded by Commissioner Romeo, to approve the Minutes from the Public Session of the May 24, 2016 Commission Meeting. The motion was approved by unanimous vote of Chair Horwitz and Commissioners Knox, Koretz, Lavine, Rath, Renzi, Romeo and Weissman. Commissioners Roth and Smalls were not present for this vote.

**June 20, 2016**

A motion was made by Commissioner Weissman, which was seconded by Commissioner Romeo, to approve the Minutes from the Public Session of the June 20, 2016 Commission Meeting. The motion was approved by unanimous vote of Chair Horwitz and Commissioners Knox, Koretz, Lavine, Rath, Renzi, Romeo and Weissman. Commissioners Roth and Smalls were not present for this vote.

**III. REPORT FROM STAFF**

**Legislative Update & Impact Regulations**

Executive Director Seth Agata presented a summary of the end of session legislation, portions of which will impact JCOPE. At this time, the legislation has not been delivered to the Governor for his signature and is not yet in effect. Among other things, Executive Director Agata discussed the changes to the source of funding disclosure requirements under the Lobbying Act, new political consultant registration and disclosure requirements which are filed with the Department of State, a change to the definition of lobbying to exclude communications with professional journalists, and technical changes to the financial disclosure requirements in the Public Officers Law. The changes to source of funding include lowering the expenditure threshold from \$50,000 to \$15,000, and lowering the contribution limits from \$5,000 to \$2,500. The legislation added new disclosure requirements for 501(c)(3) corporations who contribute to 501(c)(4)

corporations. These new disclosures will be regulated by the Office of the Attorney General (OAG) and then provided to JCOPE to post unless the OAG finds that the donors may be harmed. In addition, 501(c)(4) corporations who engage in advocacy other than lobbying will have to disclose information concerning those activities with the OAG.

General Counsel Monica Stamm discussed the effect of the legislation on JCOPE's investigation and adjudicatory procedures. Among other things, General Counsel Stamm covered the changes to the hearing process. The new legislation resolves a question relating to hearings over matters concerning legislative members and employees by expressly providing that JCOPE conducts hearings for all matters before to issuing a substantial basis investigation report. If the report involves a member or employee of the Legislature it is then referred to the Legislative Ethics Commission. Under the current law, and regulations adopted by the Commission, after the charges are made public in the substantial basis investigation report, JCOPE conducts a public hearing. Hearings will be confidential under the new legislation.

### **Mandatory Ethics Training**

Special Counsel and Director of Ethics and Lobbying Guidance, John Harford gave an update on upcoming trainings scheduled to help satisfy the mandatory training requirement for anyone who is an FDS filer and must take either the comprehensive ethics training or the seminar every three years. Director Harford explained that pursuant to Executive Law §94(10), JCOPE was required to develop a 90 minute seminar, which has been developed and submitted to the CLE board for review and certification. A response is expected in August. The training unit has begun to schedule non-CLE training sessions on August 16th, and the 23<sup>rd</sup>, for non-lawyers who need to meet their three year requirement to update their training. Additional dates in September will be scheduled with the hope that the CLE certification is completed.

General Counsel Stamm explained that the JCOPE Commissioners may be required to take ethics training before the end of the year and staff will notify those affected.

### **Ethics Officer Forum & Newsletter**

Director Harford announced that the training unit has scheduled an Ethics Forum with ethic officers from the various agencies for July 15<sup>th</sup>, on the subject of post-employment restrictions. The forum conducted in the winter was very productive and was well received by the ethics officers. In addition, the summer edition of the newsletter will be sent out in the middle of July.

### **Internal Controls**

Executive Director Agata advised the Commission that a staff wide meeting was held last week on implementing and following up on internal controls as part of the agency's ongoing internal control program.

## **IV. RESOLUTION CONCERNING FINANCIAL DISCLOSURE FILINGS**

Director of Lobbying and Financial Disclosure Compliance and Senior Counsel, Martin Levine explained that dating back to the Commission on Public Integrity and the State Ethics Commission, there has been a practice of accepting New York City financial disclosure filings from those city officials who are also appointed to State Boards, either by designation of an appointing authority, or by statute through an ex-officio appointment. The rationale was that the City filing was broader in scope than that under Public Officers Law §73-a and therefore there wasn't a need for duplicative filings. In 2010 the Commission on Public Integrity adopted a resolution memorializing this practice. However, the state financial disclosure form has been expanded since 2011, so the scope of the financial disclosure statement under Public Officers Law §73-a is now broader than that filed with the City's Conflicts of Interest Board. Consequently, staff proposes a resolution for the Commission's consideration pursuant to which the Commission would continue to accept the City filing, provided that the filer also submit a supplemental form that will include all the information not captured at the City level but required at the State level. Generally, those questions focus on activities of spouses and minor children and include the changes to the client disclosure requirements for public officers who maintain outside practices as attorneys or other regulated professions.

A motion was made by Commissioner Rath, which was seconded by Chair Horwitz, to adopt as drafted the Resolution related to the New York City Conflicts of Interest Board Annual Disclosure Reports. The motion was approved by unanimous vote of Chair Horwitz and Commissioners Knox, Koretz, Lavine, Rath, Renzi, Romeo, Roth and Weissman. Commissioner Smalls was not present for this vote.

**V. REPORT FROM MANAGEMENT COMMITTEE**

Executive Director Agata reported that he met with the Management Committee and presented a proposed internal reorganization chart. The Committee made some suggestions, and those suggestions will be taken into account, and a proposal will be presented to the full Commission at the August meeting. In substance, the biggest change is to break out the current lobbying and financial disclosure compliance section into two sections and have a separate Director of Lobbying. All lobbying queries, filings and issues will be funneled to the Director of Lobbying so that the expertise will be developed in that area and there will be “one stop shopping” for people who have lobbying questions or needs. There will be a separate Director of Ethics who will deal with similar issues for the state employees, or public officers who have questions. There would be sharing of training and auditing staff between those two divisions.

General Counsel Stamm reported that based on the authority that has been granted, staff has hired an Assistant Filing Specialist and a Compliance Auditor, who will be starting in the coming weeks. In addition, staff has interviewed between 5 and 10 candidates for the Associate Counsel positions.

Executive Director Agata stated that there is a vacant Manager of Training position to oversee the staff that develops and provides the ethics training program discussed earlier and requested authority from the Commission to fill that position.

A motion was made by Chair Horwitz, which was seconded by Commission Roth, to authorize staff to hire a Manager of Training. The motion was approved by unanimous

vote of Chair Horwitz and Commissioners Knox, Koretz, Lavine, Rath, Roth, Renzi, Romeo and Weissman. Commissioner Smalls was not present for this vote.

**VI. NEW AND OTHER BUSINESS**

**Resolution to Extend Lobbying Amnesty Program**

Director Levine discussed that the Commission has previously authorized a limited amnesty program for lobbyists and clients who had failed to file their reports. The program was approved by the Commission at the end of 2015 and runs through June 30, 2016. In the last few days, staff has been inundated with applications and calls about the amnesty program. A number of the calls relate to whether an activity constitutes lobbying. These calls have been concentrated in the construction, architecture and engineering industries, in light of the change to the definition of lobbying in 2011. Staff would like more time to resolve these legal issues before the amnesty application period closes. Staff requested a resolution of the Commission to extend the amnesty program for three months. A draft Resolution was circulated to the Commission for review.

A motion was made by Commissioner Weissman, which was seconded by Commissioner Romeo, to adopt as drafted the Resolution to extend the Lobbying Amnesty Program until September 30, 2016. The motion was approved by unanimous vote of Chair Horwitz and Commissioners Knox, Koretz, Lavine, Rath, Renzi, Romeo, Roth and Weissman. Commissioner Smalls was not present for this vote.

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

A motion was made by Commissioner Romeo and seconded by Commissioner Roth to enter into Executive Session pursuant to Executive Law §94(19)(b). The motion was approved by unanimous vote of Chair Horwitz and Commissioners Knox, Koretz, Lavine, Rath, Renzi, Romeo, Roth and Weissman. Commissioner Smalls was not present for this vote.

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

Chair Horwitz announced that, during the Executive Session, pursuant to Executive Law §94(19)(b), the Commission discussed with its counsel several privileged matters involving a number of litigation matters in which the Commission is involved. The Commission granted a request by the staff to communicate with various agencies on FDS compliance regarding specific individual filers. The Commission considered a request for an Advisory Opinion related to the post-employment restrictions under the Public Officers Law and will be issuing an Advisory Opinion with the name of the requestor redacted pursuant to statute. The Commission considered and opened three new Substantial Basis Investigations and considered, discussed three or four more matters, and adjourned decisions on opening some Substantial Basis Investigations. The Commission granted authority to the staff to communicate with a number of agencies in connection with investigative complaints that were received. The Commission closed one open matter.

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

A motion was made by Commissioner Weissman, which was seconded by Commissioner Koretz, to adjourn the Public Meeting. The motion was approved by unanimous vote of Chair Horwitz and Commissioners Knox, Koretz, Lavine, Rath, Renzi, Romeo, Smalls and Weissman. Commissioner Roth was not present for the motion.