

**MINUTES OF THE PUBLIC SESSION OF THE
JUNE 25, 2013
COMMISSION MEETING
OF THE JOINT COMMISSION ON PUBLIC ETHICS
HELD AT THE COMMISSION'S OFFICE LOCATED AT
540 BROADWAY
ALBANY, NEW YORK**

Present:

Chair: Daniel J. Horwitz

Members:

David Arroyo
Patrick Bulgaro
Hon. Joseph Covello
LaShann DeArcy (*via* Skype)
Hon. Vincent DeIorio
Marvin E. Jacob (*via* Teleconferencing)
Seymour Knox, IV
Gary J. Lavine
Hon. Mary Lou Rath (*via* Teleconferencing)
David A. Renzi
George H. Weissman

Members

Absent:

Mitra Hormozi
Ellen Yaroshefsky

Staff:

Monica J. Stamm, Chief of Staff and Deputy Counsel
Jeannine Clemente, Director of Administration
Robert Cohen, Special Counsel and Director of Ethics and Lobbying
Compliance
Martin L. Levine, Director of Audit and Review and Senior Counsel
John T. Milgrim, Director for External Affairs
Letizia Tagliafierro, Director of Investigations and Enforcement
Shari Calnero, Senior Counsel and Manager of Training
Louis Manuta, Associate Counsel
Deborah Novak, Executive Assistant
Patrick E. Coultry, Chief Investigation
Lori Donadio, Legal Assistant

I. OPENING STATEMENT

Chair Horwitz opened the Public Session and introduced the newest Commissioner, David Arroyo, who was recently appointed to fill the vacant seat on the Commission. The Commission welcomed Commissioner Arroyo, who has a very impressive background in the legal profession and has a long history of public service.

II. MINUTES - PUBLIC SESSION – MAY 28, 2013

Upon motion made by Commissioner DeIorio, which was seconded by Commissioner Covello, the Minutes from the Public Session of the May 28, 2013 Commission Meeting were approved by unanimous vote. Commissioner Rath was not present on video conferencing when the vote was taken.

III. REPORT FROM STAFF

Update on Training

Shari Calnero, Senior Counsel and Manager of Training, provided an update on the Commission's education program. The Commission has developed a "Train the Trainer" program to implement the new statutory mandate to provide the Comprehensive Ethics Training Course to all FDS filers by August 15, 2013. To date, staff trained over 200 ethics officers and training staff from agencies throughout the State. These ethics officers and trainers will present JCOPE's Comprehensive Ethics Training Course to their own staff in order to meet the statutory deadline.

Staff's next project is the statutorily-mandated development of an on-line ethics training course for lobbyists. The statutory deadline by which lobbyists must complete this training is August 15, 2014. This is a multi-faceted project, which involves both content and software development. With this project, staff will roll out JCOPE's on-line training presence.

In addition, staff will be adding more training materials to the website and developing instructional content that is more tailored to specific ethics and lobbying issues, such

as updates relating to new regulations. Staff will keep the Commission posted as these projects develop.

Update on Roundtable discussions with Regulated Community

Monica Stamm, Chief of Staff and Deputy Counsel informed the Commission that the next Roundtable discussion will be held on Friday, June 28, 2013 which will be in both Albany and New York City via video conferencing. It will be on the random audit program required under the Lobbying Act. JCOPE will continue to host roundtable discussions and will announce them through e-blasts and the website. Ms. Stamm invited ethics officers, lobbyists and clients to make suggestions for future topics.

Update on Annual Financial Disclosure Statements

Monica Stamm stated that, on June 30, JCOPE should receive the Legislative Financial Disclosure Statements from the Legislative Ethics Commission. As soon as possible thereafter during the following week, the FDS filings for members of the Legislature will be posted, for the first time, on JCOPE's website. Under PIRA, there is information that will be disclosed in the filings for the first time. To date, the Commission has received approximately 18,000 filings, not including the Legislative filings.

Commissioner Bulgaro asked whether appointees to Public Authorities are required to file. Martin Levine, Director of Audit and Review and Senior Counsel explained that the requirement to file is set forth in Section 73-a of the Public Officers Law and is based on certain criteria, including how the authority or board is structured and whether the Governor appoints a board member. The Commission routinely considers questions from authorities as to whether their board members or employees are required to file under the Public Officers Law.

IV. REGULATIONS

Update on approved Regulations

Monica Stamm provided an update on the regulations. The Source of Funding regulations that were adopted by the Commission were published in the State Register on June 5. The public comment period will end on July 5, and staff anticipates it will present the regulations to the Commission at the July meeting for final approval. The proposed Source of Funding regulations are currently in effect as emergency regulations. The proposed Gift and related regulations, which the Commission adopted, are in the process of being submitted to be published in the State Register.

Draft Public Service Announcement Regulations

Monica Stamm stated that, in December, staff presented a draft version of Public Service Announcement ("PSA") regulations to the Commission as part of the package of Gift and related regulations. At that time, staff proposed to post the regulations on the website as drafts, invite informal comments from the regulated community, and engage in a dialogue with interested parties about those draft regulations. The Commission already has moved forward with the gift and related regulations, and now staff is coming back to the Commission with the PSA regulations. Executive Law §94 expressly provides that the Commission should adopt Public Service Announcement regulations. Based on its dialogue with the community, staff has made substantial changes to the draft regulations, and therefore, staff proposes that the Commission post the draft on the website, invite another round of informal comments, continue the dialogue with the regulated community, and then present a proposed regulation to the Commission in the near future for a vote. No action is required by the Commission at this time.

Rob Cohen, Special Counsel and Director of Ethics and Lobbying Compliance presented and discussed the draft PSA regulations. The regulations cover only a subset of PSA's, those in which a State officer or employee appears. A communication in which a State officer or employee does not appear is not covered by the regulations. The PSA regulations embody the policy that Public Service

Announcements benefit the public interest. Thus, if a communication meets the numerated requirements for a PSA set forth in the regulations, it is not going to be deemed a gift under the proposed Gift regulations. The PSA regulations are designed to ameliorate any chilling effect that the prohibitions on gifts may unintentionally have on the production and dissemination of PSAs. That said, the regulations are also designed to prevent any potential misuse of any PSA's by certain State officers and employees who are also running for office. To this end, the proposed PSA regulations prohibit certain State officers and employees who are candidates for office from appearing in a PSA ninety days before any election. The proposed PSA regulations only apply to communications that feature the four elected statewide officials, members of the legislature and executive directors and heads of State agencies. Many of the changes were based on the public comments we received.

V. NEW AND OTHER BUSINESS

There was no new or other business.

VI. 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) to discuss investigative and personnel matters was made by Commissioner Covello, seconded by Commissioner Knox, and was approved by unanimous vote.

VII. PUBLIC ANNOUNCEMENT OF ACTIONS FROM EXECUTIVE SESSION

Chair Horwitz reported that during the Executive Session, the Commission took the following matters under consideration. The Commission granted an exemption from the Source of Funding reporting requirements under PIRA for NARAL Pro-Choice New York, for a period ending July 2016. The Commission approved a number of substantial basis investigations settlements, considered several investigative matters, agreed to defer certain investigation matters at the request of a law enforcement agency, and the Commission is continuing the effort to recruit an Executive Director to replace former Executive Director Ellen Biben.

VIII. MOTION TO ADJOURN THE PUBLIC MEETING

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