



# STATE ETHICS COMMISSION

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334  
404-463-1980 | [www.ethics.georgia.gov](http://www.ethics.georgia.gov)

**Regular Meeting | December 2, 2010 | 2:00 p.m.**

## **Commission Meeting Minutes**

### **PRESENT:**

#### Commission Members:

Patrick Millsaps, Commission Chairman  
Josh Belinfante, Commission Vice Chairman  
Hillary Stringfellow, Commission Member  
Kevin Abernethy, Commission Member  
Kent Alexander, Commission Member

#### State Ethics Commission Staff Present:

Stacey Kalberman, Executive Secretary  
Sherilyn Streicker, Deputy Executive Secretary

#### Office of the Attorney General Staff Present:

Stefan Ritter, Senior Assistant Attorney General  
Meron Dagnew, Assistant Attorney General

### **OPENING COMMENTS BY THE CHAIRMAN:**

Chairman Millsaps opened the meeting by noting that this meeting would be the last of the Commission under the name 'State Ethics Commission'. The next time the Commission convenes it will be under its new name 'This Georgia Government Transparency and Campaign Finance Commission' a.k.a Campaign Finance Commission.

Chairman Millsaps welcomed Kent Alexander back to the Commission.

Chairman Millsaps lead those in attendance in the Pledge of Allegiance.

### **APPROVAL OF MEETING MINUTES:**

Approval of August 17, 2010, September 2, 2010, and November 4, 2010 Commission Meeting minutes.

***Moved to approve: Hillary Stringfellow      Seconded: Josh Belinfante      Carried: 5 - 0***

## **RULEMAKING AUTHORITY OF THE STATE ETHICS COMMISSION:**

Chairman Millsaps stated that the Commission asked the Office of the Attorney General to provide guidance on the standing of its rulemaking authority.

Stacey Kalberman provided the following background information:

- In 2009, there was a change in the Ethics Act which appeared to limit the Commission's rulemaking authority. The Commission has run into several problems as a result of this limitation. Those problems include the ability to amend, repeal or adopt new rules. This is an issue for the Commission for it is charged with interpreting the law as well as implementing it.
- The Commission is in need of changing several rules because of recent decisions that have been made by the Commission, as well as changes that have occurred resulting from the passage of last year's legislation SB-17 which made very large changes to the Ethics Act.
- The State Ethics Commission has requested from the Attorney General an opinion of its rights in this matter and the Attorney General has issued a letter to the Commission in response

Stefan Ritter, Senior Assistant Attorney General, addressed the Commission regarding the Attorney General's response as follows:

- The Attorney General's office carefully reviewed the 2009 Legislation of which had the unique effect of limiting the Commission's ability to issue new rules.
- The key issue is what was the effect of attempted repealer of existing rules?
- It was determined by the Attorney General's Law Department that in their view;
  1. **If a repealer had the effect of eliminating a rule or effectively creating a new rule by the repeal, then the Commission cannot do so under the existing legislative scheme.**
  2. **If the rule is simply one that is housekeeping in nature, that is, it cleans up language, perhaps provides a little clarification without changing any obligations, then it is probably valid.**
  3. **An attempt to simply repeal an existing rule would probably be invalid.**

## **POSTING OF DRAFT ADVISORY OPINIONS FOR COMMENT**

Chairman Millsaps addresses the Commission and those present that, on a trial basis, the Commission has been posting draft advisory opinions for view by the public and welcome comment from people that would be interested in or have an interest in those opinions. Comments were received and appreciated. It was reiterated that the posting of draft advisory opinions is still on a trial bases.

## ADVISORY OPINIONS

### Advisory Opinion 2010-04:

- Submitted by: Michael Zolandz of Sonnenschein Nath & Rosenthal, LLP on 7/30/10
- Consideration for adoption of response to Advisory Opinion Request 2010-04 regarding whether a federally-registered PAC of a regulated entity may contribute to a candidate for an elected executive office which regulates such entity.
- No comments were received on the posted draft advisory opinion.
- Presented by: Stacey Kalberman, Executive Secretary

§21-5-30.1 of the Act prohibits a regulated entity from contributing to an executive officer's campaign. Sonnenschein argues that federal PACs should be able to contribute to an executive officer's campaign because under federal law corporations are not permitted to contribute to federal PACs. Since corporations cannot contribute to federal PACs, regulated entities would not be contributing to the federal PACs.

However under the federal Election Law there is an exemption under the definition of "contribution" which permits corporations to establish PACs (in this case an insurance company). The federal Act permits the corporations to fund the establishment of the PACs, supply administrative support, materials, office space and provide employees to run the PACs. Under Georgia law there is no exemption under the definition of contribution. Anything given of value to a PAC is considered to be a contribution and administrative support would be considered to be a contribution by a regulated entity to a regulator.

- The Commission opened the floor for comment. One comment was made by Doug Chalmers, Political Law Group, a Chalmers LLC.

***Motion to amend the advisory opinion as suggested by Josh Belinfante***

***Motion made by: Josh Belinfante    Seconded by: Kevin Abernethy***

***Carried 5-0***

***Motion to adopt amended Advisory Opinion 2010-04***

***Motion made by: Kent Alexander    Seconded by: Josh Belinfante***

***Carried 5-0***

### **Advisory Opinion 2010-05:**

- Submitted by: Jan Witold Baran and Caleb P. Burns of Wiley Rein LLP on 8/5/10 AND 9/23/10
- Consideration for adoption of response to Advisory Opinion Request 2010-05 regarding whether Advisory Opinion 2001 32 is still valid and whether the Georgia campaign finance laws apply to activity limited to independent spending that does not use express words of advocacy.
- Comments received on the draft Advisory Opinion were posted.
- Presented by: Stacey Kalberman, Executive Secretary

In Advisory Opinion 2001-32, the Commission stated that, pursuant to the way the law was worded, express words of advocacy were needed in order for the Commission to regulate independent expenditures.

In 2010 the Supreme Court ruled on Citizens United which struck down the limitations on independent expenditures, but upheld the government's authority to regulate disclosure of independent expenditures.

#### **Conclusion of the Commission Staff:**

It is the opinion of the Commission Staff that Advisory Opinion 2010-05 is correct. However, because the Commission's rule-making authority is so uncertain it is recommended that the Commission do as planned which is to request that the legislator change the language with respect to the Commission's rulemaking authority. Therefore, at this time, this Advisory Opinion should be tabled and the Commission continue to have the Advisory Opinion 2001-32 in force so that the public will clearly understand the disclosure rules with respect to independent expenditures.

Caleb P. Burns of Wiley Rein LLP, requested that instead of tabling this opinion the Commission issue a formal response via an advisory opinion that would respond to their question regarding the Advisory Opinion 2001-32 is still in force .

The revised advisory opinion will be presented at the next commission meeting.

### **Advisory Opinion 2010-08:**

- Submitted by: Charles F. Palmer of Troutman Sanders, LLP on 11/1/10
- Are community improvement districts “agencies” as such term is defined in O.C.G.A §21-5-30.2(a)(1)?
- No comments were received on the posted draft advisory opinion.
- Presented by Stacey Kalberman

Community Improvement Districts (CIDs) have made contributions to political candidates. The Act states under §30.2 that agencies are prohibited from making contributions to political campaigns. The advisory opinion requested of the Commission asks if CIDs are a state agency as defined by the Act. The Act, §30.2, provides the definition of what an agency is; however, that definition does not provide a decisive and sufficient answer to the question.

A CID is permitted under the Constitution of Georgia and is constituted through a local authorization. A CID is a group of businesses in a specifically defined area that come together to supplement government services. The CID is funded through taxes that only impact the commercial property owners in that specific area; therefore, it is a very circumscribed structure. CIDs provide services such as additional transportation, beautification of the streets around their businesses, assistance with garbage pickup and additional policing of the area. The CID does not usurp government responsibilities.

The Commission Staff could not find any Georgia law on point; however the 1988 Second Circuit decision, *Kessler v. Grand Central District Management Association*, appears to be the seminal case in this area. Ms. Kalberman summarized the factors of the *Kessler* case which outlined whether a CID is a state agency.

#### **Conclusion of the Commission Staff:**

Based on the factors outlined in *Kessler*, the CIDs are not state agencies or authorities. They are a very specific community group created to supplement government services in a specific business area and have very limited authority to conduct those services.

The Commission opened the floor for comment.

- Comment was made by Chuck Clay, Board Member of Common Cause.
- Chuck Palmer, of Troutman Sanders and attorney for Central Perimeter Community Improvement District, commented that he supports the Commission Staff's conclusion. Mr. Palmer also stated that his client does not consider themselves to be an authority.

#### ***Motion to adopt Advisory Opinion 2010-05***

***Motion made by: Kent Alexander    Seconded by: Hillary Stringfellow***

***Carried 5-0***

## Advisory Opinion 2010-07:

- Submitted by: Jim Walls on 9/21/10
- Consideration for adoption of response to Advisory Opinion Request 2010-07 regarding whether the exemption from spending limits in support of a group or named candidates apply to legislative caucuses in the Georgia House and Senate.
- No comments were received on the posted draft advisory opinion.
- Kent Alexander recused himself from Advisory Opinion 2010-07 for he was reinstated to the Commission on December 1, 2010 (one day before this December 2, 2010 meeting).
- Presented by Stacey Kalberman, Executive Secretary.

§21-5-41(j) of the Act provides an exemption from the contribution limits for political parties supporting a party ticket or a group of named candidates.

*The contribution limitations provided for in this Code section shall not include contributions or expenditures made by a political party in support of a party ticket or a group of named candidates.*

The Commission Staff's suggested draft states that when a caucus is part of a political party and when there are no distinguishing factors between the caucus and the political party so that the caucus actually reports under the political party's disclosures, the caucus may be able to avail itself of the exemption. The Commission Staff based its recommendation on a prior, similar Commission case involving a caucus that was determined to be part of the Georgia Democratic Party.

Commissioner Belinfante disagreed with the Commission Staff's conclusion for the reason that §21-5-40(6) defines a caucus as a political committee which is distinct from the definition of political party under § 21-5-40 (6.1). The Commission should rely on the language of the statute rather than going with a several factor test. Commissioner Stringfellow commented that a touchstone test for a party is whether it can or cannot nominate a candidate a caucus cannot nominate a candidate.

Commissioner Belinfante proposed that the Commission Staff produce an Advisory Opinion that just points to the plain language of the statute, both in §21-5-41(j) and §21-2-2 which defines the nomination of a candidate as one of the key roles of a political party. The Commission members were in agreement with Commissioner Belinfante.

## Advisory Opinion 2010-07: Continued

### Commission Conclusion:

The Commission Staff will produce a revised draft advisory opinion as directed by the Commission.

## Advisory Opinion 2010-10:

- Submitted by: Robert Highsmith of Holland & Knight
- Whether telecommunication companies whose retail rates are not regulated by the Public Service Commission are governed by O.C.G.A §21-5-30(f) and therefore, would be prohibited from making contributions to political campaigns and providing logistical support to employee sponsored political action committees (PACs).
- No comments were received on the posted draft advisory opinion.
- Presented by Stacey Kalberman, Executive Secretary

### ISSUE 1: Whether telecommunication companies whose retail rates are not regulated by the Public Service Commission are governed by O.C.G.A §21-5-30(f)

Telecommunication companies have been significantly deregulated in the past several years particularly with respect to what is referred to as retail rates (the rates that individuals are charged for telecom services). As a result of the deregulation, Mr. Highsmith asked if telecom companies who request alternative regulation still fall under the prohibition under §21-5-30(f) which states that a person acting on behalf of a public utility corporation regulated by the Public Service Commission shall not make directly or indirectly any contribution to a political campaign.

After reviewing the telecom regulations and discussions with the Public Service Commission Legal Department and members of the Public Service Commission, the Commission Staff determined that although telecom companies may now choose alternative regulation for their retail rates, they are still heavily regulated by the Public Service Commission.

- Wholesale rates are still regulated by the Public Service Commission. Wholesale rates are those rates that telecom companies charge each other. The Public Service Commission still retains the right to regulate those rates when parties when they cannot agree on a contract rate.
- Certificates of Authority are still issued by the Public Service Commission.
- The Public Service Commission may adopt regional rules governing service quality and direct telecommunication companies to make investments and modifications necessary to enable portability.

### ISSUE 1: COMMISSION STAFF CONCLUSION:

The Commission Staff has come to the conclusion that telecom companies are still regulated by the Public Service Commission and as such they still fall under the requirements of §21-5-30(f).

## Advisory Opinion 2010-10: Continued

### **ISSUE 2: Would telecommunication companies be prohibited from making contributions to political campaigns and providing logistical support to employee sponsored political action committees (PACs).**

The second issue is whether public utility corporations and persons acting on behalf of them are prohibited from providing logistical support to employee-sponsored political action committees. While employee-sponsored political action committees are funded only by employees they are still administratively supported by the regulated entity.

### **ISSUE 2: COMMISSION STAFF CONCLUSION:**

It is the Commission Staff's opinion that the answer to Issue 2 is "no". The rationale is the same as that found in the recent passage of Advisory Opinion 2010-04. That is, administrative support is a contribution under Georgia law and as such the funds from the PAC cannot be contributed to public service commission members.

### ***Motion to adopt Advisory Opinion 2010-10***

***Motion made by: Kent Alexander    Seconded by: Hillary Stringfellow                      Carried 5-0***

## **PRELIMINARY HEARINGS:**

### **In the Matters of**

- |   |            |
|---|------------|
| • Gwinnett Place Community Improvement District   | 2008-0097F |
| • Perimeter Community Improvement Districts       | 2008-0097G |
| • Gwinnett Village Community Improvement District | 2008-0097H |
| • Cumberland Community Improvement District       | 2008-0097I |

Presented by: Sherilyn Streicker, Deputy Executive Secretary

### **Issue:**

Complainants' allege that the above referenced Community Improvement Districts violated the Ethics in Government Act by making financial contributions to Georgians for Community Redevelopment, a campaign committee. Complainants allege the Community Improvement Districts are public agencies and, as such, the donations made constitute violation of O.C.G.A. §21-5-30.2(b).

### **Conclusion of Commission Staff:**

Per the passing of Advisory Opinion 2010-08 these Community Improvement Districts are not public agencies.

### **Motion to dismiss complaints based on the adoption of Advisory Opinion 2010-08**

***Motion made by: Josh Belinfante    Seconded by: Kevin Abernethy                      Carried 5-0***

## PRELIMINARY HEARINGS: Continued

### In the Matters of

- |  |                                       |
|--|---------------------------------------|
| • Georgians for Community Redevelopment, Inc.                    | 2008-0097A, 2008-0099C,<br>2008-0105A |
| • A.J. Robinson  | 2008-0097B, 2008-0105B                |
| • Charles Strawser   | 2008-0097C, 2008-0105C                |
| • Central Atlanta Progress/Atlanta Downtown Improvement District | 2008-0097D                            |
| • Downtown Atlanta Community Improvement District                | 2008-0105D                            |
| • Atlanta Downtown Improvement District, Inc.                    | 2008-0105E                            |

Presented by: Sherilyn Streicker, Deputy Executive Secretary

### Issue 1 of 3:

In two related complaints, Complainants allege that Respondents Central Atlanta Progress/Atlanta Downtown Improvement District (“CAP/ADID”), Downtown Atlanta Community Improvement District (“DACID”), Atlanta Downtown Improvement District, Inc. (“ADID”) and individually A.J. Robinson and Charles Strawser in their capacities as President and Vice President of Finance of CAP, violated the Ethics in Government Act by making contributions to Georgians for Community Redevelopment (“GCR”), a campaign committee, in violation of O.C.G.A. § 21-5-30.2.

Complainants allege that CAP/ADID, DACID and ADID are so intertwined that they are one entity and, as DACID is a Community Improvement District, all of the Respondents fall under the definition of Agency for the purposes of the Act and their contributions to GCR constitute violations of O.C.G.A. § 21-5-30.2(b).

### Conclusion of Commission Staff 1 of 3:

It is the Staff’s conclusion, based upon Advisory Opinion 2010-08 and its investigation that CAP/ADID, ADID and DACID are not public agencies within the meaning of § 21-5-30.2(a)(1) of the Act, and, as such, their contributions to GCR are not illegal contributions under § 21-5-30.2(b) of the Act.

### Issue 2 of 3:

Complainant alleges that Respondents Georgia for Community Redevelopment (GCR), A.J. Robinson and Charles Strawser (in their capacities as Chairperson and Treasurer of Georgians for Community Redevelopment) failed to disclose approximately \$37,000 in campaign contributions from “private sources”, in violation of O.C.G.A. §21-5-34(2)(B) of the Act.

### Conclusion of Commission Staff 2 of 3:

The Commission Staff has audited the disclosure reports of GCR and found no evidence that GCR failed to disclose campaign contributions. The Complainant did not present any evidence that would lead the Commission to believe that GCR failed to disclose approximately \$37,000 in campaign contributions to the Ethics Commission.

## PRELIMINARY HEARINGS: Continued

### Issue 3 of 3:

In two related complaints, Complainants allege that Respondents Georgian for Community Redevelopment (GCR), A.J. Robinson and Charles Strawser (in their capacities as Chairperson and Treasurer of Georgians for Community Redevelopment, respectively) violated O.C.G.A. § 21-5-30.2(c) of the Ethics in Government Act (Act) by accepting contributions from CAP/ADID, DACID, AHA, CCID, GPCID, GVCID and PCID, which are alleged to fall under the Act's definition of Agency.

### Conclusion of Commission Staff 3 of 3:

If the Commission finds that the actions against the Respondents CAP, ADID and DACID are not a violation of §21-5-30.2(b), then GCR cannot be said to have accepted the contributions in violation of § 21-5-30.2(c).

### *Motion to dismiss complaints*

*Motion made by: Josh Belinfante    Seconded by: Kevin Abernethy*

*Carried 5-0*

<b>In the Matter of Atlanta Housing Authority</b>	<b>2008-0097E</b>
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Presented by: Sherilyn Streicker, Deputy Executive Secretary

### Issue:

Complainant asserts that the Atlanta Housing Authority (AHA) violated the Ethics in Government Act (Act) by donating \$5,000 to Georgians for Community Redevelopment (GCR), a campaign committee. Complainant asserts that this constitutes a contribution by a public agency in violation of O.C.G.A. §21-5-30.2(b) of the Act.

### Conclusion of Commission Staff:

It is the Commission Staff's conclusion that AHA is an Agency as defined by § 21-5-30.2 (a)(1). As such, the \$5,000 donation made by AHA to GCR is illegal under § 21-5-30.2 (b) and that there is probable cause to send this matter to administrative hearing for further review.

Chairman Millsaps summarized the situation by indicating that this hearing is before the Commission to determine, in a preliminary matter, whether the Atlanta Housing Authority, donation of \$5,000.00 to support GCR, provides enough probable cause for this Commission to move to recommend this case be moved or allowed to progress into a hearing.

### Motion to adopt the Commission Staff's conclusion

*Motion made by: Kent Alexander    Seconded by: Kevin Abernethy*

*Carried 5-0*

## PRELIMINARY HEARINGS: Continued

<b>In the Matters of</b>	<b>(Investigatory Report IV of IV)</b>
<b>Atlanta Development Authority</b>	<b>2008-0099A</b>
<b>Sonya Moste</b>	<b>2008-0099B</b>

Presented by: Sherilyn Streicker, Deputy Executive Secretary

### Issue 1 of 2:

Complainant asserts that the Atlanta Development Authority (ADA) and Sonya Moste violated the Ethics in Government Act (Act) by providing substantial assistance, effort and involvement to Georgians for Community Redevelopment (GCR), a campaign committee. Complainant asserts that this constitutes a contribution by a public agency in violation of O.C.G.A. §21-5-30.2(b) of the Act.

### Conclusion of Commission Staff 1 of 2:

The only direct violation of the Act by the ADA was the promotion of the ballot initiative in conjunction with a campaign committee (thus giving something of value to a campaign committee although not a direct monetary donation). In consideration of the circumstances, the Staff recommends and the Respondent has agreed to settle this matter by consent for which the Respondent has agreed to pay a civil penalty of \$1,000.

### Issue 2 of 2:

Investigation revealed that Sonya Moste, Director of Marketing for ADA, may have violated O.C.G.A. §21-5-71(a) by engaging in lobbying activity without being registered as a lobbyist.

### Conclusion of Commission Staff 1 of 2:

While Sonya Moste's actions may have constituted lobbying activity if conducted in reference to a bill/ ordinance or resolution pending before elected/ appointed officials, the definition of lobbying contained within the Act does not encompass advocacy efforts taken in reference to ballot initiatives and constitutional amendments.

### Motion to adopt the Commission Staff's conclusions

*Motion made by: Hillary Stringfellow      Seconded by: Kent Alexander      Carried 5-0*

<b>In the Matters of</b>	
<b>Charles Reid</b>	<b>2009-0035</b>
<b>Kathryn Gilbert</b>	<b>2009-0036</b>
<b>Lee Stuart</b>	<b>2009-0037</b>
<b>Mark Alcaron</b>	<b>2009-0038</b>

Presented by: Sherilyn Streicker, Deputy Executive Secretary

### Issue:

The Commission received 19 related complaints all filed by the same person, a Code Enforcement Officer for the City of Stockbridge. These complaints settled around factual situations that include candidates walking across school property carrying campaign signs,

## PRELIMINARY HEARINGS: Continued

candidates parking their cars in the City Hall parking lot with campaign ads and decals on their cars. The Code Enforcement Officer provided photographs with timestamps that indicated they taken as part of her work duties. It also appears that, according to news accounts, the City Council actually ordered some city personnel to seize the signs in question and reposition them in order to block other signs that were positioned on adjacent property.

### **Conclusion of Commission Staff:**

Investigation revealed that there were no colorable violations of the Ethics in Government Act.

### **Comment by Stacey Kalberman, Executive Secretary of the State Ethics Commission:**

Stacey Kalberman addressed the Commission and all present in stating that these cases could have been dismissed by the Commission Staff. However, they were brought before the Commission as an example of the type of frivolous complaints that the Commission and its staff are not meant to spend its extremely limited time and budget investigating. Under the new Ac, effective January 10, 2011, the Commission will have the ability to assess attorney's fees against Complainants for bringing frivolous complaints before the Commission.

### **Comments by Chairman Millsaps:**

Chairman Millsaps agreed with Stacey Kalberman's statements and reiterated that frivolous complaints that take up the underfunded and severely taxed time of Commission Staff will not be tolerated. The Commission will use the power granted by the new Act to bring action against the Complainants of such frivolous complaints.

### **Motion to dismiss complaints**

*Motion made by: Patrick Millsaps`*

*Seconded by: Kevin Abernethy*

*Carried 5-0*

<b>In the Matter of State Mutual Ins. Co.</b>	<b>2009-0024PC</b>
<b>In the Matter of Admiral Life Ins Co of America</b>	<b>2009-0025PC</b>

Presented by: Sherilyn Streicker, Deputy Executive Secretary and Stacey Kalberman, Executive Secretary

Commission Belinfante recused himself from these matters.

Sherilyn Streicker made a presentation from the attached PowerPoint (Exhibit A).

Randy Evans, representing the insurers argued a motion to dismiss the matter.

Stefan Ritter, Senior Attorney General discussed why the Commission is not an "informer".

Chairman Millsaps requested that the Commission Staff and the representation for State Mutual and Admiral Life submit supplemental briefs on the arguments just made with particular attention to the legal standards and definitions an "informer" by January 10, 2011. Reply briefs are due fifteen days following the initial briefs.

## CONSENT ORDERS:

<b>In the Matter of James R. Lientz</b>	<b>2006-0060</b>
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Presented by Meron Dagnew, Assistant Attorney General

**Issue:**

Respondent's 2005 and 2006 personal financial disclosure statements omitted certain fiduciary positions as well as certain investment interests were not listed separately. The respondent filed amended disclosure reports in 2007 listing all invested interests and all fiduciary positions.

**Conclusion of the Attorney General's Office:**

The Respondent did fail to properly disclose his fiduciary positions and investment interests. The Respondent agreed to a consent order including a fine of \$3,000 to be paid within 90 days of the date of this order

***Motion to accept Consent Order***

***Motion made by: Patrick Millsaps    Seconded by: Kent Alexander    Abstain: Josh Belinfante  
Carried 4-0***

## COMPLIANCE ORDERS:

<b>In the Matters of</b>	
<b>James Caldwell</b>	<b>2009-0039</b>
<b>Brent Newsome</b>	<b>2009-0040</b>
<b>Dan Peebles</b>	<b>2009-0041</b>

Presented by: Sherilyn Streicker, Deputy Executive Secretary

**Issue:**

Complaint alleged that Concerned Citizens for Progress in Varnell who took out a radio ad and Citizens for Continued Growth and Smart Decisions who distributed flyers were unregistered campaign committees.

**Conclusion of the Commission Staff:**

Investigation revealed that Concerned Citizens for Progress (CCP) purchased a radio ad. CCP consisted of group of friends that funded the radio time for their friend, Dan Peebles. CCP did not consider themselves to be a campaign committee and were not registered. When CCP learned of the complaint, they filed a campaign registration and showed no other contributions or expenditures except the \$300 for the radio ad.

All three parties have agreed to a Compliance Order.

***Motion to accept Compliance Order***

***Motion made by: Kent Alexander                      Seconded by: Hillary Stringfellow    Carried 5-0***

## COMPLIANCE ORDERS: Continued

**In the Matter of Steve Brodie**

**2009-0009**

Presented by: Sherilyn Streicker, Deputy Executive Secretary

**Issue:**

During 2009 City Council election, Mr. Brodie accepted contributions from four affiliated companies. As a result of the companies' affiliation, the contributions were required to be aggregated. The total of the aggregated contributions were \$400 over the contribution limit.

**Conclusion of the Commission Staff:**

Mr. Brodie has corrected the applicable report and agreed to a Compliance Order.

*Motion to accept Compliance Order*

*Motion made by: Patrick Millsaps*

*Seconded by: Hillary Stringfellow Carried 5-0*

## OTHER BUSINESS:

The Ethics in Government Act, specifically O.C.G.A. § 21-5-41(k), directs the State Ethics Commission to raise or lower the maximum contribution limits set forth in O.C.G.A. § 21-5-41 by \$100 increments based on inflation or deflation as determined by the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor. Such limitations shall apply until they are subsequently reviewed by the Commission.

The Commission staff has calculated the new amounts based on the Consumer Price Index (CPI) as shown in the below table:

Candidate Type	Election Type	As of 2/24/09	CPI 1.03 (As of 2/24/09 * 1.03)	Rounded To As of 12/2/10
Candidates for Statewide Offices	Primary Election	\$ 6,100	\$ 6,283	\$ 6,300
Candidates for Statewide Offices	Primary Run-Off Election	\$ 3,600	\$ 3,708	\$ 3,700
Candidates for Statewide Offices	General Election	\$ 6,100	\$ 6,283	\$ 6,300
Candidates for Statewide Offices	General Election Run-Off	\$ 3,600	\$ 3,708	\$ 3,700
Candidates for All Other Offices	Primary Election	\$ 2,400	\$ 2,472	\$ 2,500
Candidates for All Other Offices	Primary Run-Off Election	\$ 1,200	\$ 1,236	\$ 1,300
Candidates for All Other Offices	General Election	\$ 2,400	\$ 2,472	\$ 2,500
Candidates for All Other Offices	General Election Run-Off	\$ 1,200	\$ 1,236	\$ 1,300

### *Motion to accept adjustment of contribution limits*

*Motion made by: Patrick Millsaps      Seconded by: Kevin Abernethy      Carried 5-0*

## REPORT OF THE EXECUTIVE SECRETARY:

- The Commission Staff is continuing its preparations for the implementation of the new Ethics law on January 10, 2011 which includes a great deal of changes to our forms and systems.
- An additional programmer was hired, on a contract basis, to assist with the massive amount system changes needed to comply with Senate Bill 17. The Commission is in clear need of the contract position to be turned into a staff position. However, should the legislature cut the Commission's budget again, not only will the contract position be eliminated but furlough days for the entire staff may need to be implemented.

## REPORT OF THE EXECUTIVE SECRETARY: Continued

- Chairman Millsaps questioned Stacey Kalberman about some of the requirements of the Commission.


<i>Chairman Millsaps' Questions</i>	<i>Stacey Kalberman, Executive Director, Responses</i>
The statute requires the Commission/Board to make changes to certain rules, correct?	Correct
The Commission has the authority to change those rules, correct?	No
The statute requires that we audit a certain amount of filing, correct?	All filings
How many filings are expected?	68,000
How many auditors do we have?	One
Is the only way to obtain new bandwidth through extra money?	Yes

- At the request of Chairman Millsaps, Stacey Kalberman expounded on the agency's bandwidth issue. There is great concern, particularly with respect to the changes in the lobbyist portion of the law, that the Commission's e-filing system will now be able to handle the traffic of the multitude of lobbyists and other filers accessing their account at the same time - particularly on filing due dates. If a filer does not file on time a late fee will be assessed. This will occur even if the late filing is not the fault of the filer, but where the system crashes because too many users are trying to access it at the same time. Consider that the Commission had 7,800 filing or so prior to this year. Now we are going to have 68,000 over the course of the new year. This increase in our website traffic will result in access problems due to the lack of funds to increase the system's bandwidth.

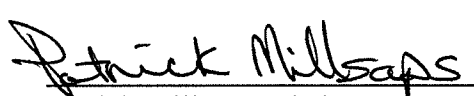
The Meeting was adjourned at approximately 6:38 p.m.

### Official Minutes Statement

The foregoing Minutes for the December 2, 2010 meeting of the State Ethics Commission were approved and adopted by the Commission at the Commission's meeting on March 1, 2011.

  
Stacey Kalberman, Executive Secretary

3/3/11  
Date

 signed by Stacey Kalberman w/ permission  
Patrick Millsaps, Chairman

3/3/11  
Date

# EXHIBIT A

# State Ethics Commission Meeting

## December 2, 2010

### 2:00 PM



In the Matter of State Mutual Ins. Co.  
In the Matter of Admiral Life Ins Co of America  
In the Matter of Cash-N-Check PAC  
In the Matter of Courtside Suite 10 PAC  
In the Matter of First Highland Ave. PAC  
In the Matter of Georgia Dome PAC  
In the Matter of LIFT PAC  
In the Matter of Peachtree PAC  
In the Matter of Philips PAC  
In the Matter of South Perry PAC  
In the Matter of The Watkins Group PAC  
In the Matter of Turner PAC  
In the Matter of Donald V. Watkins, Jr.

Case Numbers:

2009-0024PC; 2009-0025PC; 2009-0013PC; 2009-0014PC; 2009-  
0015PC; 2009-0016PC; 2009-0017PC; 2009-0018PC; 2009-  
0019PC; 2009-0020PC; 2009-0021PC; 2009-0022PC; 2009-0023PC

# Undisputed Facts

- State Mutual Insurance Company (State Mutual) and Admiral Life Insurance Company of America (Admiral Life), are regulated entities
- In 2008, State Mutual and Admiral Life contributed \$120,000.00 to 10 Political Action Committees (PACs) based in Alabama
- These 10 PACs contributed \$120,000.00 (\$12,000.00 each) to John Oxendine's campaign for governor

# Questions before the Commission

- Are there reasonable grounds to believe that State Mutual and Admiral Life, affiliated companies, violated § 21-5-41(c) by making aggregated election contributions of over \$11,800.00 to the Oxendine Campaign?
- Are there reasonable grounds to believe that State Mutual and Admiral Life, as regulated entities, violated § 21-5-30.1(b) by making contributions to the Elected Executive Officer who was currently their regulator?
- Are there reasonable grounds to believe that the 10 PACs violated § 21-5-30.1(b) by making election contributions to the Oxendine Campaign on behalf of State Mutual and Admiral Life?

# **State Mutual & Admiral Life are AFFILIATED CORPORATIONS**

- ***O.C.G.A. § 21-5-40(2) “Affiliated corporation” means with respect to any business entity any other business entity related thereto: as a parent business entity; as a subsidiary business entity; as a sister business entity; by common ownership or control; or by control of one business entity by the other.***
- **State Mutual Insurance Company owns 100% of Admiral Life Insurance Company of America**
- **Delos Yancey III is the CEO of both companies**
- **Donald V. Watkins, Sr is a Director of both companies**
- **Both companies are operated from the same building in Rome, Georgia**

# State Mutual contributions on 9/16/2008



## 10 Political Action Committees

- State Mutual wrote \$2,000.00 check (#004303) to Cash-N-Checks PAC
- State Mutual wrote \$2,000.00 check (#004305) to Courtside Suite 10 PAC
- State Mutual wrote \$2,000.00 check (#004308) to First Highland Avenue PAC
- State Mutual wrote \$2,000.00 check (#004309) to Georgia Dome PAC
- State Mutual wrote \$2,000.00 check (#004313) to Lift PAC
- State Mutual wrote \$2,000.00 check (#004316) to Peachtree PAC
- State Mutual wrote \$2,000.00 check (#004317) to Phillips PAC
- State Mutual wrote \$2,000.00 check (#004318) to South Perry PAC
- State Mutual wrote \$2,000.00 check (#004322) to The Watkins Group PAC
- State Mutual wrote \$2,000.00 check (#004319) to Turner PAC

# PAC contributions on 9/17/08

## 10 Political Action Committees

John Oxendine  
for a  
Better Georgia

- Cash-N-Checks PAC wrote \$2,000.00 check (#1003) to Oxendine Campaign
- Courtside Suite 10 PAC wrote \$2,000.00 check (#1004) to Oxendine Campaign
- First Highland Avenue PAC wrote \$2,000.00 check (#1050) to Oxendine Campaign
- Georgia Dome PAC wrote \$2,000.00 check (#1043) to Oxendine Campaign
- Lift PAC wrote \$2,000.00 check (#2047) to Oxendine Campaign
- Peachtree PAC wrote \$2,000.00 check (#1050) to Oxendine Campaign
- Phillips PAC wrote \$2,000.00 check (#1059) to Oxendine Campaign
- South Perry PAC wrote \$2,000.00 check (#2022) to Oxendine Campaign
- The Watkins Group PAC wrote \$2,000.00 check (#2034) to Oxendine Campaign
- Turner PAC wrote \$2,000.00 check (#1048) to Oxendine Campaign

# Admiral Life contributions on 12/29/08



## **10 Political Action Committees**

- Admiral Life wrote \$14,000.00 check (#001883) to Cash-N-Checks PAC
- Admiral Life wrote \$14,000.00 check (#001884) to Courtside Suite 10 PAC
- Admiral Life wrote \$14,000.00 check (#001885) to First Highland Avenue PAC
- Admiral Life wrote \$14,000.00 check (#001886) to Georgia Dome PAC
- Admiral Life wrote \$14,000.00 check (#001887) to Lift PAC
- Admiral Life wrote \$14,000.00 check (#001888) to Peachtree PAC
- Admiral Life wrote \$14,000.00 check (#001889) to Phillips PAC
- Admiral Life wrote \$14,000.00 check (#001890) to South Perry PAC
- Admiral Life wrote \$14,000.00 check (#001892) to The Watkins Group PAC
- Admiral Life wrote \$14,000.00 check (#001891) to Turner PAC

# PAC Contributions on 12/30/08

## 10 Political Action Committees

→ **John Oxendine  
for a  
Better Georgia**

- Cash-N-Checks PAC wrote two \$5,000.00 checks (#1004, 1005) to Oxendine Campaign
- Courtside Suite 10 PAC wrote two \$5,000.00 checks (#1005, 1006) to Oxendine Campaign
- First Highland Avenue PAC wrote two \$5,000.00 checks (#1051, 1052) to Oxendine Campaign
- Georgia Dome PAC wrote two \$5,000.00 checks (#1044, 1045) to Oxendine Campaign
- Lift PAC wrote two \$5,000.00 checks (#2048, 2049) to Oxendine Campaign
- Peachtree PAC wrote two \$5,000.00 checks (#1051, 1052) to Oxendine Campaign
- Phillips PAC wrote two \$5,000.00 checks (#1060, 1061) to Oxendine Campaign
- South Perry PAC wrote two \$5,000.00 checks (#2023, 2024) to Oxendine Campaign
- The Watkins Group PAC wrote two \$5,000.00 checks (#2035, 2036) to Oxendine Campaign
- Turner PAC wrote two \$5,000.00 checks (#1049, 1050) to Oxendine Campaign

# State Mutual & Admiral Life are AFFILIATED CORPORATIONS

- O.C.G.A. § 21-5-40(2) *“Affiliated corporation” means with respect to any business entity any other business entity related thereto: as a parent business entity; as a subsidiary business entity; as a sister business entity; by common ownership or control; or by control of one business entity by the other.*
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- Donald V. Watkins, Sr is a Director of both companies
- Both companies are operated from the same building in Rome, Georgia

# Delos Yancey III

**Alamerica  
Bancorp**

**State Mutual  
Insurance**

**Admiral Life  
Insurance**

- CEO of State Mutual and Admiral Life
- One of the original incorporators of Alamerica Bancorp, Inc.
- Appointed by John Oxendine to serve as Chairman of the Georgia Life and Health Insurance Guaranty Association in 1999. He still serves in that capacity
- Also owns Sterling Holdings, Inc.; Wakely & Associates, Inc.

# Donald V. Watkins Sr.

- **State Mutual Insurance: DIRECTOR**
- **Admiral Life Insurance: DIRECTOR**
- Donald V. Watkins, PC: Owner
- Alamerica Bank: Chairman, Founder
  - VP Business Development, Sharon Childs-Long
- Pencor Orange/ Watkins-Pencor, LLC
  - Masada: Executive Chairman
- Watkins Group, Inc: Secretary, Founder
- First Highland Group, LLC: Owner
- Voter News Network: Owner & Publisher
  - Editor in Chief, Sharon Childs- Long
- The Children's Bank: Founder
- W.S. Aviation: Owner

Alamerica  
Bank

Watkins Group, Inc.

Masada/  
Watkins Pencor

First Highland  
Group

Donald V.  
Watkins PC

Voter News  
Network

State Mutual  
Insurance

Admiral Life  
Insurance

# Donald V. Watkins Jr.

**10 Political  
Action Committees**

**Alamerica  
Bank**

**Watkins Group, Inc.**

**Masada/  
Watkins Pencor**

**First Highland  
Group**

**Donald V.  
Watkins PC**

**Voter News  
Network**

**State Mutual  
Insurance**

**Admiral Life  
Insurance**

- Alamerica Bancorp, Inc: Co-owner, Board member
- Alamerica Bank: Board of Directors
  - VP Business Development, Sharon Childs-Long
- Voter News Network: Executive VP, Managing Editor
  - Sharon Childs-Long, Editor-in-Chief
- Watkins Group, Inc: Chairman & CEO
- First Highland Group, LLC: Manager
- Donald V. Watkins, PC: Manager
- Masada: Chief Administrative Officer
- **FOR ALL 10 ALABAMA PACs:**  
**Chairman, Incorporator, Administrator**
  - Sharon Childs-Long, Treasurer

# 10 Political Action Committees

Cash-N-Checks PAC

Courtside Suite 10 PAC

First Highland PAC

Georgia Dome PAC

Lift PAC

Peachtree PAC

Philips PAC

South Perry PAC

The Watkins Group PAC

Turner PAC

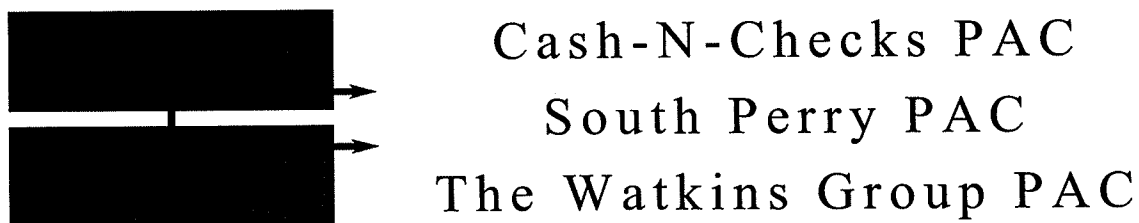
- All 10 PACS incorporated with Alabama Secretary of State on 8/30/2002
- Incorporation papers for all 10 list address of 2170 Highland Ave, STE 100, Birmingham, AL 35205
- All list phone # 205-558-4665
- Incorporation papers for all 10 list Donald V. Watkins, Jr. Chairperson & Sharon Childs-Long, Treasurer

# 10 Political Action Committees

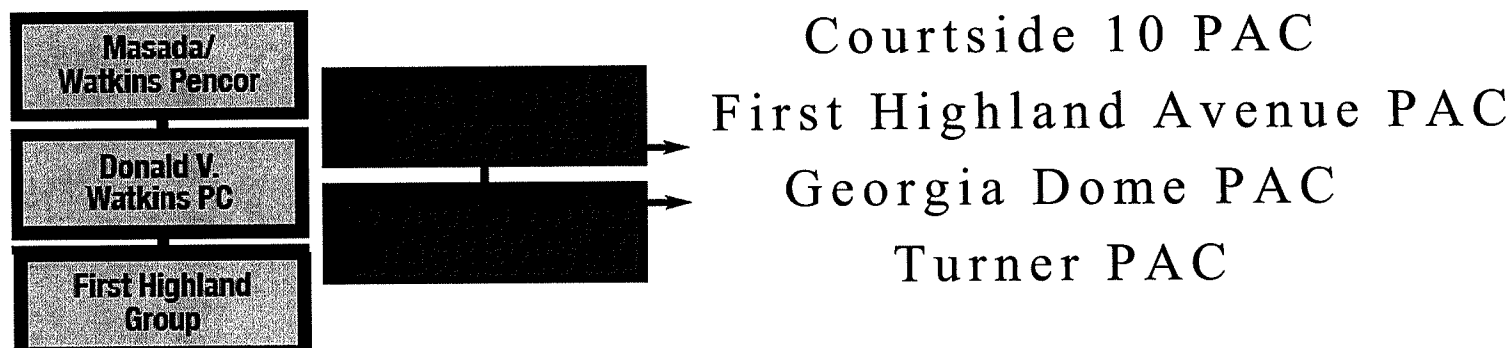
- 2170 Highland Ave, Suite 100, Birmingham, AL is the address of:
  - Donald V. Watkins, PC
  - Alamerica Bank
  - Pencor Orange/ Watkins Pencor LLC
  - First Highland Group LLC
  - Voter News Network
  - & other Watkins entities
- PAC's phone number belongs to Donald Watkins, PC
- All of the PACs held accounts at Alamerica Bank, with Donald V. Watkins, Jr. as the primary signator

# Finances of PACs

- During the 2007-2008 reporting periods, State Mutual and Admiral Life were the ONLY source of funds for:



- During the 2007-2008 reporting periods, State Mutual, Admiral Life and a number of entities owned by Donald V. Watkins, Sr. were the ONLY sources of funds for



# Other Activity of PACs

- PACs founded in 2002, some didn't open bank accounts until 2006
- Prior to 2006, little notable activity or funding for PACs
- 2007: all 10 PACs received \$9000.00 each from State Mutual on 6/27/2007— all 10 PACs contributed \$9000.00 to 21<sup>st</sup> Century Birmingham PAC on 6/28/2007
- In 2008, all 10 PACs wrote 3 checks to the Oxendine Campaign... and at least 1 to Donald V. Watkins, PC
  - For 7 of the PACs, these transactions constituted ALL of their 2008 expenditures
  - Peachtree PAC & Philips PAC also made contributions to Lift PAC

Complaint filed 5/11/2009, Oxendine campaign refunded contributions 6/26/2009, and then...

- Pattern of PAC contributions and expenditures changed
- No further contributions from State Mutual, Admiral Life (breaking pattern started in 2006)
- PACs began making many small donations to local candidates
  - In 2006, 2007, 2008, all 10 PACs made few local contributions...
  - In 2006, 2007, 2008, all 10 PACs primarily funded from GA and made one large synchronized contribution...

# Activity of State Mutual & Admiral Life

- Neither of these companies had ever contributed to a Georgia PAC
- Historically, State Mutual & Admiral Life's political contributions in Georgia were made to candidates in the Rome or North Georgia area or the Republican Party

# Affiliated corporations cannot make contributions that, when aggregated, exceed the Act's contribution limits

O.C.G.A. § 21-5-41. Maximum allowable contributions.

- (a) No...corporation...shall make, and no candidate or campaign committee shall receive from any such entity, contributions to any candidate for state-wide elected office which in the aggregate for an election cycle exceed:
  - \* Five thousand nine hundred dollars (\$5,900.00) for a primary election
  - \* Five thousand nine hundred dollars (\$5,900.00) for a general election
- (c) **No business entity shall make any election contributions to any candidate which, when aggregated with contributions to the same candidate for the same election from any affiliated corporations, exceed the per election maximum allowable contribution limits for such candidate as specified in subsection (a) of this Code section.**

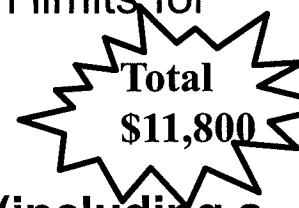


O.C.G.A. § 21-5-40(2) "Affiliated corporation" means with respect to any business entity any other business entity related thereto: as a **parent business entity**; as a **subsidiary business entity**; as a sister business entity; by **common ownership or control**; or by control of one business entity by the other.

# **PAC contributions, aggregated with contributions of affiliated PACs, cannot exceed contribution limits**

Rule 189-6-.04. Maximum Allowable Contribution by Political Committees.

- No political committee shall make, for any election, contributions to any candidate which, when aggregated with contributions to the same candidate for the same election from any affiliated political committees, exceed the per election contribution limits for such candidate as set forth in O.C.G.A. § 21-5-41.



Total  
\$11,800

O.C.G.A. § 21-5-40

(1) **“Affiliated committees”** means any two or more political committees (including a separate segregated fund) established, financed, maintained, or controlled by the same business entity... person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof.

(6) **“Political committee”** means:

(A) any partnership, committee, club, association, organization...or similar entity (other than a business entity) or any other group of persons or entities which makes a contribution; or

(B) any separate segregated fund.

(7) **“Separate segregated fund”** means a fund which is established, administered, and used for political purposes by a business entity...and to which the business entity...solicits contributions.

# Act prohibits regulated entities from contributing to their regulator

**O.C.G.A. § 21-5-30.1(b) No regulated entity and no person or political action committee acting on behalf of a regulated entity shall make a contribution to ...a person holding office as an elected executive officer regulating such entity or ...a campaign committee of any such candidate.**

**O.C.G.A. § 21-5-30.1(a)**

- *(4) “Political action committee” means any committee... partnership, corporation... or other group of persons which receives donations aggregating in excess of \$1,000.00 during a calendar year from persons who are members or supporters of the committee and which distributes these funds as contributions to one or more campaign committees of candidates for public office. Such term does not mean a campaign committee.*
- *(5) “Regulated entity” means any person who is required by law to be licensed by an elected executive officer or a board under the jurisdiction of an elected executive officer... or any person who engages in a business or profession which is regulated by an elected executive officer or by a board under the jurisdiction of an elected executive officer.*

# What is Acting on Behalf of ?

Commission Advisory Opinion  
2009-02 states that for purposes of  
Section 30.1

**“acting on behalf of”**

includes any contribution to an EEO with  
funds either *transferred* or *generated* by a  
regulated entity.

# Whose responsibility is it?

AO 2009-02 also states that:

An entity that receives funds from a regulated entity is permitted to make contributions to EEOs so long as the funds or thing of value contributed *were not transferred or generated by a regulated entity* and are separately accounted for to the extent that the entity can *ensure* that it is not contributing funds that came from the regulated entity...

# **Whose responsibility is it?**

AO 2009-02 also states that:

A PAC should account for any funds transferred or generated by a regulated entity in a manner that assures they are not confused with other PAC funds.