

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

Regular Meeting | March 1, 2011 | 11:00 a.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:

Meron Dagnew, Assistant Attorney General

OPENING COMMENTS BY THE CHAIRMAN:

- Chairman Millsaps led those in attendance in the Pledge of Allegiance.
- Chairman Millsaps called the meeting to order at 11:01 AM.
- Chairman Millsaps informed the Commission members that he was reappointed to his post on the Commission by Governor Deal on February 9, 2011.
- The agenda was rearranged to accommodate the planned late arrivals of Commissioner Belinfante and meeting attendee, Doug Chalmers

Motion to accept rearrangement of meeting agenda:

*Motion made by: Hillary Stringfellow Seconded by: Kent Alexander
Commissioner Belinfante was absent for this portion of the meeting*

Carried 4-0

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OTHER MATTERS:

In the Matter of State Mutual Insurance Company, Case No. 2009-0024PC
In the Matter of Admiral Life Insurance Company of America, Case No. 2009-0025PC

Chairman Millsaps reaffirmed that Commissioner Belinfante has recused himself from these matters.

The Commission members discussed State Mutual Insurance Company's Motion to Sever the statute of limitations issue from the case and send that specific issue to the Superior Court for review. Meron Dagnew, Assistant Attorney General, raised the procedural issue of sending the matter to the Superior Court prior to the completion of the administrative case.

Motion to grant the motion submitted by State Mutual Insurance Company to sever.
Motion made by: Kevin Abernethy Seconded by: Kent Alexander Carried: 4-0

ADVISORY OPINIONS

Commissioner Belinfante joined the meeting.

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 stating that Advisory Opinion 2001 32 is still valid and that the Georgia campaign finance laws do not regulate 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

Moved to approve: Hillary Stringfellow Seconded: Kevin Abernethy 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 of named candidates applies to legislative caucuses in the Georgia House and Senate.
- Presented by: Stacey Kalberman, Executive Secretary

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Advisory Opinion 2010-07: Continued

Advisory Opinion redrafted pursuant to the Commission's request at 12/2/10 meeting.

Moved to approve: Hillary Stringfellow Seconded: Kevin Abernethy Carried: 5 - 0

Advisory Opinion 2010-09:

- Submitted by: Jeff Peelen of Quarles & Brady on 11/05/10
- Whether lobbyists employed by a corporation which has established a holding company system may identify their client as one member corporation within the holding company system.
- No comments received on the draft Advisory Opinion were posted.
- Presented by: Stacey Kalberman, Executive Secretary

The firm of Quarles & Brady represents a certain corporation established as a holding company system (the "Corporation"). The Corporation has established a separate entity, Service Company, to conduct lobbying and other government affairs activities on behalf of the affiliated companies of the Corporation. Service Company is the exclusive entity through which all lobbying activities are conducted on behalf of and for all the interests of the affiliated companies of the Corporation. Although the affiliated companies consult with Service Company, none of the affiliated companies directs or controls the Service Company lobbyists who represent their respective interests. The Corporation has requested an advisory opinion regarding whether a lobbyist employed by Service Company may register Service Company as its client as opposed to the lobbyist individually registering each affiliated company of the Corporation as a client.

Conclusion of the Commission Staff:

The Commission Staff believes this is a permissible practice so long as the registrant provides the registration information as required by §21-5-71(b) of the Georgia Government Transparency and Campaign Finance Act. Applying the Act's requirements for registration to the Service Company scenario, a lobbyist employed by Service Company may register "Service Company and its affiliates" as its client so long as the name of the ultimate parent or holding company name is identified in the registration or listed under the section, "Lobbying on Behalf of." Additionally, the lobbyist should include the various business interests of the Corporate affiliates in the "General Business or Purpose of Party Lobbied For" section. Service Company must, of course, disclose all expenditures which are made on behalf of the Corporation or any of its affiliates. Additionally, if an affiliated company of the Corporation begins to lobby separately on its own behalf, such affiliated company must be separately registered with the Commission by its retained lobbyist.

Motion to adopt Advisory Opinion 2010-09

Motion made by: Kent Alexander Seconded by: Kevin Abernethy

Carried 5-0

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Advisory Opinion 2011-01:

- Submitted by: Doug Chalmers of Political Law Group 1/04/11
- Whether an individual who is an officer or employee of a “business entity” must register as a lobbyist if such individual meets with public officials and expresses opinions on potential or actual legislation that may impact the business entity.
- Presented by: Stacey Kalberman, Executive Secretary

The Georgia Chamber of Commerce (the “Chamber”) has requested the above opinion from the Georgia Government Transparency and Campaign Finance Commission (the “Commission”). The Chamber states that the answer to the above question is “no” under the circumstance where the individual’s employment contract does not specifically state that he or she is being compensated to engage in lobbying activities.

Conclusion of the Commission Staff:

The statute makes no mention of a prerequisite that an individual be expressly compensated to engage in lobbying activities. While simply expressing an opinion may not necessarily rise to the level of promoting or opposing legislation, the Commission Staff see no language or statutory history that indicates anything other than the General Assembly’s intent to require all employees engaging in lobbying activities on behalf of their employer to register.

Motion to break for a brief recess

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

Motion to adopt Advisory Opinion 2011-01

Motion made by: Josh Belinfante Seconded by: Kent Alexander Carried 4-1
Nay: Patrick Millsaps

DISMISSALS

In the Matter of Casey Cagle, Case No. 2010-0066

Complaint, We the People Advocate, LLC, alleged payment amounts to Casey Cagle’s campaign manager not in line with ‘ordinary and necessary expenses’.

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

Commissioner Hillary Stringfellow and Commissioner Kevin Abernethy recused themselves from this matter.

Attorney Ann Lewis spoke on behalf of her client, Casey Cagle.

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In the Matter of Casey Cagle, Case No. 2010-0066: Dismissal Continued

Attorney Yasha Heidari spoke on behalf of his client, We the People Advocate, LLC and Mr. Boyd.

Mr. Boyd of We the People Advocate, LLC addressed the Commission.

Conclusion of Staff:

The Commission Staff believes that this complaint should be dismissed based on the fact that there was no evidence of wrongdoing of any kind on the part of Mr. Cagle. The Campaign Finance Act does not dictate nor even suggest guidelines for the payment of campaign staff and there is no prevailing market rate for an individual serving as a campaign manager and finance director. The Commission Staff's investigation also found that the salary in question was not disproportionate for the staffer's duties and that there was no evidence of other circumstances indicating that the salary paid was somehow inappropriate.

Comments by the Chairman:

Chairman Millsaps expressed the Commission's lack of tolerance for politically motivated complaints that unnecessarily take up the time of an over-taxed agency. Chairman Millsaps made it clear that the Commission now has the power to and will in the future assess attorney fees to the individual/party that brings frivolous or politically motivated complaints.

Motion to dismiss the complaint In the Matter of Casey Cagle, Case no. 2010-0066

Motion made by: Patrick Millsaps Seconded by: Josh Belinfante

Carried 3-0

CONSENT ORDERS

In the Matter of Jody Cash, Case No. 20140-0029

Issue:

Respondent, Jody Cash, was a first time candidate in the special election for District 19 State Representative, held on February 23, 2010. Cash should have filed a Campaign Contribution Disclosure Report (CCDR) on or before February 8th, 2010. As of February 17, 2010, Cash had failed to file a CCDR and the present complaint was filed.

After receiving notice of this Complaint, Respondent admitted his lack of understanding regarding the filing requirements and met with Commission staff to learn the requirements of the Act and how to properly complete a CCDR. Cash filed the required CCDR on February 20, 2010, prior to the election but after the 15 day limit required by the Act.

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In the Matter of Jody Cash, Case No. 20140-0029: Consent Order Continued

Conclusion of Commission Staff:

It is the Commission Staff's conclusion that the Respondent's failure to timely file CCDRs 15 days before the special election constitutes a violation of O.C.G.A. § 21-5-34(c). Additionally, Respondent accumulated \$75 in late fees in accordance with O.C.G.A. § 21-5-34(l).

SANCTION: \$100.00

Motion to accept consent order

Motion made by: Patrick Millsaps Seconded by: Kent Alexander

Carried 5-0

In the Matter of Ronny Sibley, Case No. 2010-0028

Issue:

Respondent, Ronny Sibley, was a candidate in the special election for District 19 State Representative, held on February 23, 2010. Sibley should have filed a Campaign Contribution Disclosure Report (CCDR) on or before February 8th, 2010. The 5 day statutory grace period for filing permitted by the statute ended on February 15, 2010.

As of February 17, 2010, Sibley had failed to file a CCDR and the present complaint was filed. After receiving notice of this Complaint, Sibley promptly filed the required CCDR on February 20, 2010, prior to the election but just after the grace period for filing permitted by the Act.

A review of the Commission database reveals that Sibley owes \$75.00 in unpaid fines for his late filing.

Conclusion of Commission Staff:

It is the Commission Staff's conclusion that the Respondent failure to timely file CCDRs 15 days in advance of the special election constitutes a technical violation of O.C.G.A. § 21-5-34(c). In addition, Respondent accumulated \$75 in late fees in accordance with O.C.G.A. § 21-5-34(l).

SANCTION: \$100.00

Motion to accept consent order

Motion made by: Patrick Millsaps Seconded by: Kevin Abernethy

Carried 5-0

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In the Matter of Larry Chisolm, Case No. Consent Order 2010-0060PC

Issue:

Respondent, Larry Chisolm, ran for Eastern Judicial Circuit (Chatham County) District Attorney in 2008. He won the election and was sworn in as Eastern Judicial Circuit (Chatham County) District Attorney on January 2, 2009. He currently serves in that position.

When he qualified in 2008, Chisolm filed the required Personal Financial Disclosure (PFD) for the year 2007. As of mid-September, 2010, Chisolm had failed to file the required annual PFD forms for the years of 2008 and 2009 which is required of all public officers. Chisolm filed the 2008 and 2009 PFDs on 9/20/2010, prior to being contacted by the Commission staff by letter dated October 1, 2010 and prior to the opening of an investigation by the Commission on September 30, 2010.

In addition, Chisolm's Campaign Committee failed to file his 6/30/2009 Campaign Contribution Disclosure Report (CCDR) until September of 2009 and failed to file his 6/30/2010 CCDR until September, 2010. As a result, Chisolm owed the Commission \$150.00 in late fees, which he paid and was received by the Commission on September 29, 2010, prior to being contacted by the Commission staff and prior to the opening of an investigation by the Commission.

Conclusion of Commission Staff:

It is the Commission Staff's conclusion that the Respondent failed to timely file the below listed reports resulting in violations of the Act:

- 2010 PFD constitutes a violation of O.C.G.A. § 21-5-50(3)
- 2009 PFD constitutes a violation of O.C.G.A. § 21-5-50(3)
- 6/30/2009 CCDR constitutes a violation of O.C.G.A. § 21-5-34(c)
- 6/30/2010 CCDR constitutes a violation of O.C.G.A. § 21-5-34(c)

SANCTION: \$750.00

**Attend Candidates, Public Officials, and Other Interested Persons" and
"How to Electronically File" classes by 12/31/11.**

Motion to accept consent order

Motion made by: Patrick Millsaps Seconded by: Hillary Stringfellow

Carried 5-0

In the Matter of John V. Sinclair, Case No. 2010-0041

Issue:

Respondent, John V. Sinclair, was a successful candidate for Marietta City Council in 2009. Sinclair failed to file his Campaign Contribution Disclosure Reports (CCDRs) for December 31, 2009 and June 30, 2010. In addition, Sinclair failed to file his Personal Financial Disclosure (PFD) for 2010. Sinclair has also accumulated \$300 in late fees.

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In the Matter of John V. Sinclair, Case No. 2010-0041: Consent Order Continued

Sinclair admitted that he failed to file the aforementioned CCDRs and PFD, and admits he has accumulated \$300 in late fees.

Conclusion of Commission Staff:

It is the Commission Staff's conclusion that the Respondent failed to file the below listed reports resulting in violations of the Act and:

- December 31, 2009 CCDR constitutes a violation of O.C.G.A. § 21-5-34(c).
- June 30, 2010 CCDR constitutes a violation of O.C.G.A. § 21-5-34(c).
- 2010 PFD constitutes a violation of O.C.G.A. § 21-5-50(3).

Additionally, has accumulated \$300 in late fees pursuant to O.C.G.A. § 21-5-34(l).

SANCTION: \$1,500.00 plus \$300 in outstanding late fees

Motion to accept consent order

Motion made by: Patrick Millsaps Seconded by: Hillary Stringfellow

Carried 5-0

COMPLIANCE ORDERS

In the Matter of Carol Porter, Case No. 2010-0035

Issue:

Carol Porter was a first-time, unsuccessful candidate for Lieutenant Governor who officially qualified as a candidate on April 26, 2010.

Porter should have filed her Personal Financial Disclosure Statement (PFDS) on or before May 5, 2010 to comply with O.C.G.A. § 21-5-50(c)(1). Porter filed her PFDS on May 7, 2010, after this complaint was filed but before receiving notice of such complaint and before the date of the election.

Porter asserts that she filed her PFDS in accordance with the 15 day deadline for House and Senate candidates, due to confusion regarding the different filing deadlines for legislative and state wide candidates.

Conclusion of Commission Staff:

It is the conclusion of the Commission Staff that the Respondent violated § 21-5-50 by failing to file her PFDS within 7 days of qualifying as a candidate.

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In the Matter of Carol Porter, Case No. 2010-0035: Compliance Order Continued

Compliance Agreement:

Respondent agrees that if she is to qualify for a statewide election in the same manner as described above, she will timely file all CCDRs and her PFDS within *seven* days of such qualification. Also, Respondent agrees not to commit any further violations of the Ethics in Government Act and corresponding Commission Rules.

Motion to accept compliance order

Motion made by: Patrick Millsaps Seconded by: Kent Alexander

Carried 5-0

In the Matter of Kwanza Hall, Case No. 2009-0005PC

Issue:

Kwanza Hall (Respondent) is a City of Atlanta Councilman representing District 2.

Since 2006, Hall paid \$11,200.00 from City of Atlanta funds (Council District 2 office expense account) and \$3,185.00 from his campaign fund account to NGP Software, Inc, to maintain a database of constituents, to send fundraising and other "political" emails to persons listed in the database and other campaign related matters.

After a performance audit and an investigation by the City of Atlanta Ethics Office, Hall entered into a Consent Order with the City of Atlanta on January 15, 2009. As part of his agreement with the City of Atlanta, Hall paid the City of Atlanta \$11,200.00 from his campaign account (check #1695, check date 7/7/2009).

Commission staff audited Hall's other filings and found technical defects.

Conclusion of Commission Staff:

It is the Commission Staff's conclusion that by paying for campaign expenditures with City of Atlanta funds, Hall violated O.C.G.A. §21-5-30.2(b) which prohibits a government agency or anyone acting on behalf of a government agency from making contributions to a candidate or campaign. Also, by accepting and using the services of NGP Software, paid for with City of Atlanta funds, Hall violated O.C.G.A. §21-5-30.2(c), which prohibits a candidate from accepting contributions by a government agency.

Compliance Agreement:

The Respondent, Kwanza Hall, agrees that he will refrain from assisting his campaign with City of Atlanta funds and he will not accept City of Atlanta funds for campaign purposes. Respondent will correct the technical defects in his prior filings as soon as possible but no later than 8/31/2011.

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In the Matter of Kwanza Hall, Case No. 2009-0005PC: Compliance Order Continued

As a term of the consent order, Respondent must successfully complete the following training classes offered by the Commission as soon as possible but no later than 12/31/2011:

- "Candidates, Public Officials, and Other Interested Persons" &
- "How to Electronically File".

Finally, the Respondent agrees to refrain from any further violations of the Ethics in Government Act and corresponding Commission Rules.

Motion to accept compliance order

Motion made by: Patrick Millsaps Seconded by: Hillary Stringfellow Carried 5-0

OTHER BUSINESS

Lobbyist Late Fees: To be discussed at a future commission meeting.

Public Comment: No public comment was made.

Report of the Executive Secretary:

- The Education and Information Division has added more training videos to the agency website.
- The Association County Commissioners of Georgia (ACCG) and the Georgia Municipal Association (GMA) have been assisting the agency by providing filing information to their constituents.

Meeting was adjourned at approximately 1:30 PM.

Official Minutes Statement

The foregoing Minutes for the March 1, 2011 meeting of the Georgia Government Transparency and Campaign Finance Commission were approved and adopted by the Commission at the Commission's meeting on May 3, 2011.



Stacey Kalberman, Executive Secretary

May 3, 2011
Date



Patrick Millsaps, Chairman

May 3, 2011
Date