

Georgia Government Transparency and Campaign Finance Commission

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

Teleconference Meeting | April 5, 2011 | 11:00 a.m.

Commission Meeting Minutes

PRESENT:

Commission Members:

Josh Belinfante, Commission Vice Chairman
Hillary Stringfellow, Commission Member (via conference call)
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 (via conference call)

ABSENT:

Commission Members:

Patrick Millsaps, Commission Chairman

OPENING COMMENTS BY THE VICE CHAIRMAN:

- Vice Chairman Belinfante opened the meeting at 11:02 AM.
- Vice Chairman Belinfante stated that Chairman Millsaps would not be available to participate in this meeting.
- Vice Chairman Belinfante identified the following individuals on the conference line:
 - Commissioner Stringfellow
 - Caleb Burns of Wiley Rein
 - Doug Chalmers of Political Law Group

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APPROVAL OF MEETING MINUTES:

Stacey Kalberman informed the Commission that the March 1, 2011 meeting minutes will be presented for review and approval at the next Commission meeting.

ADVISORY OPINIONS

Advisory Opinion 2010-05:

- Submitted by: Wiley Rein LLP on 8/5/10 and 9/23/10
- Advisory Opinion redrafted pursuant to the Commission's request at 3/1/11 meeting.
- No comments were received from the posting of the revised Advisory Opinion.
- Consideration for adoption of response to Advisory Opinion Request 2010-05 regarding whether Advisory Opinion 2001-32 is still valid and that regulation of independent spending is limited to communications that use express words of advocacy.
- The conclusion of Advisory Opinion 2010-05 is that Advisory Opinion 2001-32 is still valid.
- Presented by Stacey Kalberman, Executive Secretary

Caleb Burns of Riley Rein, who participated in the meeting via conference call, indicated that he was comfortable with the posted draft opinion.

Moved to adopt Advisory Opinion 2010-05 as submitted:

Motion made by: Kevin Abernethy

Seconded by: Hillary Stringfellow Carried 4-0

Advisory Opinion 2011-03:

- Submitted by: Doug Chalmers on 2/11/11
- No comments were received from the posting of the draft Advisory Opinion.
- Whether an expenditure made by a lobbyist in connection with a meeting or event involving a public employee or family member of a public officer is required to be disclosed on lobbyist disclosure reports.
- Presented by Stacey Kalberman, Executive Secretary

The Georgia Government Transparency and Campaign Finance Act (the "Act") contains two sections that refer to expenditures made by lobbyists and the disclosure of those expenditures. Section 21-5-70(1)(A) defines what is an "Expenditure" and Section 21-5-73 outlines the disclosure requirements with respect to Expenditures. The Commission is aware, however, that there appears to be a discrepancy with respect to what the Act defines to be an Expenditure and what the Act requires to be reported and disclosed. In other words, the Act very specifically defines those items which are considered to be Expenditures, but does not require the reporting of all of those Expenditures.

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Advisory Opinion 2011-03: Continued

Conclusion of the Commission Staff:

The Commission is reluctant to read additional requirements into the statute that are not specifically stated within the disclosure section. Therefore, with respect to expenditures made by lobbyists that benefit a public employee, the Staff advises that the Act does not require the lobbyist to disclose such.

However, the Commission Staff does believe that certain expenditures made by lobbyists with respect to family members are required to be reported because such expenditures are made on behalf of or for the benefit of public officers due to a general duty of support owed to dependent family members and spouses.

Public Comment:

Vice Chairman Belinfante opened the floor for comments. Discussion and comments were made by Doug Chalmers, petitioner of the Advisory Opinion, Stefan Passantino of McKenna Long & Aldrige and William Perry of Common Cause Georgia.

Commission Comment:

Vice Chairman Belinfante indicated that the Commission must interpret the law as it is on the books. Commissioner Kent Alexander agreed with some of the public comments in regarding the "loophole" in the law that limits the reporting of lobbyist expenditures on individuals that have influence over the public official. However, it is the hope of the Commission that the Legislature will address this loophole during the current legislative session.

Mr. Belinfante reiterated that the Commission's lack of rule making authority once again inhibits the Commission's ability to clarify such matters without the need for an act by the Legislature.

Motion to amend Advisory Opinion 2011-03 to include expenditures for public employees that are made for the benefit of or on behalf of public officers.

Motion made by: Kent Alexander Seconded by: Hillary Stringfellow Failed 1-3
(AYE: Kent Alexander; NAY: Josh Belinfante, Kevin Abernethy, Hillary Stringfellow)

Motion to amend Advisory Opinion 2011-03 to include disclosure of expenditures made to public employees who have discretionary authority over the selection of a vendor:

Motion made by: Josh Belinfante Seconded by: Hillary Stringfellow Carried 4-0

Motion to accept amended Advisory Opinion 2011-03:

Motion made by: Josh Belinfante Seconded by: Hillary Stringfellow Carried 3-1
(AYE: Josh Belinfante, Kevin Abernethy, Hillary Stringfellow; NAY: Kent Alexander)

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CONSENT ORDERS:

In the Atlanta Housing Authority
2008-0097E

- Presented by Stacey Kalberman, Executive Secretary
- Preliminary Hearing presented at December 2, 2010 Commission Meeting

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.

Commission Staff Report:

A preliminary hearing regarding this matter was held at the December 2, 2010 Commission meeting. The Commission agreed to send this matter to an administrative hearing for further review. The Commission Staff has negotiated a Consent Order with the Respondent, Atlanta Housing Authority, in lieu of an administrative hearing.

Conclusion of Commission Staff:

Pursuant to the factors outlined in Advisory Opinion 2010-08, the Commission Staff has determined that Atlanta Housing Authority constitutes an “agency” for the purposes of the Ethics in Government in Act at O.C.G.A. § 21-5-30.2(a)(1). Therefore, Atlanta Housing Authority’s donation of \$5000.00 to Georgians for Community Redevelopment, a campaign committee, constitutes a violation of O.C.G.A. § 21-5-30.2 because the Commission considers it to be a contribution by a public agency to a campaign.

SANCTION: \$1,000.00

Motion to approve Consent Order In the Matter of Atlanta Housing Authority 2008-0097E:

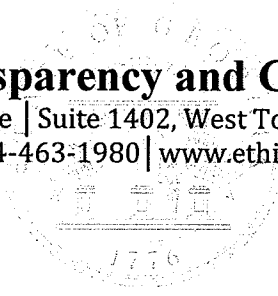
Motion made by: Kent Alexander Seconded by: Kevin Abernethy Carried 4-0

PUBLIC COMMENT:

- Vice Chairman Belinfante opened the floor for public comments.
- No public comments were made.

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REPORT OF THE EXECUTIVE SECRETARY:

Stacey Kalberman, Executive Secretary, addressed the Commission regarding the staff's work in making the agency's various applications and registration forms electronic. The use of electronic forms would increase the efficiency of the agency and the time of its limited staff.

Reginald Boswell, Director of IT, spoke about the roll out of the use of electronic forms starting with the State Business Transaction Disclosure Reports. This report was chosen for its low volume which would allow the staff time to evaluate the process. To date, the electronic form has been well received and working as expected.

The next project will involve transitioning the registration form for filing a personal financial disclosure and the Declaration of Intent form to an electronic processes as opposed their current paper intensive filing method.


FUTURE COMMISSION MEETING:

The Commission did not schedule the next commission meeting.


Meeting was adjourned at approximately 11:45 AM.

Official Minutes Statement

The foregoing Minutes for the April 5, 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



Patrick Millsaps, Chairman

May 3, 2011

Date

May 3, 2011

Date