

# Georgia Government Transparency and Campaign Finance 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 | Wednesday, April 11, 2012 | 9:00 AM

### Commission Meeting Minutes

Location: 200 Piedmont Avenue SE, Suite 1402 – West Tower, Atlanta, GA 30334

#### **PRESENT:**

##### Commission Members:

Kevin Abernethy, Chair  
Hillary Stringfellow, Vice Chair  
Kent Alexander, Commission Member  
Heath Garrett, Commission Member  
Dennis Cathey, Commission Member

##### Commission Staff Present:

Holly LaBerge, Executive Secretary  
Elisabeth Murray-Obertein, Staff Attorney

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

Meron Dagnev, Assistant Attorney General

#### **OPENING COMMENTS:**

- Chair Abernethy opened the meeting at 9:13 AM
- Chair Abernethy reference an article printed in a local paper on April 10, 2012, regarding one of the four pending complaints in the Governor Nathan Deal investigation. The Chair stated very clearly that the other three complaints are still pending before the Commission and are being thoroughly investigated. The Commission has received very good cooperation from the Governor's Office and well as the Governor's lawyer and anticipate that continuing. It is the Commission staff's expectation that there will be a resolution to the three complaints by the end of the calendar year. The Commission staff has been extremely diligent and thorough in investigating these matters; as it does every matter. There has been a small delay in what the Commission would normally like to see in a timeline of a case due to the turnover the Commission experienced this time last year.
- Chair Abernethy stated that the late fee issues will be addressed at this meeting. He stated that 519 individuals have paid their late fines between January 1, 2011, and April 6, 2012, in the amount of \$117,000.00.

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## APPROVAL OF MEETING MINUTES:

Minutes of February 28, 2012, Commission Meeting presented for approval.

Motion to approve the minutes of the February 28, 2012, Commission Meeting Minutes.

*Motion made by: Commissioner Alexander      Seconded by: Vice Chair Stringfellow      Carried 5-0*

## ADVISORY OPINIONS:

### Advisory Opinion 2012-01

- Submitted by Judge David Motes
- Whether candidates who have no contributions and no expenditures other than their own payments of their own qualifying fees must file more than the initial and final campaign financial disclosure reports.
- Opinion Presented by: Jonathan Hawkins, Esq., Commission's Outside Counsel

Mr. Hawkins presented that unopposed candidates who have no contributions and no expenditures other than payment of their own qualifying fees with their own personal funds are not required to file more than the initial and final campaign financial disclosure reports.

Motion to approve Advisory Opinion 2012-01.

*Motion made by: Vice Chair Stringfellow      Seconded by: Commissioner Cathey      Carried 5-0*

### Advisory Opinion 2011-08

- Submitted by Robert S. Highsmith, Jr. of Holland & Knight
- Whether an employer corporation and an incorporated employee-sponsored political action committee ("PAC"), that are not parent or subsidiary business entities to each other, are unaffiliated so that it would be permissible for the two entities to each make maximum contributions to the same candidate under O.C.G.A. § 21-5-41(c).
- Updated Opinion Presented by: Jonathan Hawkins

Commissioner Alexander proposed two changes to the language of the opinion:

1. In the next to last paragraph of the second page remove the reference to Barnett v. Farmer.
2. In the third to last paragraph of the second page add: For this reason, the burden will be on the employee-sponsored PAC to demonstrate that there is no control.

Motion to accept Advisory Opinion 2011-08 as amended by Commissioner Alexander.

*Motion made by: Vice Chair Stringfellow      Seconded by: Commissioner Cathey      Carried 5-0*

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## CONSENT ORDER:

### In the Matter of Roberta Abdul-Salaam

Case No. PC 2008-0011

Presented by: Meron Dagnew, Assistant Attorney General

Motion to move the consideration of this consent order after the Commission addresses the issues of late fees.

*Motion made by: Vice Chair Stringfellow                      Seconded by: Commissioner Cathey                      Carried 5-0*

The presentation of this case was moved to the end of the agenda.

## REPORT OF THE EXECUTIVE SECRETARY:

Holly LaBerge, Executive Secretary, presented the following:

- Session ended March 29, 2012.
- None of the legislation that was raised during Session regarding the Commission passed.
- The state health benefit plan and telecommunication costs increase for all agencies and additional funds were added in the amended budget for Fiscal Year 2012 to address increases.
- An additional \$225,000.00 has been allocated to the Commission's Fiscal Year 2013 as follows:
  - \$25,000.00 for mailing costs of late fee notices
  - \$100,000.00 one time funds for IT upgrades
  - \$100,000.00 for a data entry position and an auditor position
- The Governor did not take the 2% cut from the current fiscal year budget. The 2% was used by the Commission to payout approximately \$22,000 in accrued-but-not-used annual leave to employees that left the agency.
- Ms. LaBerge provided current budget and retained revenue information to the Commission.
  - Money from retained revenue was used to replace two crashed computers in the current fiscal year.
  - The travel expenses for five regional trainings, mailing costs and IT expenditures incurred during the next fiscal year will be paid for out of retained revenue.

## HARDSHIP WAIVER AUTHORITY:

Motion to allow the Commission's Executive Director to handle hardship waiver requests as she sees fit. In the event that there is a filer who is dissatisfied with her decision we allow that filer to make a written appeal to the Commission.

*Motion made by: Chair Abernethy                      Seconded by: Vice Chair Stringfellow                      Carried 5-0*

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## **LATE FEE ISSUE:**

The Commission discussed the various late fees issues and took public comment regarding late filed and non filed campaign contribution disclosure reports (CCDR) and personal financial disclosure (PFD) reports between January 1, 2011 and April 11, 2012.

### **Motion 1:**

Commissioner Alexander and Commissioner Garrett proposed that the Commission assess \$125.00 fee for late filed CCDR and PFD by candidates or elected officials unless the statute provides such fee to be waived.

Motion to assess \$125.00 fee for late filed CCDR and PFD by candidates or elected officials unless the statute provides such fee to be waived.

*Motion made by: Chair Abernethy*

*Seconded by: Vice Chair Stringfellow*

*Carried 5-0*

### **Motion 2:**

Commissioner Alexander and Commissioner Garrett proposed amending the prior motion to include that the filer will have until May 15, 2012 to request to pay the fine or request the hardship waiver.

Motion to amend prior motion to include that the filer will have until May 15, 2012 to request to pay the fine or request the hardship waiver.

*Motion made by: Chair Abernethy*

*Seconded by: Vice Chair Stringfellow*

*Carried 5-0*

*The Commission held a recess from 10:45 AM to 10:55 AM.*

*Motion made by: Vice Chair Stringfellow*

*Seconded by: Commissioner Alexander*

*Carried 5-0*

*Motion to restart the Commission meeting at 10:55 AM.*

*Motion made by: Commissioner Alexander*

*Seconded by Vice Chair Stringfellow*

*Carried 5-0*

### **Motion 3:**

Motion to impose \$125.00, for candidates and elected officials, per report so that what the Commission is effectively doing is eliminating the fine escalation clause for reports that are due to be filed between January 1, 2011 and today. So if filer was suppose to file a disclosure between that period of time it is a \$125 fine per report unless the filer is exempt from filing or the Commission has the authority to waive that fine under the statute which would particularly be for those CCDRs that report all zeros. The late or non filer may request a hardship waiver or can pay the \$125 fine. There will be no escalation and this would be for reports that were to be filed between January 1, 2011 and today. This would apply to the 303 individuals that the Commission has heard from so the Executive Director would communicate this to them and it would also be the applicable treatment to those 7,000 or so who have committed the same violation but the Commission has not yet communicated with. So regardless of when the late filer or non filer communicate with the Commission or the Commission is able to certified mail notices, if the budget allows, to reach out to them it is a \$125.00 per report late fee.

*Motion made by: Vice Chair Stringfellow*

*Seconded by: Commissioner Alexander*

*Carried 5-0*

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## **Motion 4:**

Motion that lobbyist disclosures filed late between January 1, 2011 to April 11, 2012 that unless there was no money to disclose that was expended for lobbying or unless there is a hardship the Commission moves to assess the fines including the escalations as the Commission is required to do by the Georgia Campaign Finance Act.

*Motion made by: Chair Abernethy*

*Seconded by: Vice Chair Stringfellow*

*Carried 5-0*

## **CONSENT ORDER:**

### **In the Matter of Roberta Abdul-Salaam**

Case No. PC 2008-0011

Presented by: Meron Dagnev, Assistant Attorney General

Ms. Dagnev previously presented the case to the Commission. The only additional information provided to the Commission was Ms. Abdul-Salaam's financial packet that was submitted along with the Consent Order and Hardship Waiver for the Commission's review.

Vice Chair Stringfellow motioned that the Respondent, Roberta Abdul-Salaam, in this instance and in accordance with the late fee policy just adopted for candidates and elected offices be assessed the \$125.00 fine per late report that is addressed and covered in the supplied Consent Order. This treatment would be equal and in accordance with those that were just discussed by the Commission.

Vice Chair Stringfellow withdrew her motion prior to it being voted on.

Vice Chair Stringfellow indicated that she did not agree with waiving the late fees in totality as requested by the Hardship Waiver attached to the Consent Order. She would agree to waive the penalty. The Vice Chair suggested the late fees in this matter be measured against the schedule that was just approved by the Commission and apply it to this case.

Commission Alexander indicated that there is a sense of the Commission that, particularly with an elected official, there should be something paid and not a complete waiver and the current agreement before the Commission is for a complete waiver.

Ms. Dagnev stated that she would work with the Respondent and resubmit a new order to the Commission for their consideration.

Chair Abernethy stated that the motions were withdrawn with the general consensus from the Commission that there will be a fine assessed which will come back before the Commission for approval.

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## PUBLIC COMMENT:

Public comment was made by:

- William Perry representing Common Cause Georgia
- Marcia Rubensohn representing Georgia Municipal Association

Motion to adjourn at approximately 10:40 AM


*Motion made by: Chair Abernethy*

*Seconded by: Commissioner Alexander*

*Carried 5-0*

## Official Minutes Statement

The foregoing Minutes for the April 11, 2012 Meeting of the Georgia Government Transparency and Campaign Finance Commission were approved and adopted by the Commission at the Commission's meeting on June 15, 2012.



Kevin Abernethy, Chair

June 15, 2012

Date



Holly LaBerge, Executive Secretary

June 15, 2012

Date