

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 | Friday, November 4, 2011 | 11:00 AM Commission Meeting Minutes

Location: 200 Piedmont Avenue, West Tower, Atlanta, GA 30334

PRESENT:

Commission Members:

Patrick Millsaps, Chairman (via conference call)
Kevin Abernethy, Commission Member
Hillary Stringfellow, Commission Member
Kent Alexander, Commission Member (via conference call)
B. Chan Caudell, Commission Member

Commission Staff Present:

Holly LaBerge

Attorney General's Office

Meron Dagneu, Assistant Attorney General

OPENING COMMENTS:

Chairman Millsaps opened the meeting at 11:01 AM.

Chairman Millsaps requested that Commissioner Abernethy preside over the meeting in his physical absence.

Chairman Millsaps indicated that he would have to leave the meeting at 12:50 PM.

Chairman Millsaps welcomed Commissioner Caudell to his first meeting.

Commissioner Abernethy welcomed the newest member of the Commission and gave thanks to those parting (Vice Chair Belinfante).

APPRECIATION OF SERVICE:

Former Commission Vice Chairman Josh Belinfante was given an appreciation of service resolution which was read by Commissioner Abernethy.

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Former Vice Chairman Belinfante was unable to attend the meeting due to prior family obligation.

Commissioner Stringfellow stated that Josh Belinfante went above and beyond in his service to the Commission and we are all better for his service. Commissioner Abernethy echoed Commissioner Stringfellow's comments.

*Commissioner Abernethy called for a motion to adopt resolution made by
Motion made by Commissioner Alexander Seconded by Commissioner Stringfellow
Carried 4-0*

REPORT OF THE EXECUTIVE SECRETARY:

Note: Commissioner Caudell joined the meeting at this point in the agenda.

Holly LaBerge, Executive Secretary reported the following:

- The Commission has hired a full-time receptionist.
- Contract programmer has been hired full-time.
- IT Director resigning December 31, 2011. The Commission staff is in the process of searching for a replacement.
- Jonathan Hawkins of Fultz Marin, LLC has been hired as outside legal counsel to respond to advisory opinion requests.
- The Commission staff is in the process of searching for a staff attorney to handle the complaint case load.
- At the request of the Commission, the Secretary of State has started an HR audit. The audit is a review of each employee's job description and State Personnel Office job title to ensure that each individual is properly classified. A cursory review has highlighted that two current employees working on an hourly basis should be classified as salaried.
- Renovations to the suite creating a dedicated training room is complete.
- The Commission's one auditor is currently undergoing a random audit project to review the reports of 10% of filers. The audit will be conducted on 57 state-wide officials and 450 city/county officials. It is expected that this project will take the entire fiscal year to complete.
- Ms. LaBerge reviewed fiscal year 2011 budget and expenditures. It was determined that the Commission lapsed \$40,000.00.
- Ms. LaBerge informed the Commission that the budget, provided by the Secretary of State, has several mis-classifications and she is working towards their correction.
- In response to a question by Commissioner Stringfellow, Ms. LaBerge indicated that the Commission does expect to spend the entirety of its budget in this fiscal year.
- The Commission did prepay \$5,000.00 in postage for the statute required late fee notices out of the fiscal year 2011 funds.

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- Ms. LaBerge reviewed the Commission's fiscal year 2012 budget and indicated that 21% of the budget has been expended thus far. The Commission is through 25% of the fiscal year and has spent 21% of its budget.
- Commissioner Alexander questioned whether employee's contribute to their health benefits. Ms. LaBerge responded that yes employees do contribute toward their health benefits. The employer pays 27.363% towards each employee's benefits. This amount increases every year.
- Ms. LaBerge provided the Commission with a fiscal year 2012 personnel breakdown. She indicated the annual leave payout for the Director of IT will happen in calendar year 2012 and will effect this fiscal year. Commissioner Stringfellow stated that there is approximately a 20% savings in salary due to the changes in personnel. This change will allow the Commission to utilize those funds in other areas of the budget.

Commissioner Abernethy thanked Ms. LaBerge and her staff for their work.

ADVISORY OPINIONS:

Advisory Opinion 2011-07

- Submitted by Maurice D. Cook, who was unable to attend the meeting.
- Submitted: August 8, 2011
- Whether or not elected municipal officials, who are employed with private non-profit entities while holding office, are required to register as lobbyists if those officials cast votes on issues relating to their private non-profit employment and to which they have advocated.
- Presented by: Kevin Abernethy, Commissioner

Submitted Conclusion:

The controlling factual inquiry, under the Act, is whether or not an elected municipal official is receiving compensation to 1) promote or oppose the passage of any ordinance or resolution by a public officer specified under subparagraph (F) or (G) of paragraph (22) of Code Section 21-5-3, or any committee of such public officers, or the approval or veto of any such ordinance or resolution and 2) whether the official is spending more than 10 percent of his/her time lobbying for the elected official's private sector non-profit employer. If both these prongs can be answered in the affirmative, then the elected official must register as a lobbyist. Of course, if the elected municipal official fell within the definition of a lobbyist under any other provision of the Act, then the elected official would also have to register as a lobbyist.

Commissioner Alexander suggested that the final paragraph of the opinion be amended to state that the Commission discourages conflict of interest by public office holders. Commissioner Alexander expressed his concern that he did not want the Commission's opinion to suggest in any way that it is condoning conflict of interest.

Motion made by Commissioner Stringfellow to adopt advisory opinion subject to the addition of language to be drafted by Commissioner Alexander. Seconded by: Commissioner Abernethy
Carried 5-0

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Chairman Millsaps pointed out that in the absence of staff counsel, for approximately three months, Commissioner Abernethy and Vice Chairman Belinfante have voluntarily taken over the responsibility of writing the Commission's advisory opinions, pro bono. The thanked each of the Commissioners for their work. Commissioner Alexander echoed Chairman Millsaps comments.

CONSENT ORDERS:

In the Matter of Terry Sweeney
Case No. 2008-0102
Presented by Meron Dagnew, Assistant Attorney General

Background:

Complaint originated as a technical defect. Mr. Sweeney, Respondent, failed to make the needed corrections in the allotted time. Case was scheduled for a hearing; however, the respondent contacted Ms. Dagnew to work out a settlement.

Settlement:

Respondent agreed to correct the applicable reports and pay a civil penalty of \$150.00.

SANCTION: \$150.00

Motion to accept consent order

Motion made by: Commissioner Abernethy Seconded by: Commissioner Alexander Carried 5-0

In the Matter of Roberta Abdul-Salaam
Case No. PC2008-0011
Presented by Meron Dagnew, Assistant Attorney General

Presented as a Consent Order and Hardship Waiver

Roberta Abdul-Salaam, Respondent, late filed her 2008 campaign contribution disclosure reports, failed to file four 2006 campaign contribution disclosure reports, late filed two personal financial disclosures and owes \$1,325.00 in late fees. The Respondent states that she filed the 2006 reports locally. However, the Commission staff has been unable to confirm Respondent's local filing.

Ms. Dagnew and former Commission Executive Secretary Stacey Kalberman attempted to work out a payment plan. However, the length of the payment plan that the Respondent could adhere to exceeded 10 years in length based on the penalty and late fees incurred. The Respondent requested a hardship waiver and submitted documentation of her financial status, including her garnishment, paystubs and tax returns which show a taxable income of \$25,588.00.

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The consent order contains a \$2,500.00 civil penalty and require payment of \$1,325.00 in outstanding late fees. However, the Commission waives both requirements based on Respondents financial status. Respondent also wanted the Commission to consider her medical disability.

Motion to table decision until Commission has reviewed Respondent's financials in more detail.

Motion made by: Commissioner Stringfellow Secoded by: Commissioner Abernethy Carried 5-0

DISMISSAL:

In the Matter of Jacquelyn Barrett Case No. 2004-0021 Presented by Douglas Chalmers, Jr., Political Law Group, A Chalmers LLC Attorney of the Respondent

Background:

Jacquelyn Barrett, Respondent, failed to report all expenditures and contributions from 2000 through 2004 on her campaign contribution disclosure reports.

Attorney for the Respondent:

Doug Chalmers has filed a Motion to Dismiss with the Commission on the grounds that the case is time-barred by O.C.G.A § 9-3-28. Mr. Chalmers states in his letter, dated April 27, 2011, that Judge Kimberly Adams of Fulton County Superior Court recently ruled that the one year statute of limitations set forth in § 9-3-28 applied to alleged violations of the Ethics in Government Act § 21-5-1 et seq that occurred prior to January 9, 2006.

Conclusion of Staff:

The legal staff of the Commission at the time the April 27, 2011 letter from Mr. Chalmers was received by the Commission was of the opinion that the Motion to Dismiss would be accepted. That is the conclusion of the Commission staff with the advice of the Attorney General's office at this time.

Motion to dismiss.

Motion made by: Commissioner Abernethy Secoded by: Commissioner Stringfellow Carried 5-0

LATE FEE WAIVERS:

Commissioner Abernethy opened the floor to those that signed up to speak regarding their late fee waiver requests. The following individuals spoke and expressed their concerns and frustrations with the Commission's systems, personal identification number requirements (one number for filing campaign contribution reports and another for filing personal financial disclosures) and the late fees incurred for filing late.

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- Kenneth Usery, Mayor of Thomson
- Fred Aiken, Workforce Development Team Lobbyist – Georgia Department of Labor
- Myrtle Figueras, Gainesville City Councilwoman
- Kenneth L. Turner, Mayor – City of Gordon
- Walter Vinson, Manager of Government Affairs for Hartsfield Jackson International Airport
- Clint Mueller, ACCG
- Susan Moore, General Council, Georgia Municipal Association

Each individual was given 3 minutes to speak to ensure that all that wanted to be heard would have the opportunity to do so.

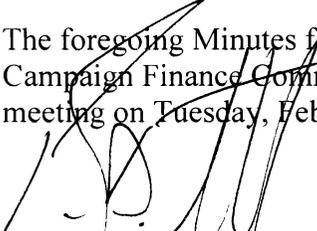
Chairman Millsaps asked those present to submit to the Commission their constructive suggestions on improvements they see needed to the Commission's system and process. At this time, the Commission did not make a decision regarding late fee waiver requests.

***Motion to adjourn made by Commissioner Abernethy
Seconded by Commissioner Stringfellow
Carried 4-5***

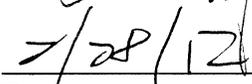
Meeting adjourned at approximately 12:30 PM

Official Minutes Statement

The foregoing Minutes for the November 4, 2011 meeting of the Georgia Government Transparency and Campaign Finance Commission were approved and adopted by the Commission at the Commission's meeting on Tuesday, February 28, 2012.



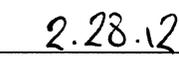
Kevin Abernethy, Chair



Date



Holly LaBerge, Executive Secretary



Date