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RICHARD D. EMERY  
HON. HOWARD A. LEVINE  
JOHN T. MITCHELL  
MARK G. PETERS  
JOSEPH A. SPINELLI  
MEMBERS



BARRY GINSBERG  
EXECUTIVE DIRECTOR

NEW YORK STATE  
COMMISSION ON PUBLIC INTEGRITY

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**MINUTES OF COMMISSION MEETING  
PUBLIC SESSION**

**October 14, 2010  
10:30 A.M.  
540 Broadway  
Albany, New York**

**Present:**

**Chairman:** Michael G. Cherkasky  
**Members:**

Virginia M. Apuzzo  
John M. Brickman  
Andrew G. Celli, Jr.  
George F. Carpinello  
Richard D. Emery  
Howard A. Levine  
John T. Mitchell  
Mark G. Peters  
Joseph A. Spinelli

**Staff:** Barry Ginsberg, Executive Director  
Theresa A. Schillaci, Special Counsel  
Ralph P. Miccio, Special Counsel  
Deborah L. Novak, Confidential Assistant

**I. OPENING STATEMENT**

The meeting was opened by Chairman Michael Cherkasky. He welcomed new Commission member, George Carpinello who has had a distinguished legal career and is a welcome addition to this Commission.

## **II. MINUTES – PUBLIC SESSION – AUGUST 12, 2010**

Upon motion made by Commissioner Emery, seconded by Commissioner Levine, the Minutes from the Public Session of the August 12, 2010 Commission Meeting were approved by unanimous vote.

## **III. EXECUTIVE DIRECTOR'S REPORT**

Executive Director and General Counsel Barry Ginsberg provided an overview of the Executive Director's Report. Staff has begun to work on transition issues by preparing a package of materials that will initially go to the transition team for the next Governor. Staff will also be available to the team for training and to answer questions so, as they bring people on board for the new administration, those people in the leadership positions have the opportunity to be fully briefed on the Public Officers Law and the Lobbying Act.

Last year, Public Officers Law §73(8)(a) was amended to afford those State employees who are terminated because of the State's fiscal crisis an opportunity to obtain a waiver of the two-year bar. The Commission approved materials prepared by staff explaining the procedure for obtaining such an exemption, but staff had not circulated those materials. With the Governor's announcement of layoffs occurring by the end of the year, however, we have circulated those materials as well as some information about the two-year bar, the lifetime bar and other pertinent matters to the Ethics Officers, the Personnel Officers and Counsel of all State agencies.

Chairman Cherkasky commented about the Commission's lack of resources, which has required the Commission to triage. Executive Director Barry Ginsberg reported that in three years we have lost 25% of our staff through attrition.

#### **IV. 2011 LEGISLATIVE PROPOSALS**

Executive Director Barry Ginsberg presented the staff's 2011 Legislative Proposals, some of which the Commission made last year without success.

The first proposal expands the definition of "lobbying" to include efforts to have bills, rules and regulations introduced. Under current law, lobbying only begins after a bill, rule or regulation has been introduced. Last year we proposed a very broad definition of lobbying as essentially any paid effort to influence government actions or decisions. While not as broad as that, the proposal would capture those activities that are not lobbying under the current statute but which fit what most people understand as lobbying.

The second proposal is the same as one the Commission made last year, to include within the definition of reportable expenses, political contributions made by lobbyists and clients to public officials and candidates for public office.

The third proposal would modify the definition of gift. The Lobbying Act currently provides that a gift is unlawful if it is reasonable to infer intent to influence a public official. Since the primary objective of lobbyists and clients of lobbyists is to influence public officials; the intent element should not be included in the definition of a gift. The proposal also addresses the widely attended event exception to the definition of gift. In this regard, the proposal is the same as one the Commission made last year.

The fourth proposal would authorize imposition of a civil penalty on a lobbyist or client who fails to comply or cooperate with a random audit.

The fifth proposal would authorize imposition of a civil penalty against a lobbyist who violates the prohibition against a contingent lobbying contract. The only penalty in the statute is criminal prosecution which is rarely if ever used. The Commission made this proposal last year.

The sixth proposal would align the retention periods for documents of lobbyists and clients with the period that the Commission is authorized to go back, 3 biennial periods or 6 years. The Commission made this proposal last year.

The seventh proposal would amend the nepotism statute to prohibit supervision of a relative. The Commission made this proposal last year.

The eighth proposal would clarify the term relative. The Commission made this proposal last year.

**V. MOTION TO ENTER CLOSED SESSION PURSUANT TO EXECUTIVE LAW §94(17)(b) AND TO ENTER INTO EXECUTIVE SESSION PURSUANT TO PUBLIC OFFICERS LAW §105(1)(d)**

A motion to enter into Closed Session pursuant to Executive Law §94(17)(b), and then into Executive Session pursuant to Public Officers Law §105(1)(d), was made by Commissioner Mitchell, seconded by Commissioner Spinelli, and approved by unanimous vote.

**VI. PUBLIC ANNOUNCEMENT**

Chairman Michael Cherkasky announced that it has been an incredible pleasure working with this group of people and being Chairman of this Commission. Unfortunately, things have changed in his professional life. The company of which he is CEO acquired a company called Kroll in August. Since Kroll handles so many different matters, it's not in the interest of this Commission or the State for him to continue to be Chairman. To protect himself, his company and the

Commission, effective in January, he will be stepping down with his regrets. He will participate in the December meeting.

**VII. MOTION TO ADJOURN THE PUBLIC MEETING**

Upon motion made by Commissioner Levine, seconded by Commissioner Celli, the Public Meeting was adjourned by unanimous vote.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Barry Ginsberg". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Barry Ginsberg  
Executive Director