

**MINUTES OF THE PUBLIC SESSION OF THE  
DECEMBER 18, 2012  
COMMISSION MEETING  
OF THE JOINT COMMISSION ON PUBLIC ETHICS  
HELD AT THE COMMISSION'S OFFICE LOCATED AT  
540 BROADWAY  
ALBANY, NEW YORK**

**Present:**

**Chair:** Hon. Janet DiFiore

**Members:** Patrick J. Bulgaro  
Hon. Joseph Covello  
LaShann M. DeArcy  
Hon. Vincent A. DeIorio  
Daniel J. Horwitz (*via Skype*)  
Marvin E. Jacob (*via Skype*)  
Seymour Knox, IV (*via Skype*)  
Gary J. Lavine (*via Skype*)  
Mary Lou Rath (*via Skype*)  
David A. Renzi  
George H. Weissman  
Ellen Yaroshefsky (*via Skype*)

**Members**

**Absent:** Mitra Hormozi

**Staff:**

Ellen N. Biben, Executive Director  
Monica J. Stamm, Chief of Staff and Deputy Counsel  
Kitty Kay Chan, Chief Economist and Director of Audit and Review  
Jeannine Clemente, Director of Administration  
Robert Cohen, Special Counsel and Director of Ethics and Lobbying  
Compliance  
John T. Milgrim, Director for External Affairs  
Letizia Tagliaferro, Director of Investigations and Enforcement  
Patrick Coultry, Chief Investigator  
Jack Patterson, Confidential Investigator  
Terence Mulderrig, Senior Investigator  
Shari Calnero, Associate Counsel  
Deborah Novak, Executive Assistant

**I. OPENING STATEMENT**

Chair DiFiore opened the Public Session.

**II. MINUTES - PUBLIC SESSION – NOVEMBER 20, 2012**

Upon motion made by Commissioner Renzi, which was seconded by Commissioner Covello, the Minutes from the Public Session of the November 20, 2012 Commission Meeting were approved by unanimous vote. Commissioners DeArcy and Lavine were not present for this vote.

**III. EXECUTIVE DIRECTOR’S REPORT**

**Staff Update**

Executive Director Biben announced the hiring of a new auditor who has started and is a productive member of the team.

**Training Update**

Staff has been conducting the lobbying and ethics training with additional trainings scheduled in January. Training has been productive and staff has received positive feedback.

**Upcoming filing dates: Biennial Registration and Client Semi-Annual Report**

The upcoming filing dates for biennial registrations is January 1, 2013 and the client semi-annual reports are due on January 15, 2013. The new disclosure requirements are in effect for these two filings. Staff is preparing for this particularly busy time for the office.

**IV. REGULATIONS**

**Update on Source of Finding Regulations**

Executive Director Biben reminded the Commission that the regulations are proceeding on two tracks: as emergency regulations and proposed amended regulations which will be subject to a public comment process under SAPA.

The regulations are being finalized and will be submitted for publication shortly. The emergency regulations will be effective upon publication.

### **Gift and Related Regulations**

Executive Director Biben explained that gifts is an area where there has been a lot of confusion, including, among other things, different standards for public officers who may receive gifts and lobbyists and clients who may offer them. It is an important area and staff believes the Commission should provide clarity through regulation.

The Executive Director provided an overview of preliminary drafts of proposed new and revised regulations that have been developed by staff. Staff proposed to present the drafts to the Commission today, and then staff will continue to develop them, have an ongoing dialogue with the regulated community and others, post the drafts on the Commission's website, and then solicit informal comments, so staff can return to the Commission with informed insight. The Legislative Ethics Commission ("LEC") also has the authority to issue guidance in this area and it is very important that staff coordinates with the LEC. Shortly before the meeting today, the Commissioners received a letter from the LEC in which it expressed interest in working with the Commission to develop consistent guidance on these issues.

Executive Director Biben did a Power Point presentation and discussed the proposed gift regulations for public officers, proposed gift regulations for lobbyists and clients, proposed honoraria regulations, proposed official activity expense regulations and proposed public service announcement regulations, highlighting any significant changes from existing regulations and advisory opinions.

The Commissioners discussed the proposal and there was consensus to proceed in the manner suggested. The Commission determined that no vote was required for staff to proceed in the manner proposed, continue to have a dialogue with LEC, and others and then post the draft regulations on JCOPE's website for comment. Commissioner Rath stated that she was pleased that the LEC wanted to work with the Commission. Executive Director Biben emphasized that it is important that the two agencies be coordinated as we share authority to provide guidance on these topics, and the more clarity and consistency we can provide to the community, the better.

#### **V. FDS RANDOM REVIEW GUIDELINES**

Executive Director Biben presented the proposed guidelines for the random review of Financial Disclosure Statements as required by section 94 of the Executive Law. Kitty Kay Chan, Chief Economist and Director of Audit and Review, and her staff, have developed thoughtful and comprehensive guidelines. The guidelines provide for clear protocols for selecting and reviewing disclosure statements. The selection will be done in a manner in which staff will not know the identity of the filer. The guidelines delineate a substantial review that will include comparison to internal documents and to public information. Staff recommended that the guidelines be ratified by the Commission.

Commissioners raised questions about the review process. Executive Director Biben explained that the guidelines provide procedures for handling information or inconsistencies which require further inquiry during a random review. Executive Director Biben further explained that it takes several steps to trigger an enforcement proceeding in the FDS context as compliance is the primary goal. The proposed random review guidelines provide clear steps and protocols for staff to follow at each step.

Commissioners raised concerns about the new changes to the FDS forms which become effective in 2013. The Executive Director explained that filers are given

notice and opportunity to correct a filing before any enforcement actions are undertaken. In addition, Kitty Kay Chan has created systems so staff will be able to identify any patterns of problems in complying with the new questions, and she is using the data that we are collecting to try and inform training and guidance.

Upon motion made by Commissioner Renzi, which was seconded by Commissioner DeIorio, to ratify the random review program guidelines for annual statements of financial disclosure was approved by unanimous vote.

**VI. NEW AND OTHER BUSINESS**

There was no new business.

**VII. MOTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO EXECUTIVE LAW §94(19)(b)**

A motion to enter into Executive Session pursuant to Executive Law §94(19)(b) was made by Commissioner DeArcy, seconded by Commissioner Bulgaro, and was approved by unanimous vote.

**VIII. PUBLIC ANNOUNCEMENT OF ACTIONS FROM EXECUTIVE SESSION**

Chair DiFiore announced that there was no reportable action taken in the Executive Session.

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

Upon motion made by Commissioner DeArcy, seconded by Commissioner Covello, which was approved by unanimous vote, the meeting was adjourned.