

**MINUTES OF JOINT COMMISSION ON PUBLIC ETHICS
COMMISSION MEETING
PUBLIC SESSION**

**January 31, 2012
10:30 A.M.
540 Broadway
Albany, New York**

Present:

Chair: Hon. Janet DiFiore

Members: Ravi Batra
Patrick J. Bulgaro
Hon. Joseph Covello
Hon. Vincent A. DeIorio
Mitra Hormozi
Daniel J. Horwitz
Marvin E. Jacob
Seymour Knox, IV
Gary J. Lavine
Hon. Mary Lou Rath
David A. Renzi
George H. Weissman
Ellen Yaroshefsky

Staff: Theresa A. Schillaci
Jeannine Clemente
Deborah Novak

I. OPENING STATEMENT

Chair DiFiore opened the Public Session and welcomed all Commissioners.

II. MINUTES - PUBLIC SESSION – JANUARY 11, 2012

Upon motion made by Commissioner Bulgaro, seconded by Commissioner Horwitz, the Minutes from the Public Session of the January 11, 2012 Commission Meeting were approved by unanimous vote with amendments.

III. BUDGET UPDATE

Jeannine Clemente discussed the Commission's Executive Budget appropriation of \$4.1 million for the next fiscal year beginning in April. This is an increase of \$222,000 over the current fiscal year appropriation. The increase provides start-up costs for implementing new mandates such as changes that need to be made to the on-line Financial Disclosure System and Lobbying applications, the new ethics and lobbying training program and the new financial disclosure random audit program. For the current fiscal year through the end of January, the Commission has spent \$2.7 million of its cash ceiling of \$3.4 million. The Commission has also deposited revenues of \$538,000 into the State's General Fund from lobbyist registration fees, client filing fees, late filing fees and fines.

IV. ADMINISTRATION COMMITTEE REPORT

Commissioner Bulgaro discussed the Commissioners' proposed *per diem* policy defined as attendance or participation at a Commission Meeting, to include participation *via* Skype or telephone, but would not include committee work. Commissioner Lavine inquired whether participation *via* telephone qualifies for the *per diem*. Commissioner Bulgaro stated that the Administration Committee discussed this particular situation and concluded that participation *via* telephone does qualify for the *per diem*. Upon motion made by Commissioner DeIorio, seconded by Commissioner Batra, the *per diem* policy was approved by unanimous vote.

Commissioner Bulgaro and Jeannine Clemente discussed the Commissioners' proposed travel reimbursement policy. In-State travel, such as train tickets and overnight accommodations, will be made centrally by Commission staff. Commissioners will need to submit their requests for reimbursement, along with receipts, for expenses such as mileage, cabs, tolls and parking. Staff will complete the necessary vouchers for Commissioner signature and submit them to the Comptroller's Office for reimbursement. Upon motion made by Commissioner Horwitz, seconded by Commissioner Yaroshefsky, the travel reimbursement policy was approved by unanimous vote.

Commissioner Bulgaro discussed the temporary hiring of three attorneys and two investigative positions to handle the Commission's backlog. The job descriptions have been posted on the Commission's website and the Commission has received 40-50 resumes. The Commission has not received approval from the Division of Budget to begin the first hire of a temporary Associate Counsel. Chair DiFiore will contact the Division of Budget regarding approval to hire.

Commissioner Bulgaro discussed upgrading versus replacement of Commission computers. Commissioner Bulgaro noted that the condition of the existing computers even after an upgrade, when compared to purchasing new computers, was not cost effective. Upon motion made by Commissioner Yaroshefsky, seconded by Commissioner Horwitz, the decision to purchase new computers for Commission staff was approved by unanimous vote. Commissioner Weissman indicated there may be a delay in the purchase, as the State has not yet finalized a new centralized contract for computers.

Commissioner Bulgaro discussed the Commission's ten year lease at a cost of \$612,000 a year excluding utilities. Staff was instructed by the Chair to begin a dialog with the Office of General Services regarding options to reduce the size of the Commission's space.

Commissioner Bulgaro discussed the preparation of staff profiles. Staff will be directed to submit their updated resumes and introduction materials for review by the new Executive Director.

Commissioner Bulgaro discussed the late filing fee backlog. There is currently a backlog of over 400 billing notices to assess late filing fees for bimonthly reports and semi-monthly reports untimely filed that have not been sent as the statute did not allow enforcement actions until the new Commission was created. Billing notice letters seeking payment will be sent in cases where a late filing fee is due and owing for lobbyist bimonthly reports and client semi-annual reports not filed in accordance with applicable timeframes.

In regard to late lobbyist registrations, these pose some legal questions. When JCOPE was created, the definition of lobbying was modified. There have been a number of questions raised about when a registration and registration amendment may be due and how assessments of late filing fees are determined. It was suggested that the incoming General Counsel will deal with these issues.

V. NEW BUSINESS

Chair DiFiore discussed correspondence from Jeremy Feigelson, Chair of the Committee on Government Ethics at the New York City Bar. The committee is making it a priority to follow the implementation of PIRA and the progress of JCOPE and their intention is to complete a "year one" assessment to the public in early 2013. Chair Feigelson welcomes the

opportunity to meet with the Commission's Chair, Commissioners and the staff at JCOPE.

Chair DiFiore discussed the search for the Commission's Executive Director, which will be discussed in Executive Session.

VI. MOTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO PUBLIC OFFICERS LAW §105(1)(d) AND (f)

A motion to enter into Executive Session pursuant to Public Officers Law §105(1)(d) and (f) was made by Commissioner Batra, seconded by Commissioner Covello and was approved by unanimous vote.

VII. PUBLIC ANNOUNCEMENT OF ACTIONS FROM EXECUTIVE SESSION

Chair DiFiore reported the following actions taken during Executive Session: The Commission approved a settlement agreement with Imagedoc USA. The Commission also agreed to accept the hearing officer's recommendation for failure to file client semi-annual reports in the following matters: Community Redemption Center, Housing Works, Inc., S & L Birchwood, LLC and YL Management, LLC.

VIII. MOTION TO ADJOURN THE PUBLIC MEETING

Upon motion made by Commissioner Rath, seconded by Commissioner Horwitz, the Public Meeting was adjourned by unanimous vote.

Respectfully submitted,

Theresa A. Schillaci