

**MINUTES OF THE PUBLIC SESSION OF THE
MAY 23, 2017
COMMISSION MEETING
OF THE JOINT COMMISSION ON PUBLIC ETHICS
HELD AT THE
90 CHURCH STREET
NEW YORK, NEW YORK**

Acting Chair: Michael K. Rozen (NYC)

Members:

Robert Cohen (NYC)
Marvin Jacob (NYC)
Seymour Knox, IV (ALB)
Gary J. Lavine (Webex)
J. Gerard McAuliffe, Jr. (NYC)
David A. Renzi (Webex)
Dawn L. Smalls (NYC)
George H. Weissman (ALB)
Hon. Penny M. Wolfgang (NYC)

Members

Absent: None

Staff:

Seth H. Agata, Executive Director
Monica J. Stamm, General Counsel
Martin L. Levine, Deputy General Counsel
Stephen J. Boland, Director of Administration
Keith C. St. John, Director of Ethics
Andrew Bechard, Director of Lobbying
Walter J. McClure, Director of Communications and Public Information
Officer
Pei Pei Cheng-deCastro, Director of Investigations and Enforcement
Emily A. Logue, Deputy Director of Investigations and Enforcement
Patrick E. Coultry, Chief Investigator
Peter J. Smith, Investigator
Michael Sande, Deputy Director of Ethics Guidance
Stephanie Blattmachr, Deputy Director of FDS
Carol C. Quinn, Deputy Director of Lobbying Guidance
Meghann Hennigan, Deputy Director of Education
Erin R. Lynch, Associate Counsel
Lori Donadio, Principal Investigative Analyst
Deborah Novak, Secretary to the Commission

I. CALL TO ORDER

Acting Chair Michael Rozen called the May 23, 2017 Commission Meeting to order.

II. APPROVAL OF MINUTES – PUBLIC SESSION

April 25, 2017

A motion was made by Commissioner McAuliffe, seconded by Commissioner Jacob, to approve the Minutes from the Public Session of the April 25, 2017 Commission Meeting. The motion was approved by unanimous vote.

III. REPORT FROM STAFF

2016 Financial Disclosure Statements

Executive Director Seth Agata stated that the 2016 Financial Disclosure Statements required pursuant to §73-a of Public Officers Law have been filed, are being processed by staff, and the filings of statewide elected officials have been posted on the website.

Update on Outreach Activities

Executive Director Agata stated that the JCOPE Education Department held a well-attended training for the Department of Public Service, which was successful and is part of the Commission's outreach to shape trainings to meet the particular needs of each agency. On October 26, 2017, in conjunction with New York Law School's Center for New York City Law, Commission staff is putting together panels for a three-credit Continuing Legal Education (CLE) program on public ethics. Director of Investigations & Enforcement, Pei Pei Cheng-de-Castro has taken the lead on that effort. The CLE program will be presented to stakeholders and to government employees. Commission staff is also putting together a book in conjunction with the Center for New York City Law. The book, which will be a single volume work on New York ethics and lobbying laws, is currently being edited.

Update on Annual Report

A draft version of the Annual Report was circulated last week for comments. The goal is to have it out by the end of the week, so comments were solicited.

Legislative Note

There was a bill that was brought to staff's attention by DOB, Senate Bill 919/ Assembly Bill 6003, that would expand JCOPE's and the LEC's training obligations. The bill would require JCOPE to hold live trainings on a yearly basis for every state employee. Staff was asked to work on a budget estimate. Right now, the Commission has a statutory training mandate that is limited to FDS filers, which are approximately 25,000 state officers and employees. If the mandate covered all state employees, it would bring the number up to 200,000 state officers and employees. In addition, the current mandatory training program takes place approximately every three years, while the new bill would require annual live trainings for 200,000 state employees resulting in a bigger administrative burden with estimated costs, including hiring 12 new trainers, of almost two million dollars. Staff is not commenting on the merits, but rather dealing with the practical issues of implementation if the Legislature passes the bill. Staff will be monitoring the bill and has responded to the request for fiscal input.

New York City Office Space

General Counsel Monica Stamm explained that the lease on the New York City space has approximately two more years on it, and as part of the regular lease renewal process, the Office of General Service has started looking for alternative spaces to compare with keeping the current space. Staff will continue to update the Commission. A similar process is taking place in Albany.

IV. REGULATIONS

Staff Draft of Comprehensive Lobbying Regulations

Executive Director Agata explained that after this presentation of the staff draft Lobbying Regulations to the Commission, a final redline version of the Lobbying Regulations that incorporates the comments will be sent to the Commission with the goal that the SAPA process will be commenced soon. The SAPA process includes giving public notice of the regulations and gathering public input for at least a 45-day period, with potential for additional comment periods. After the Commission makes the updated regulations public, staff would like to conduct another public hearing in Albany in August to provide a forum for further comments.

Deputy General Counsel Martin Levine gave a presentation on the draft Comprehensive Lobbying Regulations. Specifically, Deputy General Counsel Levine reviewed client filings, source of funding reporting, and the contingent retainer prohibition. The regulations provide that the contractual client in a lobbying arrangement is responsible for filing Semi-Annual reports while the beneficial client is responsible for reporting Sources of Funding. Deputy General Counsel Levine noted that the regulations will treat the members of coalitions, regardless of how the coalition elects to report its activity, as beneficial clients, and thus, potentially, requiring those members to disclose their sources of funding. Commissioner Jacob asked whether members of a coalition who spend less than \$5,000 would be required to be identified. Deputy General Counsel Levine indicated that such a participant may be disclosed, depending on how the coalition elects to report its activity.

Deputy General Counsel Levine also discussed the idea that a lobbyist's acceptance of payment in the stock of a client would be presumptively impermissible, but not a *per se* violation of the prohibition on the receipt of contingent retainers. Commissioner Cohen added that with respect to payment in

stock regarding the contingent retainer, perhaps the presumption should be reversed to accommodate small startups, as a lawyer is likely to advise a client against a payment in stock with the presumption that these arrangements are impermissible. Deputy General Counsel Levine agreed to reconsider the presumption in the revised regulations.

V. NEW AND OTHER BUSINESS

None

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

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

VII. PUBLIC ANNOUNCEMENT OF ACTIONS FROM EXECUTIVE SESSION

Chair Rozen announced that during the Executive Session pursuant to Executive Law §94(19)(b), the Commission approved two settlements, commenced an investigation, discussed several investigative matters, approved an application for a Public Officers Law §73(8-b) exemption, and issued an Advisory Opinion.

VIII. MOTION TO ADJOURN THE PUBLIC MEETING

A motion was made by Commissioner Jacob, seconded by Commissioner McAuliffe, to adjourn the Public Meeting. The motion was approved by unanimous vote of Chair Rozen and Commissioners Cohen, Jacob, Knox, McAuliffe, Renzi, Smalls, Weissman and Wolfgang. Commissioner Lavine was not present for the motion.