

NEW YORK STATE  
JOINT COMMISSION ON PUBLIC ETHICS

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Commission Meeting of April 28, 2020

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Appearances: Michael K. Rozen, Chair

Commissioners:

Robert Cohen  
James E. Dering  
Colleen C. DiPirro  
William P. Fisher  
Daniel J. Horwitz  
Marvin E. Jacob  
Gary J. Lavine  
James W. McCarthy  
David J. McNamara  
George H. Weissman  
James A. Yates

Staff:

Monica J. Stamm, General Counsel  
Martin L. Levine, Deputy General Counsel  
Stephen J. Boland, Director of Administration  
Keith C. St. John, Director of Ethics  
Emily Logue, Acting Director of Investigations and  
Enforcement  
Walter J. McClure, Director of Communications and Public  
Information Officer  
Carol Quinn, Deputy Director of Lobbying Guidance  
Melinda Funk, Deputy Director of Financial Disclosure  
Patrick E. Coultry, Chief Investigator  
Lori A. Donadio, Principal Investigative Analyst  
Kelly A. McCready, Confidential Clerk

IT Staff - David Stern, Tanya Smith

1           Chair Rozen: Good morning everybody. Welcome to the  
2 April meeting of the New York State Joint Commission on Public  
3 Ethics. I want to thank everyone for joining today with  
4 everything going on in the world and I hope all of you and  
5 your families are healthy and safe during this difficult time.  
6 Due to the social distancing orders, JCOPE's physical offices  
7 continue to be closed, so this meeting is being held using  
8 video conferencing technology. The public session is  
9 accessible on JCOPE's website to watch via livestream. For  
10 that, I appreciate all the efforts made by staff and the  
11 Commissioners to ensure that this meeting could happen.  
12 Additionally, in recognition of the circumstances, we have  
13 taken steps to ensure that people and businesses can devote  
14 their energy to navigating the health and financial crises by  
15 deferring filing and training deadlines and temporarily  
16 suspending audits. We will continue to evaluate the  
17 circumstances to determine whether further accommodations are  
18 needed. Please contact the Commission staff if you need  
19 assistance. Although staff is working from home, they  
20 continue to be available to provide ethics and lobbying  
21 guidance, aid with public disclosure filings, ethics  
22 trainings, and other mandated services. Finally, to conduct  
23 this meeting smoothly, I will be monitoring the video and will  
24 do my best to recognize anybody who wishes to speak. Staff

1 will be assisting me, so you can text Monica, Martin, or Walt  
2 during the meeting if you need to be recognized. It is  
3 important that only one person speak at a time. In addition,  
4 I ask that when you speak, you identify yourselves, so we have  
5 a clear record. We will need to take votes by roll call to  
6 ensure that everyone is counted. Otherwise, please mute your  
7 phone when you are not planning to speak. Thank you.

8 Let's move to the approval of minutes from the  
9 public session that is behind Attachment A, any questions or  
10 comments? Monica, I am relying on you for this because I cannot  
11 see anybody still.

12 Kelly McCready: I don't see any hands up.

13 Walter McClure: Commissioner Weissman is moving.

14 Commissioner Weissman: Motion to approve.

15 Chair Rozen: Thank you Commissioner, is there a  
16 second?

17 Commissioner Dering: Second.

18 Chair Rozen: Martin, are you taking the roll?

19 Walter McClure: Hold on Martin, you are muted. Go  
20 ahead Martin.

21 Martin Levine: On the minutes, Commissioner Cohen?

22 Walter McClure: Hold on, Commissioner Cohen. You  
23 are muted, I am going to unmute you. Commissioner Cohen, go  
24 ahead.

1           Martin Levine: Commissioner Cohen on the minutes.  
2           I'll come back. Commissioner Dering.  
3           Commissioner Dering: Approved.  
4           Martin Levine: Commissioner DiPirro, I'll come  
5           back. Commissioner Fisher.  
6           Commissioner Fisher: Approved.  
7           Martin Levine: Commissioner Horwitz.  
8           Walter McClure: You are muted Dan.  
9           Commissioner Horwitz: Approved.  
10          Chair Rozen: Thank you.  
11          Martin Levine: Commissioner Jacob.  
12          Commissioner Jacob: Approved.  
13          Martin Levine: Commissioner Lavine.  
14          Commissioner Lavine: Yes.  
15          Martin Levine: Judge McCarthy, judge you are muted.  
16          Walter McClure: Go ahead Commissioner McCarthy.  
17          Commissioner McCarthy: I said I cannot be voting  
18          on either minutes because I wasn't at the last meeting.  
19          Martin Levine: Understood, Judge. Thank you.  
20          Commissioner McNamara.  
21          Commissioner McNamara: Approved.  
22          Martin Levine: Commissioner Weissman.  
23          Commissioner Weissman: Approved.  
24          Martin Levine: Judge Yates.

1 Judge Yates: Approved.

2 Martin Levine: Chair Rozen.

3 Chair Rozen: Approved.

4 Martin Levine: Commissioner Cohen, all right we  
5 will try later, and Commissioner DiPirro.

6 Walter McClure: I don't think she's on.

7 Martin Levine: Nine, the motion carries.

8 Chair Rozen: Okay, thank you. Item three on the  
9 agenda, Report from Staff.

10 Walter McClure: Hold on Steve, I will unmute you,  
11 Steve, go ahead.

12 Stephen Boland: Thank you Walt, Good morning  
13 everyone, this will be the fourth quarter report of the 2019-  
14 2020 fiscal year. As of March 31<sup>st</sup>, 2020, the personal service  
15 during the fourth quarter we spent almost \$997,000, for a year  
16 to date total of almost \$4,487,000, which is a percentage  
17 spent of 97.1% of our cash disbursement ceiling. Also, during  
18 the fourth quarter for non-personal service, we spent  
19 \$234,000, for a year to date total of \$731,000, which was  
20 80.3% of our cash budget. So, for the totals for the fourth  
21 quarter, we spent almost 1,230,000., for a year to date total  
22 of \$5,117,000, or 94.3% of our cash allowance. Are there any  
23 questions? Thank you. And transitioning to this year's  
24 enacted budget, the enacted appropriation is the same as last

1 year, there are no deviations. Any questions?

2 Commissioner Fisher: I have a question, is there  
3 any talk of any reductions into the current fiscal year.

4 Stephen Boland: Not in the enacted budget. We have  
5 heard rumors that there will be some adjustment, but I haven't  
6 heard anything yet from DOB what those are.

7 Chair Rozen: Please continue.

8 Walter McClure: Sorry Steve, can you go ahead  
9 again, I'm sorry you were muted.

10 Stephen Boland: I'm done. Thank you very much.

11 Chair Rozen: Thank you. Monica just FYI I can see  
12 everybody again.

13 Monica Stamm: Wonderful, that is great news. Okay.  
14 I will continue with the staff report. With respect to the  
15 annual report, in light of the health crisis and the  
16 development of the new lobbying application, we are  
17 experiencing a delay in finalizing the annual report. We  
18 expect to have an updated timeline by the next meeting but are  
19 working towards having a draft for the Commission sometime in  
20 June. Any questions about the annual report?

21 With respect to Financial Disclosure Statement  
22 filings, we are currently working on compliance for state  
23 office candidates with respect to the June 23, 2020 primary,  
24 and obviously there have been some announcements about what

1 elections will take place at that primary and we are monitoring  
2 that. The FDS filings were due earlier this month. We are  
3 coordinating with the Legislative Ethics Commission and the  
4 Board of Elections, and if necessary, we will send failure to  
5 file notices timely so that the notices of delinquency, if  
6 needed, will be posted well in advance of the election.

7 Earlier this month, due to the covid-19 crisis, we  
8 found justifiable cause to provide an additional 90 days for  
9 filers to submit their Financial Disclosure Statements. So,  
10 they will now be due on Monday, August 17 and the filing  
11 notices have been sent to filers. The new forms and the new  
12 guide are available on our website and staff is available to  
13 answer questions. Commissioner Horwitz, did you have a  
14 question, you are muted. Okay. I am done with the staff  
15 report, turning it over to Martin.

16 Martin Levine: To bring you up to speed we are at  
17 Attachment B in your pdf packet. Before I go into the  
18 regulations, I just want to remind both the Commission and the  
19 regulated community that the bi-monthly report detailing  
20 lobbying activity of March and April of this year are due on  
21 May 15<sup>th</sup>. We appreciate the strong compliance that we received  
22 in the most recent filings. On to the regulations, consistent  
23 with the discussion we had in February, at our last meeting,  
24 we have included a copy of the proposed revisions to both the

1 lobbying regulations and the source of funding regulations.  
2 Those are part 943 and part 938 respectively. The terms of  
3 the proposed regulations have not changed since the last  
4 meeting, so the versions you had in your last book and the  
5 version you have today are substantively identical, but for  
6 formatting. As a result, after today's meeting, staff is  
7 proposing to start an informal notice and comment period on  
8 these staff drafts. The timing is such that it is important  
9 to keep things moving so that all these changes will be in  
10 place for the lobbying registration period that begins on  
11 January 1, 2021. The informal preliminary comment period  
12 provides the public as well as the regulated community, of  
13 course, with ample time to provide input on the proposed  
14 changes. This is even prior to starting a rulemaking under the  
15 Administrative Procedure Act, which as you know will include  
16 its own mandatory notice and comment period. There are  
17 obviously still open questions about the substantive aspect  
18 of the regulations. We anticipate a healthy debate after the  
19 comment period and the SAPA period while we are planning to  
20 go through proposals, we are not planning to go through the  
21 substance of the proposals today, Carol Quinn and I are  
22 available to address any questions or concerns you might have  
23 about the staff's drafts.

24 Chair Rozen: Thank you. Commissioner Yates.

1           Commissioner Yates: A couple of things. First of  
2 all, I don't know if there is any audience, public audience  
3 out there, but if there is, I just want to make it clear that  
4 this is a staff proposal, this is not a Commission's proposal.  
5 It is not the result of internal vote, or even complete  
6 discussion within the Commission. The staff proposal that the  
7 Commission has not fully discussed or even voted on yet. I  
8 didn't want people out there in the regulated community, if  
9 they are actually watching this, thinking or saying, which  
10 would be even worse, that this is a Commission proposal, it  
11 is not. I have looked through it and it's good to know because  
12 we have had some internal discussions. I really only have one  
13 point that I wanted to bring to the attention of the regulated  
14 community and that deals with the definition of designated  
15 lobbyist. Just so we are clear, and I think sometimes it worth  
16 studying core principals, there is a difference between  
17 advocacy and lobbying. Lobbying entails the use of money,  
18 expenditures, receipts, in addition to advocacy. By law we  
19 are consigned to regulate for the public about lobbying. We  
20 are not in the business of regulating or defining or limiting,  
21 exposing advocacy. People are free to go out and advocate all  
22 they want; it is only when they do it in conjunction with  
23 money, expenditures that they come under our purview. If you  
24 look at 943.3 in the staff proposal, you will see there is a

1 change in what is called a designated lobbyist. Now, the  
2 legislative law, which is the backbone from which all of this  
3 comes, necessarily gives us the power to regulate and ask for  
4 disclosures from employed lobbyists, retained lobbyists, or  
5 lobbyists who are designated to act on behalf of a client. In  
6 the past, the regulations stuck to that formula and that is  
7 there are certain requirements that are put in place if you're  
8 designated by a client to act on behalf of the client and the  
9 client spends a certain amount of money to try to influence  
10 legislation. The staff draft here breaks that bond. It defines  
11 a designated lobbyist as being any board member, director, or  
12 officer, of a client, whether or not they were designated by  
13 the client to act on behalf of the client. Now, there are a  
14 lot of people, including people on this commission and around  
15 who act as board members for especially not-for-profit  
16 organizations, doesn't matter whether it is United Way,  
17 Roswell Cancer Center, Red Cross, there are a lot of people  
18 who are good, public-spirited citizens, go ahead and act as a  
19 board member, they receive, on behalf of a public-spirited  
20 not-for-profit, receive no compensation and they spend nothing  
21 for lobbying. In most cases, the boards, especially in the  
22 not-for-profit area, are very careful to delineate and limit  
23 who speaks on behalf of them, who advocates for them, and who  
24 they ask to go out and lobby, but this new definition, for the

1 first time, per se a board member would become a lobbyist,  
2 even if there is no communication between the board, the  
3 client, and the board member asking that person to go out and  
4 be a designated lobbyist. What that would mean is that it has  
5 a lot of consequences. If you're listed as a designated  
6 lobbyist, you are listed in the statement of registration and  
7 the regular reports. There are limitations on who you can give  
8 gifts to, there are limitations on who you can do business  
9 with, unless you are reporting it publicly, there are  
10 limitations, a lot of times board members have jobs and they  
11 work for a bank or some other public institution where they  
12 are asked and told not to, as a condition of their employment,  
13 engage in lobbying. Now they still may be a board member, but  
14 they are not lobbyists. Simply being a board member does not  
15 make you a lobbyist. This definition would do that and so  
16 what I am asking you, since this is really a staff  
17 recommendation, not a Commission recommendation, is if there  
18 is anyone out there in the regulated community listening that  
19 during this period of time, they speak up on this particular  
20 issue and then we will debate it more fully within the  
21 Commission.

22 Chair Rozen: Thank you, Commissioner. Anyone else  
23 want to be heard. Dan.

24 Monica Stamm: Dan, you are muted.

1 Daniel Horwitz: Am I on now? can you hear me?

2 Chair Rozen: Marvin you will go next. Go ahead Dan.

3 Daniel Horwitz: Can you hear me?

4 Monica Stamm: Yes.

5 Daniel Horwitz: Thank you Mr. Chairman. I have two  
6 questions for the staff. The first question is, Martin could  
7 you just let us know, first question, can you let us know is  
8 the process that we are following as the proposed process that  
9 you have laid out, is there precedent for the Commission  
10 following this process on prior regulations, where they relate  
11 to lobbying or anything else? This is the first question. And  
12 then the second question is, listening to Commissioner Yates,  
13 I agree that the issue is one that warrants discussion among  
14 the Commissioners but I am interested in hearing what the  
15 staff's rationale is for the proposed change regarding  
16 lobbyists or board members if you would, for an institution.  
17 In other words, to the extent that Commissioner Yates has  
18 suggested, has invited the regulated community to comment on  
19 this particular aspect of the proposal, I think it is important  
20 at least for me, perhaps for the regulated community and  
21 beyond, the public at large, because it is not just the  
22 regulated community that is affected here, the public at large  
23 obviously, these are regulations that go to the core of what  
24 we're about, which is regulating and making sure there is

1 transparency in dealing with government elected officials.  
2 So, I would like to understand, second question is, I would  
3 like to understand Martin what the rationale is for the change  
4 that you propose. Thank you, Mr. Chairman.

5           Martin Levine: Commissioner Horwitz and all members  
6 of the Commission, to your first question about process, this  
7 use of the informal notice and comment period was the process  
8 we followed in the beginning of 2017-2018 with the initial  
9 promulgation of these regulations. We went through a complete  
10 sort of informal SAPA process, threw up a number of changes  
11 to the regulations and then brought it forward to the  
12 Commission again, for a vote, to then start a SAPA, which that  
13 entails its own notice and comment period. So it was a benefit  
14 to the public, obviously because they had an extra bite at the  
15 apple and a benefit to us because we had a sense of how our  
16 proposal would be received before we started the rulemaking,  
17 that's your first question, it does have precedent. We have  
18 also, while not under SAPA we have used this process for  
19 advisory opinions as well. To your second question about the  
20 substantive rationale for the proposal, I would like to try  
21 to clear up something and then sort of address the issue again.  
22 The first is, our goal was not to change any aspect of this  
23 provision as far as how it relates to unpaid board members of  
24 not-for-profit organizations. Our goal was to capture that

1 activity in the original regulation, and we believe it did  
2 that and then with this proposal there was no intent to change  
3 that. The changes that were proposed were intended to clarify  
4 that individuals that spend money can be lobbying on their own  
5 behalf. So I think to the extent the proposal has areas that  
6 can be clarified, that is certainly something that we need to  
7 address, but I think the Commission as a whole, needs to  
8 determine whether, and I will give you sort of our initial  
9 rationale for the proposal, whether they want this to apply  
10 and so initially what we were thinking in 2018 and what we  
11 still believe now, is that when an organization is spending  
12 money to lobby on an issue and a member of their board who is  
13 privy to their discussions, their strategy, and it is publicly  
14 known as a member of the board, and speaks with the imprimatur,  
15 of the board when that member engages in a lobbying activity  
16 on that same issue, it is impossible to distinguish their  
17 activity personally from that of the organization, and it was  
18 not meant to discourage participation, it is not meant to  
19 stifle speech, what is what meant to say is when an  
20 organization has a direct, an inherent, deliberate interest  
21 in an issue, such that has lobbied on that issue, and then a  
22 member of the board begins, engages advocacy on that same  
23 issue, we think there needs to be transparency of those  
24 communications. To the extent that the language goes beyond

1 that, or to the extent is not clear, we want to continue this  
2 process and clarify that and make this work to effectuate what  
3 our intent is. At the end of the day the Commission has to  
4 decide what its position is on the inherent issue and then we  
5 can make the language match up. But, like I said, our goal  
6 originally and our goal today was still to clarify the  
7 activities of a board member, when they relate to an issue  
8 that the organization is already lobbying on, should be  
9 captured among those activities that are disclosed to the  
10 public.

11 Commissioner Horwitz: Thank you Martin.

12 Chair Rozen: Marvin, do you have a comment?

13 Commissioner Jacob: Yeah, initially, thank you,  
14 initially, I think Commissioner Yates as well as myself had  
15 wanted to have all of this discussion before we issued a staff  
16 draft because this, at least in my view, this draft, and this  
17 rewrite so to speak was precipitated because of a status issue  
18 involving Kat Sullivan and in particular we were focused on  
19 designated lobbyists and other such issues. I thought at  
20 least that we should create no more confusion and make it  
21 crystal clear when we issue even a commission proposal for  
22 comment. I don't think we are as clear as we should be when  
23 we issue staff drafts and have discussions such as are going  
24 on now about the meaning of the draft and whether we will

1 change it or not but we should have been crystal clear going  
2 forward because the regs were not crystal clear which  
3 precipitated this rewrite. And we don't, in my view, we don't  
4 help in that regard when we start issuing staff drafts, and  
5 on top of it begin to discuss what does the draft mean and  
6 assume that we are going to come back to another draft perhaps  
7 until we finally issue something, which in the commission's  
8 view, after considering the comments of Commissioners, the  
9 commission is at least satisfied with seeking public comment.

10 Chair Rozen: Thank you Commissioner. Anybody else?  
11 Commissioner Yates.

12 Commissioner Yates: I have a question, I guess for  
13 Martin because you said that you wanted to capture people who  
14 were presumed to be speak from the, have the imprimatur of the  
15 organization when they speak and my concern, obviously is when  
16 we go beyond the statute, where the statute says you're a  
17 lobbyist is you are designated by the client to be a lobbyist  
18 and the regulations take that away and say that you're a  
19 lobbyist if you are a board member, even if you are not  
20 designated by the organization to speak on their behalf. So  
21 my question would be this, let's say I am a board member of  
22 the United Way and during budget negotiations I happen to have  
23 a friend who is a legislator or works for the governor in the  
24 budget office and I say to that person, unbeknownst to United

1 Way, I say to that person, you know I hope during these budget  
2 times you don't cut youth programs, that would have to be  
3 reported; the person that I spoke to and the time and place  
4 of the conversation and the subject of the conversation would  
5 have to be reported by United Way. How could that happen if I  
6 am not even speaking on their behalf?

7           Martin Levine: Look Commissioner, I think there are  
8 a couple of things to keep in mind there. One is, you know  
9 obviously the inclusion of, let's start back. When the  
10 organization, if the organization has decided that it is going  
11 to lobby on the budget in this case, and it has made a decision  
12 or has had discussions that it is going to do so, and then the  
13 board member has this conversation with the legislator or the  
14 budget director or the staffer of any of these offices, our  
15 position would be that as a board member, they are speaking  
16 on behalf of the organization. But I think it is going to  
17 turn, as always, on the specific underlying facts of the  
18 situation, including whether the organization has decided it's  
19 going to lobby on the budget.

20           Commissioner Yates: Can I ask you where in the  
21 regulations that is because I don't see it anywhere in the  
22 regulations that there has to be a prior board discussion on  
23 that particular subject.

24           Martin Levine: I think we want to avoid that

1 scenario where there is, you know, I think it would be  
2 impossible to regulate the word coordination and so we want  
3 to avoid a scenario where we are saying that there has to be  
4 explicit coordination, as always we, you know we don't  
5 regulate to the margins, we regulate as close to the middle  
6 as we can get. But as I said in the beginning, as we go forward  
7 to the extent we can clarify, to the extent we can effectuate  
8 exactly what the Commission wants, we will do that, and if  
9 this draft doesn't effectuate what we intend or what you want,  
10 then that is what we have to do to start this process. But I  
11 would only say that in the interest of keeping the entire  
12 process moving I would hope that we could have a good faith  
13 debate about this as we move forward, without jeopardizing the  
14 likelihood of this package of regulations getting approved in  
15 time.

16 Commissioner Yates: Well I don't want to prolong  
17 this any further just to say one of two things. I would be  
18 okay with going back to the old language which said that a  
19 designated lobbyist is a person who acts upon behalf of the  
20 client. I would be okay if we followed the statute which says  
21 that you are a lobbyist when you are designated to act as a  
22 lobbyist. Either follow the statute or the old regs are fine,  
23 anyway, that is all I have to say.

24 Chair Rozen: Dan.

1           Dan Horwitz: Mr. Chairman thank you, I just want  
2 to quick follow up to the dialogue that Martin and Commissioner  
3 Yates and Commissioner Jacobs just said, I guess, and it is a  
4 rhetorical question, I agree that this is, I think the process  
5 should move forward as the staff outlined as something we are  
6 going to have to debate but two points. I am just not really  
7 sure I understand what the reluctance is for additional  
8 transparency, because as Martin explained, we're not, staff  
9 is not proposing that this regulation applies to general  
10 advocacy. It is talking about an organization, whether it is  
11 charitable or not, that has made a policy determination that  
12 it is in their best interest to have a registered lobbyist,  
13 and to have that lobbyist address electeds and state officials  
14 on specific policy and legislative proposals and so I am really  
15 not sure that I understand, in the interest, as we all would  
16 like to say, we tilt toward disclosure, I am just not sure I  
17 understand what the policy issue is behind having the board  
18 member going through some training that makes sure that that  
19 board member understands what the rules are. And with respect  
20 to Commissioner Yate's hypothetical, I understand that a board  
21 member, you know, may not be directed by the board, may either  
22 some implicit conversation among the board members or as Jim  
23 is suggesting, maybe this board member, on his own takes  
24 advantage of a relationship they have with a powerful staff

1 member in the legislature, I guess, and we don't have to debate  
2 this, I guess my reaction to that hypothetical, I find it hard  
3 to believe under that scenario that the legislative staff  
4 person's information that they communicated to the board  
5 member is not going to then get communicated back to the board.  
6 In other words, the board member may ask his powerful friend  
7 or her powerful friend, what's happening with the budget  
8 innocently, but if the information is of value to the  
9 organization, which it surely will be, and as the board member  
10 surely should know, and that information has been conveyed  
11 back to the board, the full board and the board in the  
12 organization then makes tactical decisions, strategic  
13 decisions about how they want to continue their lobbying  
14 efforts, then that is all the more reason that we should tilt  
15 towards disclosure here. But again, I agree with Marvin and  
16 Jim that we should move forward with the process and have this  
17 debate with input from the public. Thank you, Mr. Chairman.

18 Chair Rozen: Thank you. Anyone else? Okay, let's  
19 move on, Monica go ahead.

20 Monica Stamm: I just wanted to clarify one thing  
21 which is that the staff proposal of the definition of  
22 designated lobbyist uses the term "on behalf of" and so we  
23 were not intending to depart from the legislative language.  
24 But to the extent that any concerns that the current language

1 is confusing, that is absolutely the benefit of having public  
2 comment in this process. The more time staff can have getting  
3 comments and feedback back from the public and tightening up  
4 the regulatory language before the Commission considers this  
5 again, and votes on it, it is helpful, and it was a very  
6 thoughtful process the last time around. We did it for almost  
7 a year last time and it really helped us refine the language,  
8 clarify points so that when we brought it to the Commission  
9 it would be in better shape. I also wanted to point out, this  
10 is not the only issue in these regulations. there are several  
11 other big issues that we really need to get comment and  
12 feedback on in order to, again, improve upon the language,  
13 clarify the language, bring it back to the Commission for  
14 further discussion and vote, they are in the best shape that  
15 they can be at that point. And then of course, once we begin  
16 a rulemaking process, there will be another round of formal  
17 comment and revision and you could even have a second round.  
18 But the Commission and the staff's goal is to have these  
19 regulations revised and in effect by January 1, 2021, when the  
20 next biennial registration cycle starts, which is why the  
21 staff wants to move forward now, so we don't lose more valuable  
22 time getting input from the regulated community.

23 Commissioner Yates: Mr. Chair, I was going to stop,  
24 but I'm sorry, now I have to say something. I've heard two

1 inconsistent answers from Monica and from Michael. Monica  
2 says, oh yeah, this person still has to be acting on behalf  
3 of the board, Michael says, or Martin rather, says, no that's  
4 not true, we wanted the definition to talk about a board member  
5 even when he is not acting on behalf of the board. So, you  
6 know, it is a simple enough change, it is a language change.  
7 If what Monica were saying were true, all you would have to  
8 do is insert in the second sentence the language on behalf of  
9 the board. On the other hand if what Martin says is true and  
10 that is that the staff is trying to expand the definition to  
11 encompass all board members, then you start getting into the  
12 problem that I had in the definition, and then you get into  
13 the hypotheticals that Dan, Commissioner Horwitz spoke about  
14 and I mean if we are going to get into hypotheticals, his  
15 hypotheticals is one where there is a lot of coordination  
16 between the board and the board member. I don't have a problem  
17 reporting it when there is coordination. My problem is, most  
18 people who are board members on a not-for-profit, where they  
19 receive no compensation and spend no money, they are public-  
20 spirited people who happen to care about a subject and that  
21 means that their conversations when they care about a subject  
22 are going to have to be reported and they are going to have  
23 to go through ethics training and they are going to have to  
24 be barred from certain activities just because they are

1 speaking out about something they care about, whether it is  
2 education, summer youth programs, or whatever, that goes back  
3 to my opening remarks and it is conflating advocacy with  
4 lobbying. We are allowed to regulate lobbying. We are not  
5 allowed to regulate advocacy.

6 Chair Rozen: Okay. Anything further on this point?

7 Okay, so then let's move on. We have two attachments C.

8 Martin Levine: This is attachment D as in David.

9 Chair Rozen: Okay, that is meeting schedule, right.

10 Monica Stamm: Chair, do you want to speak first?

11 Chair Rozen: I do, so let me talk about the  
12 confidentiality committee. As announced at the last meeting,  
13 a committee has been convened to evaluate the Commission's  
14 ability to release more information about its operations and  
15 investigations to address the frustration of both the public  
16 and the Commission about the lack of transparency and  
17 misimpressions about its work.

18 The Committee consists of Commissioners Fisher,  
19 Horwitz, Lavine, Yates, and myself, as an ex officio member.  
20 We have met twice and have engaged in an extensive review of  
21 current practices and procedures regarding disclosure of  
22 information, the legal issues relating to the relevant  
23 statutes, the policies of comparative investigative and  
24 regulatory agencies, and potential avenues to move forward

1 that would provide additional flexibility to release  
2 information about Commission business, including  
3 investigations, financial disclosure statements, and  
4 guidance.

5 The Committee expects to convene again in the next  
6 few weeks and hopes to present a detailed plan at the next  
7 meeting of the Commission, which will include specific  
8 proposals to amend its records access regulations, meeting  
9 guidelines, and internal practices to, among other things,  
10 provide more information to the public and increase  
11 communication with complainants, witnesses, and subjects of  
12 investigations.

13 In addition, the committee will continue to evaluate  
14 existing protocols in place to protect against improper  
15 disclosure of confidential information, including  
16 recommendations made by the Office of the Inspector General.

17 Let's move to Attachment D, please the meeting  
18 schedule.

19 Monica Stamm: Yes, the meeting schedule for the  
20 second half of the year is attached. We adjusted one meeting  
21 due to a potential scheduling conflict. We are not aware of any  
22 other scheduling conflicts. This will be posted to the website  
23 later this week.

24 Chair Rozen: Okay, thank you. That concludes the

1 public session of the April meeting of the Joint Commission on  
2 public ethics. So, I need a motion please, to enter into  
3 executive session. Thank you, Commissioner McNamara, and  
4 Commissioner McCarthy seconded. Martin, are you taking a roll?

5 Martin Levine: Yes, I will do this quickly, please  
6 unmute your phones, Commissioner Cohen.

7 Commissioner Cohen: Approved.

8 Martin Levine: Commissioner Dering.

9 Commissioner Dering: Approved.

10 Martin Levine: Commissioner DiPirro. Commissioner  
11 Fisher.

12 Commissioner Fisher: Approved.

13 Martin Levine: Commissioner Horwitz.

14 Commissioner Horwitz: Approved.

15 Martin Levine: Commissioner Jacob.

16 Commissioner Jacob: Approved.

17 Martin Levine: Commissioner Lavine.

18 Commissioner Lavine: Yes.

19 Martin Levine: Judge McCarthy.

20 Judge McCarthy: Yes.

21 Martin Levine: Commissioner McNamara.

22 Commissioner McNamara: Yes.

23 Martin Levine: Commissioner Weissman.

24 Commissioner Weissman: Yes.

1 Martin Levine: Judge Yates.

2 Judge Yates: Yes.

3 Martin Levine: Chair Rozen.

4 Chair Rozen: Yes.

5 Martin Levine: Motion carries.

6 Monica Stamm: Walt, will you please let us know when

7 we are in Executive Session.

8 [Entered into Executive Session]

9 [Returned to Public Session]

10 [Commissioner DiPirro was present for this portion of public  
11 session]

12 Walter McClure: Chair, we are back in public session.

13 Chair Rozen: Monica, if you would please give the  
14 rundown from exec.

15 Monica Stamm: Sure, we discussed litigation and  
16 personnel matters, we denied an appeal from the denial of a  
17 request for an exemption from filing an FDS pursuant to  
18 Executive Law §94(9)(k), we granted two applications for an  
19 exemption from the post-employment restrictions pursuant to  
20 Public Officers Law §73(8-b), we approved one settlement  
21 agreement, we commenced two substantial basis investigations,  
22 we authorized steps in several investigative matters, closed  
23 one matter and discussed several other investigative matters.

24 Chair Rozen: Thank you. At this time, I need a

1 motion to adjourn the public meeting. Thank you, Commissioner  
2 Dering, Commissioner Yates jumped in on the second, Commissioner  
3 Fisher you were a step slow. Martin please.

4 Martin Levine: On the motion to adjourn, Commissioner  
5 Cohen.

6 Martin Levine: Commissioner Dering.

7 Commissioner Dering: Yes.

8 Martin Levine: Commissioner DiPirro.

9 Commissioner DiPirro: Yes

10 Commissioner Fisher: Yes.

11 Martin Levine: Commissioner Horwitz.

12 Commissioner Horwitz: Yes.

13 Martin Levine: Commissioner Jacob.

14 Commissioner Jacob: Yes.

15 Martin Levine: Commissioner Lavine.

16 Commissioner Lavine: Yes. And before I adjourn, Mr.  
17 Chairman, I hope you accept a compliment in the somewhat  
18 difficult circumstance, it was a very, very well conducted  
19 meeting.

20 Chair Rozen: Thank you Gary.

21 Martin Levine: Judge McCarthy.

22 Commissioner McCarthy: Yes.

23 Martin Levine: Commissioner McNamara.

24 Commissioner McNamara: Yes.

1 Martin Levine: Commissioner Weissman.

2 Commissioner Weissman: Yes.

3 Martin Levine: Judge Yates.

4 Judge Yates: Yes.

5 Martin Levine: Chair Rozen

6 Chair Rozen: Yes.

7 Martin Levine: Motion carries.

8 Chair Rozen: Okay, we are adjourned. I want to thank  
9 everybody for their patience with all of this. I know it has  
10 not been easy. I really want to commend staff for arranging this  
11 and making it such that we can actually get through this meeting  
12 in a productive kind of way, so thank you all very much.  
13 Everybody please stay safe and hopefully next month, perhaps in  
14 person or at distance or if not were back here but everybody be  
15 safe. Thank you.