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MINUTES OF THE STATE ETHICS COMMISSION MEETING

October 25, 2012

Commission Members Present: Paul M. Vettori, *Chairman*
Robert G. Blue
Andrea Leahy-FucHECK
Jacob Yosef Miliman

Commission Member Absent: Julian L. Lapidès

Staff Members Present: Michael W. Lord, Executive Director
Jennifer K. Allgair, General Counsel
William J. Colquhoun, Staff Counsel
Katherine P. Thompson, Assistant General Counsel
Darlene J. Brocki, Office Manager
Jennifer Whitehead, Legal Assistant
Megan W. Schutz, Legal Assistant

The meeting convened at 9:30 a.m. at the Commission's offices in Annapolis.

ITEM 1: Tentative Agenda

Discussion: The Commission reviewed the tentative agenda.

Decision: The tentative agenda was approved with additions.

ITEM 2: Minutes of the September 13, 2012 Meeting

Discussion: The draft minutes of the September 13, 2012 meeting were reviewed and discussed.

Decision: The draft minutes were approved as amended.

ITEM 3: Financial Disclosure Additions and Deletions

Discussion: Mr. Lord presented a listing of the proposed additions and deletions to the financial disclosure list recommended by State agencies and reviewed by him. The recommendations covered the Department of Juvenile Services, Maryland Insurance Administration, Injured Workers Insurance Fund,

Motor Vehicle Administration, State Highway Administration, Maryland Transit Administration, University of Maryland – College Park, University of Maryland – Baltimore, University of Maryland – Eastern Shore, College of Southern Maryland, Chesapeake College and Montgomery College.

Decision: The Commission approved Mr. Lord's recommendations.

ITEM 4: Board and Commission Executive Unit Determinations

Discussion: Mr. Lord briefed the Commission on the Maryland Legal Services Corporation as to whether or not it should be considered an executive agency covered by the Ethics Law.

Decision: The Commission determined the Maryland Legal Services Corporation should not be considered an executive agency covered by the Public Ethics Law.

ITEM 5: Financial Disclosure Exemption Request

Discussion: Mr. Lord briefed the Commission on the Maryland Advisory Council for Virtual Learning requesting an exemption from the financial disclosure requirement.

Decision: The Commission approved an exemption for the Maryland Advisory Council for Virtual Learning.

ITEM 6: Commission Meeting Dates for 2013

Discussion: The 2013 meetings of the Commission will be January 24, March 14, May 9, June 27, September 12, October 24 and December 12, 2013.

ITEM 7: Executive Director's Report

Discussion: Mr. Lord briefed the Commission on trainings provided to lobbyists, the Executive Board of Maryland IMap, Public Officials, the Governor's Commission on South Asian Affairs, the Department of Juvenile Services and UMES. Mr. Lord also briefed the Commission on a tentative trip to the Rhode Island Ethics Commission in the spring of 2013 to meet with members of the RI Ethics Commission Staff, learn about procedures and policies implemented by the Commission and ascertain if they may have some applicability to Maryland.

Meeting was closed at 10:15 a.m. to consider confidential enforcement matters.

ITEM 8: A-22-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the pre-complaint disposition agreement.

ITEM 9: A-39-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will be closed with a letter.

ITEM 10: A-40-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: A letter will be sent in this matter.

ITEM 11: C-29-09

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the Addendum to Stipulation of Settlement Agreement.

ITEM 12: B-3-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: Commission staff will work with lobbyists to educate them on the requirements of the Public Ethics Law.

ITEM 13: A-29-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing agreement.

ITEM 14: A-25-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: Complaint will be issued in this matter. (C-40-12)

ITEM 15: C-32-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 16: C-34-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 17: C-35-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 18: C-36-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 19: C-37-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

(Mr. Lord, Mr. Colquhoun, Ms. Whitehead and Ms. Schutz participated in the briefings but did not participate in the decisions regarding items 8 through 19.)

The meeting opened for Local Government matters at 11:15.

ITEM 20: Local Government – Draft Ethics Laws – Counties

Discussion: Ms. Allgair briefed the Commission on the proposed ethics laws, policies and regulations received from Queen Anne’s County.

Decision: The Commission approved the proposed ethics laws, policies and regulations for Queen Anne’s County.

ITEM 21: Local Government – Draft and Adopted Policies and Regulations – Boards of Education
(Ms. Andrea Leahy-Fuckeck did not participate in these matters.)

Discussion: Ms. Allgair briefed the Commission on the adopted ethics policies and regulations received from the Carroll County Board of Education and Howard County Board of Education.

Decision: The Commission approved the drafts and adopted ethics policies and regulations for Carroll County Board of Education and Howard County Board of Education.

ITEM 22: Local Government – Draft Ethics Laws – Municipalities

Discussion: Ms. Allgair briefed the Commission on the proposed and adopted ethics laws, policies and regulations received from the City of Annapolis, Pocomoke City, City of Brunswick, Town of Poolesville, City of Taneytown, and Chevy Chase Village.

Decision: Ms. Allgair briefed the Commission on the proposed and adopted ethics laws, policies and regulations received from the City of Annapolis, Pocomoke City, City of Brunswick, Town of Poolesville, City of Taneytown, and Chevy Chase Village.

ITEM 23: Local Government – Requests for Municipal Ethics Law Exemptions

Discussion: Ms. Allgair briefed the Commission on the full exemption requests received from the Town of Highland, Town of Barclay, Town of Brookeville, Town of Hillsboro, Town of Vienna, Town of Betterton, Town of Secretary, Village of Chevy Chase – Section 3, Town of Somerset and the Town of Clear Springs.

Decision: The Commission granted a continuation of a full exemption for the Town of Highland, Town of Barclay, Town of Brookeville, Town of Hillsboro, Town of Vienna, Town of Betterton, Town of Secretary, Village of Chevy Chase – Section 3, Town of Somerset and the Town of Clear Springs.

ITEM 24: Local Government – Requests for Municipal Ethics Law Exemptions

Discussion: Ms. Allgair briefed the Commission on the full exemption requests received from the Town of Colmar Manor, Town of Myersville, Town of Kensington, Town of Chevy Chase and the Town of Manchester. Sue Ellen Ferguson from the Town of Kensington spoke of behalf of the Town.

Decision: These matters will be further reviewed at a later meeting.

ITEM 25: Local Government – St. Michaels (12-0004)

Discussion: Ms. Allgair briefed the Commission on a letter of opposition received regarding the Town of St. Michaels exemption status.

Decision: The Commission did not alter their previous decision of giving St. Michaels a partial exemption and requiring St. Michaels to have an Ethics Law.

Meeting closed 11:45 a.m. to consider confidential advice matters.

ITEM 26: Informal Matter – Department of Human Resources (12-0523)

Discussion: Ms. Allgair briefed the Commission on this matter regarding whether the Commission would reconsider its current interpretation of the Public Ethics Law regarding the application of the secondary employment and financial interests restrictions of § 15-502 as they apply to DHR employees who want to become public agency foster parents. The Secretary of DHR and several representatives from the Department were present. Confidentiality was not waived

Decision: A letter will be drafted for review by the Commission.

ITEM 27: Informal Matters – Towson University (12-0483)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding a Towson University employee wanting to work part-time as a retail sales person.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 28: Informal Matters – Department of Human Resources (12-0450)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work part-time at a department store.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 29: Informal Matters – Department of Human Resources (12-0468)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work part-time as a cashier for a department store.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 30: Informal Matters – Department of Human Resources (12-0499)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work as a cashier at a grocery store.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 31: Informal Matters – Department of Human Resources (12-0516)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work as a customer service associate at a convenience store.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 32: Informal Matters – Department of Human Resources (12-0519)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work as a counselor for a Christian organization that accepts medical assistance benefits from a program administered by the Department of Human Resources.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 33: Informal Matters – Department of Human Resources (12-0478)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work as a resident assistant with a rehabilitative service that accepts medical assistance benefits from a program administered by the Department of Human Resources.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 34: Informal Matter - Department of Human Resources (12-0471)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work part-time as a basketball coach in a public school.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 35: Informal Matter - Department of Human Resources (12-0512)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to work part-time as an assistant football coach at a public school.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 36: Informal Matter - Department of Health & Mental Hygiene (12-0462)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Health & Mental Hygiene who also works as a care management assistant at a private medical center.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 37: Informal Matter - Department of Human Resources (12-0447)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as an on-call substitute for an organization that deals with developmental disabilities.

Decision: The Commission granted an exception to allow the dual employment.

Meeting was closed at 1:00 p.m. to consider confidential enforcement matters.

ITEM 38: C-6-12

Discussion: A confidential hearing was held in the presence of a court reporter. The respondent was not present.

Decision: The Commission concluded its consideration in this matter. General Counsel will draft the required documents.

ITEM 39: C-2-12

Discussion: A confidential hearing was held in the presence of a court reporter. The respondent was not present.

Decision: The Commission concluded its consideration in this matter. General Counsel will draft the required documents.

ITEM 40: C-170-11

Discussion: A confidential hearing was held in the presence of a court reporter. The respondent was not present.

Decision: The Commission concluded its consideration in this matter. General Counsel will draft the required documents.

(Mr. Lord, Mr. Colquhoun, Ms. Whitehead and Ms. Schutz participated in the hearings but did not participate in the decisions regarding items 38 through 40.)

ITEM 41: Informal Matter - Department of Human Resources (12-0453)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who is also employed as a counselor at a private intervention shelter.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 42: Informal Matter - Department of Human Resources (12-0451)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as a clinical supervisor for a private health clinic.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 43: Informal Matter - Department of Human Resources (12-0469)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as a psychiatric rehabilitation coordinator at a private organization.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 44: Informal Matter - Department of Human Resources (12-0486)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as a consultant for a private mental health clinic.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 45: Informal Matter - Department of Human Resources (12-0504)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as a resident assistant counselor at a private behavioral health service.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 46: Informal Matter - Department of Education (12-0508)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Education who would like to teach a fitness class to State employees of the Department.

Decision: The Commission determined this activity is not allowable.

ITEM 47: Informal Matter – Department of Public Safety & Correctional Services (12-0485)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Public Safety & Correctional Services who also works as a residential counsel for a non-profit human services organization.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 48: Informal Matter – TEDCO (12-513)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee of TEDCO who also serves as a member of board of directors of a venture-capital to be partially owned by TEDCO.

Decision: The Commission determined that the board service was ex officio and part of the employee's State duties.

ITEM 49: Informal Matter – Department of Health & Mental Hygiene (12-0574)

Discussion: Ms. Allgair briefed the Commission on an official in the Department of Health & Mental Hygiene who wife wants to serve as an uncompensated resource for senior staff of the Department.

Decision: The Commission determined that the official's spouse may serve as an uncompensated resource for the agency, so long as prestige of office restrictions are followed.

ITEM 50: Informal Matter – State Highway Administration (12-0381)

Discussion: Ms. Allgair briefed the Commission on a previously issued advice matter. The advice was rescinded when it became known that full disclosure had not been provided to Commission staff. Commission staff advised that the matter is likely to be resubmitted to the Commission with corrected information and will be reviewed at that time.

Decision: The Commission approved the decision to rescind the prior advice letter and wait for the matter to be resubmitted.

ITEM 51: Executive Director's Report – Draft Policy – Agency Fundraising

Discussion: Mr. Lord briefed the Commission on a draft memo created in response to agency requests for advice related to soliciting funding from private entities for State projects.

Decision: The Commission approved the draft memo.

ITEM 52: Informal Matter – University of Maryland (12-0464)

Discussion: Mr. Lord briefed the Commission on a tenured faculty member of the University of Maryland seeking unpaid leave of absence in order to assume employment by the University of Maryland Medical System Corporation and accept assignments as CEO and board member of the board of directors of a State medical center.

Decision: The Commission determined that the secondary employment did not qualify as an exception to the strict prohibition under the Public Ethics Law. The Commission also concluded that the interpretation of the Education Article, and specifically § 13-305 (c), which provides that "Sections 15-501 through 15-504 of the State Government Article shall not bar an official or employee of the University from becoming a director, official, or employee of the Medical System Corporation or participating in matters involving the Corporation" is more appropriately the responsibility of the University, which is better positioned to consider the application of the exemption in the context of its history and legislative intent.

ITEM 53: C-29-11

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission will accept the Stipulation of Settlement Agreement.

(Mr. Lord, Mr. Colquhoun, Ms. Whitehead and Ms. Schutz participated in the briefing but did not participate in the decisions regarding item 53.)

The meeting was adjourned at 3:35 p.m.