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MINUTES OF THE STATE ETHICS COMMISSION MEETING

August 24, 2017

Commission Members Present: Janet E. McHugh, Chair
James R. Benjamin, Jr. (participated by phone)
Kim L. Coble
Jacob Yosef Miliman
Craig D. Roswell

Staff Members Present: Michael W. Lord, Executive Director
Jennifer K. Allgair, General Counsel
William J. Colquhoun, Staff Counsel
Darlene J. Brocki, Office Manager
Jennifer D. Whitehead, Paralegal
Maura M. Pizzi, Paralegal
Amanda L. Iavarone, Legal Assistant

The meeting convened at 9:40 a.m. at the Commission's offices in Annapolis. Those listed as present participated in all portions of the meeting unless otherwise noted. If other individuals participated in aspects of the meeting, they will be identified in the specific line item where their participation occurred.

ITEM 1: Tentative Agenda

Discussion: The Commission reviewed the tentative agenda.

Decision: The tentative agenda was approved with changes.

ITEM 2: Minutes of the June 15, 2017 Meeting

Discussion: The draft minutes of the June 15, 2017 meeting were reviewed and discussed.

Decision: The draft minutes were approved.

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 Budget & Management, Department of Information Technology, Comptroller's Office, Maryland 529, Department of Labor, Licensing and Regulation, Department of the Environment, Department of Human Services, Department of General Services, State Retirement Agency, Department of Commerce, Department of Planning, Baltimore County Health Department, Department of Natural Resources, Maryland Transit Administration, Motor Vehicle Administration, University of Maryland-College Park, University of Maryland-Baltimore, Morgan State University, Frederick Community College, Prince George's Community College and the College of Southern Maryland.

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

ITEM 4: Boards and Commissions – Executive Unit Determinations

Discussion: Mr. Lord briefed the Commission on whether or not the following boards and commissions should be considered executive units covered by the Public Ethics Law:

Coordinating Council for Juvenile Services Educational Programs
Family Security Trust Fund Advisory Committee
Stakeholder Group to Provide Advice and Make Recommendations on Regulations Pertaining to
Testing for the Presence of Lead in School Drinking Water

Decision: The Commission determined that the following were executive agencies, therefore covered by the Ethics Law:

Coordinating Council for Juvenile Services Educational Programs
Family Security Trust Fund Advisory Committee
Stakeholder Group to Provide Advice and Make Recommendations on Regulations Pertaining to
Testing for the Presence of Lead in School Drinking Water

ITEM 5: Financial Disclosure Exemption Request

Discussion: Mr. Lord briefed the Commission on the Neshante and Chloe Davis Domestic Violence Prevention Task Force, Workgroup on Health in all Policies, State Advisory Council on Health and Wellness, Workgroup to Study the Implementation of Universal Access to Prekindergarten for 4-Year Olds, and the Task Force to Study Bicycle Safety on Maryland Highways requests for exemptions from the financial disclosure requirement.

Decision: The Commission approved the exemptions for the Neshante and Chloe Davis Domestic Violence Prevention Task Force, Workgroup on Health in all Policies, State Advisory Council on Health and Wellness, Workgroup to Study the Implementation of Universal Access to Prekindergarten for 4-Year Olds, and the Task Force to Study Bicycle Safety on Maryland Highways.

The Commission voted unanimously to close the meeting at 10:02 a.m. pursuant to §3-305(b)(13) of the Open Meetings Act to consider confidential enforcement matters per §5-407 of the Public Ethics Law.

ITEM 6: A-25-17

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

Decision: A complaint will not be issued in this matter.

ITEM 7: A-26-17

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

Decision: A complaint will not be issued in this matter.

ITEM 8: A-29-17

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

Decision: A complaint will not be issued in this matter.

ITEM 9: A-27-17

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

Decision: This matter will be placed on the preliminary inquiry docket. (B-4-17)

ITEM 10: A-28-17 (Mr. Miliman did not participate in this matter.)

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

Decision: This matter will be closed.

ITEM 11: A-17-17 Audit Report (Ms. Coble did not participate in one matter. Ms. McHugh did not participate in one matter.)

Discussion: Mr. Colquhoun briefed the Commission on these matters. The Commission noted the importance of audits and that there should always be sufficient resources available to conduct them. Mr. Lord briefed the Commission on Advice Matter #17-0285 that was related to an issue addressed in Mr. Colquhoun's Audit Report concerning the interpretation of lobbyist compensation for purposes of completing activity reports.

Decision: The Commission approved advice to be given by the Executive Director and Staff Counsel in matter 17-0285 and similar matters that were identified in the audit.

ITEM 12: A-23-17

Discussion: Mr. Colquhoun briefed the Commission on these matters.

Decision: The Commission accepted the late filing agreements in these matters.

ITEM 13: A-24-17

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

Decision: The Commission accepted the late filing agreement in this matter.

ITEM 14: C-11-17

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

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

ITEM 15: A-30-17

Discussion: Mr. Colquhoun briefed the Commission on these matters.

Decision: Complaints will be issued in these matters. (C-12-17 to C-20-17)

ITEM 16: C-4-17

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

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

ITEM 17: C-6-17

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

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

(Mr. Lord, Mr. Colquhoun, Ms. Pizzi and Ms. Whitehead participated in the briefings, but did not participate in the decisions regarding Items 6 through 17.)

ITEM 18: Possible Litigation Issue

Discussion: Mr. Lord briefed the Commission on alternatives to litigation, particularly legislative changes to the Ethics Law, to address certain violations of the Law.

Decision: The Commission determined to forego pursuing legislation at the present time.

The meeting was reopened at 11:33 a.m.

ITEM 19: Local Government – Wicomico County Public School Board (17-0264)

Discussion: Ms. Allgair briefed the Commission on proposed amendments to the previously approved local ethics law for the Wicomico County School Board.

Decision: The Commission approved the proposed amendments.

ITEM 20: Local Government – Baltimore County Public School Board (17-0265)

Discussion: Ms. Allgair briefed the Commission on proposed amendments to the previously approved local ethics law for the Baltimore County School Board.

Decision: The Commission approved the proposed amendments.

ITEM 21: Local Government – Montgomery County (17-0301)

Discussion: Montgomery County notified the Commission of its local ethics commission's class waiver of the secondary employment restrictions of the Montgomery County Ethics Law to school health room nurses and technicians.

Decision: No further action is necessary on this matter.

ITEM 22: Local Government – Baltimore County (17-0317)

Discussion: Ms. Allgair briefed the Commission on proposed amendments to the previously approved local ethics law for Baltimore County.

Decision: The Commission approved the proposed amendments.

The Commission voted unanimously to close the meeting at 11:47 a.m. pursuant to §3-305(b)(13) of the Open Meetings Act to consider confidential advice matters per §5-303 of the Public Ethics Law.

ITEM 23: Informal Matter – Department of the Environment (17-0298)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of the Environment wanting to continue as a package handler for a courier service.

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

ITEM 24: Informal Matter – Department of Health (17-0304)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Health wanting to continue employment as a bedside nurse for a private hospital.

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

ITEM 25: Informal Matter – Department of Human Services (17-0289)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Services wanting to continue employment as an Office Associate at a grocery store.

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

ITEM 26: Informal Matter – Department of Human Services (17-0329 & 17-0330)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to continue employment as a registered nurse at two different non-profit organizations.

Decision: The Commission granted an exception to allow the secondary employments.

ITEM 27: Informal Matter – Department of Agriculture (17-0303)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Agriculture wanting to continue employment as a non-compensated home and farm show board of directors member.

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

ITEM 28: Informal Matter – Department of Human Services (17-0276)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Services wanting to continue employment as a direct service

worker for a mental health services institute.

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

ITEM 29: Informal Matter – Maryland Health Care Commission (17-0204)

Discussion: Mr. Lord updated the Commission in the matter of a secondary employment exception previously granted for a member of a State commission.

Decision: No decision required. Status report only.

ITEM 30: Informal Matter – Department of Labor, Licensing & Regulation (17-0235)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee in the Department of Labor, Licensing & Regulation wanting to continue service on a county planning and zoning commission and service on a county central committee.

Decision: The Commission did not grant an exception to allow the secondary employment.

ITEM 31: Informal Matter – State Retirement Agency (17-0282)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee as a non-compensated president-elect of a public retirement information systems management association.

Decision: The Commission determined the service was acceptable as it was in an ex officio status and approved updated general guidance concerning ex officio service on outside boards.

ITEM 32: Informal Matter – Morgan State University (17-0256)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee at Morgan State University wanting to continue service as a non-compensated president of a certified fraud examiners association.

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

ITEM 33: Informal Matters – Department of Human Services (17-0273)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee in the Department of Human Services wanting to continue service as a non-compensated board member of a child welfare league.

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

ITEM 34: Informal Matter – Towson University (17-0272)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee at Towson University who wanted to continue to provide paid technical support to a consortium of career centers from Baltimore-area universities.

Decision: The Commission declined to grant an exception for the secondary employment.

ITEM 35: Informal Matter – Department of Commerce (17-0262)

Discussion: Mr. Lord briefed the Commission on a request for review of various outside employment and financial interests of a potential new employee at the Department of Commerce. The outside employment consists of serving as a board delegate to a grains council and service on a county planning commission. The financial interest is in a private winery. He also inquired about his family farm, currently owned and operated by his father for whom he provides occasional uncompensated service.

Decision: The Commission determined that none of the entities involving outside employment or a financial interest has a business or regulatory relationship with the Department of Commerce. The Commission also concluded that none of the employment or financial interests constitutes an “impairment” concern under the secondary employment restrictions of the Ethics Law. The Commission did note that in certain of his outside interests, there is a potential for future business activity or other interaction with the Department of Commerce and advised the employee to seek further advice if his circumstances changed.

ITEM 36: Informal Matter – Department of Labor, Licensing and Regulation (17-0309)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee in the Department of Labor, Licensing & Regulation wanting to continue serving on the board of directors of a university medical system and as the president of a soccer association.

Decision: The Commission did not grant an exception to allow the secondary employment.

ITEM 37: Informal Matter – TEDCO (17-0300)

Discussion: Ms. Allgair briefed the Commission on a request to review a recently hired TEDCO employee’s proposed resignation and divestment plan of a financial interest in entities in the TEDCO portfolio.

Decision: The Commission accepted the resignations as an acceptable mechanism to avoid any financial interest conflict of interest related to the portfolio companies. The financial interests do not present issues and should be disclosed on the annual financial disclosure statement.

ITEM 38: Informal Matter – Department of Human Services (17-0312)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Services wanting to continue employment on a crisis hotline group at a substance abuse center.

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

ITEM 39: Informal Matter – Legislative Caucus (17-0334)

Discussion: Ms. Allgair briefed the Commission on a request from a legislative caucus for advice on the application of the secondary employment restrictions for its staff’s ability to receive compensation from related outside entities.

Decision: The Commission determined that the proposed outside employment relationship is prohibited and will provide additional guidance on other conflict of interest provisions.

ITEM 40: Executive Director's Report – Proposed Regulations

Discussion: Mr. Lord updated the Commission on the status of proposed regulation changes and the progress to update and upgrade the Commission's on-line training for both lobbyists and financial disclosure filers. Mr. Lord also asked the Commission for a decision concerning whether members of county liquor boards who serve only in an alternate status should file a Financial Disclosure Form 1 or Form 2.

Decision: The Commission determined that the compensation earned by the alternate members (in Baltimore County an alternate member is compensated on a per meeting basis) governs which form they file, regardless of the form the primary members are required to file.

The meeting was adjourned at 1:15 p.m.