

Philadelphia Board of Ethics
Meeting Minutes
June 15, 2016 - 1:00 p.m.
One Parkway Building
1515 Arch Street, 18th Floor

Board Present

Michael H. Reed, Esq., Chair
Judge Phyllis Beck (Ret.), Vice-Chair
Brian McCormick, Esq.
JoAnne Epps, Esq.

Staff Present

J. Shane Creamer, Jr., Esq.
Nedda Massar, Esq.
Maya Nayak, Esq.
Michael Cooke, Esq.
Diana Lin, Esq.
Jordan Segall, Esq.
Thomas Klemm, Esq.
Bryan McHale
Tina Simone
Eileen Donnelly
Hortencia Vasquez

Chair Reed recognized the presence of a quorum and called the meeting to order at 1:00 p.m.

I. Minutes

By a 4-0 vote, the Board approved the minutes for the public meeting held on May 18, 2016, as presented.

II. Executive Director's Report

A. Settlement Agreements

Mr. Creamer announced that the Board approved two May 18, 2016 settlement agreements with City employees resolving violations of the Philadelphia Home Rule Charter's restrictions on political activity and political fundraising:

- An agreement with Charles Younger resolving six violations of the Philadelphia Home Rule Charter's political activity and political fundraising restrictions; and
- An agreement with Peter Cutty resolving two violations of the Philadelphia Home Rule Charter's political activity restrictions.

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B. Administrative Adjudication

Mr. Creamer announced that on May 24, 2016, the Board of Ethics issued a Final Determination and Order in the Administrative Adjudication captioned *J. Shane Creamer, Jr. v. Tracey Gordon*. The Board is authorized by the Philadelphia Home Rule Charter and the Philadelphia Ethics Code to conduct hearings to adjudicate alleged violations of the City's Public Integrity Laws. The administrative enforcement hearing process is confidential until there is a final determination issued by the Board, at which point, the final determination is made public. This is the first Administrative Adjudication Final Determination and Order the Board has issued. The filings and transcript of the administrative enforcement proceeding are available on the Board's website.

In its Final Determination and Order, the Board found a total of six violations by Ms. Gordon:

- Three violations of the gratuity prohibition in Home Rule Charter Section 10-105 resulting from the fact that, while employed as a Deputy City Commissioner, Ms. Gordon twice solicited and once accepted payment for assistance she had provided in the course of her work for the City;
- Two violations of the Home Rule Charter's political activity restrictions that resulted from using her City position for a political purpose by requesting that a subordinate become an officer of a political party and by creating and posting a public calendar entry for a Democratic City Committee fundraiser; and
- One violation of Ethics Code Section 20-606(2) for obstructing a Board investigation by threatening and influencing a potential complainant and witness and by destroying evidence.

The Board determined that Ms. Gordon had not committed a third alleged violation of the Charter's political activity restrictions.

The Board has ordered Ms. Gordon to pay a total civil penalty of \$2,201 for her six violations of the City's Public Integrity Laws. Richard Glazer served as the Board's Hearing Officer by presiding over the administrative hearing process.

C. Legislative Update

Mr. Creamer said that on May 19, 2016, Councilman Bobby Henon introduced a proposed amendment of the City Ethics Code's conflict of interest law. Board staff worked with the Councilman's office and the Law Department to draft the proposed amendment, the purpose of which is to clarify and enhance the existing law. Mr. Creamer noted that Board staff will discuss the proposed legislation in more detail later in the public meeting.

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D. Staff Activity

Mr. Creamer said that on May 24, 2016, Michael Cooke, the Board's Director of Enforcement, was subpoenaed to testify in the ongoing criminal trial of Congressman Chaka Fattah. Mr. Cooke answered questions about the City's campaign contribution limits and reporting requirements.

E. New Staff Member

Mr. Creamer said that Board staff are very pleased to introduce and welcome new Board staff member, Eileen Donnelly. Ms. Donnelly is currently serving in the position of Administrative Technical Trainee, and after a year of successful service with the Board in that position she will be eligible for promotion to the position of Public Integrity Compliance Specialist, which is a position unique to the Board of Ethics. She will provide support to many of the Board's on-going programs, including training and lobbying.

Ms. Donnelly comes to the Board from the Philadelphia Fire Department where she served as an Executive Secretary and provided administrative support and acted as a liaison between the Department's Executive Staff and the Fire Prevention Division, the Fire Marshall's Office, and several other units within the Department. Prior to working for the Fire Department, Ms. Donnelly worked in the City's Office of Supportive Housing, the Controller's Office, and the Capital Program Office. Mr. Creamer said that Board staff are very glad to have Ms. Donnelly on the Board's staff.

On behalf of the Board, Chair Reed welcomed Ms. Donnelly to the Board.

F. Budget Update

Mr. Creamer said there has been no change in the status of the Board's FY17 operating budget. As submitted by the Administration, the budget will be \$1,071,403, which includes \$961,403 for salaries, \$96,000 for purchase of services, and \$14,000 for supplies and equipment.

III. General Counsel's Report

A. Informal Guidance

Ms. Nayak reviewed a chart summarizing informal guidance provided by Board staff from April 9, 2016 through May 6, 2016.

SUMMARY OF INFORMAL GUIDANCE PROVIDED, APRIL 9, 2016 – MAY 6, 2016

General Topic	monthly total (#) (ytd total)	email	phone	phone & email	in-person	Subtopics
Financial Disclosure	844 (1137)	416	425	1	2	<ul style="list-style-type: none"> ▪ Assisting filers with accessing and utilizing online filing system and technical issues related to filing system ▪ Explaining filing and disclosure requirements to: current City officials, former City officials, employees on leave of absence, new members of City boards and commissions, and non-voting City board members, among others ▪ Explaining disclosure requirements for various income and debt sources including: cosigned loans; conference travel; government reimbursements for transportation, lodging and hospitality; interest on savings bonds; mutual funds; retirement accounts; stock dividends; student loans; in-kind political contributions that were reported on campaign finance reports; government sources of income; debt forgiveness; and social security payments ▪ Explaining filing requirements and online filing system to City department human resources managers ▪ Explanations of the City, State and Mayor forms and the various roles of the Board of Ethics, State Ethics Commission and Mayor's Chief Integrity Officer with regard to financial disclosure
Lobbying	30 (80)		26	3	1	<ul style="list-style-type: none"> ▪ Technical assistance exception, which is in some lobbying laws, is not included in the City lobbying ordinance ▪ 10-day grace period to register after thresholds exceeded ▪ Bill of charges from lobbyist for lobbying as the trigger for registration ▪ Assistance with expense reports and various reporting issues ▪ Explaining the meaning of terms such as “indirect communication,” “lobbying” and “lobbying firm” ▪ Registration inquiries related to topics such as new registration, renewal and reporting thresholds ▪ Technical assistance ▪ Overview of lobbying law requirements

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**SUMMARY OF INFORMAL GUIDANCE PROVIDED, APRIL 9, 2016 – MAY 6, 2016
(CONTINUED)**

General Topic	monthly total (#) (ytd total)	email	phone	phone & email	in-person	Subtopics
Campaign Finance	11 (81)		9	1	1	<ul style="list-style-type: none"> ▪ Filing requirements for ward political committees ▪ Reporting in-kind contributions ▪ Requirement to provide information to the Board about a candidate political committee pursuant to Reg. 1 ¶1.28 ▪ Technical filing assistance ▪ No filing requirement with Board when political committee only makes expenditures to influence a non-City election
Political Activity	8 (52)	3	4	1		<ul style="list-style-type: none"> ▪ Attendance at political party event ▪ Display of yard signs obtained from political campaign ▪ City employee’s spouse hosting political fundraiser ▪ City employee’s spouse involved in national political campaign ▪ Prohibition on volunteering for candidate’s campaign even while off-duty ▪ Inquiry from City employee regarding First Amendment rights ▪ Overview of political activity restrictions ▪ Whether member of City board can be a political party committeeperson ▪ Volunteering related to the Democratic National Convention and to the Philadelphia 2016 Host Committee

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**SUMMARY OF INFORMAL GUIDANCE PROVIDED, APRIL 9, 2016 – MAY 6, 2016
(CONTINUED)**

General Topic	monthly total (#) (ytd total)	email	phone	phone & email	in-person	Subtopics
Conflicts	7 (37)		6	1		<ul style="list-style-type: none"> ▪ City employees volunteering for nonprofits or serving on nonprofit boards ▪ Meaning of the term "like relative-in-laws" under City Ethics Code ▪ No conflict with City official being independent contractor of firm that has an employee who acts as a lobbyist of City government ▪ Outside employment with entity that is monitored by City employee's City department, but City employee's work has no intersection with entity ▪ Part-time outside employment for non-profit entity that may partner with the City employee's City agency ▪ Use of City resources/position to support private business interests is prohibited
Gifts	5 (34)		4	1		<ul style="list-style-type: none"> ▪ Agency event hosted by City official; same discounts offered to City agency as for any other large group ▪ City superiors voluntarily donating money and buying small \$12 gifts for entire department workforce ▪ Medical service provider providing free medical screenings and breakfast to City department ▪ Prospective vendor purchasing lunch for City employee ▪ Procedure for returning prohibited gift/gratuity

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SUMMARY OF INFORMAL GUIDANCE PROVIDED, APRIL 9, 2016 – MAY 6, 2016
(CONTINUED)

General Topic	monthly total (#) (ytd total)	email	phone	phone & email	in-person	Subtopics
Post-Employment	4 (15)		3	1		<ul style="list-style-type: none"> ▪ Working on contract between former City department and new, non-City employer ▪ Overview of post-employment restrictions

This chart summarizes the informal guidance provided by a number of Board staff members during the specified time period. The figures provided reflect the approximate number of inquiries that Board staff has responded to and do not indicate the amount of time spent per topic or inquiry.

B. Advisory Opinion

Ms. Nayak announced that Non-public Board Opinion 2016-001 was issued on April 21, 2016. The Opinion addresses the application of the City Home Rule Charter political activity restrictions to a City employee who sought to perform non-City, part-time paid work as an usher at the Wells Fargo Center during the Democratic National Convention. The Board advised that the Charter political activity restrictions do not prohibit the requestor from performing these non-City employment duties.

Although the proposed work would involve the requestor providing event support for the Democratic National Convention, the situation presented does not involve the requestor volunteering to assist a political party with its event. Rather, in providing this event support, the requestor would be carrying out the ushering duties he or she typically performs as part of paid work for Comcast-Spectacor at the Wells Fargo Center. The requestor would perform the same ushering duties regardless of what entity is conducting an event at the location. In this circumstance, the proposed work is permissible under the Charter political activity restrictions.

Non-public Board Opinion 2016-001 is available on the Board’s website.

IV. Proposed Legislation to Amend the City Conflict of Interest Law

Ms. Nayak and Mr. Cooke discussed with Board members proposed Bill Number 160514, which would amend the Ethics Code’s conflict of interest law. Board members and the public were given copies of the proposed legislation. The purpose of the legislation is to improve the conflict of interest provisions by clarifying the language of the ordinance and enhancing its scope and application.

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In preparing the proposed amendment, Board staff worked with Councilman Bobby Henon's office, other City Council staffers, and the City Law Department. Councilman Henon introduced the Bill in City Council on May 19, 2016. The Bill has been referred to the Committee on Law and Government, which has not yet scheduled the Bill for a hearing. Board staff anticipated that a hearing will likely be scheduled for the Fall of 2016.

V. New Business

There was no new business presented at the public meeting.

VI. Questions/Comments

There were no questions or comments presented at the public meeting.

Chair Reed announced that after the public meeting the Board would meet pursuant to Sections 708 and 706 of the Pennsylvania Sunshine Act to receive legal advice and to address confidential enforcement matters.

The public session of the Board meeting was adjourned at approximately 1:40 p.m.