

**Philadelphia Board of Ethics**  
**Meeting Minutes**  
May 13, 2015 - 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  
Sanjuanita González, Esq.  
Brian McCormick, Esq.  
JoAnne A. Epps, Esq.

**Staff Present**

J. Shane Creamer, Jr., Esq.  
Nedda Massar, Esq.  
Maya Nayak, Esq.  
Michael Cooke, Esq.  
Jordan Segall, Esq.  
Ayodeji Perrin, Esq.  
Bryan McHale  
Tina Simone  
Hortencia Vasquez

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

**I. Approval of Minutes**

By a 5-0 vote, the Board approved the minutes for the public meeting held on April 15, 2015, as presented.

**II. Executive Director's Report**

**A. Settlement Agreement**

Mr. Creamer announced that on May 8, 2015, the Board approved a settlement agreement with Councilman Kenyatta Johnson, a candidate for City Council in the 2<sup>nd</sup> District in the May 19, 2015 Primary Election, and Citizens for Kenyatta Johnson, his designated political committee for the 2015 Primary Election. The Settlement Agreement concerned the campaign's handling of excess pre-candidacy contributions and material misstatements and omissions made in the 2014 cycle 7 campaign finance report filed with the Board. The total amount of money involved in the agreement was \$4,900 which included \$3,900 excluded as excess pre-candidacy contributions and \$1,000 as a penalty. The agreement also required the campaign to file an amended 2014 cycle 7 campaign finance report within seven days of the effective date of the settlement agreement.

Mr. Creamer stated that the Johnson Campaign has moved the \$3,900 to a separate account and paid the penalty. They have also filed an amended 2014 cycle 7 report with the Board.

**B. Preparations for May 19, 2015 Primary Election**

Mr. Creamer stated that since the Board meeting on April 15<sup>th</sup>, Board staff have weathered the "perfect storm," when three of the Board's major responsibilities converged: lobbying expense reports were due by April 30<sup>th</sup>; financial disclosure reports were due by May 1<sup>st</sup>; and Cycle 2

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campaign finance reports for the May 19<sup>th</sup> Primary Election were due on May 8<sup>th</sup>. Preparations for these three deadlines consumed a substantial amount of Board staff time.

Mr. Creamer announced that Ms. Nayak had collected data on the number of public assistance contacts since the last Board meeting, and that she would report on the volume of those contacts. He said that it is no exaggeration to say that Board staff was constantly busy with financial disclosure, lobbying, and campaign finance calls and emails.

Mr. Creamer also said that in addition to the many phone calls and emails concerning the May 19<sup>th</sup> Primary Election, Board staff continued their efforts to remind candidates, committees and other potential filers of the requirements of the City's Campaign Finance Law.

As such, the Board issued three Advisory Alerts since the Board meeting on April 15<sup>th</sup> which were designed to call immediate attention to requirements of the law. Mr. Creamer noted that Advisory Alerts are sent by email to an extensive list of individuals who are already filing campaign finance reports or who have expressed interest in the Campaign Finance Law. The alerts are also posted prominently on the Board's website.

The first alert was issued on April 27<sup>th</sup> to remind candidates, treasurers and committees about how contributions made by individuals by check are attributed for purposes of the contribution limits imposed in the City's Campaign Finance Law. The Alert gave a brief summary of the requirements that are explained in detail in Subpart D of Regulation No. 1, the Board's Campaign Finance Regulation. For example, the Alert explained how to report a contribution when a candidate receives a \$5,800 check that is signed by two owners of a joint checking account. If more than one account holder signs the check, the contribution is apportioned evenly between the signers. However, if the \$5,800 check is signed by only one owner of the account, that owner has made a contribution of \$5,800 to the candidate, which is \$2,900 above the maximum allowable contribution and the candidate must refund \$2,900 to John Smith within 15 days and inform the Ethics Board of the refund in order to take advantage of the safe harbor provision of the Board's Campaign Finance Regulation.

The second Alert was issued on May 5<sup>th</sup> and concerned doubling of the campaign contribution limits applicable in At-Large City Council races. Because an At-Large candidate had made total contributions of \$250,000 or more from personal resources to his campaign, the contribution limits for all candidates for that office were doubled as of May 1<sup>st</sup>. Therefore, effective May 1, 2015, the limits on contributions to all candidates for Philadelphia's At-Large City Council seats were doubled to: \$5,800 for individuals; and \$23,000 for political committees and unincorporated business organizations. The Alert provided additional information about the doubling process and noted that the contribution limits are not doubled for contributions to litigation fund committees or post-candidacy contributions.

The third Alert was issued on May 7<sup>th</sup> to advise filing entities that failure to file electronically a required campaign finance report with the Board of Ethics is a violation of the City's Campaign Finance Law and is subject to a civil penalty of \$250 per day for each day the report is not filed with a maximum penalty of \$2,000 for the first thirty days the report remains unfiled, plus \$1,000 for each additional thirty day period the report remains unfiled.

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Mr. Creamer stated that Board staff also recently issued two reminder emails. The first was sent on May 4<sup>th</sup> to remind filers that Friday, May 8, 2014 was the filing deadline for filing 2015 Cycle 2 (pre-primary) campaign finance reports. The email described who must file Cycle 2 reports and included information about the filing support center that is available to candidates and committees at the Marriott Courtyard Hotel.

The second reminder email was sent on May 6<sup>th</sup> to explain the 24-hour reporting requirement. If the authorized political committee of a current candidate for City office receives a contribution of \$500 or more from May 7<sup>th</sup> through May 21<sup>st</sup>, the committee must electronically file with the Board of Ethics a report disclosing that contribution within 24 hours of receipt. The reminder email also explained that if a political committee or other person makes an independent expenditure of \$500 or more from May 7<sup>th</sup> through May 21<sup>st</sup>, that committee or person must electronically file with the Board of Ethics a report disclosing that expenditure within 24 hours of being made.

Mr. Creamer said the purpose of these Advisory Alerts and reminder emails is specifically to increase compliance with the City's Campaign Finance Law.

### **C. Preparations for the Lobbying and Financial Disclosure Filing Deadlines**

Mr. Creamer announced that lobbying expense reports for January through March of 2015 were due on April 30<sup>th</sup>. More than 80 lobbying entities reported spending a total of approximately \$625,000 in the 2015 first quarter. Board staff fielded questions on the contents of the quarterly reports and on use of the online system.

Mr. Creamer noted that in contrast to lobbying, the May 1<sup>st</sup> financial disclosure filing requirement affects thousands of City employees and board and commission members. Therefore, on a daily basis, as many as five of the Board's staff members assisted filers by phone, email, and in-person with technical and reporting questions. In order to promote compliance with the filing requirements, Board staff make every effort to reach as many of the filers as possible with email reminders in which the emails describe the various forms and the online electronic filing system. This year Board staff were again fortunate to have help from the Office of Human Resources which issued email filing reminders to more than 6,000 current City employees. Board staff issued email reminders to hundreds of members of City boards and commissions and mailed letters to 696 employees who left City government during the past year, but still had to file one last time. Mr. Creamer stated that the reminders typically result in a steady stream of phone calls to the Board's office with two consistent themes: callers want to know why they have to file and how to use the online system.

### **D. Campaign Finance Legislation**

Mr. Creamer announced that on April 23, 2015, Bill #150368 was introduced in City Council by Councilmember Marian Tasco for Council President Darrell Clarke. The Bill would amend the City's Campaign Finance Law, Chapter 20-1000 of The Philadelphia Code. Prior to its introduction, at last month's Board meeting Board staff reviewed a draft of the proposed legislation

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with the Board and explained that it would provide for enhanced campaign finance disclosure. Also at last month's meeting, the Board authorized Chair Reed to send a letter, to the Mayor and City Council President supporting introduction and adoption of the proposed amendment. Mr. Creamer provided to the Board a copy of the letter sent by Chair Reed to the Mayor and the City Council President as well as a copy of proposed Bill #150358.

Mr. Creamer stated that later at the meeting, Mr. Cooke would discuss the proposed legislation with the Board. He announced that the proposed legislation was referred to the Committee on Law and Government and a hearing has been scheduled on May 29, 2015 at 10:00 am.

### **III. General Counsel's Report**

#### **A. Advisory Opinion**

Ms. Nayak announced that Non-public General Counsel Opinion 2015-502 was issued on April 24, 2015. The Opinion provided advice regarding a conflict of interest. Ms. Nayak said that she will describe the opinion in greater detail at a public meeting once the redaction is completed.

#### **B. Informal Guidance**

Ms. Nayak reviewed the chart summarizing informal guidance provided from April 4, 2015 to May 1, 2015. She noted a doubling of informal guidance pertaining to financial disclosure as compared to the number reported last year. Ms. Nayak discussed a number of potential reasons for the increase, including questions generated by a large data cleanup that had been performed and better tracking of the guidance being provided by Board staff on this topic.

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, APRIL 4, 2015 – MAY 1, 2015**  
 (CONTINUED NEXT PAGE)

<b>General topic</b>	<b>monthly total # (ytd total)</b>	<b>phone</b>	<b>email</b>	<b>phone &amp; email</b>	<b>in-person</b>	<b>Subtopics</b>
Financial Disclosure	736 (773)	458	277	1	--	Assistance for filers, including accessing online system and reporting income and gifts; support for HR managers; members of nonprofit entity not subject to City disclosure requirement; filing requirement for former employees; and role of State Ethics Commission as authority on State form.
Campaign Finance	57 (242)	44	6	7	--	Reporting requirements and deadlines, including Cycle 2 and 24-hour reporting; doubling of contribution limits; contribution limits, including application of limits to a loan; in-kind contributions; contribution from a sole proprietorship; reporting requirement for candidates; reporting requirements for PACs; returning excess contribution; pass-through contributions; coordinated expenditures; group of persons including City candidates coordinating to make expenditures; reporting termination of candidacy; nonprofit providing coupon to candidate donor as it would to any donor; and registration process and SmartClient software.

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, APRIL 4, 2015 – MAY 1, 2015**

Lobbying	34 (115)	32	--	--	2	Filing and contents of expense reports; lobbyist's expense report; registration renewal and payment; definition of lobbying; and adding lobbyists to registration of principal.
Political Activity	9 (58)	3	5	1	--	City employee contact with candidate; political activity for a campaign before City employment; providing notary services to campaign; voluntary political contributions; attendance at political events and fundraisers as a spectator; handling of political emails received at City email account; and prohibited election day political activity.
Gifts	3 (15)	2	1	--	--	Solicitation of gifts; token gifts from vendor to City employees; and gift worth more than \$99 from a restricted source.
Conflicts	2 (16)	1	1	--	--	Representation of a relative in an arbitration involving a City department; and use of City resources and staff for private activity.
Post-Employment	3 (13)	1	1	--	1	
Other	5 (40)	5	--	--	--	Non-competitively bid contract reform law; and no Board jurisdiction.

*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.*

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#### **IV. Proposed Campaign Finance Legislation**

Mr. Cooke presented a copy of proposed Bill #150368 to the Board, which was recently introduced in City Council. A hearing is scheduled on the bill for May 29, 2015. The proposed legislation would amend the City's Campaign Finance Law to provide for enhanced campaign finance disclosure.

Mr. Cooke reviewed the proposed legislation and noted that the legislation was almost identical to a proposed bill that the Board sent to the Mayor and the City Council President in April 2015. He highlighted three differences between the legislation introduced in City Council and the proposed legislation the Board sent to the Mayor and the City Council President:

(1) In the introduced bill, the definition of electioneering communication did not include the ability of the Board to exempt future expenditures from the definition of electioneering communication by regulation;

(2) In the introduced bill, the threshold expenditure that requires persons to disclose an electioneering communication is \$5,000, not \$2,500; and

(3) The introduced bill did not replace the term "political committee" in Subsections 20-1002(1) and (2) of the Philadelphia Code with the term "persons."

Mr. Cooke advised that Board staff believe the differences between the legislation as introduced and as proposed by the Board are minimal. He asked for the Board to authorize Board staff to present testimony supporting the proposed legislation at the hearing scheduled for May 29, 2015.

By a 5-0 vote, the Board authorized Board staff to present testimony on May 29, 2015 in support of proposed Bill #150368.

#### **V. New Business**

There was no new business presented at the meeting.

#### **VI. Questions/Comments**

There were no questions or comments presented at the meeting.

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Chair Reed announced that the Board conducted three executive session meetings by email:

- 1) On April 24 through April 28 regarding a confidential enforcement matter;
- 2) On May 6 through May 7 regarding a personnel matter; and
- 3) On May 7 through May 8 regarding a confidential enforcement matter.

Chair Reed announced that after the public session meeting, the Board would meet in executive session to address non-public advice, confidential enforcement matters, and a personnel matter.

The public session of the Board meeting was adjourned at approximately 1:25 p.m.

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