

Philadelphia Board of Ethics
Meeting Minutes
May 8, 2007
Philadelphia Bar Association
ARAMARK Building, 11th Floor
1101 Market Street, Philadelphia PA
11:00 am

Present:

Board

Pauline Abernathy
Richard Glazer, Esq., Chair
Richard Negrin, Esq., Vice Chair
Stella Tsai, Esq.

Staff

J. Shane Creamer, Jr., Esq.
Tina Formica

Guests

Evan Meyer, Esq.
Phoebe Haddon, Esq.

After recognizing that a quorum was present, Board Chair Richard Glazer convened the meeting.

I. Preliminary Statement Regarding Public Participation

Mr. Glazer stated that the Board encourages the public to speak, and that there would be an opportunity to do so at the end of the meeting.

II. Deferral of Minutes

Mr. Glazer announced that the meeting minutes for the March 20, 2007 and April 17, 2007 Board meetings were not yet available, but that they would

be presented at the Board's June 19th meeting.

III. Interim Executive Director's Report

A. Legislative Update

1. House Bill 1130

Mr. Creamer reported that State Representative Rosita Youngblood introduced H. B. 1130 on April 23, 2007. If passed, he explained that the Bill would prohibit "cities of the first class" from requiring any committee for a candidate for state office or a committee of a party organization representing a ward in Philadelphia to file campaign finance reports in an electronic format instead of paper. Twenty-one members of the Philadelphia delegation to the State House of Representatives co-sponsored the Bill. It was referred to the Committee on Urban Affairs on April 23rd. Neither Representative Youngblood, nor any of the other co-sponsors has contacted the Ethics Board about this measure.

B. Litigation Update

1. Philadelphia Board of Ethics v. Appreciation Fund

Mr. Creamer reported that on April 27, 2007 outside counsel for the Board filed a Petition in the Court of Common Pleas against the Appreciation Fund PAC for failing to file a required Cycle 7 campaign finance report in an electronic format with the Ethics Board via the Records Department.

Mr. Creamer also stated that a letter was sent to the PAC on March 21st, after the Appreciation Fund PAC failed to file a required Cycle 7 campaign finance report in an electronic format by the extended deadline of February 15th. The Letter explained the requirements and demanded that the PAC file an electronic report by April 4th. Mr. Creamer noted that, out of 177 committees that were required to file an electronic report, the Appreciation Fund was the only one that failed to do so. After the PAC failed to comply with that demand, outside counsel was authorized to file the Petition.

After being served with the Petition, Mr. Creamer said that the Appreciation Fund filed the required electronic report on April 30th. The Board will continue to seek a monetary fine for the period of noncompliance.

2. Emergency Petitions to Compel Enforcement of Administrative Subpoenas

Mr. Creamer reported that the Ethics Board has issued nearly two-dozen Administrative Subpoenas pursuant to matters under scrutiny relating to the City's campaign finance law. Although the majority of those who have been issued Administrative Subpoenas have complied, a few have not. As a result, the Board has retained outside counsel to file Emergency Petitions to Compel Enforcement of the Administrative Subpoenas. So far, the Board has filed three Emergency Petitions to Enforce. The Honorable Gary Glazer of the Court of Common Pleas has granted all three Emergency Petitions.

i. Edgar Campbell, Treasurer, Genesis IV PAC

Mr. Creamer reported that the first Emergency Petition to Compel was filed against Edgar Campbell, in his capacity as Treasurer of a Political Action Committee called "Genesis IV." Mr. Campbell was served with an Administrative Subpoena at the registered address of the Genesis IV PAC on April 17th. The return date and time for the Subpoena was April 24th at 10:00 AM. Neither Mr. Campbell, nor anyone on his behalf appeared at the scheduled time, nor did Mr. Campbell or anyone on his behalf contact the Board in response to the subpoena.

Mr. Creamer also reported that after notifying Mr. Campbell that the Board would seek an emergency order compelling his compliance with the Subpoena, outside counsel for the Board filed an Emergency Petition in the Court of Common Pleas on May 2nd. Judge Glazer heard the Emergency Petition the same day. Neither Mr. Campbell, nor anyone on his behalf responded to the Petition. Judge Glazer signed an Order compelling Mr. Campbell to comply with the Subpoena by providing a recorded statement under oath. As of today, Mr. Campbell has not complied with Judge Glazer's Order.

Mr. Creamer said that an attorney filed a non-emergency motion for reconsideration of Judge Glazer's May 2nd Order on Mr. Campbell's behalf. The attorney's address is the same address as the Democratic City Committee Headquarters.

ii. Anthony Cacciavillano, Treasurer, Unity 2001 PAC

Mr. Creamer announced that Anthony Cacciavillano was also served with an Administrative Subpoena on April 17th with a return date and time of April 24th. Although an attorney for Mr. Cacciavillano contacted Mr. Creamer immediately prior to the return time for the Subpoena, Mr. Campbell did not appear, nor would his attorney (who is also chair of that PAC), commit to produce Mr. Cacciavillano, who is also an Executive Assistant to Congressman Brady.

Mr. Creamer said that after notifying Mr. Cacciavillano's attorney that the Board would seek an emergency order compelling his compliance with the Subpoena, outside counsel for the Board filed an Emergency Petition in the Court of Common Pleas on May 2nd. Judge Glazer heard the Emergency Petition the same day. Mr. Cacciavillano's attorney opposed the Petition, but Judge Glazer granted the Board's petition and Ordered Mr. Cacciavillano to comply with the Board's Subpoena within two business days. Mr. Cacciavillano complied with the Court's Order yesterday.

iii. Councilwoman Carol Ann Campbell, Secretary, Democratic City Committee

Mr. Creamer reported that after failing to comply with two Administrative Subpoenas issued to Councilwoman Carol Ann Campbell in her capacity as Secretary to the Democratic City Committee, an Emergency Petition to Compel was filed against her yesterday. Judge Glazer granted the Petition and issued an Order compelling Councilwoman Campbell to comply with the Subpoena within two business days. Councilwoman Campbell's attorney has agreed to produce her later today, pursuant to the Court's Order.

C. Compliance Reports

1. Cycle 7 Reports with Missing Data

Mr. Creamer stated that at the last Board meeting, he reported that letters were sent to seven committees with more than seven missing data entries in their Cycle 7 campaign finance reports. All seven have responded and complied with the Board's request to supply the missing data. Another

report had to be refilled due to a data entry error that skewed the data in the report.

2. Settlement Agreement with the Friends of Juan F. Ramos over Excess Pre-Candidacy Contributions

Mr. Creamer reported that the Friends of Juan F. Ramos committee has agreed to place \$13,174.62 into a Special Pre-Candidacy Excess Contribution Account (“SPEC” Account), as recommended in Ethics Board Advisory Opinion 2006-003, pursuant to an agreement reached with the Board. Mr. Creamer said that a Settlement Agreement was in the process of being drafted. The Committee has already transferred the money to a SPEC Account that has been established for this purpose.

D. Statement on Independent 527 Political Committees

Mr. Creamer said that as has been reported, the Board has been examining the activities of two so-called 527 organizations, the Economic Justice Coalition for Truth and the Working People for Truth, which were recently formed and are seeking to participate in the primary election by running advertisements. It is a matter of federal law whether either organization is entitled to the tax treatment accorded 527s under the federal tax code.

Mr. Creamer also said that given current City law, the narrow area of inquiry for the Board is whether any candidate for a City elective office in the upcoming primary is involved with either of these organizations to the degree that the candidate can be deemed to be maintaining a second political committee apart from his/her single political committee being used for the purpose of influencing the outcome of a covered election.

The Board’s oversight function on the Philadelphia Campaign Finance laws continues as to these committees and all other issues.

Mr. Creamer said that it was worth noting that policymakers in many states and localities are considering changes to their campaign finance laws in response to the emergence of these types of 527 organizations. For example, the State of West Virginia recently adopted a statute requiring registration and disclosure by state 527 organizations and limiting contributions to 527 organizations to \$2,000 per two-year election cycle. The Board may want to

examine, after the election season, the adequacy of the City's campaign finance law as it relates to 527s.

E. Financial Disclosure Update

Mr. Creamer stated that the deadline for filing financial disclosure statements for calendar year 2006 was last Tuesday, May 1st. As of May 7th, the Records Department reported the following numbers of financial disclosure filings:

City:	241
Mayor:	163
State:	2,777
Total:	3,181

Mr. Creamer also stated that after the current election cycle, the Board should consider dedicating resources to review the financial disclosure filings to determine whether anyone has failed to file a required disclosure form and whether reports contain missing information. The Board may also want to consider conducting random audits of the City disclosure forms.

IV. New Business

There was no new business.

V. Public Comment

Zack Stalberg, Committee of Seventy, stated that he fully supports the Board of Ethics and hopes that they will take a hard look at the 527's and change the Campaign Finance Law for the future.

VI. Executive Session

At the conclusion of New Business, the Board concluded the public session of its meeting and went into Executive Session.