R. I. STATE BOARD OF ELECTIONS
MINUTES OF MEETING
April 16, 2014

The Rhode Island State Board of Elections convened at 3:34 PM at the Rhode Island Board of Elections, a quorum included, Chairman Richard Pierce, Vice-Chairman William West, and Commissioners Florence Gormley and Martin Joyce. Executive Director Robert Kando and legal counsel Raymond Marcaccio were also in attendance.

The meeting was called to order by Chairman Pierce.

First order of business: Commissioner Joyce moved to approve the minutes for Board of Elections meeting dated 2/25/14, seconded by Vice Chairman West who requested an amendment. After a brief discussion, the motion to approve the minutes amending the last sentence of page two paragraph three to read: *In the absence of a second, the item was not acted upon*, was made by Commissioner Joyce and seconded by Vice Chairman West. Chairman Richard Pierce, Vice-Chairman William West, Commissioners Gormley and Joyce voting in the affirmative, no dissenting votes, and motion passed.

Next order of business: Appeal of campaign finance fines pursuant to R.I.G.L. 17-25: Central Falls Democratic City Committee (CFDCC) to seek waiver of all fines and fees totaling $5,245.00. Thomas Lazieh of Central Falls RI, Chairman of the CFDCC testified that the committee was non-existent as a body during the last term of office of Mayor Charles Moreau and throughout Central Falls' receivership. No meetings were held during that term except for the first organizational meeting and that no fundraisers were held and no money was raised or expended during this time period. Mr. Lazieh asked the Board to reconsider the fines that accrued due to non-filing or late filing of reports, since there was no activity. He informed the Board that the CFDCC would not exist if it was required to pay the current fines, because the committee could not afford to pay them. Mr. Thornton, Director of Campaign Finance, recommended, under the circumstances, to waive the entire fine since a new treasurer has been appointed and the committee was inactive during that entire period. After a brief discussion a motion was made by Commissioner Martin Joyce to waive the entire amount of the fees seconded by Vice-Chairman West. Voting affirmatively were Chairman Richard Pierce, Vice-Chairman William West, Commissioners Gormley and Joyce, with no dissenting votes. Motion Passed.

Next order of business: Appeal of campaign finance fines pursuant to R.I.G.L. 17-25: Phillip R. McKendall of Providence requested a waiver or the reduction of fines and fees totaling $8,298.00. Mr. McKendall thanked the Board for allowing him to address them. He stated that he had a number of personal problems that caused him to fall behind in his campaign finance filing, including losing his mother to cancer in the month of January following his defeat in the September primary, and then settling her estate, while going through a divorce and trying to spend more time with his son. With everything happening at once he was forced him to push some things aside. Although he admits there is no

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excuse for his failure to comply, he had been previously scheduled to make an appeal to the board, but the meeting was canceled due to lack of quorum. Since that date he has met with campaign finance staff and has closed his account. Mr. Thornton stated that Mr. McKendall has dissolved his account as of 2/22/13 and recommended a reduction of his fines. A motion from Commissioner Gormley to reduce the fines to $1703.00 with a stipulation that Mr. McKendall set up a payment plan with Mr. Thornton and if he defaults on the payment schedule all monies become due immediately was seconded by Commissioner Joyce. Voting affirmatively were Chairman Richard Pierce, Vice-Chairman William West, Commissioners Gormley and Joyce voting in the affirmative, no dissenting votes. Motion Passed.

Next order of business: Appeal of campaign finance fines pursuant to R.I.G.L. 17-25: Frederich Michael Girard: Hearing was passed until further notice.

Next order of business: The Board considered the recent United States Supreme Court decision, McCutcheon v. Federal Elections Commission, 134 S Ct. 1434 (U.S. 2014). Legal Counsel Ray Marcaccio provided the Board with a summary of the decision. He stated that the Supreme Court decision changed the campaign finance structure relating to caps for individual aggregate contributions in the federal context. Aggregate caps limit the amount that an individual may contribute to all candidates in an election cycle. The Court in McCutcheon invalided aggregate individual caps but did not disturb candidate contribution limits which restrict the amount that an individual may donate to each federal candidate. The Court reasoned that the caps that exist for individual candidates are important to avoid "quid pro quo" issues of corruption or its appearance, i.e. being able to purchase government actions with money in the form of campaign contributions. The Court didn't have the same concerns for aggregate caps that exist in federal law because federal regulations include ear-marking regulations that prohibit contributions to different entities with the purpose that those contributions would subsequently flow to a specific candidate; and since the ear-marking regulation is in place, there is no reason to have a cap to avoid the corruption issue in light of the ear-marking regulations. The Court made a distinction on those grounds and also found that the first amendment does not include any type of a cap that limits a voice to be heard on issues, when it invalided issue caps. Mr. Marcaccio stated that Rhode Island has a statutory individual annual aggregate cap of $10,000 which may be subject to a constitutional challenge and suggested that the Board support legislation to seek the repeal of 17-25-10.1 which prohibits individuals from making contributions to more than one state or local candidate, to more than one political action committee, or to more than one political party committee, or to a combination of state and local candidates and political action committees and political party committees which in the aggregate exceed ten thousand dollars ($10,000) within a calendar year. Mr Marcaccio believed it will be difficult for the Board to enforce the Rhode Island's individual aggregate cap after the with the McCutcheon decision, though Rhode Island doesn't have the ear-marking regulations of the FEC. Commissioner Gormley motioned to support legislation to repeal the portion of 17-25-10.1 that contains the $10,000 aggregate contribution cap in a calendar year seconded by Vice Chairman West. Chairman Pierce, Vice-Chairman West,

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Commissioners Gormley and Joyce voting in the affirmative, no dissenting votes and motion passed.

Next order of business: Commissioner Joyce moved pursuant to R.I.G.L. 42-46-5(A) (4) and 17-25-5(a) (7) to convene into executive session to discuss and/or vote on pending litigation pending in Providence County Superior Court related to Kevin Jackson, seconded by Commissioner Gormley. Chairman Richard Pierce, Vice-Chairman William West, Commissioners Gormley and Joyce voting in the affirmative, no dissenting votes and motion passed. Commissioner Gormley motioned to go into recess prior to entering into executive session, seconded by Commissioner Joyce. Chairman Pierce, Vice-Chairman West, Commissioners Gormley and Joyce voting in the affirmative, no dissenting votes, and motion passed.

Upon its return from executive session the Board published its vote in executive session to ratify the Superior Court settlement between the Board of Elections and Kevin Jackson. The motion made in executive session by Commissioner Gormley to ratify the settlement relating to payment of outstanding fines by Kevin Jackson, seconded by Vice Chairman West was read. Chairman Pierce, Vice-Chairman West, Commissioners Gormley and Joyce voting in the affirmative, no dissenting votes, and motion passed

At 4:40PM, Commissioner Gormley moved to adjourn, seconded by Commissioner Joyce. Chairman Pierce, Vice-Chairman West, Commissioners Gormley and Joyce voting in the affirmative, no dissenting votes, and motion passed.

Andreza Skipworth

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