

MINUTES OF THE OPEN SESSION

OF THE RHODE ISLAND ETHICS COMMISSION

November 18, 2014

The Rhode Island Ethics Commission held its 13th meeting of 2014 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, November 18, 2014, pursuant to the notice published at the Commission offices, the State House Library, and electronically with the Rhode Island Secretary of State.

The following Commissioners were present:

Ross Cheit, Chair Edward A. Magro

John D. Lynch, Jr., Secretary Robert A. Salk

Frederick K. Butler

Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason Gramitt, Education Coordinator/Staff Attorney; Staff Attorneys Teresa Giusti and Amy C. Stewart; and Commission Investigators Peter J. Mancini and Gary V. Petrarca.

At 9:04 a.m., the Chair opened the meeting. The first order of business was:

Approval of minutes of the Open Session held on October 21, 2014.

Upon motion made by Commissioner Magro and duly seconded by Commissioner Lynch, it was

VOTED: To approve minutes of the Open Session held on October 21, 2014.

AYES: Edward A. Magro; John D. Lynch, Jr.; Ross Cheit.

ABSTENTIONS: Robert A. Salk; Frederick K Butler.

The next order of business was:

Advisory Opinions.

The advisory opinions were based on draft advisory opinions prepared by Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date.

The first advisory opinion was that of:

Richard J. DeFino, III, a member-elect of the Johnston Town Council, requesting an advisory opinion regarding what limitations the Code of Ethics places upon his participation in certain matters before the Town Council, specifically including the appointment of the Municipal Court Judge and the review and approval of the municipal budget,

given that his mother and father are employed by the Town of Johnston.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Magro and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Richard J. DeFino, III, a member-elect of the Johnston Town Council.

The final advisory opinion was that of:

The Retirement Board of the Employees' Retirement System of the State of Rhode Island, requesting an advisory opinion concerning whether those members who are required to recuse from the Retirement Board's discussions and decision-making relating to pending pension reform litigation must similarly recuse from participation in the Retirement Board's approval of a proposed budget that includes funding for the Retirement Board's legal defense in said litigation.

Staff Attorney Gramitt presented the Commission Staff recommendation. Michael P. Robinson, Esq., was present on behalf of the Retirement Board. Mr. Robinson stated that the Retirement Board met on November 12, 2014, and voted on the budget consistent

with the recommendations set forth in this advisory opinion. He explained that the Retirement Board was up against a budget deadline and separated the discussion and vote regarding the legal defense budget from the remainder of the budget. He asked the Commission to nevertheless issue the advisory opinion because the pension litigation is likely to extend into another budget year. Staff Attorney Gramitt added that this advisory opinion would be instructive not only to the Retirement Board but also to other boards facing similar questions of recusal from budget decisions.

Staff Attorney Gramitt also stated that there were three small amendments to the second full paragraph on page two of the advisory opinion. These amendments clarified statements relating to the Retirement Board's legal representation for the pension litigation and the consolidation of the litigation matters. Upon motion made by Commissioner Butler and duly seconded by Commissioner Magro, it was unanimously

VOTED: To issue an advisory opinion, as amended and attached hereto, to the Retirement Board of the Employees' Retirement System of the State of Rhode Island.

The next order of business was:

Director's Report.

Executive Director Willever reported that there were twenty-one (21) complaints pending. He stated that sixteen (16) APRA requests were granted since the last meeting, fifteen (15) of which were completed within one (1) business day.

The next order of business was:

Election of Officers.

Chair Cheit stated that he is willing to continue as Chair if elected. He stated that he spoke with Vice Chair Cerullo who informed that, due to scheduling conflicts in 2015, she would be uncomfortable accepting the office of Vice Chair again. Upon motion made by Commissioner Butler and duly seconded by Commissioner Magro, it was

VOTED: To elect Ross Cheit as Chairperson.

**AYES: Edward A. Magro; John D. Lynch, Jr.; Robert A. Salk;
Frederick K. Butler.**

ABSTENTION: Ross Cheit.

Upon motion made by Commissioner Magro and duly seconded by Commissioner Butler, it was

VOTED: To elect John D. Lynch, Jr., as Vice Chairperson.

**AYES: Edward A. Magro; Robert A. Salk; Frederick K. Butler;
Ross Cheit.**

ABSTENTION: John D. Lynch, Jr.

**Upon motion made by Chair Cheit and duly seconded by
Commissioner Butler, it was**

VOTED: To elect Robert A. Salk as Secretary.

**AYES: Edward A. Magro; John D. Lynch, Jr.; Frederick K. Butler;
Ross Cheit.**

ABSTENTION: Robert A. Salk

The next order of business was:

Executive Session.

**At 9:26 a.m., upon motion made by Commissioner Magro and duly
seconded by Commissioner Lynch, it was unanimously**

VOTED: To go into Executive Session, to wit:

- 1. Motion to approve minutes of the Executive Session held on October 21, 2014, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 2. In re: Michael A. Solomon, Complaint No. 2014-7, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 3. In re: James R. Grundy, Complaint No. 2014-2, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 4. In re: Garrett Mancieri, Complaint No. 2014-16, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 5. In re: Daniel M. Gendron, Complaint No. 2014-17, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 6. In re: Daniel P. Reilly, Complaint No. 2014-18, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 7. In re: Barbara A. Heavers, Complaint No. 2014-19, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 8. In re: Denise L. Rhodes, Complaint No. 2014-20, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**

The Commission reconvened in Open Session at approximately 10:07 a.m.

Upon motion made by Commissioner Magro and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To seal the minutes of the Executive Session held on November 18, 2014.

The next order of business was:

Report on Actions Taken in Executive Session.

Chair Cheit reported that the Commission took the following actions in Executive Session:

1. Approved the minutes of the Executive Session held on October 21, 2014. The vote was as follows:

AYES: Ross Cheit; Edward A. Magro; John D. Lynch, Jr.

ABSTENTIONS: Robert A. Salk; Frederick K. Butler.

2. Unanimously voted to approve an Informal Resolution & Settlement in the matter of In re: Michael A. Solomon, Complaint No. 2014-7.

3. Unanimously approved a First Extension of Time in the matter of In

re: James R. Grundy, Complaint No. 2014-2.

4. Unanimously voted to initially determine that the facts alleged in In re: Garrett Mancieri, Complaint No. 2014-16, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

5. Unanimously voted to initially determine that the facts alleged in In re: Daniel M. Gendron, Complaint No. 2014-17, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

6. Unanimously voted to initially determine that the facts alleged in In re: Daniel P. Reilly, Complaint No. 2014-18, relating to his failure to disclose executive positions and ownership interest, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation. However, the Commission unanimously voted to initially determine that the facts alleged relating to the Respondent's failure to disclose credit card indebtedness and his home address were insufficient to constitute a knowing and willful violation of the Code of Ethics.

7. Unanimously voted to initially determine that the facts alleged in In re: Barbara A. Heavers, Complaint No. 2014-19, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

8. Unanimously voted to initially determine that the facts alleged in In re: Denise L. Rhodes, Complaint No. 2014-20, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

The final order of business was:

New Business.

Chair Cheit asked the Commission Staff to consider whether the Commission should make any adjustments to its regulations with respect to the flood of pre-election complaints that we had this year. Staff Attorney Gramitt replied that he would look at policies in other jurisdictions and report back at a future meeting.

Chair Cheit also stated that, after reading Phil West's new book, he wanted to comment on how professional and apolitical Executive Director Willever has been in his leadership of the Ethics Commission. At 10:14 a.m., upon motion made by Commissioner Lynch and duly seconded by Commissioner Magro, it was unanimously

VOTED: To adjourn.

Respectfully

submitted,

Robert A. Salk
Secretary