

Tennessee Ethics Commission
March 10, 2009
Minutes

The Tennessee Ethics Commission met on Tuesday March 10, 2009, at 8:30 a.m. at the Tennessee State Library and Archives. Chairman Larry Brown and Commissioners Charles H. Farmer, John K. King, Linda W. Knight, and Dianne F. Neal were present. Chairman Brown called the meeting to order at 8:45.

Item 12- Reconsideration Requests and Item 13 –Class 2 Penalty Assessments
Brian Jeffrey Yarber

The Commission heard from Senator Dewayne Bunch who was present on behalf of Mr. Yarber. After discussion, Commissioner Farmer moved to rescind the previously assessed Class 1 civil penalty. The motion carried unanimously. After discussion, Commissioner Knight moved the Commission not assess a Class 2 civil penalty. The motion carried unanimously.

Financial Report

Executive Director Bruce Androphy presented financial reports from October, November and December 2008 and January 2009. After discussion, Commissioner Farmer moved that, presently and in the future, a financial report be made, the minutes reflect a financial report was made, but the Commission not be required to make a motion or take a vote on the financial report. The motion passed unanimously.

Executive Director's Report

After discussion, the Commission agreed not to require lobbyists and employers of lobbyists to pay registration fees by credit card. After discussion, the Commission agreed to allow staff to place the registration of a lobbyist or employer of a lobbyist on hold until registration and training fees are paid. After discussion, the Commission agreed to return the Disclosure of Interest Forms of persons who are not required to file Disclosure of Interest Forms, but had unnecessarily filed such forms with the Commission. The Chair directed staff to send a letter with the returned form informing the person that the filing is not required, but the person should contact the Commission if he or she believes otherwise.

Minutes

After discussion, Commissioner Knight moved that the Commission find that it has the capacity, as a continuing body, to approve the minutes of meetings that occurred before the change in membership. The motion was adopted unanimously.

November 2008 Minutes

After discussion, Commissioner Knight moved that the Commission approve the minutes as amended by Commissioners Knight and Neal. The motion was adopted unanimously.

December 2008 Minutes

After discussion, the Commission agreed to send a copy of the draft minutes to each Commissioner as soon after the meeting as possible. Commissioner Neal moved to adopt the minutes as amended by Commissioner Knight. The motion passed unanimously.

Item 14 – Lobbyist and Employer Informal Penalty Proceedings
Becky West

After discussion and after hearing from Ms. West's attorney, Mr. Steve West as well as Mr. Courtney

Pearre and Mr. Mark Greene, Commissioner Neal moved to find that Ms. West did not knowingly violate T.C.A. § 3-6-304(j). After discussion, Commissioner Neal amended her motion to find no knowing violation of T.C.A. § 3-6-304(j) based on the fact that the Commission's lobbyist training did not encompass permissible use of joint banking accounts. The motion passed unanimously.

Item 2 – Operating Procedures

After discussion, Commissioner Neal and General Counsel David Himmelreich agreed that the proposed operating procedures should set forth the proper procedure for the evaluation of the Executive Director. After discussion, the Commission reached consensus on two (2) issues: (1) that the operating procedures should allow any Commissioner to place an item on the agenda as long as the Commissioner requested the item's inclusion at least fifteen (15) calendar days before the next meeting and (2) that any Commissioner who wishes to do may attend an interview of a prospective employee.

After discussion, Commissioner Brown stated the Commission would consider *Item 11* and *Item 9*, then return to the operating procedures.

Item 11 – Compliance Review

Compliance Officer Dave Harrell presented findings from his facial review of the Disclosure of Interest Statements of the President of the University of Tennessee, chancellors of all University of Tennessee campuses or centers, the chancellor of the Board of Regents, presidents of all Tennessee Board of Regents colleges or universities and members of the Tennessee Ethics Commission. After discussion, Chairman Brown authorized Compliance Officer Harrell to make a second phone call to the one (1) remaining filer in this group whose Disclosure of Interest statement still contained a facial anomaly. After discussion, Compliance Officer Harrell presented findings from his facial review of the Disclosure of Interest Statements of the remaining one hundred twenty (120) January 31 filers. After discussion, Chairman Brown asked the staff to examine what constitute reportable investments and "entities to which professional services, such as those of attorney, accountant, or architect are furnished by the person making disclosure or that person's spouse." After further discussion, the Commission directed Compliance Officer Harrell to conduct an initial review of Disclosure of Interest Statements of April 15 filers and local elected officials.

Item 9 – Contested Case Procedure

After a discussion of policy arguments and the expectation of the regulated community, Chairman Brown moved that an Administrative Law Judge sitting alone hear the contested cases of persons against whom the Commission assessed a civil penalty of seven hundred fifty dollars (\$750) or less, and the Commission, sitting with an Administrative Law Judge, hear the contested cases of persons against whom the Commission has assessed a civil penalty of more than seven hundred fifty dollars (\$750). The motion passed unanimously.

The Commission discussed scheduling of two (2) meetings and tentatively scheduled meetings on Monday April 6, 2009 and Monday May 18, 2009.

Item 2 – Operating Procedures

After discussion, the Commission determined further discussions on the Operating Procedures should be carried over until the Commission's April meeting.

The meeting was adjourned at 3:10 p.m.