

# **COLORADO INDEPENDENT ETHICS COMMISSION**

Minutes of the January 14, 2019, Meeting  
1300 Broadway, Room 1E, 9:00 a.m.  
Denver, Colorado

Present: Chair April Jones, Vice-Chair Jo Ann Sorensen; Commissioner Elizabeth Espinosa Krupa; Commissioner William Leone; and Commissioner Matt Smith.

Also Present: Dino Ioannides, IEC Executive Director; and Gina Cannan and Gina Simonson of the Colorado Attorney General's Office.

## **I. GENERAL BUSINESS**

1. Chair Jones called the meeting to order at 9:15 a.m.
2. The Commission invited public comment and received comments concerning letter ruling request 19-01.
3. Upon motion duly seconded, the Commission unanimously approved the minutes of the December 17, 2018, meeting, as amended.
4. Mr. Ioannides provided the staff report.
5. The Commission called Letter Ruling 19-01. Ms. Gina Simonson recused herself. The requester and requester's counsel were present and answered the questions of the Commission.
6. At 10:15 a.m., upon motion duly seconded, the Commission voted unanimously to enter executive session pursuant to C.R.S. § 24-6-402(3)(a)(II), concerning Letter Ruling 19-01, for purposes of receiving legal advice on specific legal questions.

## **II. EXECUTIVE SESSION BUSINESS**

7. The Commission met in Executive Session from 10:15 a.m. to 10:31 a.m. to receive legal advice concerning Letter Ruling 19-01.

## **III. GENERAL BUSINESS**

8. The Commission returned to open session at 10:31 a.m.
9. Upon motion duly seconded, the Commission voted 4-1 (Commissioner Smith dissenting) to adopt Letter Ruling 19-01, amended to reflect that, because there are no covered individuals involved in the request, the Commission has no jurisdiction. Commissioner Smith reserved the opportunity to draft a dissenting opinion.

10. The Commission called Complaint 18-24. Commissioner Smith recused himself. Counsel for the respondent was present. Commissioner Leone reported that he had presided over a pre-hearing conference with the parties and that the parties will be working to agree on stipulations of fact prior to hearing.
11. The Commission called Complaint 18-22, Commissioner Espinosa Krupa presiding. The complainant and counsel for the respondent entered their appearances.
12. At 10:39 a.m., upon motion duly seconded, the Commission voted unanimously to enter executive session pursuant to C.R.S. § 24-6-402(3)(a)(II), concerning Complaint 18-22, for purposes of receiving legal advice on specific legal questions.

#### **IV. EXECUTIVE SESSION BUSINESS**

13. The Commission met in Executive Session from 10:39 a.m. to 11:02 a.m. to receive legal advice concerning Complaint 18-22.

#### **V. GENERAL BUSINESS**

14. The Commission returned to open session at 11:02 a.m.
15. With respect to Complaint 18-22:
  - a. Upon motion duly seconded, the Commission unanimously dismissed the claim relating to the August 10, 2018, travel to Aspen, Colorado.
  - b. Upon motion duly seconded, the Commission unanimously dismissed the claim relating to the September 6, 2018, travel to Canada.
  - c. Upon motion duly seconded, the Commission unanimously dismissed all claims related to travel prior to October 12, 2017.
  - d. By unanimous consent, the Commission held in abeyance the remainder of the respondent's motion to dismiss, pending further investigation, as related to the following: the June 7 – 10 travel for the Bilderberg meetings; the March 15, 2018, travel for the commissioning of the USS Colorado; the January 10, 2018, travel from New Jersey to Colorado; the August 13, 2018, travel to Jackson Hole, Wyoming; and the April 8, 2018, Texas wedding travel.
  - e. By unanimous consent, the Commission instructed staff to commence its investigation pertaining to the remaining claims.
  - f. Commissioner Leone moved to deny the respondent's motion to dismiss related to the facial adequacy of the complaint. After the motion was seconded, Commissioner Leone was permitted, by unanimous consent, to withdraw the motion. By unanimous consent, the Commission's counsel will research the issue and respondent's motion to dismiss related to the facial adequacy of the complaint is held in abeyance.

16. At 11:40 a.m., upon motion duly seconded, the Commission voted unanimously to enter executive session pursuant to C.R.S. § 24-6-402(3)(a)(II), concerning legal updates from the Office of the Attorney General for the two *Dunafon v. Jones* cases, for purposes of receiving updates concerning disputes involving the IEC that are the subject of pending or imminent court action and for purposes of receiving legal advice on specific legal questions.

## **VI. EXECUTIVE SESSION BUSINESS**

17. Mr. Ioannides recused himself.
18. The Commission met in Executive Session from 11:40 a.m. to 12:14 p.m. concerning legal updates from the Office of the Attorney General for the *Dunafon v. Jones* cases.

## **VII. GENERAL BUSINESS**

19. The Commission returned to open session at 12:14 p.m.
20. Mr. Ioannides remained recused.
21. Upon motion duly seconded, the Commission voted 3-2 (Commissioners Jones and Espinosa Krupa dissenting) to appeal the District Court order [dated January 3, 2019, in Case No. 18 CV 32664].
22. The Commission called Complaints 18-08. Commissioner Leone recused himself. Counsel for respondent was present telephonically.
23. At 12:50 p.m., upon motion duly seconded, the Commission voted unanimously (Commissioner Leone recused) to enter executive session pursuant to C.R.S. § 24-6-402(3)(a)(II), concerning Complaints 18-08 and 17-28, for purposes of receiving legal advice on specific legal questions.

## **VIII. EXECUTIVE SESSION BUSINESS**

24. The Commission met in Executive Session from 12:50 p.m. to 1:01 p.m. to receive legal advice concerning Complaints 18-08 and 17-28.

## **IX. GENERAL BUSINESS**

25. The Commission returned to open session at 1:01 p.m.
26. Upon motion duly seconded, the Commission unanimously (Commissioner Leone recused) adopted the Notice of Issued for Hearing in Complaint 18-08.
27. By unanimous consent, Mr. Ioannides was instructed to confer with the parties about setting a hearing date in Complaint 18-08.
28. Upon motion duly seconded, the Commission unanimously (Commissioner Leone recused) vacated the hearing and the issuance of subpoenas for Complaint 17-28.

29. Upon motion duly seconded, the Commission unanimously (Commissioner Leone recused) approved the Report of Investigation in Complaint 18-08 and instructed staff to issue same to the parties.
30. The Commission considered Denver City Council's July 9, 2018, Amendment to Denver's Code of Ethics. Commissioner Jones recused herself. By unanimous consent, the Commission stayed any further consideration of this item until the appeal in Case No. 18 CV 32664 (*Dunafon v. Jones*) is complete.
31. The Commission considered mandatory versus optional party appearances as a legal update from the Office of the Attorney General. By unanimous consent, Ms. Cannan will provide future guidance on this topic.
32. By unanimous consent, the Commission postponed consideration of possible updates to its rules of procedure.
33. At 1:43 p.m., upon motion duly seconded, the Commission voted unanimously to enter executive session pursuant to C.R.S. § 24-6-402(3)(a)(II) and (III), to discuss Complaints 18-19, 18-20, and 18-21 for purposes of receiving legal advice on specific legal questions and which are required to be kept confidential pursuant to Article XXIX, §5(3)(b) of the Colorado Constitution.

#### **X. EXECUTIVE SESSION BUSINESS**

34. The Commission met in executive session from 1:43 p.m. to 2:20 p.m. concerning Complaints 18-19, 18-20, and 18-21. Commissioner Smith recused himself from the executive session discussion of Complaint 18-20.

#### **XI. GENERAL BUSINESS**

35. The Commission returned to open session at 2:20 p.m.
36. Commissioner Leone moved to dismiss Complaint 18-19 for lack of jurisdiction under IEC rule 7.G.2., indicating in the minutes that complaints dealing with financial reporting disclosures by state officials that do not implicate an ethical issue but simply implicate compliance with technical reporting requirements are not within the Commission's jurisdiction but may be under the jurisdiction of other agencies.
37. The Commission tabled the motion by unanimous consent.
38. At 2:25 p.m., upon motion duly seconded, the Commission voted unanimously to enter executive session pursuant to C.R.S. § 24-6-402(3)(a)(II) and (III), to discuss Complaint 18-19 for purposes of receiving legal advice on specific legal questions and which are required to be kept confidential pursuant to Article XXIX, §5(3)(b) of the Colorado Constitution.

## **XII. EXECUTIVE SESSION BUSINESS**

39. The Commission met in executive session from 2:25 p.m. to 2:31 p.m. concerning Complaint 18-19.

## **XIII. GENERAL BUSINESS**

40. The Commission returned to open session at 2:31 p.m.
41. Commissioner Leone withdrew his tabled motion.
42. Upon motion duly seconded, the Commission unanimously dismissed Complaint 18-19 for lack of jurisdiction under IEC Rule 7.G.2.
43. Upon motion duly seconded, the Commission unanimously (Commissioner Smith recused) dismissed Complaint 18-20 for lack of jurisdiction under IEC Rule 7.G.2.
44. Commissioner Smith moved to dismiss Complaint 18-21 as frivolous; Commissioner Smith then withdrew his motion.
45. Upon motion duly seconded, the Commission voted 4-1 (Commissioner Smith dissenting) to dismiss Complaint 18-21 for lack of jurisdiction under IEC Rule 7.G.2.
46. At 2:41 p.m., upon motion duly seconded, the Commission voted unanimously to enter executive session pursuant to C.R.S. § 24-6-402(3)(a)(II) and (III), to discuss Complaints 18-30, 18-31, 18-32, 18-33, 18-34, 18-35, 18-36, and 18-37 for purposes of receiving legal advice on specific legal questions and which are required to be kept confidential pursuant to Article XXIX, §5(3)(b) of the Colorado Constitution.

## **XIV. EXECUTIVE SESSION BUSINESS**

47. The Commission met in executive session from 2:41 p.m. to 2:53 p.m. concerning Complaints 18-30, 18-31, 18-32, 18-33, 18-34, 18-35, 18-36, and 18-37. Commissioner Smith recused himself from the executive session discussion of Complaint 18-20.

## **XV. GENERAL BUSINESS**

48. The Commission returned to open session at 2:53 p.m.
49. Upon motion duly seconded, the Commission unanimously dismissed Complaints 18-30, 18-31, 18-32, 18-34, 18-35, 18-36, and 18-37 as frivolous under IEC Rule 7.G.1.
50. Having no further business, the Commission adjourned at 2:55 p.m. The next regular meeting is scheduled for February 11, 2019, at 9:00 a.m., 1300 Broadway, Denver, Colorado.

Respectfully Submitted,

Dino Ioannides

Executive Director  
Colorado Independent Ethics Commission