

COLORADO INDEPENDENT ETHICS COMMISSION

Minutes of the May 20, 2010 Meeting
633 17th Street, Room 1345, 9 am
Denver, Colorado

Present: Commissioners Matt Smith, chair; Dan Grossman; vice chair, Sally H. Hopper; Larry R. Lasha. Excused: Roy V. Wood.

Also Present: Jane T. Feldman, Executive Director of the IEC; Doug Platt, Director of Communication, IEC; Lisa Brenner Freimann, Diana Black (11am-1 pm, only) of the Colorado Attorney General's Office.

I. GENERAL BUSINESS

1. The meeting commenced at 9:06 a.m.
2. There was no public comment.
3. It was moved, seconded and passed unanimously to approve the minutes of the April 19, 2010 meeting.
4. It was moved, seconded, and passed unanimously to approve the minutes of the April 22, 2010 meeting.
5. Staff Report:
 - a. Ms. Feldman reminded the Commissioners to submit their travel expenses.
 - b. Ms. Feldman reported that she estimates that there will be approximately \$4000 left in the IEC's operating budget this fiscal year, but that most of that money will be needed to buy furniture and computers and for other costs associated with the move to the Judicial Department.
 - c. Ms. Feldman reported on a meeting with representatives from the Judicial Department about potential space and other issues relating to the move.
 - d. Mr. Platt reported on outreach opportunities and plans for additional education and training of public employees.
 - e. Mr. Platt stated that he had been working on a revised Annual Report which includes a history of the Commission.
6. Legislative Matters: Ms. Feldman reported that SB 10-099 had been signed by the Governor and that HB 10-1404 had passed both houses and was on the Governor's desk. There was a discussion of SB 10-099 and its implications for the Commission. Ms. Brenner Freimann was asked to report back to the Commission on possible legal issues. Ms. Feldman was directed to draft a letter to the Governor and the Chief Justice for Commissioner Smith's signature.

7. Commissioner Smith reported on a conversation with the Department of Personnel and Administration regarding the Executive Director's position. It was moved, seconded and passed unanimously to inform DPA that both FTE's on the Commission staff should be set at the GP VI level at the current salaries.
8. There was a discussion of the draft Letter Ruling 10-01 (Travel paid for by a Nonprofit). Commissioner Grossman will rewrite portions and submit it to the Commission for review. A telephonic meeting was scheduled for Wednesday, May 26, time to be determined by Commissioner Wood's availability.
9. There was a discussion of Draft Advisory Opinion 10-07 (Solicitation of Gifts on Behalf of a Nonprofit). Ms. Feldman was directed to redraft in accordance with concerns raised by the Commissioners.
10. Mr. Platt discussed the Communication Plan.
11. Ms. Feldman reported on the status of Complaint 10-01, her efforts to contact the Complainant, and conversations with Senator Morse.
12. It was moved, seconded and passed unanimously to enter into Executive Session at 1:09 pm to receive legal advice pursuant to CR.S. § 24-6-402(3)(a)(II),(III), and §13-90-107(b) on specific legal questions relating to the proceedings on Complaint 10-01.

II. EXECUTIVE SESSION BUSINESS

The Commission met in Executive Session from 1:09 p.m. to 1:37 p.m. to receive legal advice pursuant to CR.S. § 24-6-402(3)(a)(II),(III), and §13-90-107(b) on specific legal questions relating to the proceedings on Complaint 10-01.

III GENERAL BUSINESS

The Commission returned to Open Session at 1:37 p.m.

13. There was further discussion of how to proceed on Complaint 10-01.
14. It was moved and seconded to dismiss Complaint 10-01 as groundless based upon the relationship between the lessor and Senator Morse and the circumstances of the lease arrangement. There was discussion of the motion.
15. It was moved, seconded and passed unanimously to re-enter Executive Session at 2:16 p.m. to receive additional legal advice pursuant to CR.S. § 24-6-402(3)(a)(II),(III), and §13-90-107(b) on specific legal questions relating to the proceedings on Complaint 10-01.

IV. EXECUTIVE SESSION BUSINESS

The Commission met in Executive Session from 2:16 pm to 2:35 p.m. to receive legal advice pursuant to CR.S. § 24-6-402(3)(a)(II),(III), and §13-90-107(b) on specific legal questions relating to the proceedings on Complaint 10-01.

V. GENERAL BUSINESS

16. The motion to dismiss Complaint 10-01 as groundless was renewed. The motion was seconded and passed unanimously (Commissioner Wood excused). The Commission made the following findings of undisputed facts:
 - a. Senator Morse leases a room in a condominium for \$500 per month for use while he is in Denver. The lessor of the condominium offered the room to Senator Morse without cost, the lessor suggested \$300, and the Senator insisted on paying \$500.
 - b. The lessor of the condominium has been a friend of Senator Morse for over 30 years. They were college roommates and have maintained their friendship. Senator Morse has only part-time use of the condominium in that he rents only one room, can only use the room four days per week, only when it is available, and often there are others staying there as well. These limitations mean that he does not have the right to undisturbed occupancy.
 - c. The lessor is not a registered lobbyist or otherwise involved in the business of the General Assembly. There was no expectation by either the lessor or Senator Morse that the lease agreement would in any way influence Senator Morse in his official capacity.
 - d. The Complainant was given the opportunity to provide additional information and to dispute facts as asserted by Senator Morse, and declined to do so.
17. There was a discussion of the Draft Revised Rules. Ms. Freimann and Ms. Feldman are to meet within the next month and revise the Draft Revised Rules in accordance with the discussion.
18. Ms. Freimann reported that the parties to the case of *Development Pathways v. Ritter, et al*, Case No. 2007CV13, have agreed to a stipulated dismissal of the case. She expects the Court to enter an order shortly.

19. Ms. Freimann reported that there is an existing preliminary injunction in place in the case of *Sachs v. Ritter*, Case No. 2007CV13 relating to whether scholarships are gifts under Article XXIX, and she is in contact with the Parties to resolve that case as well.

20. The Commission adjourned at 3:15 pm.

Next Meeting: May 26, 2010 at 3 pm (Telephonic)

Respectfully submitted,

Jane T. Feldman
Executive Director