

COLORADO INDEPENDENT ETHICS COMMISSION

Minutes of the October 19 2009 Meeting
633 17th Street, Room 2A, 9:00 a.m.
Denver, Colorado

Present: Commissioners Matt Smith, chair; Roy Wood, vice chair (after 1 p.m.); Sally H. Hopper; Larry R. Lasha. Excused: Dan Grossman.

Also Present: Jane T. Feldman, Executive Director of the IEC; Lisa Brenner Freimann of the Colorado Attorney General's Office

I. GENERAL BUSINESS

1. The meeting commenced at 9:10 a.m.
2. There was no public comment.
3. It was moved, seconded and passed unanimously to approve the minutes of the September 14 and September 21, 2009 meetings as amended.
4. Executive Director's Report:
 - a. Ms. Feldman passed out copies of the Agenda for the upcoming COGEL conference in Scottsdale, Arizona, and requested that she be permitted to attend. She stated that the cost of sending her to the conference would be approximately \$1500 including registration, airfare, lodging, meals and incidentals. She also noted that the Commission had set aside \$2500 to send two people to the conference. It was moved, seconded and passed unanimously to send Ms. Feldman to the conference subject to the approval of the Governor's Office.
 - b. Ms. Feldman reported that she had done a presentation on the IEC at a CLE conference on private equity financing, as well as a presentation at a meeting of Pikes Peak Leadership. She also reported that she is writing an article on the IEC for Stateline.
 - c. Ms Feldman passed out copies of an article in the Colorado Lawyer about the IEC.
5. There was a discussion of draft Letter Ruling 09-06. Ms. Feldman was asked to rewrite a portion of the opinion and present it for review at the next meeting.
6. There was a discussion of draft Advisory Opinion 09-09 (Free Admission to events for public employees accompanying the Governor).

7. There was a brief discussion of Position Statement 09-06 (Article XXIX section 3(3)(f)). This discussion was tabled until the next meeting when all Commissioners could participate.
8. Rex Burns, Executive Director of the Boxelder Basin Regional Stormwater Authority addressed the Commission regarding Complaint 09-08 currently under investigation by the Commission. The Commissioners asked Mr. Burns several questions relating to the complaint in which he is the respondent.
9. There was a discussion of the definition of “independent contractor” under Article XXIX. Ms. Feldman and Ms. Brenner-Freimann were directed to do additional legal research.
10. The Commission set November 20 and December 4 as potential dates for future meetings, subject to clearing those dates with Commissioners Grossman and Wood.
11. There was a discussion of a revision of the IEC’s Rules, especially with respect to complaints. Luis Toro of Colorado Ethics Watch made several suggestions as to potential changes.
12. The Commission took a lunch break from 12:20 to 1:05 p.m.
13. There was additional discussion of Letter Ruling 09-06 and Advisory Opinion 09-09. It was moved, seconded, and passed unanimously to approve Advisory Opinion 09-09 (Free Admission to events by public employees accompanying the Governor), subject to correction of typographical and scrivener errors.
14. There was further discussion of the meaning of Article XXIX section 3(3)(f)
15. There was a further discussion of the definition of “independent contractor” under Article XXIX.
16. There was further discussion of Complaint 09-08.
17. It was moved, seconded and passed unanimously to enter into Executive Session at 2:25 p.m. to discuss pending and imminent court action involving the Commission.

II. EXECUTIVE SESSION BUSINESS

The Commission met in Executive Session from 2:25 p.m. to 3:08 p.m. to discuss pending and imminent litigation pursuant to Sections 24-6-402(3)(a)(II) and 24-6-402(3)(a)(III) and 13-90-107, C.R.S:

- a. Center for Independent Media and Norris v. IEC, Case No. 2009CV5109
- b. Ethics Watch v. IEC, Case No. 2009CV4989
- c. Developmental Pathways v. Ritter, Case No. 2007CV1353

III. GENERAL BUSINESS

The Commission returned to open session at 3:09 p.m. and it was moved, seconded and passed unanimously to enter into Executive Session to discuss Complaint 09-12 filed with the Commission which is required to be confidential pursuant to Article XXIX, Section 5(c) of the Colorado Constitution, and C.R.S. Section 24-6-402(3)a)(III) and the Commission's Rules of Procedure.

IV. EXECUTIVE SESSION BUSINESS

The Commission met in Executive Session from p.m. to discuss Complaint 09-12 filed with the Commission which is required to be confidential pursuant to Article XXIX, Section 5(c) of the Colorado Constitution, and C.R.S. Section 24-6-402(3)a)(III) and the Commission's Rules of Procedure.

The Commission returned to open session at 3:17 p.m.

10. It was moved, seconded and passed unanimously to dismiss the first claim of 09-12 pursuant to IEC Rule 7.D.4, because the conduct alleged occurred more than 12 months prior to the filing of the Complaint. It was moved, seconded, and passed unanimously to stay the second claim pursuant to IEC Rule 7.F.1, because another body is currently considering the matter.

The Commission adjourned at 3:25 p.m.

Next meeting: November 20, 2009 at 9:00 a.m. at 633 17th Street, Room 12A Denver, CO.

Respectfully submitted,

Jane T. Feldman
Executive Director