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Hon. William F. Lang
Jeffrey L. Baker
Stuart M. Bluestone
Hon. Garrey Carruthers
Hon. Celia Foy Castillo
Ronald Solimon
Judy Villanueva

STATE ETHICS COMMISSION

Commission Meeting Minutes of August 13, 2021 | 9:00AM-3:00PM

Virtually Via Zoom

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[SUBJECT TO RATIFICATION BY COMMISSION]

CALL TO ORDER AND ROLL CALL

- The meeting was called to order by Chair Lang. The roll was called; the following Commissioners were present:

Jeffrey Baker, Commissioner
Stuart Bluestone, Commissioner
Hon. Garrey Carruthers, Commissioner
Ronald Solimon, Commissioner
Hon. Celia Foy Castillo, Commissioner
Judy Villanueva, Commissioner
Hon. William Lang, Chair

1. APPROVAL OF AGENDA

- Chair Lang sought a motion to approve the agenda. Commissioner Carruthers moved to approve the agenda; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the agenda was approved unanimously.

2. APPROVAL OF JUNE 4, 2021 COMMISSION MEETING MINUTES

- Chair Lang sought a motion to approve the minutes of the June 4, 2021 Commission meeting. Commissioner Bluestone moved to approve the minutes; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the minutes were approved unanimously.

3. ADVISORY OPINION 2021-10

- Director Farris provided an overview of SEC advisory opinion 2021-10.
- After a discussion to clarify elements of the opinion, Chair Lang sought a motion to approve Advisory Opinion 2021-10. Commissioner Bluestone moved to approve Advisory Opinion 2021-10; Commissioner Solimon seconded. Chair Lang conducted a

roll-call vote. All Commissioners voted in the affirmative, and Advisory Opinion 2021-10 was approved unanimously.

4. ADVISORY OPINION 2021-11

- General Counsel Walker Boyd provided an overview of SEC advisory opinion 2021-11.
- After a discussion to clarify elements of the opinion, Chair Lang sought a motion to approve Advisory Opinion 2021-11. Commissioner Carruthers moved to approve Advisory Opinion 2021-11; Commissioner Baker seconded. Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and Advisory Opinion 2021-11 was approved unanimously.

5. RESOLUTION No. 2021-01

- General Counsel Boyd informed the Commissioners that the Commission's advisory opinions are now available on NMSOneSource.com, noting Deputy General Counsel Rebecca Branch's work on the matter, and an overview of Resolution 2021-01, which specifies that the official versions of the Commission's advisory opinions are the versions that are published by the New Mexico Compilation Commission and are available on NMSOneSource.com. After a brief discussion to clarify elements of the Resolution, General Counsel Boyd sought a motion to approve Resolution No. 2021-01. Commissioner Carruthers moved to approve Resolution No. 2021-01; Commissioner Baker seconded. Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and Resolution No. 2021-01 was approved unanimously.

6. AMENDMENTS TO JOINT POWERS AGREEMENTS WITH SECRETARY OF STATE

- Director Farris provided an overview of amendments to four joint powers agreements (JPAs) between the SEC and the Secretary of State related to laws for which both agencies share jurisdiction: the Campaign Reporting Act; the Lobbyist Regulation Act; the Financial Disclosure Act; and the Voter Action Act.
- After a discussion to clarify elements of the amendments, Chair Lang sought a motion to authorize the Executive Director's amendments to the JPAs between the State Ethics Commission and Secretary of State as described and to authorize the Director to proceed under the amended JPAs. Commissioner Baker moved to authorize the Executive Director as stated; Commissioner Villanueva seconded. Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion passed.

7. DISCUSSION OF OCT. 1, 2021 SPECIAL REPORT ON JURISDICTION

- Director Farris provided an overview of the Commission staff's draft report on jurisdictional expansion.
- The Commissioners discussed elements of the report and the Commission's current jurisdiction.

8. PRESENTATION OF (I) ANY WRITTEN PUBLIC COMMENTS RECEIVED REGARDING AMENDMENTS TO RULES 1.8.1 (GENERAL RULES) AND 1.8.3 (ADMINISTRATIVE HEARINGS); AND (II) COMMISSION STAFF RECOMMENDED AMENDMENTS TO PROPOSED RULES.

- Mr. Boyd provided an overview of the steps taken to publicize the proposed amendments to Rules 1.8.1 and 1.8.3 NMAC.
- Mr. Boyd and Director Farris confirmed that the Commission had not received written public comments on the proposed amendments.
- Director Farris provided an overview of the proposed amendments to Rule 1.8.1 NMAC (General Rules) and Rule 1.8.3 NMAC (Rules of Procedure).
- Mr. Boyd provided additional details on the proposed amendments to Rule 1.8.3 NMAC.

9. PUBLIC COMMENT ON AMENDMENTS TO RULES 1.8.1 AND 1.8.3

- a. Brody Norton: Asked whether the Commission publicly releases complaints which are dismissed for lack of jurisdiction. Director Farris clarified that a complaint filed with the Commission is not publicly released unless the Commission's General Counsel conducts an investigation and determines that its allegations are supported by probable cause.
- b. Tony Ortiz: Stated that the proposed amendments would likely improve the Commission's workflow on administrative complaints.
- c. No other public comments were offered.

END OF PUBLIC RULE HEARING AND CONTINUATION OF COMMISSION OPEN MEETING FOR ACTIONS ON RULES AND OTHER MATTERS

1.24.25.14(D) NMAC

10. ADOPTION OF AMENDMENTS TO RULES 1.8.1 (GENERAL RULES)

- Director Farris provided an overview of the amendments to Rule 1.8.1 NMAC
- The Commissioners discussed the proposed amendments to Rule 1.8.1 NMAC:
 - o Commissioner Villanueva asked for clarification on the difference in treatment and language relating to formal and informal advisory opinions.
 - o Commissioner Villanueva moved to revise Rule 1.8.1.9 to delete Section (B)(5).
 - o Commissioner Bluestone stated that the rules should empower the Executive Director to use his or her discretion to treat requests for advisory opinions as either formal or informal, while also giving the requestor the ability to request that the Commission provide a formal advisory opinion.
 - o Commissioner Carruthers moved to table the approval of amendments to 1.8.1 NMAC for further discussion between Commissioners and staff at a later date.
 - o Commissioner Bluestone Seconded the motion to table approval of amendments to 1.8.1 NMAC.
 - o Hearing no objections, the motion was tabled as stated above.

11. ADOPTION OF AMENDMENTS TO RULES 1.8.3 (ADMINISTRATIVE HEARINGS)

- Director Farris provided an overview of the staff amendments to the version of Rule 1.8.3 NMAC noticed for public comment.
- The Commissioners discussed the proposed amendments to Rules 1.8.3
- Commissioner Bluestone moved to strike subsection (E)(4) of rule 1.8.3.9 except for the sentence that states: “A commissioner’s vote to initiate a complaint pursuant to this subsection E is not grounds for recusal pursuant to Subsection A of 1.8.2.8 NMAC.” Commissioner Carruthers seconded. Hearing no further discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the rule amendment was revised as stated above.
- Director Farris sought a motion to adopt Rule 1.8.3 as amended. Commissioner Baker moved as stated; Commissioner Villanueva seconded. Hearing no further discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and Rule 1.8.3 NMAC was adopted as amended.

12. EXECUTIVE SESSION

- Chair Lang sought a motion to enter executive session under NMSA 1978, §§ 10-15-1(H)(2) (limited personnel matters), 10-15-1(H)(3) (administrative adjudicatory proceedings), and 10-15-1(H)(7) (attorney-client privilege pertaining to litigation). Commissioner Baker moved to enter executive session; Commissioner Carruthers seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the Commissioners entered executive session.

---BEGINNING OF EXECUTIVE SESSION---

- The following matters were discussed in executive session:
 - a. Administrative Complaint No. 2020-031
 - b. Administrative Complaint Nos. 2020-034 & 2020-035
 - c. Administrative Complaint No. 2021-09
 - d. Administrative Complaint No. 2021-010
 - e. Administrative Complaint No. 2021-011
 - f. Administrative Complaint No. 2021-014
 - g. Administrative Complaint No. 2021-015
- The matters discussed in the closed meeting were limited to those specified in the motion to enter executive session. After concluding its discussion of these matters, the Commission resumed public session upon an appropriate motion.

---END OF EXECUTIVE SESSION---

13. ACTIONS ON ADMINISTRATIVE CASES

- **Administrative Complaint Nos. 2021-09, 2021-010, 2021-011, 2021-014, & 2021-015**
- Director Farris sought motions from the Commission for:
 - An order to dismiss the claims in administrative case No. 2021-009 for lack of personal jurisdiction.
 - Commissioner Carruthers moved as stated above; Commissioner Bluestone seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Authorization for the staff to continue its investigation for another 90 days in administrative case No. 2021-010.
 - Commissioner Baker moved as stated above; Commissioner Carruthers Seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Refer administrative case No. 2021-011 to the Office of the Attorney General and withhold notice of the referral to the Respondent to preserve the integrity of an investigation under § 10-16G-14, and close the administrative case before the SEC.
 - Commissioner Bluestone moved as stated above; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Dismiss claims against the respondents for lack of jurisdiction and for failure to satisfy the filing requirements under the rules of procedure in administrative case No. 2021-014, and to close administrative case.
 - Commissioner Solimon moved as stated above; Commissioner Villanueva seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Dismiss the claims of the complaint in administrative case No. 2021-015 for lack of jurisdiction and pursuant to § 10-16G-9(C) and (D).
 - Commissioner Baker moved as stated above; Commissioner Solimon Seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.

14. SELECTION OF NEXT MEETING

- Chair Lang confirmed that the next meeting should take place on October 1, 2021.
 - Director Farris confirmed that the schedule of bi-monthly meetings is still optimal for the staff's workload.

15. COMMENTS

- Members of the public were invited to address the Commission.
- No public comments were offered.

16. ADJOURNMENT

- Chair Lang sought a motion to adjourn. Commissioner Carruthers moved to adjourn. Hearing no discussion or opposition, the meeting was adjourned.

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