

SEC Office
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Albuquerque, NM 87106



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 February 3, 2023 | 9:00AM-12:00PM

[Subject to Ratification by Commission]

1. Call to Order

Chairman Lang called the meeting to Order at 9:05 AM.

2. Roll Call

The roll was called; the following Commissioners were present:

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

3. Approval of Agenda

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

4. Approval of December 9, 2022 Commission Meeting Minutes

Chair Lang sought a motion to approve the minutes of the December 9th Commission meeting. Commissioner Baker moved to approve the minutes; Commissioner Bluestone seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved the minutes unanimously.

Commission Meeting Items

5. Administrative Hearings Office Presentation

Chief Hearing Officer of the Administrative Hearing Office Brian VanDenzon offered a brief introduction to the AHO, its staff, and its function as it relates to the SEC.

6. Settlement with Bernadine Martin and Christina Esquibel related to Procurement Code

Special Counsel Caroline Manierre discussed a settlement agreement with Bernadine Martin, the 11th District Attorney, and Christina Esquibel, the Chief Procurement Officer that has resulted in increased training to better comply with the Procurement Code.

7. Legislative Session Update

Director Jeremy Farris offered the Commission an update regarding the legislative session in terms of budget increases and legislation to watch.

8. Advisory Opinion 2023-01

Commission General Counsel Walker Boyd provided an overview of the opinion which addressed the question:

A legislator owns and was, until elected to the legislature, the chief executive officer (CEO) of a corporation that provides services to the state pursuant to contracts and grant agreements. The legislator has resigned as CEO but continues to hold an ownership interest in the corporation. The legislator asks what the law requires with respect to any legislative matters or duties that may affect the legislator's interest in the corporation or otherwise present a conflict of interest.

(to read the full opinion following its issuance, click [here](#))

Chair Lang sought a motion to adopt Advisory Opinion 2023-01. Commissioner Baker moved to adopt the opinion; Commissioner Villanueva seconded. After a discussion on the merits of the opinion, Commissioner Bluestone asked to strike a sentence on page SEC 22 of the materials: “Even if an appearance, representation, or assistance is otherwise permitted by Section 10-16-9(B), the requester is still prohibited from “[making] references to the legislator’s legislative capacity except as to matters of scheduling, from communications on legislative stationery and from threats or implications relating to legislative actions.” The Commission accepted the amendment and Chair Lang conducted a roll-call vote. Commissioner Baker voted present. All remaining Commissioners voted in the affirmative and approved Advisory Opinion 2023-01.

9. Advisory Opinion 2023-02

Director Farris provided an overview of the opinion which addressed the question:

A legislator's children own and operate a company that has contracts with state agencies to provide those state agencies with services. The contracts are awarded through a competitive process, i.e., by submitting bids or proposals in response to an invitation to bid (ITB) or request for proposals (RFP). The company rents storage space from the legislator, and the legislator has no other financial interest in the corporation. The legislator asks what conduct and disclosure requirements apply to him because of his relationship with his children's business.

(to read the full opinion following its issuance, click [here](#))

Chair Lang sought a motion to adopt Advisory Opinion 2023-02. Commissioner Carruthers moved to adopt the opinion; Commissioner Baker seconded. After a discussion on the merits of the opinion, Commissioner Bluestone recommended an amendment to strike a sentence on page SEC 26 of the materials: “If an exception applies and operates to permit a legislator to “appear for, represent or assist another person in a matter before a state agency,” the legislator is

nonetheless prohibited from making “references to the legislator’s legislative capacity except as to matters of scheduling,” from “communicat[ing] on legislative stationery,” and “[making] threats or implications relating to legislative actions.” The Commission accepted the amendment and Chair Lang conducted a roll-call vote. Commissioner Baker voted present. All remaining Commissioners voted in the affirmative and approved Advisory Opinion 2023-02.

10. Advisory Letter 2022-024

Director Farris provided an overview regarding the Commission staff’s interpretation of Section 10-16-9(B) of the Governmental Conduct Act. He recommended an amendment to the statute that is based on pages SEC 38 and 39 of the meeting materials.

Commissioner Baker moved to adopt this recommendation; Commissioner Carruthers seconded. After a discussion on the merits of the amendment and statute, along with an amendment to the language in Sections B and C by Commissioners Bluestone and Foy-Castillo, Commissioner Baker moved to adopt the amended recommendation; Commissioner Carruthers seconded. Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved the recommended statutory language unanimously.

---Beginning of Executive Session---

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

1. Discussion regarding current and potential litigation:

- a. Update to the Commission concerning *State Ethics Commission v. Working Families Organization, Inc.*, D-506-CV-2022-00942
- b. Update to the Commission concerning Commission Resolution 2022-05
- c. Update to the Commission concerning Commission Resolution 2022-08
- d. Update to the Commission concerning Commission Resolution 2022-09
- e. Update to the Commission concerning Commission Resolution 2022-10

At this point, Boyd, Branch and Randall left the executive session.

2. Discussion regarding administrative matters under State Ethics Commission Act:

- a. Administrative Complaint No. 2022-038
- b. Administrative Complaint No. 2022-040
- c. Administrative Complaint No. 2022-046
- d. Administrative Complaint No. 2022-047
- e. Administrative Complaint No. 2023-001
- f. Administrative Complaint No. 2022-015

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---

11. RULONA Update

Deputy General Counsel Rebecca Branch offered an update on pending RULONA matters and legislation that would impact RULONA.

12. Actions on Administrative Complaints Nos. 2022-038, 2022-040, 2022-046, 2022-047, 2023-011, and 2022-015

Special Counsel Caroline Manierre asked the Commission for the following motions on the following administrative cases:

- **In administrative case 2022-038, motion for an order of dismissal due to certification of voluntary compliance by the Secretary of State office:** Commissioner Carruthers moved as stated above; Commissioner Baker seconded as stated above. Chair Lang conducted a roll-call vote. All commissioners voted in the affirmative and approved the motion unanimously.
- **In administrative case 2022-040, motion for an order of dismissal due to certification of voluntary compliance by the Secretary of State office:** Commissioner Bluestone moved as stated above; Commissioner Foy-Castillo seconded as stated above. Chair Lang conducted a roll-call vote. Commissioner Carruthers recused himself from this vote. All other commissioners voted in the affirmative and approved the motion.
- **In administrative case 2022-046, motion for an order of dismissal due to a lack of jurisdiction:** Commissioner Bluestone moved as stated above; Commissioner Solimon seconded as stated above. Chair Lang conducted a roll-call vote. All commissioners voted in the affirmative and approved the motion unanimously.

Director Farris asked the Commission for the following motions on the following administrative cases:

- **In administrative case 2022-047, motion for an order of dismissal under 9(C) and (D):** Commissioner Baker moved as stated above; Commissioner Foy-Castillo seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Baker, Carruthers, Foy-Castillo, Villanueva, and Chair Lang voted in the affirmative and Commissioners Bluestone and Solimon voted in the negative. The motion was approved.
- **In administrative case 2023-001, motion for an order of dismissal due to a lack of jurisdiction:** Commissioner Carruthers moved as stated above; Commissioner Solimon seconded as stated above. Chair Lang conducted a roll-call vote. All commissioners voted in the affirmative and approved the motion unanimously.
- **In administrative case 2022-015, motion for a 90 day extension:** Commissioner Carruthers moved as stated above; Commissioner Baker seconded as stated above. Chair Lang conducted a roll-call vote. All commissioners voted in the affirmative and approved the motion unanimously.

13. Selection of Next Meeting

Chair Lang confirmed that the next meeting would take place on April 14, 2023. The meeting will be held over Zoom.

14. Public Comments

Mr. Andres Valdez raised concerns regarding SEC procedures and determinations around case 2022-047.

No additional public comments were made.

15. Adjournment

Chair Lang raised adjournment of the meeting. With no objections made, the meeting was adjourned at 1:07 PM.

[Subject to Ratification by Commission]