

**MINUTES**  
**COMMISSION MEETING**  
**OPEN SESSION**

**September 18, 2013**

The meeting was called to order by Chairman Phillip Florence, Jr., at 9:38 a.m. Other members present were Vice Chair E. Kay Biermann Brohl, Jonathan H. Burnett, Dr. Richard H. Fitzgerald, and G. Carlton Manley.

The news media was duly notified.

Staff present:

Mr. Herbert R. Hayden, Jr., Executive Director  
Ms. Cathy L. Hazelwood, Deputy Director/General Counsel  
Mr. Daniel F. Choate, Investigator  
Mr. Jimmy Bagnall, Investigator  
Mrs. Ami Franklin, Assistant Director, Administration  
Miss Kristin M. Smith, Administrative Coordinator  
Mrs. Karen A. Wiggins, Court Reporter

Chairman Florence welcomed everyone and reminded the Commissioners to use the microphones when speaking. Vice Chair Brohl asked Mr. Hayden to explain what happened that led up to the current Agenda and just five Commissioners. Mr. Hayden gave a brief history on a call from the Governor's Office concerning the problem of the House not being given the opportunity to approve the nominations of Twana Burris-Alcide and James I. Warren, III, when it was in session this year, and that it will be January, 2014, before the House will be able to take up their nominations. Mr. Hayden further explained, that because of Ms. Burris-Alcide and Mr. Warren's involvement at the May, 2013 and July, 2013 Commission meetings, the Commission will have to revisit those votes taken on some of the agenda items at this Commission meeting.

Discussion ensued as to the best process for handling today's Agenda in a speedy and efficient manner to get everything done. Chairman Florence asked about a mass ratification, but after further discussion, it was agreed that each item should be revisited for a re-vote. Discussion ensued as to quorums at those meetings and that this has never happened before. Chairman Florence then stated that for the record, the Commission would now take up items from the May, 2013 and July, 2013 Open Session Commission meetings.

## **MINUTES**

Motion was made by Mr. Manley, seconded by Mr. Burnett, to accept the Minutes as presented. Vice Chair Brohl wanted to make sure they were Minutes for the Open and Executive Session. Staff responded in the affirmative. Chairman Florence asked for further discussion or opposition. There being none, the motion carried with no opposition to approve the Open and Executive Session Minutes from the March 20, 2013 Commission meeting.

### **May 15, 2013 Open Session**

#### **Appeals**

Mr. Hayden asked to take up the Appeals from the May and July, 2013 Open Session Appeals. Mr. Hayden reminded the Commissioners of the current policy that staff has provided copies of a summary of each individual's background, information on the penalties and staff recommendation, copies of the letters of appeals from the individuals, and then any supportive documentation and correspondence that may be applicable to the case. The appeal statement is in writing, staff recommendation is in writing, and unless there are questions, there will be no presentation or verbal recommendation.

#### **Norris Ashford**

Documentation was reviewed. Mr. Hayden gave an opening statement. Mr. Manley made a motion, seconded by Vice Chair Brohl, to accept staff recommendation that the appeal be denied, and a late filing payment of \$100 be paid. Chairman Florence asked for further discussion. There being none, the motion carried with no opposition.

#### **Reese R. Boyd, III**

Documentation was reviewed. Mr. Manley made a motion, seconded by Mr. Burnett, to reduce the fine to \$250, adding that staff would send Mr. Boyd a letter advising him of the Commission's decision, and ask Mr. Boyd to send a new check for \$250, and upon receipt of the new \$250 check, staff would send back the \$2,300 check. Amount would revert back to the original amount if not done. Chairman Florence asked for further discussion. There being none, the motion carried with no opposition.

## **Advisory Opinion**

### **SEC AO2013-001 Acceptance of Gifts**

Chairman Florence presented this matter for review. Mr. Hayden gave an opening statement of events concerning Coastal Carolina University's Professional Golf Management instructors accepting a limited amount of complimentary PGA merchandise to assist them in the University's golf management program. The question was should the merchandise become the property of the University or the instructors? The re-voting for this matter was handled via e-mail. Discussion ensued as to which fiscal year this matter should be under—2013 or 2014. Mr. Hayden stated that the matter had already been handled as a 2013 matter. Discussion ensued as to how the electronic voting took place with the draft Ms. Hazelwood sent out via e-mail and what was the Commission currently voting on. Chairman Florence suggested the Commission ratify the decision made on the e-mail vote. Mr. Manley then made a motion, seconded by Vice Chair Brohl, that the Commission approve the Advisory Opinion that was presented at the May 15 meeting, but modified and sent by electronic means, and approve the modified version. Chairman Florence asked for further discussion. There being none, the motion carried.

## **July 17, 2013 Open Session**

### **Point of Order**

Vice Chair Brohl asked to comment at this time on the Cost of Compliance issue discussed at the July, 2013 Open Session meeting. Chairman Florence said this would be okay. Vice Chair Brohl told how a constituent was given a penalty and people with a bigger concern were given the same penalty. Discussion ensued as to sitting in on a meeting, situations of different extenuating circumstances, doing the right thing, new commissioners being prepared or educated to handle the Commission's duties, and using "teeth" when needed for making certain decisions. Mr. Manley stopped the discussion and asked that since a decision can't be made today on Cost of Compliance, and there is a large Agenda to take up, the Commission should move on. All agreed.

### **Appeals**

#### **Kevin Alberse**

Chairman Florence presented this case for review. Dr. Fitzgerald made a motion, seconded by Mr. Manley, to find Mr. Alberse in violation of the statute, waive penalties, and close the case. Chairman Florence asked for further discussion or opposition. There being none, the motion carried.

**Alma Dungee**

Chairman Florence presented this case for review. Dr. Fitzgerald made a motion, seconded by Mr. Burnett and Vice Chair Brohl, to deny the appeal. Chairman Florence asked for further discussion or opposition. There being none, the motion carried.

**Kelly U. Pew**

Chairman Florence presented this matter for review. Mr. Burnett made a motion, seconded by Vice Chair Brohl, to find her in violation, reduce the fine to zero, and recommend the Commission notify this particular school district to include or enhance their procedures for a checklist to help new hirees or Trustees in doing the required State Ethics Commission reports. Chairman Florence asked for further discussion or opposition. There being none, the motion carried.

**William E. "Buddy" Arnold**

Chairman Florence presented this matter for review. Mr. Manley made a motion, seconded by Mr. Burnett, to find him in violation, waive the penalty based on the fact that he was incapacitated and unable to file on a timely basis; and that when he was able, he filed immediately. Chairman Florence asked for further discussion or opposition. There being none, the motion carried.

**Motion to Appeal Decision and Order**  
**Lou Ann Pyatt**

Chairman Florence presented this matter for review. Mr. Burnett asked for clarification on who can vote at this time, since he conducted this part of the July, 2013 Open Session meeting because Vice Chair Brohl had to recuse herself. Discussion ensued and staff responded that a quorum is needed to meet, and that once met, there is no need to have five Commissioners to vote on each item. Mr. Manley then made a motion, seconded by Mr. Burnett, that the case be re-opened for a Panel Hearing. Chairman Florence asked for any further discussion or opposition. There being none, the motion carried.

**Motion to Re-open Complaint**  
**C2013-009 SEC vs. Edward K. Segars**

Chairman Florence presented this matter for review. Mr. Manley made a motion to re-open the case, seconded by Dr. Fitzgerald. Chairman Florence asked for further discussion or opposition. There being none, the motion carried.

**Petition to Reconsider, Set Aside Judgment and Suspend Garnishment**  
**C2010-135 State Ethics Commission vs. Daniel C. Herren**

Chairman Florence presented this matter. Mr. Manley stated he was on the Hearing Panel in November, 2012, which heard this case, so he was unable to

participate in this matter. Mr. Hayden gave an opening statement and presented Mr. Herren's requests to stop garnishments (which has been done), and to approve the requests in Mr. Herren's Petition (which was passed unanimously at the July, 2013 meeting). Dr. Fitzgerald asked for clarification on the garnishment issue. Staff responded. Mr. Burnett then made a motion, seconded by Dr. Fitzgerald, granting the requests in Mr. Herren's petition, and amending it to add that even though it was a campaign violation, it did not rise to the level that would justify finding a state ethical violation. Chairman Florence asked for further questions or discussions. There being none, the motion carried.

### **EXECUTIVE SESSION**

Chairman Florence asked for a motion to go into Executive Session. A motion was made by Mr. Manley, seconded by Dr. Fitzgerald, to go into Executive Session. The motion carried.

### **RETURN FROM EXECUTIVE SESSION**

Upon return from Executive Session, a motion was made by Mr. Manley, seconded by Vice Chair Brohl, to adopt and ratify actions taken in Executive Session. The motion carried.

### **OFFICE OPERATIONS**

#### **Budget 2012/2013/2014**

Mr. Hayden directed everyone back to the Open Session Agenda and presented in the green folder information on the budget for the fiscal year July 1, 2013 to September 16, 2013, noting that everything was in line and nothing different than what is normally presented. He also pointed out Commitments Total which is a new item in the new budget system (example given was rent is paid monthly, but it is shown for a year). Mrs. Franklin at this time presented a new age technology system to provide the Commissioners an I-pad vs. the mailed Commission meeting book—as done by other State agencies. Mr. Manley stated he could not sit and do this at a computer. Staff responded how it would save on paper and postage. Chairman Florence asked if it could be printed out. Staff responded how each Commissioner would receive the I-pad with information and instructions on how to view the material for the meeting. The Commissioners asked to have room to put their questions and notes. Staff responded. Mrs. Franklin further added that there would be a "Smart Board" on the wall at the meetings to show the "meeting book." Mr. Burnett wanted to know if it could be put on the I-pad he already has. Staff responded this was in the first stages, and input from the Commissioners would be asked later, as well as requesting funds. Discussion ensued, and all agreed it might be something the Commissioners could move forward on, pending a cost analysis.

### **Compliance Reports**

Mr. Hayden presented for information only the Compliance reports for July and August, 2013—the new fiscal year. Late filing penalties were big. Mr. Manley asked about the \$33,000 sent in for late penalties. Staff responded how filers pay and not send in appeal letters. Discussion ensued concerning GEAR and Set Off Debts. There being no further discussions, the Compliance reports were approved as presented.

### **ADJOURNMENT**

Chairman Florence asked for further discussions. There being none. A motion was made, with unanimous consent, to adjourn. The motion carried.

Respectfully submitted,

Karen A. Wiggins  
Administrative Specialist