

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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BOARD MEMBERS:

James Albert, Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD
MINUTES
SEPTEMBER 29, 2005
OPEN SESSION

HELD AT: Jessie Parker Building, 510 East 12th, Des Moines, Iowa

BOARD MEMBERS PRESENT: Jim Albert, Janet Carl, Gerald Sullivan, John Walsh, Betsy Roe, Pat Harper

STAFF PRESENT: W. Charles Smithson, Sandy Reier

1. CALL TO ORDER - The meeting was called to order by Chair Albert at 12:06 p.m.
2. APPROVAL OF MINUTES FROM MAY 19 AND AUGUST 15, 2005 MEETINGS – It was moved by Roe and seconded by Sullivan that the minutes of the May 19, 2005 and August 15, 2005 meetings be approved as written. Motion carried.
3. ADJOURNMENT TO EXECUTIVE SESSION – At 12:07 p.m. it was moved by Harper and seconded by Sullivan that in accordance with the provisions of Iowa Code section 21.5, the Board go into executive session to discuss complaints, investigations, and personnel matters. Albert, Carl, Sullivan, Walsh, Roe, and Harper voted yes in roll call vote.

The meeting returned to Open Session at 1:30 p.m. and recessed. The meeting reconvened at 1:45 p.m.

ACTION FROM EXECUTIVE SESSION – It was moved by Carl and seconded by Roe that the written record of executive session action be made a part of the open record. Motion carried unanimously.

The following executive session action was taken.

Basil Nimry – It was moved by Sullivan and seconded by Walsh that the investigation into whether governmental resources were used for an outside employment be closed with a finding of no probable cause that a violation occurred. Motion carried unanimously.

Committee for Kids – It was moved by Roe and seconded by Harper that the investigation into whether there was proper reporting be closed with a finding of no probable cause that a violation occurred. Motion carried unanimously.

Alburnett School District – It was moved by Walsh and seconded by Carl that the investigation into whether governmental resources were used for a political purpose be closed with a finding of no probable cause that a violation occurred. Motion carried unanimously.

Grow Davenport/Davenport City Candidates – It was moved by Carl and seconded by Harper that the investigation into whether there was proper reporting be closed with a finding of no probable cause that a violation occurred. Motion carried unanimously.

Donald Zeller – It was moved by Walsh and seconded by Roe to close the investigation concerning the filing of true and accurate reports and campaigning in uniform with a finding of no probable cause that a violation occurred. Motion carried unanimously.

Rock in Prevention – It was moved by Roe and seconded by Carl to investigate whether individuals associated with this organization engaged in lobbying activities without being registered as lobbyists and filing reports. Motion carried unanimously.

Lake Delhi (Ballot Issue for Municipal Incorporation) – It was moved by Harper and seconded by Roe to decline to investigate election law issues and refer those matters to the appropriate county attorney, decline to investigate the conflict of interest allegations, and direct Counsel to answer the question concerning payment of legal fees to the attorney involved. Motion carried unanimously.

Joni Dittmer – It was moved by Walsh and seconded by Sullivan to decline to investigate the issue of reporting and refer the matter to staff for administrative resolution. Motion carried unanimously.

Denny Presnall/Ankeny Community School District – It was moved by Roe and seconded by Harper to decline to investigate an email sent by the candidate to school district employees that advocated for his campaign as it was sent from a private email address, that Counsel send the candidate a letter informing him his activity did lead to a complaint being filed and that he put school officials at risk of violating the statute, and direct an investigation concerning whether information belonging to the school was made available to one candidate and not others. Motion carried unanimously.

Jonathan Narcisse – It was moved by Carl and seconded by Harper to investigate whether a corporate email was used to send out campaign messages and to defer investigation of the use of a corporate newspaper for campaigning. Motion carried unanimously. Counsel will do research concerning publishers of newspapers as candidates and report back to the Board.

Dick Murphy – It was moved by Walsh and seconded by Harper to investigate an alleged corporate contribution violation. Motion carried unanimously.

Email Using Fannie Mae Equipment – It was moved by Roe and seconded by Sullivan to decline to investigate an email sent using Fannie Mae equipment since it did not expressly advocate for or against any candidate and there are no truth in political discourse laws in Iowa. Roe, Sullivan, Harper, Carl, and Albert voted yes. Walsh recused. Motion carried.

Nan Stillians – It was moved by Walsh and seconded by Harper to investigate a postcard that did not contain an attribution statement. Motion carried unanimously.

Sam Graeve/Manning School District – It was moved by Walsh and seconded by Roe to investigate the alleged use of public funds for a political purpose. Motion carried unanimously.

John Alexander, Chair, Concerned Citizens for Better Education Committee – It was moved by Walsh and seconded by Carl to accept the Presiding Officer's Proposed Decision and Order. Motion carried unanimously.

Lee County Democratic Central Committee – It was moved by Walsh and seconded by Harper that a Statement of Charges be filed and the matter set for hearing. Motion carried unanimously. Sullivan was appointed presiding officer.

WCV WCV Committee – It was moved by Roe and seconded by Walsh that a Statement of Charges be filed and the matter set for hearing. Motion carried unanimously. Albert will be presiding officer.

TK Phillips/TK Phillips for Supervisor – It was moved by Roe and seconded by Sullivan that a Statement of Charges be filed and the matter set for hearing. Motion carried unanimously. Sullivan was appointed presiding officer.

WAYST/Dan Oakley – It was moved by Walsh and seconded by Harper that a Statement of Charges be filed and the matter set for hearing. Motion carried unanimously. Sullivan was appointed presiding officer.

Greg Stevens for Statehouse Committee – It was moved by Walsh and seconded by Carl that a Statement of Charges be filed and the matter set for hearing. Motion carried unanimously. Albert will be presiding officer.

Language on Ballot Issue – It was moved by Roe and seconded by Sullivan that language on the ballot that contained the word CONTINUE was not express advocacy. Motion carried unanimously.

Staff Raises – It was moved by Walsh and seconded by Sullivan that the director's salary be increased to \$85,000 yearly and that Sandy Reier be given a 4.5% increase effective November 4, 2005. Motion carried unanimously.

4. PROPOSED ADVISORY OPINIONS

A. Gifts for State Historical Society and Reporting of Agency Gifts – It was moved by Walsh and seconded by Harper that the opinion be adopted. Motion carried unanimously.

B. Use of County Government Office Space and Reporting of Agency Gifts – It was moved by Roe and seconded by Harper that the opinion be adopted. Motion carried unanimously.

C. Information to be Disclosed on Executive Branch Lobbyist and Client Reports – It was moved by Sullivan and seconded by Walsh that the opinion be adopted. Motion carried unanimously.

D. Receipt of Gifts by Officials/Employees and Filing of Agency Gift Reports – It was moved by Harper and seconded by Roe that the opinion be adopted. Motion carried unanimously.

E. Leasing of Property to Person Who Might be Subject to Regulatory Authority – It was moved by Roe and seconded by Harper that the opinion be adopted with Alternative II. Roe, Harper, Walsh, Carl, and Albert voted yes. Sullivan voted no. Motion carried.

5. POLICY DECISIONS FOR THE BOARD TO MAKE

A. Board Legislation – It was moved by Carl and seconded by Sullivan that the technical cleanup bill on Chapter 68B incorporate references to Iowa Code section 8.7. Motion carried unanimously.

B. Use of Campaign Funds/Opinion No. 2003-12 – Board Opinion 2003-12 stated campaign funds could be expended to the Christian Coalition for attendance at an event to enhance candidacy. The issue concerns whether it was permissible for a candidate to use campaign funds to enhance his candidacy when he was out of the country and volunteers representing the candidate attended the event. It was moved by Roe and seconded by Sullivan that the candidate not be required to reimburse his campaign committee and that counsel refer the matter to the legislature to clarify language in 68A.301. Motion carried unanimously.

C. Mileage Reimbursement – It was moved by Roe and seconded by Walsh that if it can be validated, reports can be amended to include debt for mileage and that those that were required to reimburse their committee from personal funds be notified of that. Motion carried unanimously.

D. Surcharge on Civil Penalties – It was moved by Carl and seconded by Harper that the director discuss this matter with the Administrative Rules Review Committee prior to the Board proposing any rules. Motion carried unanimously.

E. Proposal to Amend Civil Penalty Waiver Process – It was moved by Sullivan and seconded by Walsh to defer this matter. Motion carried unanimously.

6. BOARD RULES

A. Rules Update – Received for information.

B. Rules under Notice

1. Corporate Property – It was moved by Roe and seconded by Carl that proposed rules concerning placement of campaign material be approved for Notice of Intended Action. Motion carried unanimously.

7. REQUESTS FOR WAIVER OF CIVIL PENALTIES

Campaign Committees (Rule 351 IAC 4.60)

A. Statewide Committees

1. Johnson County Republican Women – It was moved by Walsh and seconded by Roe that the \$50 civil penalty assessed for a late-filed report be upheld. Walsh, Roe, Sullivan, and Carl voted yes. Harper voted no. Albert abstained. Motion carried.

2. Mahaska County Republican Women – It was moved by Carl and seconded by Walsh that the \$50 civil penalty assessed for a late-filed report be upheld and that a letter of admonishment be sent for a late filed Statement of Organization. Motion carried unanimously.

3. Henry County Republican Women – It was moved by Sullivan and seconded by Walsh to waive the \$100 civil penalty assessed for a late-filed report. Motion carried unanimously.

4. Iowa Corn Growers Association State PAC – It was moved by Carl and seconded by Harper that the \$50 civil penalty assessed for a late-filed report be upheld. Motion carried unanimously.

B. County/Local Committees

1. Committee to Elect AKO (Polk) – It was moved by Sullivan and seconded by Walsh that the \$100 civil penalty assessed for a late-filed report be reduced to \$50. Sullivan, Walsh, Roe, Harper, and Albert voted yes. Carl voted no. Motion carried.

2. Jeff Smith for Sheriff (Montgomery) – It was moved by Walsh and seconded by Sullivan that the \$100 civil penalty assessed for a late-filed report be waived. Motion carried unanimously.

3. Kids First 2005 Bond Issue (Marshall) – It was moved by Walsh and seconded by Carl that the \$100 civil penalty assessed for a late-filed report be upheld. Motion carried unanimously.

4. Committee for the Election of Brian Rhoten (Pottawattamie) – It was moved by Roe and seconded by Walsh that the \$20 civil penalty assessed for a late-filed report be upheld. Motion carried unanimously.

5. Committee to Elect Wes Wills (Mahaska) – It was moved by Walsh and seconded by Sullivan that the \$100 civil penalty assessed for a late-filed report be upheld. Motion carried unanimously.

6. Citizens for Cunningham (Scott) – It was moved by Harper and seconded by Walsh that the \$100 civil penalty assessed for a late-filed report be upheld. Motion carried unanimously.

C. Out of State PACs (Rule 351 IAC 4.60)

1. King for Congress – It was moved by Walsh and seconded by Roe that the \$25 civil penalty assessed for a late-filed VSR report be waived and a letter of admonishment issued. Motion carried unanimously.

2. United Food & Commercial Workers Active Ballot Club – It was moved by Sullivan and seconded by Walsh that the \$25 civil penalty assessed for a late-filed VSR report be waived and a letter of admonishment issued. Sullivan, Walsh, Roe, Harper, and Albert voted yes. Carl voted no. Motion carried.

Sullivan left at 2:55 p.m.

D. Lobbyist/Clients (Rule 351 IAC 8.12)

1. Department of Cultural Affairs – It was moved by Walsh and seconded by Harper that the \$25 civil penalty assessed for a late-filed report be upheld. Motion carried.

2. Kay Runge – It was moved by Carl and seconded by Roe that the \$25 civil penalty assessed for a late-filed report be upheld. Motion carried.

3. Iowa Respite & Crisis Care Coalition – It was moved by Roe and seconded by Harper that the \$25 civil penalty assessed for a late-filed report be upheld. Motion carried.

4. Cami Eslick – It was moved by Roe and seconded by Walsh that the \$50 civil penalty assessed for a late-filed report be waived. Roe, Walsh, Harper, and Albert voted yes. Carl voted no. Motion carried.

5. Crystal Distribution Services, Inc. – It was moved by Walsh and seconded by Harper that the \$25 civil penalty assessed for a late-filed report be upheld. Motion carried.

6. Liz Williams-Chaffin – It was moved by Roe and seconded by Walsh that the \$100 civil penalty assessed for a late-filed report be waived. Roe, Walsh, Harper, and Albert voted yes. Carl voted no. Motion carried.

7. Iowa Association of Magistrate Judges – It was moved by Walsh and seconded by Harper that the \$25 civil penalty assessed for a late-filed report be waived and that a letter of admonishment be issued. Walsh, Harper, Roe, and Albert voted yes. Carl voted no. Motion carried.

8. Thomas Gronstal – It was moved by Walsh and seconded by Harper that the \$50 civil penalty assessed for a late-filed report be waived. Walsh, Harper, Roe, and Albert voted yes. Carl voted no. Motion carried.

It was moved by Carl and seconded by Harper that the \$25 civil penalties assessed for late-filed reports filed by the following individuals be waived. Motion carried.

9. Jamie Cashman
10. Michael Wenmtzien
11. Ann Harrmann

8. VIOLATIONS

A. Attribution Statement Violations (Iowa Code section 68A.405) – Correction advertisement information was received from the following:

1. Don Kinnison
2. 1st Citizens to Elect Ed O'Neill
3. Burton and Carol Martin
4. Benny Tanner

B. Late-Filed Statement of Organization (Iowa Code section 68A.201) – It was moved by Roe and seconded by Walsh that letters of admonishment be sent to the following for late-filed Statements of Organization. Motion carried.

1. Kids First 2005 Bond Issue (Marshall)
2. Joe Morr for School Board (Polk)
3. Committee to Elect Ron Van Fossen (Scott)
4. Woodbury County Democratic Central Committee

C. Late-Filed Notice of Dissolution (Iowa Code section 68A.402B) – It was moved by Walsh and seconded by Harper that a letter of admonishment be sent to the following for a late-filed Notice of Dissolution. Motion carried.

1. Dan Smith for Sheriff (Hancock)

D. Late-Filed Lobbyist Registration (Iowa Code section 68B.36) – It was moved by Roe and seconded by Harper that a letter of admonishment be sent to the following for a late-filed lobbyist registration. Motion carried.

1. David Palmer
2. Norma Schmoker
3. Mohammed Lawal
4. Ron Erickson

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9. ITEMS OF BOARD INTEREST NOT NEEDING ACTION – The following report was received for information. No action was taken.

A. Income Tax Checkoff Report

The meeting adjourned at 3:15 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "S. Reier".

Sandra Reier
Secretary