

# IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

## MINUTES OPEN SESSION

March 26, 2015 Noon

**JESSE PARKER BUILDING**

FIRST FLOOR

DES MOINES, IA

### I. CALL TO ORDER

Chair Albert called the meeting to order at 12:04 pm

Members present: Jim Albert, Mary Rueter, Saima Zafar, Jonathan Roos

Members present by telephone: Carole Tillotson (joined at 12:19 pm)

Staff present: Megan Tooker, Sharon Wright

Others present: Shayla McCormally, Melissa Watson, Ron McCarthy, Bob Lucas

Present by telephone: Cory Thein, Counsel for Ron McCarthy

### II. ELECTION OF OFFICERS

Albert states that at the first meeting every year, there must be an election of officers and asks for a motion.

Rueter nominates Albert as Chair, Zafar seconds. No discussion

All ayes, motion carries unanimously

Albert asks for motion for Vice Chair, Zafar nominates Rueter. Rueter says she plans to be busy adjusting to her retirement from work and nominates Roos for Vice Chair. Zafar withdraws her nomination of Rueter and seconds Rueter's nomination of Roos.

No further discussion, all ayes, motion carries unanimously

### III. PROPOSED ADVISORY OPINIONS

1. Opinion requested by the Iowa Democratic Party regarding funds raised for presidential caucuses

Tooker says this opinion is an evolution of 2 previously issued by the Board. The state parties can use money from "restricted donors" for presidential caucuses, and other non-express advocacy activities. A 2007 advisory opinion stated that money raised and used for presidential caucuses must be placed in a "separate fund" and encouraged the state parties to voluntarily report financial activity involving this fund to the Board. This proposed advisory opinion clarifies that the "separate fund" should be a separate bank account and further clarifies how the state parties can voluntarily report transactions involving a presidential caucus fund

Roos asks if the parties had the ability to accept contributions during the last caucus cycle. Tooker says yes, the parties in reliance of the Board's 2007 advisory opinion, raised and spent money from restricted donor on presidential caucus activities.

Albert states he thinks the state parties understand when they can use funds from restricted donors and just want to report it correctly. Tooker states the Republican Party has seen a copy of the proposed opinion and has no issues with it.

Carole Tillotson joins the conversation at 12:19 pm by telephone

Roos moves to adopt the opinion, Zafar second. All ayes, motion carries unanimously.

2. Opinion requested by Ron McCarthy on the application of Iowa Code § 68B.4

Tooker says that she doesn't believe an advisory opinion is the correct way to handle this matter. The best course of action would be for Mr. McCarthy to formally ask for a consent-to-sell agreement from the Department of Agriculture and then appeal if the Department rejects his request and he thinks it is unreasonable.

Albert says the question for the advisory opinion is simply whether the statute applies. Tooker agrees and states that neither she nor the Board at this time is in a position to determine whether a consent-to-sell is appropriate.

Cory Thein, McCarthy's attorney, is present by telephone. Thein argues the confidential information McCarthy has access to is irrelevant to realtors. Thein also argues that McCarthy is not involved in the sale of agricultural property. Thein stresses the evidence provided by McCarthy is incontroverted.

Tooker responds that this issue has been raised in the context of a request for an advisory opinion and not in the context of a contested case where the Department would have the opportunity to rebut McCarthy's assertions. Tooker believes the Department should first decide whether to issue a consent-to-sell agreement and perhaps have things put in place to prevent any potential conflicts. The department was most concerned about McCarthy's realty firm having an unfair advantage due to McCarthy's access to confidential information.

Albert says that confidential information is not necessary for a potential conflict of interest. It is the position that someone holds in the agency and if they have some influence over others that the agency oversees.

Albert asks if there is a motion with regard to the proposed opinion. Zafar moves to accept, Roos second.

Roos says he believes the advisory opinion follows the statute. Zafar agrees and adds that the issue should go back to Department and then can be returned to the Board with additional information to make the best decision.

There is a general consensus.

Rueter says that it may set a precedent and maybe it behooves the Board to let state employees know what is proper and what is not.

With no further discussion, Chair Albert calls for a vote.

All ayes, motion carries unanimously

3. Opinion requested by Board addressing whether an attribution statement is required on internet videos

Tooker states that she tried to write the opinion as broadly as possible since social media is rapidly changing.

Roos states that he thinks that even if there is no monetary value, there is a cost inherent in the making, distributing of the item.

Albert says the attribution statement is not just the spending of money, but declaring who the responsible party is.

Discussion follows about the confusion regarding "paid for by" and "responsible for" and why the attribution statement is important.

Rueter moves to adopt, Zafar second, all ayes, motion passes unanimously.

#### 4. Opinion requested by Board on attribution statements on coordinated expenditures

Tooker states that the main reason for this opinion is that sometimes others, including the state parties, pay and run advertising for candidates.

With no other discussion, Zafar moves to accept, Rueter second.  
All ayes, motion passes unanimously

#### 5. Opinion requested by the Board of Parole on whether alternate board members are required to file personal financial disclosure statements

Tooker states that the Parole Board requested this opinion regarding their alternate members. Albert states that while their roles are different, they are still important roles. That change to the opinion is noted.

With no further discussion, Zafar moves to accept, Roos second  
All ayes, motion carries unanimously

### **IV. APPROVAL OF MINUTES**

1. June 4, 2014 Open Session
2. June 4, 2014 Closed Session, part 1
3. June 4, 2014 Closed Session, part 2
4. October 2, 2014 Open Session
5. October 2, 2014 First Closed Session
6. October 2, 2013 Second Closed Session
7. December 16, 2014 Open Session
8. December 16, 2014 Closed Session

Tooker says historically the Board has only approved minutes at the next in-person board meeting. General consensus is to change that practice and approve minutes at the next meeting, regardless of whether it is held in-person or by telephone.

With no further discussion, Rueter moves to accept, Zafar second,.

All ayes, motion carries unanimously.

**V. ADJOURN TO CLOSED SESSION**

In accordance with the provisions of Iowa Code 21.5(1) "g", Zafar makes a motion to move the Board meeting into closed session. Second by Rueter.

All ayes by roll call vote. The Board moves into closed session at 1:06 pm

**VI. RETURN TO OPEN SESSION-**

The Board returns to open session at 1:41 pm. Albert states that discussion regarding closed session items will be summarized and actions entertained in open session under item VII.

**VII. Entertain motions on items discussed in closed session**

1. Formal complaint against Joan Kirk alleging use of public funds for political purposes

Zafar moves to dismiss complaint, Rueter second. All ayes, motion carries unanimously.

2. Formal complaint against Kevin Hatfield alleging use of public funds for political purposes

Rueter moves to issue a Reprimand & \$100 penalty, Roos second.

All ayes, motion carries unanimously.

3. Formal complaint against Lois Schmitz alleging violation of Iowa Code § 68B.3

Roos moves the complaint should be handled as a contested case, Rueter second.

All ayes, motion carries.

**VIII. REQUESTS FOR WAIVER OF CIVIL PENALTIES (RULE 351 IAC 4.60)**

• STATE COMMITTEES (Rule 351 IAC 4.59(3))

1. Cindy Golding for Iowa Senate, October 19, 2012 report--\$50 –recommend denial

Zafar moves to reduce to \$25, Roos second. All ayes, motion carries unanimously.

2. Marek for State Representative, January 19, 2015 report - \$50 –recommend reduction to \$25 due to technical mistake.
3. Kraayenbrink for Iowa Senate, January 19, 2015 report - \$50 recommend reducing to \$25.
4. Iowans for Fichter, January 19, 2015 report - \$50-recommend denial
5. Vote McCormaly, January 19, 2015 report -\$50-recommend denial
6. Save Dog Racing PAC, May 19, July 19, and October 19, 2012 reports - \$800 – recommend reduction to \$400

Zafar moves to accept Director's recommendations on items 2-6, Rueter second.

All ayes, motion carries unanimously.

• ONE TIME CONTRIBUTION COMMITTEES (Rule 351 IAC 4.59(8))

1. Boeckenstedt Greyhound Racing, December 19, 2013 & September 26, 2014 - \$40  
Recommend reduction to \$20

Zafar moves to accept Director's recommendation, Roos second.  
All ayes, motion carries unanimously

- COUNTY CENTRAL COMMITTEES (Rule 351 IAC 4.59 (2))
  1. Lucas County Democratic Central Committee, October 20, 2014 report -\$200  
Recommend reduction to \$100

Zafar moves to accept Director's recommendation, Rueter second.  
All ayes, motion carries

**IX. ADMINISTRATIVE DISSOLUTION OF INACTIVE COMMITTEES**

- Nate Christensen for Sheriff
- Tim Smith for Harding County Sheriff
- Davitt for Senate
- Dave Edwards for Iowa Senate
- Iowans for Egly
- Citizens for Jeremy Filbert
- Givant for Iowa
- Iowans for Hartsuch
- Henderson for State Senate
- Committee to Elect Jeff Ibbotson
- Will Johnson for Senate
- Koslow for Iowa's Health
- McCoy for House 26
- Schondelmeyer for Senate

Rueter moves to reprimand and administratively close the committees. Zafar second.  
All ayes, motion carries unanimously

Zafar leaves at 1:50 pm  
Carole Tillotson leaves at 1:56 pm

Tooker updates the Board on the agency's tight budget for the current fiscal year. The Board is still paying SERIP employees' annual stipends and health insurance which will end on June 30, 2015. Health insurance costs have risen 20-25%, depending on the plan, for the Board's staff and SERIP employees. Staff has cut all non-essential expenditures, including Westlaw, COGEL membership, Tooker's COLA and the 2015 Code of Iowa volumes. Tooker will update Board on the budget once the legislature approves the budget for fiscal year 2016, which starts on July 1.

**X. ADJOURNMENT**

Rueter moves to adjourn, Roos second. The Board adjourns at 2:10 pm

Respectfully submitted,

A handwritten signature in black ink that reads "S Wright". The signature is written in a cursive, flowing style.

Sharon Wright, Administrative Assistant