

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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BOARD MEMBERS:
James Albert, Chair
John Walsh, Vice Chair
Carole Tillotson
Jonathan Roos
Mary Rueter
Elaine Olson

MEETING MINUTES

May 16, 2019 12:00 PM
Capital Building Rm G15
Des Moines IA 50319

I. CALL TO ORDER

In Chair Albert's absence, Tillotson calls meeting to order at 12:11 pm. Carole Tillotson, Elaine Olson, Jonathan Roos, and Mary Rueter appear in person. John Walsh and James Albert are absent.

II. APPROVAL OF MINUTES

Motion by Tillotson, second by Roos, to approve the January 24, 2019 meeting minutes. All ayes. Motion carries.

Motion by Olson, second by Roos, to reorder agenda and consider advisory opinions next while awaiting the arrival of Albert. All ayes. Motion carries.

III. PROPOSED ADVISORY OPINIONS

1. To Eric Wilke re: post-state employment.

Motion by Olson, second by Roos, to adopt the Advisory Opinion. All ayes. Motion carries.

James Albert arrives at 12:21 pm.

2. To Mckinley Bailey re: payment of membership fees to an association with a lobbyist.

Motion by Rueter, second by Olson, to adopt the Advisory Opinion. All ayes. Motion carries.

IV. NOTICE OF INTENDED ACTION ON ADMINISTRATIVE RULES

1. Amend rule 351—8.3 (lobbyist definition)
2. Amend various provisions of chapter 351—4 (removing references for paper filing of campaign statements and reports)
3. Rescind chapter 351—3 (Iowa Election Campaign Fund Tax Checkoff)

Motion by Roos, second by Tillotson, to publish notice of intended action to amend rules. All ayes. Motion carries.

Approved 8/29/19

V. RECAP OF SESSION AND THE END OF FISCAL YEAR 2019

Tooker gives Board overview of legislation the Board's staff tracked and lobbied in favor and against during session. The Board received additional funding to allow the hiring of an attorney for fiscal year 2020.

VI. REQUEST FOR ADJUSTING ENTRIES

1. Joe Bolkcom for Iowa Senate
2. Rizer for House

Motion by Tillotson, second by Olson, to approve both adjusting entries. All Ayes. Motion carries.

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

1. STATE COMMITTEES (Rule 351 IAC 4.59(3))
 - i. Courtney for State Senate – recommend waiver
 - ii. Citizens for Wessel-Kroeschell – recommend denial
 - iii. George for Liberty – recommend waiver
 - iv. Gansen for Iowa house – recommend waiver
 - v. Goodwin 4 Iowa – recommend reduction to \$100
 - vi. Trevor Lynn for State house – recommend reduction to \$150
 - vii. Citizens for Sharon Steckman – recommend waiver
 - viii. Ofenbakh for Secretary of State – recommend reduction to \$100
 - ix. Ras Smith for State Representative – recommend waiver
 - x. Committee to Elect Gary Siegwath as Governor of Iowa – recommend denial
2. COUNTY LOCAL COMMITTEES (Rule 351 IAC 4.59(2))
 - a. Knobbe for Supervisor – recommend waiver
3. PERSONAL FINANCIAL DISCLOSURE STATEMENTS (Rule 351 IAC 7.5(1))
 - a. Mike McInroy – recommend waiver

Motion by Rueter, second by Olson, to adopt Tooker's recommendations for waiver requests. All ayes. Motion carries.

VIII. COMPLAINTS AND POTENTIAL INVESTIGATIONS

Albert notes Iowa Code section 21.5(1)(c) allows the Board to go into closed session to consult with its attorney concerning complaints and potential investigations. He says it may not be necessary to go into closed session for all seven complaints/potential investigations on the Board's agenda.

Consensus by Board to discuss first five complaints in open session.

1. Complaint against Rachel Koehler re: expenditure of public moneys for political purposes.

Motion by Tillotson, second by Rueter, to reprimand Koehler and order her to pay a civil penalty for emailing newsletter which expressly advocated in favor of bond referendum.

Albert believes community college bears some responsibility for the actions of its employee. He thinks the Board needs to send a message to government bodies that

they bear some responsibility too. He thinks a measured response is appropriate given that college self-reported the misconduct and consulted Tooker on compliance issues.

Tillotson says she doesn't believe the circumstances in this case merit a reprimand for the college. Olson agrees.

Roos notes Kohler apparently did not need her supervisor's approval before sending out newsletter. Roos also says this newsletter was very clearly express advocacy.

Motion by Roos, second by Rueter, to amend Tillotson's motion to include reprimand of college. 3 ayes, 2 nays. Motion carries.

3 ayes, 2 nays on Tillotson's motion as amended. Motion as amended carries.

2. Complaint against Reynolds for Iowa and Bruce Rastetter re: alleged under reported value of in-kind flight.

Albert notes this is the third complaint from the same individual concerning in-kind flights. He says it is essentially a request for Board to reconsider its January decision. He said the Board has twice voted to dismiss the complainant's complaints about in-kind flights.

Tooker says nothing in the Board's rules or chapter 17A of the Code provides a mechanism to request a reconsideration of a legal sufficiency determination.

Tooker says the Board has a summer legal intern starting soon whose first task will be to help draft clear-cut rules on valuing flights so committees and donors can be confident they are valuing these flights correctly.

Motion by Tillotson, second by Rueter, not to reconsider the issue. All ayes. Motion carries.

Olson notes clarity would be really helpful here.

3. Complaint against Bruce Rastetter re: alleged failure to disclose all sources of income on personal financial disclosure statement.

Rastetter's attorney, Paula Dierenfeld, is present. She explains she filed Rastetter's annual personal financial disclosure statement when he was on the Board of Regents. She says he owns an umbrella organization, called Summit Group, and within that organization are several entities which are owned by Summit Group. She does not disclose every entity within the umbrella group. The complaint alleges two of those entities, Hawkeye Ag, LLP and Summit Pork I, LLP, should have been disclosed on Rastetter's personal financial disclosure statement.

Roos says he thinks all of the entities within the umbrella organization should be disclosed on the personal financial disclosure statement. Roos says dismissal of complaint may be appropriate here because the Board has been accepting of this level of detail but he would like to see the Board's rules require more specificity.

Albert says the Board can consider such rules as a future meeting. Mary says if the Board wants to require more specificity, it should be done prospectively. Albert agrees, saying it goes to fundamental fairness.

Motion by Olson, second by Rueter, to dismiss complaint on ground it is not legally sufficient. All ayes. Motion carries.

Roos notes for most people the personal financial disclosure statement is quite simple to fill out. He acknowledges the statements may be more burdensome for those people who are very successful and engage in business on a large scale. However, the statements are more pertinent for those people and he would like to see the Board require more specificity in the future.

4. Complaint against Howard Hill re: alleged failure to disclose all sources of income on personal financial disclosure statement.

Tooker notes the complaint first alleged Hill should have disclosed Breeze Hill LLC on his initial personal financial disclosure statement filed in 2018. Tooker says Hill provided a copy of his K-1 which showed he is a 1% owner and received less than \$1,000 in income from Breeze Hill LLC.

Tooker says the complainant filed an addendum to the complaint alleging Hill should have disclosed other entities, including H & K Enterprise and should have obtained a consent-to-sell from the DNR.

Tooker says Hill's application to be on the EPC indicates H & K is his primary business. She recommends the Board find the complaint legally sufficient and order an investigation to determine whether Hill should have disclosed other entities on his personal financial disclosure statement and whether a consent-to-sell is necessary.

Motion by Rueter, second by Roos to find complaint legally sufficient and order an investigation. All ayes. Motion carries.

5. Complaint against Brent Rastetter re: alleged failure to disclose all sources of income on personal financial disclosure statement

Tooker says Rastetter's term on the Environmental Protection Commission ended on April 30, 2015. His last personal financial disclosure statement was due on April 30, 2016. Rastetter filed his statement early on April 8, 2016.

Tooker says Rastetter disclosed Quality Ag, Inc. as his business on every personal financial disclosure statement except for the last one he filed. Tooker says it appears to still be owned by Rastetter and she recommends the Board order an investigation into whether Rastetter disclosed all sources of income on his 2016 statement.

Motion by Olson, second by Rueter, to order an investigation.

Albert says we need to focus on the statute of limitations. The conduct providing the basis of the complaint is the failure to provide sufficient detail on the statement filed on April 8, 2016. He says the complaint was filed more than three years later and thus is untimely.

Rueter withdraws her second. Motion fails for lack of a second.

Motion by Rueter, second by Roos, to dismiss complaint as untimely. All ayes. Motion carries.

IX. ADJOURNED TO CLOSED SESSION

Motion by Rueter, second by Olson, to adjourn to closed session in accordance with the provisions of Iowa Code 21.5(1)(c) to discuss Russell Taub and pending investigation of Rebel Snodgrass and Dan Kelley. All ayes. Motion carries by roll call vote. Adjourn at 1:50 PM

X. RETURN TO OPEN SESSION

Board returned to open session at 2:12.

Albert asks Tooker to briefly summarize discussion in closed session. Tooker says Taub has been charged in federal court with campaign finance violations. He has agreed to plead guilty to some charges and will be sentenced in July. Tooker also referred the matter to two county attorneys to determine whether criminal charges in Iowa are appropriate. Tooker will provide further update to Board at next meeting.

Tooker also says she briefly updated the Board on the pending investigation into Snodgrass/Kelley matter. Tooker says she plans to present her findings to the Board at its August meeting for the Board to determine whether to initiate a contested case hearing.

XI. Adjournment

Motion by Rueter, second by Olson, to adjourn. Board Meeting Adjourns at 2:23 PM

Respectfully submitted,

Nancy Wood

Nancy Wood, Board Secretary