

**PUBLIC INTEGRITY COMMISSION
MINUTES
July 18, 2017**

1. Call to Order: 10:00 a.m. Present: William F. Tobin, Jr. (Chair); Bonnie Smith (Vice Chair), Commissioners: Dr. Wilma Mishoe, Lisa Lessner, Jeremy Anderson, Esq.; Commission Counsel: Deborah J. Moreau, Esq.

2. Approval of Minutes of June 20, 2017: Moved—Commissioner Anderson; seconded—Commissioner Lessner. Vote 4-0, approved. (Commissioner Mishoe not present).

3. Administrative Items

Legislation Pending: Status remains unchanged from May 2017. Will remain in committee until the beginning of the next legislative session.

PIC's budget was cut by \$6500 for FY 2018.

Discussion about the creation of the new agency to manage human resource issues.
Meeting with a representative of the new agency to discuss a possible state-wide nepotism policy.

4. Executive Sessionⁱ to Hear Requests for Advisory Opinions, Waivers and Referrals: Moved—Commissioner Mishoe; seconded—Commissioner Lessner. Vote, 5-0, approved.

17-22--PIC received numerous complaints about [one individual]. Those items will be on the agenda for August.

16-35—Commission Counsel submitted PIC's Answering Brief in the matter. [The other party] was required to file his Reply by July 25th. Oral argument may be scheduled thereafter.

5. 17-01—Complaint (Conflict of Interest)

In April 2016, [X] decided to [offer needed services to a State agency]. During the process they were contacted by [a State employee of the agency], regarding [their offer of services]. After a face-to-face meeting and reviewing [pertinent documents X decided the offered opportunity was not a good fit]. According to the Complaint, [Employee] was upset by the decision and had engaged in retaliatory acts which resulted in [an adverse decision in another matter X was involved in with the same agency]. [X] could only speculate as to what [the employee] had written or said about them. However, [X] based their suspicion of [Employee's] bias on the fact that she had repeatedly failed to follow agency protocol while handling [their matter].

While trying to address [Employee's] perceived bias, [X] met with various local leaders and was successful in getting [a second review of the adverse decision]. However, [Employee] was required to make a recommendation [during the reconsideration of the matter]. [X] asked Commission Counsel if [Employee] should be allowed to [participate in the reconsideration] given the fact that [X] had lodged several complaints against her. Commission Counsel responded that it would appear to be a conflict of interest for [Employee] to participate given the fact that she was aware that [X] had lodged several complaints against her. [X] indicated that

despite forwarding the email to [the Employee's] supervisors [Employee] did [participate in the reconsideration]. [X] was again denied approval [by the agency and a favorable decision was made for Y, who was assisted by Employee's former co-worker].

On January 13, 2017, [X] filed a Complaint against [Employee]. The Commission first reviewed the Complaint at the February 21, 2017, monthly meeting. At that time, the Commission decided to further investigate the matter to allow for the collection of additional facts and records. An independent investigator was assigned to the matter in May 2017, and the Commission subpoenaed records from [the agency] in June 2017.

The Complaint alleged [Employee] violated multiple provisions of the Code of Conduct including the following prohibitions relating to conflicts of interest:

1. 29 *Del. C.* § 5805(e)—Unauthorized disclosure of confidential information
2. 29 *Del. C.* § 5805(a)(1) and (3)—Restrictions on exercise of official authority
3. 29 *Del. C.* § 5805(b)(1), (2) and (3)—Restrictions on representing another's interest before the state.

The Complaint also alleged [Employee] violated many of the general provisions of the Code of Conduct:

1. 29 *Del. C.* § 5806(a)—Appearance of impropriety
2. 29 *Del. C.* § 5806(b)(1)(2)(3)(4)—Personal or private interests
3. 29 *Del. C.* § 5806(f)—Disclosure of confidential information

PROCEDURE

A properly sworn Complaint must be notarized pursuant to 29 *Del. C.* § 4328(3). The Complaint was notarized in the proper format. *Hanson v. PIC*, 2012 WL3860732 (Del Super., Aug. 30, 2012) (*aff'd PIC v. Hanson*, 69 A.3d 370 (Del. 2013)).

JURISDICTION

The Commission then discussed personal jurisdiction and subject matter jurisdiction.

I. Personal Jurisdiction

[Employee worked for] an Executive branch agency. Therefore, [Employee] worked for a "state agency" as defined in 29 *Del. C.* 5804(11) and she was a "state employee" as defined in § 5804(12)(a)(1). [Employee] was within the Commission's jurisdiction.

II. Subject Matter Jurisdiction:

The Commission had jurisdiction over allegations in the Complaint related to the Code of Conduct (generally) or Conflicts of Interest (specifically). To the extent the Complaint alleged violations of [agency] policy, the Commission did not have jurisdiction to decide those issues.

ALLEGATIONS

The Commission reviewed the allegations in order to determine whether the Complaint alleged sufficient facts upon which the Commission could find a violation of the Code of Conduct.

I. 29 *Del. C.* 5805(e). Unauthorized disclosure of confidential information.

No person shall disclose any information required to be maintained

confidential by the Commission under § 5806(d), § 5807(b) or (d), or § 5810(h) of this title.

The allegations regarding the cited provision of the Code of Conduct were misplaced. Those provisions prohibit revealing information presented to, and considered by, the *Commission*. The statute was not applicable to the disclosure of *all* confidential information. There were no facts to indicate that [Employee] disclosed information about the proceedings before the Commission. As a result, the facts cited in the Complaint regarding disclosure of confidential information may or may not have been a violation of [agency] policy¹, but were not a basis for a violation of these provisions in the Code of Conduct. Because there was a failure to properly allege violations of these provisions in the Code of Conduct they were dismissed.

II. 29 Del. C. § 5805(a)(1) and (3)—Restrictions on exercise of official authority.

§ (1) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter pending before the State in which the state employee, state officer or honorary state official has a personal or private interest... . A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter.

As a matter of law, a person has a personal or private interest when they, or a close relative, have a financial interest in a private enterprise.” 29 Del. C. 5805(a)(2). ‘Matter’ is defined as “any application, petition, request, business dealing or transaction of any sort.” 29 Del. C. § 5804(7). However, a personal or private interest is not limited to narrow definitions such as “close relatives” and “financial interest.” 29 Del. C. § 5805(a)(2). Rather, it recognizes that a State official can have a “personal or private interest” outside those limited parameters. It is a codification of the common law restriction on government officials. At common law and since its codification, Courts and this Commission have recognized that the provision covers a variety of relationships that may create a “personal or private interest.” See *Commission Op. Nos. 00-04 and 00-18*. Delaware Courts have held that under the common law, which has since been codified, the issue of whether the “personal or private interest” is sufficient to “tend to impair judgment” is an issue of *fact*, not of law as in § 5805(a)(2). See, e.g., *Shellburne, Inc. v. Roberts*, Del. Ch., 238 A.2d 331 (1967) (under common law, where complainant alleged government official had “personal interest,” and “conflict of interest” because of friendship and social relationships, and used public office in furtherance of such personal interest, court held determination was issue of fact); *Prison Health Services v. State*, Del. Ch., C.A. No. 13,010, Hartnett, V.C. (June 29, 1993) (Court held that whether there was a sufficient personal interest to require recusal under the State Code of Conduct was an issue of fact). Thus, at common law and as codified, the conflict of interest provision permits a consideration of whether a particular relationship is either sufficient to create a conflict or too attenuated to create a conflict.

The Complaint alleged [Employee] had a personal or private interest in [the matter] based upon a pre-existing friendship between [Employee and her former co-worker]. The Commission was able to [confirm that Employee and her former co-worker worked together for four years. The former co-worker had been Employee’s supervisor]. [The former co-worker left the agency to work for a private company that contracted with the agency].

The Commission decided the fact that [the co-worker] had supervised [Employee] three and a half years prior to the submission of the Complaint was insufficient to establish a personal or private interest that would have affected [Employee’s] official decision-making process. Other than the fact that the two women previously worked together there were no facts alleged, nor was any information found in [agency] records, that would indicate [Employee] allowed her

¹ The Commission had no authority to determine whether [Employee] violated [agency] policies or procedures.

acquaintance with [her former co-worker] to affect her professional recommendations. Nor did the Complaint allege how [Employee] would have benefitted from making such a decision.

As to the fact that [the agency] did not ask [Employee] to recuse herself from [the matter] after she became aware that [X] had lodged complaints against her, [the agency's] legal counsel advised that [Employees of the agency were often the only people with sufficient knowledge about the matter to make recommendations]. As a result, it was necessary for [Employee] to [be involved in the reconsideration of the matter]. In an effort to mitigate concerns of [Employee's] possible bias, she was accompanied by [an agency] supervisor to ensure that no impropriety took place.

Considering all the relevant facts and circumstances, the Commission decided to dismiss this allegation for failure to adequately substantiate a personal interest that affected [Employee's] official decision-making process.

§ (3) In any case where a person has a statutory responsibility with respect to action or non-action on any matter where the person has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided, that promptly after becoming aware of such conflict of interest, the person files a written statement with the Commission fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

The primary purpose of the above statute is to alert the Commission to the fact that a State employee exercised their official judgment despite the presence of a conflict of interest. Once the written statement is submitted, the employee appears before the Commission to seek advice on ways to avoid such conflicts in the future. That advice is offered for the purpose of helping the employee understand the pitfalls of official decisions made in the face of conflicts of interest. At the time of the [reconsideration, Employee] and her supervisors knew that the Commission was aware of her possible conflict of interest because of the emails that were forwarded to [the agency]. In lieu of delegation, her agency chose to have a supervisor accompany [Employee during the reconsideration of the matter]. Shortly thereafter, PIC began to investigate [Employee].

If [Employee] had submitted a written statement to the Commission regarding her conflict of interest, the statement could have been used against her in any subsequent proceedings. Under those circumstances, the Commission believed that it would have been unfair to require [Employee] to make statements against her own interest. However, by way of the Commission's opinion, [Employee] was warned that any failure to disclose official decisions she could make in the future which involved a conflict of interest would be grounds for the Commission to impose administrative penalties against her up to, and including, termination.

III. 29 Del. C. §5805(b)(1), (2) and (3)—Restrictions on representing another's interest before the state.

(1) No state employee, state officer or honorary state official may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer or official is associated by employment or appointment.

(2) No state officer may represent or otherwise assist any private enterprise with respect to any matter before the State.

(3) This subsection shall not preclude any state employee, state officer or honorary state official from appearing before the State or otherwise assisting any private enterprise with respect to any matter in the exercise

of such person's official duties.

Relying on the facts in the Complaint and the information gathered during the Commission's investigation, there was no evidence that [Employee] represented a private interest before the State. To the extent that the Complaint alluded to the fact that [Employee] represented [the private employer of her former co-worker], her job required her to work with [agency] contractors. As a result, even if she could be viewed as assisting a private enterprise, she qualified for the exemption in subsection (3). Therefore, the allegation was dismissed.

IV. 29 Del. C. § 5806(a)—Appearance of impropriety.

Each state employee, state officer and honorary state official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that such state employee, state officer or honorary state official is engaging in acts which are in violation of the public trust and which will not reflect unfavorably upon the State and its government.

This is basically an appearance of impropriety test. *Commission Op. No. 92-11*. The test is whether a reasonable person, knowledgeable of all the relevant facts, would still believe that the official's duties could not be performed with honesty, integrity and impartiality. *In re Williams*, 701 A.2d 825 (Del. 1997). In deciding appearance of impropriety issues, the Commission looks at the totality of the circumstances. *Commission Op. No. 97-23* and *97-42*. Those circumstances should be examined within the framework of the Code's purpose which is to achieve a balance between a "justifiable impression" that the Code is being violated by an official, while not "unduly circumscribing" their conduct so that citizens are encouraged to assume public office and employment. 29 *Del. C.* §§ 5802(1) and 5802(3).

The Commission previously held that in deciding if there is an appearance of impropriety because of an alleged professional or social relationship, it is improper to ascribe evil motives to a public official based only on suspicion and innuendo. *Commission Op. No. 96-75* (citing *CACI, Inc-Federal v. United States*, Fed. Cir., 719 F.2d 1567 (1967)). That holding is consistent with the Delaware Supreme Court decision which held: absent the existence of a conflict, it would not disqualify an individual based on an unarticulated concern for the "appearance of impropriety." It noted that appearances of impropriety claims have been criticized as being too "imprecise, leading to ad hoc results." *Seth v. State of Delaware*, Del. Supr., 592 A.2d 436 (1991).

As stated above, the investigation of [Employee] uncovered no information that indicated she had a professional or social relationship with [her former co-worker] beyond that of an acquaintance. Mere acquaintance, absent innuendo or suspicion, was not enough to substantiate an appearance of impropriety amongst the public and the allegation was dismissed.

V. 29 Del. C. § 5806(b)—Personal or private interests

No state employee, state officer or honorary state official shall have any interest in any private enterprise nor shall such state employee, state officer or honorary state official incur any obligation of any nature which is in substantial conflict with the proper performance of such duties in the public interest. No state employee, state officer or honorary state official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

- (1) Impairment of independence of judgment in the exercise of official duties;**

- (2) An undertaking to give preferential treatment to any person;
- (3) The making of a governmental decision outside official channels; or
- (4) Any adverse effect on the confidence of the public in the integrity of the government of the State

This provision of the Code of Conduct is predicated on an employee's personal interest in a private business. While [Employee] may have had an acquaintance with [her former co-worker], there were no facts which indicated that [Employee] had a personal interest in [the co-worker's employer]. Accordingly, the allegation was dismissed.

VI. 29 Del. C. § 5806(f)—Disclosure of confidential information.

No state employee, state officer or honorary state official shall engage in any activity beyond the scope of such public position which might reasonably be expected to require or induce such state employee, state officer or honorary state official to disclose confidential information acquired by such official by reason of such public position.

Facts to support this allegation were predicated upon the assumption that [Employee] disclosed confidential information to [the former co-worker] regarding [the matter] or [X]. However, because [the former co-worker worked for an agency contractor], the Commission could not see how disclosure of information related to the matter would be "beyond the scope of [her] public position." 29 Del. C. § 5806(f). Consequently, the allegation was dismissed.

CONCLUSION: The Commission decided the Complaint did not sufficiently allege facts which would tend to prove [Employee] violated the State Code of Conduct. As a result, the Complaint was dismissed. Moved—Commissioner Anderson; seconded—Commissioner Smith. Vote 5-0 approved.

6. 17-20—Post Employment

[Employee] previously worked for [a State agency as a section manager]. She retired in December 2016. During her employment with [the agency], she worked [for 20 years in her section before being promoted to manager, a position she held for 10 years]. Her job duties included [general oversight of the section, its employees and contractors].

[Employee] had submitted a bid to [her former agency to work as a private consultant]. After submitting her bid, she was advised by [agency] staff to obtain a letter from the Commission confirming her eligibility to work [as a consultant] in the event she was selected as a successful bidder. [The agency] requested bids in an effort to increase their list of qualified [personnel for a specific position] to whom they could outsource various projects. [The agency] did employ [people in the same field of work] but they supplemented their full-time staff with contracted consultants. Successful bidders would be performing the same work as their State co-workers, but on an as-needed basis.

APPLICATION OF THE FACTS TO THE LAW

For 2 years after leaving State employment, State employees may not represent or otherwise assist a private enterprise on matters involving the State, if they are matters where the former employee: (1) gave an opinion; (2) conducted an investigation, or (3) were otherwise directly and materially responsible for the matter while employed by the State. 29 Del. C. § 5805(d).

One reason for post-employment restrictions is to allay concerns by the public that ex-government employees may exercise undue influence on their previous co-workers and

colleagues. *United States v. Medico*, 784 F.2d 840, 843 (7th Cir., 1986). Delaware Courts have held that although there may be a subject matter overlap in the State work and the post-employment work, that where a former State official was not involved in a particular matter while with the State, then he was not “directly and materially responsible” for that matter. *Beebe Medical Center v. Certificate of Need Appeals Board*, C.A. No. 94A-01-004, J. Terry (Del. Super. June 30, 1995), *aff’d.*, No. 304 (Del. January 29, 1996). In *Beebe*, while with the State, an official’s responsibilities were to review and make decisions on applications from hospitals to expand their services. It was alleged that he was violating the post-employment law because after he left the State he was representing a hospital on its application. However, the Court found that as to the particular application before his former agency for Nanticoke Hospital, he had not been involved in that matter while with the State, so he was not “directly and materially responsible” for that particular matter.

The Federal Courts have stated that “matter” must be defined broadly enough to prevent conflicts of interest, without defining it so broadly that the government loses the services of those who contemplate private careers after their public service. *Medico* at 843. To decide if [Employee] would be working on the same “matter,” Courts have held that it is the same “matter” if it involves the same basic facts, the same parties, related issues and the same confidential information. *Ethical Standards in the Public Sector: A Guide for Government Lawyers, Clients, and Public Officials*, American Bar Association, Section of State and Local Government Law, Publisher; p. 38. Similarly, this Commission has held that the facts must overlap substantially. *Commission Op. No. 96-75 (citing Medico at 842)*. See also *Beebe*.

To determine if there was substantial overlap, the Commission compared the duties and responsibilities during employment to the post-employment activities. Based on the description of [Employee]’s previous job duties and the duties expected of the successful bidders, the Commission decided that [Employee] would be returning to [her former agency] as a consultant in a position almost identical to the position she retired from. The two year post-employment restriction prohibits such ‘revolving door’ activities. In the managerial role, [Employee] had overarching responsibility for her entire section. While she was the [section manager] for the past 10 years, and did not [work on individual projects], she managed staff that [performed that type of work] and she helped manage and select applicants to be placed on [the agency]’s list of qualified [consultants]. Those previously qualified [consultants] would now be her competition for [agency] projects. Even if she submitted the lowest bid and/or was the most qualified candidate, her competitors and the general public would assume she had exerted influence over her former co-workers in order to: (a) be placed on the list of qualified [consultants] and (b) be awarded [agency] projects or assignments. One of the reasons for the imposition of the post-employment restriction is to assure the public that such inside dealings do not occur. See *Medico, supra*.

While subject matter overlap is not always a disqualifying factor when determining the applicability of the post-employment restriction to a particular set of facts, the Commission decided that her previous work as a manager for [the agency] with responsibilities related to [those solicited in the bid request] created a significant overlap with [her previous job duties].

CONCLUSION: [Employee]’s proposed work [as a consultant] could lead the public to believe that her position was obtained as a result of upon undue influence over her former co-workers rather than her qualifications and skills. As a result, she could not work for [the agency as a consultant in the particular field] until after the expiration of the two year post-employment restriction. If [the agency] had an urgent need for qualified applicants, they could apply to the Commission for a waiver. Moved—Commissioner Anderson; seconded Commissioner Mishoe. Vote 5-0, approved.

7. 17-21—Private Interest

[Employee] worked for [a State agency]. She worked with clients seeking particular benefits from the agency]. She was assigned to work in Georgetown.

In addition to her State job, [Employee] wanted to open and manage a facility to provide transitional housing for adults with substance abuse and mental health issues, a resource the State sorely lacks. While the project was proposed as a joint venture with her church, she planned to apply for state, federal and local grants to fund the facility. [Employee] envisioned the program offering counseling, money management skills, and other life skills necessary for independent living to as many as 30 residents. She hoped to receive client referrals from Probation and Parole (“P&P”), a Division of the Department of Corrections (“DOC”), and local rehabilitation centers. She stated she would not personally refer her State clients to the housing facility. The transitional housing facility would be located in Georgetown, Delaware.

[Employee] asked the Commission to consider whether her work as program manager of the transitional housing facility would create a conflict of interest with her State position.

I. Applicable Law

A. In their official capacity, employees may not review or dispose of matters if they have a personal or private interest in a matter before them. 29 Del. C. § 5805(a)(1).

A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter.” 29 Del. C. § 5805(a)(1). As a matter of law, a person has a personal or private interest if any decision “with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent” than others similarly situated or if “the person or a close relative has a financial interest in a private enterprise which would be affected” by a decision on the matter to a greater or lesser degree than others similarly situated. 29 Del. C. § 5805(a)(2)(a) and (b). A personal or private interest is not limited to narrow definitions such as “close relatives” and “financial interest.” 29 Del. C. § 5805(a)(2). Rather, it recognizes that a State official can have a “personal or private interest” outside those limited parameters. It is a codification of the common law restriction on government officials. See, e.g., *Commission Op. Nos. 00-04 and 00-18*. When there is a personal or private interest, the official is to recuse from the outset and even neutral and unbiased statements are prohibited. *Beebe Medical Center v. Certificate of Need Appeals Board*, C.A. No. 94A-01-004 (Del. Super. June 30, 1995), *aff'd.*, No. 304 (Del., January 29, 1996).

The transitional housing facility qualified as a private interest. When asked by the Commission about the potential overlap between her State job and her private interest, [Employee] stated the housing facility would likely accept client referrals from P&P, an agency completely separate from her Department. Additionally, in an effort to further separate her State job duties from her private interest, [Employee] stated she would not work with the facility's residents one-on-one. However, both her State job and her proposed housing facility would be located in Georgetown, Delaware. Given the relatively small population of Sussex County and the probability that the housing facility's residents would apply for [assistance from her agency], the Commission decided that the likelihood she would be able to avoid a conflict of interest by appropriately recusing herself was extremely small. At the hearing, [Employee] admitted it was possible (if not likely) that she would encounter residents from the housing facility while performing her State job duties. Even if her [agency] supervisor was willing to allow her to re-assign her private clients to a State co-worker, there would still be a great deal of overlap between her private interest and her status as a State employee. For example, [Employee] stated she would be applying for State grant monies to fund her private interest but she was not sure which agencies she would solicit for funds. While it was difficult to predict whether those funds would come from her agency, the fact that they would come from a State agency added another layer of complexity to resolving her conflict of interest issues. As to the possibility her private interest would accept referrals from rehabilitation centers, she did not indicate if the

centers were public or private entities, but having already decided that she had a conflict of interest between her State position and her private interest the Commission did not explore the issue any further.

B. Employees may not engage in conduct that may raise suspicion among the public that they are engaging in conduct contrary to the public trust. 29 Del. C. § 5806(a).

The purpose of the code is to insure that there is not only no actual violation, but also not even a “justifiable impression” of a violation. 29 Del. C. § 5802. The Commission treats that as an appearance of impropriety standard. *Commission Op. No. 07-35*. The test is whether a reasonable person, knowledgeable of all the relevant facts, would still believe that the official’s duties could not be performed with honesty, integrity and impartiality. *In re Williams*, 701 A.2d 825 (Del. 1997). Thus, in deciding appearance of impropriety issues, the Commission looks at the totality of the circumstances. *See, e.g., Commission Op. No. 97-23 and 97-42*. Those circumstances should be examined within the framework of the Code’s purpose which is to achieve a balance between a “justifiable impression” that the Code is being violated by an official, while not “unduly circumscribing” their conduct so that citizens are encouraged to assume public office and employment. 29 Del. C. §§ 5802(1) and 5802(3).

A scenario in which a State employee’s clients received services from the employee’s private interest was likely to create an appearance of impropriety amongst the public. The public could suspect that [Employee] would use her status as a State employee to recruit clients for her private interest or that her private clients would receive special treatment from her or her State co-workers. That appearance of impropriety would only be amplified if she was able to secure State grant monies. The public could suspect that she had ‘inside’ information which gave her an advantage over other entities applying for the funding. As a result, it did not matter if [Employee] was the manager of the facility or if she worked behind the scenes. Both roles would likely create an appearance of impropriety.

Another concern was the fact that [Employee] worked in close proximity to P&P’s offices. While she did not describe how the referral process between P&P and her private interest would work, the close proximity of the referring entity to her State work location could be problematic. For example, it would be inappropriate for P&P to send someone [over] to speak to her about transitional housing while she was performing her State job duties, something over which she would have little control. In addition, her private clients could have fallen into the habit of ‘dropping by’ her State work location after reporting to P&P. If [Employee]’s private clients did not respect the boundaries between her two interests, the public could perceive the crossover as inappropriate.

CONCLUSION: The Commission decided that [Employee]’s involvement (on any level) with the proposed transitional housing facility would create a conflict of interest with her State position. Moved—Commissioner Mishoe; seconded—Commissioner Anderson. Vote 5-0, approved.

8. Motion to Go out of Executive Session: Moved--Commissioner Anderson; seconded—Commissioner Smith. Vote 5-0, approved.

9. Adjournment: Next meeting August 15, 2017.

ⁱ Pursuant to 29 Del. C. § 10004(6) to discuss non-public records (29 Del. C. § 10002(6) Any records specifically exempted from public disclosure by statute or common law), as the written statements required for advisory opinions and complaints are subject to the confidentiality standards in 29 Del. C. § 5805(f), 29 Del. C. § 5807(d) Advisory Opinion Requests, and 29 Del. C. § 5810(h) for Complaints. Further, the proceedings, like personnel actions are, by statute, closed unless the applicant for the advisory opinion requests a public meeting, 29 Del. C. § 5805(f), 29 Del. C. § 5807(d), or the person charged in a complaint requests a public meeting. 29 Del. C. § 5810(h). No applicant for an advisory opinion, nor a person charged by a complaint has requested an open meeting.