

LOUISIANA BOARD OF ETHICS
MINUTES
December 17, 2010

The Board of Ethics met on December 17, 2010 at 9:00 a.m. in the LaBelle Room on the 1st floor of the LaSalle Building located at 617 North Third Street, Baton Rouge, Louisiana with Board Members Bareikis, Boyer, Ingrassia, Leggio, Lowrey, Monroe, Simoneaux and Stafford present. Absent were Board Members Bowman, Hymel and Schneider. Also present were the Ethics Administrator, Kathleen Allen; Executive Secretary, Deborah Grier; and Counsel, Alesia Ardoin, Tracy Barker, Aneatra Boykin, Michael Dupree and Deidra Godfrey.

Mr. Kent Schexnaydre, a member of the Ascension Parish Council and owner of Schexnaydre Restoration and Construction, LLC, and his attorney, R. Gray Sexton, appeared before the Board in Docket No. 10-1160 in connection with a request for a waiver of late fees totaling \$25,000 assessed for Mr. Schexnaydre's failure to timely file ten (10) disclosure statements pursuant to Section 1114.3 of the Code of Governmental Ethics.

Board Member Schneider arrived at the meeting at 9:23 a.m.

After hearing from Mr. Schexnaydre and Mr. Sexton, on motion made, seconded and unanimously passed, the Board waived all but \$2,500 of the late fees of which \$1,500 is to suspended conditioned upon future compliance with the Code of Governmental Ethics.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request for rehearing in Docket No. 06-290 in connection with an Order for \$2,000 issued against John J. Doyle, III, a candidate for City of Harahan Police Chief in the October 5, 2002 election, for failure to file his Supplemental campaign finance report which was due by February 15,

2006. On motion made, seconded and unanimously passed, the Board deferred the matter to the January meeting.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request for rehearing in Docket No. 07-237 in connection with an Order for \$2,000 issued against John J. Doyle, III, a candidate for City of Harahan Police Chief in the October 5, 2002 election, for failure to file his Supplemental campaign finance report which was due by February 15,

2007. On motion made, seconded and unanimously passed, the Board deferred the matter to the January meeting.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 10-1151 for a waiver of the \$400 late fee assessed against Albert C. "Buddy" Mincey, Jr., a candidate for Livingston Parish School Board, District 5 in the October 2, 2010 election, whose 30-P report was filed five (5) days late. On motion made, seconded and unanimously passed, the Board deferred the matter to the January meeting.

On motion made, seconded and unanimously passed, the Board adopted the following general business agenda items:

Adopted for publication, a consent opinion in Docket No. 09-062 in which Mitch Maxwell, son of Fifth Louisiana Levee District Board Member Barry Maxwell, agrees that a violation of Section 1113B of the Code of Governmental Ethics occurred by virtue of his submission of a bid to the Fifth Louisiana Levee District, on behalf of Delta Fuel, while his father served as a member of the Fifth Louisiana Levee District Board and resulting in his receipt of a commission based upon the profits of Delta Fuel and in which Mr. Maxwell agrees to pay a fine of \$1,000 to be suspended conditioned upon future compliance with the Code of Governmental Ethics.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, rescinded the Order for \$4,000 and all late fees in Docket No. 09-664 issued against Kurt Garcia, a candidate for Jefferson Parish School Board, District 4 in the April 4, 2009 election, for failing to file his 30-P campaign finance disclosure report, since Mr. Garcia officially withdrew from the race within ten (10) days of qualifying and subsequently filed the 30-P campaign finance disclosure report on October 21, 2010 in which he disclosed that he did not receive any contributions nor did he have any expenditures.

Adopted for publication, consent opinions in Docket No. 09-775 in which Alex Bertrand, Sharon Freeman, Donald Freeman, Gary Davis, Johnny Horton and Ray Monk, employees of the LA Recreational & Used Motor Vehicle Commission, agree that a violation of Section 1111A(1) of the Code of Governmental Ethics occurred by virtue of their receipt of payments to which they were not duly entitled when they received payment for services that they did not provide and in which no fine is to be imposed, since Mr. Bertrand, Ms. Freeman, Mr. Freeman, Mr. Davis, Mr. Horton and Mr. Monk entered into a Mutual Receipt, Release and Settlement Agreement with the Louisiana Recreational and Used Motor Vehicle Commission in which they forfeited all compensatory leave, along with one-half of their accumulated annual leave

Noted a decision rendered by the Ethics Adjudicatory Board in Docket No. 09-1096 finding that lobbyist Charles Lanphier violated Section 24:58(D)(2) of the Lobbyist Disclosure Act by filing his August and September 2009 expenditure reports more than eleven (11) days late and ordering Mr. Lanphier to pay fines totaling \$5,500.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, dismissed the charges in Docket No. 10-464 issued against Aaron Moak, a candidate for Central City Council in the March 27, 2010 election, for his failure to file the 10-G campaign finance disclosure report, since Mr.

Moak filed the required report on September 22, 2010.

Absent requested specific information, declined to render an advisory opinion in Docket No. 10-716 regarding a member of the Louisiana State Board of Home Inspectors performing expert witness services for parties in litigation with persons who may be regulated by the board.

Adopted the revised advisory opinion in Docket No. 10-755 concluding that no violation of the Code of Governmental Ethics is presented by the government employees in the New Orleans Metropolitan area accepting cash awards from the Bureau of Governmental Research (BGR) for outstanding performance and creative problem solving, since the exception in Section 1123(2)(a) allows awards for meritorious public contributions given by public service organizations and is applicable in this situation and further concluded that sponsors are not prohibited from donating funds to the BGR to be used for the awards.

Adopted an advisory opinion in Docket No. 10-912 concluding that the members of the Louisiana Environmental Education Commission Board are not required to file annual personal financial disclosures statements pursuant to Section 1124.2.1 of the Code of Governmental Ethics, since the commission does not have the authority to expend, disburse or invest \$10,000 or more in funds in a fiscal year.

Adopted an advisory opinion in Docket No. 10-940 concluding that no violation of the Code of Governmental Ethics is presented by the New Orleans Home for Incurables, Inc. (NOHI) continuing to donate items and services to the John J. Hainkel Home and Rehabilitation Center (Hainkel) after NOHI enters into a lease with Hainkel, since the funds donated to Hainkel are not used for salaries or for the benefit of any individual. The Board further advised that since legislation authorizes NOHI to enter into a lease with Hainkel, there is no prohibition against Hainkel continuing

to accept the funds while in the process of negotiating the lease.

Adopted an advisory opinion in Docket No. 10-945 concluding that no violation of the Code of Governmental Ethics is presented by Shanna Froust, a former employee of the Shelby Jackson Campus of the Central Louisiana Technical College (CLTC), performing services for the agency on a contractual basis, since Ms. Froust will not be contracting with the CLTC to perform the same services she provided while an employee.

Adopted an advisory opinion in Docket No. 10-973 concluding that no violation of the Code of Governmental Ethics is presented by James Sprinkle serving on the Region 6 Regional Authority Board while also serving as the administrator for “Families Helping Families at the Crossroads of Louisiana”, a 501(C)(3) non-profit organization, as long as Mr. Sprinkle does not perform compensated services for persons that have or seek to have contractual, business or financial relationships with his agency, the Region 6 Regional Authority Board, and does not participate in transactions before the Region 6 Regional Authority Board in which “Families Helping Families at the Crossroads of Louisiana” has a substantial economic interest.

Adopted an advisory opinion in Docket No. 10-986 concluding that a violation of Section 1119B of the Code of Governmental Ethics is presented by Patricia Lisenbea providing substitute bus driver services to the Richland Parish School Board while her brother, Arthur Ray Farmer, serves as a member of the school board, since Ms. Lisenbea will not be employed for at least one year prior to her brother taking office as a school board member on January 1, 2011.

Adopted an advisory opinion in Docket No. 10-988 concluding that Section 1113D of the Code of Governmental Ethics prohibits a company owned by Senator Conrad Appel, III, if he owns an interest greater than five (5%) percent, from bidding on or entering into a contract with the

Louisiana Recovery School District, since the Louisiana Recovery School District was created by the legislature under the administration of the Department of Education, subject to the approval of BESE, and as such, the Louisiana Recovery School District is an agency of the Department of Education. The Board declined to render an advisory opinion with respect the definition of a “quasi-public” entity, since the Code of Governmental Ethics does not contain a definition of “quasi-public” entity.

Instructed the staff to solicit additional information in connection with a request for an advisory opinion in Docket No.10-1006 regarding whether John Millet, a potential insurance agent for St. John the Baptist Parish School System, may pay 1st TPA, a consultant for the St. John the Baptist Parish School Board, for each enrollee in the agent’s insurance plan.

Adopted an advisory opinion in Docket No. 10-1013 concluding that no violation of the Code of Governmental Ethics is presented by Joy Terrell, a former employee with the North Lake Support and Services Center, becoming a credentialed provider for the Department of Children and Family Services (DCFS), as long as Ms. Terrell does not enter into a contract with the North Lake Support and Services Center to provide psychological services and does not assist persons in transactions involving the North Lake Support and Services Center in which she participated while an employee.

Declined to render an advisory opinion in Docket No. 10-1072 regarding whether Mark Jacobs, a newly elected member of the Jefferson Parish School Board, may continue his position as an officer of the Jefferson Parish Economic Development Commission (JEDCO) while serving as a school board member, since the request involves a dual officeholding issue which falls under the Attorney General’s jurisdiction. The Board instructed the staff to forward the request to the Attorney General’s Office.

Adopted an advisory opinion in Docket No. 10-1073 concluding that no violation of the Code

of Governmental Ethics is presented by Barksdale Forward ,Inc. or Caddo Community Action Agency, Inc. receiving funding from Caddo Parish while Woody Wilson, Caddo Parish Administrator, serves on the Board of Directors of Barksdale Forward, Inc. and Erica Bryant, Caddo Parish Director of Finance, serves on the Board of the Caddo Community Action Agency, Inc., since neither Mr. Wilson or Ms. Bryant participate in the recommendation, selection, or approval of the entities to receive the funding.

Adopted an advisory opinion in Docket No. 10-1106 concluding that Section 1111C(2)(d) of the Code of Governmental Ethics prohibits the employer, Lonnie G. Harper and Associates, Inc., of David Minton, a member of the Chenier Plain Preservation and Restoration Board, from bidding on any project or entering into any contract with the Chenier Plain Preservation and Restoration Board while Mr. Minton serves as a board member.

Chairman Simoneaux vacated the Chair. Vice Chairman Boyer assumed the Chair.

Adopted an advisory opinion in Docket No. 10-1107 concluding that no violation of the Code of Governmental Ethics is presented by Justin Cox, an employee of Acadian Ambulance Service, seeking a seat on the Pointe Coupee Police Jury, since Mr. Cox does not own a controlling interest in the ambulance company, nor is he an officer, director, trustee, or partner in the company; he is a salaried employee of the Acadian Ambulance Service, however, he receives no commission for his work. The Board further advised that Section 1112 of the Code of Governmental Ethics will prohibit Mr. Cox, as a police jury member, from participating in matters that come before the police jury regarding Acadian Ambulance Service; however, Section 1120 of the Code will permit Mr. Cox to discuss and debate issues regarding Acadian Ambulance but he must recuse himself from voting on such matters. The Board also advised that Mr. Cox will be required to file a disclosure statement

under Section 1114 of the Code of Governmental Ethics.

Adopted an advisory opinion in Docket No. 10-1108 concluding that no violation of the Code of Governmental Ethics is presented by Hess Engineers, LLC submitting a proposal for engineering services on an infrastructure project in Iberville Parish to be funded by the Community Development Block Program, since Hess Engineers will not be assisting another person with a transaction involving the assessments agreement nor will they be contracting back with the Parish to provide assessments, a service that they previously provided, but instead will enter into a contract to provide engineering services.

Adopted an advisory opinion in Docket No. 10-1112 concluding that no violation of the Code of Governmental Ethics is presented by the employment of Rebecca Hebert as a certified teacher with Lusher Charter School while her mother, Kathleen Riedlinger, serves as the Chief Executive Officer of the Lusher Charter School, since Section 1119B(2)(a)(i) of the Code of Governmental Ethics provides an exception to permit the employment of an immediate family member of a school board member or the superintendent if the person is employed as a certified classroom teacher. The Board further advised that Section 1112B(1) of the Code of Governmental Ethics would prohibit Kathleen Riedlinger from participating in the supervision and management of her daughter's employment with Lusher Charter School. Board Member Schneider recused himself.

Adopted an advisory opinion in Docket No. 10-1122 concluding that Section 1119A of the Code of Governmental Ethics prohibits the daughter of the Town of Stonewall's Town Clerk from accepting employment with the Town of Stonewall, since the Town Clerk is an agency head and her agency is the Town of Stonewall.

Chairman Simoneaux resumed the Chair.

Adopted an advisory opinion in Docket No. 10-1127 concluding that no violation of the Code of Governmental Ethics is presented by Amy Dufrene, a former employee of the LSUHSC-Huey P. Long Hospital, becoming a provider for the Department of Children and Family Services (DCFS), since the DCFS is not defined by the Code as a person and since Ms. Dufrene will not be contracting back with the hospital to perform a service that she performed as an employee of the hospital.

Adopted an advisory opinion in Docket No. 10-1158 concluding that no violation of the Code of Governmental Ethics is presented by Angie Eymard continuing her employment with JV Burke's and Associates if the company has or is seeking a contractual relationship with the St. Tammany Parish Department of Public Works while her husband, Derek Eymard, is employed with the St. Tammany Parish Department of Public Works, since Ms. Eymard does not have an ownership interest in JV Burke's and Associates, she is a salaried employee, she does not receive commissions on any work performed for St. Tammany Parish, and she is not an officer, director, or partner in the company. The Board further concluded that Section 1113A of the Code of Governmental Ethics would prohibit Ms. Eymard from representing JV Burke's and Associates before the Department of Public Works on any contracts it has or is seeking with the Department of Public Works.

Adopted an emergency advisory opinion in Docket No. 10-1184 concluding that no violation of the Code of Governmental Ethics is presented by Gordon's Disposal, LLC, a company owned by Gordon Doerle, contracting with the City of New Iberia and the Iberia Parish Government for the collection and mulching of yard waste and disposal of refuse material if Mr. Doerle should be elected to the Louisiana State Senate, since, as a state senator, Mr. Doerle's agency would be the legislative branch of state government and the contract would be with the City of New Iberia, which would not be under the supervision or jurisdiction of his agency. The Board further advised that Section

1114.3A(1) of the Code of Governmental Ethics will prohibit Gordon's Disposal LLC from having contracts with the City of New Iberia and Iberia Parish Government for disaster recovery services and debris removal after a hurricane or disaster, since the anticipated funding must flow through the Governor's Office of Homeland Security. The Board also advised that Mr. Doerle must file a personal financial disclosure statement within ten (10) days of filing his notice of candidacy and by May 15th of each year if elected.

The Board considered the following general business agenda items:

On motion made, seconded and unanimously passed, the Board approved the minutes of the November 18-19, 2010 meetings.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered requests for "good cause" waivers of late fees assessed against the following candidates:

The Board unanimously declined to waive the late fees assessed against the following:

Docket No. 10-1110 from Craig B. Lee of a \$280 late fee and a \$200 late fee;
Docket No. 10-1124 from Sharon Branan of a \$120 late fee;
Docket No. 10-1149 from Jim Schooler of a \$240 late fee;
Docket No. 10-1150 from John Scott Brumfield of a \$360 late fee;
Docket No. 10-1152 from Elizabeth Davis of an \$800 late fee;
Docket No. 10-1154 from Tehmi Chassion of a \$760 late fee, a \$240 late fee and a \$40 late fee; and,
Docket No. 10-1155 from Michael J. Hebert, Jr. of a \$240 late fee.

Pursuant to Rule 1204C, the Board unanimously rescinded the \$480 late fee in Docket No. 10-1098 assessed against Michele P. Holmes, a candidate for Jefferson Parish School Board, District 5 in the October 2, 2010 election, whose 30-P campaign finance disclosure report was filed eight (8) days late.

The Board unanimously declined to waive the \$600 and \$420 late fees in Docket No. 10-1109

assessed against Frank E. Duson, Jr., a candidate for Town of Vidalia City Marshal in the October 2, 2010 election, whose 30-P and 10-P campaign finance disclosure reports were filed twenty-seven (27) and seven (7) days late but suspended all but \$200 of each late fee conditioned upon future compliance with the Campaign Finance Disclosure Act.

The Board unanimously declined to waive the \$800 late fee in Docket No. 10-1111 assessed against John F. Schwegmann, a candidate for Public Service Commissioner, District 3 in the October 2, 2010 election, whose 30-P campaign finance disclosure report was filed eight (8) days late but suspended \$500 based on the level of activity and no prior late filings.

The Board unanimously declined to waive the \$800 late fee in Docket No. 10-1148 assessed against Mark M. Gonzalez, a candidate for Orleans Parish Judge, 1st City Court in the October 2, 2010 election, whose 10-P campaign finance disclosure report was filed eight (8) days late but suspended \$500 based on the level of activity and no prior late filings.

The Board unanimously declined to waive the \$400 late fee in Docket No. 10-1149 assessed against Jim Schooler, a candidate for Calcasieu Parish School Board in the October 2, 2010 election, whose EDE-P campaign finance disclosure report was filed ten (10) days late but suspended \$300 based on the level of activity reported.

The Board unanimously reduced the \$1,020 late fee to \$100 in Docket No. 10-1153 assessed against Jefferson B. Joyce, a candidate for Monroe City Judge, Division B in the October 2, 2010 election, whose 30-P campaign finance disclosure report was filed seventeen (17) days late, since the report was timely filed in paper format and subsequently electronically filed as required.

The Board considered a request for a waiver in Docket No. 10-611 of the \$2,500 late fee assessed against Lambert Boissiere, III for failure to timely file his annual personal financial disclosure

statement. On motion made, seconded and unanimously passed, the Board waived the late fee, since the Notice of Delinquency was incorrectly served on Mr. Boissiere's father and Mr. Boissiere had filed the disclosure statement resulting in the charges against him being dismissed.

The Board considered a request for a waiver in Docket No. 10-1163 of the \$650 late fee assessed against George Kelley for failure to timely file his personal financial disclosure statement. On motion made, seconded and unanimously passed, the Board declined to waive the \$650 late fee but suspended \$350 conditioned upon future compliance with the Code of Governmental Ethics.

The Board considered a request for a waiver in Docket No. 10-1165 of the \$2,500 late fee assessed against Harry Kellerman for failure to timely file his personal financial disclosure statement. On motion made, seconded and unanimously passed, the Board declined to waive the late fee based on the waiver guidelines.

The Board considered a request for a waiver in Docket No. 10-1166 of the \$2,400 late fee assessed against Anthony Guerra, III for failure to timely file his personal financial disclosure statement. On motion made, seconded and unanimously passed, the Board declined to waive the \$2,400 late fee but suspended \$1,400 conditioned upon future compliance with the Code of Governmental Ethics.

The Board considered a request for a waiver in Docket No. 10-1168 of the \$400 late fee assessed against Stephanie Hebert for failure to timely file her personal financial disclosure statement. On motion made, seconded and unanimously passed, the Board suspended the \$400 late fee based on the waiver guidelines and conditioned upon future compliance with the Code of Governmental Ethics.

The Board considered a request for a waiver in Docket No. 10-1178 of the \$600 late fee

assessed against Dr. Russell P. Pavich for failure to timely file his personal financial disclosure statement. On motion made, seconded and unanimously passed, the Board suspended the \$600 late fee based on the waiver guidelines and conditioned upon future compliance with the Code of Governmental Ethics.

The Board unanimously agreed to consider the following supplemental agenda items:

The Board considered a request in Docket No. 10-944 to withdraw the request for an advisory opinion regarding Mary Hebert becoming an elected alderman for the Town of Erath while her husband, Gerald Hebert, serves as the elected Chief of Police in The Town of Erath,. On motion made, seconded and unanimously passed, the Board granted the withdrawal of the request for an advisory opinion, since Ms. Hebert did not win the election.

The Board considered a request for an advisory opinion in Docket No. 10-1078 regarding Lloyd Porta, Jr., a former employee of the Department of Transportation and Development (DOTD), being employed with a company that is attempting to procure a contract with the DOTD's Submerged Roads Program. On motion made, seconded and unanimously passed, the Board concluded that no violation of the Code of Governmental Ethics is presented by Mr. Porta working for the consultant firm in connection with DOTD's Submerged Roads Program, since Mr. Porta will be assisting the consultant with the Submerged Roads Program which is administered by DOTD's Program Management Section and Mr. Porta was employed in DOTD's Road Design Section.

The Board considered a request for an advisory opinion in Docket No. 10-1186 regarding the Department of Health and Hospitals (DHH) and the Louisiana Health Care Quality Forum amending their cooperative endeavor agreement to allow LHCQF to reimburse DHH for travel expenses incurred by the Health Information Technology(HIT) coordinator. On motion made, seconded and

unanimously passed, the Board concluded that no violation of the Code of Governmental Ethics is presented by the amendment to the cooperative endeavor agreement between DHH and LHCQF, since the contract between DHH and LHCQF will provide for the travel expenses of the HIT Coordinator to be reimbursed to DHH by LHCQF and the HIT Coordinator will not be receiving anything of economic value from LHCQF.

The Board considered a request for an advisory opinion in Docket No. 10-1190 regarding whether the boyfriend of Kelisha Garrett, the Director of Public Relations and Special Projects for a New Orleans councilman, may be awarded a contract to serve as the communications group for the city council. On motion made, seconded and unanimously passed, the Board concluded that no violation of the Code of Governmental Ethics is presented if the Spears Consulting Group enters into a contract with the City of New Orleans, since Cleveland Spears is not an immediate family member of Ms. Garrett nor does Ms. Garrett own a controlling interest in Spears Consulting Group.

The Board considered a request for an advisory opinion in Docket No. 10-1062 regarding Jefferson Parish creating an office of Inspector General by Charter amendment. On motion made, seconded and unanimously passed, the Board declined to render an advisory opinion as to allow Chairman Simoneaux and Ms. Allen an opportunity to meet with parish officials to discuss the matter and obtain additional information.

The Board considered the proposed amendments to Rule 1303 of the Rules for the Board of Ethics regarding the disclosure requirements pursuant to Section 1111E(2) of the Code of Governmental Ethics. On motion made, seconded and unanimously passed, the Board instructed the staff to proceed with the rule promulgation.

The Board unanimously resolved into executive session.

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EXECUTIVE BUSINESS

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The Board unanimously resolved into general business session.

On motion made, seconded and unanimously passed, the Board instructed the staff to dismiss without prejudice the matters pending in the 19th JDC and transfer those matters to the Ethics Adjudicatory Board.

The Board unanimously adjourned at 11:40 a.m.

Secretary

APPROVED:

Chairman