

Original: 2128



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2000 DEC 21 AM 10:39
STATE ETHICS COMMISSION

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309 FINANCE BUILDING
P.O. BOX 11470
HARRISBURG, PA 17108-1470
(717) 783-1610
1-800-932-0936

December 19, 2000

Stephen C. MacNett
General Counsel
Senate Majority Caucus
Room 362 Main Capitol Building
Harrisburg, PA 17120

C.J. Hafner, II
Chief Counsel
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Room 535 Main Capitol Building
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Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

Richard M. Sandusky
Deputy Directory for Regulatory Analysis
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

Mary S. Wyatte, Chief Counsel
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

**Re: State Ethics Commission
Proposed Regulation 63-07**

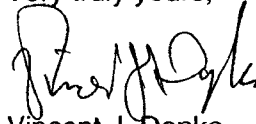
Greetings:

Enclosed please find a photocopy of the proposed regulations as modified per our discussions at the Monday, December 19, 2000, meeting.

In Sections 17.3-6, the parenthetical phrase, "relating to powers and duties of the commission," was substituted by the PA Bulletin during publication. My original submission contained the language, "relating to reporting threshold adjustment." In a discussion with Gary Hoffman, I have been advised that the PA Bulletin in the final form publication will revise the phrase to, "relating to statements of financial interests." For that reason, I have already made the change.

If I do not receive written commentary on or before January 3, 2001, I will assume that everyone is in agreement with the modifications in which case I will submit the proposed regulations as modified to my Commission for review and consideration at its next public meeting.

Very truly yours,

A handwritten signature in black ink, appearing to read "Vincent J. Dopko". The signature is fluid and cursive, with a large initial "V" and "D".

Vincent J. Dopko
Chief Counsel

VJD/se

cc: John J. Contino, Executive Director

CHAPTER 17. STATEMENTS OF FINANCIAL INTERESTS, CONTENT.

* * *

§17.3. Creditors.

(a) Each creditor to whom is owed in excess of \$[50]6500 or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §[4]1105(d) and §19.5 (relating to statements of financial interests reporting—threshold adjustments) shall be reported.

* * *

§17.4. Income.

(a) The name and address of a direct or indirect source of income, including employers, in the aggregate of \$1,[0]300 or more or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §[4]1105(d) and §19.5 (relating to statements of financial interests reporting—threshold adjustments) shall be reported unless the disclosure would require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges.

* * *

§17.5. Gifts.

(a) The name and address of the source of a gift valued in the aggregate at \$2[0]50 or more or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §[4]1105(d) and §19.5 (relating to statements of financial interests reporting—threshold adjustments) shall be reported.

* * *

§17.6. Expense reimbursement.

(a) The name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where the actual expenses for transportation and lodging or hospitality exceed \$650[0], or the amount as adjusted under section 1105(d) of the act (65 Pa.C.S. §[4]1105(d) and §19.5 (relating to statements of financial interests reporting—threshold

* * *

§17.11. Application of Lobbying Disclosure regulations.

See, Lobbying Disclosure regulations, Chapters 31 and 35, as to the differentiation between “gift” and “transportation and lodging or hospitality received in connection with public office or employment” and the determination of such amounts for reporting.

CHAPTER 21. INVESTIGATIONS.

GENERAL

- Sec.
21.1. Complaints.
21.2. Initiation of investigation by the Commission.
21.3. Preliminary inquiries.
21.4. Frivolous complaints; complaints without probable cause, disclosure of complaints.
21.5. Conduct of investigations.
21.6. Confidentiality.

* * *

§21.6. Confidentiality.

(a) As a general rule, no person shall disclose or acknowledge, to any other person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the commission. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this chapter or Section 1108 of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1108, when the matters pertain to any of the following:

(1) final orders of the commission as provided in 65 Pa.C.S. §1108(h);

(2) hearings conducted in public pursuant to 65 Pa.C.S. §1108(g);

(3) for the purpose of seeking advice of legal counsel;

(4) filing an appeal from a commission order;

(5) communicating with the commission or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the commission;

(6) consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency;

(7) testifying under oath before a governmental body or a similar body of the United States of America;

(8) any information, records or proceedings relating to a complaint, preliminary

inquiry, investigation, hearing or petition for reconsideration which the person is the subject of;

~~(9) the divulgence of information that third parties have legally obtained about a confidential Commission proceeding~~ the publication or broadcast of information legally obtained by the news media regarding a confidential Commission proceeding; or

~~(10) the divulgence by individuals who are interviewees or witnesses as to confidential Commission proceedings regarding information that was already in their possession or obtained as a result of participation in such proceedings~~ the disclosure of their own statements.

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STATE ETHICS COMMISSION
REVIEW COMMISSION

Senate of Pennsylvania

Original: 2128

August 25, 2000

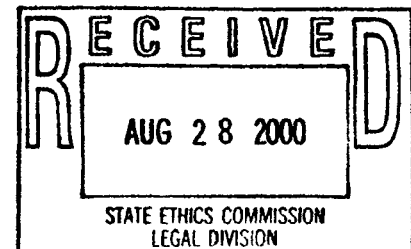
John J. Contino
Executive Director
State Ethics Commission
P.O. Box 11470
Room 309 Finance Building
Harrisburg, PA 17108-1470

Dear John:

We are writing to express our concern about one provision in the regulations proposed by the Commission in Document 63-07, which amends the Commission's regulations contained in Title 51 of the Pennsylvania Code.

Of particular concern is the new section 21.6 (confidentiality) subsection 9. Per conversations with Vince Dopko, Chief Counsel, we are informed this new subsection is meant to address publication of pending proceedings by the news media, where the media has obtained information from sources which do not violate the provisions of Section 1108(k) of the Public Official and Employee Ethics Act. Pa.65 C.S. §1108(k).

While we are aware of the numerous Pennsylvania and United States Supreme Court precedents regarding the news media's First Amendment right to gather and disseminate information, we are concerned the proposed subsection 9 may accidentally include unforeseen situations which should not be exempt.




John J. Contino
August 25, 2000
Page 2.

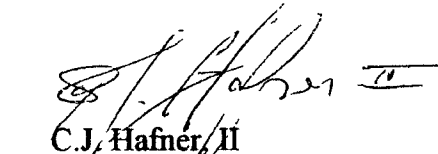
As an alternative, we offer the following:

(9)The publication or broadcast of information legally obtained by the news media regarding a confidential Commission proceeding; or

We believe the proposed alternative will protect both First Amendment and due process rights. If you have any questions or wish to discuss this matter further, please contact us.

Sincerely,


Steve MacNett
General Counsel
Senate Majority Caucus


C.J. Hafner, II
Chief Counsel
Senate Democratic Leader



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REVIEW COMMISSION

November 9, 2000

Original: 2128

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Room 362 Main Capitol Building
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By hand-delivery

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Chief Counsel
Senate Democratic Leader
Room 535 Main Capitol Building
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Brian J. Preski
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House Judiciary Committee
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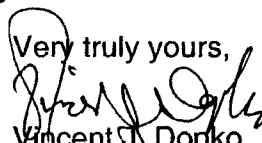
Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101
By hand-delivery

**Re: State Ethics Commission
Proposed Regulation 63-07**

Greetings:

This is to confirm that a meeting has been scheduled for December 1, 2000, commencing at 9:30 a.m. in Room 307 of the Finance Building, Commonwealth Avenue and North Street, to discuss comments submitted as to the above proposed regulation. It is my understanding that Mr. MacNett and Mr. Hafner will be representing the Senate Rules and Executive Nominations Committee in this meeting.

Please do not hesitate to contact me if you have any questions or concerns regarding the meeting.

Very truly yours,

Vincent J. Dopko
Chief Counsel

VJD/rmh



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REVIEW COMMISSION



November 20, 2000

Original: 2128

Mary S. Wyatte, Esquire
Chief Counsel
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mary:

Your request to reschedule the meeting scheduled for December 1, 2000 to discuss your Comments on SEC Regulation 63-07 was received on November 17, 2000.

Your letter was presented to the Chair who has continued the consideration of SEC Proposed Regulation 63-07 from the December meeting until the next public meeting of the Commission.

Since the December 1, 2000 meeting is canceled, I would suggest that we meet in the latter part of December. Please advise.

Very truly yours,
A handwritten signature in black ink, appearing to read "Vincent J. Dopko".

Vincent J. Dopko
Chief Counsel

VJD/se

cc: John J. Contino, Executive Director
C. J. Hafner, Esquire
Stephen C. MacNett, Esquire
Beryl Kuhr, Chief Counsel (Minority)
Robert E. Nyce, Executive Director
Brian J. Preski, Chief Counsel (Majority)



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November 28, 2000

Original: 2128

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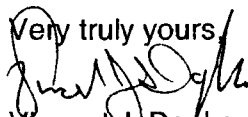
/ Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

**Re: State Ethics Commission
Proposed Regulation 63-07**

Greetings:

This is to confirm that a meeting has been scheduled for Monday, December 18, 2000, commencing at 10:00 a.m. in Room 307 of the Finance Building, Commonwealth Avenue and North Street, to discuss comments submitted as to the above proposed regulation. It is my understanding that Mr. MacNett and Mr. Hafner will be representing the Senate Rules and Executive Nominations Committee in this meeting.

Please do not hesitate to contact me if you have any questions or concerns regarding the meeting.

Very truly yours,

Vincent J. Dopko
Chief Counsel

VJD/se

cc: John J. Contino, Executive Director