

MINUTES

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2 State Board of Elections emergency board meeting was held on August 23, 2010. The
3 meeting was held in the General Assembly Building, 1st Floor conference room D. In attendance
4 were Jean Cunningham, Chair; Harold Pyon, Vice-Chairman; Nancy Rodrigues, Secretary; Matt
5 Abell, Assistant Manager, Election Services; Al Giles, Information Services; and Jim Hopper,
6 Senior Assistant Attorney General.

7 Ms. Cunningham called the meeting to order at 10:08 A.M.

8 Ms. Cunningham stated the Vice-Chairman Harold Pyon was stuck in traffic near Fredericksburg
9 and moved to table the approval of the minutes. The motion was seconded and approved.

10 The next order of business was an update of new SBE regulations to be considered and
11 voted on by the board at the upcoming October board meeting. Staff will document comments
12 from the field on the following regulations and incorporate them in the report that will be
13 submitted at the October board meeting:

- 14 • Material Omissions Candidate Petitions
- 15 • Material Omissions Referendum Petitions
- 16 • Material Omissions Absentee Ballots
- 17 • Residency for Voter Registration
- 18 • Data Security

19 The next order of business was a request to inspect sealed election materials by Campbell
20 County and the City of Galax.

21 Secretary Rodrigues moved to grant Campbell County and the City of Galax permission
22 to inspect sealed election materials. The motion was seconded and unanimously approved.

23 The next order of business was a request for approval of the absentee ballot readiness
24 certification form. Ms. Brissette advised the board that staff had received feedback from the field
25 and the office of the Attorney General. This feedback was favorable and in support of the use of
26 the Absentee Ballot Readiness Certification Form.

27 Secretary Rodrigues moved to approve the use of the absentee ballot readiness
28 certification form. The motion was seconded and unanimously approved.

29 The next order of business was a request for approval of the Statement of Responsibility.
30 Deputy Secretary Alcorn advised the board that this form will document that any person or group
31 requesting and receiving a Virginia Voter List understands and agrees to comply with Virginia

32 law on use of and distribution of the information contained in the Virginia Voter List. Staff is
33 prepared to begin using this form immediately upon approval by the board.

34 Secretary Rodrigues moved to approve the use of the Statement of Responsibility. The
35 motion was seconded and unanimously approved.

36 The next order of business was a request for approval of Election Materials Envelopes
37 Form. Mr. Abell advised the board that this form has been created as a cost saving measure. This
38 form will alleviate wasting empty election envelopes when, after the close of the polls, the
39 election materials are tallied, sealed and sent to the clerk of court. This form will satisfy the
40 requirements of §24.2-668

41 Secretary Rodrigues moved to approve the use of the Election Materials Envelopes Form.
42 The motion was seconded and unanimously approved.

43 The next order of business was a follow-up report on proposed delegation to the
44 Secretary amending policy 2004-007.

45 **Motion to amend Board Policy 2004-007 to add delegation to Secretary relating to**
46 **candidate certification under § 24.2-511(B)**

47 That Board Policy 2004-007, detailing delegations of authority by the State Board of
48 Elections to the Secretary is amended to include the authority provided in § 24.2-511(B) to
49 declare the candidate the nominee of the political party and direct that the candidate name be
50 treated as certified by the party chair in the event that the party chairman fails to make such
51 certification.

52 Mr. Abell advised the board that this policy was presented to both the Republican and
53 Democratic parties and they agree with the amendments to SBE policy 2004-007.

54 Secretary Rodrigues moved to approve the amendments to SBE policy 2004-007. The
55 motion was seconded and unanimously approved.

56 The next order of business was a request for approval of a pilot program in Fairfax
57 County. Mr. Edgardo Cortes, General Registrar for Fairfax County asked the board to approve a
58 pilot program. The pilot project involves sending voters a modified version of B Envelope (Form
59 SBE-706-2) that has the required portions highlighted in yellow. In addition, Fairfax County
60 requests that SBE provide amended instructions for domestic absentee voters, to point out the
61 pilot project.

62 Secretary Rodrigues moved to approve the Fairfax County pilot program using
63 highlighted envelopes in the upcoming election. The motion was seconded and unanimously
64 approved.

65 The next order of business was consideration of Stand-by-Your-Ad violations. Mr. Peter
66 Goldin, Policy Division advised the board that the Campaign Finance staff have worked
67 diligently to review their files regarding, “Stand by Your Ad” violations. Mr. Goldin asked the
68 board to consider their findings.

- 69 • Ben Belrose – A complaint was received that Mr. Ben Belrose did not have the
70 proper disclaimer on his campaign flier, yard signs or Robo-calls.
 - 71 ○ Staff recommends that the penalty be dismissed because a violation did
72 not occur because Mr. Belrose did not reach the threshold requiring him
73 to register and file.

74 Secretary Rodrigues moved to dismiss the penalty. The motion was seconded and
75 unanimously approved.

- 76 • Kelli Grim – Violation was noted by Mayor Robert W. Lazaro, Jr. that there was
77 no disclaimer on a letter that was sent from the Northern Virginia Labor
78 Advancing Workers & Families advocating the election of Kelli Grim.
 - 79 ○ Staff recommended that the penalty be dismissed because.
 - 80 ○ The letter sent by the local union on behalf of Ms. Grim, was created
81 independently and not approved by her, and asked that the penalty be
82 waived.

83 Secretary Rodrigues moved to dismiss the penalty. The motion was seconded and
84 unanimously approved.

- 85 • Bing Lam – A complaint was filed by Elaine Walker that Mr. Lam’s campaign
86 flier did not contain a disclaimer.
 - 87 ○ Staff recommended that the penalty be dismissed pursuant to §24.2-945
88 – Persons required to file independent expenditure disclosure reports;
89 filing deadlines.

90 Secretary Rodrigues moved to dismiss the penalty. The motion was seconded and
91 unanimously approved.

- 92 • Tiffany Carder – A complaint was filed by Elaine Walker that Ms. Carder’s
93 campaign flier did not contain a disclaimer.
 - 94 ○ Staff recommended that the penalty be dismissed pursuant to §24.2-945
95 – Persons required to file independent expenditure disclosure reports;
96 filing deadlines.

97 Secretary Rodrigues moved to dismiss the penalty. The motion was seconded and
98 unanimously approved.

- 99
- Gerald Thomas “Gerry” O’Dell – A complaint was received that a campaign mailing from Mr. O’Dell did not bear the legend “Paid for by” as required by the Campaign Finance Disclosure Act.
- 100
- Staff recommended that a penalty of \$200 be assessed and approved
- 101
- because this was a first time violation occurring within 14 days of the
- 102
- election.
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- 104

105 Secretary Rodrigues moved to approve the assessment of a \$200 penalty for failure to

106 include a disclaimer on a campaign mailing. The motion was seconded and unanimously

107 approved.

- 108
- Portsmouth Responsible Government PAC – Robert Marcus – A complaint was
- 109 received that a campaign mailing did not bear the legend “Paid for by” as
- 110 required the Campaign Finance Disclosure Act.
- Staff recommended a \$200 because the violation did occur within 14
- 111 days of the election. Once Mr. Marcus was notified of the violation
- 112 immediate action was taken to correct the violation.
- 113

114 Secretary Rodrigues moved to approve an assessment of a \$100 penalty for failure to

115 include a disclaimer on a campaign flier. The motion was seconded and unanimously approved.

- 116
- Treska Wilson-Smith – A complaint was filed by Dama E. Rice that there was no
- 117 disclaimer on a campaign email.
- Staff recommended that the penalty be dismissed after determining that
- 118 no violation occurred.
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120 Ms. Tammy Alexander, Chair Petersburg Electoral Board stated that the item in question was

121 placed on door knobs without a disclaimer. The fine levied locally was refunded.

122 Secretary Rodrigues moved to dismiss the complaint. The motion was seconded and

123 unanimously approved.

- 124
- M. W. “Pete” McDuff –
- Staff recommended a penalty of \$50 for the violation because the
- 125 violation did occur.
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127 Mr. McDuff stated that approximately ten flyers were distributed and as soon as he was notified

128 that he was in violation of Virginia law the flyers were immediately destroyed. He had the flyers

129 reprinted after he made sure the new flyers were compliant.

130 Secretary Rodrigues moved to approve the assessment of a \$50 penalty for failure to

131 include a disclaimer on a campaign flier. The motion was seconded and unanimously approved.

132 The next orders of business were requests for waiver of civil penalties by the following:

133 • Doug Smith for Portsmouth City Council – Political Advertisement Disclaimer
134 Violation.

135 ○ Staff recommended that the penalty be upheld because Mr. Smith did not
136 include a disclaimer on his website and failed to provide evidence as to
137 why a penalty should not be assessed.

138 Secretary Rodrigues moved to uphold the staff recommendation and assess the penalty of
139 \$100. The motion was seconded and unanimously approved.

140 • Jeff Frederick – Failure to File a Final Report.
141 ○ Staff recommended that the penalty be upheld because Mr. Frederick
142 was late filing a required report and did not provide sufficient evidence
143 that a penalty should not be assessed.

144 Secretary Rodrigues moved to uphold staff recommendation and assess the penalty of
145 \$100. The motion was seconded and unanimously approved.

146 • Eileen Filler-Corn for Delegate – Failure to File a Report.
147 ○ Staff recommended that the penalty be waived because the report code
148 Delegate Filler-Corn needed to file her report was not entered by SBE
149 staff into the system, making it impossible for her to file.

150 Secretary Rodrigues moved to uphold the staff recommendation to waive the penalty.
151 The motion was seconded and unanimously approved.

152 • Libertarian Party of Virginia – Failure to File a Report
153 ○ Staff recommended that the penalty be waived because of an error with
154 the VA Filing software which made it impossible for the committee to
155 file a timely report. The committee was subsequently able to file when
156 the software problems were corrected.

157 Secretary Rodrigues moved to uphold the staff recommendation to waive the penalty.
158 The motion was seconded and unanimously approved.

159 • Jim Leslie – Failure to File a Timely Report.
160 ○ Staff recommended that the penalty be reduced because at the time his
161 filing was due he was caring for his wife who was undergoing
162 chemotherapy cancer treatments.

163 Secretary Rodrigues moved to reduce the penalty to \$25. The motion was seconded and
164 unanimously approved.

165 • James A. Scheiderman – Failure to File a Timely Report.

166 o Staff recommended that the penalty be upheld because he failed to file
167 the required reports.

168 Mr. Scheiderman advised the board that he was led to believe by his local general
169 registrar's staff that he did not have to file with the State Board of Elections. He filed an
170 exemption form with the local general registrar; however, that exemption only applies to
171 candidates for local office. Mr. Scheiderman stated that candidates are dependent on SBE to
172 correctly direct candidates how to remain compliant to state law.

173 Ms. Cunningham advised Mr. Scheiderman that as a candidate for delegate he is held to a
174 higher standard.

175 Mr. Goldin stated the Code of Virginia is very clear and supports the staff
176 recommendation.

177 Secretary Rodrigues moved to assess a penalty of \$50. The motion was seconded and
178 unanimously approved.

179 The next order of business was a request for waiver of penalties for non registration and
180 failure to file for out of state and federal committees. Mr. Goldin stated that the following
181 committees have been found to do business in the Commonwealth under a different name and
182 have met filing regulations under those other names.

- 183 • Arlington Joint Democratic Committee
- 184 • Northumberland Democratic Committee

185 Secretary Rodrigues moved to uphold staff recommendation to waive the penalties. The
186 motion was seconded and unanimously approved.

187 Mr. Goldin stated that these committees were registered but doing business as (DBA) another
188 entity. However, all of their contributions and expenditures were accounted for under the main
189 committee's name.

190 The next order of were requests for waiver of civil penalties for Non Registration and
191 Failure to File for Political Party Committees for the following committees:

- 192 • Republican Main Street Partnership
- 193 • Republican Jewish Coalition
- 194 • Republican Club of Greater Reston
- 195 • Oregon Democratic Party
- 196 • Delaware Democratic Party
- 197 • Irish American Democratic Committee
- 198 • Republican Italian American PAC

199 ○ Staff recommends that the penalties be waived because they are incorporated, out
200 of state or otherwise exempt from campaign finance disclosure laws.

201 Secretary Rodrigues moved to uphold staff recommendation to waive the penalties. The
202 motion was seconded and unanimously approved.

203 Mr. Goldin asked the board to table the Review of Penalties and Waiver Requests for
204 Rockbridge Citizens Advisory Board, item H on the agenda.

205 Ms. Cunningham agreed to table the matter of Review of Penalties and Waiver Requests
206 for Rockbridge Citizens Advisory Board.

207 The next order of business was a request for waiver of civil penalties for non-registration
208 and failure to file for the following committees:

- 209 • Patriot Republican Women’s Committee
- 210 • Jamestown Council of Republican Women
- 211 • Susan Allen Republican Women’s Club
- 212 • Monticello Council of Republican Women
- 213 • Virginia Federation of Republican Women
- 214 • Mamie Eisenhower Republican Women’s Club
- 215 • Goochland Republican Women’s Club
- 216 • Elizabeth River Republican Women’s Club
- 217 • Commonwealth Republican Women’s Club
- 218 • Huguenot Republican Women’s Club
- 219 • Piedmont Republican Women’s Club
- 220 • James River Republican Women’s Club
- 221 • Heritage Republican Women’s Club
- 222 • Bull Run Republican Women’s Club
- 223 • Dan Valley Republican Women’s Club
- 224 • Princess Anne Republican Women’s Club
- 225 • Nimmo Republican Women’s Club
- 226 • Harrisonburg Rockingham Republican Women’s Club
- 227 • Democratic Club of Greenspring
- 228 • Colonial Republican Women’s Club
- 229 • Hindu Democrats
- 230 • Lake of the Woods Democratic Women’s Club

231 Secretary Rodrigues moved to uphold staff recommendation to waive the penalties. The motion
232 was seconded and unanimously approved.

233 The board approved the following for the remainder of the committees who have not filed as
234 PACs:

235 Notice will be sent of potential violation and will include the full amount of the penalty with the
236 following three options:

237 1) If, within 60 days of receipt of the certified mail notification the group files a
238 Statement of Organization and updates their filings, they would be penalized:

- 239 - \$100 penalty for failure to timely file a Statement of Organization, and
240 - \$100 penalty for failure to file their last report due.

241 NOTE: Failure to remit this \$200 penalty will prompt SBE to turn the matter over to
242 the appropriate Commonwealth's Attorney for collection.

243

244 2) Provide explanation as to the group's exemption from the filing requirement
245 (OOSPC, corporation, not meeting "primary purpose," etc.) - in which case the matter
246 will be brought before the board for a waiver.

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248 3) If the group chooses to ignore the notification and request to provide an
249 explanation or file a Statement of Organization and updated reports, the full penalty
250 amount (going back statutorily 3 years) will be assessed. Failure to remit payment to
251 the general fund will prompt SBE to turn the matter over to the appropriate
252 Commonwealth's Attorney for collection.

253 There being no further business before the board, Secretary Rodrigues moved to adjourn
254 the meeting. The motion was seconded and unanimously approved.

255 The meeting adjourned at 11:40 A.M.

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Chair

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Vice-Chairman

Secretary