

**ALABAMA ETHICS COMMISSION
MINUTES**

October 3, 2018

9:30 a.m.

**9th Floor, RSA Union Building
Montgomery, Alabama**

The Alabama Ethics Commission met on October 3, 2018, at 9:30 a.m. in the Public Service Commission Hearing Room on the 9th Floor of the RSA Union Building.

Present:

Honorable Jerry L. Fielding, Ret. Sr. Circuit Judge, Chair
Honorable Frank C. Ellis, Jr., Esq., Vice Chair
Honorable Charles Price, Ret. Presiding Circuit Judge, Member
Honorable Beverlye Brady, Esq., Member
Honorable John Plunk, Esq., Member
Thomas B. Albritton, Executive Director
Cynthia Propst Raulston, General Counsel
Elizabeth Robison, Director of Finance and Administration
Theresa Davis, Legal Research Assistant
Dustin Lansford, Special Agent
R. Christopher Clark, Chief Special Agent
Chris McCay, Special Agent
Byron Butler, Special Agent
Brian Baker, Special Agent
Jessica L. Grant, Administrative Support Assistant III
Vicky Manning, Lobbyist Liaison
April Innes, Administrative Support Assistant
Austin Gilmore, Clerk
Sara Frost, Administrative Support Assistant
Gretta Ducket, Court Reporter

Absent:

Judge Fielding called the meeting to order at 9:34 a.m., and introduced Pastor E. Baxter Morris, Senior Pastor, First Baptist Church, Montgomery, Alabama, who gave the invocation.

Old Business:

Approval of the minutes from the August 1, 2018 meeting:

Mr. Plunk moved to adopt the minutes as written. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

Approval of the minutes from the September 5, 2018 special called meeting:

Ms. Brady moved to adopt the minutes as written. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.

New Business:

Advisory Opinion No. 2018-11

Requested by Ryan P. Robichaux, Senior Attorney, Bradley, Arant, Boult & Cummings, LLP, Birmingham, Alabama, on behalf of Alabama Consumer Finance Association PAC

Ms. Raulston explained the request for Advisory Opinion No. 2018-11. Brent Beal, Deputy Attorney General, Alabama Secretary of State, Ryan Robichaux, and Bill Espy were present to speak and answer any questions. *Mr. Ellis moved to adopt Advisory Opinion No. 2018-11 as written. Judge Price seconded the motion. Motion passed with three ayes (Ellis, Fielding, & Price), one abstention (Brady), and one recusal (Plunk). Opinion No. 2018-11 holds that it is the conclusion of this Commission that the number of the offense is included in the term "civil penalty" and may be reduced, along with any monetary fine, at the discretion of the Commission after an appeal has been timely filed and upon a showing of good cause by the appellant. Any reduction of a penalty by the Ethics Commission shall not impede the independent prosecutorial authority of the District Attorney or the Attorney General.*

Advisory Opinion No. 2018-12

Requested by Jackie Graham, State Personnel Director, State Personnel Department, Montgomery, Alabama

Director Albritton explained the request for Advisory Opinion No. 2018-12. *Ms. Brady moved to adopt Advisory Opinion No. 2018-12 as written. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting. Opinion No. 2018-12 holds that a public employee changing jobs within the public sector may represent the interests of his or her new public employer before his or her former public employer without violating Ala. Code § 36-25-13(c); provided, that the new employer is not a principal; the employee does not have to register as a lobbyist; the employee has not used his or her position as leverage to obtain the new employment in violation of Ala. Code § 36-25-5(a); and that the employee does not violate Ala. Code § 36-25-8.*

Advisory Opinion No. 2018-13

Requested by Arika C. Parchman, General Counsel, Birmingham City Schools, Birmingham, Alabama

Ms. Raulston explained the request for Advisory Opinion No. 2018-13. *Ms. Brady moved to adopt Advisory Opinion No. 2018-13 as written. Mr. Ellis seconded the motion. Motion passed unanimously with all those present voting. Opinion No. 2018-13 holds that a public official or public employee who has accumulated a bonus for official travel that has been paid for with public funds may keep and personally use whatever bonus was received as a result of that travel. This encompasses any bonuses that are accumulated from any type of travel including, but not limited to, sky miles, frequent flier miles, points for fuel purchased, or hotel stays.*

Motion to Reconsider

Alabama Restaurant & Hospitality Association

Ms. Raulston explained the request for the Motion to Reconsider the Civil Penalty. *Motion to Reconsider failed for lack of a motion.*

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Higher Education Political Action Committee

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State and Doyle Fuller, Attorney were present to speak and answer any questions. *Mr. Ellis moved to set aside the May 2, 2018 and May 21, 2018 civil penalties. Judge Price seconded the motion. Motion passed unanimously with all those present voting.*

AL ALF-CIO PAC

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State and Richard Rouco, Attorney were present to speak and answer any questions. *Ms. Brady moved to reduce the October 3, 2017, November 2, 2017, December 4, 2017, January 3, 2018, February 2, 2018, March 3, 2018, April 3, 2018, May 2, 2018, May 14, 2018, and May 21, 2018 to one (1) offense and impose a civil penalty of \$300.00. Judge Price seconded the motion. Motion passed unanimously with all those present voting.*

Alabama Nursing Home Association

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State and Jackie Ayers were present to speak and answer any questions. *Mr. Ellis moved to set aside the May 31, 2018 civil penalty. Judge Price seconded the motion. Motion passed with four ayes (Brady, Ellis, Fielding and Price) and one abstention (Plunk).*

Jody Campbell

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State was present to speak and answer any questions. *Mr. Plunk moved to set aside the September 5, 2018 civil penalty. Judge Price seconded the motion. Motion passed unanimously with all those present voting.*

Goodwyn, Mills & Cawood PAC

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State and Kristen Gulino were present to speak and answer any questions. *Judge Price moved to set aside the September 5, 2018 offense & civil penalty. Mr. Ellis seconded the motion. Motion passed unanimously with all those present voting.*

Susan Scott Hayes

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State was present to speak and answer any questions. *Mr. Plunk moved to set aside the February 2, 2018, March 2, 2018, April 3, 2018, May 2, 2018, June 5, 2018, July 3, 2018, and August 2, 2018 offenses and civil penalties. Judge Price seconded the motion. Motion passed unanimously with all those present voting.*

Roderick Scott

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State was present to speak and answer any questions. *Ms. Brady moved to set aside the September 5, 2018 offense and civil penalty. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.*

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Mark Allan Story

Ms. Raulston explained the request for the Civil Penalty Appeal. Brent Beal, Deputy Attorney General, Alabama Secretary of State was present to speak and answer any questions. *Mr. Ellis moved to set aside the September 5, 2018 civil penalty. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.*

At 10:30 a.m. Mr. Plunk moved that the Commission go into Executive Session. Ms. Brady seconded the motion. Motion passed unanimously with all those present voting.

At 10:43 a.m. Mr. Plunk moved that the Commission go back into Open Session. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

Motion to Continue Hearing for Reconsideration of Case No. 2017-154

Mr. Ellis moved to continue the hearing for reconsideration of Case No. 2017-154 to December 2018. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

At 10:49 a.m. Mr. Plunk moved that the Commission go into Executive Session. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

At 12:00 p.m. Mr. Plunk moved that the Commission go back into Open Session to vote. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2017-415

Gary Williams, Part-Time Employee, Alabama Board of Examiners in Counseling
Judge Price moved that based on the evidence as presented to this Commission, there currently exist insufficient facts to hold that Gary Williams has violated the Alabama Ethics Act. He further moved that this case be closed. Ms. Brady seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-011

Tonya Lindsey, Employee, Alabama Department of Labor
Judge Price moved that based on the evidence as presented to this Commission, there exists cause to hold that Tonya Lindsey has committed one (1) minor violation of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-034

Roger Chandler, Alabama Southern Community College
Ms. Brady moved that based on the evidence as presented to this Commission, there exists cause to hold that Roger Chandler has committed one (1) minor violation of the Alabama Ethics Act. She

further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Mr. Plunk seconded the motion. Motion passed with four ayes (Brady, Ellis, Fielding, and Plunk) and one recusal (Price).

Case No. 2018-036

Alton Starling, Jr., Candidate, Pike County Probate Judge

Mr. Plunk moved that based on the evidence as presented to this Commission, there exists cause to hold that Alton Starling, Jr. has committed one (1) minor violation of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-051

Jan Cofield, Retired Administrative Support Assistant III, Alabama Board of Pardons & Paroles, Fyffe, Alabama

Mr. Plunk moved that based on the evidence as presented to this Commission, there exists cause to hold that Jan Cofield has committed one (1) minor violation of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Mr. Ellis seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-065

Stacy Boyd, Jail Administrator, Randolph County

Judge Price moved that based on the evidence as presented to this Commission, there exists cause to hold that Stacy Boyd has committed one (1) minor violations of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Ms. Brady seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-109

Diane Jones, Administrative Support Assistant II, Alabama Department of Education

Judge Price moved that based on the evidence as presented to this Commission, there exists cause to hold that Diane Jones has committed one (1) minor violation of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Mr. Plunk seconded the motion. Motion passed with four ayes (Ellis, Fielding, Plunk, and Price) and one recusal (Brady).

Case No. 2018-131

Kenneth Webb, Human Resources Program Specialist, Resource Management Division, Alabama Department of Human Resources

Mr. Plunk moved that based on the evidence as presented to this Commission, there exists cause to hold that Kenneth Webb has committed one (1) minor violation of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-193

Eugene Henry, Sr., Former Employee, Public Services Department, City of Vestavia Hills

Ms. Brady moved that based on the evidence as presented to this Commission, there exists cause to hold that Eugene Henry, Sr. has committed one (1) minor violation of the Alabama Ethics Act. She further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-195

George Witherspoon, Former Employee, Public Services Department, City of Vestavia Hills

Ms. Brady moved that based on the evidence as presented to this Commission, there exists cause to hold that George Witherspoon has committed one (1) minor violation of the Alabama Ethics Act. She further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-197

Christopher Wilson, Former Laborer, Baldwin County Solid Waste

Mr. Plunk moved that based on the evidence as presented to this Commission, there exists cause to hold that Christopher Wilson has committed one (1) minor violation of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Ms. Brady seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-226

David Gidley, Project Manager, Etowah County

Judge Price moved that based on the evidence as presented to this Commission, there exists cause to hold that David Gidley has committed one (1) minor violation of the Alabama Ethics Act. He further moved that this case be handled administratively and that it be referred for review and appropriate legal action to the District Attorney of the appropriate Judicial Circuit. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2017-426

Mike Blakely, Sheriff, Limestone County

Judge Price moved that based on the evidence as presented to this Commission, there exists cause to hold that Mike Blakely has violated the Alabama Ethics Act, and further moved that this case be referred for review and appropriate legal action to the Attorney General of the State of Alabama. Ms. Brady seconded the motion. Motion passed with four ayes (Brady, Ellis, Fielding and Price) and one recusal (Plunk).

Case No. 2018-145

Emanuel Davis, Member, Henry County Board of Education

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Mr. Ellis moved that as to the evidence presented and as it relates to Emanuel Davis that this case be continued for further investigation. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.

Cases Recommended for Dismissal

The following cases were presented to the Commission by Executive Director Albritton, with the recommendation that they be dismissed: Case No. 2017-406; Case No. 2017-425; Case No. 004 (B); Case No. 2018-004 (C); Case No. 2018-044; Case No. 2018-073; Case No. 2018-089; Case No. 2018-090; Case No. 2018-095; Case No. 2018-099; Case No. 2018-111; Case No. 2018-117; Case No. 2018-118; Case No. 2018-188; Case No. 2018-191; Case No. 2018-202 and Case No. 2018-277. *Mr. Plunk moved that the Commission dismiss the cases as recommended. Judge Price seconded the motion. Motion passed unanimously with all those present voting.*

Case No. 2017-216

Sherryann Sinclair, Teacher, Jefferson County Board of Education

Mr. Plunk moved that on June 6, 2018, the Alabama Ethics Commission found that Sherryann Sinclair, Teacher, Jefferson County Board of Education, had committed one (1) minor violation of the Alabama Ethics Law. Sherryann Sinclair requested an administrative resolution on that date. The Commission unanimously approved an administrative resolution of the case and forwarded to the District Attorney of the 10th Circuit. That request has been approved by Michael Anderton, District Attorney, 10th Judicial Circuit. Accordingly, I hereby move that the request be granted and that this matter be handled administratively as follows: 1) that an administrative penalty in the amount of \$100.00 is ordered by the Commission; and 2) that the administrative penalty be paid to the Ethics Commission by cashier's check, money order or online payment on or before October 17, 2018. Judge Price seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-032

Larissa Goodrich, Teacher, Robertsdale High School

Mr. Plunk moved that on August 1, 2018, the Alabama Ethics Commission found that Larissa Goodrich, Teacher, Robertsdale High School, had committed one (1) minor violation of the Alabama Ethics Law. Larissa Goodrich requested an administrative resolution on that date. The Commission unanimously approved an administrative resolution of the case and forwarded to the District Attorney of the 28th Circuit. That request has been approved by Robert Wilters, District Attorney, 28th Judicial Circuit. Accordingly, I hereby move that the request be granted and that this matter be handled administratively as follows: 1) that an administrative penalty in the amount of \$122.00 is ordered by the Commission; and 2) that the administrative penalty be paid to the Ethics Commission by cashier's check, money order or online payment on or before October 17, 2018. Ms. Brady seconded the motion. Motion passed unanimously with all those present voting.

Case No. 2018-094

Shellie Ballard, Career Tech Marketing Teacher, Colbert County Schools, Tuscumbia, Alabama

Mr. Plunk moved that on August 1, 2018, the Alabama Ethics Commission found that Shellie Ballard, Career tech Marketing Teacher, Colbert County Schools, Tuscumbia, Alabama, had committed one (1) minor violation of the Alabama Ethics Law. Shellie Ballard requested an

administrative resolution on that date. The Commission unanimously approved an administrative resolution of the case and forwarded to the District Attorney of the 31st Circuit. That request has been approved by Bryce Graham, District Attorney, 31st Judicial Circuit. Accordingly, I hereby move that the request be granted and that this matter be handled administratively as follows: 1) that an administrative penalty in the amount of \$25.00 is ordered by the Commission; and 2) that the administrative penalty be paid to the Ethics Commission by cashier's check, money order or online payment on or before October 17, 2018. Ms. Brady seconded the motion. Motion passed unanimously with all those present voting.

Penalty Imposition Against 2017 Statement of Economic Interests Non-Filers from the County Level of Government

The Commissioners had been provided with a list of names of individuals at the municipal and state levels of government who had not filed their Statement of Economic Interests after having been notified by the Commission of the Code provisions concerning non-filers. *Mr. Plunk moved that the Commission approve/authorize the staff to proceed with assessing penalties against the individuals named in the lists provided to the Commission beginning October 23, 2018. Ms. Brady seconded the motion. Motion passed unanimously with all those present voting.*

At 12:20 p.m. Judge Price moved that the Commission go into Executive Session. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.

At 1:28 p.m. Ms. Brady moved that the Commission go back into Open Session. Mr. Plunk seconded the motion. Motion passed unanimously with all those present voting.

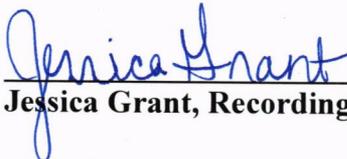
Adjournment

There being no further business, at 1:30 p.m. Mr. Plunk moved that the meeting be adjourned, and Judge Price seconded the motion. Motion passed unanimously with all those present voting.

The next regularly scheduled meeting of the Commission is December 5, 2018.


Jerry L. Fielding, Ret. Sr. Circuit Judge, Chair


Thomas B. Albritton, Executive Director


Jessica Grant, Recording Secretary