

## U.S. COMMISSION ON CIVIL RIGHTS

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## TELEPHONIC MEETING

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THURSDAY, SEPTEMBER 24, 2009

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The Commission convened by teleconference  
at 11:30 a.m., Gerald A. Reynolds, Chairman,  
presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman

ABIGAIL THERNSTROM, Vice Chairman

TODD F. GAZIANO, Commissioner

GAIL L. HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

ASHLEY L. TAYLOR, JR., Commissioner

MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

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STAFF PRESENT:

DAVID BLACKWOOD, General Counsel, OGC

CHRISTOPHER BYRNES

DEBRA CARR

DEMITRIA DEAS

PAMELA A. DUNSTON, Chief, ASCD

MAHA JWEIED

ROBERT LERNER, Asst. Staff Director for OCRE

TINALOUISE MARTIN, Director, OM

EMMA MONROIG, Solicitor

LENORE OSTROWSKY

KIMBERLY TOLHURST

AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

TIM FAY

DOMINIQUE LUDVIGSON

JOHN MARTIN

ALISON SCHMAUCH

RICHARD SCHMECHEL

KIMBERLY SCHULD

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1 P-R-O-C-E-E-D-I-N-G-S

2 (11:40 a.m.)

3 CHAIRMAN REYNOLDS: Good morning. This is  
4 Chairman Reynolds.

5 It is 11:40 a.m. Eastern Daylight Time on  
6 September 24, 2009.

7 We are having a telephonic meeting with  
8 Commissioners participating from different locations.  
9 I'll call the name of each Commissioner in order to  
10 determine if there is a quorum to hold the meeting.

11 Vice Chair Thernstrom?

12 VICE CHAIR THERNSTROM: I'm here.

13 CHAIRMAN REYNOLDS: Commissioner Gaziano?

14 COMMISSIONER GAZIANO: Here.

15 CHAIRMAN REYNOLDS: Commissioner Kirsanow?  
16 Commissioner Kirsanow?

17 (No response.)

18 Commissioner Heriot?

19 COMMISSIONER HERIOT: Here.

20 CHAIRMAN REYNOLDS: Commissioner Melendez?  
21 Commissioner Melendez?

22 (No response.)

23 Commissioner Yaki? Commissioner Yaki?

24 (No response.)

25 Commissioner Taylor?

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1 COMMISSIONER TAYLOR: Here.

2 CHAIRMAN REYNOLDS: Okay. Is the Staff  
3 Director present?

4 STAFF DIRECTOR DANNENFELSER: Present.

5 CHAIRMAN REYNOLDS: Is the Court Reporter  
6 on the line?

7 THE COURT REPORTER: Yes, sir.

8 CHAIRMAN REYNOLDS: Is the Court Reporter  
9 on the line?

10 THE COURT REPORTER: Yes, I'm here.

11 CHAIRMAN REYNOLDS: Very good. The  
12 meeting will come to order.

13 If a Commissioner wants to make a  
14 statement, please identify yourself first. Whenever  
15 it's necessary to take a vote, the following procedure  
16 will be followed. I will call out the name of each  
17 Commissioner. The Commissioner should then answer  
18 yes, no, or abstain. After the voting is concluded, I  
19 will read out how each of you has voted, in order to  
20 ensure that the tally is correct.

21 **I. APPROVAL OF AGENDA**

22 CHAIRMAN REYNOLDS: I move to approve the  
23 agenda. Is there a second?

24 COMMISSIONER GAZIANO: Second.

25 CHAIRMAN REYNOLDS: Okay. I would like to

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1 propose a few changes to the agenda. First, I would  
2 like to postpone consideration of the State Advisory  
3 Committees as listed in Section 4. For Nevada and  
4 Iowa, the Staff Director informs me that staff has  
5 conducted some additional outreach and are working on  
6 additional applicant materials. And this will be  
7 presented to Commissioners shortly.

8 As for North Dakota, two expected  
9 recommendations from the Governor's office did not  
10 materialize, so there is an insufficient number of  
11 proposed candidates. We only have nine, and we need a  
12 minimum of 11 to move forward. Please assist the  
13 staff in completing this package for recharter by  
14 recommending names for good candidates that you may  
15 have for North Dakota.

16 I would also like to amend the agenda,  
17 pursuant to a request from Commissioner Yaki at the  
18 last meeting, to postpone consideration of his motions  
19 regarding the National Conference Subcommittee. We  
20 will add that discussion by adding as a Roman numeral  
21 four on your agenda a section entitled Program  
22 Planning, to appear right after Management and  
23 Operations, under which discussion of the Conference  
24 Subcommittee should appear as the first bullet.

25 Is there a second? Is there a second?

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1 COMMISSIONER GAZIANO: Second?

2 CHAIRMAN REYNOLDS: Discussion?

3 (No response.)

4 Okay. Vice Chair --

5 COMMISSIONER GAZIANO: Mr. Chairman, this  
6 is Todd Gaziano. I was momentarily distracted. Did  
7 you add the item that I think -- the letter that Pete  
8 had circulated?

9 CHAIRMAN REYNOLDS: Oh, thanks for  
10 reminding me. No, I did not.

11 I also move to -- move the agenda to vote  
12 on sending a brief letter to Attorney General Holder  
13 regarding ACORN, in light of recent events that  
14 circulated -- that his Special Assistant circulated to  
15 all Commissioners yesterday evening for consideration  
16 at today's meeting.

17 I would like for it to appear as a first  
18 bullet under the newly-created Program Planning  
19 section, right before the discussion of Commissioner  
20 Yaki's National Conference motions.

21 So is there --

22 COMMISSIONER GAZIANO: I resecond the  
23 amended agenda.

24 CHAIRMAN REYNOLDS: Thank you.  
25 Discussion?

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1 (No response.)

2 Okay. Vice Chair Thernstrom, how do you  
3 vote with respect to the amended agenda? Vice Chair  
4 Thernstrom?

5 STAFF DIRECTOR DANNENFELSER: Mr. Chair, I  
6 think she may be on a phone -- separate phone call.

7 TIM FAY: She has a medical emergency with  
8 a grandchild. She will be rejoining the conference.

9 CHAIRMAN REYNOLDS: I'm sorry. Did you  
10 say that she would be rejoining us?

11 STAFF DIRECTOR DANNENFELSER: She has a  
12 medical emergency with a grandchild, and she will be  
13 rejoining the conference shortly.

14 CHAIRMAN REYNOLDS: Okay. Without her, I  
15 do believe we do not have a quorum.

16 COMMISSIONER HERIOT: Well, do we have  
17 Pete yet?

18 COMMISSIONER GAZIANO: I thought we --  
19 one, two, three, four, five, no, I think it's the  
20 Chairman, Heriot, me, oh maybe I can't count -- one,  
21 two --

22 COMMISSIONER HERIOT: Yaki was here for a  
23 while evidently and has disappeared, because he  
24 thought we wouldn't have a quorum or some such reason.  
25 We need to raise Pete.

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1 CHAIRMAN REYNOLDS: Yes.

2 COMMISSIONER HERIOT: Or wait for Abby to  
3 get back.

4 CHAIRMAN REYNOLDS: Okay. Operator?

5 OPERATOR: Yes?

6 CHAIRMAN REYNOLDS: Okay. We have lost  
7 the quorum. The business piece of the meeting can't  
8 go on, so can you take the Commissioners off the  
9 public line?

10 OPERATOR: Okay. I will let you know when  
11 you can reconvene. One moment.

12 (Whereupon, the proceedings in the foregoing matter  
13 went off the record at 11:46 a.m. and went  
14 back on the record at 12:28 p.m.)

15 CHAIRMAN REYNOLDS: Okay. This is  
16 Chairman Reynolds. I just want to let everyone know  
17 that the items that are on the agenda will have to be  
18 discussed at a later meeting. We do not have a  
19 quorum.

20 I also want to point out that two  
21 Commissioners were on the line. Vice Chair Thernstrom  
22 had to leave. Commissioner Yaki also indicated that  
23 he had to leave, although the operator informs me that  
24 on at least two and maybe three occasions he called in  
25 and was on the line. We attempted to confirm that he

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1 was on the line, but we never received a response from  
2 him.

3 This is the second time that we have lost  
4 a quorum under interesting circumstances.

5 COMMISSIONER KIRSANOW: Who do we have?

6 COMMISSIONER HERIOT: Who do we have right  
7 now?

8 COMMISSIONER KIRSANOW: Yes.

9 CHAIRMAN REYNOLDS: Okay. Right now we  
10 have Commissioners Gaziano, Kirsanow, Heriot.  
11 Commissioner Taylor was on the line and attempted to  
12 stay with us, so that we could take care of Commission  
13 business. However, recently he had to get off the  
14 line himself. But he hung in there as long as he  
15 could while we tried to scare up a quorum.

16 Would any of the Commissioners like to  
17 weigh in on this issue?

18 COMMISSIONER HERIOT: Well, I think it's  
19 worthwhile to point out exactly how this happened. At  
20 the beginning, we had a quorum. Vice Chair Thernstrom  
21 was called away because she said her grandchild was  
22 having a medical emergency.

23 COMMISSIONER KIRSANOW: Commissioner  
24 Heriot, at the beginning who comprised the quorum?

25 COMMISSIONER HERIOT: The quorum, I

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1 believe, was the Chairman, the Vice Chair,  
2 Commissioner Gaziano, me, and Commissioner Yaki. So  
3 we had a quorum.

4 COMMISSIONER GAZIANO: And Taylor was on.

5 COMMISSIONER HERIOT: And Taylor was on at  
6 the beginning, so that was six. When Commissioner  
7 Thernstrom dropped out, we had a bare quorum. And  
8 then, suddenly Commissioner Yaki had to go as well.  
9 So at that point we had no quorum.

10 At that point, we made efforts to raise  
11 Commissioner Kirsanow, and Commissioner Yaki e-mailed  
12 the Chairman to say that he was on an important  
13 business call and might be able to return later, or  
14 maybe not.

15 And so finally we were able to get hold of  
16 Commissioner Kirsanow, and at that point we had a  
17 quorum again. And then, Commissioner Yaki called in.  
18 So then as soon as we had a quorum Commissioner Yaki  
19 then rejoined the call. So at that point we had not  
20 just five but six.

21 But when it turned out that Commissioner  
22 Taylor had to leave, he had said that he had a -- he  
23 would have to leave at some point because of a  
24 business meeting, at that point when we found that  
25 Commissioner Taylor was not there, again, we had a

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1 bare quorum. And at that point, Commissioner Yaki  
2 left the call as well.

3 CHAIRMAN REYNOLDS: Well, it's not clear  
4 whether he left the call.

5 COMMISSIONER HERIOT: Well, it could be  
6 that he's still on the call, but he is not responding.  
7 It is true that the operator said that the line is  
8 still open, but that's all we know.

9 CHAIRMAN REYNOLDS: Okay, folks. We'll  
10 try this again. And we're going to -- it's clear now  
11 that we'll have to pick a time where we have a high  
12 level of confidence that the Commissioners that are  
13 willing to take care of Commission business are  
14 available.

15 COMMISSIONER KIRSANOW: I want to  
16 apologize again for my unavailability. Generally  
17 speaking, as you all know, I am generally available  
18 for these matters and had expected to be on the call  
19 at the appropriate time. Just accept my apologies,  
20 please.

21 **V. ADJOURNMENT**

22 CHAIRMAN REYNOLDS: Okay, folks. Take  
23 care.

24 (Whereupon, at 12:32 p.m., the proceedings  
25 in the foregoing matter were adjourned.)

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