

2017-213 Discussion Regarding Public Reprimand Issued by State Commission on Judicial Conduct April 27, 2017 - C Clement and K Scanlon

..Title

Resolution Approval – Consider Reconvening the Complaint Committee in Connection with the Director Oakley Facebook Matter and Consider Other Action(s) as Outlined in the PEC Bylaws for Director Removal

..Submitted By

Director C. Clement and Director K. Scanlon

..Discussion

The Board of Directors will discuss the public reprimand issued by the State Commission on Judicial Conduct dated April 27, 2017, regarding the social media post associated with the comment, “tree and a rope,” as expressed by Director Oakley through his Facebook account.

..Resolution Body

WHEREAS, on January 17, 2017, the PEC Board adopted the Complaint Committee of the Board of Directors Report and Recommendation dated January 6, 2017, to issue a warning to Director Oakley concerning his behavior relative to the “tree and rope” social media event. The warning clearly identified that “No Member or employee should be subject to any actual, or perceived, act of retaliation for their individual input into the Cooperative’s review of this matter. Retaliation is strictly prohibited under PEC policy; and the Board authorizes and encourages PEC Management to act swiftly under current PEC policy and procedures with the reporting and immediate addressing of any action of retaliation.” and;

WHEREAS, Mr. Oakley was not happy with the PEC punishment and is apparently disregarding the warning. He was quoted in the media in January 2017 saying “...I disagree with the process, I disagree with the findings, and I disagree with the recommendation...” and;

WHEREAS, Directors have received complaints regarding Director Oakley’s current personal behavior and is considered defiant, unbridled, and does not conform to the non-retaliatory standard required by the above-mentioned warning, and;

WHEREAS, on 27 April 2017, the Texas Commission on Judicial Conduct (CJC) did not accept Mr. Oakley’s reasoning for his behavior. The CJC issued a Public Reprimand and Order of Additional Education, to include racial sensitivity, for Mr. Oakley. The CJC conclusion was “...from the facts and evidence presented that by posting the Facebook Post, Judge Oakley cast reasonable doubt on his capacity to act impartially in the performance of his duties, in violation of Canon 4A(1), and engaged in willful conduct that cast public discredit on the judiciary and the administration of justice, in violation of Article V, 1-a(6)A of the Texas Constitution,” and;

WHEREAS, PEC Directors are similarly bound to guard public and personal actions that could impact the Cooperative, and other conduct standards appear throughout PEC Bylaws and policies. Admonishments were specifically spelled out in the warning Mr. Oakley received. PEC Bylaws specify that a “cause” for removal includes “the bringing of such disrepute or disparagement to the Cooperative by unacceptable personal conduct,” and;

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WHEREAS, Director Oakley's continuing defiance of the disciplinary measures levied by his fellow board members is rendering him unfit to continued service as a Director of the co-op. He apparently believes he is unbound by the board warning, and;

WHEREAS, Mr. Oakley's continued presence on the board of directors is detrimental and disruptive to business processes of Cooperative. The workforce is embroiled in the conflict and is distracted and disturbed. PEC is still reeling from the "rope and a tree" incident and will be linked to the act for years to come. PEC needs time to heal and move forward and beyond the damage the cooperative has suffered to date, and;

WHEREAS, PEC Bylaws, policies and procedures allows for Directors to police their own body for "cause", that includes violations of Director's fiduciary duty or Code of Conduct/Ethics policies or the "bringing of such disrepute or disparagement to the Cooperative by unacceptable personal conduct" per the Bylaws, and;

WHEREAS, Director's fiduciary responsibility is to protect the cooperative from harm, both reputationally and financially, including risk of costly litigation, we are also bound by duty of loyalty to act in good faith and in the best interests of PEC members on an impartial basis, and place PEC interests higher than our own personal interest. Our duty of obedience is to ensure we adhere to all obligations imposed by federal and state rules and regulations. We are not bound to protect retaliatory behavior but to stop it. I ask for your support to end this current chaos now, and;

BE IT FURTHER RESOLVED, that considering all items above, The Board of directors therefore resolves to:

- Reconvene the Disciplinary Committee to amend and revise its recommendation to the Board, after considering Mr. Oakley's noncompliance of terms and conditions of the January warning, the impact of the CJC public reprimand, and;
- To consider actions to remove Director Oakley in accordance with the Bylaws procedures.

BE IT FURTHER RESOLVED, that the Chief Executive Officer, or designee(s), are authorized to take all such actions as may be necessary to implement this resolution.