



CODE OF CONDUCT
FOR
COMMISSIONERS OF THE ENVIRONMENTAL COMMISSION
OF TRINIDAD AND TOBAGO

October 2004

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The Environmental Commission Code of Conduct

PREAMBLE

By section 81(3) of the Environmental Management Act 2000, the Environmental Commission is established as a superior court of record. As a consequence, the members of the Commission, both full time and part time, perform a judicial function consistent with a superior court of record. It is necessary therefore, to develop a code of conduct consistent with the status of the Commissioners. The draft Code set out hereinafter is not intended to be an exhaustive guide for the conduct of the Commissioners. It is however, a series of guidelines intended to assist in the maintenance of high standards of judicial and personal conduct.

INTERPRETATION

In this Code of Conduct:

"any member of the Commissioner's family" means a spouse, child, grandchild, parent, grandparent or other relative or person with whom the Commissioner maintains a close family relationship or in relation to whom the Commissioner is *in loco parentis*.

"Commission" means "the Environmental Commission of Trinidad and Tobago".

"fiduciary" includes such relationships as executor, administrator, trustee or guardian.

"financial interest" means ownership of a legal or equitable interest or a relationship with another as director, advisor, or other active participant in that other's affairs, except that:

- (i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the Commissioner participates in the management of the fund;
- (ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organisation;
- (iii) the proprietary interest of a shareholder in a limited liability company or a policy holder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the issuer only if the outcome of the proceedings could substantially affect the value of the interest;
- (iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

RULE 1

A Commissioner shall uphold the integrity and independence of the Commission.

An independent and honourable Commission is indispensable to the administration and dispensation of justice in our society. A Commissioner shall at all times observe high standards of conduct so that the integrity and independence of the Commission is preserved.

RULE 2

A Commissioner shall at all times avoid impropriety or the appearance of impropriety.

1. *A Commissioner shall, at all times comply with the law and should act in a manner that promotes public confidence in the integrity and impartiality of the Commission.*
2. *A Commissioner should not allow family, social or other relationship to influence judgment or judicial conduct.*
3. *A Commissioner should not lend the prestige of judicial office to advance the private interests of the Commissioner or others, nor should a Commissioner convey or permit others to convey the impression that the Commissioner is in a special position to influence judicial conduct.*

RULE 3

A Commissioner shall perform the duties of his/her office impartially, diligently and responsibly.

The judicial duties of a Commissioner should take precedence over all other activities. A Commissioner's judicial duties include all the duties of office prescribed by the law. In the performance of these duties the following standards should apply:

A. Adjudicative Duties

1. A Commissioner shall be faithful to his/her profession and shall actively take steps to maintain professional competence in it.
2. A Commissioner shall maintain order and decorum in all proceedings before the Commissioner.
3. A Commissioner shall perform his/her judicial duties without fear or favour and shall not be swayed by partisan interest, public clamour or fear of criticism.

4. A Commissioner shall be patient, dignified and courteous to litigants, witnesses, attorneys and others with whom the Commissioner deals in an official capacity, and should require similar conduct of attorneys, Commission officials, staff and others subject to the Commissioner's direction and control.
5. A Commissioner shall not in the performance of judicial duties, by words or conduct, intonation or gesture manifest bias or prejudice, including but not limited to bias or prejudice based upon race, gender, religion, national origin, disability, age, marital status or socioeconomic status, and shall not knowingly permit Commission officials, staff and others subject to the Commissioner's direction and control to do so.
6. A Commissioner shall require attorneys in proceedings before the Commission to refrain from manifesting by words or conduct, intonation or gesture, bias or prejudice, including but not limited to bias or prejudice based upon race, gender, religion, national origin, disability, age, marital status or socioeconomic status, against parties, witnesses, attorneys or others. This requirement does not preclude legitimate advocacy when any of these factors is an issue in the proceeding.
7. A Commissioner shall dispose of all judicial matters promptly, efficiently and fairly and in particular, give judgment and reasons in writing, where appropriate, with reasonable expedition.
8. A Commissioner shall abstain from public comment about a pending or impending proceeding before the Commission and shall require similar abstention on the part of the Commission's personnel.
9. A Commissioner shall not disclose or use, for any purpose unrelated to judicial duties, non-public information acquired in a judicial capacity.
10. A Commissioner should refrain from publicly defending his decision or judgment once given.

B. Administrative Responsibilities

1. A Commissioner shall diligently discharge a Commissioner's administrative duties and shall maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other Commissioners and Commission officials and staff.
2. A Commissioner shall avoid nepotism and favouritism.
3. A Commissioner shall require Commission officials, staff and others subject to the Commissioner's direction and control, to observe the same standard of fidelity and diligence applicable to the Commissioner.

4. A Commissioner with supervisory authority over other Commissioners should take reasonable measures to assure the timely and effective performance of their duties.

C. Disciplinary Responsibilities

A Commissioner who receives information indicating a substantial likelihood that another Commissioner has committed or is about to commit an infraction of any of these Rules shall draw this to the attention of the Commissioner and of the Chairman.

D. Disqualification

1. A Commissioner shall not participate in a proceeding in which the Commissioner's impartiality might reasonably be questioned, including but not limited to instances where:
 - i. the Commissioner has a personal bias or prejudice concerning a party;
 - ii. the Commissioner has personal knowledge of disputed facts concerning the proceedings;
 - iii. the Commissioner or his/her spouse served as an attorney-at-law or as a consultant or as a liaison person in the disputed matter;
 - iv. the Commissioner knows that the Commissioner or any member of the Commissioner's family, whether or not residing in the Commissioner's household has a financial interest in the subject matter in controversy or is a party to the proceedings or has any other interest that can be affected by the proceedings;
 - v. the Commissioner knows that the Commissioner or any member of the Commissioner's family, whether or not residing in the Commissioner's household or any person known to be related to the Commissioner, is a party to the proceedings, or an officer, director or trustee of a party to the proceedings or has an interest that could be substantially affected by the proceedings;
 - vi. the Commissioner has served in governmental employment and in such capacity, or otherwise, participated as counsel, adviser, consultant or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.
2. A Commissioner shall keep informed about the Commissioner's personal, financial and fiduciary interest and shall make a reasonable effort to be informed about the personal, financial and fiduciary interests of the Commissioner's spouse and minor children residing in the Commissioner's household.

3. Remittal of Disqualification

- i. It is the duty of the Commissioner to disclose to the parties all matters known to the Commissioner which could reasonably form the basis of an application that the Commissioner disqualified himself or herself whether or not an issue is raised by the parties.
- ii. Where an issue is raised with respect to the disqualification of a Commissioner, a note shall be made on the record of all matters concerning or advanced in disqualification. The Commissioner shall make a formal ruling on the issue of disqualification.
- iii. Following the disclosure of all matters which could reasonably form the basis for disqualification, the parties may nonetheless agree that the Commissioner shall not be disqualified. In such a case, the Commissioner should not continue to hear the matter unless the Commissioner is morally convinced that the he/she will be unaffected by the matters raised and will be impartial. Any such agreement must be incorporated in the record of the proceedings.

RULE 4

A Commissioner may engage in Activities to Enhance Environmental Awareness, Law, the Legal System and the Administration of Justice.

A Commissioner, subject to the proper performance of his judicial duties may speak, write, lecture, teach and participate in matters concerning the environment, the law and engage in the arts, sports, and other social and recreational activities provided that in so doing he/she does not detract from the dignity of the Commissioner's office or compromise the Commissioner's capacity to decide impartially any issue that may come before him/her.

RULE 5

A Commissioner shall conduct his/her extra-judicial activities in such a manner so as to minimize the risk of conflict with judicial functions.

A. Civic and Charitable Activities

1. A Commissioner may participate in civic and charitable activities that do not reflect adversely upon the Commissioner's impartiality or interfere with the performance of official duties. A Commissioner may serve as an officer, director, trustee or non-environmental adviser of an educational, religious, charitable, fraternal or civic organization not conducted for the economic or political advantage of members subject to the following limitations:
 - i. A Commissioner should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the Commission or will be regularly engaged in adversary proceedings before the Commission;
 - ii. A Commissioner should not use or permit to be used, the prestige of judicial office for the solicitation of funds for any educational, religious, charitable, fraternal or civic organisation but the Commissioner may be listed as an officer, director or trustee of such and organization. Use of an organisation's letterhead for fundraising or membership solicitation does not violate this provision, provided the letterhead lists only the Commissioner's name and office or other position in the organization;
 - iii. A Commissioner should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism;
 - iv. A Commissioner shall not be a member of a board, organisation or company which presents or may potentially present a conflict of interest with the Commissioner's duties.

B. Financial Activities

1. A Commissioner shall not engage in financial and business dealings, that detract from the dignity of the Commissioner's office or that interfere with the performance of the Commissioner's judicial duties or that present a conflict of interest with the Commissioner's duties or that cast reasonable doubt on the Commissioner's capacity to act impartially.
2. A Commissioner, subject to the requirements of this Code, may hold and manage investments, including real estate, and engage in other remunerative activity but should not serve as an officer, director, active partner, manager, adviser, or employee of any business other than a business closely controlled by members of the Commissioner's family.
3. A Commissioner shall manage investment and other financial interests to minimize the number of cases in which the Commissioner is disqualified. As soon as a Commissioner can do so without serious financial detriment, a Commissioner shall divest himself or herself of investments and other financial interests that might require frequent disqualification.
4. Neither a Commissioner nor a member of the Commissioner's family, whether residing in the Commissioner's household or not should solicit or accept a gift, bequest, favour or loan from anyone except for:
 - i. a gift incidental to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the Commissioner and a family member to attend a bar-related function or an activity devoted to the improvement of the environment, the law, the legal system or the administration of justice;
 - ii. a gift, award or benefit incidental to the business, profession or other separate activity of a spouse or other family member of a Commissioner residing in the Commissioner's household, including gifts, awards and benefits for the use of both the spouse and other family member and the Commissioner, provided the gift, award or benefit could not reasonably be perceived as intended to influence the Commissioner in the performance of judicial duties;
 - iii. ordinary social hospitality;
 - iv. a gift from a relative or friend for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;
 - v. a gift, bequest, favour or loan from a relative or close personal friend whose appearance or interest in a case would in any event require that the Commissioner take no official action with respect to the case;

- vi. a loan from a lending institution in its regular course of business on the same terms generally applicable to persons who are not Commissioners;
 - vii. a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants or
 - viii. any other gift or bequest, favour or loan, only if:
 - a. the donor has not sought and is not seeking to do business with the Commission or
 - b. the donor is not a party or person who has come or is likely to come before the Commissioner or whose interests may be substantially affected by the performance or non-performance of the Commissioner's official duties.
5. Information acquired by a Commissioner in the Commissioner's judicial capacity should not be used or disclosed by the Commissioner in financial dealings or for any other purpose not relevant to the Commissioner's judicial duties.

C. Fiduciary Activities

A Commissioner should not serve as the executor, administrator, trustee, guardian or other fiduciary except for the estate, trust, or person of a member of the Commissioner's family, and then only if such service will not interfere with the proper performance of judicial duties. As a family fiduciary, a Commissioner is subject to the following restriction:

While acting as a fiduciary a Commissioner is subject to the same restrictions on financial activities that apply to the Commissioner in his/her personal capacity.

D. Practice of Profession

A Commissioner should not practise law nor practise in the field for which the Commissioner is employed at the Commission.

E. Extra-judicial Appointments

A Commissioner shall not accept appointment to a governmental committee, board or commission, or any position that is concerned with matters of political controversy or matters which may affect the public perception of the independence, impartiality and integrity of the Commission.

RULE 6

A Commissioner shall refrain from Political Activity

- A. A Commissioner shall not:
 - 1. hold any office in a political organization;
 - 2. make speeches for a political organization or candidate or publicly endorse a candidate for public office;
 - 3. solicit funds for or make a contribution to a political organization or candidate, attend political gatherings or purchase tickets for political party dinners or other functions.
- B. A Commissioner shall resign from office before becoming a candidate for local government election, general election or for political office.
- C. A Commissioner shall not directly or indirectly engage in any other political activity except to vote by secret ballot.

ANNOTATIONS

All Commissioners of the Commission shall comply with these Rules except as provided below:

Part-time Commissioner – A part-time Commissioner is a Commissioner who serves on a periodic or continuing basis, but is permitted by law to devote time to his/her profession or occupation and whose compensation for that reason is less than that of a full time Commissioner.

A part –time Commissioner is not required to comply with Rules 5B2, 5C and 5D.

19th October 2004