

EXECUTIVE COMMITTEE MINUTES
Monday, November 8, 2021

PRESENT	Laura Anastasio Ernise Singleton Brian Henry John "Don" Kaminar Mary Gable Rosemarie Kraeger	Connecticut Commissioner Louisiana Commissioner Missouri Commissioner Arkansas Commissioner Maryland Commissioner Rhode Island Commissioner	Chair Vice Chair Treasure & Finance Past Chair Rules Immediate Past Chair
EXCUSED	Chuck Clymer	DoD Representative	Ex-Officio
STAFF	Cherise Imai Lindsey Dablow	Executive Director Training & Operations Assoc.	Secretary
GUESTS	Rick Masters	Outside General Counsel	

ITEM 1 – CALL TO ORDER

1. Chair Laura Anastasio (CT) called the meeting to order at 11:06 AM ET on Monday, November 8, 2021.

ITEM 2 – ROLL CALL

2. Roll call was taken by Cherise Imai, Executive Director (ED). A quorum was established. Note: standing committee chairs had not been appointed by Chair Anastasio at that time.

ITEM 3 – APPROVAL OF THE AGENDA

4. Commissioner Mary Gable (MD) motioned to approve the agenda with one modification, an added item of Executive Session, seconded by Vice Chair Ernise Singleton (LA). Motion carried.

ITEM 4 – THE ANNUAL BUSINESS MEETING AND NATIONAL GUARD AND RESERVES

5. Chair Anastasio thanked members for attending the call and noted the standing committee chairs for Communications and Outreach; Training; and Compliance seats were vacant and had not been appointed yet.

6. She stated the committee was surprised and disappointed in the statements expressed by General Counsel during the National Guard and Reserve discussion at the Annual Business Meeting that impacted the options available to the Commission for expansion of the Compact to Guard and Reserve members beyond Title 10 status. She noted she was puzzled and extremely disappointed, and it looked like the Executive Committee (EXCOM) did not do its due diligence. Overall, the incident did not reflect well for the EXCOM, nor the Commission.

7. Chair Anastasio asked General Counsel to provide background on why the EXCOM was not notified of the case, as it is dated from 2020. In addition, he had access to the Agenda and Docket Book prior, and she would have expected him to review both prior to the meeting.

8. Mr. Rick Masters, General Counsel, stated he had knowledge of the case however it was recently accepted for review by the Third Circuit (Court) and the case was not done yet. It was not clear to him on the agenda that a specific motion that would be made to approve the concept of expanding the compact to include the children of the National Guard and Reserve. As part of that motion, a selection of Memorandum of Understanding (MOU) or Agreement (MOA) as the means for doing that, and he could not sit by and ignore the fact this crates some problems. He said it was wiser to defer the action until commissioners could be informed.

9. He stated he could have communicated this to leadership and staff in-person in the studio (at the Little Rock Marriot) if he had been there for the second day of the meeting. However he had to fly out on the evening of the first day for a family emergency. As he called in virtually on the second day, there was no way for him to communicate his concerns. In reviewing the agenda, he thought just a motion would just be made to expand the coverage of the compact.

10. Chair Anastasio asked him if he had communicated with Chair Kaminar or any commissioners on the issue prior to the meeting. Mr. Masters said he had not, and he thought the commission was going approve and authorize the Compact expansion to the Guard and Reserve. He did not believe there was a controversy.

11. Chair Anastasio asked if General Counsel had read the Docket Book material on the National Guard and Reserve. He replied he believed that it was being put forward as an alternative, not that it was being recommended as the alternative. When asked what the difference was, Counsel replied he thought the Commission was going to approve the expansion and discuss the possible ways to do it. Counsel indicated he would have been happy to explain why it would not have been an option, however the timing seemed impossible to get the explanation before the commissioners.

12. Chair Anastasio asked Past Chair Kaminar to provide additional background. Past Chair Kaminar said that back when the EXCOM was looking at courses of action, Don Berry, a resident of Arkansas who writes legislation, suggested the Commission could create an enhanced compact. He stated that at some point, he had talked with Counsel about the possibility of an enhanced compact; however, he did not recall that he had discussed the option of an MOU with Counsel.

13. Chair Anastasio summarized that it appears the courses of action were not vetted. Counsel said his impression was the ABM discussion was going to be what is the most viable and option for the commission. I think any of these were discussed as options, however the open court case and suggestion of MOU as an option is no longer viable. Chair Anastasio stated had Counsel thoroughly reviewed the agenda and the Docket Book, he would have seen all five options being presented, including the one that he believed to be inappropriate. If Counsel had reviewed the Docket Book carefully, he should have known and he should have informed the Chair of any concerns. Counsel admitted he was not prepared for the discussion.

14. Chair Anastasio said she was struggling with the fact that if Counsel knew about the pending case, he knew about this prior to the meeting, because she did not think he was reading the article during the meeting. Counsel said he was aware of the case, however he said he was not aware a motion was going to be made to adopt an option of an MOU. He said he was not asked for a formal legal opinion on the issue. He was not able to provide the sort of comprehensive advice that he had in the past because in his opinion, the Commission has been concerned about funding. He felt the Commission has rightly tried to minimize legal fees to the extent possible, but in the process, there were opportunities that he has clearly not had to participate in EXCOM meetings - which he fine with. General Counsel further clarified that he is on retainer, however he is only allowed to do what he is asked to by the Commission.

15. Executive Director (ED) Cherise Imai asked Counsel if he had been in communication with any member of the Commission outside the commission regarding the topic prior to the ABM. Counsel said he had not been in communication with any members of the commission, and he had not been asked to do so by the Chair, EXCOM or Executive Director, or anyone else, on an individual basis.

16. Chair Anastasio reflected Counsel said during the ABM that the options were never vetted with him, and that he was never consulted which suggested all these options were created by the EXCOM, Past Chair Kaminar...without any consultation. Counsel stated replied, no, he had provided over the last couple of years, options which may be legally permissible. These include an amendment of the compact itself; or passage of legislation outside the compact. He never stated an MOU was permissible.

17. Chair Anastasio restated Counsel gave the impression to the Commission all the options were not viable which damaged the credibility of the Commission. Counsel apologized and said that was not his intention, and he had weighed in on various matters prior for the commission. He thought he had said during the ABM that amending the Compact or adopting language outside was permissible.

18. The EXCOM agreed Counsel needs to be clear about the depth of the consultations with him about the options he noted above, and it was important to clarify this with the Commission. Counsel offered to draft a legal memorandum and send it to Chair Anastasio and ED Imai by the end of the week. It was noted the expediency of the memorandum was important. Counsel reiterated his intention was not to undermine the EXCOM, any individual therein or the Commission. He simply thought he was acting in the best interest of the Commission, and apparently did not do it in a way that clear enough and apologized for this. He takes full responsibility for creating confusion at the meeting and damage the credibility of the Commission.

19. Mr. Chuck Clymer, DOD Military Representative agreed to draft a memorandum to the Commission about the data that Mr. Bill Hampton presented, and that the data was not available or collected. He stated, the number of National Guard dependents and members are available, and maybe PCS moves, however the moves made outside of orders is not tracked. He will check again if any data is available. (OPEN ITEM)

ITEM 5 – EXECUTIVE SESSION

19. Commissioner Gable motioned to move into Executive Session, seconded by Past Chair Kaminar.

20. Chair directed ED Imai to research the contract under which General Counsel is operating and report back to the Committee. In addition, Counsel has agreed to draft a legal memorandum for dissemination to the Commission as soon as possible.

ITEM 6 – ADJOURNMENT

27. With no further business to conduct, Commissioner Henry motioned to adjourn the meeting, seconded by Vice Chair Singleton. Chair Anastasio adjourned the meeting at 12:09 PM ET.