

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

August 31, 1981

PRESENT

Sidney Goldmann, Chairman
Josephine S. Margetts, Member
Andrew C. Axtell, Member
M. Robert DeCotiis, Member
Scott A. Weiner, Executive Director
William R. Schmidt, Assistant Executive Director
Gregory E. Nagy, Staff Counsel
Edward J. Farrell, General Legal Counsel
Lisa J. Pollak, Esq.

The Chairman called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended, has been filed with the Secretary of State's office, and that copies have been posted in the State House Annex, and mailed to the Newark Star Ledger, the Philadelphia Bulletin and the entire State House press corps.

The meeting convened at 10:25 a.m. at the offices of Farrell, Curtis, Carlin & Davidson, 43 Maple Street, Morristown, N.J. 07960.

1. Approval of Minutes of Public Session of Commission Meeting of August 17, 1981

On a motion by Commissioner DeCotiis, seconded by Commissioner Margetts and a vote of 3-0, the Commission approved the minutes of the public session of the above-cited meeting. Chairman Goldmann did not vote since he did not attend the above-cited meeting.

2. Certification of Public Matching Funds

The Assistant Executive Director reported that three Primary candidates showed a net deficit in their 60-day post-election reports and were also eligible for additional public matching funds. On a motion by Commissioner Margetts, seconded by Chairman Goldmann and a vote of 4-0, the Commission certified a total of \$15,731.75 to three Primary gubernatorial candidates as follows:

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|----------------------|-----------------|
| - Frank Dodd (D) | \$5,831.22 |
| - John Rafferty (R) | 5,224.96 |
| - James Wallwork (R) | <u>4,675.57</u> |

Total \$15,731.75

The Assistant Executive Director recommended the Commission certify \$136,505.00 to James J. Florio for Governor, Inc. representing the remainder of the amount of accepted contributions submitted by the Florio campaign on August 17, 1981. Furthermore, the Assistant Executive Director reported that James J. Florio for Governor, Inc. had submitted \$143,082.00 in contributions on Monday, August 31. On a motion by Commissioner Axtell, seconded by Commissioner Margetts and a vote of 4-0, the Commission certified \$279,587.00 for James J.

Florio for Governor, Inc.

3. Commission's Budget for Fiscal Year 1983

The Executive Director reported that the Commission's FY '83 budget must be presented to the Division of Budget and Accounting, Department of the Treasury on October 1, 1981. The Executive Director suggested a tentative timetable of the Commission reviewing the budget on September 21 and approving the budget on September 28.

4. Potential Tax Liability on Investment Income Generated from Campaign Contributions.

The Executive Director reported that it had come to his attention that political campaign committees which invest campaign contributions may have an income tax liability. The Assistant Executive Director reported that at least one of the campaign committees of a gubernatorial primary candidate who accepted public funds had invested public funds and at least two other campaign committees for gubernatorial Primary candidates had invested private contributions. The Commission directed the Executive Director to put all gubernatorial Primary candidates' campaigns on notice about the potential tax liability on investment income generated from campaign contributions. The Commission also decided that the interest generated by the investment of public funds could be used only for public funds purposes.

5. Disclaimer to Accompany Advisory Opinions

The Commission reviewed an August 27, 1981 memorandum from the Executive Director in which he recommended that the Commission adopt a policy of including a disclaimer whenever a copy of an advisory opinion is provided to the general public, i.e. someone other than the requesting party. Furthermore, the Executive Director recommended a specific language. On a motion by Chairman Goldman, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission accepted the recommendation and the specific disclaimer language.

6. Proposed Lobbyist Regulations

The Commission reviewed the working draft of proposed regulations under the lobbying act and a memorandum from Lisa J. Pollak, Esq. in which Ms. Pollak identified three key issues to be resolved by the Commission.

The Commission reviewed the proposed regulations section by section. The following are the sections that the Commission discussed in detail and on which the Commission reached tentative agreement:

- page 2, section 8.2(c) and (d): The Commission agreed that the definition of "compensation" and "contribution" wherein both terms are cross-referenced to section 8.2(o) was satisfactory.
 - page 3, section 8.2(e): The Commission discussed the use of the words "by a lobbyist" on the first line of page 3 and agreed to the inclusion of those three words as being necessary to give appropriate scope to the provision.
 - page 3, section 8.2(g): The Commission discussed the meaning of the words "chief executive's" and determined that it meant only the Governor's office and not the entire executive branch of the state government. The Commission agreed that the term did not include administrative agencies within the "executive branch" of the state government.
 - pages 4 and 5, section 8.2(k), definition of "legislative agent". The Commission agreed to the definition of "legislative agent" including the definition of "isolated, exceptional or infrequent activity" wherein activity is deemed not to be "isolated, exceptional or infrequent" if a person spends a total of 3 percent of his time or 50 hours, whichever is less, in such activity on behalf of his employer. The Commission also agreed that the term "legislative agent" would include any person, partnership, committee, association, corporation, labor union or any other organization which has receipts of more than \$2500.00 for the purposes of influencing legislation or makes expenditures of more than \$2500.00 for the purposes of influencing legislation in any calendar year. The Commission also suggested that the last sentence in this section be rewritten for greater clarity.
 - page 6, section 8.2(l): The Commission agreed that the term "legislature" includes all legislative staff, including non-partisan legislative staff.
 - pages 7 and 8, section 8.3(a) 1: The Commission agreed, after lengthy discussion, to leave the activities of political subdivisions of the State of New Jersey exempted from the provisions of the act.
 - page 8, section 8.3(a)2: The Commission agreed to add the words "or similar medium" to the definition of "... radio or television station", in recognition of the evolution of cable television and other new related media.
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- page 8, section 8.3(a) 3: After lengthy discussion, the Commission agreed to leave the exemption of "acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrine of such a religious group" as written in the draft regulations.
- page 9, section 8.5 "Threshold Calculation": The Commission agreed to change the heading from "Threshold" to "Reporting". Furthermore, the Commission agreed that the subsections labeled (a), (b), and (c) should be separated into new sections, i.e. subsection (b) should become section 8.6, etc.
- pages 13 and 14, section 8.5 (c)4: The Commission agreed that the costs of internal communications by a corporation to its management employees should be exempted because such employees are closely associated with the corporation itself.
- page 15, section 8.5(c)7(vii): The Commission agreed, after lengthy discussion, to include not only the spouse but also immediate family members.
- page 16, section 8.6(a)3: The Commission agreed that the annual report should include the same information as required by the Attorney General's reporting system. The executive director agreed that ELEC's reporting requirements should dovetail administratively with the Attorney General's lobbyist reporting requirements to the extent possible.
- page 20, section 8.10: The Commission agreed to delete this section titled "Investigations by the Commission" and to merge it with section 8.11 "Complaint Proceedings; Penalties" because the investigative powers of the Commission, as to lobbyist reporting, flow from the Commission's complaint powers.

The Executive Director suggested a revised timetable wherein the public hearing on the regulations would be held on October 28 in the Assembly Chambers. The Executive Director also advised the Commission that the Office of Administrative Law has changed its deadlines but has granted ELEC a one-day extension to September 9 in recognition of the Commission's meeting schedule. Furthermore, the Executive Director reported that Senate President Merlino has stated that it is his opinion that the 60-day legislative review period does not commence until September 21, 1981 when the Legislature reconvenes; this would cause the 60-day review period to expire on November 20, 1981. However, the Office of Administrative Law has advised that they do not agree with this interpretation and view the 60-day period as commencing upon actual transmittal and receipt.

7. Advisory Opinion Request

Stuart Gavzy, Finance Director of the Republican State Committee, appeared before the Commission to request, orally, an advisory opinion as to the percentage, if any, to be allocated to the Republican gubernatorial candidate, of the cost of producing and airing two television ads on behalf of the Republican State Committee. Mr. Gavzy distributed, on a confidential basis, copies of the text of the two advertisements. Before the Commission reviewed the text and reached its conclusions, it first determined from Mr. Gavzy the following:

- the Republican State Committee will present a formal written request for an advisory opinion
- Mr. Gavzy and the Republican State Committee recognize and acknowledge that in requesting an advisory opinion, when the decision of the Commission is issued and therefor is made public, then the information supplied with the request for an advisory opinion, will also be available to the public; and
- in making the formal request for an advisory opinion, the Republican State Committee will also state that it intends to place the ads.

The text of the two advertisements were returned to Mr. Gavzy. The Commission also agreed that its decision would be made known to Mr. Gavzy and the Republican State Committee immediately upon the Commission receiving the formal written request for an advisory opinion. Mr. Gavzy thereafter left the meeting, prior to deliberation by the Commission.

The Commission then reviewed the text of the two advertisements and agreed that neither advertisement would be allocable at all to the Republican gubernatorial candidate.

8. Allocation of Expenditures by a Legislative Campaign Committee to a Gubernatorial Campaign

The Commission reopened its discussion of the allocation of expenditures by a legislative campaign committee to a gubernatorial campaign, an issue it had discussed and resolved at its August 17, 1981 meeting. There followed a lengthy discussion on the procedures to be followed by the Commission and its staff in advising gubernatorial candidates and state political party committees of Commission decisions on allocation questions and on advisory opinions dealing with the gubernatorial election and allocation questions. The Commission directed the Executive Director to write the Republican and Democratic State Political Party Committees and the Florio and Kean Campaign Committees and advise them of the procedure. The procedure is that the requesting party will be formally advised of Commission decisions and that all such decisions, including any materials, scripts, etc. which are presented to

the Commission for review, will be available to any other party requesting the decision. However, the Commission will not advise the opposing parties of a decision rendered unless asked by the opposing party.

9. Executive Session

On a motion by Chairman Goldmann, seconded by Commissioner Margetts and a vote of 4-0, the Commission went into executive session at 3 p.m. to discuss the executive session minutes of the Commission meeting of August 17, 1981, investigations, and enforcement actions.

10. Adjournment - The Commission adjourned the meeting at 4:40 p.m.

Respectfully submitted,



SCOTT A. WEINER,
Executive Director