

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION & EXECUTIVE SESSION MINUTES

OCTOBER 29, 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
Edward J. Farrell, General Legal Counsel
Lisa J. Pollak, Esq.

Prompt notice of the meeting within the Sunshine law was not given because of the emergent nature of the problem and the public importance of holding the meeting at this time. The nature of that important public purpose was the fact that the general election is five days away and the obligation of the Commission to make certain that the gubernatorial candidates do not exceed the expenditure limit. Adequate notice of the meeting could not have been given because of the time frame within which the question arose. Notice of the meeting was provided by distribution of a written memorandum to the State House Press corps. at 8:15 a.m., October 29, 1981.

The meeting convened at 10:15 a.m. at the offices of the General Counsel, 43 Maple Avenue, Morristown, N. J.

1. Expenditures by the Democratic State Committee

Four representatives of the Democratic State Committee and James J. Florio for Governor, Inc. appeared before the Commission: Angelo Genova, M. Allan Vogelson, Roger Lowenstein and Nicholas Rudi. They distributed to the Commission a five page statement dated October 28, 1981 and signed by James F. Maloney, chairman of the Democratic State Committee. Attached to Mr. Maloney's statement were six exhibits representing scripts used at telephone banks run by the Democratic State Committee along with a seventh exhibit which was a telephone poll conducted in the 38th Legislative District.

The Executive Director introduced the discussion. He reported that ELEC staff had conducted three unannounced visits to telephone banks operated by the Democratic State Committee. These visits were made since the filing of the 7-day pre-election report. He further reported that after ELEC staff had reviewed the letter from the Democratic State Committee received on October 27 and signed by Angelo J. Genova, he had contacted both Mr. Genova and Mr. Rudi about the shortcomings in the State Committee's explanation concerning telephone bank activity of the State Committee. He further reported that he had been advised by Mr. Genova that representatives of the State Committee and James J. Florio for Governor, Inc. were meeting at 9 a.m. on Wednesday, October 28 to

prepare a factual presentation and that the Commission agreed to meet on Thursday, October 29 to review that factual presentation by the Democratic State Committee and James J. Florio for Governor, Inc.

Mr. Vogelson made an introductory statement and Mr. Genova presented an oral summary of Mr. Maloney's statement. Members of the Commission and its staff asked questions of the representatives of the State Committee and James J. Florio for Governor, Inc. and elicited responses including the following:

1. Exhibit 7, the poll conducted in the 38th Legislative District, was considered in allocating costs to the Florio campaign. In that particular example, two out of the 27 questions applied to the gubernatorial race and thus 2/27ths of the phone calls for this telephone poll would have been allocated to the Florio campaign.
2. The estimate of 75,000 calls, or one-fourth of all calls, made on the three telephone banks, incorporates all calls that were 100 percent Florio plus calls that were partially Florio.
3. The estimate could not be made more precisely because time sheets and other records were not maintained; to have done so in telephone bank environment during a political campaign would be most unusual.
4. The estimate of allocation for the Florio campaign was maximized. The Florio campaign cannot afford to be in a deficit position and the estimate set forth in Mr. Maloney's letter is a "good faith effort".
5. The Florio campaign did not set up its own phone banks but used, in part, the Democratic State Committee service on an "on needed" basis.
6. The telephone calls made on behalf of the Florio campaign were on a basis of number of days or number of phones; messages were not integrated.
7. Initially, the calls on behalf of the Florio campaign were much less than 25 percent because of the policy decision by Mr. Maloney to attempt to build up the State Democratic Party. As the campaign came closer to the date of the election, the percentage of calls on behalf of Mr. Florio increased.

8. The experience from the 1977 election wherein the Commission allocated 20 percent to the Bateman campaign as opposed to the original allocation by the Republican State Committee of 12.5 percent to the Bateman campaign, is only a guideline; the set of facts applying to the Bateman 1977 case may be substantially different from the facts in the case before the Commission.

Mr. Rudi presented orally a summary of figures he had prepared comparing the estimate as set forth in Mr. Maloney's letter with what would be "reasonable". He noted, for example, that the estimate of 40¢ per call times 300,000 calls would equal \$120,000 as compared with the \$134,000 actual cost. His estimate of a reasonable number of phone calls based on the number of phones, the number of people manning the phones and the hours of operation, resulted in an estimate of 285,000 calls compared to the estimate of 300,000 calls in Mr. Maloney's letter. Mr. Rudi asserted that his figures supported the reasonableness of the estimates in Mr. Maloney's letter.

2. Executive Session

On a motion by Commissioner Margetts, seconded by Commissioner DeCotiis, the Commission voted to resolve to go into executive session, the results of which will be made public at the conclusion of the meeting.

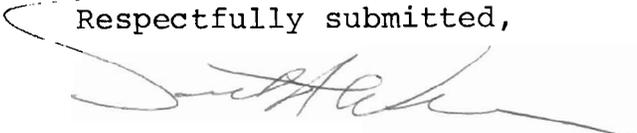
Following a full discussion of the issue presented, the Commission arrived at its determination which is set forth below.

3. Return to Public Session - Presentation of Determinations

On a motion by Commissioner DeCotiis, seconded by Commissioner Axtell and a vote of 4-0, the Commission voted to return to public session.

On a motion by Commissioner Axtell, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission voted to accept, as reasonable, the allocation of 25 percent of the telephone bank costs to the James J. Florio for Governor, Inc. based on the facts presently known to the Commission, the representations by Mr. Maloney and the representatives of the Democratic State Committee and James J. Florio for Governor, Inc., and reliance on the integrity of the representatives and the Commission's confidence in the representatives of the Democratic State Committee and James J. Florio for Governor, Inc.

Respectfully submitted,



SCOTT A. WEINER
Executive Director