

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

JANUARY 23, 1984

PRESENT

Alexander P. Waugh, Jr., Vice Chairman  
M. Robert DeCotiis, Member  
Haydn Proctor, Member  
Scott A. Weiner, Executive Director  
William R. Schmidt, Asst. Exec. Dir.  
Gregory E. Nagy, Staff Counsel  
Edward J. Farrell, Counsel

ABSENT

Andrew C. Axtell, Chairman

Vice Chairman Waugh called the meeting to order and announced that pursuant to Open Public Meetings Law, P.L. 1975, c.231, special notice of the meeting of the Commission had been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 10:00 a.m. at the office of the Commission, 28 West State Street, Trenton, N.J.

1. Approval of Minutes of Public Session of Commission Meeting of January 3, 1984

Assistant Executive Director Schmidt pointed out that paragraph number 6 Code of Ethics in the executive session minutes should have been in the public session minutes as paragraph number 9. On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 3-0, the Commission approved the minutes, as amended, of the public session of January 3, 1984.

2. Advisory Opinion No. 03-1984

The Commission reviewed a two-page Advisory Opinion request from E. Robert Levy, Esquire, who asked several questions pertaining to the annual financial reporting provisions for lobbyists and legislative agents. The Commission also reviewed a three-page draft Advisory Opinion, dated January 12, 1984 and prepared by Staff Counsel Nagy. On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 3-0, the Commission approved the Advisory Opinion for release.

3. Pending Legislation

Executive Director Weiner reported that the State Senate, on January 9, 1984 passed A-3099/2290 by a vote of 28-0. He reported that Governor Kean signed the bill on Tuesday, January 17, 1984. The enactment of the amendments to the Reporting Act will require the revision of existing reporting forms and the design of new forms. Mr. Weiner said that the forms are now being prepared to be sent to the printers shortly. Furthermore, municipal and county clerks will soon be advised of the changes in the Reporting Act. The staff is starting work in setting up a series of seminars for both campaign filing entities and political party committees and continuing political committees which will be reporting on a quarterly basis. Mr. Weiner and Mr. Farrell noted that the amendments finally provide a statutory basis for the Commission dealing with continuing political committees. Mr. Farrell said that he and Mr. Weiner would present initial suggestions for changes and regulations to the Commission at its meeting on February 6, 1984.

Mr. Weiner noted that the Commission is holding a workshop for lobbyists on Tuesday, January 24 at the State House Annex in Trenton.

Concerning legislation in the new Legislature, Mr. Weiner said that there is great interest in campaign finance. Furthermore, some bills dealing with public financing have been pre-filed, and the Governor's office and both the Majority and Minority in the Legislature are interested in moving on gubernatorial public financing legislation.

Finally, Mr. Weiner noted that there is some pressure within the Legislature to move on the issue of surplus campaign funds.

4. Code of Ethics

General Legal Counsel Farrell distributed a January 21, 1984 memorandum addressed to Mr. Weiner concerning a proposed Commission Code of Ethics along with a copy of a New Jersey Supreme Court Decision In Re Gaulkin and a four-page partial draft of a Code of Ethics. Mr. Weiner said he would send a copy to Chairman Axtell and that the matter would be placed on the agenda for the next Commission meeting.

5. Fine Collection

The Commission reviewed a January 12, 1984 memorandum from Assistant Staff Counsel Cheryl R. Clarke in which she reported that the amount of fines collected under the fine collection effort totals \$7,072.64 and that there are twenty-five cases for which default judgments were or are being obtained. Mr. Weiner and Mr. Nagy noted that the Commission has never done more than secure a default judgment. Rather than attempting an execution of the judgment, the Commission has been satisfied with the "docketing" of the judgment. Commissioner DeCotiis asked whether the Commission could refer the twenty-five cases

to a collection agency. Mr. Farrell said that the Commission would not be prohibited from using an agency and, in doing so, the Commission would pay a set percentage of the amount collected.

Mr. Weiner noted that Ms. Clarke and Mr. Nagy are working on an analysis of the SOIL program which involves the use of social security numbers to withhold State payments of income tax refunds or other State payments in an amount sufficient to satisfy the judgment. He noted, however, that there are issues of law and privacy which may preclude the **Commission's use of social security numbers. Mr. Nagy said that he was** not yet aware of any other agency which imposes civil penalties and use social security numbers. Mr. Weiner asked how other agencies collect after the point of judgment and Mr. Nagy said that it was his impression that most other State agencies have a self-executing type of payment collection, for example the Department of Community Affairs which may seize rents. Mr. Farrell noted that there is an important policy question since the election process is involved by the Commission's activity. Mr. Farrell expressed concern that by referring the judgments to a collection agency the Commission then has taken the matter out of its own hands and given it to a third party, a collection agency. Additionally, the conduct of the agency would then reflect upon the Commission. Mr. Weiner said that the staff will explore the issue further with the Attorney General's office, particularly the issue of what other agencies do and the issue of the use of collection agencies.

6. Tom Kean for Governor Escrow Account - I.R.S. Bill

The Commission reviewed a January 6, 1984 memorandum from Assistant Executive Director Schmidt addressed to Mr. Weiner. In his memorandum, Mr. Schmidt recommended that only the tax portion of the I.R.S. bill be paid and that the interest and penalty portion be withheld because the I.R.S. did not use reasonable diligence to locate a responsible representative of the Governor's election committee, thus causing unnecessary delays in the payment of this tax bill with resulting interest and penalties.

After discussion, on a motion by Commissioner Proctor, seconded by Commission DeCotiis and a vote of 3-0, the Commission authorized only the payment of the principal to the Internal Revenue Service. The staff was directed to advise the Internal Revenue Service of the basis of its action and to await supporting justification for the interest and penalty.

7. Attorney General's Letter Concerning Use of Casino Facilities for Political Fund Raising

Mr. Weiner distributed a January 3, 1984 letter from Attorney General Kimmelman. In his letter, the Attorney General said he was communicating with the Casino Control Commission so that appropriate regulatory measures and enforcement action are commenced to deal with the problem of political candidates and campaign committees using casino facilities or services for campaign fund-raising purposes.

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8. Seminar on Lobbyist and Legislative Agents Financial Disclosure

Mr. Weiner said the staff will be holding a seminar for lobbyists and legislative agents on Tuesday, January 24, 1984 to review filing requirements for the 1983 Annual Reports.

9. Amendment to Title 19

Mr. Weiner said that he has had additional discussions with the Division of Criminal Justice concerning the Attorney General's proposal to decriminalized Title 19 and to vest civil enforcement of certain provisions of Title 19 with the Election Law Enforcement Commission. Mr. Weiner said the Commission has been asked to comment on the proposals of the Division of Criminal Justice. He said he and General Legal Counsel Farrell will prepare a brief analysis for the Commission's consideration at its next meeting.

10. Executive Session

On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 3-0, the Commission voted to go into executive session to review the minutes of the executive session of January 3, 1984 and to discuss enforcement actions and investigative matters, the results of which will be made public at their conclusion.

11. Adjournment

On a motion by Commissioner Proctor, seconded by Commissioner DeCotiis and a vote of 3-0, the Commission voted to adjourn.

Respectfully submitted,

SCOTT A. WEINER  
Executive Director