



## State of New Jersey

### ELECTION LAW ENFORCEMENT COMMISSION

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Owen V. McNary, III  
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Stanley G. Bedford  
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David Linett  
Commissioner

S. Elliott Mayo  
Commissioner

FREDERICK M. HERRMANN, PH.D.  
EXECUTIVE DIRECTOR

JEFFREY M. BRINDLE  
DEPUTY DIRECTOR

GREGORY E. NAGY  
LEGAL DIRECTOR

EDWARD J. FARRELL  
COUNSEL

#### PUBLIC SESSION MINUTES

FEBRUARY 20, 1990

All of the Commissioners and senior staff were present with the exception of General Counsel Edward Farrell.

Chairman Bedford called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-8 et seq., 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 9:15 a.m. at the State House Annex.

#### 1. Approval of Public Session Minutes of January 16, 1990

On a motion by Commissioner Linett, seconded by Vice Chairman McNary and passed by a vote of 4-0, the Commission approved the Public Session Minutes of January 16, 1990.

#### 2. Executive Director's Report

##### A. Staff Activities

Executive Director Herrmann reported that on January 25, 1990, Chairman Bedford and he testified before the Assembly State Government Committee regarding campaign finance reform. The Executive Director said that the Chairman and he set forth the various reform proposals supported by the Commission.

Executive Director Herrmann noted that the Commission was applauded for its White Papers, not just for their substance but for their cost effectiveness. He said that the Committee commented that it was refreshing to see an agency of State government produce such substantive documents so inexpensively.

Executive Director Herrmann added that Chairman Bedford stressed that it was important for the Legislature to fund any new programs it would

direct the Commission to administer. The Executive Director indicated that the Chairman noted that the Commission seriously lacked adequate staff resources and funding and that it was very important for the Legislature to appropriate more money if it desired the Commission to continue to maintain its current level of services as well as assume additional responsibilities. Executive Director Herrmann said that the Chairman warned that increased responsibilities without more resources would be similar to State mandate/State pay with local governments.

Executive Director Herrmann reported that on February 15, 1990, he spoke to the "Leadership New Jersey Program" about campaign finance reform.

He said that speaking with him were Assemblyman William Schluter and Assemblyman Jim McGreevey.

#### B. Bulk Mail Policy

The Executive Director reported that the staff inquired into the new policy which prohibits State agencies from sending mail on a first class basis. He said that staff learned that the policy was established by the State Treasurer as an austerity measure and that all State agencies are subject to it. Executive Director Herrmann said that Red Express mail service is available to State agencies and that this service would result in a two-day delay over first class mail. Vice Chairman McNany suggested that the Chairman on behalf of the Commission write to the Treasurer to explain ELEC's special problem regarding communicating with candidates on a timely basis and ask for an exemption from the first class rule. The Commission concurred and directed staff to prepare a letter for the State Treasurer outlining its special problems with respect to mail delays.

Executive Director Herrmann pointed out that as a cost saving measure the staff is now reproducing materials on a two-sided basis.

#### C. Ethics Filing

Executive Director Herrmann stated that Governor Florio's Executive Order No. 1 is being reviewed by the Attorney General. He said that he will alert the Commissioners and staff to their filing responsibilities once the review is completed.

#### D. Future Meetings

Executive Director Herrmann announced that the next meeting of the Commission will be held on March 20, 1990. He said that the second part of the public hearing will be held at 10:30 a.m. He said that the meeting will begin at 9:30 a.m. and will be held at the Commission offices at 28 West State Street, Trenton.

3. Advisory Opinion No. 01-1990

Advisory Opinion No. 01-1990 was submitted by State Senator Raymond J. Zane, and a draft response by Legal Director Nagy was circulated to the Commissioners.

In the request Senator Zane stated that he was planning to either seek re-election to the New Jersey State Senate or to the United States Congress. Senator Zane stated that he planned to hold a fundraiser within a short period of time and asked for advice on how to report the funds raised through this fundraising event. In addition, the Senator asked how surplus funds remaining from his 1987 campaign should be reported.

Legal Director Nagy noted that the request concerned retention of surplus campaign funds, and that it was important that these surplus funds continue to be subject to campaign reporting as long as they were being retained for some future election candidacy.

The advisory opinion response advises Senator Zane that if he anticipates possibly using the surplus funds for a State Senate race he must immediately designate a treasurer and campaign account for his 1991 Senate campaign, even if he has not formally announced his candidacy. The opinion states that if, instead, Senator Zane uses the funds in 1990 for a Congressional campaign, then he should amend his 1987 campaign report to reflect the fact that the surplus funds will be utilized for the federal campaign. The opinion further advises that a transfer of funds to the Congressional campaign with the accompanying amendment of the 1987 report relieves the Senator from any additional filing responsibility with the Commission. In the event that Senator Zane pursues neither course of action, in 1991 he would be required to amend his 1987 campaign report to disclose the ultimate disposition of the surplus funds.

Commissioner Linett suggested that it would be simpler to advise Senator Zane to establish a continuing political committee and to transfer the surplus funds into this account. Commissioner Linett added that if this approach is not taken it would be appropriate for Senator Zane to continue filing 60-day reports. He indicated that in his opinion it did not make sense to require the Senator to file a D-1 for the 1991 election almost two years in advance.

Legal Director Nagy said that staff asked Senator Zane if he would be inclined to create a CPC. He said that Senator Zane rejected the approach. Legal Director Nagy noted further that unless Senator Zane served as the treasurer of this CPC, he could not be held personally responsible in the event of a filing violation. He said, on the other hand, that under the campaign committee filing scheme, Senator Zane continues to be personally responsible with respect to any violations of the Campaign Act.

In regard to filing 60-day postelection reports for the 1987 campaign, Mr. Nagy noted that Senator Zane has terminated that requirement by filing a final report, and at this point in time, since there are no reported

outstanding obligations, the 1987 candidacy appears concluded other than the fact surplus funds remain unspent.

Commissioner Linett said that he restated that it would be easier for Senator Zane to file as a CPC. Commissioner Linett noted that, as a CPC, filing would still be required on a quarterly basis. He agreed, however, that Senator Zane cannot be compelled to form a CPC.

At this point, Commissioner Mayo remarked that he believed that the advisory opinion was well thought out and recommended that it be adopted in its present form.

On a motion by Commissioner Mayo, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission approved the advisory opinion as drafted.

#### 4. Office Hours and Copy Fee Regulations

For discussion of this regulatory proposal please see memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Executive Director, dated November 17, 1989 and entitled "Amendments to Copying Fee Regulation." Mr. Nagy said no written comments were received from the public in response to the proposal.

On a motion by Commissioner Linett, seconded by Commissioner Mayo and passed by a vote of 4-0, the Commission adopted the Office Hours and Copying Fee Regulations and directed staff to file a Certificate of Adoption with the Office of Administrative Law (OAL).

#### 5. Resolution to go into Executive Session

On a resolution by Commissioner Mayo, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. Executive Session Minutes of January 16, 1990, which minutes will only become public if various matters discussed or acted upon become public;
2. Final Decision recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public 15 days after mailing; and,
3. Investigative Reports of possible violations, which reports will not become public. However, any Complaint generated as the result of an Investigative Report will become public 30 days after mailing.

6. Return to Public Session

On a motion by Vice Chairman McNany, seconded by Commissioner Mayo and passed by a vote of 4-0, the Commission voted to return to public session for the purpose of conducting the public hearing on the Gubernatorial Public Financing Program.

7. Public Hearing

At 10:05 a.m., the Commission convened the public hearing on the Gubernatorial Public Financing Program. The proceedings were recorded by a court reporter, whose transcript will be made available to the public. The public hearing was recessed at 11:55 a.m.

8. Return to Executive Session

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission voted to return to Executive Session.

At 12:16 p.m., the Commission returned to Executive Session to complete the business outlined in Item 5.

9. Return to Public Session

On a motion by Vice Chairman McNany, seconded by Commissioner Mayo and passed by a vote of 4-0, the Commission voted to return to public session for the purpose of resuming the public hearing on the Gubernatorial Public Financing Program.

At 1:00 p.m. the Commission reconvened the Gubernatorial Public Financing Public Hearing, which was recorded by the court reporter.

10. Adjournment

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission voted to adjourn at 2:35 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.