



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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CHAIRMAN

David Linett
Commissioner

William H. Eldridge
Commissioner

PUBLIC SESSION MINUTES

JUNE 18, 1993

All the Commissioners, Counsel Farrell, senior staff, and Director of Public Financing Nedda Massar were present.

Chairman McNany called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 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 9:30 a.m. at the Maplewood Municipal Building, Maplewood, New Jersey.

1. Approval of Public Session Minutes of May 18, 1993 and Telephone Conferences of May 21, 28, and June 1, 1993

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission approved the Public Session Minutes of May 18, 1993 and telephone conferences of May 21, 28, and June 1, 1993.

2. Executive Director's Report

A. Staff News

Executive Director Herrmann announced that the annual New Jersey Election Law Enforcement Commission (ELEC) picnic is scheduled for July 27, 1993, at Rosedale Park in Pennington, New Jersey.

The Executive Director reported that ELEC will be listed in the Rutgers University 1994 Student's Guide to New Jersey Internships and Part-Time Employment.

Executive Director Herrmann noted that on May 22, 1993, he visited Atlantic City to participate in a New Jersey State Bar Association panel entitled "Attorneys, Government, Politics and Ethics."

Executive Director Herrmann said that he was joined on the panel by Paulette Brown, President of the National Bar Association; Jeanne Fox, Vice

President of the National Women's Political Caucus; Rita Strmensky, Executive Director of the Executive Commission on Ethical Standards; Susan Storch of the New Jersey State Bar Association; and Senator Bill Schluter, Chairman of the Legislative Joint Commission on Ethical Standards.

The Executive Director reported that in a letter to Legal Director Nagy, a New Jersey Citizens' group wrote that they "are amazed at State budgetary priorities which curtail (ELEC's) enforcement capabilities."

The Executive Director added that Rutgers University Professor Richard P. McCormick, in a letter to Deputy Director Brindle, called the white paper series "essential reading for any student of New Jersey politics..., for legislators and for public interest groups who want to restore confidence in our elected officials."

B. National Ethics Update

Executive Director Herrmann reported a Minnesota Campaign Financing Law was enacted with a 66 percent budget increase for the Minnesota Ethical Practices Board. He added that this would be the equivalent of the \$600,000 ELEC would be getting from the filing fee bill if passed by the New Jersey Legislature.

Executive Director Herrmann reported that the New York State Board of Elections, which according to a recent national newsletter has not been able to persuade the State Legislature to provide adequate funds to finance its operations, has asked for permission to collect PAC filing fees.

Executive Director Herrmann noted that the Federal Election Commission's (FEC) Vice Chairman testified before Congress that "there is no point in keeping campaign finance laws on the books, certainly not in adding to them, if we cannot administer and enforce them.... If Congress and the President are serious about wanting us to do the job, then we ask that we be given the tools." The Executive Director added that the Director of a newly-formed ethics commission in a southern state recently lamented "we have the law and not the bucks to do it."

C. Legislative News

Executive Director Herrmann said that on May 24, 1993, he testified in the Assembly State Government Committee on the ACS for S-70 (Brown)/A-563 (Rooney)/A-642 (Martin)/A-1955 (Russo). He said that the bill was amended to eliminate fees for short form filers and to lower fees for smaller PACs. According to Executive Director Herrmann, the bill would adjust fee brackets as well as fees for inflation, and require ELEC to report on re-computerization and its costs to the Governor and Legislature by January 1, 1995. Executive Director Herrmann said that the bill, which was released, would take effect on July 1, 1993, if enacted.

Executive Director Herrmann said that on June 17, 1993, he met with a subcommittee of the Legislative Joint Committee on Ethical Standards to

discuss "the appropriate use of campaign contributions for the ordinary and necessary expenses of holding public office in light of the restrictions in the conflicts of interest law." The Executive Director noted that Senator William Schluter requested that ELEC give the Joint Commission a copy of its draft regulations regarding the above usage of campaign contributions.

D. Future Meeting Schedule

The Commission will meet on July 20, 1993 in Trenton; and on August 17, in Manalapan.

F. Budget Letter on \$300,000 Loan and Filing Fee Bills

Executive Director Herrmann reported that an additional \$300,000 appropriation is included in the Legislature's budget for ELEC in FY-94. The Commission, in light of this development, decided to hold-off on sending the budget letter discussed at the last meeting to the Governor and leadership of the Legislature.

G. Blind Trusts and Closely-Held Companies That May Do Business With The State

Executive Director Herrmann mentioned the Governor's Executive Order prohibiting blind trusts, stating that any Commissioner who might be in possession of one should contact Barbra Fasanella for directions on how to comply with the executive order. He added that the Executive Commission on Ethical Standards should be sending out information on the new order.

H. Thank You Letters

Executive Director Herrmann said that staff has prepared letters to thank the gubernatorial primary election debate sponsors for sponsorship of the 1993 debates.

3. Public Matching Funds

Candidate Jim Wallwork/Submission No. 07

Candidate Wallwork filed his seventh submission for 1993 gubernatorial primary election public matching funds on June 1, 1993. The submission contained a net amount of \$46,674 in contributions submitted or resubmitted for match.

At the June 1, 1993 telephone conference, the Commission approved an automatic 90 percent certification of Submission No. 7, for an amount of \$84,013.20 in 1993 gubernatorial primary election public matching funds.

Following a complete review of Submission No. 7, it was determined that a net amount of \$36,999 in contributions was eligible for match at a 2:1 ratio. Thus, the campaign was entitled to public funds in the amount of \$73,998, or \$10,015.20 less than the \$84,013.20 approved at the 90 percent

certification. Staff recommended that the \$10,015.20 over-certification be adjusted on the June 7, 1993 submission of Candidate Wallwork.

June 7, 1993/Submission No. 08

A complete review of Candidate Jim Wallwork's eighth submission for 1993 gubernatorial primary election public matching funds determined that a net amount of \$12,761.30 in contributions were eligible for match at a 2:1 ratio. The amount includes resubmitted items.

Staff determined that the Wallwork campaign was eligible to receive \$25,522.60 in public funds for Submission No. 8, reducible by \$10,015.20 for the over-certification for the Wallwork Campaign Submission No. 7. Staff therefore recommended certification of a net amount of \$15,507.40 in primary election matching funds for Submission No. 8.

On a motion by Commissioner Eldridge, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission certified \$15,507.40 in primary election matching funds to Candidate Jim Wallwork.

4. Public Hearing Concerning Proposed Gubernatorial Public Financing Regulation

The proposed regulation would require the identification of occupation and employer information for an individual whose aggregate contributions exceed \$200 on public funds submission documents for the general election. Staff advised the Commission that no written comments had been received by the June 16, 1993 deadline.

Testimony was given at the hearing by Angelo Genova, Esq., counsel to Florio '93, Inc., and Peter Verniero, Esq., representing People for Whitman. Mr. Genova and Mr. Verniero expressed their concern that requiring campaigns to provide the additional information as a condition for receipt of public funds would be especially difficult until campaigns had time to educate their staffs and the public about the new disclosure requirements.

For detailed information please see public hearing transcript.

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission adopted the proposed gubernatorial public financing regulations as amended, and directed staff to file the adoption with the Office of Administrative Law in the Department of State.

The Commission added the following language to the regulations at N.J.A.C. 19:25-15.17 and 15.48. "Nothing in this regulation is intended to prevent the Commission from temporarily certifying contributions for match where the candidate is unable to provide, after good faith effort, the information required."

5. New Jersey Democratic State Committee Complaint

For a detailed discussion of this matter please see the public session minutes of May 21, 1993, and the transcript of the public meeting and correspondence from the New Jersey Democratic State Committee (DSC) and the New Jersey Republican State Committee (RSC).

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission determined to take no further action on the DSC complaint. The Commission indicated that it would re-open the discussion of the issue if the DSC presented evidence to support its allegation that the media campaign of the RSC was not independent of the Republican primary candidates and therefore allocable against the expenditure limit of the ultimate winner of the primary. The DSC maintained that the media campaign benefitted the winner of the Republican party in the general election.

6. Proposed Amendments to ELEC Regulations

For detailed information please see memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, dated June 10, 1993, and entitled "Regulatory Amendments."

Legal Director Nagy presented a draft of proposed amendments to ELEC's regulations at Subchapter 8: Candidate Committee, Joint Candidates Committee, and Political Committee Reporting. The proposed amendments were drafted to implement the statutory changes resulting from the enactment of A-100 into law and were in addition to proposed amendments to Subchapters 1 through 7 of ELEC's regulations submitted at the May meeting.

The enclosed subchapter, together with the draft text circulated at the May meeting, provide the rules for establishment of and reporting by candidate committees, joint candidate committees, and political committees. The subchapters presented at the May meeting involve definition, pre-candidacy activity, establishment of various committees, the establishment of depositories, registration statements and the permissible uses of campaign funds.

Commissioner Linett said that he had a few suggestions to make the text more user-friendly. He suggested that on page 4 the regulations make a cross reference to Section 8.12, Time and place of filing. He said that such a cross reference would clarify for the lay person the times at which reports should be filed. Commissioner Linett suggested further that Section 8.3 use the phrase "report for the first quarter," (page 8) rather than "first quarter reports."

Commissioner Linett suggested also that on page 14 a reference be made to 48-hour requirements for contributions over \$500. Finally, on page 15, Commissioner Linett suggested deletion of the "public" from the phrase "for election to a public office or offices of a school board."

There was also a discussion of the regulation requiring legislative candidates to file campaign reports with the clerk of the county in which they reside.

Commissioner Eldridge, noting that this requirement is not statutory, said that it was unnecessary.

Deputy Director Brindle suggested that the regulation is in the best interest of disclosure because of the fact that the press and public get copies of campaign reports from the county clerks sooner than it is available from the Commission. He said that disclosure of reports by the Commission following the reporting date now takes longer than in past years because of staff reductions.

Commissioner Linett suggested that legislative candidates be required to file in every county that is in their legislative district, not just in the county in which they reside.

Commissioner Eldridge argued that such a requirement would be too burdensome.

The Commission determined that it would leave the regulation as it is; namely, that legislative candidates should file with the county clerk in the county in which they reside.

On a motion by Commissioner Linett, seconded by Commissioner Eldridge, and passed by a vote of 3-0, the Commission approved the proposed regulations, with certain technical amendments advanced by Commissioner Linett, and directed staff to file the proposal with the Office of Administrative Law.

7. Resolution To Go Into Executive Session

On a resolution by Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. 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.
2. 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.
3. A report on written requests for investigations of possible violations, which report will not become public. However, any complaint which may be generated as a result of a request for an investigation will become public 30 days after mailing.

7. Adjournment

On a motion by Commissioner Linett, seconded by Chairman McNany and passed by a vote of 3-0, the Commission voted to adjourn at 12:20 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

FMH/jah