



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

RALPH V. MARTIN
Chair

DAVID LINETT
Vice Chair

PAULA A. FRANZESE
Commissioner

LYNNAN B. WARE
Commissioner

Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700

Website: <http://www.state.nj.us/lps/elec/>

FREDERICK M. HERRMANN, Ph.D.
Executive Director

JEFFREY M. BRINDLE
Deputy Director

GREGORY E. NAGY
Legal Director

JAMES P. WYSE
Counsel

PUBLIC SESSION MINUTES

September 9, 1997

Chair Martin, Vice Chair Linett, Commissioner Franzese, Commissioner Ware, the Counsel, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present.

1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 *et seq.*, adequate 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 11:00 a.m. in Trenton, New Jersey.

2. Approval of Public Session Minutes of July 22, 1997

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission approved the Public Session Minutes of July 22, 1997, as amended by Vice Chair Linett.

3. Executive Director's Report

A. National Ethics News

Executive Director Herrmann reported that Nancy Kassenbaum Baker and Walter Mondale proposed in an open letter to the President and Congress a number of ideas for campaign financing reform. He said that they included:

- A ban on soft money,
- The regulation of issue advocacy,
- Improved disclosure especially for last-minute activities, and
- a strengthened FEC.

B. Staff Activities

The Executive Director said that on August 22, 1997, he gave a tour of ELEC recomputerization to Dennis Jaffe and Rhett Austell of New Jersey Common Cause. He added that the Compliance and Information staff will be holding general election seminars at the Roebling Building on September 12th and September 22nd.

Executive Director Herrmann noted that ELEC's CN number for mailing purposes has been changed to a P.O. Box number. He said that the actual number "185" remains the same.

C. Summer Conferences

Executive Director Herrmann mentioned that he attended the American Society for Public Administration (ASPA) conference in Philadelphia on July 26 and 27, which included a workshop on the Internet. He said that he picked up numerous tips on Homepage administration.

Executive Director Herrmann advised the Commission that he delivered a paper there on strengthening ethics agencies. He said that also on the program were professors from Columbia and North Dakota.

Executive Director Herrmann advised the Commission that he participated in the annual board meeting of Public Integrity Annual (PIA). The publication of Volume III was planned at this meeting, he said.

Executive Director Herrmann reported that Deputy Legal Director Nedda G. Massar and Systems Administrator Carol Neiman attended an electronic filing roundtable with 20 other States on July 28 and July 29, 1997. He mentioned that a Joyce Foundation initiative to create national standards for campaign finance disclosure on the Internet was discussed. According to the Executive Director, there was consensus that:

- Electronic filing should be voluntary at first,
- The installation of new technologies should not be rushed to avoid the risk of wasting taxpayer dollars in a costly failure,
- Diskette filing was an acceptable method for startup electronic filing programs, and
- Agencies should provide software to filers.

The Executive Director said that Legal Director Gregory E. Nagy and he went to the annual meeting of the Northeastern Regional Conference on Lobbying (NORCOL) on July 29. The Executive Director said that he again presented his paper on strengthening ethics agencies, as well as made a presentation about recent lobbying developments in New Jersey. He said that these developments included:

- The Lance Bill requiring the pre-reporting notification of benefit passing,

- The new reimbursement regulation which clarifies that the making of a reimbursement does not nullify the requirement to report a benefit pass,
- The creation of ELEC's Homepage, and
- Possible legislative initiatives for the future such as:
 - Regulation of grassroots lobbying,
 - The capping or banning of benefit passing,
 - Quarterly filing, and
 - The use of clearer terminology replacing Lobbyist for Legislative Agent, and Represented Group for Lobbyist.

Executive Director Herrmann said that Legal Director Gregory E. Nagy presented a lobbying caselaw summary that Legal Assistant Gail Shanker and he developed. He said that he was asked by NORCOL's members to prepare a revised version of the NORCOL Handbook that he put together in 1995.

D. Future Meetings

October 21, 1997, at 11:00 a.m. in Trenton
Other meetings as necessary.

4. Report on 1997 General Election Public Funds Distributed and the Percentage Certification Process

Whitman 1997 General Election Submission 1

On the basis of a staff review of the first Whitman submission, public matching funds in the amount of \$1,784,300.00 were deposited into the separate public funds account established through the Department of the Treasury.

Candidate Whitman's July 21, 1997 first application for matching funds contained \$1,056,625.00 in net contributions submitted for match. Complete review of all items submitted for match resulted in ineligibility of 86 contribution items representing \$95,475.00. After subtraction of the \$69,000.00 of contributions which is not matched, it was determined that \$892,150.00 was eligible to be matched at the 2:1 ratio. The maximum in public funds which a 1997 general election candidate may receive is \$4.6 million.

Candidate Whitman has filed a signed Statement of Agreement to participate in the 1997 general election debates and has provided documentation that at least \$210,000 has been raised and been spent or irrevocably committed for the 1997 general election.

Staff has completed its review of the second submission received on August 4, 1997 from Candidate Whitman. The results of that review are summarized below.

Whitman Campaign Submission 2

Submission #	Total \$ Submitted for Match	Total \$ Eligible for Match at 2:1*	Amount Deposited	Error Rate
2	\$447,521.00	\$396,541.00	\$793,082.00	10.0%

Total 1997 General Election Public Funds Distributed

Public funds totaling \$2,972,274 have been certified for 1997 gubernatorial general election candidates as follows:

James E. McGreevey	\$ 394,892.00
Christine Todd Whitman	<u>2,577,382.00</u>
TOTAL	\$2,972,274.00

Submissions Received August 18, 1997

The Commission received submissions on August 18, 1997 from Candidates McGreevey (second submission) and Whitman (third submission).

Submissions Received September 2, 1997

The Commission received submissions on September 2, 1997 from Candidates McGreevey (third submission) and Whitman (fourth submission).

Percentage Certification Process for the 1997 General Election

Staff recommended that the Commission authorize implementation of guidelines for percentage certification of public funds to qualified 1997 gubernatorial general election candidates.

Staff recommended that automatic percentage certification procedures similar to those adopted in the 1997 primary and 1993 elections be established for the 1997 general election. The procedure includes:

- The automatic percentage certification process should not be applied to a first submission regardless of its date of receipt. Campaigns will be advised that all 1997 general election first submissions require at least a two-week turnaround time.
- An automatic certification percentage should be used in September only if staff finds that it is unable to conduct complete submission review because several large matching fund submissions have been filed on the same submission date. Weekly submissions are permitted beginning in September. If necessary, an automatic percentage certification of

80 percent may be applied in September if the "track record" of a campaign establishes an ineligible rate consistently below 20 percent. If any campaign has an ineligible rate which remains between 20 percent and 25 percent, its automatic certification should be set at 70 percent. Campaigns with ineligible rates higher than 25 percent should be separately evaluated and training sessions suggested to the campaigns.

- The automatic certification percentage for a campaign should be adjusted upward in October to 85 percent only if the campaign has produced diminishing ineligible rates. An even higher percentage may be recommended for later in October.
- N.J.S.A. 19:44A-33b requires that each public matching fund submission contain at least \$12,500 in contributions eligible for match. Application of a campaign's most recent ineligible rate to the submission amount requested results in a total certification of less than \$12,500, no automatic certification should be permitted.
- Staff will report each month to the Commission on all submissions processed, including error rate data, and will indicate those submissions for which a percentage certification has been made.

On a motion by Commissioner Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved the public financing report.

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved the automatic percentage certification procedure in the 1997 general election.

5. Complaints Filed by Gubernatorial Candidates

The Commission considered two complaints:

- McGreevey For Governor '97, Inc., Complainant, vs. Whitman For Governor, Inc., Respondent, and
- Whitman For Governor, Complainant, vs. McGreevey For Governor, Inc., and James E. McGreevey, Respondents.

For detailed information, please see the filed complaints.

Commissioner Ware asked if it is within the Commission's jurisdiction to treat both complaints the same and refer them to the Office of Administrative Law (OAL) in the Department of State.

Legal Director Nagy answered in the affirmative.

Vice Chair Linett said that any matter dealing with expenditure limits should be completed before election day.

Chair Martin recognized Mr. Paul Josephson, Counsel to the McGreevey For Governor Campaign.

Mr. Josephson opposed referral of the complaint against the McGreevey Campaign on the grounds that the complainant did not meet the certification of irreparable harm requirements, which the Commission has set as a precondition of emergent action.

Samuel Destito, Esq., Counsel to the Whitman Campaign, said that neither complaint should be sent to the OAL. He said that the respondents needed time to respond to all allegations. He indicated that the discovery process has not been satisfied.

Chair Martin said that time constraints are severe and that the discovery process will be conducted by the Judge.

Vice Chair Linett said that the Commission needed to act today and that it was not making any judgment in the case at this time.

Deputy Legal Director Massar recommended that these two cases be referred to the Office of Administrative Law as accelerated cases pursuant to N.J.A.C. 1:1-9.4 to permit resolution in a preelection timeframe. She also requested Commission authorization to refer to the Office of Administrative Law future complaints filed pursuant to N.J.A.C. 19:25-15.65, in which answers have been received.

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission voted to refer the two complaints and future complaints to the Office of Administrative Law as accelerated cases once the deadline for filing answers has expired and consented to issuance of final decisions within 15 days of receipt of the initial decisions from the Office of Administrative Law.

6. Eligibility of Gubernatorial Candidate Murray Sabrin for Receipt of Matching Funds

Deputy Legal Director Nedda G. Massar read into the record the following memorandum to Frederick M. Herrmann, Ph.D., Executive Director, dated September 8, 1997, and entitled: "Eligibility of Gubernatorial Candidate Murray Sabrin for Receipt of Matching Funds."

Based upon its review of documentation filed by the Sabrin 1997 general election campaign on September 2 and 8, 1997, staff has concluded that while the \$210,000 contribution threshold for matching fund qualification may have been met, the \$210,000 expenditure threshold has not been satisfied.

On September 2, 1997, gubernatorial general election candidate Murray Sabrin filed an application to participate in public financing in the 1997 general election and the general election debates. The deadline to file was September 2nd because the September 1st statutory deadline fell on Labor Day, a legal holiday.

To receive public matching funds pursuant to N.J.S.A. 19:44A-33, and to participate in the 1997 general election debates pursuant to N.J.S.A. 19:44A-45b, a candidate must be "qualified" as that term is defined at N.J.S.A. 19:44A-3m. Qualification requires that a candidate has both raised and spent

Public Session Minutes

September 9, 1997

Page 7

\$210,000 in contributions of \$2,100 or less. The application for matching funds filed pursuant to N.J.A.C. 19:25-15.17 must establish that the contribution and expenditure thresholds have been met. The \$210,000 threshold amount was calculated by the Commission pursuant to the quadrennial cost adjustment process mandated by N.J.S.A. 19:44A-7.1c(2).

A candidate is also required to file a Debate Agreement by the September deadline. Candidate Sabrin filed a Debate Agreement on September 3, 1997, a day after the September 2nd deadline, with the written explanation that he had the agreement with him at the Commission's offices on September 2nd but misplaced it in the "media frenzy" surrounding his filing. The Debate Agreement was filed as soon as staff brought the omission to the campaign's attention. Staff believes that the one-day late filing of the Debate Agreement is sufficiently timely to warrant its acceptance.

The Form P-1 filed by the Sabrin campaign on September 2, 1997, reported that a net total of \$236,150.60 in contributions was eligible for match. An amended Form P-1 was filed on September 8, 1997, to correct computational errors and reported a net total of \$239,982.04 in contributions eligible for match.

The Form P-1 filed on September 2, 1997, reported on Schedule 4, Reportable Disbursements, Expenditure Threshold Documentation, that \$275,784.52 had been spent on the 1997 general election campaign. Amended expenditure information was filed by the campaign at 5:30 p.m. on September 8, 1997, reporting that an additional \$13,199.85, omitted from the earlier report, had been spent by the September 2, 1997 deadline, for a total of \$288,984.37 in 1997 general election expenditures.

N.J.A.C. 19:25-15.17(c) requires that to be "expended" for the purpose of establishing the \$210,000 threshold, funds must have been disbursed or "irrevocably committed by a legally binding commitment for expenditure in the campaign and ultimately disbursed." The regulations further require that an initial certification for public funds contain copies of "checks, receipted bills, contracts or the like" as proof of the expenditures; see N.J.A.C. 19:25-15.17(g).

Staff notes that in the discussion which follows, contract details, other than totals, are not described because this information contained in a submission is specifically excluded from public disclosure pursuant to N.J.A.C. 19:25-15.43.

Review of the expenditure documentation (Schedule 4, Expenditure Threshold Documentation) filed by the campaign on both September 2nd and 8th disclosed two items, totaling \$125,366, for media placements for television (\$71,280) and radio (\$54,086). As supporting documentation of the expenditure items, two lists of proposed television and radio media dates and times were attached to Schedule 4, but no checks, receipted bills, or contracts

were provided to establish that the funds were spent. The listings further stated that they were either a television or radio "budget." The campaign's contract with the vendor, who was reported on Schedule 4 as the person to whom payment was made for the \$125,366, specifically requires prepayment prior to placement of media purchases. No evidence of prepayment has been provided.

Staff therefore believes that these two items do not meet the regulatory test for an expenditure required to establish the \$210,000 threshold, and therefore that the campaign has not expended the \$125,366 represented by them. If these two items are excluded from the \$288,984.37 reported on the Schedule 4 filed on September 8th, the Sabrin campaign spent \$163,618.37 for the 1997 general election by the September 2, 1997 deadline. This amount is \$46,381.63 (22 percent) less than the \$210,000 threshold.

Staff review of the Form P-1, Schedule 4 and supporting documents filed on September 8, 1997, disclosed a "letter of agreement" with a vendor (dated August 27, 1997) to provide a "targeted voter outreach mailing" in October at a cost to the campaign of \$25,000. This letter is not listed by the campaign as an expenditure on Schedule 4 and is not included in the \$288,984.37 expenditure total. Staff is unable to read the signature or signatures on the letter to determine whether or not both the campaign and vendor have signed. If this letter were to be considered as a contract and therefore expended for the purpose of establishing qualification, the campaign would have spent a total of \$188,618.37 (\$163,618.37 plus \$25,000), and would not have reached the \$210,000 threshold.

Legal argument has been provided by Richard F. Collier, Jr., Esq., on behalf of the Sabrin campaign (see attached) that matching funds should not be denied for failure to establish that \$210,000 has been spent. Staff wishes to respond to two of the arguments advanced by Mr. Collier.

Mr. Collier states that the campaign has met the requirement to spend \$210,000 because N.J.A.C. 19:25-15.17(c) nowhere requires the campaign to provide documentation of expenditures. However, staff notes that Subsection (g) of the same regulation specifically sets forth the required documentation of expenditures and requires that copies of checks, receipted bills, contracts or the like must be filed "as proof of the expenditure of at least \$210,000."

Mr. Collier also argues that N.J.S.A. 19:44A-33 (hereafter, Section 33) makes no reference to expenditures as part of a candidate's eligibility for receipt of matching funds. Staff notes that Section 33 establishes that a "qualified candidate" may receive matching funds. The term "qualified candidate" is defined at N.J.S.A. 19:44A-3m, which specifically requires that a candidate has deposited and expended the threshold amount. Inclusion in the gubernatorial general election debates pursuant to N.J.S.A. 19:44A-45b also requires that a candidate be "qualified" pursuant to the definition of "qualified candidate" at N.J.S.A. 19:44A-3m.

The Sabrin campaign has advised that several of its representatives will attend the September 9, 1997 meeting and will be available to address these issues.

Richard F. Collier, Jr., Esq. of Collier, Jacob, and Sweet, and Counsel to the Sabrin Campaign, was recognized by the Commission.

Mr. Collier stated that he submitted legal argument to the Commission on September 8, 1997, which stated that media buys by the Sabrin Campaign are qualified expenditures under the regulations, with the contract being irrevocably committed and binding. He said that this is so under the concept of "good faith" and "good dealing."

Mr. Collier said that the Commission had before it an issue of great import. He said that never before has the Commission received an application for participation in the gubernatorial public financing program from a third party candidate of limited means. He said that in the spirit of the program, which is to provide candidates of limited means with enough public money to get their message to the public, the Commission should recognize that these issues are merely technical and that the Commission should construe its regulations liberally. He said that this is a public policy decision of an unprecedented nature.

Mr. Collier said that if the Commission is unable to determine the issue today, then an alternative would be for the Commission to forward the matter to the Office of Administrative Law (OAL) for an immediate hearing. He added that what the Commission was dealing with is a technicality and it should relax its regulations.

Vice Chair Linett asked: What have you submitted with regards to media commitments?

Mr. Collier said that the consultant contract was submitted which commits the campaign to a media campaign. He said that the media consultant has begun to place orders.

Commissioner Ware asked if prepayment was made to the media outlets. She asked that the Commissioners see the contract.

Mr. Collier said that the campaign is committed to buying spots but that no prepayment was made.

Chair Martin asked if the Commission would recapture public funds if there is a breach of contract.

Mr. Collier said that the campaign was irrevocably bound.

Commissioner Franzese asked: How is it that it is a legally binding contract if no prepayment has been made?

She added: How is it that spending has taken place when no money has changed hands?

Mr. Collier indicated that the Campaign is irrevocably bound to a media campaign and to spending the money.

Counsel Wyse asked: How would the media consultant be paid?

Mr. Collier said that he didn't know but that he wouldn't be paid unless media buys are made.

Commissioner Franzese said that only a percentage amount can be construed to have been spent and that there are no contracts with the media as yet.

The Chairman of the Sabrin Campaign, Mr. Michael Buoncristiano responded that the consultant would receive 15 percent of any media buys. He added that he also produces the advertisements and that these costs are underwritten by the campaign.

Mr. Doug Walker, a supporter of Mr. Sabrin, added that the situation is analogous to a home builder who subcontracts with plumbers and electricians.

Commissioner Ware asked if the Commission wouldn't be setting a precedent if it waived the regulatory requirements?

"Yes," answered Executive Director Herrmann.

Commissioner Ware said that there is a statutory deadline for providing proof that money has been spent.

Counsel Wyse said that in his opinion, only the money already spent for the consultant should impact the Commission's decision.

Vice Chair Linett said that he had no problem with a liberal construction. He added, however, that an argument could be made for a strict constructionist approach in that taxpayers' money is at stake.

Commissioner Franzese asked whether the instrument is a contract with the consultant or a larger contract with media outlets?

Mr. Collier said that the campaign is committed to a media campaign.

The Commissioners directed Legal Counsel to evaluate the instrument represented to be a contract and to determine whether or not there is a legally binding commitment or whether

referral to the Office of Administrative Law is necessary for interpretation of the contract. They indicated they would return to this matter later in the meeting.

7. Adoption of Lobbying Benefit Notification Regulations

The Commission's proposed amendments and new rule concerning notification of lobbying benefits were published in the July 7, 1997 edition of the New Jersey Register, and are now ripe for adoption. Staff recommended the proposed text be adopted, with the agency-initiated change described below.

After notice was circulated to the State House press corps and other interested parties, and notices appeared in the New Jersey Law Journal and New Jersey Lawyer, no persons appeared to testify at the public hearing on the proposal conducted at the Commission's July 22, 1997 public meeting. The deadline for public comment expired on August 6, 1997, and no comment has been received.

Staff recommended an agency-initiated change to the text of Subsection (b) of N.J.A.C. 19:25-20.11. The effect would be to require only the reporting of the higher of the reasonable commercial value or the cost of a benefit, not both as is required under the proposed text.

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission adopted the Lobbying Benefit Notification Regulations and directed staff to file the Notice of Adoption with the Office of Administrative Law.

8. ELEC; Regulations Governing Use of Campaign Funds for Legal Expenses

This agenda item was deferred until the October 21, 1997 meeting.

9. Advisory Opinion Request No. 06-1997

This advisory opinion request was submitted by Assemblyman Alex De Croce (District 26), Deputy Speaker of the General Assembly. The request concerns the permissibility of using his candidate committee funds to pay expenses incurred by his spouse and children who accompanied him during his attendance at the Eastern Regional Conference of the Council of State Governments (ERC/CSG) annual meeting held in Portland, Maine from July 27 through 30, 1997.

Specifically, Assemblyman De Croce asked whether or not candidate committee funds to pay for costs arising out of the attendance of his spouse and dependent children at a conference in which he was carrying out his officeholder's responsibilities is permissible.

Staff recommended that Assemblyman De Croce be advised that the proposed use is impermissible. Although the attendance and participation of Assemblyman De Croce in the ERC/CSG annual conference are viewed by staff as permissible costs incurred in connection with his officeholding duties, the costs arising out of the attendance of his spouse and dependent children were not incurred in connection with his officeholding responsibilities

and therefore do not constitute an ordinary and necessary expense of his holding elected public office.

Staff noted that the Commission regulations implementing the new statutory restrictions on uses of campaign funds addressed the subject of use of campaign funds for family members in another context. A new rule was proposed and promulgated permitting a candidate committee to pay a salary or fee to a family member of the candidate who established the committee provided that the salary is paid for bona fide services received by the committee at fair market value. Staff concluded that the Commission, by not specifically providing for family member travel expense in other sections of the permissible use regulations did not intend to include family member expenses within the scope of those permissible uses.

Staff concluded that in the absence of a regulatory provision permitting use of campaign funds for family member attendance and travel expenses, the Commission advise Assemblyman De Croce that this proposed use for family member travel expenses be prohibited.

Vice Chair Linett said that the funds in question are not public funds but rather campaign funds. He said that he disagreed with the staff position on the Advisory Opinion Request.

Vice Chair Linett said that it is often expected that officeholders bring their spouses to events. He said there is a social basis for the expenditure of these funds on spouses.

Chair Martin disagreed saying that use of campaign funds for spouses should be limited to official functions.

Executive Director Herrmann mentioned the staff recommendation that perhaps the Commission could consult with the Joint Legislative Committee on Ethical Standards to develop a policy.

The Commission recognized Karen Zaletel, who identified herself as a candidate for Assembly in the 13th district. Ms. Zaletel said that campaign funds should never be used to defray the cost of spouses attending events. Chair Martin suggested that the Commission ask the requester for an extension so that staff could consult with the Ethics Committee . The Commission agreed.

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission directed staff to ask Assemblyman De Croce to defer his request to permit staff to contact the Joint Legislative Committee on Ethical Standards on this issue to seek the views of that Committee.

Legal Director Nagy added that if the Assemblyman does not agree, then he may have immunity.

10. Resolution to Go Into Executive Session

On a motion by Commissioner Ware, seconded by Vice Chair Linett and passed by a vote of 4-0, the Commission resolved to go into closed Executive Session to discuss the eligibility of Gubernatorial Candidate Murray Sabrin for receipt of matching funds.

11. Return to Public Session

On a motion by Commissioner Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission resolved to return to Public Session.

Sabrin Eligibility (continued)

Chair Martin said that the Commissioners reviewed copies of the documents filed by the Sabrin Campaign to establish that there was an expenditure for media, and the question that needs to be resolved is whether or not the instrument in question is a proposal or an enforceable contract.

Chair Martin said that a factual record needed to be developed and that the Office of Administrative Law process was set up to accomplish this function.

Vice Chair Linett said that he agreed that the matter should be referred to the OAL because of its tremendous significance.

Commissioner Franzese said that the Commission desired to give the candidate the benefit of the doubt by giving him time to develop a factual record. She concurred with the decision to refer to the Office of Administrative Law to determine whether the document is a contract or a proposal.

Commissioner Ware concurred.

On a motion by Commissioner Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission referred for a hearing before the Office of Administrative Law the question of whether or not the two items for media placements totaling \$125,366 were disbursed or irrevocably committed.

Chair Martin said that what the Commission would ask the Office of Administrative Law was to determine the nature of the instrument submitted by the campaign. He said that all other issues are to be determined by the Commission.

12. Resolution to Go Into Executive Session

On a motion by Vice Chair Linett, seconded by Commissioner Franzese 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:

- A. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public no later than 35 days after mailing.
- B. 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 no later than 50 days after mailing.

13. Return to Public Session

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

14. Adjournment

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission voted to adjourn at 1:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz