



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

THEODORE Z. DAVIS
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Legal Director

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Compliance Director

JAMES P. WYSE
Counsel

PUBLIC SESSION MINUTES

February 15, 2005

All of the Commissioners, Counsel Wyse, and Senior Staff were present.

1. Open Public Meetings Statement

Chair English 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.

2. Approval of Public Session Minutes of January 18, 2005

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 4-0, the Commission approved the Public Session Minutes of January 18, 2005.

3. Executive Director's Report

A. Staff Activities

Executive Director Herrmann reported that Director of Systems Administration Carol Neiman and Assistant Data Entry Technicians Barbara Counts and Pam Kinsey were responsible for this year's ELEC Fund Drive for the New Jersey Employees Charitable Campaign. He stated that the Commission has won many awards over the years for its participation in this important program. The Executive Director mentioned that thanks to the efforts of Director Neiman and her staff as well as the wonderful generosity of ELEC's employees over \$5,000 was raised.

Executive Director Herrmann reported that Compliance Director Evelyn Ford and Webmaster Maryanne Garcia designed a new certificate to present to treasurers who have successfully completed the training program mandated by S-10, which was enacted last year. The Executive Director indicated that the bill, which was part of the

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25-Point Ethics Reform Package, requires the Commission to establish a training program for treasurers of Gubernatorial, Senate, and General Assembly candidates as well as state political party committees and legislative leadership committees. Executive Director Herrmann noted that training is optional for all other treasurers. According to the Executive Director, staff has completed the training of the state political party committee and legislative leadership committee treasurers. The Executive Director informed the Commission that training of gubernatorial and legislative candidate treasurers is ongoing with seminars not only during the week but also on one evening and one Saturday. He said that so far 85 persons have received training and that, moreover, staff is developing an Internet version of the training program, which will be available by the end of 2005.

Executive Director Herrmann revealed that in the near future, ELEC will be launching a new version of its already highly regarded web site. He noted that the Commission has been on the Internet since 1999, and its first web site was scored the highest in the nation by the California Voter Foundation, which called it “state-of-the-art” and “exceptionally complete and easy to use.” According to Executive Director Herrmann, this greatly improved version will be even more user friendly and will contain much more information than the old site. The Executive Director mentioned that it will also provide a great platform for planned enhancements such as a local contributor database, expenditure reporting, and industry coding. Executive Director Herrmann disclosed that staff will be making a formal presentation of the new site at a future Commission meeting.

The Executive Director reported that he has been authorized by the Council on Governmental Ethics Laws (COGEL) to produce the Sixth Edition of the “COGEL Campaign Financing and Lobbying Bibliography.” He said that the bibliography, first published in 1991, lists the standard references in the field, as well as many sources giving a general overview of democratic government and its institutions that set a context for studying campaign financing and lobbying. Executive Director Herrmann advised the Commission that the new edition will include nearly 500 more entries than its predecessor from 2002 and that a revised searchable edition will also be available on the COGEL web site.

B. Budget Update

The Executive Director reported that due to the State’s budget situation, Acting Governor Codey has directed all State agencies to stop new hiring unless there is an emergency or a critical need. He noted that staff is currently in the process of filling 36 new positions needed to implement last year’s “25-Point Ethics Reform Package” and that ELEC will continue to move ahead with its hiring under the assumption that it has a “critical need” to add staff members to administer and enforce the major new laws assigned to its jurisdiction. Executive Director Herrmann stated that a properly staffed Commission will clearly be viewed as necessary to restoring the public’s trust in governmental ethics.

C. Spring Meeting Schedule

- March 15, 2005 at 11:00 a.m. in Trenton (Second Lobbying Regulations Hearing);
- April 5, 2005 at 11:00 a.m. in Trenton (Gubernatorial Primary Election Debate Sponsor Selection);
- April 19, 2005 at 11:00 a.m. in Trenton (Campaign Financing and “Sunset” Regulations Public Hearing); and,
- May 17, 2005 at 11:00 a.m. in Trenton.

4. Public Hearing Concerning Proposed Amendments and New Rules to Implement New Lobbying Laws

Chair English announced that a public hearing was being conducted to solicit public comment on proposed new rules and amendments to Commission regulations to implement recently-enacted legislation which significantly changes the scope of lobbying activity and reporting in New Jersey.

A court reporter was present to record the Public Session discussion.

Chair English acknowledged that requests were received from the New Jersey Business and Industry Association, the New Jersey Retail Merchants Association, and the Chemistry council of New Jersey to extend the comment period on the new rules and amendments for an additional 60 days.

Commissioner Davis indicated that he had read the three letters requesting the extension of the comment period and moved to deny the requests. Commissioner Burstein seconded the motion.

Commissioner Davis stated that the Commissioners and staff were working hard on the rulemaking and that he did not understand why the requesters waited so long to contact their constituencies since the process had been publicly announced for several months.

Commissioner Burstein concurred.

Chair English stated that once the Legislature acts, it is the obligation of the Commission to respond promptly. She noted that the Commission will continue to listen to all comments and may revisit the request. She asked that the three letters be included in the record.

The following persons appeared and offered testimony:

- Linda Czipo, Executive Director, The Center for Non Profit Corporations, Inc.;
- Hal Bozarth, Executive Director, New Jersey Chemistry Council;
- James R. Silkensen, Executive Vice President, New Jersey League of Community Bankers; and,

- John Rogers, Vice President/Human Resources, New Jersey Business & Industry Association.

The transcript will be available to the public upon request.

On a motion by Commissioner Davis, seconded by Vice Chair Tober and passed by a vote of 4-0, the Commission adjourned the public hearing.

Chair English left the meeting at this point.

5. 2005 Primary Election Matching Fund Submissions

Amy Davis, Director of Public Financing, reported on the status of 2005 primary election matching fund submissions.

Candidate John Murphy

Submission #1 – Director Davis stated that on the basis of its review of Candidate Murphy’s submission, staff determined that an amount of \$206,337.99 in contributions was eligible for match after deducting \$96,000, the amount which is not subject to match for all candidates for the first submission only. She said that \$206,337.99 was matched at the statutory two for one ratio of public to private dollars bringing the total deposited into a separate public funds account to \$412,675.98.

Submission #2 - Director Davis reported that Candidate Murphy filed a second matching fund submission on January 25, 2005, and reported \$45,100.00 in net contributions submitted for match. She indicated that when review of the contributions is completed, staff will certify the public fund total to the Department of Treasury and deposit the public funds.

Candidate Paul DiGaetano

Submission #1 - Director Davis noted that Candidate DiGaetano filed his matching fund submission on January 25, 2005, containing \$347,680.00 in net contributions submitted for match. She said that Candidate DiGaetano filed a signed Statement of Agreement to participate in the 2005 primary election debates and a Candidate Certification of Non-Participation in Issue Advocacy Organizations. She said that staff review of documentation filed by Candidate DiGaetano indicates that at least \$300,000 has been spent in the 2005 primary election.

Director Davis reported that staff review of the submission indicated that 180 of the 717 contribution items submitted for match on Submission #1, totaling \$102,240.00, were deposited into the campaign account more than ten days after receipt of the contributions by the campaign. The Campaign Reporting Act requires that all funds received by a campaign treasurer be deposited into the campaign depository no later than ten days after receipt. Daniel Geltrude, Candidate DiGaetano’s campaign treasurer, provided a written explanation that the appearance of a delay in deposit of these contributions occurred because campaign data entry staff entered the date appearing on the check instead of the actual date the

contribution was received by the campaign. The treasurer stated that he has implemented changes to ensure the actual date of receipt is reported.

Director Davis explained that staff understands the purpose of the ten-day deposit rule is to prevent campaigns from delaying deposit of contributions in order to prevent timely disclosure of contribution information. Because a publicly financed gubernatorial campaign must report all contributions on its preelection quarterly reports and because the DiGaetano campaign has filed preelection quarterly reports since April 15, 2004, there has been preelection disclosure of the contributions even though the dates of receipt of some of the contributions were improperly reported. Director Davis therefore recommended that, in the absence of any other compliance defects, the 180 contributions to 2005 primary election candidate Paul DiGaetano be eligible for match. She noted that the Commission has similarly approved contributions to a 2005 primary election candidate for match that were not deposited within ten days of receipt.

Submission #1 Contribution Review - Director Davis reported that the Public Financing staff is continuing its review of the contributions submitted for match in Candidate DiGaetano's first submission. She indicated that when review of the contributions is completed, if it is determined that the submission contained the required \$300,000 in contributions eligible for match, staff will certify the public fund total to the Department of Treasury and deposit the public funds.

Candidate Brett Schundler

Submission #1 - Director Davis said that Candidate Schundler filed his first matching fund submission on January 25, 2005, containing \$503,271.77 in net contributions submitted for match. She indicated that Candidate Schundler filed a signed Statement of Agreement to participate in the 2005 primary election debates as well as an Issue Advocacy Organization Report of Contributions and Expenditures. Director Davis stated that staff review of documentation filed by Candidate Schundler indicates that at least \$300,000 has been spent in the 2005 primary election.

According to Director Davis, the Schundler campaign submitted for match 125 contributions received by means of a credit card. She said that the contributions were accompanied by copies of bank statements reporting the amount and date of the deposit, but that certain other required documentation was not included. Director Davis noted that on January 28, 2005, the Schundler campaign provided staff with bank receipt documentation that specifically identified each contributor for 80 of the 125 credit card contributions. She said further that on February 4, 2005, the campaign provided receipts for the remaining 45 credit card contributions. Director Davis, therefore recommended that the Commission find that the delay of three and ten days in providing copies of itemized credit card receipts should not preclude the Schundler campaign from qualification to receive public matching funds. She said that staff will advise the Schundler campaign that in order to be eligible for match in future submissions, documentation of credit card contributions must be filed on the submission filing date.

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Submission #1 Contribution Review - Director Davis advised the Commission that the Public Financing staff is reviewing the contributions submitted for match in Candidate Schundler's first submission. She said that when review of the contributions is completed, if it is determined that the submission contained the required \$300,000 in contributions eligible for match, staff will certify the public fund total to the Department of Treasury and deposit the public funds.

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 3-0, the Commission approved the report on 2005 primary election matching fund submissions.

6. Resolution to go into Executive Session

On a motion by Vice Chair Tober, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission resolved to go into 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 not later than seven business days after mailing to the named respondents.
- 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 not later than seven business days after mailing to the named respondents.

7. Return to Public Session

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 3-0, the Commission voted to return to Public Session.

8. Adjournment

On a motion by Commissioner Davis, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adjourn at 2:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director