



*State of New Jersey*

## ELECTION LAW ENFORCEMENT COMMISSION

JERRY FITZGERALD ENGLISH  
Chair

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Vice Chair

ALBERT BURSTEIN  
Commissioner

AMOS C. SAUNDERS  
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JEFFREY M. BRINDLE  
Deputy Director

CAROL L. HOEKJE  
Legal Director

EVELYN FORD  
Compliance Director

JAMES P. WYSE  
Legal Counsel

### PUBLIC SESSION MINUTES

February 17, 2009

Chair English, Vice Chair Tober, Commissioner Burstein, Legal Counsel Wyse, and Senior Staff were present. Commissioner Saunders was absent.

#### 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 10:00 a.m. in Trenton.

#### 2. Approval of Public Session Minutes of January 20, 2009

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission approved the Public Session Minutes of January 20, 2009.

#### 3. Executive Director's Report

##### A. Commissioner Ethics Filings

Executive Director Herrmann informed the Commission that Commissioner Personal Financial Disclosure Statements for calendar year 2008 must be filed with the State Ethics Commission (SEC) by May 15, 2009. He indicated that this year the statements must be filed electronically and that forms and instructions are available on the SEC website. Executive Director Herrmann advised the Commission that to get to the site, Commissioners should simply Google "New Jersey State Ethics Commission."

B. National Ethics News

The Executive Director stated that he learned in January that Dr. Keon Chi, who was the Director of The Council of State Governments National Center for State Governance and the Editor-in-Chief of The Book of the States, died tragically in a traffic accident while leaving work last year. He mentioned that Dr. Chi was appropriately referred to as a national expert on State government and a “treasured human being” in his obituary. According to the Executive Director, he had known Dr. Chi for many years and had the privilege of serving with him on the Public Integrity editorial board and numerous conference programs. Dr. Herrmann said that he also worked with him on a national campaign financing reform study in 1993 based on a three-day “Expert Brainstorming Session” held at the Council’s headquarters in Lexington, Kentucky. He stated that Dr. Chi was a true scholar and gentleman and will be greatly missed by all those who knew him and admired his work.

The Commission asked Executive Director Herrmann to send a letter of condolence to Dr. Chi’s family.

C. Recent Pay-to-Play Court Decision

Executive Director Herrmann noted that on January 15, 2009, the New Jersey Supreme Court unanimously affirmed an Appellate Division decision in the Earle Asphalt Case. The Executive Director told the Commission that the justices upheld the lower court’s holding that the Pay-to-Play Prohibition Law, which disqualifies a State contract if a vendor has made a campaign contribution to a county political party committee during a specified time period, is constitutional. Executive Director Herrmann added that the justices agreed with the Appellate Division that the Department of the Treasury properly rejected the company’s claim to an exemption because it had timely applied for a refund though payment was not received during the 30-day safe harbor exemption period.

D. Staff Activities

Dr. Herrmann informed the Commission that Compliance Director Evelyn Ford and her divisional staff have revised the Internet treasurer training module on the ELEC website to reflect the new filing thresholds for 2009. He indicated that the module was thoroughly reviewed to identify questions that needed revision, and that the resulting changes make the module more valuable. According to Executive Director Herrmann, training treasurers over the Internet instead of in person is an important cost saving measure during these dire financial times. Most assuredly, he said, the staff continues to focus on using the website and technology to perform efficiently various parts of ELEC’s mission.

The Executive Director advised the Commission that Director of Information Technology Carol Neiman and her staff have created a “fillable” PFD-1 form for use in the 2009 gubernatorial and general assembly elections. Executive Director Herrmann reported that the forms, which disclose personal financial information by categories

and not exact amounts, are filed in mid-April and that this new filing option will make this disclosure requirement simpler for the candidates and will provide the public and media with easier to read forms. Executive Director Herrmann noted that by statute these forms are only publicly available by request because of the personal nature of some of the information on them. He said that they are consequently not placed on the Internet.

E. Spring Meeting Schedule

- March 17, 2009 at 10:00 a.m. in Trenton;
- April 7, 2009 at 10:00 a.m. (Gubernatorial Primary Debate Sponsor Selection) in Trenton;
- April 20, 2009 at 11:00 a.m. in Trenton;
- May 19, 2009 at 11:00 a.m. in Trenton; and,
- June 16, 2009 at 11:00 a.m. in Trenton.

4. Adoption of New Rules Concerning Finalization with Net Debt by Publicly-Financed Gubernatorial Candidates

Legal Director Carol Hoekje stated that while no written or oral testimony was provided to the Commission, she did speak by phone with Lynn Schundler, Esq., regarding the regulations. Director Hoekje indicated that Ms. Schundler had a minor concern about the impact on the application process in the event that the Commission found any reports that were filed slightly late.

Legal Director Hoekje said that she responded by saying that the Commission would look at the totality of circumstances in doing its application review.

Commissioner Burstein said that he agreed with the response and that the suggested amendatory language was meant to address de minimis reporting errors.

Chair English asked for any comments from the public. Mr. Ron Gravino thanked the Commission on behalf of the Bob Franks gubernatorial campaign.

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission adopted the new rules concerning finalization by publicly-financed gubernatorial candidates with net debt.

Legal Director Hoekje requested also that the Commission authorize a response to the Schundler advisory opinion request, Advisory Opinion No. 02-2008, that due to the adoption of the regulations, no further action would be taken vis-à-vis the request.

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission determined to take no further action as to Advisory Opinion Request No. 02-2008.

5. 2009 Gubernatorial Public Financing Program Update

Lonegan - Submissions #1 and # 2

Special Programs Director Amy F. Davis stated that staff completed its review of Candidate Steven Lonegan's first submission and issued public funds totaling \$471,343.24 on January 23, 2009. She added that Candidate Lonegan filed a second submission on January 27, 2009, and that staff completed its review issuing public funds totaling \$82,498.42 on February 11, 2009. Director Davis said that on that date Candidate Lonegan filed a third submission for public funds and that staff will report to the Commission on his Submission #3 at the next Commission meeting. She noted that to date, Candidate Lonegan has received public funds totaling \$553,841.66.

Christie - Submission #1

According to Director Davis, Candidate Chris Christie filed his first submission for 2009 primary election matching funds on February 10, 2009, containing \$517,880 in contributions. She said that Candidate Christie filed a signed Statement of Agreement to participate in the 2009 primary election debates and a Candidate Certification of Non-Participation in Issue Advocacy Organizations (Form P-2A).

Director Davis stated that when review of the contributions is completed, provided it is determined that the submission contains a total amount of at least \$340,000 in contributions eligible for match, staff will certify the public fund total to the Department of the Treasury and deposit the public funds. She said that staff will report to the Commission on Submission #1 at the next Commission meeting.

Chair English asked whether or not the test for qualifying for public funds was two-fold. In other words, she asked are candidates required to both raise and spend \$340,000 in order to qualify.

Director Davis answered in the affirmative.

Chair English asked further whether or not gubernatorial candidates must provide documentation, such as contracts and invoices, as proof that money has been raised and spent in furtherance of qualifying for public funds.

Director Davis stated that the campaigns must provide documentation such as invoices, checks, and contracts.

Vice Chair Tober asked about the last date to apply for public funds.

Director Davis stated April 6, 2009.

6. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and 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.

Return to Public Session

7. Proposed Penalty Recommendations to the Legislature

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission moved that a recommendation be forwarded to the Governor and Legislative leaders concerning amending N.J.S.A 19:44A-22, to provide enhanced penalties for impermissible use of campaign funds. The Commission recommends a graduated penalty schedule parallel to that found for excessive contribution violations. The motion included that the penalties would also apply to gubernatorial candidates.

There were no members present from the public and no comments were received.

8. Adjournment

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adjourn at 12:30 p.m.

Respectfully submitted as true  
and correct,

Frederick M. Herrmann, Ph.D.  
Executive Director