



State of New Jersey

RONALD DEFILIPPIS  
Chairman

WALTER F. TIMPONE  
Vice Chairman

AMOS C. SAUNDERS  
Commissioner

## ELECTION LAW ENFORCEMENT COMMISSION

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Legal Director

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Compliance Director

### PUBLIC SESSION MINUTES

July 17, 2012

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, and senior staff were present. Director of Review and Investigation Shreve Marshall was also present. Special Programs Analyst Scott M. Fagerty was present for the purpose of recording the minutes.

The Public Session Minutes will be available online in the Commission's website at: <http://www.elec.state.nj.us>.

The meeting convened at 11:00 a.m. in Trenton.

#### 1. Open Public Meetings Statement

Chairman DeFilippis called the meeting to order and Executive Director Brindle 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. It was also posted on the Commission's website.

#### 2. Approval of Public Session Minutes of June 19, 2012

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone, and passed by a vote of 3-0, the Commission approved the Public Session Minutes of June 19, 2012.

#### 3. Executive Director's Report

##### A. Training Seminars

The Executive Director reported to the Commission that staff has held successful training sessions recently. He noted that on April 2<sup>nd</sup>, in Middlesex County, staff conducted a session at which 17 people were in attendance. On June 3<sup>rd</sup>, staff held a session in Ocean County for 26 people, and on July 10<sup>th</sup>, 30 people attended the session in Monmouth County.

The Executive Director noted that staff will hold a training session regarding electronic filing on the 25<sup>th</sup> of July. He further stated that, due to the high demand for staff to hold Pay-to-Play information sessions, staff would be adding three more beginning in the fall.

B. Analytical Press Release

Executive Director Brindle announced that two analytical press releases were due to be released. The first, which will be released on Wednesday, July 18<sup>th</sup>, will describe and analyze the financial activity of the “Big Six” committees in the State, while the second, due to be released on Monday, July 23<sup>rd</sup>, will examine the activity reported by the County Political Party Committees.

C. Court Cases

**American Tradition Party (ATP) vs. Bullock** - The Executive Director reported that on June 25<sup>th</sup>, the United States Supreme Court Summarily reversed the Montana Corrupt Practices Act as inconsistent with Citizens United. The Act, previously upheld by the Montana Supreme Court, had barred corporations from spending on campaigns independently or otherwise.

**McCutchen vs. Federal Election Commission (FEC)** - Executive Director Brindle reported on litigation concerning the aggregate limits imposed by the FEC. He stated that Shawn McCutchen and the Republican National Committee (RNC) are seeking a preliminary injunction against aggregate limits in federal campaigns. Currently, an individual may give \$117,000 in total to candidates and committees. The plaintiffs wish to enjoin the FEC from enforcing the aggregate limit on contributions.

Executive Director Brindle noted that given the direction the Court has taken in recent years, he expects the Court to issue the injunction. He further stated his opinion that there existed a real possibility that the Court would eventually overturn the aggregate limits.

D. Social Media

The Executive Director announced that ELEC has now begun to maintain a presence on the social media Facebook and Twitter. Executive Director Brindle further declared that by staying on the cutting edge of technology, ELEC will have greater resources to encourage and enhance disclosure. ELEC’s presence on these social media can be found at:

<http://www.facebook.com/NJElectionLaw>

<http://twitter.com/elecnj>

The Executive Director said that the Commission’s Twitter feed had already obtained 50 followers, which illustrates that the use of social media creates an opportunity to increase ELEC’s public exposure.

E. Henry Coslick (Hank)

In highlighting the new use of social media, Executive Director Brindle took the opportunity to introduce and thank Henry Coslick, ELEC's new intern from The College of New Jersey (TCNJ). The Executive Director stated that Mr. Coslick has provided ELEC with valuable research on social media and consulted with Elbia Zeppetelli in terms of setting up and designing ELEC's Facebook profile. He added that Mr. Coslick is also involved in conducting a lobbying project.

F. Summer/Fall Meeting Schedule

- August 21, 2012 at 11:00 a.m. in Trenton (if necessary);
- September 11, 2012 at 11:00 a.m. in Trenton; and,
- October 16, 2012 at 11:00 a.m. in Trenton

Legal Director Hoekje stated that at the September Commission meeting, the Cost Index regulations will be subject of a public hearing, and that the gubernatorial proposal will be ripe for adoption. She further noted that at the October Commission meeting, there will be a public hearing on the proposed amendments and new rules concerning lobbying and electronic filing and the Personal Financial Disclosure Statements.

4. Public Hearing on Proposed New Rules and Amendments concerning Gubernatorial Public Financing

Chairman DeFilippis announced that a public hearing was being conducted to elicit public comment concerning proposed new rules and amendments to the Commission's regulations concerning the Gubernatorial Public Financing Program. The proposed new rules and amendments primarily include the candidate for office of Lieutenant Governor in the Commission's regulations in accordance with statutory changes which became effective in 2009. They also remove reference to specific languages for prepared statements on behalf of gubernatorial candidates, include internet advertisements, certain website and email communications, and the purchase of lists of email addresses to the list of permissible uses of matching funds by gubernatorial candidates, and concern identification of the contributor where the maker of a check drawn on a joint checking account is different from the individual who signs the accompanying written instrument. The written public comment period will expire July 20, 2012.

No persons appeared to offer testimony. A court reporter was available to record the proceedings. The transcript will be available to the public for inspection upon request.

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone and passed by a vote of 3-0, the Commission adjourned the public hearing.

5. Proposed Amendments to Implement Inflationary Campaign Cost Adjustments

Legal Director Hoekje introduced a proposal for amendments to the regulations to implement the statutorily-mandated, quadrennial campaign cost adjustment process. The proposed amendments follow the 2013 Cost Index Report which was approved by the Commission at its June 19, 2012 meeting. N.J.S.A. 19:44A-7.1 and 7.2 require that the Commission calculate the change in campaign costs over the past four years and propose amendments to limits and thresholds applicable to

gubernatorial candidates, and thresholds applicable to non-gubernatorial candidates and committees. The Legal Director stated that if approved, staff will file the proposal with the Office of Administrative Law and the proposal will be published in the New Jersey Register. The Legal Director explained that staff had previously filed a rulemaking calendar that had a 30-day period for comment, which accelerates the rulemaking process. A public hearing will be held at the September 11, 2012 meeting, secondary notice will be provided to regulated entities and interested persons, and the public comment period will expire September 19, 2012.

Legal Director Hoekje acknowledged Michelle Levy for her work in preparing the proposal.

Chairman DeFilippis asked whether the Cost Index Report was published on the Commission's website.

Legal Director Hoekje replied in the affirmative.

The Chairman then asked if printed copies were also available, to which Executive Director Brindle replied that hard copies were available for members of the public.

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission approved the Proposed Amendments to Implement Inflationary Campaign Cost Adjustments.

6. Public Comments

Chairman DeFilippis asked if any members of the public would like to address the Commission.

There were no comments offered by members of the public at this time.

7. Resolution to go into Executive Session

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and current litigation, which will become public as follows:

- A. Final Decision Recommendations in complaint 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. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public not later than seven business days after mailing to the named respondents.

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- C. 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. The reports will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public not later than seven business days after mailing to the named respondents.
- D. Matters under current litigation, the substance of discussions of which will not become public in order to protect the attorney-client privilege and the deliberative process. However, any litigation in which the Commission is currently a party is a public matter and will become public subject to the above limitations and privileges.
- E. Personnel matters concern the hiring of outside legal counsel, which will become public upon appointment of such counsel.

Return to Public Session

8. Adjournment

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to adjourn at 12:47 p.m.

Respectfully submitted as true  
and correct,

Jeffrey M. Brindle  
Executive Director

JMB/elz