

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

AUGUST 22, 1985

PRESENT:

Andrew C. Axtell, Chairman
Alexander P. Waugh, Jr., Vice Chairman
Haydn Proctor, Member*
Owen V. McNany, Member
Frederick M. Herrmann, Executive Director
Jeffrey M. Brindle, Deputy Director
Gregory E. Nagy, Staff Counsel
Peter D. Nichols, Director of Public Financing

ABSENT:

Edward J. Farrell, General Counsel

* Arrived late

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1974, c. 231, special notice of the meeting of the Commission has been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 9:15 a.m. at the office of the Commission, 28 West State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of July 17, 1985

On a motion by Vice Chairman Waugh, seconded by Commissioner McNany and a vote of 3-0, the Commission approved the public session minutes of July 17, 1985.

2. Executive Director's Report

Executive Director Herrmann introduced three new directors to the Commission:

Cheryl R. Clarke, who has been with the Commission for two years in the capacity of Assistant Staff Counsel is now the Commission's Director of Review and Investigation. Ms. Clarke will be responsible for both desk and field audits and has five staff members.

Evelyn Green, who is an attorney, has been at the Commission for one month in the capacity of Director of Compliance and Information. Her background has been in private practice, the Office of Legislative Services, and administration.

Richard Magee, an M.B.A., who has many years experience in administration in the private sector, joined the Commission on Monday, August 19, as Director of Administration. Executive Director Herrmann noted that Mr. Magee won an award in a previous position for saving his firm an amount of money equal to two times the Commission's annual budget.

Mr. Herrmann reviewed the fiscal year 1985 budget with the Commission. He said the Commission managed to get a resolution included in the supplemental appropriation bill which provided an additional \$60,000 in salary money. This money is going to be used to fill two vacant positions, Assistant Counsel and Assistant Election Finance Analyst.

Mr. Herrmann said that \$110,000 was added to FY86 budget. He said that this additional money is significant because most states are moving in the opposite direction by cutting funds to disclosure agencies. This extra funding shows that there is support for the Election Law Enforcement Commission in New Jersey. He continued by stating that in addition to the \$60,000 increase, \$44,000 was included for the microfilm project and \$6,000 was secured for the Commissioners' 1985 per diem payments.

Finally, Mr. Herrmann said that the Fiscal Year 1987 budget proposals will be presented to the Commission early next month.

Mr. Herrmann mentioned that his upcoming activities for the Fall include:

- September 10 - testifying on public funding before the Pennsylvania House State Government Committee;
- September 11 - addressing the Special Committee on Election Law of the New Jersey State Bar Association in Millburn;
- November 21 - staffing an information table at the League of Municipalities Conference in Atlantic City; and
- December 3 to 6 - attending and possibly speaking at the C.O.G.E.L. Conference (Council on Governmental Ethics Laws), in Chicago, Illinois.

Mr. Herrmann reported that preliminary arrangements have been made for the Commission's Christmas party on December 17, 1985. This annual event will tentatively take place after the Commission meeting on that date.

Mr. Herrmann reported that Federal Election Commissioner Frank Reiche, the first chairman of ELEC, left the FEC on August 9th and that a best-wishes letter will be sent from the Commission.

Mr. Herrmann mentioned that the next Commission meeting will be held on September 4, at the offices of the Commission. There will be weekly meetings until the general election.

3. Deputy Director's Report

Deputy Director Brindle presented a flow-chart review of the Commission's reorganization, the theme of which was to decentralize and professionalize the staff.

Mr. Brindle stated that the general purpose of this reorganization was to organize administrative functions into workable sections; to increase efficiency and productivity; to eliminate bottlenecks in the workflow; to improve supervision and provide direction and guidance to the employees; and to professionalize the staff.

He said that in the past most of the staff, excepting public finance, was supervised by one manager, causing work stoppages and bottlenecks. He said that employee morale had been low, administrative functions were not clearly defined, and employee supervision and direction was lacking. Mr. Brindle explained that with the

reorganization, administrative functions are distributed in a logical manner, with areas of responsibility clearly defined. There is now a clear division of authority between sections. Directors, all of professional status, have been hired, or appointed from within, to head the sections. Employee supervision has been enhanced.

Mr. Brindle said that the process of the reorganization took place in three phases:

1. Review and Investigation Section

This newly created section is responsible for review of reports, desk audits, field investigations, and recommendations to the Commission regarding whether complaints are in order.

2. Compliance and Information Section

This new section is responsible for filing and retaining records, microfilming, processing data, and informing the public of Commission activities, rules, and actions.

3. Administration Section

This new section is responsible for fiscal and management services which include personnel, purchasing and payroll, employee training and evaluation programs, and secretarial services.

The functions of the legal and public finance sections have been kept largely in tact.

In conclusion, Mr. Brindle stated that since the reorganization, morale has improved, workflow bottlenecks have been eliminated, employee training has been implemented, an employee manual has been produced, the office move has been completed, written procedures are being worked on, public area refurbishment is underway, and telephone training is planned. In addition, there are plans for a newsletter, for simplifying forms, and for improving public education. Moreover, the E.L.E.C. brochure and mailing list have been completed.

Chairman Axtell congratulated Mr. Herrmann and Mr. Brindle for their fine efforts in moving the Commission forward with these plans.*

Chairman Axtell reviewed a travel voucher in the amount of \$733.98 submitted by Executive Director Herrmann for expenses incurred during his July 14-18, 1985 trip to Portland, Maine, to attend the Council of State Government's Eastern Regional Conference . On a motion by Chairman Axtell, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission approved this expenditure.

* Commissioner Proctor arrived at this point

4. Director of Public Financing's Report

Director of Public Financing Nichols reported that Administrative Assistant Carolyn Neiman and he met with Terry Aston, Procurement Specialist II for the Division of Purchase and Property in the Department of the Treasury, regarding the audit of publicly funded candidates' campaign accounts. Mr. Nichols said that they had gone through an informal bid process, receiving bids from three companies:

Granet and Granet	\$10,385.00
Farida Maneckshana C.P.A., P.A.	12,150.00
Brout and Company	29,853.00

He said that Ms. Neiman, Mr. Aston and he unanimously suggested that Mr. Herrmann recommend to the Commission that this project be awarded to Farida Maneckshana C.P.A., P.A. at a cost of \$12,150.00 for the following reasons:

1. The proposal submitted by Granet and Granet was found to be generally deficient;
2. The proposal submitted by Farida Maneckshana C.O.A., P.A. was comprehensive and demonstrated thoroughness of research in proposal preparation, providing detailed plans for conducting the audits;
3. The Farida Maneckshana C.P.A., P.A. proposal was the lowest responsive bid;
4. The Farida Maneckshana C.P.A., P.A. proposal was the most reasonable estimate for staff hours;
5. The Farida Maneckshana C.P.A., P.A. proposal's average hourly rate was the lowest of all bidders; and
6. The proposal submitted by Brout and Company was considerably higher in cost than that of the next responsible bid, without being significantly superior.

On a motion by Commissioner Proctor, seconded by Commissioner McNany and a vote of 4-0, the Commission voted to accept the recommendation made by the evaluation committee to award a contract to the firm Farida Maneckshana C.P.A., P.A. for the audit of the publicly funded candidates' campaign bank accounts. Chairman Axtell signed a cover memorandum that directed the Division of Purchase and Property to obtain the services of the recommended vendor.

Mr. Nichols stated that the Friends of Tom Kean made a submission which has been entirely reviewed by his staff for public funds in the 1985 general election. The total amount of the submission is \$757,000. He said that the submission contained some errors, but that more than enough was submitted in eligible contributions to reach the maximum a single candidate can receive in public funds for the general election. Therefore, Mr. Nichols recommended that the Commission certify the maximum amount of public funds a candidate participating in the gubernatorial general election public financing program can receive, \$1,287,144.80.

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to approve the certification.

Mr. Nichols said that the Shapiro campaign has not submitted anything for the general election at this time.

6. Executive Session

On a motion by Commissioner McNany, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to go into executive session.

7. Advisory Opinions

- Advisory Opinion 13-1985

Staff Counsel Nagy reviewed an advisory opinion request dated July 18, 1985 from Browning-Ferris Industries. He stated that the request concerns a statute not within the Commission's jurisdiction. **The question is whether the inquirer is a public utility and as a public utility prohibited from making contributions either through a political action committee or affiliated entities.**

Mr. Nagy said that questions 1 through 4 should be directed by the inquirer to the Attorney General's office, which has issued several opinions dealing with this subject. He said that in regard to question #5, which concerns contributions to federal candidates, no report information is required unless the contributions derive from a bank account used for State candidates in New Jersey. Browning-Ferris Industries may have to report an aggregate "line-item" figure for federal and/or out-of-State candidate contributions.

On a motion by Commissioner Proctor, seconded by Commissioner McNany and a vote of 4-0, Mr. Nagy will discuss this advisory opinion request with General Counsel Farrell.

- Advisory Opinion 15-1985

Staff Counsel Nagy reviewed an advisory opinion request from Dolan and Dolan dated August 14, 1985. The law firm represents a corporation asking employees to make contributions to a political action committee. These requests should be directed to the Attorney General's office, which has prepared an opinion concerning regulated industries establishing PAC's. Vice Chairman Waugh requested that the reply be prefaced by saying that we do not respond to anonymous requests, but because this case is not in our jurisdiction and our answer does not affect any reporting statute, the Commission should make an exception.

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission asked Mr. Nagy to respond to this advisory opinion request with the above preface.

- Advisory Opinion 14-1985

Staff Counsel Nagy reviewed an advisory opinion request from Meyner and Landis, Esqs., a law firm representing Sea-Land Corporation, dated July 25, 1985, regarding campaign reporting requirements under the Reporting Act.

Mr. Nagy stated that the inquirer wants to know what reporting requirements it has as a corporation anticipating making contributions. Mr. Nagy said that the Commission has already advised the corporation that it is not a continuing political committee. He said that the question is if Sea-Land is making a contribution of over \$1,000 in an election, would Sea-Land be considered a "political committee" in that context of an election. Mr. Nagy suggested advising Sea-Land that it does not have a filing obligation as a "political committee," unless it contributes more than \$10,000.

Vice Chairman Waugh said that if the inquirer contributes more than \$10,000, or if it gives an additional sum in another election adding up to more than \$10,000, it is a peripheral purpose continuing political committee and it would have to file, but if it does not spend more than \$10,000 then it does not have to file.

Staff Counsel Nagy said that there appears to be a problem in paragraph #2 of N.J.A.C. 19:25-1.7 which defines "political committee." He said he believes there is an error in the regulations because a calendar year threshold is used rather than a threshold based on a single election. Vice Chairman Waugh agreed and suggested correcting the regulations and enforcing the rule as it was intended to be.

Executive Director Herrmann stated that after the computer is in full service it will be able to give an instant printout of these contributions, and therefore it will not be necessary for corporations or other similar entities that only make contributions to file any reports.

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to have Staff Counsel Nagy communicate its comments to General Counsel Farrell.

Advisory Opinion 16-1985

Staff Counsel Nagy reviewed an advisory opinion request dated August 16, 1985, regarding Glickenhau & Company. He said that this request is almost like Advisory Opinion 14-1985 (Sea-Land) except that Glickenhau is a partnership rather than a corporation, and it has given \$15,000 to the Republican State Committee. Mr. Nagy said that this partnership is not a political action committee as it does not raise money to support candidates. The inquirer did not give the Commission any indication that it will contribute in future elections. It appears to come within the definition of political committee and will, therefore, have a filing obligation.

Vice Chairman Waugh suggested that if the contributed money came from general partnership funds, the partnership could simply fill out part of the appropriate campaign reporting form identifying the amounts and to whom contributions went;

but if the funds were specifically from individual partners, each partner and the amount contributed by that partner must be identified.

Staff Counsel Nagy suggested informing Glickenhau & Company that if it plans to make future contributions it should consider becoming a continuing political committee and file quarterly reports. If it decides this money is the only contribution it will make, then it should report as described by Vice Chairman Waugh.

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor, and a vote of 4-0, the Commission voted to have Staff Counsel Nagy communicate this advisory opinion request to General Counsel Farrell.

7. Executive Session

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to go into executive session.

8. Adjournment

On a motion by Commissioner McNany, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,



FREDERICK M. HERRMANN
Executive Director