



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG., 12th FLOOR  
28 W. STATE STREET, CN 185  
TRENTON, NEW JERSEY 08625-0185  
(609) 292-8700

William H. Eldridge  
Chairman  
Owen V. McNany, III  
Vice Chairman  
David Linett  
Commissioner

Frederick M. Herrmann, Ph.D.  
Executive Director  
Jeffrey M. Brindle  
Deputy Director  
Gregory E. Nagy  
Legal Director  
James P. Wyse  
Counsel

PUBLIC SESSION MINUTES

OCTOBER 20, 1995

The Commissioners, Senior Staff, the Counsel, and Deputy Legal Director Nedda Gold Massar were present.

Chairman Eldridge called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., special 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 3:00 p.m. in the Edward J. Farrell Memorial Conference Room at the Commission Office, Trenton, New Jersey.

3. Approval of Public Session Minutes of September 22, 1995

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the Public Session Minutes of September 22, 1995.

4. Executive Director's Report

Executive Director Herrmann announced that Commissioner Chertoff resigned last week.

A. COGEL/NORCOL Conferences

The Executive Director reported that Deputy Director Brindle and he represented ELEC at the Council on Governmental Ethics Laws (COGEL) Conference in Washington, D.C. from September 17 - 20, 1995.

According to the Executive Director among the highlights was the lobbying panel. He said that the panel discussed grassroots lobbying, executive branch lobbying, the need for more uniformity in state laws, computerization of records, and the empowering of agencies including improving their autonomy, budget, and enforcement powers.

The Executive Director noted that a preliminary report was presented by the Nelson A. Rockefeller Institute of Government at SUNY-Albany on the implementation of campaign finance laws across the nation. He said that it

found a sharp and chronic disjunction between agency workloads and resources.

Executive Director Herrmann said that the report suggested that low budgets mean that agencies can only do a minimal job and that the private sector cannot fill the gap because of bias and a lack of expertise.

According to the Executive Director, the report said that legislators should "give the administering agencies enough funds to do the job properly." He said that the report noted that "a poorly implemented law ought not to exist."

Executive Director Herrmann said that also of great interest was the annual campaign finance update covering new laws and litigation across the United States.

The Executive Director mentioned that Eric Enberg of CBS-News Washington, D.C., during a panel on "Media and Government," singled out ELEC for special praise citing its efforts to help the media during the so-called "Rollins Incident." He said that Deputy Director Brindle and he spent a good deal of time in the conference's computer room studying possible future technologies for ELEC. The Executive Director reported that they were joined there by Deputy Legal Director Massar on the last day.

Executive Director Herrmann advised the Commission that the COGEL Conference will be in Philadelphia, PA. from December 8 - 11, 1995 and in Edmonton, Alberta in September, 1997.

He noted that the Northeastern Regional Conference on Lobbying (NORCOL) session was held on September 20. He said it was attended by ten agencies from eight states, the federal government, and Washington, D.C.

According to the Executive Director, ELEC staff was represented by Deputy Director Brindle, Deputy Legal Director Massar, Director of Compliance and Information Evelyn Ford, Director of Review and Investigation Carol Hoekje, and himself and that Deputy Director Brindle made ELEC's presentation. He said that a lively discussion of new laws, regulations, advisory opinions, and publications ensued. The Executive Director said that the next meeting to be held in conjunction with the Eastern Regional Conference of the Council on State Governments will be in Princeton, New Jersey during July, 1996.

Executive Director Herrmann said that John E. O'Donnell of Maryland replaced him as the new Chair with Janet Wright of Delaware as the Chair-Elect.

#### B. Staff Activities

Executive Director Herrmann noted that Anthony Chianese, Systems Analyst, resigned effective September 24, 1995. He said that the Office of Telecommunications Systems (OTIS) will be helping with our computer until he can be replaced.

The Executive Director mentioned that on September 18, 1995, staff hosted an informational seminar for candidates and treasurers participating in G-95.

Executive Director Herrmann reported that Alan Rosenthal has asked him to meet with some of his students at Eagleton to discuss the role of leaders in raising and allocating funds for legislative campaigns.

He advised the Commission that he has also been asked to serve on a COGEL By-Laws Subcommittee to determine what the extent of COGEL involvement should be in advocating policy positions.

Executive Director Herrmann said that on September 27, 1995, he was the guest speaker at the monthly meeting of the Bergen County Chapter of United We Stand.

He said that on October 17, 1995, Legal Director Nagy spoke to Professor Frank Askin's constitutional law class at RU-NEWARK on campaign finance issues.

C. Future Meeting Schedule

The Commission is scheduled to meet on November 21, 1995 at 9:00 a.m. in Maplewood and on December 19, 1995 at 9:00 a.m. in Maplewood.

5. Public Hearing Concerning Strengthening the Role of the Election Law Enforcement Commission, Gubernatorial Public Financing, and Contribution Limits

At the request of Chairman Eldridge, at 3:00 p.m. the Commission began the second in a series of public hearings to encourage public discussion of campaign financing issues. The public hearing considered the following issues:

- efforts to strengthen the independence and role of the Commission;
- recommendations to make New Jersey's gubernatorial public financing program financially secure; and
- the adequacy of contribution limits enacted in 1993.

A court reporter was available to record the proceedings.

6. Public Hearing on Proposed Regulations Implementing the "Uniform Recall" Election Law

The Commission held a public hearing on new rules concerning the "Uniform Recall" Law at N.J.A.C. 19:25-14 and the proposed recodification at N.J.A.C. 19:25-14 and 19:25-18. No witnesses testified.

A court reporter was present to record the proceedings.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission voted to close the public hearing at 3:58 p.m.

7. Regulation on Contributions from Partnerships

The proposed regulation is at N.J.A.C. 19:25-11.2 and is contained in a new subsection (d). This proposal clarifies that partnerships are not permitted to make contributions and establishes procedures consistent with those of the gubernatorial public financing program which requires contribution checks from partnerships to be attributed to individual contributors.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission approved a proposed text and directed staff to file the appropriate proposal notice with the Office of Administrative Law (OAL) for publication in The New Jersey Register.

8. Advisory Opinion Request No. 12-1995

Peter G. Sheridan, Esq., on behalf of the Committee for Responsible Government (CRG), asked the Commission to advise it if Governor Christine Todd Whitman may participate in its federal committee without violating the statutory prohibition against a candidate directly or indirectly participating in the management or control of a continuing political committee.

Staff circulated a memorandum suggesting a response that there is no statutory restraint on a State candidate from participating in the management or control of an entity that does not receive contributions or make expenditures for State candidates or questions. The purpose of Section 9h(1) is to protect the integrity of the State contribution limits. Therefore, a candidate is limited to the establishment of and control over a candidate committee and a joint candidates committee, and no other committee can coordinate with a candidate to raise and spend money for the candidate's candidacy. Since an exclusively Federal committee cannot contribute to, or make expenditures in support of a State candidate, it presents no threat to the integrity of the contribution limits.

With regard to the question of whether CRG federal activities would trigger any rules regarding New Jersey continuing political committees or trigger a rule regarding the communication regulation under N.J.A.C. 19:25-10.10, which involves the question of a possible gubernatorial candidacy by Governor Whitman, staff noted that CRG had no standing to ask this question in regards to a potential candidacy of Governor Whitman in 1997.

Staff therefore reiterated the circumstances described in the political communication regulation under which an entity may be deemed to be making a political contribution to a gubernatorial candidate.

Commissioner Linett asked Mr. Sheridan whether each of the CRG organizations described in his letter have separate bank accounts, and whether or not the Governor would control any committee activity at the State level.

Mr. Sheridan responded that Governor Whitman would not be involved in any activity within the State of New Jersey. He said that the federal committee is totally separate from the State Committee and that each has a separate bank account. He said that there would be no commingling of funds or activity.

Mr. Sheridan said that the Governor will only be involved in the federal committee, which is subject to federal laws. Mr. Sheridan reiterated that the Governor would not have any control over the CRG State PAC, which itself is controlled by a Board of Trustees. Mr. Sheridan said that the goal of the federal PAC is to promote fiscally conservative, socially inclusive positions vis-a-vis the National Republican Party.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission authorized staff to issue an advisory opinion in accordance with the recommendations in its memorandum.

9. Resolution to Go Into Executive Session

On a motion by Vice Chairman McNany, seconded by Commissioner Linett 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:

1. 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.
2. 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.
3. A report on written requests for investigations of possible violations, which report will not become public. However, any complaint which may be generated as a result of a request for an investigation will become public no later than 50 days after mailing.

10. Return to Public Session

Chairman Eldridge asked staff to analyze the issues discussed at the two public hearings concerning the new Campaign Act and to report to the Commission at the next meeting.

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11. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission voted to adjourn at 4:50 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

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