

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

SEPTEMBER 19, 1983

PRESENT

Andrew C. Axtell, Chairman  
M. Robert DeCotiis, Member  
Alexander P. Waugh, Jr., Member  
Scott A. Weiner, Executive Director  
William R. Schmidt, Asst. Executive Director  
Gregory E. Nagy, Staff Counsel  
Edward J. Farrell, General Legal Counsel

ABSENT

Haydn Proctor, Member

Chairman Axtell called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meeting of the Commission, as amended, 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. at the office of General Legal Counsel Farrell, 43 Maple Avenue, Morristown, N. J. 07960.

1. Approval of Minutes of Public Session of Commission Meeting of September 6, 1983

On a motion by Commissioner DeCotiis, seconded by Commissioner Waugh and a vote of 3-0, the Commission approved the minutes of the public session of September 6, 1983.

2. Executive Director's Report

Mr. Weiner noted that he, Assistant Director Schmidt, Director of Compliance and Review Schultz and Staff Counsel Nagy would be attending a conference, sponsored by the Federal Election Commission, in Albany, N. Y. on September 25, through September 27.

Mr. Weiner reported that the Northeast Conference on Lobbying, being hosted by the Commission, will be held in Newark on Thursday, October 27th. In addition, Mr. Weiner noted that the Council of Governmental Ethics Laws will be holding its national conference the first full week in December on December 7th through 9th in Montgomery, Alabama. He asked any of the Commissioners who intended to go to Montgomery, to advise him.

3. Fiscal Year 1985 Budget

Mr. Weiner noted that the planning documents for FY85, which had been reviewed by the Commission at its previous meeting, were not submitted to the Office of Management and Budget with the consent of that office because the Commission had not yet received the report on data processing needs. Mr. Weiner then summarized the FY85 budget request. He noted that the budget target given to the Commission for FY85 by the Office of Management and Budget represented a \$17,000 increase, but that the Commission is seeking monies in addition to that target amount for the 1985 gubernatorial public financing program, postage, microfilming, overtime and data processing. He said that the entire \$17,000 was being used for salaries and

wages with one position possibly being held vacant to fund other accounts. He noted that the Commission's costs for postage had risen because of the program of reminder notices to candidates and, for the first time this year, the program of notices to committees and PACS.

The Commission reviewed the proposed FY85 budget and concurred in its submission to the Office of Management and Budget on October 1.

#### 4. Executive Session

On a motion by Commissioner Waugh, seconded by Commissioner DeCotiis and a vote of 3-0, the Commission voted to go into executive session to review the executive session minutes of September 6, 1983 and to discuss enforcement actions and investigative matters, the results of which will be made public at their conclusion.

#### 5. Advisory Opinion 12-1983

The Commission reviewed a September 15, 1983 two-page advisory opinion request signed by Hershel Kozlov, Counsel, on behalf of the New Jersey Republican State Committee. In his letter, Mr. Kozlov asked whether any portion of the cost of the media campaign to be paid for by the New Jersey Republican State Committee, would be allocable to a potential re-election campaign by Governor Kean pursuant to recently enacted "testing the waters" regulations.

Mr. Kozlov and Frank B. Holman, Chairman, New Jersey Republican State Committee, attended the Commission meeting for the discussion of this advisory opinion request.

The Commission decided that it did not wish to receive or review the text of the proposed advertisements.

In considering the advisory opinion request, the Commission considered the timing of the advertisements, the role of Governor Kean as Republican party leader and the extent to which the advertisements would identify Governor Kean as a candidate for election or make an unambiguous reference to him as a candidate. Mr. Kozlov said that the advertisements would be institutional advertisements for the 1983 legislative general election. He said the advertisements would include Governor Kean discussing the pledges he and legislative candidates made in 1981 and would urge the listeners to vote Republican in the 1983 general election. He characterized the advertisements as "institutional party building". He said the ads would not specify any particular candidate for the Legislature and would not name any individuals. He said the ads would run up until November 8, 1983.

On a motion by Commissioner DeCotiis, seconded by Commissioner Waugh and a vote of 3-0, the Commission decided that the contemplated media campaign expenditures are not subject to the "testing the waters" reporting requirements for reasons including the following:

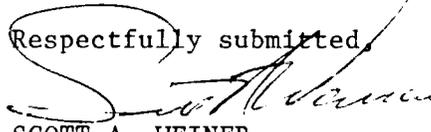
1. the time frame in which the advertisements are being run and the relative remoteness from the 1985 gubernatorial campaign;
2. the presence of an election to which the ads specifically relate;  
and
3. the lack of an unambiguous reference to the Governor as a candidate for election.

The Commission agreed to expedite the advisory opinion by having the staff draft the opinion and then have it read to General Legal Counsel Farrell and the members of the Commission and then sent to Mr. Kozlov and Mr. Holman.

6. Adjournment

On a motion by Commissioner Waugh, seconded by Commissioner DeCotiis and a vote of 3-0, the Commission voted to adjourn.

Respectfully submitted,

  
SCOTT A. WEINER  
Executive Director