

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

APRIL 2, 1985

PRESENT:

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

\* Attended the public session only

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1974, c. 231, annual 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 10:00 a.m. at the offices of the Commission at 28 West State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of March 26, 1985

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission approved the public session minutes of March 26, 1985.

2. Executive Director's Report

Executive Director Herrmann reported that Bill S-2244, sponsored by Senator Thomas F. Cowan, was signed into law by the Governor last week. This bill, which was supported by the Commission, moves forward by 14 days the date by which candidates must file nominating petitions before the primary election. As a result, the names of the primary election candidates will be furnished to the Commission in enough time so that they can be notified of their campaign filing obligations in advance of the deadline for the 29-day preelection report. The Commission has had a problem in the past of notifying candidates of these obligations before their first preelection reports were due. This bill will take affect after 1985.

Mr. Herrmann asked the Commission for its input on the 1984 Annual Report which was circulated at the last meeting. Chairman Axtell had several suggestions that will be incorporated into the report. Vice

Chairman Waugh gave Deputy Director Brindle his edited copy that will also become part of the final draft.

Mr. Herrmann asked the Commission to review a memorandum prepared concerning a geographic "rotation" schedule of Commission meeting places for 1985. Every fourth Commission meeting will take place at a site outside of Trenton.

### 3. Director of Public Financing's Report

Director of Public Financing Nichols presented the Commission with folders which included a memorandum concerning contributions by related corporations to gubernatorial candidates. Mr. Nichols said that this memorandum outlined the policy that the Commission followed in 1981. Regarding contributions by related corporations reported in 1981 gubernatorial campaigns, General Counsel Farrell had previously stated that corporations with a common board of directors or officers should be allowed to make contributions because New Jersey corporate law provides a great deal of freedom to structure an enterprise for tax purposes and other purposes. Further, in 1981, no cases indicated that the corporations in question were set up for political purposes. The conclusion in the 1981 cases was to allow contributions from affiliated corporations, provided that such contributions be submitted with documentation from the corporate entities stating that the revenue sources for contributions were separate.

Mr. Nichols said that the regulations do not clearly allow such contributions and it was only from Commission meeting minutes that this particular issue was addressed. He requested direction as to the appropriate sort of documentation that should be required regarding affiliated corporation cases reported by current 1985 gubernatorial campaigns.

Mr. Nichols said that there are two such situations presently before the Commission. The Wiley campaign reported receiving three contributions from three different corporations, but all were signed by the same person. Two of the contributions were reported from the same address and with the same contribution date. These contributions have been rejected for match and the campaign has been asked to "verify independence of contributing organizations."

The Gibson campaign submitted documentation for four contributions from four entities, all signed by the same person and all listed at the same address. These contributions have not been matched pending verification of independence by the campaigns.

Mr. Nichols said that he would like to see this issue addressed because the regulations require clarification about corporate affiliates and the occurrence of affiliate contributions appeared to be at a higher rate than experienced in 1981. Commissioner Mc Nany suggested the Commission interpret the regulations to read that if a person or persons have a

controlling interest (i.e. more than 50 %) in two or more corporations, then only one such corporation may contribute to the maximum, or the total of all contributions from such corporations must be limited to \$800. He also suggested that an individual's contribution of personal funds up to the contribution limit (\$800) would be allowable in addition to any contribution(s) made by a corporate entity in which such individual may have a controlling interest. On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission voted to have General Counsel Farrell prepare an interpretation of the regulations in accordance with these recommendations.

Mr. Nichols continued with a review of the "Gibson for Governor Campaign" submissions for the Commission. He stated that their errors were mainly due to omitted information problems. He also said that some contribution checks were not made out to "Gibson for Governor Campaign," but rather to "Gibson for Mayor," etc. In other words, these contributors left it unclear that they were aware that they were contributing to support Mayor Gibson for Governor. In addition, some of the signature cards for cash contributions were for amounts greater than the \$100 aggregate cash contribution limit. Mr. Nichols said that he contacted this committee several times to set up a meeting date, but was assured its staff members did not need help as they were "experienced" from the last election. The Gibson campaign's error rate was 24%. He said that the Del Tufo and Wiley campaigns are doing good jobs as far as error rates were concerned and even where errors do exist they are just basic errors that require clarification. The Wiley submission qualified for \$40,134 in public matching funds, the Del Tufo submission qualified for \$38,370 in public matching funds, and the Gibson submission qualified for \$66,390 in public matching funds. The total public financing monies given to date are \$497,300.

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

#### 4. Executive Session

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission decided to go into executive session to discuss an investigative matter, the result of which will be made public at its conclusion.

#### 5. Adjournment

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

6. Public Session

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to reopen the public session meeting.

7. Executive Session

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission decided to enter executive session to discuss a confidential matter.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "F. M. Herrmann", with a long horizontal flourish extending to the right.

FREDERICK M. HERRMANN