

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

JUNE 3, 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
Edward J. Farrell, General Counsel
Gregory E. Nagy, Staff Counsel

ABSENT:

Peter D. Nichols, Director of
Public Financing

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 10:00 a.m. at the office of the Commission, 28 West State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of May 29, 1985

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission approved the public session minutes of May 29, 1985.

2. Executive Director's Report

Executive Director Herrmann reported on legislation that could affect the Commission:

- S-2833 (Dumont) "Open Public Debate Act" (same as Assemblyman Baer's bill A-3434). This bill requires that gubernatorial candidates would have to participate in six debates in order to receive public funds. The bill has been referred to the Senate State Government Committee, where some committee members would like to see it amended to require only three debates.
- S-2077 (Codey) This bill prohibits a State agency from airing advertisements with State elected or appointed officials eighteen months before the gubernatorial general election. It was released from the Senate State Government Committee where it was approved, without change, following an unsuccessful attempt to amend the bill to subject county and municipal officials to the same prohibition.

Mr. Herrmann distributed a Philadelphia Inquirer newspaper article entitled, "Some Kean supporters get their money back." He said he is presenting the article to the Commission for informational purposes, but that it may become a Commission issue.

General Counsel Farrell stated that, in regard to the return of these contributions, the Commission should consider two points. The first point concerns the pro rata return of the contribution monies. He said that the Commission's jurisdiction in this area is questionable, but that it is an issue that may be raised by the winner of the Democratic primary. Mr. Farrell said that the second point, which pertains to whether or not these reimbursed funds were ever mingled with public funds is more serious and should be looked at very carefully by the Commission.

After discussing the issue with the public financing staff and obtaining information from the computer, Deputy Director Brindle advised the Commission that at the time the Kean campaign made its only submission for public funds, the campaign committee notified the Commission that it was returning \$90,000 in contributions. He said that the Kean Committee also notified the Commission of \$45,000 in reimbursements in its 29-day preelection report. He said that the committee submitted copies of the checks received from the contributors and copies of campaign checks returned to these contributors. He said that, according to the public financing staff, these contributions were never put in the stream for match.

Mr. Farrell said that staff should gather more facts about the Kean contribution issue during the following week and that the Commission should take up the issue at its June 12th meeting in Maplewood.

General Counsel Farrell also suggested that all the publicly-financed, primary election candidates be contacted by the Commission via a general letter advising them that after the date of the election they cannot incur new obligations except for purposes related to winding up the business of the campaign.

3. Request for an Advisory Opinion No. 09-1985

General Counsel Farrell reviewed an advisory opinion request dated May 22, 1985 from Robert E. Moro. He stated that Mr. Moro was a candidate for municipal office in Cedar Grove, along with two other people (Ann Mega and Bill McPhail). Jay Holland, another candidate, also ran in the municipal election. A group known as the "Citizens for Good Government in Cedar Grove" distributed a flyer which endorsed Mr. Moro along with candidates Mega and McPhail. Mr. Moro stated that he had no knowledge of this flyer prior to its issuance. He requested an advisory opinion stating whether or not he must accept a \$270.48 allocation from the cost of the flyer.

Mr. Farrell said that the problem the Commission must deal with is that of disclosure. He said that his conclusion is that Mr. Moro does not have to accept the allocation, but that it must be reported by him so that the Commission has a record. A disclaimer can be included with this report. Mr. Farrell said that this type of situation will always be a "judgment call."

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to accept Mr. Farrell's suggestions and directed Mr. Farrell to prepare and serve an advisory opinion accordingly.

4. Future Meeting Dates

Mr. Herrmann reviewed future Commission meeting dates. They are:

Wednesday, June 12, 1985	(Maplewood)
Tuesday, June 25, 1985	(Trenton)
Wednesday, July 10, 1985	(Trenton)
Tuesday, July 23, 1985	(Trenton)
Tuesday, August 20, 1985	(Asbury Park)

All the meetings will begin at 10:00 a.m.

5. Director of Public Financing's Report

Deputy Director Brindle reviewed two memoranda he received from Director of Public Financing Peter Nichols:

- Use of Public Funds to Reimburse Non-Public Funds Accounts in the Period After Five Days Prior to the Primary - The Citizens for Bob Del Tufo campaign committee requested that the time period for reimbursement of its non-public funds account from its public funds account not be restricted to the period up to five days prior to the date of the election, but be allowed to continue up to and even after the election. Mr. Nichols recommended that the 1985 decision to limit such reimbursement transfers to the period up to 5 days prior to the election be revised. He said that reimbursement transfers should be allowed to continue through the election, with the stipulation that campaign committees provide notice within 48 hours to the Commission of any such transfers occurring between 5 days prior to election and election day.

General Counsel Farrell and Vice Chairman Waugh recalled that the Commission had already made a decision to this effect at its May 14, 1985 meeting. Vice Chairman Waugh suggested that all gubernatorial campaign committees be notified by telephone informing them that they are permitted to reimburse their accounts in this manner.

- Certification of Public Funds, June 3, 1985 Mr. Nichols, in this June 3, 1985 memoranda, recommended the Commission continue to certify 90 percent of today's unreviewed applications for the public matching funds.

Due to the timing of the June 3 Commission meeting, and the allowance for applications for public funds to be made up to 12:00 noon on Mondays, the actual figures for certification were unable to be presented to the Commissioners. Mr. Nichols recommended, however, that the Commission approve the certification based upon a 90 percent rate of whatever amount of money is submitted by the candidates who have not maxed out.

	Reviewed		Pre-Review Certification		June 3, 1985
	<u>Certification</u>		<u>for June 3, 1985</u>		<u>Certification</u>
Del Tufo	\$4,037.00	+	90%	=	*
Gibson	2,484.20	+	90%	=	*
Wiley	5,329.27	+	90%	=	*

*NOTE: The Del Tufo certification may not exceed \$226,632.98, the Gibson certification may not exceed \$65,952.94, and the Wiley certification may not exceed \$14,810.07. The above figures represent the amounts each candidate requires to reach the maximum in public funds.

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

5. Adjournment

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

Respectfully submitted,



FREDERICK M. HERRMANN