



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

OCTOBER 4, 1989

TELEPHONE CONFERENCE

All of the Commissioners and senior staff were present.

Chairman Bedford called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-8 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 9:30 a.m. at the Commission Offices, 28 West State Street, Trenton, New Jersey.

1. Certification of Public Funds

Director of Public Financing Nedda G. Massar reviewed the application for public matching funds. She said that on October 2, 1989, the Commission received a submission from Candidate Courter. Director Massar said that staff would recommend the application of the automatic 90 percent certification process approved by the Commission on September 26, 1989, to the October 2, 1989 submission filed by the Courter campaign. In addition, said Director Massar, the Commission would review the balance of the submission made by the Courter campaign on September 25, 1989. At its September 26 meeting, the Commission approved 80 percent of the September 25, 1989 submission by Candidate Courter.

The net amount submitted by Candidate Courter for match on October 2, 1989 was \$165,370. This submission was Candidate Courter's third in the general election. Applying the 90 percent automatic approval rate, a net amount of \$148,833 was deemed eligible for match from this submission. Thus, at a 2:1 match, a total of \$297,666 in public funds was recommended for certification to the Courter campaign from its October 2, 1989 submission. A balance of \$96,456.80 was determined to be eligible for certification from its September 25, 1989 submission. A total of \$394,122.80 is therefore recommended as eligible to be disbursed to the Courter campaign.

Upon completion of the review of Candidate Courter's third submission, the balance of public funds will be certified at the October 10, 1989 Commission meeting.

On a motion by Vice Chairman McNany, seconded by Commissioner Mayo and passed by a vote of 4-0, the Commission certified \$297,666 in matching funds to Candidate Jim Courter relative to the October 2, 1989 submission.

On a motion by Vice Chairman McNany, seconded by Commissioner Mayo and passed by a vote of 4-0, the Commission certified a balance of \$96,456 to the Courter campaign from the September 25, 1989 submission.

2. Advisory Opinion 23-1989

Executive Director Herrmann noted for the record that Advisory Opinion 23-1989 has been withdrawn.

3. Advisory Opinion 24-1989

This advisory opinion request was submitted by State Senator C. Louis Bassano. Senator Bassano asks whether he can lend campaign funds to a corporation for 120 days at 12 percent interest, the current commercial lending rate. Senator Bassano is Vice President of the corporation. The campaign funds are currently invested in a money market account earning 5 1/2 percent interest.

The draft opinion, written by Legal Director Nagy, states that surplus or unspent campaign funds held by candidates cannot be spent for personal use. This policy is set forth in Commission Regulation N.J.A.C. 19:25-7.4(a). The draft opinion also states that on the basis of this regulation, the Commission ruled in Advisory Opinion 09-1989 that an elected public official could not use any funds from a continuing political committee associated with the officeholder for the purpose of making a personal loan to himself.

Legal Director Nagy said that while the funds would not be lent to Senator Bassano personally, the Commission believes that because he is the Vice President of the corporation to which the loan would be made, there is the possibility that the perception would be that the Senator has a personal interest in the investment beyond that of an investor making a purely commercial transaction.

The draft opinion states that the Commission is unable to conclude that an investment of Senator Bassano's campaign funds in a corporation in which he is Vice President would not constitute a personal use violative of N.J.A.C. 19:25-7.4(a).

Commissioner Linett suggested that the opinion be more affirmative in terms of stating that the Commission considers Senator Bassano's proposed use of campaign funds to be personal use.

Chairman Bedford asked if anyone else on the Commission believed the Commission should state its position more affirmatively.

Commissioner Linett said that he believes that this type of expenditure of campaign funds would be personal use.

Commissioner Mayo asked if staff had learned anymore details about the structure of the corporation.

Vice Chairman McNany asked if the corporation was a non-profit corporation or a profit corporation.

Legal Director Nagy said that he was advised that the corporation was closely held and for profit.

Vice Chairman McNany said that the only fact that would change his opinion about the advisory opinion response would be if the corporation was a non-profit one. He said that since it was not, he would vote in favor of the opinion as written.

Commissioner Mayo said that the onus was on the Senator to make clear the structure of the corporation. He said that with respect to the facts as provided, he too would vote in favor of the response as drafted.

On a motion by Commissioner Mayo, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission approved the advisory opinion as written.

4. Next Meeting

Executive Director Herrmann announced that the Commission would hold a telephone meeting on October 10, 1989 at 4:00 p.m. to review the balance of the October 2, 1989 Courter submission, and any submission received on October 10th. He stated that the next regular meeting of the Commission will be held on October 17, 1989.

5. Adjournment

On a motion by Vice Chairman McNany, seconded by Commissioner Mayo and passed by a vote of 4-0, the Commission voted to adjourn at 9:44 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.