



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

OWEN V. McNANY, III
CHAIRMAN

STANLEY G. BEDFORD
COMMISSIONER

DAVID LINETT
COMMISSIONER

FREDERICK M. HERRMANN, PH.D.
EXECUTIVE DIRECTOR

JEFFREY M. BRINDLE
DEPUTY DIRECTOR

GREGORY E. NAGY
LEGAL DIRECTOR

EDWARD J. FARRELL
COUNSEL

PUBLIC SESSION MINUTES

DECEMBER 16, 1992

All the Commissioners, with the exception of Chairman McNany, were present. Also present were senior staff, Director of Public Financing Nedda Massar, and Director of Compliance and Information Evelyn Ford. Counsel Farrell was also absent.

Commissioner Bedford 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 9:30 a.m. at the Commission offices, 28 W. State Street, Trenton, New Jersey.

1. Approval of Public Session Minutes of November 19, 1992

On a motion by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 2-0, the Commission approved the Public Session Minutes of November 19, 1992.

2. Executive Director's Report

Executive Director Herrmann extended congratulations to Commissioner Linett on his recent marriage and on the birth of a grandchild.

A. Staff Activities

Executive Director Herrmann noted that Associate Compliance Officer Carol Neiman once again chaired ELEC's United Fund Drive. He reported that due to her efforts, ELEC gave at a rate of 100 percent. Executive Director Herrmann said that ELEC registered a 13 percent increase over last year's award-winning drive.

The Executive Director reported that Dr. Tom Terry of the Joint Committee on Information Systems Technology met with various staff members to review in detail ELEC's technology needs for the future. He indicated that the review resulted from the publication of the recent White Paper "Technology in the Future: Strengthening Disclosure."

Executive Director Herrmann advised the Commission that the League of Women Voters invited him to a celebration of the publication of the sixth edition of Spotlight on New Jersey Government. He said that he had assisted the League with the campaign financing and lobbying sections of the Publication.

The Executive Director said that Director of Public Financing Nedda Gold Massar, assisted by Legal Director Gregory Nagy and him, will conduct two seminars on public financing for the representatives of possible gubernatorial candidates. The seminars will be held on December 17, 1992 and December 18, 1992. Executive Director Herrmann noted also that he will be a guest on the Cable Television Network (CTN) program "Counterpoint" on which he will discuss campaign finance reform.

B. Legislative Developments

Executive Director Herrmann reported that on December 3, 1992, Deputy Director Brindle and he went to the legislative office building to testify on bills before the Senate and Assembly State Government Committees that met simultaneously with each other.

The Senate Committee had scheduled A-645 (Martin/Russo), which lengthens Commissioner terms and makes other procedural changes regarding Commissioner selection, for a hearing. Executive Director Herrmann stated that the bill was held without discussion.

The Assembly Committee had scheduled A-1955 (Russo), which establishes a PAC registration system and filing fees for PACs and party committees, for a hearing. The Executive Director noted that this bill too was held without discussion. Executive Director Herrmann added that A-2050 (Haytaian), which adopts most of the recommendations of the Rosenthal Commission but without any appropriation, was held without discussion.

Executive Director Herrmann, in a footnote, mentioned that A-100 (Martin), an omnibus campaign reform bill, has been posted again for a vote in the Assembly on December 17, 1992. He stressed that the bill did not contain an appropriation despite recommendations from the media, ELEC, the Rosenthal Commission, the SCI, and the U. S. Attorney, and that there needs to be a great concern over ELEC's ability to administer and enforce the law effectively without additional resources. Executive Director Herrmann said further that the bill, if enacted, would leave very little time to prepare regulations, forms, instructions, and computer programs.

He noted finally that A-60 (Collins/Bryant), a supplemental appropriations bill containing \$12.5 for the public financing program, was scheduled for a vote in the Assembly Appropriations Committee on December 17th.

C. Public Financing Program News

Executive Director Herrmann reported that the letter requested by the Commissioners to be sent to the Governor and legislative leadership about the transfer by Office of Management and Budget (OMB) of money to fund the Public Financing Program and the filling of ELEC's longstanding vacancy was mailed by staff on December 10, 1992.

The Executive Director added that on November 30, 1992, OMB Director Richard Keevey had called him to convey that he could not guarantee that there will be enough money in the General Treasury to fund the public financing program. Executive Director Herrmann said that Mr. Keevey suggested that ELEC contact him when the first candidate makes a submission so that the budget office can decide on a course of action.

Executive Director Herrmann added that no public financing staff has been hired as yet. He added that the Commission did not receive permission from OMB to waive the hiring freeze until November 13, 1992. The Executive Director said that Director Massar placed newspaper ads and began interviewing immediately thereafter. Executive Director Herrmann noted that the Commission has submitted four candidates to the Governor's office for approval as public financing staff. He said that two submissions were for an Assistant Director and a Computer Assistant and that two were for public financing analysts.

Executive Director Herrmann reported that the Commission was hoping to have the first two approved by December 14, 1992, to start by January 4, 1993, the first submission date. He noted that the earliest all four applicants can be in place now is January 11, 1993, if they are approved next week (December 21, 1992). Executive Director Herrmann said that the second submission date would be January 25, 1993.

D. Future Meetings

The Commission confirmed meetings for January 19, 1993, February 16, 1993, and March 16, 1993.

E. Personnel Audit

Executive Director Herrmann said that the Merit System Board unanimously approved the Department of Personnel's glowing audit report of ELEC, which stated that the Commission is "a well-run and efficient organization."

F. Intern Program

Executive Director Herrmann said that two students from Rutgers University will be working with Director of Compliance and Information Evelyn Ford between December 22, 1992, and January 22, 1993, on various projects involving ELEC data.

Public Session Minutes

December 16, 1992

Page 4

G. Compliance Schedule

Executive Director Herrmann introduced Director of Compliance and Information Evelyn Ford for the purpose of reviewing modifications in the Compliance and Information Section's work schedule for 1993. The Executive Director said that the need to modify the schedule was precipitated by the fact that the section's staff has been cut to seven from a high of 13 in 1987 at the same time that its workload has increased by 20 percent during that period. Executive Director Herrmann pointed out that the number of reports filed with the Commission has increased to 22,000 from 18,000 filed five years ago.

Director Ford indicated that she and her staff were approaching the coming year, which will be the busiest of a ten-year cycle, in a positive but realistic manner. She said that good planning is the key to being able to manage the increased work flow in a time of severe staff reductions. Director Ford said that both the Assembly and Senate are up for election in 1993, adding to the overall number of reports filed by candidates. She also noted that quarterly reports are filed by PACs and parties, as well as by lobbyists. Also, continued Director Ford, lobbyists will now file their annual reports in accordance with the new law, precipitating a wave of new requests for compliance assistance. Director Ford said that because of the legislative election, interest in ELEC reports will be intense. She noted that there is also more interest in parties and PACs in legislative years. Director Ford said that this interest, combined with the full impact of the new lobbying program hitting in 1993 (it is expected that more lobbying financial information will be reported), makes it imperative that effective planning take place.

Director Ford advised the Commission that the plan has been formulated on the assumption that both staff levels and the law will remain the same as they are now. She said that her priority is to create a situation that assures that the "job is done right."

Director Ford said that the proposed compliance plan has four parts. She said that the first part called for a reduction of the number of legislative analytical press releases to two in the general election. Director Ford indicated that pre and post primary legislative releases would be eliminated. According to Director Ford, telephone assistance may be delayed by up to two days under the plan. At the present time, calls are responded to immediately. Director Ford added that the 1991 schedule for disclosure of reports will be continued as will an analytical press release for lobbying.

Commissioner Linett suggested that instead of two press releases being done in the general election that there be one done for the primary and one done for the general election.

Deputy Director Brindle responded that the plan for the elimination of the primary releases was conceived because of the fact that there is less

interest in primary election financial activity and because this data is less meaningful than general election data in terms of comparative studies. He said that interest in legislative primary financial activity is more parochial in nature, depending upon whether there is a contest in a particular district, and less broad than in the general election.

Executive Director Herrmann added that there is also more work for staff in the primary setting than in the general election setting. He mentioned that there are more candidates in the primary and that personal financial disclosure forms (PFDs) must be filed by legislative candidates around this time. He said also that quarterly lobbying reports will be in the process of being summarized during this period.

Commissioner Linett suggested that the Commission eliminate all analytical press releases in the coming legislative year. He said that based upon the workload of the compliance staff during the period when press releases are prepared, and the fact that the Commission is not required by statute to undertake these projects, this would seem prudent policy. He said that it was important to prioritize the workload during these lean times.

Executive Director Herrmann warned that there is intense interest in ELEC's general election press releases by the public, the press, and public interest groups like Common Cause, and that it was important for the Commission to continue this initiative in the general election.

On a motion by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 2-0, the Commission approved the recommended policy changes, except that it directed that no analytical press releases be done in relation to the primary and general legislative elections if other priorities take precedence.

The Commission next directed staff to arrange a meeting with the Governor for early January to discuss ELEC's funding needs, the vacancy on the Commission, and the Public Financing Program's lack of funding and staffing.

3. Advisory Opinion No. 11-1992

This advisory opinion request was submitted by Assemblyman Gerald Green.

Assemblyman Green asks if it is permissible to advance \$5,000.00 in the form of a loan from his PAC to a local community church group. He indicated that the group has a federal tax-exempt status.

The proposed advisory opinion concluded that under the facts submitted, the prohibition against personal use of campaign or continuing political committee funds contained in the Commission Regulations would not be violated by this loan.

Commissioner Bedford suggested that staff contact the Internal Revenue Service (IRS) to check the tax-exempt status of the church group in question, or state specifically that the advisory opinion is based upon the submitted statement that the group is actually a tax-exempt organization under federal law.

On a motion by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 2-0, the Commission approved the advisory opinion response.

4. Resolution To Go Into Executive Session

On a resolution by Commissioner Linett, seconded by Commissioner Bedford and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. 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 30 days after mailing.
2. 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 30 days after mailing.

5. Adjournment

On a motion by Commissioner Bedford, seconded by Commissioner Linett and passed by a vote of 2-0, the Commission voted to adjourn at 11:45 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

FMH/jah