



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

RALPH V. MARTIN
Chair

DAVID LINETT
Vice Chair

PAULA A. FRANZESE
Commissioner

LYNNAN B. WARE
Commissioner

Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700

Website: <http://www.elec.state.nj.us>

FREDERICK M. HERRMANN, Ph.D.
Executive Director

JEFFREY M. BRINDLE
Deputy Director

GREGORY E. NAGY
Legal Director

JAMES P. WYSE
Counsel

PUBLIC SESSION MINUTES

March 13, 2000

Chair Martin, Vice Chair Linett, Commissioner Franzese, Commissioner Ware, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present.

1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate 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 11:00 a.m. in Trenton, New Jersey.

2. Approval of Public Session Minutes of February 17, 2000

On a motion by Commissioner Ware, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission approved the Public Session Minutes of February 17, 2000.

Vice Chair Linett arrived at this point.

3. Executive Director's Report

A. Commissioner News

Executive Director Herrmann announced a milestone for Vice Chair Linett and ELEC. According to the Executive Director, Vice Chair Linett is now the longest serving commissioner in ELEC history with over a dozen years of service. He said that congratulations are in order.

B. Staff Activities

Executive Director Herrmann informed the Commission that Assistant Review Officer Amy Davis attended a training course entitled "Introduction to Analysis" in February. He said that she will be taking a course entitled "Financial Investigative Analysis" in April. The Executive Director added that Associate Director of Review and Investigation Shreve Marshall and Associate Review Officer Brett Meade will be taking a course entitled "Computerized Analytical Methods" in March. He said that all of the courses are held at the Division of Criminal Justice Training Academy and are part of the staff's ongoing efforts to use state-of-the-art techniques in conducting investigations.

Executive Director Herrmann advised the Commission that on February 22, 2000, Deputy Legal Director Nedda Gold Massar, Assistant Legal Director Gail Shanker, and he went to Hackensack to watch Counsel Wyse present the Essex County Case before the Appellate Division. He added that on March 3, 2000, Director of Compliance and Investigation Evelyn Ford spoke at the Mount Laurel Senior Citizens Center about accessing campaign financing reports off the Internet. Executive Director Herrmann said that Director Ford will also be speaking on April 12, 2000, in Newark at the Christine Todd Whitman Excellence in Public Service Seminar. The Executive Director informed the Commission that the Compliance and Information staff will be holding two seminars for the spring elections in the Roebling Building on April 6 and May 1, 2000.

C. Computer Update

Executive Director Herrmann noted that Director of Systems Administration Carol Neiman received a call from Pennsylvania Governor Tom Ridge's staff to discuss ELEC's electronic filing project. He reported that the nomination of ELEC's "computer project initiative" has been approved by Department of Personnel Commissioner Janet Mitchel Mintz for the Public Service Excellence Award of the National Public Service Roundtable. According to the Executive Director, winners will be honored during public service recognition week, May 1-7, 2000, in Washington, D.C.

Executive Director Herrmann stated that staff released extensive, downloadable data on ELEC's web site from the 1999 annual lobbying reports. He said that benefit passing was highlighted by being listed alphabetically by both provider and recipient. Executive Director Herrmann informed the Commission that the data was extensively used by the New Jersey media. He expressed thanks to Director of Compliance and Information Ford and Director of Systems Administration Neiman and their staffs for a job well done.

Executive Director Herrmann reported that a new article to be published later this year in the quarterly journal Public Integrity surveying electronic filing programs in the United States and Canada lists ELEC as having one of the best disclosure systems in North America. He said that the article highlights ELEC's two-prong approach to disclosure using scanning as well as electronic filing. According to the Executive Director, the article also mentions that ELEC's database is downloadable and searchable and that the Commission's web site includes local as well as state reports, historical data, and summary descriptions of campaign financing data.

D. Spring Meeting Schedule

April 17, 2000 at 11:00 a.m.

May 15, 2000 at 11:00 a.m.

June 19, 2000 at 11:00 a.m.

4. Ethics Forms Reminder

Executive Director Herrmann reminded the Commission that a notarized copy with an original signature must be filed by May 15th with both the Executive Commission on Ethical Standards and the Chief Counsel's Office.

5. Resolution to Go Into Executive Session

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission resolved to go into closed Executive Session to discuss a pending litigation matter.

6. Return to Public Session

Republican State Committee Case

Mr. Peter Sheridan, Counsel to the Republican State Committee, addressed the Commission relative to the Republican State Committee case.

Mr. Sheridan said that Republican Chairman Haytaian has agreed to settle the case. He noted, however, that the fact that a settlement has been agreed upon does not mean that the Republican State Committee believes it was treated fairly. Specifically, Mr. Sheridan said that he is contesting the application of the law in this matter. Mr. Sheridan said that the violation in question occurred at a time when the new law requiring occupation and employer information had just been imposed. Mr. Sheridan cited Sections 22c and 41c of the Campaign Act, which basically state that the Commission "may provide for remission of all or any such penalty provided upon remedy of the violation." He stated that the Republican State Committee, which has hired many specialists to handle compliance with election laws, and which remedied most, if not all of these violations, should have been given greater consideration under this provision.

Mr. Sheridan said that he was in attendance today to get clear direction for the future in terms of the question of why this provision of the Campaign Act did not apply in this case

and in what type of case it would apply. He said the Republican State Committee has a good relationship with the Commission in terms of cooperating with it and it desires to maintain that cooperation.

Chair Martin said that he has no qualms in saying that the Commission has a good relationship with the Republican State Committee and the other State and legislative leadership committees in the group of the "big six." He said that the Commission did not single out any one committee; however, it realizes its responsibility to enforce the statute and require compliance with it. Chair Martin said the Commission will look at this provision.

Vice Chair Linett said that the Commission applies this provision when it lowers fines in response to the respondent providing additional information. He said the fine would have been higher in this case if the Republican State Committee had not provided additional information. He also noted that the Commission delayed until 1995 its enforcement of the 1993 amendments creating occupation and employer reporting requirements.

7. Sunset Regulation Amendments

Under the "Sunset" requirements of Executive Order No. 66 (1978), the Commission must readopt its regulations on or prior to August 16, 2000, or they will expire. The draft proposal, which had been circulated to the Commissioners, is the product of an agency-wide effort.

Legal Director Nagy explained that if the Commission approves proposal of the regulations at today's meeting, they will be filed at the Office of Administrative Law (OAL) for publication on April 17, 2000, in the New Jersey Register and a public hearing will be conducted on May 15. The regulations will be ripe for readoption by the Commission at its June meeting, well in advance of the August expiration deadline.

The following is a list of the major changes:

- Definitions in N.J.A.C. 19:25-1.7 have been added for "depository," "in-kind contribution," and "national committee of a political party committee." Also, amendments have been made to the definition of "candidate" and "contribution" to reflect the new statutory requirement that "testing the waters" activity be subject to reporting.
- A new section at N.J.A.C. 19:25-4.1, Number of candidate committees, protects contribution limits by preventing a candidate from establishing at one time multiple committees for the same office in different elections.

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- A new section at N.J.A.C. 19:25-8.2A, Winning primary election candidates, requires closure of the primary election account with the 20-day post election report.
- Amendments to N.J.A.C. 19:25-8.7, Termination of candidate reporting, require all candidates to close reporting with the 20-day post election report or first postelection quarterly report unless the candidate has net liabilities, is involved in a recount, or is not intending to seek reelection and is holding the account open to pay officeholding expenses.
- A new section, N.J.A.C. 19:25-8.7A, Retirement of net liabilities, permits a candidate to maintain an account to pay off liabilities from a past election and open another account for the same office in an upcoming election.
- A new section, N.J.A.C. 19:25-10.2A, provides guidelines for reporting occupation and employer information.
- Two new sections, N.J.A.C. 19:25-10.9 and 12.9, provide rules for reporting inaugural event contributions and expenditures.
- Amendments to N.J.A.C. 19:25-10.13, Loans as contributions, prohibit a candidate who has reported that the candidate contributed his or her own money from recharacterizing the contribution on later reports as a loan.
- Amendments to N.J.A.C. 19:25-11.1, Candidates subject to contribution limits, protect contribution limits by prohibiting a candidate from establishing at one time multiple committees for the same office in different elections.
- A new section, N.J.A.C. 19:25-11.11, provides guidelines for reporting contributions received from federal or out-of-state PACs or candidates.
- Two new sections, N.J.A.C. 19:25-11.12 and 12.11, require reporting contributions received and expenditures made for recounts and election contest proceedings.
- A new section, N.J.A.C. 19:25-11.13, provides guidelines for reporting contributions received from an estate.
- A new section, N.J.A.C. 19:25-12.7, defines independent expenditures, and amendments to 12.8 clarify independent expenditure reporting requirements.

- Extensive changes have been made to public financing (Subchapters 15 and 16) to reflect “testing” and other reporting changes. Amendments to N.J.A.C. 19:25-15.24 and 16.25 substitute radio or television invoices for signed media affidavits, which affidavits have proven impractical and in some cases impossible to obtain in past elections because they do not conform to standard industry practice. Also, a new section, N.J.A.C. 19:25-15.28B, has been added to reflect the statutory limit on county and municipal political party expenditures in a gubernatorial general election.
- Amendments to N.J.A.C. 19:25-17.3 specify the statutory penalties for excessive contribution and political identification violations.
- Changes to the Personal Financial Disclosure Statement rules (Subchapter 19) incorporate the statutory changes in filing dates for independent candidates, and add filing requirements for candidates who are selected to fill vacancies arising before the general election.

Commissioner Ware said that she had a number of technical suggestions that she would submit to staff.

The Commissioners briefly discussed the proposed regulations but made no substantive changes at this point.

The Commission praised the staff for the thorough job that was done.

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved the proposed Sunset Regulation Amendments and directed staff to file the proposal at the Office of Administrative Law.

8. Resolution to Return to Executive Session

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission resolved to return to Executive Session to discuss the following matters which will become public as follows:

- A. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public no later than 35 days after mailing.
- B. 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 no later than 50 days after mailing.

9. Return to Public Session

Adjournment

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz