



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

RALPH V. MARTIN
Chair

DAVID LINETT
Vice Chair

PAULA A. FRANZESE
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JEFFREY M. BRINDLE
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PUBLIC SESSION MINUTES

April 17, 2000

Chair Martin, Commissioner Franzese, Commissioner Ware, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Vice Chair Linett was not 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 March 13, 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 March 13, 2000.

3. Executive Director's Report

A. Recomputerization

Executive Director Herrmann announced that a search button has been added to the web site. It does key word searches on the entire site and greatly enhances the value of the information that is being posted. The Executive Director added that the Compliance and Information staff is now generating electronically personalized delinquent letters for candidates and treasurers and storing the letters in an electronic file.

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Executive Director Herrmann reported that on March 20, 2000, Director of Administration Barbra Fasanella, Director of Systems Administration Carol Neiman and he gave two members of the Office of Legislative Services budget staff a tour of ELEC's electronic disclosure system. He said they asked many good questions that were fielded by the staff. According to Executive Director Herrmann, a particular concern was the potential usage of the web site. The Executive Director told them that the use of the Internet and the creation of political web sites (many of which are linked to ELEC) are exploding.

Executive Director Herrmann advised the Commission that on March 21, 2000, Director of Systems Administration Neiman held a training session for the staff on how to assist the public on using ELEC's new web site. He said that the site will only be truly useful if ELEC's staff can answer the technical and informational questions that the web site will generate with public users. According to Executive Director Herrmann, Director Neiman has created self-teaching software from this session that will be installed on the PC's of all staff members. It will be particularly useful for training new staff.

B. Staff Activities

Executive Director Herrmann noted that the U.S. General Accounting Office has sent his article "Bricks Without Straw: The Plight of Governmental Ethics Agencies in the United States" to the Institute of Public Relations in the United Kingdom. He informed the Commission that the Institute is currently conducting a study of lobbying disclosure legislation and is interested in how lobbying laws are administered and enforced.

The Executive Director advised the Commission that on March 23, 2000, he spoke to a group from Leadership New Jersey at the State House Annex about the role of ELEC in regulating campaign financing and lobbying. He said also on the program with him was Harry S. Pozycki, the Chairman of New Jersey Common Cause.

Executive Director Herrmann reported that on April 4, 2000, he attended the annual editorial board meeting of Public Integrity at the American Society for Public Administration conference in San Diego. According to the Executive Director, he made a presentation about the campaign financing symposium articles he edited (including one by Deputy Director Brindle) for the next two issues of the journal. He said that he also suggested that Public Integrity consider adding COGEL to its three current sponsoring organizations and that Public Integrity review the possibility of publishing COGEL's defunct Blue Book as an annual addendum to the journal. Executive Director Herrmann advised the Commission that the Blue Book was a highly regarded compilation of ethics law information from around the country. He also mentioned that Public Integrity should be a represented vendor at the next COGEL conference. According to the Executive Director, the Board's response was very favorable, and he was directed to contact COGEL's leadership to explore his ideas.

C. Ethics Forms Reminders

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Executive Director Herrmann reminded the Commissioners that the annual ethics forms are due on May 15th. He said that two copies with original notarization must be filed, one with the Executive Commission on Ethical Standards and one with the Governor's Chief Counsel's Office.

D. Annual Report

Executive Director Herrmann informed the Commission that the Annual Report is due to be submitted to the Legislature on May 1st. The Executive Director thanked Deputy Director Brindle for serving as Project Director. He added thanks to all of the directors for their outstanding contributions on the work of their sections and Administrative Assistant Elbia Zeppetelli for her wonderful desktop publishing contributions. Executive Director Herrmann reported that this Annual Report will be the first one to be placed on ELEC's web site.

E. Commendation of Deputy Legal Director Nedda Gold Massar and Assistant Legal Director Gail Shanker

Executive Director Herrmann lauded Deputy Legal Director Nedda Gold Massar and Assistant Legal Director Gail Shanker, stating that both employees have done a great deal of excellent work in preparing cases that have resulted in settlements. He said that much of this work occurs "behind the scenes" and should be acknowledged publicly.

Legal Director Gregory Nagy also praised the two for their outstanding contributions to enforcement.

F. New Staff Member

Executive Director Herrmann introduced Robyn Rich who joined the staff on April 10, 2000. He said that she will be working for Director of Compliance and Information Evelyn Ford as an Assistant Compliance Officer. Executive Director Herrmann noted that Ms. Rich comes to the Commission with a strong legal background and that she is a recent graduate of the College of New Jersey.

G. Future Meetings

- May 15, 2000 at 11:00 a.m. in Trenton (Sunset Regulations Hearing)
- June 19, 2000 at 11:00 a.m. in Trenton
- July 17, 2000 at 11:00 a.m. in Trenton.

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4. Advisory Opinion Request No. 01-2000

John P. Ginty, the organizational treasurer of Republican Victory Council, an entity that has applied to the Commission to be certified as a continuing political committee (CPC), has submitted this request for an advisory opinion. Mr. Ginty asked whether or not an elected officeholder who no longer maintains a candidate committee is a "candidate" within the meaning of the Campaign Contributions and Expenditures Reporting Act and is therefore prohibited from participating in the establishment of the CPC.

The Compliance and Information Section of the Commission had received a CPC Registration Statement under the name Republican Victory Council (RVC), with Mr. Ginty named as the organizational treasurer. The applicant indicated that a participant in the initial organization of the CPC was Steven Lonegan, an individual who is the mayor of Bogota Borough (Bergen County). Because an elected officeholder was listed as an organizer of the CPC, Mr. Ginty was orally advised that the application of the RVC for CPC status would be denied. Mayor Lonegan has advised the Commission that he has closed his candidate committee and joint candidates committee and joined in the request.

Staff suggested that because the certification of the RVC as a continuing political committee has not been approved by the Compliance and Information Section, and the grounds for denying approval is that an elected officeholder is named as an organizer of the RVC, the RVC has sufficient interest in the outcome of this advisory opinion to have standing. Accordingly, staff recommended that this request be viewed as a joint request of Mayor Lonegan on his own behalf and of Mr. Ginty on behalf of RVC and that both the RVC entity and Mayor Lonegan as an officeholder are therefore subject to the Commission's holding.

Legal Director Nagy noted that there are compelling reasons for the Commission to conclude that an officeholder who has closed both his candidate committee and joint candidates committee should nevertheless be precluded from participation in a CPC. The candidate contribution limits and permissible use restrictions established by the 1993 Amendments to the Campaign Reporting Act potentially could be compromised if an officeholder could participate in a CPC. A CPC has no contribution limits from certain entities and no restrictions on permissible use of its funds. Staff recommended that the definition of "candidate" should therefore be read to include an elected official, even if that elected official closes his or her candidate committee for that office after assuming the office. Staff recommended that the inclusion of an elected officeholder as an organizer of the entity on the application for certification (Form D-4) is grounds for denial of CPC certification, but that the RVC may be certified as a CPC upon the removal of the elected official as an organizer and participant in the CPC.

Commissioner Ware stated that candidate participation in a CPC could impermissibly be used as a method to "test the waters." Commissioner Franzese said that Commission must prevent any possible "end run" around the contribution limits and the spirit of the law. Executive Director Herrmann stated that he believed that it was the intent of the Legislature to prohibit officeholder participation in a CPC.

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On a motion by Commissioner Franzese, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission approved the response recommended by staff and directed staff to issue the Advisory Opinion.

5. Resolution to go into Executive Session

On a motion by Commissioner Ware, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission resolved to go into 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.
- C. 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 no later than 50 days after mailing.

6. Return to Public Session

Adjournment

On a motion by Commissioner Franzese, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz