



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

May 18, 2004

Chair Martin, Vice Chair Franzese, Commissioner Tober, and Senior Staff were present. Commissioner English and Counsel Wyse were 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.

2. Approval of Public Session Minutes of April 23, 2004

On a motion by Commissioner Tober, seconded by Vice Chair Franzese and passed by a vote of 3-0, the Commission approved the Public Session Minutes of April 23, 2004.

3. Executive Director's Report

A. Commissioner News

Executive Director Herrmann expressed congratulations to Commissioner English who has been named one of the outstanding "Women of Distinction in New Jersey" by the Girl Scout Council of Greater Essex and Hudson counties. Commissioner English was only one of five women chosen Statewide.

B. International Acclaim for ELEC

According to Executive Director Herrmann, the Hong Kong Legislative Council has released its report on the "Operation of Electoral Regulatory Bodies in Selected Places." He stated that one of the places selected was New Jersey. The Executive

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Director mentioned that ELEC was selected along with the United Kingdom, Australia, New Zealand, and Hong Kong. Executive Director Herrmann said that the report compared nine subject areas:

- Statutory status,
- Functions,
- Powers,
- Membership,
- Staffing arrangement,
- Funding arrangement,
- Mechanisms for Conducting Public Consultation,
- Types of Activities Regulated, and
- Performance-Monitoring Mechanisms.

Executive Director Herrmann advised the Commission that according to the report, New Jersey was chosen for study “because its regulatory body [, ELEC, is] regarded as one of the most successful regulatory agencies in the United States.” The Executive Director said that he was thanked in the acknowledgements for providing valuable information and that his article “Bricks Without Straw: The Plight of Governmental Ethics Agencies in the United States” was cited in the references section along with ELEC’s 2002 Annual Report and most recent Compliance Manual for Campaign Reporting. Executive Director Herrmann added that, Politifax, on April 21, 2004, chose ELEC to top its list of “winners” because of its selection by the study and that staff has created a link on the ELEC web site to the report.

C. Staff Activities

Executive Director Herrmann reported that on April 27, 2004, Director of Systems Administration Carol Neiman went to New York City to make a presentation before the New York City Campaign Finance Board on ELEC’s new gubernatorial electronic filing software. He stated that her talk was very well received and the Board’s staff was very impressed with ELEC’s work. The Executive Director noted that the Director also had an opportunity to study New York City’s electronic filing program for mayoral and council races. ELEC has had a long relationship with the New York City Campaign Finance Board. Both agencies have gained from sharing computer information over the years.

According to Executive Director Herrmann, on April 30, 2004, he served on a panel about “Ethics in Government” at a joint symposium held in Trenton and sponsored by the American Society for Public Administration and the Association of Government Accountants. The Executive Director spoke about the structure and responsibilities of the Commission. Executive Director Herrmann informed the Commission that on the panel were:

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- Rita Strmensky, Executive Director of the Executive Commission on Ethical Standards;
- Albert Porroni, the Executive Director of the Office of Legislative Services; and,
- Diane LeGreide, Chief of Management and Operations in the Office of the Governor.

The Executive Director reported that on May 6, 2004, Director of Compliance and Information Evelyn Ford participated on a panel sponsored by the Insurance Council of New Jersey for "Insurance Day" at the State House. He said that Director Ford reviewed filing requirements for legislative agents and lobbyists.

D. Legislative Developments

Executive Director Herrmann announced that on April 26, 2004, he was the lead witness at the Assembly Senate Government Committee's first public hearing on the General Assembly's 25-Point Ethics Reform Plan. The Executive Director testified that ELEC strongly supported the reform concepts embraced by the plan and the bills on the agenda. The bills on the agenda were:

- Lowering the contribution reporting threshold,
- Regulating professional campaign fundraisers,
- Identifying recorded campaign telephone calls,
- Prohibiting solicitation of political contributions on State property,
- Continuing to upgrade the Commission's highly regarded web site,
- Creating a new training program for campaign treasurers,
- Increasing ELEC's penalties, and
- Expanding the 48-hour notice requirement.

Executive Director Herrmann strongly emphasized that "there is a critical relationship between the effectiveness of any law and those who enforce it." During his testimony, he stated that meaningful campaign finance reform cannot be effective unless ELEC is adequately funded and staffed. The Executive Director suggested that the Commission would at least need its current budget of \$3 million doubled if it were to be able to administer and enforce the changes being contemplated.

According to the Executive Director, on May 6, 2004, he testified at the second public hearing of the Assembly State Government Committee on the General Assembly's 25-Point Ethics Reform Plan. In his testifying, he stated that ELEC supported the concepts behind the lobbying reform component of the plan. The bills concerned:

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- Establishing a post-service, revolving door provision,
- Expanding disclosure,
- Prioritizing random audits, and
- Prohibiting contingency fees.

The Executive Director reminded the Committee that the Commission would need its support of more funding for the agency if the purpose of the bills was to be truly achieved. Executive Director Herrmann reported that while the hearing was in progress, Assembly Majority Leader, Joseph Roberts, told the Star-Ledger in an interview, “if we are committed to having a regulatory structure that enforces . . . new [ethics] laws . . . we have to be honest enough to fund it.” The Executive Director mentioned that Assemblyman Roberts added that he believed “if you say to the people of New Jersey, ‘we will carefully spend a little more of your tax money to ensure that the process is as clean as it can be,’ they will be prepared to make that bargain.”

Executive Director Herrmann noted that on May 10, 2004, he testified at the first public hearing of the Senate State Government Committee on a collection of bills concerning campaign finance reform. He stated that ELEC supported the reform concepts contained in the legislation being discussed and repeated his comments made to the Assembly State Government Committee about the need to fund ELEC adequately if reform is to succeed.

The Executive Director announced that on May 12, 2004, he testified at the third public hearing of the Assembly State Government Committee on the General Assembly’s 25-Point Ethics Reform Plan. During his testimony, he strongly supported the enactment of pay-to-play legislation to prevent even the appearance of undue influence on government and the contracting process. In his comments, the Executive Director suggested that the enforcement of such legislation should be based on the cancellation of contracts and the payment of appropriate damages to the affected governmental entities not ELEC fines. He noted that pay-to-play regulation is in essence contracting law not a campaign financing disclosure law, and ELEC may not be the best enforcement authority.

E. Summer Meeting Schedule

- June 22, 2004 at 11:00 a.m. in Trenton;
- July 27, 2004 at 11:00 a.m. in Trenton; and,
- August 17, 2004 at 11:00 a.m. in Trenton (if needed).

4. Public Hearing Concerning Proposed New Rules and Amendments to Commission Regulations

Chair Martin announced that a public hearing was being conducted to elicit public comment concerning proposed new rules and amendments to Commission regulations. The proposals include new rules implementing electronic filing of reports as well as amendments as follows: requiring that a candidate or committee establish a separate account for

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investment of funds; establishing recordkeeping requirements for expenditures; clarifying the period of retention for records; prohibiting new fundraising by former officeholders; clarifying that contributions between candidates for mayor and member of the municipal governing body within a municipality and in the same election are unlimited; implementing recently-enacted contribution limits from corporations, unions, and groups to continuing political committees and political committees; and clarifying reporting of expenditures made by credit card.

A Court Reporter was present to record the Public Session discussion. No person appeared to offer testimony. The Commission determined not to close the public hearing at this time in order to permit an opportunity for comment if any member of the public should arrive later in the meeting.

5. Resolution to go into Executive Session

On a motion by Commissioner Tober, seconded by Vice Chair 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 not later than seven business days after mailing to the named respondents.
- 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 not later than seven business days after mailing to the named respondents.
- C. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public not later than seven business days after mailing to the named respondents.

6. Return to Public Session

On a motion by Vice Chair Franzese, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission voted to return to Public Session.

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7. Resumption of Public Hearing

Chair Martin asked whether or not there were any persons who wished to testify concerning the proposed new rules and amendments to Commission regulations. No persons were present to offer testimony.

On a motion by Vice Chair Franzese, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission determined to close the public hearing on the proposed new rules and amendments to Commission regulations.

8. Adjournment

On a motion by Commissioner Tober, seconded by Vice Chair Franzese and passed by a vote of 3-0, the Commission voted to adjourn at 12:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz