



*State of New Jersey*

JERRY FITZGERALD ENGLISH  
Chair

PETER J. TOBER  
Vice Chair

ALBERT BURSTEIN  
Commissioner

AMOS C. SAUNDERS  
Commissioner

## ELECTION LAW ENFORCEMENT COMMISSION

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Compliance Director

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Legal Counsel

### PUBLIC SESSION MINUTES

December 15, 2009

Chair English, Vice Chair Tober, Commissioner Burstein, Commissioner Saunders, Legal Counsel Wyse, and Senior Staff were present. Report Review Officer Lovinsky Joseph was present for the purpose of recording the minutes.

The meeting convened at 11:00 a.m. in Trenton.

1. Open Public Meetings Statement

Chair English 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.

2. Approval of Public Session Minutes of November 17, 2009

On a motion by Commissioner Burstein, seconded by Commissioner Saunders and passed by a vote of 4-0, the Commission approved the Public Session Minutes of November 17, 2009.

3. Executive Director’s Report

A. Transition Report

The Executive Director stated that a report to the gubernatorial transition team had been compiled by Deputy Director Joseph Donohue and Director of Finance and Administration Steven Dodson, with input from all directors. He thanked staff for their time and efforts with regard to this project.

Executive Director Brindle noted that the report emphasized the Commission’s statutory independence as well as recent achievements such as lobbying reform, the Clean Elections pilot project, and “pay-to-play” reform.

Further, the Executive Director informed the Commissioners that the report emphasized the Commission's greater enforcement and regulatory responsibilities, and the increased difficulty of such duties with a budget decrease of 15 percent since 2006.

Executive Director Brindle reported that a meeting with the transition team was forthcoming.

B. Budget

Executive Director Brindle informed the Commissioners of an additional anticipated cut to the budget of \$162,000, for which funds had been placed in reserve. However, these funds will likely not be released due to state revenue shortfall.

The Executive Director stated that most of the decrease in the Commission's budget would be taken from lobbying fees, minimizing impact on staff and payroll. He added that items usually paid for with lobbying fees such as computer upgrades could be temporarily deferred, but the budget nonetheless would remain challenging. He noted that Director of Finance and Administration Dodson had negotiated the terms of the budget cut with the Office of Management and Budget.

C. Citizens United v. Federal Election Commission

Executive Director Brindle informed the Commissioners that a decision in Citizens United, which will likely loosen federal campaign finance rules for corporations and unions, was imminent for early 2010.

The Executive Director added that staff would review the decision for any impact it may have on New Jersey's Campaign Act.

D. Ballot Statements

Executive Director Brindle reported that the Commission was currently receiving vouchers from county clerks for ballot statement reimbursements. The Executive Director added that the \$600,000 allotment for reimbursements was so far sufficient to cover costs.

E. Training Sessions

Executive Director Brindle announced that the Commission would conduct training sessions for the May 2010 municipal primary election in Bayonne, Newark, and Trenton. The Executive Director noted that Compliance Director Evelyn Ford was responsible for the implementation of this program.

F. Coordination with County Clerks

Executive Director Brindle reported that the office of the Hunterdon County Clerk has invited the Commission's Compliance staff to attend a seminar for candidates and committee personnel.

G. Legislation

Executive Director Brindle informed the Commissioners that there was not currently any pending legislation that may fall under the Commission's jurisdiction.

Chair English suggested that the Commission discuss prioritization of legislative proposals at future meetings.

H. Sunset Regulations

Executive Director Brindle provided a summary of the sunset regulation renewal process. He stated that a public hearing would be held at the February 16, 2010 meeting with a court reporter present to record the proceedings.

Additionally, the Executive Director noted that the comment period for the proposed regulations will end on February 19, 2010 with adoption anticipated at the March 23, 2010 meeting.

Commissioner Saunders stated that he would not be present at the February meeting.

I. Speaking Invitation - American Conference Institute

Executive Director Brindle informed the Commissioners that he had received an invitation to speak before the American Conference Institute (ACI) in Washington, D.C. on April 29, 2010. He added that the ACI is a group composed of business specialists, lawyers, and other professionals that oversees trends in certain industry sectors, law, and public policy.

The Executive Director noted that the speaking engagement had received approval by the State Ethics Commission as the ACI is not an interested party subject to regulation by the Commission.

Executive Director Brindle reported that his speech would encompass "pay-to-play" and lobbying regulation in New Jersey.

J. Winter Meeting Schedule

- January 19, 2010 at 10:00 a.m. in Trenton;
- February 16, 2010 at 10:00 a.m. in Trenton; and
- March 23, 2010 at 10:00 a.m. in Trenton.

Chair English suggested that the Commission prepare a proposal for telephone conference in the event of inclement weather.

The Chair reported that she had engaged in discussion with Executive Director Brindle on prioritizing legislative initiatives.

Commissioner Burstein noted that legislative recommendations routinely appear in the Commission's annual report, but are not highlighted. He asked Chair English if she suggested such recommendations be placed on a separate document.

The Chair replied in the affirmative, and proposed increasing the distribution list of legislative recommendation recipients.

Commissioner Burstein suggested that detailed explanation of proposed legislative changes would be helpful in future initiatives.

Chair English stated that projects such as the newsletter have increased the profile of the Commission.

The Commissioners suggested that legislative proposals be prepared for discussion at the next meeting.

Executive Director Brindle stated that recommendations would be prepared for the January 19, 2010 meeting.

#### 4. Report on Return of Funds by 2009 Gubernatorial Primary Election Candidates

Special Programs Director Amy Davis informed the Commissioners that a publicly-financed gubernatorial candidate in the 2009 primary election was required to return to the State all funds remaining unspent at the conclusion of the campaign by December 2, 2009.

Director Davis noted that to protect the State's interest in return of unspent funds, each publicly-financed gubernatorial campaign is required to observe postelection restrictions on spending, which permit postelection expenditures of campaign funds only to satisfy obligations incurred on or before the date of the primary election and to pay the reasonable and necessary costs of closing the campaign. She further noted that each publicly-financed campaign is also required to continue to file certified postelection quarterly reports until there is no remaining balance in any campaign depository and all outstanding obligations are satisfied.

Director Davis announced that consequently, staff has advised publicly-financed Candidates Christopher J. Christie and Steven Lonegan in writing of the restrictions on postelection spending, the continuing obligation to file postelection quarterly reports, the obligation to observe the \$3,400 contribution limit, and the obligation to return to the State all funds remaining unexpended after the liquidation of all obligations.

The Director reported that Candidate Steven Lonegan's October 15, 2009 quarterly report and subsequent correspondence received from the campaign indicated that there are no funds available for return to the State because the campaign's outstanding obligations exceed cash-on-hand as follows:

<b>Candidate</b>	<b>Cash-On-Hand</b>	<b>Outstanding Obligations</b>
Steven Lonegan	\$86,086.62	\$94,790.41

Director Davis additionally reported Candidate Chris Christie's October 15, 2009 quarterly report indicated cash-on-hand totaling \$165,962.46 and \$32,925.38 in outstanding obligations. She further announced that on November 17<sup>th</sup>, Treasurer Ron Gravino requested the Christie campaign be able to retain \$55,000 for any audit-related expenses that may arise and forwarded a refund check in the amount of \$51,539. The Director reported that Treasurer Gravino indicated to staff that the campaign committee's current cash-on-hand was \$55,000 after all bills were paid, and that staff will examine the quarterly report to be filed on January 15, 2010 to verify that that the remaining balance is \$55,000.

Director Davis noted that since 1985, no publicly-financed gubernatorial campaign has been able to conclude its business in the six-month period provided. She explained that consequently, since 1985 and pursuant to statutory authority, the Commission has approved campaigns' requests to retain funds to meet outstanding obligations and audit and compliance expenses. The Director stated that staff therefore recommends that the Commission approve retention of funds by the Christie campaign in the amount of \$55,000 for the limited purpose of meeting outstanding obligations and paying audit and other expenses necessary to close their campaign.

Director Davis added that staff further recommends that the two 2009 primary election campaigns again be advised in writing of the continuing obligation to file quarterly reports, the restrictions on postelection spending, the requirement to observe the \$3,400 primary election contribution limit, and the continuing obligation to return to the State any funds which may become available once outstanding obligations are liquidated. The Director indicated that staff further recommends that the campaigns be advised that, pursuant to N.J.A.C. 19:25-16.33(c), postelection expenditures continue to be subject to the \$5 million 2009 primary election expenditure limit.

On a motion by Commissioner Saunders, seconded by Commissioner Burstein and passed by a vote of 4-0, the Commission approved the status report on return of funds by 2009 gubernatorial primary election candidates.

Chair English inquired as to the status of Inaugural committees and their regulation.

Director Davis responded that they were separate entities, but are required to file reports until all funds are liquidated. She added that Inaugural committees are subject to \$500 contribution limit.

Commissioner Burstein asked whether or not any prior campaigns had made application pursuant to the new regulation concerning finalization with net debt.

Director Davis informed the Commission that applications had been received from the Schundler and Frank's campaigns.

Legal Director Carol Hoekje announced that the sunset regulation proposal had been accepted by the Office of Administrative Law, and would be published on December 21, 2009 in the New Jersey Register.

#### 5. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Commissioner Saunders and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, 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.

6. Adjournment

On return to Public Session, The Chair welcomed former Commissioner Susan S. Lederman, Ph.D. Dr. Lederman stated how proud she was of her service on the Commission.

On a motion by Commissioner Burstein, seconded by Commissioner Saunders and passed by a vote of 4-0, the Commission voted to adjourn at 12:15 p.m.

Respectfully submitted as true  
and correct,

Jeffrey M. Brindle  
Executive Director

JMB/elz