



NEWS RELEASE

N.J. Election Law Enforcement Commission

Contact: SCOTT A. WEINER
292-8700

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Former Passaic County Freeholder Edward G. O'Byrne, and Barry Kessler, the treasurer of O'Byrne's 1979 freeholder campaign were jointly fined \$1,000.00 by the Election Law Enforcement Commission for failing to disclose a total of \$1,500.00 in campaign contributions which were made by a Mr. Donald Moskowitz to O'Byrne's 1979 candidacy. The fine was imposed as part of the Final Decision entered by the Commission with respect to a complaint initiated against Messrs. O'Byrne and Kessler. After service of the complaint, O'Byrne waived his right to a hearing before an administrative law judge and admitted to non-willful violations of the Campaign Contributions and Expenditures Reporting Act. Kessler did not respond to the complaint and was found to be in default.

In reaching its decision, the Commission determined that, in April 1979, Mr. Moskowitz had made a \$1,000.00 contribution to O'Byrne in support of his candidacy during the 1979 primary election. The Commission determined that O'Byrne and Kessler had failed to disclose the delivery or receipt of the \$1,000.00 contribution from Moskowitz in any of the reports they filed with the Commission.

The Commission also determined that Moskowitz made a \$500.00 contribution in August 1979 which O'Byrne and Kessler also failed to disclose as part of the report of campaign contributions and expenditures which were filed with the Commission with respect to the 1979 primary or general election campaigns.

During the course of its investigation, the Commission determined that the contributions in question were not deposited into the campaign depositories established by O'Byrne as is required by the Campaign Contributions and Expenditures Reporting Act. In addition there was no evidence to support a conclusion that

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the funds were utilized with respect to the 1979 candidacies of O'Byrne. It therefore, can be concluded that presumably the funds were utilized for the personal use and benefit of the candidate.

The Election Law Enforcement Commission's jurisdiction in this regard is limited to the civil enforcement of issues concerning the accuracy and completeness of reports of campaign finance activity filed with the Commission by candidates, campaign treasurers and political committees. The Commission does not have jurisdiction to commence enforcement proceedings with respect to either the failure to deposit campaign contributions in duly established campaign bank accounts or the personal use of campaign funds.

Failure to deposit campaign contributions into a duly established campaign depository can subject a violator to criminal sanctions. New Jersey has not enacted any law which expressly prohibits the personal use of campaign funds.

The Commission referred this matter to the Division of Criminal Justice which considered the matter and declined prosecution.

Scott Weiner, the Commission's executive director, indicated that the penalty imposed by the Commission reflects the seriousness with which the Commission viewed the actions of O'Byrne and Kessler. The actions of the respondents exhibited a disregard of the requirements of the Campaign Reporting Act and the responsibilities imposed upon candidates and campaign treasurers to be publicly accountable for the receipt, expenditure and disclosure of campaign funds.

Copies of the Complaint and Final Decision are available at the Commission offices.

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