

MINUTES OF THE COMMISSION MEETING

SEPTEMBER 23, 1974

PRESENT

ABSENT

Frank P. Reiche, Chairman  
Sidney Goldmann, Vice-Chairman  
Josephine S. Margetts, Member  
Herbert Alexander, Consultant  
Edward J. Farrell, Esq., Consultant  
David F. Norcross, Executive Director

1) The Commission considered the proposed regulations as printed in the September 5, 1974 New Jersey Register.

- a) With respect to a change in the \$100 reporting threshold for political information organizations (19:25-12.1d), the Commission rejected suggestions that the threshold be raised to \$1,000. It was agreed to adopt the lower threshold, to assemble data and information on reporting, and to review the matter at a later date to determine whether an increase to a higher threshold was desirable. It was noted that to establish the higher limit and then reduce it would be extremely difficult. Counsel said either a \$100 or \$1,000 threshold could be supported legally.
- b) Paid personal services, (19:25-1.7). The Legislature has made a policy determination to exclude the value of voluntary, personal services and the Statute so states. The Commission may not change this decision through the adoption of contrary regulations. Support was offered for the position adopted by the Legislature suggesting that efforts to include such services as reportable might "chill" political participation. A suggestion was made by Senator Schluter at the public hearing that the Commission consider requiring disclosure of volunteer services without requiring disclosure of the monetary value of those services. Counsel noted

that such a course of action would involve extremely difficult value judgements with respect to the type of service rendered. It was further noted that the Act is oriented toward the disclosure of expenditures and that volunteer services are not expenditures. There was an expression that the introduction of regulation of volunteer activities would lead the Commission in a direction which would not be in the best interest of general, public, political participation. The Chairman voiced his uneasiness with permitting professional participation on a volunteer basis absent declaration of involvement, but acquiesced in the determination not to alter the regulations in this respect at this time.

- c) Senator Schluter questioned whether the grace period from receipt to deposit could be interpreted to mean that the recipient need not disclose the receipt until required to deposit it. It is the Commission's position that under the terms of the Act receipts should be disclosed by candidates and organizations based on the date of receipt and not on the date of deposit. Chairman Reiche moved, seconded by Vice-Chairman Goldmann that Counsel draft a proposed regulation specifically directing that every contribution be reported when received without respect to the ten-day period for deposit. (Vote 3-0)
- d) Testimony adverse to the provision of 19:25-12.2 which provides candidates with the option of deducting 1/3 of gross receipts in lieu of the actual cost of food and beverages at testimonial affairs was heard. The Commission determined to allow the regulation as proposed to stand until broader experience could be considered. It was felt to be a justifiable standard at the present time.
- e) It was pointed out in discussion of 19:25-7.6, earmarked funds, that provisions requiring recipients to aggregate should be set forth in the existing regulation. Vice-Chairman Goldmann moved; seconded by Chairman Reiche that the matter be referred to Counsel for study and drafting - Vote 3-0.

- f) Testimony was offered on the question of excluding from campaign expenditures, for the purpose of Section 7 expenditure limits, the cost of defending or prosecuting complaints brought under the Act. The Commission reiterated that such expenditures are excludable and further determined to leave the regulations unchanged since specific mention of costs could encourage frivolous complaints brought for political or public relations purposes.
- g) The Commission agreed that provisions with respect to relaxation of rules could only be used to serve the purposes of justice. Accordingly, it was determined to leave the provisions of the regulations unchanged.
- h) The Commission considering situations involving lobbyists, otherwise paid on loan to a campaign, determined that the costs of the lobbyist's salary, like those of any other paid individual lent to a campaign, should be reported by the candidate benefiting from those services. The regulations and reporting requirements clearly so state. It was suggested that such a situation might be used as an example to the appropriate regulation, but Counsel suggested awaiting further facts in order to make a more comprehensive determination.
- i) Testimony from the N.J. Chamber of Commerce suggested that justice would better be served if the Commission would take the position that provisions relating to political information organizations were unconstitutional. After discussion, the Commission determined that it was charged by law with enforcement of the legislation and did not have the option of determining that the legislation should be repealed. The Commission has found the law to be constitutional and has taken appropriate action under the law to promulgate regulations.
- j) A suggestion by a representative of Common Cause that "principal purpose" be utilized with respect to

defining "political information organization" (19:25-1.7) was rejected in discussion as being generally unworkable in view of the enforcement experience under the Federal Act (2 USC 261, 270) as modified by the Harriss case. The Commission determined that the definition should remain consistent with that provided by the Statute.

- k) In considering the transfer of responsibility for monitoring the receipts and expenditures of political information organizations to another organization, the Commission decided that such responsibility fell properly within its expertise, function and administration and refused to recommend transfer.
- l) The Commission rejected suggestions that "legislation" (19:25-1.7) be more broadly defined in the regulations so as to include county and municipal ordinances. The definition utilized in the regulations is consistent with that of the "Legislative Activities Disclosure Act of 1971" (P.L. 1971,C.183). Accordingly, the Commission declined to make any change in the regulations as they define "legislation". Referenda are covered so local political activity is not ignored and Public questions on ballots at all governmental levels will be monitored for receipts and expenditures.

After discussion the Commission declined to alter regulation (19:25-11.2(b)).

"Paid personal services" and "voluntary personal services" (19:25-11.4(b) and (c))-the definition is covered by the appropriate provisions of the Act and while the definition may require further study, the regulation as proposed shall stand.

- m) It was duly moved and seconded that the regulations as they appear in the New Jersey Register, dated September 5, 1974, be adopted and duly promulgated. The motion carried 3-0 (Goldmann, Margetts).

- 2) The Chairman asked the Executive Director to prepare and distribute an appropriate press release thanking all who participated in the Public Hearing and indicating that specific matters relating to possible changes would be considered in the future. The Commission will continue to welcome constructive comments on the Regulations as adopted and promulgated.
- 3) Kenilworth Republican Club, Inc. V. Kenilworth Democratic Campaign Committee, Vincent Scorese Chairman (C-12-73). The Commission determined that there existed a negligent but not willful violation of the reporting requirements of Section 8 and accordingly the Kenilworth Democratic Campaign Committee is reprimanded. (Motion, Goldmann; seconded, Margetts - Vote 3-0)
- 4) Commission V. Morton Salkind (C-15-73). After consideration of the Hearing report the Commission determined to take no further action until details on the computation, composition and payment of a \$694 entry indicated as the cost of the distribution of the resolution in dispute are supplied. The matter was remanded to the hearing officer for further hearing, before which Counsel was directed to appear and to present all available facts. (Motion, Goldmann, seconded, Reiche - Vote 3-0)
- 5) Herzfeld V. Suter & Decker (C-18-73). The Commission reviewed the Hearing Officer's Report and noted findings of a failure to disclose in timely fashion contributions in excess of \$100, but determined that the report did not set forth findings sufficient to support a charge of willful violation. The Commission found that the expenditure limits of Section 7 had not been exceeded, but that there had been a negligent failure to file in violation of Section 16 of the Act. Accordingly, a fine of \$25 was imposed individually on Decker and Suter. (Motion, Goldmann; seconded, Reiche - Vote 3-0)
- 6) Board of Education Point Pleasant Beach V. C.A.R.E. (C-17-74). The Commission found a negligent non-willful failure to designate a campaign treasurer and depository and determined to issue a reprimand in the event the respondents do not demand formal hearing. (Motion, Goldmann; seconded, Reiche - Vote 3-0). The Executive Director was directed to communicate the Commission's findings to the respondents.

- 7) Linett V. Franklin Township Taxpayers, Assoc. (C-11-74). The Commission found a negligent failure to file and will issue a reprimand for such failure, unless a hearing is demanded by the respondents. (Motion, Goldmann; seconded, Reiche - Vote 3-0). The Executive Director was directed to communicate the Commission's findings to the respondents.
- 8) In the matter of Margaret Lounsbury - The Executive Director was directed to appoint a Hearing Officer and refer the matter for appropriate hearings. (Motion, Goldmann; seconded, Margetts - Vote 3-0)
- 9) Henwood V. Staton (C-06-74). The Executive Director was directed to appoint a Hearing Officer and to refer the matter for appropriate hearings. (Motion, Goldmann; seconded, Reiche - Vote 3-0)
- 10) Salkind V. R.E.A.L. (C-12-74). The Commission considered the complaint and evidence and found the respondent to be a political information organization because Assemblyman Salkind was not running for office at the time the publication was made. Inasmuch as the respondent is a political information organization, and the present case does not involve an election campaign, the Commission cannot, under the terms of the injunction pending in the Superior Court of New Jersey, take any action with respect to the respondent. (See N.J. State Chamber of Commerce, et al. V. N.J. Election Law Enforcement Commission, et al., Superior Court of N.J., Chancery Division, Docket No. AM6-74)
- 11) Clayton V. Point Pleasant Beach Civic Committee (C-14-74). The Executive Director was directed to appoint a Hearing Officer and to refer the matter for appropriate hearings.
- 12) Sherman V. East Hanover (C-17-73). Counsel for the respondents not having been provided the opportunity of reviewing and taking exceptions to the Hearer's supplemental report, the matter was postponed until October 10, 1974.

Respectfully submitted,

  
David F. Norcross  
Executive Director