

MINUTES OF THE MEETING

June 2, 1975

PRESENT

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

ABSENT

The meeting was convened by Chairman Frank P. Reiche at 10:28 a.m.

- 1) Action on Minutes of previous meetings was deferred.
- 2) Chairman Reiche called for an executive session to consider the matter of the Commission vs. the New Jersey Republican Finance Committee (C-23-74). The procedural status of the matter was reviewed by the Executive Director who read pages 100 through 106 of the transcript of the hearing of May 20, 1975 to the Commission. Possible courses of action were outlined by counsel as follows: a) The Commission might seek to compel the testimony of the witnesses, Scala and Intile, through court proceedings on the theory of transactional immunity, b) The Commission might consider that under the provisions of NJSA 19:44A-6(b)(10) it was obliged to forward the matter immediately to the appropriate prosecutor or, c) Proceed to call the witnesses Scala and Intile in open hearing and continue the matter to conclusion whether they would testify or not.

The Commission reconvened in public session and Chairman Reiche moved that the Hearing Officer be directed to proceed with hearings and that Trial Counsel be instructed to subpoena the witnesses Scala and Intile and further that the Commission would not now take any action to seek to compel the testimony of the witnesses Scala and Intile. The Motion was seconded by Vice-Chairman Goldmann and carried 4-0.

- 3) The Commission considered the extent to which it might discuss with Trial Counsel any phases of a case pending before it. After full discussion resolution of the matter was deferred and counsel directed to prepare a memorandum of law on the subject.

4. Arthur Rosen vs. Bernard Cappiello (C-20-74). The Commission considered the Hearing Officer's Report and Supplemental Report and Respondent's exceptions to both and adopted the following Opinion and Findings on Motion of Vice-Chairman Goldmann, seconded by Commissioner Alexander. Vote 4-0:

We have reviewed the proofs and the Hearer's Report, his Supplemental Report and the Respondent's exceptions to both and agree with the Hearer's conclusion that the October 1974 Newsletter, published by the Mayor and council and mailed to each home in the Borough of Harrington Park, was a political contribution in-kind of a value exceeding \$100 and which therefore should have been reported as such to the Commission.

In reaching this conclusion we have been influenced by the fact that the publication appeared within 30 days of the 1974 General Election. This raised a reasonable inference, which Respondent Bernard Cappiello failed persuasively to meet, that the publication represented a political contribution that benefited his campaign for re-election.

In the future a publication of like nature, appearing within 30 days of election, will raise a rebuttable presumption that the publication was a political contribution which, of a value exceeding \$100, would be reportable in a regular course.

We find Respondent in violation of Section 16 of the Act but that the violation was not willful and therefore impose a reprimand.

Chairman Reiche, while voting in favor of the Motion, noted his preference that the presumption not be created in an opinion.

Counsel was directed to prepare a regulation consistent with the findings in this case and the presumption set forth therein.

- 5) Mozak vs. Sottile (C-03-74). The Opinion of Vice-Chairman Goldmann, was, on Motion of Commissioner Margetts, seconded by Commissioner Alexander, approved by a vote of 4-0. Mr. Farrell wasn't present and took no part in the Commission deliberations.
- 6) Henwood vs. Staton (C-06-74). The Opinion presented by the Executive Director was approved as revised on Motion of Vice-Chairman Goldmann, seconded by Commissioner Alexander. Vote 4-0.
- 7) The New Jersey Election Law Enforcement Commission vs. Morton Salkind (C-15-74). The Opinion presented by the Executive Director was approved as revised on Motion of Commissioner Alexander, seconded by Vice-Chairman Goldmann. Vote 4-0.
- 8) Zuckerman vs. Pallotta and Lazzaro (C-04-73). Vice-Chairman Goldmann moved that the Commission find a non-willful violation of the reporting requirements of the Act and impose an admonition therefore. The Motion was seconded by Chairman Reiche. After a brief discussion, Vice-Chairman Goldmann withdrew the Motion. (Continuation of this matter in Section 11.)
- 9) Commission vs. Deal (C-15-74). The report of the Hearing Officer, on Motion of Vice-Chairman Goldmann, seconded by Commissioner Alexander, was adopted and a reprimand was imposed for a non-willful, negligent violation of Section 16 of the Act. Vote 4-0.
- 10) The matter of the Commission vs. Biehl (C-25-75). Motion of Commissioner Alexander, seconded by Commissioner Margetts, was referred to a Hearing. Vote 4-0.
- 11) Zuckerman vs. Pallotta and Lazzaro (C-04-73). The Commission resumed consideration of this matter and on Motion of Vice-Chairman Goldmann, seconded by Commissioner Margetts, determined to correct the Hearing Officer's Report by substituting the word "expenditure" for "disbursement" on pages 3 and 5 and to find a negligent, non-willful violation of Section 12 of the Act and to direct the imposition of an admonition. Vote 4-0.
- 12) The Attorney General's response to Commissioner Alexander's inquiry on the

question of conflict of interests was discussed. Counsel indicated that he had prepared an initial draft of an Opinion for the Commission's consideration.

13) Commissioner Alexander indicated that he had sent an inquiry to the Attorney General as to the possible existence of a conflict of interest with respect to his appointment as a member of the Gateway National Recreation Area Advisory Commission.

14) The Commission approved counsel's draft of an Opinion letter to Louis Bassano (C-06-75).

15) The Commission discussed instructions for Hearing Officers as drafted and presented by counsel. The instructions were approved (copy attached hereto).

16) The Executive Director presented information as to candidates who were delinquent for the 1975 Primary Election. He indicated that presently 283 of the 2,624 candidates had failed to file for the first reporting date and that 39 candidates who had filed for the first reporting date were delinquent for the second. This represents approximately 10.8 and 2 percent respectively of the total number of candidates. The Commission discussed the possibility of imposing automatic late fines and thereafter providing candidates with the opportunity to request hearings. After full discussion, it was determined for a variety of reasons, that the better practice would be to provide a hearing for each violator. Due process considerations, fundamental fairness and the possibility that hearings would expose more of the factual circumstances surrounding alleged violations were cited by the Commission among the reasons in determining to order individual hearings.

17) The Commission approved the Executive Director's draft letter to Robert S. Wilentz, Esq. relative to potential violation of Section 7 expenditure limit by the campaign committee of Brendan T. Byrne and related committees in the 1973 General Election. A copy is attached hereto.

18) The meeting was adjourned at 4:30 p.m.

Respectfully submitted,

  
David P. Norcross  
Executive Director