



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG., 12th FLOOR
28 W. STATE STREET, CN 185
TRENTON, NEW JERSEY 08625-0185
(609) 292-8700

OWEN V. McNANY, III
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COMMISSIONER

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EDWARD J. FARRELL
COUNSEL

PUBLIC SESSION MINUTES

TELEPHONE CONFERENCE

MAY 4, 1993

Chairman McNany, Commissioner Linett, Commissioner Eldridge, Counsel Farrell, senior staff, and Director of Public Financing Nedda Massar participated in the telephone conference.

Chairman McNany called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., special 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 by telephone at 10:00 a.m. at the Commission offices, Trenton, New Jersey.

1. Public Matching Funds Funds

Candidate Jim Florio/Submission 01

Public Financing Director Nedda Massar reviewed an application for public matching funds received from Gubernatorial Candidate Jim Florio. Director Massar circulated copies of a computer analysis of Candidate Florio's first submission which indicated that Candidate Florio submitted \$978,056 for match and of this amount 19 items representing \$7,500 were found to be ineligible for match at this time. After complete review, \$911,556 was found to be acceptable for match, which exceeded the \$177,000 threshold, therefore qualifying the campaign of Gubernatorial Candidate Florio for matching funds. Director Massar recommended, therefore, that the Commission certify \$1.6 million in public matching funds. This figure was arrived at by subtracting the first \$59,000, which is not matchable under the statute, from \$970,556 and multiplying the resulting figure of \$911,556 by two, which is the number of public dollars distributed for every one qualified dollar. The resulting figure of \$1,823,112 exceeds the \$1.6 million public funds cap, thus only \$1.6 million of public funds is recommended for certification.

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission certified \$1.6 in public matching funds to Candidate Florio.

Candidate Jim Wallwork/Submission 03

Following a complete staff review of the submission, a net amount of \$24,025 in contributions was deemed eligible for match at the 2:1 ratio, including resubmitted contributions. The review determined that six contribution items submitted for match were temporarily ineligible for match which resulted in an ineligibility rate of 10 percent.

Based on the net amount of \$24,025 determined to be eligible for match at the 2:1 ratio, staff recommended certification of \$48,050 in 1993 primary election public matching funds to Candidate Wallwork.

On a motion by Commissioner Eldridge, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission certified \$48,050 in 1993 primary election public matching funds to Candidate Jim Wallwork.

Subpoena Policy

The Commission undertook a policy discussion of whether or not a subpoena served on ELEC is a public document and, if so, whether or not to acknowledge the receipt, or non-receipt, of a subpoena, compelling ELEC to provide records or other information.

Executive Director Herrmann said that various members of the media have asked recently about ELEC receiving a subpoena from another law enforcement agency.

The Executive Director said that he responded that he could not confirm or deny the receipt of a subpoena to be consistent with ELEC's traditional policy.

Executive Director Herrmann added that the Attorney General's staff indicated that a subpoena is not a public document and does not have to be disclosed.

The Executive Director said that the policy issue for the Commission to discuss is the following: In the future does the Commission want the staff to say whether or not ELEC has been subpoenaed?

Chairman McNany asked: are we talking about a subpoena the Commission issues, a subpoena the Commission receives, or both?

Counsel Farrell said that the Commission is being asked about a subpoena received by the Commission.

Counsel Farrell said that there are a separate set of policy questions involved with respect to receipt of a subpoena by the Commission versus a subpoena issued by the Commission as part of its own investigation. He said that the Commission's traditional policy has been to not confirm or deny the existence of an investigation. He also said that there is a difference

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between receipt of a civil subpoena and receipt of a criminal subpoena. He indicated that a criminal investigation has normally already been made public.

Counsel Farrell said that he is concerned about civil subpoenas being acknowledged because to do so might place the Commission in a position of being used by a candidate in an effort to make it appear that an opponent is a target of an ELEC investigation.

Chairman McNany suggested that staff research this issue further to enable the Commission to discuss it at the next regular meeting.

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission directed staff to further research the subpoena issue.

2. Adjournment

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission voted to adjourn at 10:14 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

FMH/jah