



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

William H. Eldridge
Chairman

Owen V. McNany, III
Vice Chairman

David Linett
Commissioner

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

Frederick M. Herrmann, Ph.D.
Executive Director

Jeffrey M. Brindle
Deputy Director

Gregory E. Nagy
Legal Director

James P. Wyse
Counsel

PUBLIC SESSION MINUTES

SEPTEMBER 22, 1995

The Commissioners, Senior Staff, the Counsel, and Deputy Legal Director Nedda Gold Massar were present.

Chairman Eldridge 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 at 3:00 p.m. in the Edward J. Farrell Memorial Conference Room at the Commission Office, Trenton, New Jersey.

3. Approval of Public Session Minutes of August 15, 1995

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission approved the Public Session Minutes of August 15, 1995.

4. Public Hearing Concerning Ways to Strengthen the Commission's Ability to Perform Its Role, Gubernatorial Public Financing, and Contribution Limits

For details please see transcript recorded by a court reporter.

5. Executive Director's Report

The following Executive Director's Report was placed into the record.

A. Staff Activities

Executive Director Herrmann reported that Associate Director of Compliance and Information Virginia Wilkes-Tesser and Messenger Ray Melendez have resigned. The Executive Director said that ELEC is currently down to 30 staff positions, which is four fewer than its highest number in FY-90. He said that staff is moving to fill the vacant positions, which include one junior professional and three clerical staff.

Executive Director Herrmann advised the Commission that he has been named to the editorial board of Public Integrity Annual published by the Council of State Governments (CSG) and the American Society for Public Administration (ASPA).

The Executive Director said that the Center for Responsive Politics in Washington, D.C. asked him to participate in a dinner discussion group at the Council on Governmental Ethics Laws (COGEL) Conference on the topic of improving public access to ethics agencies records.

Executive Director Herrmann indicated that he received a glowing letter from the Utility and Transport Contractors Association of New Jersey, praising the "tremendous quality" of ELEC's staff and Assistant Compliance Officer Andy Mersel in particular.

The Executive Director reported that in late August, the Review and Investigation staff met with Tony Scocozza, the senior investigator of the Executive Commission on Ethical Standards, to share investigative techniques. He mentioned that based on a suggestion by Scocozza, staff will be making more use of tape recording in taking witness statements.

Executive Director Herrmann said that he was asked to serve as a member of the Recall Project Advisory Committee at Rutgers University.

He added that Legal Director Nagy, Deputy Legal Director Nedda Massar, and Director of Compliance and Information Evelyn Ford met with a representative of the Republic of Mongolia last month to explain ELEC's role in the political process.

B. Praise for the Public Financing Program

Executive Director Herrmann reported that the 1996 edition of the Almanac of American Politics states:

"[New Jersey's] public financing of campaigns has, at last, made New Jersey politicians personally known statewide through TV ads and has produced a series of strong and distinctive governors - Byrne, Kean, Florio, Whitman - who are not beholden ... to county political bosses"

He said that staff continues to upgrade its computer system within its operational resources. He added that ELEC will obtain free of cost Office of Administrative Law (OAL) software that provides electronic access to regulatory materials. The Executive Director reported that eight new laser printers have been purchased and that six new PCs have been installed for use by the Compliance and Investigation Sections.

Executive Director Herrmann advised the Commission that the "Government that Works Committee" responded to ELEC's request for recomputerization funding in the negative. He said that due to the tight fiscal parameters of the FY-96 budget and the tendency to support bigger projects the proposal was rejected. He said that staff will continue to use funds from the current operating budget to upgrade the computer system in a planned but piecemeal fashion.

C. COGEL and NORCOL Conferences

The Executive Director said that Deputy Director Brindle and he participated in the COGEL and Northeastern Region Conference on Lobbying (NORCOL) conferences in Washington, D.C. He added that Deputy Legal Director

Massar, Director of Compliance and Information Ford, and Director of Review and Investigation Carol Hoekje attended the NORCOL conference only. He said that next month he will review the highlights of both meetings.

D. National Ethics News

Executive Director Herrmann reported that the Kentucky Legislative Ethics Commission has asked the Kentucky Legislature to enact a grassroots lobbying law. He noted that the Kentucky Commission was concerned that "vast amounts of money are being spent by certain legislative agents ... on media campaigns geared toward influencing legislation through influencing public opinion." The Executive Director mentioned that ELEC first called for such a law in New Jersey in its White Paper Number Five Lobbying Reform, published in 1990. He said that A-2306 (Russo/Lance), which provides for the regulation of grassroots lobbying, was released from the Assembly State Government Committee on May 15, 1995 with ELEC's support.

E. Future Meeting Schedule

The Commission is scheduled to meet on October 20, 1995, in Trenton at 3:00 p.m., on November 21, 1995, and on December 19, 1995.

6. Proposed Regulation Concerning Contributions by Partnerships

Please see the memorandum circulated to the Commission from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, dated September 14, 1995, and entitled "Regulation on Contributions from Partnership Entities."

The proposed regulation would permit a partnership entity to contribute to candidates, committees, and political parties subject to the same limits applicable to individuals, corporations, or unions. Legal Director Nagy explained that the 1993 amendments to the Campaign Act added the term "group" as an additional new category of contributors, and that a partnership appeared to be within the meaning of the term "group." Staff notes that an unincorporated partnership business owned by only one person is not a "group," and therefore such a proprietorship is not included in the proposed regulation and cannot make contributions as an entity.

The memorandum distinguishes between this proposed outcome and the existing public financing regulations dealing with partnerships. Under those regulations, contributions from a partnership are allocated on a prorata basis against the contribution limits applied to individual contributors who are partners in a partnership. Staff indicated that at a later date it will recommend that the public financing regulation be amended to conform to the proposed regulation.

A discussion ensued with Commissioner Linett expressing concern that the statutory term "group" was so broad that it jeopardized effective application of contribution limits. He suggested that the current proposal should conform to the existing gubernatorial public financing regulation, and not the reverse. Commissioner Linett said that he does not believe partnerships should be permitted to make contributions.

Commissioner Chertoff agreed with Commissioner Linett that there is justification for distinguishing between corporations and partnerships for contribution limit purposes.

Chairman Eldridge expressed concern about the administrative impact of a new partnership regulation which imitates the existing public financing regulation.

The Commission directed staff to rewrite the proposed regulation so that partnerships cannot make contributions.

7. Resolution to Go Into Executive Session

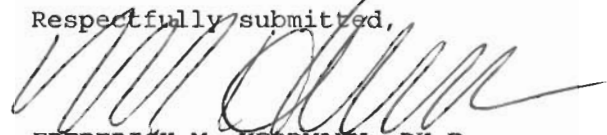
On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public no later than 35 days after mailing.
2. 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 no later than 50 days after mailing.

8. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission voted to adjourn at 6:00 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

FMH/jah