



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

June 21, 2001

All of the Commissioners, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Legal Director Gregory E. Nagy was not present.

1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate 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 1:30 p.m. in Trenton, New Jersey.

A Court Reporter was present to record the Public Session discussion. The transcript will be available to the public upon request.

2. Approval of Public Session Minutes of May 23 and May 29, 2001

On a motion by Commissioner Ware, seconded by Commissioner Lederman and passed by a vote of 3-0, the Commission approved the Public Session Minutes of May 23, 2001.

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission approved the Public Session Minutes of May 29, 2001.

3. Executive Director's Report

A. Staff Activities

Executive Director Herrmann reported that Assistant Compliance Officer Robyn Rich and Public Finance Analyst Mitali Dutta have left the Commission to take new positions.

Both of them did excellent work for ELEC and will be missed. We all wish them well in their new positions.

The Executive Director mentioned that on May 24, 2001, he met with a group from College Leadership New Jersey. The students and he had an open discussion about campaign finance issues for an hour-and-a-half and took a tour of the agency.

Executive Director Herrmann informed the Commission that although the Executive Editor of M.E. Sharpe liked the campaign finance manuscript that he sent him, he felt that there wasn't enough material in it to warrant publication. The Executive Editor of M.E. Sharpe wrote to Executive Director Herrmann and commented that he liked what he saw. He explained that the papers were very well written, much more so than the usual academic journal articles; that the practitioner focus is very valuable; and that it wouldn't take much to edit the current contents into book form. The Executive Editor of M.E. Sharpe further explained that because of the number of articles, he felt that the only way to produce a book would be to add six or seven more, a suggestion even he felt was daunting. Consequently, Executive Director Herrmann may take his advice to rest on your laurels, having already guest-edited two successful and important symposia of Public Integrity.

The Executive Director informed the Commission that Director of Systems Administration Carol Neiman has designed a debate sponsor on-screen, computer fill-in form which is being used by sponsor applicants for applying to host the general election debates.

B. Budget News

Executive Director Herrmann reported that due to a projected shortfall in the State Treasury, ELEC's computer and equipment account has been cut by half-a-million dollars for fiscal year 2001. The cut equals about one-fifth of ELEC's annual operating budget. The Executive Director said that this large reduction may negatively impact on some of the Commission's future computer planning. He said that it is too early to predict accurately the possible long range effects this soon. Executive Director Herrmann further said that staff, nevertheless, is proceeding with its implementation of a voluntary electronic filing program for legislative candidates in the fall election and hopes that it can maintain all current web site services.

4. Advisory Opinion Request No. 06-2001

Chair Martin advised the Commissioners that the Advisory Opinion Request No. 06-2001 on behalf of the Democratic Governors' Association had been withdrawn. A copy of the letter requesting withdrawal was provided to the Commissioners.

5. Report on 2001 Gubernatorial Primary Election Matching Fund Submissions

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission approved the staff report on the status of 2001 primary election matching fund submissions filed on May 14th, 21st, and 29th, and June 4th, 11th, and 18th, 2001.

6. Resolution to go into Executive Session I

On a motion by Commissioner Ware, seconded by Commissioner Lederman and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss the following matters which will become public as follows:

- A. 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.
- B. 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.

7. Return to Public Session

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission voted to return to Public Session.

Chair Martin asked for public comments in the case of Franks vs. Schundler, PF-02-P2001.

No comments were received.

8. Resolution to go into Executive Session II

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission voted to go into Executive Session for the purpose of discussing the Franks vs. Schundler case.

9. Return to Public Session

Vice Chair Franzese arrived during Executive Session II.

Chair Martin asked for public comments in the case of Schundler vs. Franks, PF-01-P2001.

The Commission heard comments from Brian W. McAlindin, Esq., Counsel for Schundler for Governor, Inc., and William E. Baroni, Jr., Esq., Counsel for Franks for Governor, Inc.

10. Resolution to go into Executive Session III

On a motion by Vice Chair Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to go into Executive Session for the purposes of discussing the Schundler vs. Franks case.

11. Return to Public Session

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to return to Public Session.

Bret Schundler and Schundler for Governor, Inc. v. Robert D. Franks and Franks for Governor, Inc., OAL Docket No. ELE 2791-01, Agency Docket No. PF-01-P2001

Chair Martin read the following public statement:

The Commission has adopted the Initial Decision in this case which found that there was no proof that Candidate Robert Franks was involved in the management of the Republican Leadership Council.

On a motion by Vice Chair Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to adopt the Initial Decision of the Honorable John R. Tassini, ALJ, as its Final Decision in this case for the reasons set forth in the Initial Decision.

Franks for Governor, Inc. v. Schundler for Governor, Inc. and The New Jersey Scholarship Fund, OAL Docket No. ELE 2792-01, Agency Docket No. PF-02-P2001

Chair Martin read the following public statement:

Because of ELEC regulation N.J.A.C. 19:25-10.10, which provides a January 1st cut-off date with respect to political communications, the Commission finds that the New Jersey Scholarship Fund communications made prior to January 1, 2001 will not be required to be allocated against Schundler for Governor's primary campaign contribution and expenditure limits. This determination is consistent with the letter of the governing regulation, N.J.A.C. 19:25-10.10, as well as its spirit and intent, which is rooted in the First Amendment protections and deference afforded to political speech.

On a motion by Vice Chair Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission adopted and modified the Initial Decision of the Honorable Robert W. Scott, ALJ, for the reasons set forth in the Commission's Final Decision.

12. Adjournment

On a motion by Commissioner Lederman, seconded by Vice Chair Franzese and passed by a vote of 4-0, the Commission voted to adjourn at 3:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director