

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

DECEMBER 14, 1981

PRESENT

Sidney Goldmann, Chairman
Josephine S. Margetts, Member
Andrew C. Axtell, Member
M. Robert DeCotiis, Member
Scott A. Weiner, Executive Director
William R. Schmidt, Assistant Executive Director
Gregory E. Nagy, Staff Counsel
Edward J. Farrell, General Legal Counsel

The Chairman called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended, has been filed with the Secretary of State's office, and that copies have been filed in the State House Annex, and mailed to the Newark Star Ledger, the Philadelphia Bulletin and the entire State House press corps.

The meeting convened at 10:12 a.m. at the Commission's offices.

1. Approval of Minutes of Public Session of Commission Meeting of November 30, 1981

The Commission reviewed the minutes and noted the following changes:

- on page 2, first paragraph, second line, the motion was seconded by Commissioner Axtell, not Commissioner DeCotiis;
- on page 2, item 4, first paragraph, lines 11 and 12, the words "all but" should be added following the words "to keep" so that the phrase reads: "thereby permitting the campaigns to keep all but the funds in excess of \$800. . . ."
- on page 2, item 4, third paragraph, 5th line, the word "corroborating" was misspelled.

On a motion by Chairman Goldmann, seconded by Commissioner Axtell and a vote of 4-0, the Commission approved the minutes, as amended, of the public session of the above-cited meeting.

2. Advisory Opinion Request No. 44-81

The Commission reviewed the draft of the advisory opinion prepared in response to a request submitted by Irwin I. Kimmelman, Esq. on behalf of the Kean Inaugural Committee. The Commission, in its review of the draft opinion, made the following changes:

- page 2, paragraph 3, line 6, change the word "scheme" to "program";
- on page 2, paragraph 3, line 15, change the word "animus" to the word "intent";
- on page 2, paragraph 4, line 1, correct the spelling of the word "canon";
- on page 3, paragraph 4, line 7, the word "will" should be changed to "may".

On a motion by Chairman Goldman, seconded by Commissioner Margetts and a vote of 4-0, the Commission approved the advisory opinion draft, as amended.

3. Advisory Opinion No. 45-81

The Commission reviewed the draft advisory opinion prepared in response to a request submitted by Lawrence E. Bathgate, II, Esq., on the issue of whether the Republican State Committee may loan the inaugural committee \$25,000. On a motion by Commissioner DeCotiis, seconded by Commissioner Axtell and a vote of 4-0, the Commission approved the draft opinion.

4. Report on Pending Legislation

The Executive Director reported that Chairman Goldman and Staff Counsel Nagy appeared before the Senate State Government Committee to testify on S-3474 (Senator Bedell) which would amend the lobbyist disclosure statute. The Executive Director reported that he had been advised by legislative leaders that the approach taken by the Commission on S-3474 had been effective.

The Executive Director reported on Senate Bills 3503 and 3508 which addressed the conduct and administration of inaugural activities. He reported that S-3503, which would create a 1982 Gubernatorial Inaugural Commission, was not referred to Committee. He further reported that S-3508, which would increase the contribution limit from \$250 to \$500 was reported to the State Government Committee of the Senate. The Executive Director distributed a copy of his December 11, 1981 letter addressed to Senator Wynona M. Lipman, chairman of the Senate State Government, Federal and Interstate Relations and Veterans' Affairs Committee. Furthermore, he reported on his appearance before the Committee on December 10, 1981.

5. Report on the Council on Governmental Ethics Laws Conference

The Executive Director, the General Counsel and the Assistant Executive Director reported on the conference held in Charleston, South Carolina, December 6 through December 9.

6. Report on Return of Excess Campaign Funds by Primary Candidates Receiving Public Funds

The Executive Director reported that seven of the 16 gubernatorial candidates had returned excess campaign funds to the state (Dodd, Hamilton, Klein, McConnell, Kean, Parker, and Wallwork). In addition, two candidates, Merlino and Rafferty, had closed out their accounts with no funds remaining to be refunded to the state. Furthermore, he reported there are nine campaigns which have not been able to close out their accounts because of, in most cases, outstanding obligations; these nine are Degnan, Dodd, Florio, Gibson, Lan, McConnell, Smith, Kramer, and McGlynn. In most cases, the outstanding obligations involve state and federal tax liabilities that have not been resolved with the appropriate tax officials.

7. Discussion of Proposed Legislation to Restrict Use of Excess Campaign Funds

The Commission reviewed materials sent to it concerning permissible uses of surplus campaign funds. Materials included the following: a December 8, 1981 letter from Senator Steven P. Perskie; a December 11, 1981 memorandum addressed to the Commission from the Executive Director; a copy of subsection 439a "Use of Contributed Amounts for Certain Purposes" from the Federal Elections Act; copy of the California Act; and a copy of the proposed ELEC amendment to N.J.S.A. 19:44A-11. The following are some of the points raised during the course of the Commission's discussion:

- it would probably be preferable that an independent bill be introduced to resolve this matter rather than include the issue as part of a comprehensive bill;
- the FEC allows successful candidates to use surplus campaign funds for legislative accounts;
- the Legislative Counsel said that the Legislature's Ethics Committees have frowned on the use of excess campaign funds to fund district offices of the legislators;
- concerning penalties, it was suggested that both civil and criminal penalties be in any proposed bill; California has only civil penalties. Furthermore, California provides for a \$500 penalty or twice the amount of misused expenditures; also the payment of the fine cannot be made from surplus campaign funds.

- there is interest among legislative leaders to provide for the disclosure of office accounts;
- we should draft a bill for the interested legislators;
- the omnibus bill introduced in the Assembly is too broad; and
- one way to deal with the problem is to have the surplus campaign funds segregated into a separate account.

8. Schedule of 1982 Meetings

On a motion by Commissioner DeCotiis, seconded by Commissioner Axtell and a vote of 4-0, the Commission decided to meet on a twice a month basis on the second and fourth Mondays of each month in 1982.

9. Executive Session

On a motion by Commissioner Margetts, seconded by Commissioner Axtell and a vote of 4-0, the Commission voted to resolve to go into executive session to discuss the executive session minutes of the meeting on November 30, 1981 and to discuss investigations and enforcement actions, the results of which will be made public at their conclusion.

Respectfully submitted,



SCOTT A. WEINER
Executive Director