

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES (FIRST PART)

APRIL 10, 1985

PRESENT:

Andrew C. Axtell, Chairman
Alexander P. Waugh, Jr., Vice Chairman
Haydn Proctor, Member
Owen McNany
Edward J. Farrell, General Counsel

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1975, c.231, special notice of the meeting of the Commission has been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 10:00 a.m. at the Municipal Building in Montclair, New Jersey.

1. Executive Session

On motion of Vice Chairman Waugh, seconded by Commissioner Proctor on a vote of 4-0, the Commission decided to go into Executive Session to discuss an investigative and personnel matter.

2. Adjournment

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission voted to return to public session.

Respectfully submitted,



Edward J. Farrell

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

APRIL 10, 1985

PRESENT:

Andrew C. Axtell, Chairman
Alexander P. Waugh, Jr., Vice Chairman
Haydn Proctor, Member
Owen V. McNany, Member
Frederick M. Herrmann, Executive Director
Jeffrey M. Brindle, Deputy Director
Edward J. Farrell, General Counsel
Gregory E. Nagy, Staff Counsel
Peter D. Nichols, Director of Public Financing*

* Attended the public session only

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1974, c. 231, annual notice of the meeting of the Commission has been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 11:30 a.m. at the Montclair Municipal Building, Council Chambers, 205 Claremont Avenue, Montclair, New Jersey.

1. Approval of Public Session Minutes of April 2, 1985

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission approved the public session minutes of April 2, 1985.

2. Executive Director's Report

Executive Director Herrmann reported that Deputy Director Brindle and he attended the Political Finance Forum Conference in Washington, D.C. on April 4, 1985. He said that the program speakers discussed the advantages of incumbency, stating that a number of congressmen have built up large "war chests" and are starting to run their campaigns on accrued interest. Also discussed were surplus funds. Mr. Herrmann said that he met with Herb Alexander, Kevin Chaffee (Almanac of American Politics), and Randy Huwa of Common Cause.

Mr. Herrmann stated that the Annual Report for 1984 is now being printed and should be ready for distribution to the Legislature before May 1.

The ELEC brochure text was distributed for the Commission's input. Mr. Herrmann asked that it be reviewed by the Commission for any corrections and/or changes it deems necessary.

Mr. Herrmann said that Director of Public Financing Nichols and his Gubernatorial Public Financing staff was doing an "incredible" job working long and hard hours. They have totally turned around submissions in one week, an improvement over the 1981 program.

3. Director of Public Financing's Report

Director of Public Financing Nichols reported that four submissions were received last week and his staff had completed review of all four. He distributed folders with summary information about the submission.

He said that the Shapiro campaign had a good first submission with only a 3.6% error rate, the Gibson campaign improved their error rate, the Russo campaign was found to have an error rate of 26% which is average for an initial submission, and the Del Tufo campaign made only one error.

Mr. Nichols said that he believed that the Commission's new computer has allowed his staff to do a more thorough review than performed during the 1981 program. He said that his staff is coming up with more situations of possible affiliation; such situations may have slipped through the cracks in 1981.

The certification amounts for the campaigns are:

Robert J. Del Tufo -	\$ 28,400.38
Kenneth A. Gibson -	\$165,359.98
John F. Russo -	\$195,250.00
Peter Shapiro -	\$274,100.00

On a motion by Vice Chairman Waugh, seconded by Commission Proctor and a vote of 4-0, the Commission voted to approve the submission for certification.

4. Advisory Opinion No. 04-1985

Staff Counsel Nagy distributed a three-page draft response to an advisory opinion request from Mr. Bart Erbach on behalf of three legislators representing the 32nd Legislative District (Hudson County) dated March 27, 1985. Mr. Erbach asked that the Commission approve a proposed method of reporting expenditures that he anticipates making to pay for a newsletter that will be published by Senator Thomas F. Cowan, Assemblyman Paul Cuprowski, and Assemblyman Anthony P. Vainieri.

Mr. Nagy stated that two of these legislators are or will be candidates in the 1985 election for Assembly. The Senator from Hudson County had excess surplus campaign funds in the amount of \$8,673 from his 1983 campaign which he transferred to the "Thomas F. Cowan Association," an election entity which they propose to designate as a "continuing political committee."

Mr. Nagy said that the cost of producing and distributing the publication is a campaign expenditure because it is under the control of candidates seeking reelection and will be circulated to the electorate in the time frame of an election, even though the newsletter does not specifically say "vote for."

General Counsel Farrell said he preferred avoiding any definite answer on left-over funds and suggested the newsletter should not be construed as campaign activity just because the candidates are getting their names before the public. He said that perhaps the Commission is going too far in setting a precedent in what may be construed as campaign activity. He advised that it be mentioned in the advisory opinion that this opinion is not intended to answer questions to all issues, but those in proximity to primary and general elections.

After further discussion, it was decided that Staff Counsel Nagy redraft the advisory opinion in conjunction with Mr. Farrell to stress the time-frame issue. On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission approved the advisory opinion as amended.

5. Executive Session

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission voted to go into executive session to discuss enforcement and investigative matters, the results of which will be made public at their conclusion.

6. Adjournment

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,



FREDERICK M. HERRMANN