



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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JEFFREY M. BRINDLE
Deputy Director

GREGORY E. NAGY
Legal Director

JAMES P. WYSE
Counsel

PUBLIC SESSION MINUTES

January 14, 2002

All of the Commissioners, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Counsel Wyse was absent.

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 10:00 a.m. in Trenton, New Jersey.

Executive Director Herrmann welcomed new Commissioner Peter J. Tober.

2. Approval of Public Session Minutes of December 19, 2001

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 3-0, the Commission approved the Public Session Minutes of December 19, 2001.

Vice Chair Franzese arrived at this point.

3. Executive Director's Report

A. Staff Activities

The Executive Director mentioned that Director of Compliance and Information Evelyn Ford and Director of Systems Administration Carol Neiman are making a presentation on campaign finance law in New Jersey as part of the Christine Todd Whitman Excellence in Public Services series. He added that the Computer Section is in the process of upgrading all software and operating systems. Executive Director Herrmann reported that computerization is an ongoing commitment which demands continuous work. He said that ELEC's information technology staff members are

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extremely busy keeping the system current and operational. The Executive Director noted that staff is also working on various internet enhancements such as adding additional search functions to make the data base more useful. Executive Director Herrmann added that if the budget allows, staff would like to expand electronic filing from gubernatorial and legislative candidates to political party committees, PACs, local candidates, and eventually lobbyists.

Executive Director Herrmann reported that in the aftermath of 9/11, State House officials have requested that ELEC improve lobbyist badges by adding pictures for security reasons. The Executive Director noted that staff will be working on new regulations in this area for Commission consideration later this year. Executive Director Herrmann stated that in the interim, he, at the suggestion of State House Officials, sent a letter to all lobbyists reminding them to wear their badges in the capitol building. The Executive Director mentioned that staff will be working with Common Cause on several technical issues that arose with a "Pay to Play" contracting bill that the Good Government Group is supporting. According to Executive Director Herrmann, the thrust of the bill is to tighten contracting procedures but the legislation has campaign financing overtones that staff can be useful in addressing.

The Executive Director informed the Commission that he published an article in the December Guardian entitled "Is There a Role for Campaign Financing Agencies in the Fight Against Terrorism?". Executive Director Herrmann said the piece mentions that it may be worth exploring whether or not national and state campaign funds could be misappropriated by terrorists for their illicit purposes. He added that extremist groups have already misused charitable and business funds and foreign money has seeped into the nation's political campaigns. Executive Director Herrmann suggested that the time may be here to strengthen campaign finance agencies so that they can better track where the money is coming from and going. According to the Executive Director, the Guardian also had a very favorable review of Deputy Director Brindle's White Paper No. 14, entitled Local Campaign Financing. He said that next month the Commission will be receiving White Paper No. 15, entitled School Board Campaign Financing. Executive Director Herrmann stated that it is a matter of pride to the Commission that many of Deputy Director Brindle's white papers have been cited in the academic campaign financing literature.

The Commission expressed enthusiasm for the Executive Director's article.

Executive Director Herrmann also reported that the legal staff has added the Westlaw Internet site to its legal research resources.

B. Legislative Developments

Executive Director Herrmann noted that S-2577 (Inverso/Gregg), which reduces the contribution limits for state party committees and legislative leadership committees from \$37,000 to \$25,000 per year and establishes a \$7,200 per year contribution limit for individuals, corporations, and unions giving to PACs, has been signed into law as P.L. 2001, c. 384.

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C. Proposed Spring Schedule

February 21, 2002, at 10:00 a.m. in Trenton;

March 21, 2002, at 11:00 a.m. at Seton Hall University Law School in Newark;
and,

April 18, 2002, at 11:00 a.m. in Trenton.

4. Report on Return of Funds by 2001 Gubernatorial Primary Election Candidates

Deputy Legal Director Massar said that a publicly-financed gubernatorial candidate in the 2001 primary election was required to return to the State all funds remaining unspent at the conclusion of the campaign by December 26, 2001. She said further that to protect the State's interest in return of unspent funds, each publicly-financed gubernatorial campaign is required to observe postelection restrictions on spending. The regulations permit postelection expenditures of campaign funds only to satisfy obligations incurred on or before the date of the primary election and to pay the reasonable and necessary costs of closing the campaign. Each publicly-financed campaign is also required to continue to file certified postelection quarterly reports until there is no remaining balance in any campaign depository and all outstanding obligations are satisfied.

The unreviewed October 15, 2001 quarterly reports filed by the Franks and McGreevey campaigns and the October 17, 2001 amendment to the October 15th report filed by the Schundler campaign indicated that there are no funds available for return to the State because each campaign's outstanding obligations exceed cash-on-hand as follows:

Candidate	Cash-On-Hand	Outstanding Obligation
Robert Franks	\$20,996.76	\$127,674.31
James McGreevey	\$4,190.82	\$4,615.00
Bret Schundler	\$74,604.49	\$446,510.26

Staff therefore recommended that the three campaigns again be advised in writing of the continuing obligation to file quarterly reports, the restrictions on postelection spending, the requirement to observe the \$2,600 primary election contribution limit in any future fundraising, and the continuing obligation to return to the State any funds which may become available once outstanding obligations are liquidated. Staff further recommended that the campaigns be advised that postelection expenditures continue to be subject to the \$5.9 million 2001 primary election expenditure limit.

On a motion by Commissioner Lederman, seconded by Vice Chair Franzese and passed by a vote of 4-0, the Commission approved the staff recommendations in the Report on Return of Funds by 2001 Gubernatorial Primary Election Candidates.

5. Report on Reimbursement of 2001 Gubernatorial Ballot Statement Costs

Deputy Legal Director Massar reported to the Commission on the status of the reimbursements to the 21 county clerks for the costs associated with placing the gubernatorial candidates' ballot statements on the 2001 general election sample ballots.

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In this regard, staff received 2001 ballot statement claim forms, totaling \$365,903.37, from the 21 county clerks by the December 17, 2001 deadline.

Commissioner Lederman suggested that after making payment to the county clerks for the cost of the ballot statements that staff inquire into the reasons why certain counties had per ballot costs of more than ten cents.

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission approved the staff report on Reimbursement of 2001 Gubernatorial Ballot Statement Costs.

Chair Martin recognized Wade Hale, Deputy Burlington County Clerk, who indicated that those counties which were required to print bilingual ballots probably had greater printing costs because it was necessary to pay for multiple printing plates to produce the bilingual ballots.

6. Recusal Rules

Legal Director Nagy discussed the recusal rules, recently adopted by the Executive Commission on Ethical Standards, that had been circulated to the Commissioners. He indicated that these rules supercede the voluntary recusal standards adopted by the Commission in 1995. Legal Director Nagy explained that the new rules establish the grounds and procedures for recusal and require that a Commissioner's recusal be noted in the minutes.

7. Resolution to go into Executive Session

On a motion by Commissioner Lederman, seconded by Vice Chair Franzese and passed by a vote of 4-0, 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.
- C. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect identity of informants and maintain integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public no later than 50 days after mailing.

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8. Return to Public Session

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

9. Adjournment

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission voted to adjourn at 11:00 a.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz