



*State of New Jersey*

RONALD DEFILIPPIS  
Chairman

WALTER F. TIMPONE  
Vice Chairman

AMOS C. SAUNDERS  
Commissioner

## ELECTION LAW ENFORCEMENT COMMISSION

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JEFFREY M. BRINDLE  
Executive Director

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Deputy Director

CAROL L. HOEKJE  
Legal Director

AMY F. DAVIS  
Compliance Director

### PUBLIC SESSION MINUTES

October 16, 2012

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, and senior staff were present. Director of Review and Investigation Shreve Marshall was also present. Special Programs Analyst Scott Fagerty was present for the purpose of recording the minutes.

The Public Session Minutes will be available online in the Commission's website at: <http://www.elec.state.nj.us>.

The meeting convened at 11:00 a.m. in Trenton.

#### 1. Open Public Meetings Statement

Chairman DeFilippis 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. It was also posted on the Commission's website.

#### 2. Approval of Public Session Minutes of September 11, 2012

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders, and passed by a vote of 3-0, the Commission approved the Public Session Minutes of September 11, 2012.

#### 3. Executive Director's Report

##### A. Relationship with Department of Law and Public Safety

Executive Director Brindle highlighted to the Commission the growing working relationship developed between staff and the Department of Law and Public Safety. He noted that staff has been contacted on numerous occasions to provide information on the Campaign Contributions and Expenditures Reporting Act, and he applauded the relationship using the resources of the Commission as in-but-not-of the Department.

B. Assistance to Sister Agency

Executive Director Brindle reported that he had been contacted by Alabama State Senator Brian Taylor. Senator Taylor is introducing legislation modeled after New Jersey's that would create an agency in Alabama similar to ELEC. He stated that it shows that other states are increasingly aware of the work of the Commission.

C. Training Sessions

The Executive Director informed the Commissioners that staff had conducted a number of training sessions. He stated that CPC treasurer training was held on September 18, and that campaign treasurer training sessions were conducted on September 11, and September 24. The Executive Director went on to say that an Electronic Filing seminar was held on September 19, and that a Pay-to-Play seminar was held on September 14 with another scheduled for November 16.

D. League of Municipalities

The Executive Director reported that Assistant Compliance Officer Danielle Hacker and Assistant Compliance Officer Joseph Barish were scheduled to attend the League of Municipalities conference on November 13, 2012.

E. Participation in Outside Group Events

Executive Director Brindle reported that on September 22, 2012, he participated in a panel discussion held by the League of Women Voters.

The Executive Director announced that on Thursday, October 18, 2012, he would be participating in a seminar sponsored by ICLE, and that on November 14 he would speak to the Association of Environmental Authorities in Atlantic City about ELEC and Pay-to-Play.

F. Big Six Analytical Press Release

The Executive Director announced that on October 17, 2012, the Commission will issue a press release outlining the activity of the Big Six political committees.

G. 29-Day Reports

Executive Director Brindle reported that the 29-day pre-election reports corresponding to the upcoming November election were due on October 9. He noted that in addition to local elections, there are also special elections being held in the 4<sup>th</sup>, 16<sup>th</sup>, and 26<sup>th</sup> legislative districts.

H. On-line Ethics Training

The Executive Director advised the Commissioners that ethics training was due by November 12, 2012. He said that information about the training can be found on the State

Ethics Commission website. He added that staff would receive in person training prior to November 12, 2012.

I. Updates on Court Cases

Executive Director Brindle reported to the Commission on the status of a number of cases that may impact the nature of campaign finance laws.

**Free Speech v FEC**: Executive Director Brindle informed the Commission that Free Speech organization argued that certain ads it had run were not express advocacy, and that they did not meet disclosure requirements, but the Wyoming District Court disagreed and upheld the disclosure requirement.

**Hispanic Leadership Fund v FEC**: The Executive Director reported that the Hispanic Leadership Fund argued that the FEC-required disclosure for TV ads did not refer to a clearly identified candidate and therefore did not meet any disclosure requirement. The DC District Court disagreed and upheld disclosure.

**McCutcheon v FEC**: Executive Director Brindle informed the Commission that Shawn McCutcheon had challenged the aggregate contribution limits at the federal level, and that the DC District Court did not issue an injunction. The Executive Director noted that at this point aggregate limits are upheld at the federal level, but that New Jersey does not have aggregate contribution limits.

J. Winter Meeting Schedule

- November 20, 2012 at 11:00 a.m. in Trenton; and,
- December 18, 2012 at 11:00 a.m. in Trenton.

4. Adoption of Proposed Amendments concerning Campaign Cost Index Adjustments

The Commission discussed the adoption of proposed amendments concerning Campaign Cost Index Adjustments.

Legal Director Carol L. Hoekje stated that the proposed amendments were published in the New Jersey Register on August 20, 2012 and were the subject of a public hearing on September 11, 2012. No witnesses appeared to testify at the September 11, 2012 public hearing, and no written comments were received by the September 19, 2012 deadline. N.J.S.A. 19:44A-7.1 and 7.2 require that the Commission calculate the change in campaign costs over the past four years and propose amendments to limits and thresholds applicable to gubernatorial candidates, and thresholds applicable to non-gubernatorial candidates and committees. The Commission has determined that costs relevant to campaigning in New Jersey have risen since 2009, and has applied an index of 11.7 percent to the various limits and thresholds required to be adjusted, as well as several other thresholds in order to maintain consistency.

Legal Director Hoekje stated that the limits corresponding to gubernatorial candidates will be effective upon publication in the New Jersey Register, while the remaining thresholds will become effective on January 1, 2013.

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission approved the Adoption of Proposed Amendments concerning Campaign Cost Index Adjustments.

5. Scheduling of Additional Meeting

Legal Director Hoekje informed the Commission that on October 11, 2012, the Commission received a request for an Advisory Opinion. She noted that an extension was not granted so the Commission must respond within ten business days. She stated that that 10-day timeframe would expire on Thursday, October 25, 2012.

The Commission decided to schedule a telephonic meeting for Thursday, October 25, 2012 at 1:00 pm.

6. Public Hearing on Proposed Amendments concerning Personal Financial Disclosure Statements

Chairman DeFilippis announced that a public hearing was being conducted to solicit public comment on proposed amendments to Commission regulation N.J.A.C. 19:25-19.7 concerning Personal Financial Disclosure Statements (PFDs). N.J.S.A. 19:44B-1 et seq., requires every candidate for the Office of Governor and Lieutenant Governor, and every candidate for the Senate or General Assembly to file a financial disclosure statement (PFD) with the Commission. The proposed amendments would eliminate the obligation to file two paper copies of the PFD along with the original, and would require the Commission to post PFDs on the Commission's website within seven business days of receipt. The proposal notice was published in the August 6, 2012 edition of the New Jersey Register and also appears on the Commission's website.

A court reporter was available to record the proceedings. The transcript will be available to the public for inspection upon request.

7. Public Hearing on Proposed New Rules and Amendments concerning Lobbying Reporting Obligations

Chairman DeFilippis announced that a public hearing was being conducted to solicit public comment on proposed new rules and amendments to the Commission's regulations concerning lobbying reporting obligations. The proposed new rules and amendments would require electronic filing of all annual reports and related designations (Forms L1-L or L1-A, L1-G, L-2, and L-3) and the use of electronic filing software provided by the Commission. In addition, the proposed amendments would substitute the term "represented entity" throughout the regulations for the term "lobbyist." The proposal notice appeared in the New Jersey Register on August 6, 2012 and is also posted on the Commission's website.

A court reporter was available to record the proceedings. The transcript will be available to the public for inspection upon request.

8. Public Comments

Chairman DeFilippis asked if any members of the public wished to comment. Seeing none, he requested a motion to close Public Session and enter into Executive Session.

9. Resolution to go into Executive Session

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and current litigation, which will become public as follows:

- A. Final Decision Recommendations in complaint proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public not later than seven business days after mailing to the named respondents.
- B. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect the identity of informants and maintain the 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 not later than seven business days after mailing to the named respondents.
- C. 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 not later than seven business days after mailing to the named respondents. The reports will not become public in order to protect the identity of informants and maintain the 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 not later than seven business days after mailing to the named respondents.
- D. Matters under current litigation, the substance of discussions of which will not become public in order to protect the attorney-client privilege and the deliberative process. However, any litigation in which the Commission is currently a party is a public matter and will become public subject to the above limitations and privileges.
- E. Personnel matters concerning the hiring of outside legal counsel, which will become public upon appointment of such counsel.

Return to Public Session

10. Adjournment

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to adjourn at 1:44 p.m.

Respectfully submitted as true  
and correct,

Jeffrey M. Brindle  
Executive Director