



*State of New Jersey*

## **ELECTION LAW ENFORCEMENT COMMISSION**

RALPH V. MARTIN  
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Vice Chair

LYNNAN B. WARE  
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### PUBLIC SESSION MINUTES

September 20, 2001

Senior Staff and Deputy Legal Director Nedda Gold Massar were present. Vice Chair Franzese, Commissioner Ware, Commissioner Lederman and Counsel Wyse participated by telephone conference call. Chair Martin was absent.

#### 1. Open Public Meetings Statement

Executive Director Herrmann called the meeting to order after confirming the presence on the phone line of the Commissioners and Counsel Wyse, and stated 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. He indicated that there are two items on the agenda.

The meeting convened at 11:00 a.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. Advisory Opinion Request 09-2001

Executive Director Herrmann explained that a request for an advisory opinion had been received from William E. Baroni, Jr., Esq. on behalf of Schundler for Governor, Inc., the candidate committee of 2001 general election publicly-financed gubernatorial candidate Bret Schundler. Mr. Baroni asked whether or not gubernatorial public matching funds may be used to pay for airplane banner advertising and Internet banner advertisements.

William E. Baroni, Jr., Esq., on behalf of Schundler for Governor, Inc., addressed the Commission to explain the request to use public funds to pay for airplane banner and Internet banner advertising.

Deputy Legal Director Massar summarized the staff recommendation, which had been circulated in a memorandum to the Commissioners, that it would be appropriate to use public

matching funds to pay for airplane banner and Internet banner advertising because the Campaign Reporting Act permits public funds to be used for various methods of communications to voters.

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission approved the staff recommendation in Advisory Opinion Request 09-2001 and directed staff to issue the response.

3. Request for Expedited Hearing

Executive Director Herrmann explained that the second item on the agenda was a discussion of a Petition and Request for Expedited Hearing received from Peter G. Sheridan, Esq., in DiGaetano, et al v. First Jersey Committee, et al. Mr. Sheridan asked the Commission to undertake an immediate review of allegations concerning possible excessive contributions made to and received by legislative candidates in the 2001 general election.

Public Comments were received from the following individuals:

- Peter G. Sheridan, Esq., on behalf of Paul DiGaetano;
- Robert Levy, Esq., on behalf of the Assembly candidates named in the Petition;
- William Tambussi, Esq., on behalf of First Jersey Committee and George E. Norcross.

Vice Chair Franzese asked to hear from staff concerning the petition.

Legal Director Nagy summarized the staff recommendation that the Commission does not have the special equitable powers that exist under Section 22.1 of the Campaign Reporting Act that provides a preelection remedy in Superior Court for allegations of excessive contributions. According to Mr. Nagy, Section 22 provides for penalizing a candidate who is found after a plenary hearing to have violated the contribution limit statute, a proceeding best suited for postelection action. Legal Director Nagy explained that if a violation is found in a preelection Superior Court Section 22.1 action, the Commission can proceed under Section 22 to seek a penalty against the contributor or candidate for the making or receipt of an excessive contribution.

On a motion by Commissioner Lederman, seconded by Commissioner Ware and passed by a vote of 3-0, the Commission denied the petition and request for expedited hearing.

Adjournment

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 3-0, the Commission voted to adjourn at 11:45 a.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.  
Executive Director

FMH/elz