



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Legal Director

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Counsel

PUBLIC SESSION MINUTES

July 17, 2003

All of the Commissioners, Counsel Wyse, and Senior Staff except Deputy Director Brindle were present.

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 11:00 a.m. in Trenton, New Jersey.

2. Approval of Public Session Minutes of June 18, 2003

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 June 18, 2003.

3. Executive Director's Report

A. Budget

Executive Director Herrmann reported that ELEC has received a continuation budget of \$2.9 million for Fiscal Year 2004. The Executive Director said that considering the state of the national and state economies, this result can only be viewed in a positive light.

B. National News

Executive Director Herrmann reported that the Federal Election Commission sent him its survey of electronic disclosure of campaign finance and lobbying data. The Executive Director stated that the survey contained information about ELEC being the only agency in the nation with online data going back to the early 1980's. Moreover, ELEC was among the agencies in half of the states that allows for both online searches and downloadable data.

Executive Director Herrmann reported that a recent General Accounting Office (GAO) study of the Clean Elections programs in Arizona and Maine, according to one national source, concluded that they did not meet the promises of: enabling challengers to wage more competitive campaigns, reducing special interest influence, lowering campaign costs, and building public confidence in government. However, the report itself stated "it is too soon to determine the extent to which the goals of Maine's and Arizona's public financing programs are being met."

C. Legislative Developments

Executive Director Herrmann reported that on June 19, 2003, he attended a meeting of the Assembly State Government Committee. The Executive Director mentioned that A-3439 (Weinberg), which establishes a "New Jersey Clean Elections and Campaign Finance Study Commission," was released. The Executive Director said that there was also a discussion of a dozen bills covering such topics as: pay-to-play, clean elections, increased penalties, issue advocacy reporting, free candidate airtime, and Internet reporting. Executive Director Herrmann reported that on July 1, 2003, A-3439 passed the General Assembly by a vote of 73-7.

D. Staff Activities

Executive Director Herrmann informed the Commission that on June 6, 2003, Assistant Compliance Officer Titus Kamal spoke at an AFL-CIO training seminar held at Rutgers University in New Brunswick. According to the Executive Director, the program was designed to help labor union members understand the political process and show them how to run for office. He further said that several candidates were in attendance. Executive Director Herrmann noted that Mr. Kamal's supervisor, Director of Compliance and Information Evelyn Ford, reported that he did an outstanding job. The Executive Director mentioned that Assistant Compliance Officer Kamal also has developed a computer program to analyze receipts and expenditures for legislative candidates by various categories such as party and incumbency.

Executive Director Herrmann reported that on June 12, 2003, Bob Hennelly of New York City Public Radio interviewed him about ELEC's role in improving the public perception of New Jersey government. The Executive Director commented that the Commission has attained an international reputation for excellence as a campaign finance and lobbying watchdog. He added that through better government support of ELEC's budget to do such things as creating a local contributor database and more

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extensive reviewing of local reports, the state could improve the public's view that New Jersey government – especially at the local level – was not as ethical as it should be. The Executive Director stated although the reality is that the vast majority of public officials are honest and hard working, the public in poll after poll has expressed a distorted image of their integrity. Executive Director Herrmann said that better support of ELEC's work would be one way to reverse this perception.

Executive Director Herrmann informed the Commission that on July 9, 2003, staff attended the first annual ELEC night at the Trenton Thunder organized by Director of Systems Administrator Carol Neiman. He said that over 50 staff members and family attended. The Executive Director said that he threw out the first ball.

At this point in the meeting, Vice Chair Franzese arrived.

E. COGEL Update

Executive Director Herrmann informed the Commission that Kay Williams, the retired Executive Director of the Iowa Ethics and Campaign Disclosure Board and a COGEL mainstay, passed away in June after a long illness. The Executive Director reported that the annual conference's new member orientation session was one of Kay's special projects. The COGEL President has asked him to take over this responsibility, and he has accepted with humility. Moreover, the session has been named in Kay's honor pursuant to a suggestion from the executive director.

Executive Director Herrmann said that Legal Director Massar, as a member of the COGEL Model Law Committee, has been assigned the task of reviewing the sections pertaining to lobbying in preparation for a discussion at the conference.

Executive Director Herrmann noted that the conference will be held in Austin, Texas from September 20-24, 2003. The Executive Director asked if any of the Commissioners had determined whether or not they would be able to attend.

F. White Paper Number 16

Executive Director Herrmann asked the Commissioners to submit any comments or suggestions on the White Paper before the staff distributes it to the public and the media.

G. Fall Meeting Schedule

- August 20, 2003 at 11:00 a.m. in Trenton (If Needed);
- September 19, 2003 at 11:00 a.m. in Trenton;
- October 10, 2003 at 11:00 a.m. in Newark (Seton Hall Law School); and
- November 17, 2003 at 11:00 a.m. in Trenton.

4. Advisory Opinion Request No. 06-2003

Legal Director Massar reported that the Commission received a request for an advisory opinion from Robert A. Becker, Esq., on behalf of Insurance Services Office, Inc. (hereafter, ISO). Mr. Becker has asked whether or not ISO is subject to the prohibition on making political contributions contained in N.J.S.A. 19:34-32, which prohibits contributions by insurance corporations "for any political purpose whatsoever," or in N.J.S.A. 19:34-45, which prohibits certain regulated corporations, such as "gas, electric light, heat or power" corporations, from making political contributions to a candidate or political party and provides criminal penalties. He has also asked whether or not either statutory section prohibits ISO from establishing a continuing political committee. Mr. Becker described ISO as an insurance rating and advisory organization in New Jersey and stated that it does have the authority to make of any kind of insurance in New Jersey.

Legal Director Massar said that it appears to staff that ISO provides specialized support services to the insurance industry. She indicated that since the two statutory provisions in Mr. Becker's request are not part of the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1, *et seq.*), the questions presented are not within the Commission's subject matter jurisdiction. Staff therefore recommended that the Commission forward this request to the Office of the Attorney General for his consideration.

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 4-0, the Commission approved the staff recommendation to refer Advisory Opinion Request No. 06-2003 to the Attorney General for his response.

Legal Director Massar reported to the Commission that a response has been received from the Attorney General in Advisory Opinion Request No. 04-2003, and that the Attorney General determined that BP America, Inc. is permitted to make contributions in New Jersey.

5. Resolution to go into Executive Session

On a motion by Commissioner Lederman, seconded by Commissioner Tober 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 not later than seven business days after mailing to the named respondents.
- 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 not later than seven business days after mailing to the named respondents.

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- C. 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.

6. Return to Public Session

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

7. Adjournment

On a motion by Commissioner Lederman, seconded by Commissioner Tober and passed by a vote of 4-0, the Commission voted to adjourn at 12:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz