



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Vice Chairman

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PUBLIC SESSION MINUTES

September 17, 2013

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, Legal Counsel Matthews, and senior staff were present. Associate Legal Director Gail L. Shanker and Director of Review and Investigation Shreve Marshall were also present. Investigator Lovinsky Joseph was present for the purpose of recording the minutes. Legal Director Carol L. Hoekje was absent.

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 July 16, 2013

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 July 16, 2013.

3. Executive Director's Report

A. Training Sessions

Executive Director Brindle informed the Commissioners of recent and forthcoming training sessions. He reported that the Commission would hold business entity pay-to-play training on September 23 and November 18, treasurer training on September 25 and September 30, political party and PAC training on December 11, and R-1 electronic filing training on September 19 and October 2.

B. Recognition of Gubernatorial Public Financing Staff

The Executive Director recognized the efforts of the Gubernatorial Public Financing staff in getting candidates certified and approving submissions: Information Technology Specialist Elias Amaya, Public Financing Analysts Ivette Franco, Jennifer Kirby, David Pennant, and Eric Solomon; and Special Programs Analysts Scott Fagerty, Christine Clevenger, and Laura Jurkiewicz, as well as Associate Computer Technician Lou Solimeo of the Information Technology section, who provided valuable assistance.

He noted that the aforementioned staff members had worked overtime in order to complete their work in an expeditious fashion.

C. Federal Cases

Executive Director Brindle reported on the case McCutcheon v. FEC, which the U.S. Supreme Court is scheduled to hear on October 8. He stated that this case was a challenge to aggregate limits in federal donations, adding that the current limit is \$123,200 over 2 years to candidates, parties, and PACs. The Executive Director noted that the decision may turn on Chief Justice Roberts.

Executive Director Brindle informed the Commissioners that he had authored a recent op-ed in the Star Ledger expressing his personal opinion that aggregate limits should be eliminated in order to draw money away from independent groups. He emphasized that the op-ed did not constitute an official policy position from the Commission. The Executive Director stated that William Schluter, former Senator, sponsor of the Reporting Act, and current Chairman of the State Ethics Commission, subsequently wrote a rebutting op-ed in the same newspaper. He noted that the exchange was civil in nature.

The Executive Director further reported that the First, Fourth, Seventh, Ninth, Tenth, and Eleventh Circuit courts have upheld disclosure laws applicable to independent expenditures. He cited the example of Center for Individual Freedom v. Tennant, in which the Fourth Circuit court upheld a West Virginia disclosure law. Executive Director Brindle expressed his hope that the Legislature will soon pass disclosure legislation for independent committees following the general election.

D. Gubernatorial Election Independent Spending

The Executive Director informed the Commissioners that staff had previously estimated that approximately \$25 million will be spent by independent groups in the gubernatorial election, but may revise its estimate downward as groups may not want to expend funds on an election which is not currently competitive.

Executive Director Brindle noted that approximately \$15 million had been spent by independent groups through the primary election.

E. Compliance Director Amy Davis Presenting at ICLE

The Executive Director announced that Compliance Director Amy Davis will speak at an Election Law and Political Campaigns seminar at the New Jersey Institute for Continuing Legal Education (ICLE) on October 8.

F. Special Interest PAC/Lobbyist Combined Analyses

Executive Director Brindle informed the Commissioners that the top 25 special interest groups spent \$251 million on campaigns and lobbying between 1999 and 2012. He recognized Deputy Director Donohue and Research Associate Steve Kimmelman for their work in preparing the analyses.

The Executive Director reported that of this total, PACs spent \$144 million, and lobbyists \$106 million. He noted that unions were the largest single category of donor, having spent \$133 million during this period, with regulated industries the second largest category at \$38 million. Executive Director Brindle stated that this was the first combined analysis produced by staff.

G. Fall/Winter Meeting Schedule

- October 15, 2013 at 11:00 a.m. in Trenton;
- November 26, 2013 at 11:00 a.m. in Trenton; and,
- December 17, 2013 at 11:00 a.m. in Trenton.

4. Report on 2013 Gubernatorial Public Financing Program

Chairman DeFilippis said he has one question for Public Financing staff. What were the most prominent, difficult issues?

Compliance Director Amy Davis said the first issue was missing signatures on credit card expenditures and the second was missing deposit receipts. The problem occurred because credit card contributions were taken online.

Director Davis provided updates on general election submissions for the 2013 Gubernatorial Public Financing Program, gubernatorial debates, and gubernatorial ballot statements.

General Election Submissions

Barbara Buono Submissions 1 and 2

Director Davis informed the Commissioners that Candidate Barbara Buono filed her first submission for 2013 general election matching funds on August 6th containing \$444,805 in contributions for public matching funds. She stated that in order to qualify to receive matching funds, a candidate must raise and submit at least \$380,000 in qualified contributions, and that staff completed its review of Candidate Buono's first submission and found she did not meet the required threshold in eligible contributions for match; thus, no public funds were issued.

The Compliance Director reported that on September 3rd, Candidate Buono filed her second submission for public matching funds containing \$215,559 in new contributions for match and \$263,767.39 in resubmitted items, and that staff completed its review of Candidate Buono's submission and determined that the candidate had met the \$380,000 threshold in qualifying contributions. She stated that staff issued public matching funds totaling \$654,711 on September 13.

Chris Christie- Submissions 1 and 2

Compliance Director Davis reported that Candidate Chris Christie filed his first submission for the 2013 general election on August 20th containing \$4,134,203 in contributions for public matching funds, and that staff completed its review and issued public matching funds totaling \$7,205,400.

The Compliance Director further reported that Candidate Chris Christie filed his second submission for the 2013 general election on September 3rd containing \$335,960 in contributions for public matching funds, and that staff completed its review and issued public matching funds totaling \$740,760.00. She noted that to date, candidate Christie has received \$7.9 million in public funds. Director Davis informed the Commissioners that the maximum amount a general election gubernatorial candidate may receive is \$8.2 million; thus, candidate Christie may receive an additional \$253,840.

Gubernatorial Debates

Compliance Director Davis indicated that the Commission reviewed applications received and selected debate sponsors at its last meeting on July 16th, and that the deadline for gubernatorial candidates to participate in the public financing program or elect to participate in the debates, if they are not accepting public funds, was September 3rd. She reported that Candidate Chris Christie and Candidate Barbara Buono both applied for public matching funds by the September 3rd deadline. The Compliance Director stated that staff notified the three selected debate sponsors (William Paterson University, Kean University, and Montclair State University) that Candidate Christie and Candidate Buono have qualified to participate in the public financing program and thus, are required to participate in two gubernatorial debates. The Compliance Director noted that the lieutenant gubernatorial candidates must also participate in one lieutenant gubernatorial debate, and that the law also requires the debates to occur between September 17 and October 25, with the lieutenant gubernatorial debate occurring second in the series.

Compliance Director Davis informed the Commissioners that during August, the debate sponsors reported to staff that they had contacted both campaigns and were unsuccessful at getting both campaigns to agree on any of the three debate dates. She reported that in early September, Chris Christie's campaign announced the campaign had agreed to an October 8th gubernatorial debate at William Paterson, a lieutenant gubernatorial debate on October 11th at Kean and a second gubernatorial debate on October 15 at Montclair.

Compliance Director Davis further reported that on September 10, 2013, staff received a letter from William Northgrave, Esq., on behalf of the Buono campaign, objecting to the date for the second gubernatorial debate. She added that Mr. Northgrave stated that the proposed October 15th date was unacceptable since it was the evening before the Special U.S. Senate General Election and thus, had the potential to diminish outreach to the voting public.

The Compliance Director stated that in a telephone conversation on September 11, 2013, staff informed Mr. Northgrave that N.J.S.A. 19:44A-46c states the sponsors shall be responsible for selecting the date, time and location of the debates. She noted that the law further states that the debate rules shall be solely the responsibility of the sponsors selected but shall not be made final without consultation with a representative designated by each of the participating candidates.

Director Davis indicated that staff spoke with a representative from Montclair State University and was informed the University had proactively first offered the debate date of October 22 but when they did not receive any commitment from either campaign to conduct the debate on that day, they could no longer reserve that date and another event was scheduled at the University.

Compliance Director Davis further reported that staff faxed letters to the debate sponsors informing them that Candidates Christie and Buono were certified and required to debate. She noted that within five days of the Commission providing the sponsors with a list of certified candidates, N.J.A.C. 19:25-15.52 requires the selected debate sponsors to provide the Commission and all candidates required to participate in the debates with a written calendar containing the date, time, location, and plans for television and other media coverage. The Compliance Director added that the debate information will be due tomorrow, Wednesday, September 18.

Director Davis noted that staff has not received the final debate plans yet but unofficial dates are:

- October 8 1st Gubernatorial, William Paterson University
- October 15 2nd Gubernatorial, Montclair State University
- October 11 Lieutenant gubernatorial, Kean University

Gubernatorial Ballot Statements

The Compliance Director informed the Commissioners that N.J.S.A. 19:44A-37 allows any gubernatorial candidate whose name will appear on the 2013 general election ballot to provide ELEC with a statement not to exceed 500 words, which will appear on the sample ballots mailed to every registered voter in the 21 counties. She indicated that the statement is required to be provided to the Commission no later than the 45th day prior to the election, August 19, 2013.

Compliance Director Davis stated that Ballot Statement information is contained in the Gubernatorial Public Financing Manual and Power Point Presentation provided to campaigns during training sessions and on the Commission's website, and that staff also mailed a reminder letter and form to each campaign on July 5, 2013, via certified mail.

The Compliance Director indicated that the Division of Elections has reported eight certified gubernatorial candidates in the 2013 general election, and that staff received seven ballot statements by the August 19th deadline. She noted Candidate Buono did not provide the Commission with a ballot statement.

Compliance Director Davis reported that after the August 19th deadline, staff was required to hire a translator and provide Spanish and Korean translations. Director Davis informed the Commissioners that counties are required by law to provide the sample ballot in another language if 10 percent or more of the registered voters speak a language other than English in their jurisdiction.

The Compliance Director further reported that staff was required to hire a printer to typeset the English and translated statements, and that staff was required to provide the completed statements in camera ready format on compact disc no later than September 20, 2013. She indicated that staff sent the statements via overnight mail on Friday, September 13th and they were received by the county clerks on Monday, September, 16th.

Compliance Director Davis informed the Commissioners that staff will provide an update on the Gubernatorial Public Financing Program at its next meeting on October 15.

5. Public Comments

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

6. 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. 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.
- C. 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.

Return to Public Session

7. 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 1:00 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz