

MINUTES OF THE MEETING

May 8, 1975

PRESENT

Frank P. Reiche, Chairman
Sidney Goldmann, Vice-Chairman
Josephine S. Margetts, Member
Archibald Alexander, Member
David F. Norcross, Executive Director
Herbert Alexander, Consultant
Edward J. Farrell, Legal Counsel

ABSENT

1) Commissioner Alexander introduced a copy of a letter which he had written to Attorney General William Hyland inquiring as to potential conflicts of interest with respect to his position on the Board of Trustees of the Citizens Research Foundation. Dr. Herbert Alexander, the Executive Director of the Citizens Research Foundation, is a consultant to the Commission. The matter was referred to counsel for consideration.

2) Commission vs. New Jersey Republican Finance Committee et als (C-23-74). Henry Franzoni, Esq., attorney for Messrs. Scala and Intile, advised the Commission of a scheduling conflict on Wednesday, May 21, 1975. The Executive Director had indicated in correspondence to all counsel that they should reserve Wednesday, May 21, 1975 for continued hearings on the matter of the Commission vs. the New Jersey Republican Finance Committee et als. The Commission determined to request Judge Duffy, before whom Mr. Franzoni's other matter was listed, to defer to the Commission on Wednesday, May 21, 1975. Vice-Chairman Goldmann was requested to contact Judge Duffy.

3) The Minutes of the Meeting of March 17, 1975 were approved as submitted.

The Minutes of April 4 were approved after amendment to note that the Executive Director was excused from the consideration of the matter of the Commission vs. Lawrence F. Kramer in executive session.

4) Commission vs. Somerset County Democratic Committee (C-15-75). The Notice of Hearing and Complaint in this matter alleged that the Somerset County Democratic Committee had filed its Annual Report, due March 1, 1975, on March 21, 1975 which constituted a late filing and violation of Section 8 of the Campaign Contributions and Expenditures Reporting Act.

Mr. Maurice Rand, Treasurer of the Respondent Committee, appeared before the Commission. He indicated that he was presently under the care of a licensed psychologist for treatment of depression and that this treatment had begun in April 1974 and was continuing. Mr. Rand indicated that he did not get the necessary information to complete the returns although he was aware of a filing deadline.

The Commission considered the evidence of Mr. Rand and the facts with respect to the date of the filing of the Annual Report and found a non-intentional violation of Section 8 of the Act. On Motion of Vice-Chairman Goldmann, seconded by Commissioner Margetts, it was determined to impose a fine of \$100

Commission vs. Somerset County Democratic Committee cont'd.

on the Somerset County Democratic Committee. The Commission considered the extenuating circumstances of psychological treatment of the Treasurer in arriving at the amount of the fine to be imposed. Vote 3-0.

Commissioner Alexander, who had in the past made contributions to the Somerset County Democratic Committee abstained from voting.

5) Commission vs. Salkind (C-15-73). The Commission considered the Notice of Hearing and Complaint, the Hearing Officer's Report and the Hearing Officer's Supplemental Report. On Motion of Chairman Reiche, seconded by Commissioner Margetts, the Commission found that the October 31, 1973 letter of the Western Monmouth Utilities Authority was, because of the contents of the last three paragraphs, political in nature; that it was of benefit to the campaign of the Respondent Morton Salkind; that it was reported in timely fashion although not properly as an expenditure; that it was reported in the amount of \$694; that the actual amount of the expenditure should have been \$715.14; that there had been an offer to pay by the Respondent. The Commission found no violation of the Campaign Contributions and Expenditures Reporting Act. The Commission determined to require that the Respondent verify payment and amend his final campaign report to properly reflect the expenditure and the source of the funds used to make the expenditure.

The Executive Director was directed to draft an opinion consistent with the above findings. Vote 4-0.

6) Commission vs. Burlington County Democratic Committee (C-13-75). In view of previous membership in the Burlington County Republican Committee and that a complaint had also been filed against that organization, the Executive Director requested that he be excused from participating in any aspect of the matter before the Commission. The request was granted. The Notice of Hearing and Complaint alleged the late filing of an Annual Report. The Commission considered the facts presented by Edward G. Koenig, Treasurer of the Burlington County Democratic Committee. The Commission also considered its records and found that while the Annual Report was required to be filed on March 1, 1975 it was filed on March 27, 1975; the Commission further found that the Burlington County Democratic Committee had been found guilty of a violation of Section 8 of the Act for the late filing of an Annual Report in 1974.

Accordingly the Commission determined that the Burlington County Democratic Committee had negligently, though not willfully, failed to file timely an Annual Report as required by Section 8 of the Act and imposed a fine of \$200 on the Committee and on the Treasurer who held office on March 1, 1975.

7) Roggio vs. Odgers. This matter arose from a board of education election in Gloucester Township on February 13, 1974 and included allegations of failure to designate a treasurer and a depository and failure to disclose contributions in excess of \$100. Having considered its records the Commission determined that the Respondent was guilty of technical violations of the Act for failure to designate a treasurer and depository prior to receiving or expending any funds in violation of Section 9 of the Act and directed the Executive Director to issue a letter of admonition to the Respondent. There was no finding of a violation of Section 16 with respect to disclosure of contributions because the amount of the contribution allocable to each candidate was less than \$100. Motion of Commissioner Margetts, seconded by Vice-Chairman Goldmann. Vote 3-1, Commissioner Alexander dissenting. The Respondent shall be provided with the opportunity to demand formal hearing.

- 8) East Brunswick Democratic Organization vs. East Brunswick Republican Organization (C-21-74). Alexander Parks reported to the Commission on his investigation of the allegations of the complainant. On Motion of Vice-Chairman Goldmann, seconded by Commissioner Alexander, it was determined that the allegations of the complaint were without factual foundation and the matter was dismissed. Vote 4-0.
- 9) Hendricks vs. Mulligan (C-22-74). The Chairman excused himself from consideration of this matter because of his personal relationship with one of the parties. The Commission considered the report of investigation of Alexander Parks and on Motion of Commissioner Margetts, seconded by Commissioner Alexander, determined that there was no factual foundation to the allegations of the complaint. Vote 3-0. The complaint was dismissed.
- 10) Earl C. Henwood vs. William F. Staton (C-06-74). The Commission considered the Hearing Officer's Report and on Motion of Vice-Chairman Goldmann, seconded by Commissioner Margetts, found a failure by the Respondent to report monies spent by a committee on his behalf; however, the Commission further found that all candidates who were of the Respondent's party had similarly failed to report allocated expenditures although they had not been charged with that failure; that the Respondent had executed an affidavit on October 30, 1973 to the effect that the total amount expended on behalf of his candidacy by himself and others had not exceeded \$1,000; that subsequently the Union Twshp. Democratic Campaign Committee, which had filed complete reports of contributions and expenditures at the request of the Commission, allocated expenditures to the Respondent of \$2,610.15; that the Respondent had amended his return at the request of the Commission; that Respondent had failed to report, as required by Section 16 of the Act, the expenditures made on his behalf by the Union Township Democratic Campaign Committee; that the oversight was negligent and not intentional; that Section 16 of the Act places upon the candidate the responsibility to ascertain the amount of expenditures made on his behalf by others and that a candidate may be reasonably considered to have been put on notice of outside expenditures when substantial sums such as the amount expended in this case are expended by others; that the Respondent should be admonished to be mindful in the future of all reporting requirements of the Campaign Contributions and Expenditures Reporting Act and particularly the responsibility of the candidate to ascertain and report the amount of expenditures made by others on behalf of and to the benefit of the candidate. The Commission declined, in this particular instance, to impose a fine upon the Respondent because the violation was not willful and is one that arose out of a common misunderstanding of the requirements of the Act. Vote 4-0.

The Commission concluded from this case that an extensive period of education with respect to the allocation of funds spent by others on behalf of candidates had taken place and further that the Commission had engaged in a time consuming and expensive auditing program for the purpose of furthering this educational effort. The feeling was expressed by the Commissioners that future allocation violations should be the subject of close scrutiny and careful consideration of the possibility of the imposition of fines in order to further continue the process of educating the committees and candidates alike to the importance of proper allocation and the acceptance and reporting of allocated expenditures by candidates. Some discussion took place as to the desirability for some period of administrative notification of error and the correction and amending of returns. It was pointed out that consideration should be given to the advantages of administrative correction and the prompt disclosure which is encouraged by such a program

11) The Executive Director was directed to refer those 1974 board of education, municipal and general election candidates who were charged with filing delinquencies to a Hearing Officer.

12) Louis Bassano Opinion Request (O-06-75). This matter was referred to counsel for the preparation of a draft opinion to be submitted to the Commission at the meeting of May 19, 1975.

13) Governor Brendan T. Byrne - Campaign Disbursements 1973 General Election. The Commission reviewed the matter of the expenditure of the Byrne campaign committees and concurred with the conclusion expressed by Robert Wilentz, Esq. in his letter to the Commission of November 21, 1974. The Commission found no violation of the expenditure limitation of Section 7 of the Campaign Contributions and Expenditures Reporting Act. This matter was referred to the Executive Director for the drafting of a letter consistent with those findings. The letter to be submitted to the Commission on May 19, 1975. Commissioner Alexander excused himself from any participation in this matter.

14) Mozak vs. Sottile (C-03-74). Mr. Farrell having acted as Trial Counsel for the Commission in this matter and having filed exceptions to the report of the Hearing Officer, excused himself from further consideration of the matter. The Commission considered the Hearing Officer's Report, the exceptions filed by counsel for the Commission and the Hearer's Supplemental Report.

Commissioner Alexander moved that the case be returned to the Hearing Officer for consideration of the issue of the similarity of the names of the Respondent organization and the name of the organization which one of the witnesses was a member. This Motion failed for lack of a second. The Commission preceeded to consider the matter of a charge of a violation of Title 18A by the Respondent and requested that the Executive Director review the transcript to determine whether any mention of that violation had occurred during the course of the hearing. The Executive Director was also directed to procure a copy of the municipal court record of Montville of this matter. Consideration of the matter was adjourned until the next Commission meeting.

15) The meeting was adjourned at 4:55 p.m.

Respectfully submitted,


David F. Norcross
Executive Director

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