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July 25, 1975

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Thomas Elm, Jr.  
Councilman  
44 Cathy Ann Court  
Wayne, New Jersey 07470

ELECTION LAW ENFORCEMENT  
COMMISSION

Re: The New Jersey Campaign Contributions and  
Expenditures Reporting Act, Chapter 83,  
Laws of 1973, as Amended and Supplemented ("the Act")  
Your Letter Dated July 10, 1975  
Opinion #(0-13-75)

Dear Mr. Elm:

Your letter dated July 10, 1975 to the New Jersey  
Election Law Enforcement Commission ("the Commission"),  
including a request for advisory opinion, has been forwarded  
to me for reply.

It is not possible to answer fully the questions contained  
in your letter. The implication from your letter is that  
the Mayor, himself, is not presently a candidate for public  
office, but that the letter from him as the incumbent mayor  
to his constituency is in fact a campaign effort on behalf  
of candidates from his party for seats on the council.  
Whether correspondence from an incumbent mayor to the consti-  
tuted campaign activity would depend on a number of  
factors, including the proximity in time to the election,  
the subject matter of the material, the tone and political  
content of the material; whether the correspondence is  
appropriate and customary, and the intent (either as expressed  
or as gleaned from the circumstances).

In the event that a complaint is filed by you, the  
Commission could not properly make such a determination  
without first allowing to the person charged notice of the  
charge and an opportunity to heard and to present evidence  
and witnesses. If as a result of such hearing the material  
was determined to be political, then the expenditures in  
connection with the material would be required to be reported

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and the expenditures (or a properly allocated portion of those expenditures) would be includable in computing the expenditures limits of the affected candidates.

Expenditures made by you, if any, in connection with a hearing would not be deemed expenditures by you in aid or furtherance of your candidacy. Whether a response of the kind described in paragraph 3 of your letter would be an expenditure on your behalf would have to be determined in light of the factors set forth above.

Yours very truly,

Edward J. Farrell  
Legal Counsel

EJF:ja