

STATE OF NEW JERSEY
ELECTION LAW ENFORCEMENT
COMMISSION
NATIONAL STATE BANK BLDG.
SUITE 1114
TRENTON, N. J. 08605
(609) 292-8700

LEWIS B. THURSTON, III
EXECUTIVE DIRECTOR
EDWARD J. FARRELL
COUNSEL

FRANK P. REICHE
CHAIRMAN

SIDNEY GOLDMANN
VICE CHAIRMAN

JOSEPHINE S. MARGETTS

ARCHIBALD S. ALEXANDER

December 29, 1977

Robert S. Raymar, Esq.
Messrs. Hellring, Lindeman & Siegal
1180 Raymond Boulevard
Newark, New Jersey 07102

Re: The New Jersey Campaign Contributions and Expenditures
Reporting Act, Chapter 83 Laws of 1973 as
Amended and Supplemented ("the Act")
Your Letter Dated December 2, 1977
Opinion #(0-46-77)

Dear Mr. Raymar:

Your letter of December 2, 1977 to the New Jersey
Election Law Enforcement Commission ("the Commission"),
including a request for advisory opinion, has been forwarded
to me for reply.

Section 35 of the Act and Regulation 25-15.37 of the
Commission provide in pertinent part that all monies received
by a qualified candidate from the fund for general election
campaign expenses and remaining after the liquidation of all
lawful obligations with respect to that election shall be
repaid into the fund not later than six months after the
date of such general election. The Regulation further defines
"all monies" as those funds used by the candidate to obtain
matching funds as well as those funds actually received by
the candidate from the fund. Such funds may not be returned
to contributors or otherwise used, but must be repaid into
the fund.

With respect to remaining funds which represent contribu-
tions received by a candidate and not submitted to the Commission
for match and matched, the Act does not prescribe what uses
of such remaining funds are lawful or unlawful, and the
Commission is not empowered to express an opinion in this
regard. While the Commission has taken the position that
personal use of such funds is obviously not appropriate,
certain other dispositions of such funds such as the transfer
of the funds to the County or other political party committee
of the candidate, or the return of those funds pro rata to
the contributors would not be challenged by the Commission.
Assuming that \$8,000 of the remaining funds of Byrne for
Governor were not deposited and submitted for match and matched,

and are not therefore required to be repaid into the fund for general election campaign expenses as set out in Section 35 of the Act and Regulation 15.37, the Commission would not challenge the use of these funds to pay outstanding obligations of the 1977 primary election.

With regard to the remaining \$40,000 of funds to Byrne For Governor, Section 3 (m) (1) of the Act defines "qualified candidate" as any candidate for election to the office of governor whose name appears on the general election ballot and who has deposited and expended \$40,000 pursuant to Section 7. It is clear, therefore, that the \$40,000 raised by or on behalf of a candidate to enable such candidate to qualify for public financing is required by the Act to be expended, and no part of such threshold amount could later be claimed by the candidate to be funds remaining after the campaign. The Commission must therefore presume that all funds remaining in a candidate's campaign account at the end of the campaign, including any deposits which have been returned, were funds submitted for match and matched with public funds. In the absence of proof that the funds remaining are funds (in excess of \$40,000) which were not submitted for match and matched, such remaining funds must be returned by Byrne For Governor to the state fund pursuant to Section 35 of the Act and Regulation 15.37 of the Commission.

Very truly yours,



Edward J. Farrell
Legal Counsel

EJF:jj