



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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May 27, 1981

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Morristown, NJ 07960

ADVISORY OPINION No. 24-80

Dear Mr. Kahn:

I am writing on behalf of the Election Law Enforcement Commission in response to your advisory opinion request of April 30, 1980. I wish to express the Commission's apology for the delay in responding.

You have asked whether the "Friends of Donald Cresitello, Inc.," which conducted what you describe as a "fund raiser" in December, 1979, must file a financial disclosure report pursuant to the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.) for that event. You have informed the Commission that the person on whose behalf the event was conducted was a public office holder but at that time was not a candidate in any election. You have also indicated that the proceeds of the "fund raiser" were in whole or in part contributed by the sponsoring organization to candidates in the 1980 primary election, none of whom were the office holder. For the reasons set forth herein, you are advised that "Friends of Donald Cresitello, Inc." must file a disclosure report pursuant to the Act for the "fund raiser."

The term "testimonial affair" is defined in pertinent part at N.J.S.A. 19:44A-3(k) to mean "... an affair of any kind or nature including, without limitation, ... dinners, dances ... or similar affairs directly or indirectly intended to raise campaign funds in behalf of a person who holds, or who is or was a candidate for nomination or election to a public office in this State..." You have characterized the December 1979 dinner as a "fund raiser." Further, the dinner was held under the auspices of the "Friends of Donald Cresitello, Inc.," a name that connotes an entity created for purposes of political support of Donald Cresitello, a public office holder.

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Under the sparse fact record before the Commission, the Commission finds that the "fund raiser" event must reasonably be understood to have been directly or indirectly intended to raise campaign funds on behalf of a public office holder, and therefore falls within the definition of "testimonial affair." There is nothing in the record that would indicate contributors or other interested persons would have any reasonable grounds for objection if proceeds of the "fund raiser" were applied for campaign purposes of the office holder. The fact that Mr. Cresitello was not seeking public office at the date of the dinner is not controlling in light of the use of the proceeds for election campaign purposes.

The information before the Commission on the use of the "testimonial affair" proceeds is that contributions were made for various 1980 primary election candidates and political organizations, none of which are specifically identified. Accordingly, the reporting of the "testimonial affair" would be required. This reporting could have been accomplished by the filing of reports pursuant to N.J.S.A. 19:44A-18, or by the Cresitello Campaign in its campaign reports. Since the Commission understands Mr. Cresitello is a candidate in the 1981 primary election, the sponsors of the "testimonial affair" could appropriately file a report in connection with that 1981 candidacy.

Any report filed concerning the "testimonial affair" shall include the names and addresses of each contributor in excess of \$100.00 to the affair and the amount contributed by each, and shall show the expenses and disposition of the proceeds. See N.J.S.A. 19:44A-8. The sponsors are deemed to be a "political committee" pursuant to N.J.S.A. 19:44A-1(i) by virtue of their aid to Mr. Cresitello's 1981 primary candidacy (i.e. the transfer of proceeds raised on behalf of Mr. Cresitello to the 1980 primary candidates) and therefore have reporting requirements as a political committee pursuant to N.J.S.A. 19:44A-8 and 19:44A-16 for the 1981 primary election.

A report concerning the 1979 "testimonial affair" should be filed with the Commission forthwith pursuant to this opinion.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGY
Staff Counsel

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