



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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December 14, 1981

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ADVISORY OPINION No. 44-1981

Dear Mr. Kimmelman:

Your letter to the Election Law Enforcement Commission requesting an advisory opinion has been considered by the Commission and I have been directed to issue this response. You have submitted several inquiries concerning the applicability of N.J.S.A. 19:44A-18.1, which statute governs the contributions to gubernatorial inaugural fund-raising events, to activities contemplated by the Inaugural Committee appointed by Governor-elect Thomas H. Kean.

Initially, you have asked whether events sponsored by non-profit, charitable organizations at which the Governor-elect will be present are "gubernatorial inaugural fund raising events" within the meaning of the statute. If so, persons attending such events would be subject to the \$250.00 contribution limit contained in N.J.S.A. 19:44A-18.1(a). You have advised the Commission that on January 16, 1982, the New Jersey Historical Society will host a reception in honor of the Governor-elect and his wife, and the proceeds are to be used exclusively for the furnishing of Drumthwacket Mansion, which is to become the official residence of the Governor. It is the understanding of the Commission that any property purchased from the proceeds of this affair will be the property of the Historical Society, or the State of New Jersey. On January 17, 1982 the Friends of the Newark Museum are planning on hosting a brunch in honor of the Governor-elect and his wife, and the proceeds are to be used exclusively for museum purposes. Finally, on January 18, 1982 the New Jersey Arts Council is planning a show case of New Jersey talent in the honor of the Governor-elect and his wife. The proceeds will be used exclusively for the purposes of the Arts Council, a State body.

The limitation on contributions to inaugural events provides that a person, candidate or political committee may make a contribution or contributions for the purposes of such gubernatorial

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inaugural fund raising event or events in the aggregate not to exceed \$250.00. N.J.S.A. 19:44A-18.1(a). The term "gubernatorial inaugural fund raising event means any event or events held between the date of the general election for the office of Governor and a date 30 days after the date of the inauguration of the Governor, whether the event is sponsored by the inaugural committee, the State political party committee representing the party of the Governor-elect, or any other person or persons, and at which the Governor-elect is a prominent participant or for which solicitations of contributions include the name of the Governor-elect in prominent display." N.J.S.A. 19:44A-18.1(b).

If the events you have described should be construed as "gubernatorial inaugural fund raising events," a person purchasing a ticket or tickets would be limited to a total aggregate purchase of \$250.00. While you have not stated the price of attending such events, you note that should any of the events you have described be subject to the contribution limit, a person attending one such event may effectively be precluded from attending any other inaugural event.

The Commission is satisfied that the events you have **described, where no proceeds will be subject to either the control of the Governor-elect or of the inaugural committee authorized by the Governor-elect, cannot be construed to be subject to the contribution limit.** The limitation on contributions was enacted as part of a comprehensive statutory program providing for the public financing of the gubernatorial primary and general elections. L. 1980, c.74, amending and supplementing L. 1974, c.26. The declared intention of the public financing acts is "... that such financing be adequate in amount so that candidates for election to the office of Governor may conduct their campaigns free from improper influence and so that persons of limited financial means may seek election to the State's highest office." N.J.S.A. 19:44A-27. Limiting contributions made to events sponsored by non-profit organizations with no political intent, where the proceeds of such events will not inure to the benefit of the Governor-elect or his candidacy, does not serve the declared public policy of public financing. The danger of improper influence on a successful candidate is minimal where the contributions, in this case the revenues generated from purchasing tickets, will not be applied for any purpose related to his candidacy, or any other political purpose.

It is a fundamental canon of statutory construction that statutes are to be read sensibly with the purpose and reason for the legislation controlling rather than literal application. Suter v. San Angelo Foundry & Mach. Co., 81 N.J. 150, 160 (1979).

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To apply mechanically the provisions of N.J.S.A. 19:44A-18.1 to events attended, or even promoted by the Governor-elect, where the purpose of such events is not to further a candidacy, or to raise funds for any political application, is to unnecessarily limit the fund raising capacity of worthy charitable and social causes. The Commission is not compelled to conclude such a result was intended by the Legislature, and the Commission therefore concludes that its application is intended for events that are reasonably related to political purposes.

You have asked alternatively, in case the Commission is unable to agree that the events you described are not subject to the contribution limit, what wording on invitations to the New Jersey Historical Society reception might exclude such reception from the provisions of N.J.S.A. 19:44A-18.1(b). Because the Commission has concluded that this event is not subject to the contribution limit, this inquiry is moot and the Commission refrains from expressing any opinion.

You have also stated that the Inaugural Committee authorized by the Governor-elect proposes to publish a program or ~~journal which would include paid congratulatory messages or advertisements~~. Further, the printing of the program or journal may in itself be solicited as a contribution. You propose that with respect to the contributions made for advertisements in the journal, or the printing of the journal itself, that an exemption from the \$250.00 contribution limit be found by the Commission. The Commission is unable to agree. Unlike the other events you describe, it is the understanding of the Commission that the contributions made for the ad journal will result in proceeds inuring to the benefit of the inaugural committee, and ultimately may be applied for political purposes. The Commission further cannot agree with your suggestion that the journal or ad book be construed as a non-inaugural event since the journal would not necessarily be only distributed in connection with the inaugural. Therefore, contributions made for the purposes of buying congratulatory advertisements in such a journal, or even contributions for the printing expense, are subject to provisions of N.J.S.A. 19:44A-18.1(a).

You have also asked whether a corporation or a partnership may make contributions separately from the contributions made by officers, directors or partners of such entities. As a general proposition, corporations may make contributions to candidates or inaugural committees, and such contributions will not be aggregated with those of its employees or officers. A corporate contribution, however, may be aggregated with that of a subsidiary corporation, depending on the degree of control or common ownership between the affiliated corporations. The regulation governing the treatment of corporate contributions for purpose of contribution limits can be found at N.J.A.C. 19:25-15.12(c), a copy of which is enclosed

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for your convenience. In regard to the partnership, the contribution will be deemed to be the contribution of the individual whose signature appears on the contribution check unless specific identification as to the contribution by the other partner or members is contained on the check or other accompanying written instrument, and the check is signed by each partner or member who is a contributor. See N.J.A.C. 19:25-15.15(c).

In your last inquiry, you have asked whether the purchase of souvenir items would constitute contributions subject to the limitation of \$250.00. The Commission is satisfied that the sale of souvenirs is a fund raising activity comparable to that of a "public solicitation." See N.J.S.A. 19:44A-3(j); and Commission Regulation N.J.A.C. 19:25-11.5(b)2. A "public solicitation" occurs when members of the general public are personally solicited for cash contributions not exceeding \$10.00 from each person so solicited and contributions are made on the spot by the person so solicited directly to the person making the solicitation or through a receptacle provided for such purpose, or members of the general public are generally solicited for the purchase of items having some tangible value as merchandise, at a price not exceeding \$10.00 per item, which price is paid on the spot in cash by the ~~person so solicited to the person making the solicitation.~~ Such proceeds must be reported in the aggregate pursuant to N.J.S.A. 19:44A-18 and 18.1. It is the view of the Commission that proceeds or contributions generated by means of a "public solicitation" as described in this paragraph, are not subject to the contribution limit of \$250.00 contained in N.J.S.A. 19:44A-18.1(a), assuming the absence of any mass purchase by one contributor. Nothing contained in this Advisory Opinion should be construed to permit the purchase of an excessive number of souvenirs by a contributor for the purpose of circumventing the \$250.00 contribution limit.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

GREGORY E. NAGY
Staff Counsel

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