



## State of New Jersey

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January 7, 1982

Henry Ramer, Esq.  
100 Hamilton Plaza  
Paterson, NJ 07505

RE: Advisory Opinion No. 47-1981

Dear Mr. Ramer:

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 asked several questions concerning fund raising measures that may be undertaken by an unsuccessful candidate in the 1981 gubernatorial election who has debts remaining from that campaign.

You have informed the Commission that the gubernatorial candidate on whose behalf you are writing accepted public financing pursuant to the provisions of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. His campaign is in debt several months after the conduct of the primary election. The candidate is currently holder of an elective public office and he will be retiring from that office imminently. A testimonial celebration is being planned to honor his service and tickets are to be sold at \$100.00 each. Initially, you have asked whether proceeds from such a retirement testimonial may be applied towards extinguishing the campaign debts.

You have further informed the Commission that some of the proceeds will be used for the personal benefit of the retiring public official, specifically for the purpose of providing a gift. This characteristic of the event assumes significance in considering the applicability of the contribution and expenditure limits contained in the public financing statutes of the Reporting Act.

The \$800.00 limitation on contributions to all candidates in a primary election seeking the nomination for the office of Governor is applicable in the circumstances presented in your letter, insofar as those proceeds are used for campaign related purposes. N.J.S.A. 19:44A-29. Therefore, the sponsors of the testimonial event you describe must be able to identify the ultimate disposition of contributions or ticket purchases so as to be able to determine that there has been compliance with the \$800.00 contribution limitation.

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This is to be accomplished by a ticket by ticket accounting to insure that in no case does a ticket purchase generate funds which would be applied to the gubernatorial primary in violation of the \$800.00 contribution limit. Proceeds from ticket purchases by persons who cannot contribute to the gubernatorial primary campaign of the candidate may be used only for purposes not related to the gubernatorial campaign, such as a gift to be extended on the occasion of the retirement. Further, based upon the assumption that some proceeds will go to the gubernatorial candidacy, it will be necessary to alert prospective purchasers by a statement written on the ticket, invitation or by other means, that some proceeds will or may be treated and reported as campaign contributions to the gubernatorial candidate.

The Commission wishes to bring to your attention that the cost of the testimonial affair, to the extent that it is a fund raising event for the purpose of the gubernatorial primary campaign, can be born only out of ticket purchases made in conformity with the \$800.00 limitation. This will require the sponsors of the event to establish adequate controls so that they can determine with certainty the amount of the proceeds that will be applied to the gubernatorial primary campaign in conformity with the contribution limit, and the amount that will be used exclusively for purposes not related to that campaign. Assuming for purposes of illustration that 25 percent of the proceeds are devoted to the gubernatorial campaign in conformity with the contribution limitation, then 25 percent of the dinner expense must be paid from proceeds that are obtained in conformity with the contribution limit.

You have also asked whether the expenditure limit applicable to all gubernatorial candidates accepting public funds would be applicable to expenditures respecting the dinner. N.J.S.A. 19:44A-7. For the reasons expressed above concerning the applicability of the contribution limits, the expenditure limit contained in that statute would apply to the testimonial affair that is contemplated. Therefore, the 25 percent of the dinner expense that must be paid from election-related proceeds will be included in calculating expenditure limit compliance, except that 25 percent of the total cost of food and beverage may be deducted because food and beverage are not includible in the expenditure limit calculation. See Commission Regulation N.J.A.C. 19:25-15.26(a)(3).

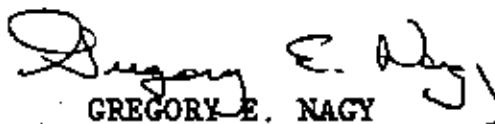
You have also asked whether the candidate may take a bank loan to repay campaign vendors. The candidate may take out a loan as allowed by N.J.S.A. 19:44A-29(g). That section of the statute permits a candidate to contribute up to \$25,000.00 of his "own funds" to his publicly financed campaign. The candidate would be permitted to take a loan in order to generate his "own funds" and could contribute those loan proceeds as his "own funds" as long as the total contribution by the candidate did not in the aggregate exceed \$25,000.00.

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Should you have any questions concerning the applicability of this advisory opinion, please do not hesitate to contact the Commission staff for assistance.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

  
GREGORY E. NAGY  
Staff Counsel

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