



## State of New Jersey

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### ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG., SUITE 1114  
28 W. STATE STREET, CN-188  
TRENTON, NEW JERSEY 08608  
(609) 292-8700

SCOTT A. WEINER  
EXECUTIVE DIRECTOR

EDWARD J. FARRELL  
COUNSEL

August 4, 1983

Frank S. Kern  
Executive Director  
South Jersey Mechanical Contractors  
Association, Inc.  
Professional Bldg, Suite 1  
Route 206, P.O. Box 357  
Vincentown, New Jersey 08088

#### ADVISORY OPINION NO. 09-1983

Dear Mr. Kern:

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 whether the South Jersey Mechanical Contractors Association, Inc. (hereafter, Contractors Association) must file campaign reports pursuant to the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.) on behalf of a fund that it maintains in trust and which is used in part for campaign purposes. For the reasons stated herein, you are advised that the Commission, on the fact record you have submitted, concludes that the fund of the Contractors Association should not be deemed a "political committee" and therefore it does not have campaign reporting requirements under the Reporting Act.

You have written the Commission that the Contractors Association is composed of mechanical contractors in several southern counties of this State. The Contractors Association holds in trust funds received from its members and has designated these funds the "Industry Fund." Contributions by members to the "Industry Fund" are derived from donations from the employees of the members. These donations are based upon a percentage of the employees' fringe benefit package.

You have asked whether the "Industry Fund" must be deemed a "continuing political committee" under the terms of the Reporting Act, and therefore has reporting responsibilities pursuant to N.J.S.A. 19:44A-8. You have suggested that it is not a continuing political committee because less than 10% of the "Industry Fund is projected to be used for campaign related purposes.

The term "political committee" is defined by the Reporting Act to mean " . . . any two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for public office . . ." N.J.S.A. 19:44A-3(1). The Commission does not apply that definition so that any noncontribution by any entity described in the definition results in the imposition of reporting requirements on that entity. On prior occasions, the Commission has ruled that where the activity of a business corporation with respect to an election is limited to the making of contributions of money to the campaign of a candidate, such activities are not deemed by the Commission to compel reporting. Advisory Opinion 08-1977; Advisory Opinion 41-1976; Advisory Opinion 26-1976. Business corporations do not have as their purpose the "aiding or promoting" of candidates. However, the Commission has ruled that where a corporation was formed to solicit or otherwise raise funds on behalf of a candidate such a corporation would be a "political committee." Advisory Opinion 03-1975. Where political contribution activity represents a principal purpose of a corporation, or a substantial part of the business of such corporation, it will be deemed a "political committee."

The Commission believes that the words "aid or promote" as used in N.J.S.A. 19:44A-3(1) contemplate activity beyond the making of occasional campaign contributions. The fact that a bona fide corporate or associational entity periodically makes campaign contributions from its treasury does not necessitate the filing by that entity of campaign reports disclosing the source of its capital structure.

The Commission is satisfied from the information before it that the Contractors Association is a trade association, existing principally to promote the business interests of its members. The Commission infers from the inquiry that the Industry Fund does not solicit contributions specifically for campaign contributions. Of the revenue the Industry Fund derives, 90 per cent of it is expended for purposes other than campaign contributions. Under those facts, the Industry Fund has no identifiable political purpose that would support inclusion of its activity within the meaning of "aiding or promoting" candidates for elective office.

The Commission believes that a broader reading of "aid or promote" to include the Industry Fund would not advance the public policy of the Reporting Act. N.J.S.A. 19:44A-2. Further, if any candidate expenditure by the Industry Fund exceeded \$100.00, the candidate receiving it is required to identify the Industry Fund as the source of the contribution to him or her. N.J.S.A. 19:44A-16. Therefore, the public retains the means of knowing to which candidates the Industry Fund makes major contributions even in the absence of reporting by the Industry Fund itself.

Very truly yours,

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

By: Gregory E. Nagy  
GREGORY E. NAGY

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