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January 7, 1985

Paul Kopp
19 Iroquois Avenue
White Meadow Lake
Rockaway, New Jersey 07866

Advisory Opinion No. 01-1985

Dear Mr. Kopp:

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 if expenditures made by yourself to publish and circulate a newsletter are subject to the reporting requirements of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:46A-1 et seq. (hereafter, the Act) in view of your anticipated candidacy for local elective office. For the reasons stated herein, you are advised that such expenditures are subject to the reporting requirements of the Act.

You have written to the Commission that during 1984 you began publishing and distributing a newsletter to approximately 1,000 homes in Rockaway Township in Morris County. At that time you were a Democratic County Committeeperson from that community, as well as serving in several appointive positions in the Rockaway Township municipal government. You have published the newsletter periodically since that time, and the newsletters bear the following statement: "Paid for by Paul Kopp". Further, you distributed flyers prior to the November, 1984 general election, and on November 24, 1984, you filed a 20-day post-election report with the Commission disclosing expenditures of \$36 for that purpose. Your report indicated that the expenditure was made in aid of the 1984 general election candidacy of a municipal council candidate.

You have further written that you anticipate in January, 1985, filing the necessary nominating petitions to become a candidate in the 1985 June primary election for the Fourth Ward council seat in Rockaway Township. Based on this fact record, you have asked the following:

1. May you continue to publish the newsletter bearing the "Paid for by Paul Kopp" legend in light of your anticipated candidacy?
2. Are you required to report expenditures associated with the newsletter as part of your campaign reporting?

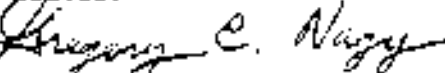
In regard to your first question, nothing contained in the provisions of the Act would preclude you from publishing and circulating a newsletter, or undertaking any other public communication to express your views. Further, the requirement that political literature contain a statement of the name and address of the person or persons causing it to be printed is not contained in the Act, and therefore is outside of the jurisdiction of the Commission. This requirement can be found in N.J.S.A. 19:34-18.1, and carries criminal sanctions outside of the scope of the Commission's responsibility. N.J.S.A. 19:34-1.

In regard to your second question, the Act does require that expenditures paid out of the campaign fund of a candidate are subject to reporting requirements. N.J.S.A. 19:44A-16(a). The Commission wishes to bring to your attention that in the event your total campaign expenditures do not exceed \$2,000, you may satisfy your reporting requirement by filing a Sworn Statement (Form A-1) in lieu of a full campaign report (Form R-1), and therefore would not be required to identify your expenditures. N.J.S.A. 19:44A-16(d). Assuming however that you do chose, or are required, to file the full campaign report (Form R-1), the Commission believes that expenditures made by yourself for the newsletter must be reported from the date of the inception of your candidacy.

In your inquiry, you characterized the contents of the newsletter as "informational". Even assuming that the newsletter does not contain a specific reference to any election, and does not specifically refer to the election or defeat of any candidate, including yourself, the Commission believes that by providing you with a platform to express your views on issues that may be relevant to your candidacy, and further by circulating your name to the electorate in the jurisdiction for which you are seeking elective office, expenditures associated with the publication of the newsletter become subject to campaign reporting under the terms of the Act. The facts you have submitted are not substantially different from those presented in the case of In re Daves, 156 N.J. Super 195 (App. Div. 1978). In the Daves opinion, the Appellate Division of the Superior Court upheld the Commission's position that an incumbent officeholder who was seeking reelection was required to report on his campaign report expenditures undertaken to distribute to the electorate a publication which, although it did not refer to his election campaign, was written by him and was laudatory of his performance in office. Without intending to challenge your characterization of the newsletter as "informational," the Commission is satisfied that the control you exercise over the contents and the political nature of the subject matter compels the conclusion that your expenditures for publication and distribution are related to the candidacy.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION



GREGORY E. NAGY
Staff Counsel