



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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July 17, 1986

Melanie L. Willoughby, President
New Jersey Retail Merchants Association
132 W. State Street
Trenton, NJ 08618

Advisory Opinion No. 07-1986

Dear Ms. Willoughby:

Your letter to the New Jersey Election Law Enforcement Commission dated July 10, 1986 requesting an Advisory Opinion has been considered by the Commission and I have been directed to issue this response. You have asked four questions concerning the requirements of "The New Jersey Campaign Contributions and Expenditures Reporting Act," N.J.S.A. 19:44A-1 et seq. (hereafter, the Act) and the regulations adopted thereunder in regard to the "Interested Merchants Political Action Committee," (hereafter, IMPAC) and the New Jersey Retail Merchants Association, (hereafter, N.J.R.M.A.). IMPAC has been filing quarterly reports with the Commission as a "continuing political committee" pursuant to N.J.S.A. 19:44A-8(b) since July 1984, and the Commission infers from your letter that the N.J.R.M.A. controls and funds IMPAC.

1. You have asked whether IMPAC may make campaign contributions to candidates even though some of the contributing members are precluded from making campaign contributions because of the prohibitions against certain regulated industries from making political contributions, contained in N.J.S.A. 19:34-45. Kindly be advised that the Election Law Enforcement Commission (hereafter, the Commission) has jurisdiction to issue advisory opinions only on issues arising under the terms of the Act; see N.J.S.A. 19:44A-6(f). The Commission does not have authority to issue advisory opinions concerning election law provisions outside of the Act, and therefore cannot express any opinion on the issue you have presented. However, the Commission notes that the prohibition against certain corporations making political contributions has criminal sanctions, and therefore suggest that any inquiry you have concerning its applicability be addressed to the Department of Law and Public Safety, Division of Criminal Justice, Richard J. Hughes Justice Complex, Trenton, New Jersey 08625.

2. You have asked whether there are any limits on the amount of money IMPAC can contribute to a candidate. In regard to candidates for the State Legislature or candidates for offices of political subdivisions of the State, the Act contains no limit. In regard to candidates for governor in a primary or general election, a contributor may make a contribution not to exceed \$800; N.J.S.A. 19:44A-29. In regard to candidates for federal office, kindly direct your inquiry to the Federal Election Commission which has jurisdiction over federal candidates. Their address is: Federal Election Commission, 999 E Street, N.W., Washington, DC 20463.

3. You have asked whether separate reporting requirements exist when an association (presumably the N.J.R.M.A.) directly contributes to a candidate and when its PAC (presumably IMPAC) directly contributes to a candidate. In your letter, you have not provided any factual description of the relationship between N.J.R.M.A. and IMPAC, nor have you provided any description of any circumstances under which N.J.R.M.A. might wish to make a contribution from its general treasury rather than through IMPAC, which the Commission infers is a separate fund established by the N.J.R.M.A. for the very purpose of making political contributions. Assuming that N.J.R.M.A. and IMPAC are in fact a single organizational entity for campaign contribution purposes, that is assuming that the N.J.R.M.A. is controlling the campaign contribution activities of IMPAC, the Commission believes that campaign contributions made directly by the N.J.R.M.A. should be included in the quarterly reports filed by IMPAC.

4. You have asked how an association (presumably IMPAC) must report contributions that are specified for inclusion in a collective association contribution to a specific legislator. The Commission presumes that the contribution is made on the condition, or with the limitation, that it be contributed to a specific candidate. In the parlance of campaign finance, the practice of making a donation to an organization on a condition or with the intent that the organization pass that donation as its contribution to a candidate is called "earmarking." In regard to the reporting of earmarked funds, Commission Regulation N.J.A.C. 19:25-7.6 provides as follows:

"Whenever funds in excess of \$100.00, which are earmarked or intended for the use of any candidate or committee are transferred or retransferred to an intermediate candidate or committee, the funds shall be accompanied by a statement of the name, address and amount of the original contributor of such fund, and the reports filed by each transferee shall identify the original source and amount of such contribution."

Therefore, if more than \$100 is donated to IMPAC with the intent that it be transferred to a specific candidate, IMPAC must disclose on its quarterly report the information described in the above-cited regulation. This require-


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ment exists even if IMPAC is not otherwise required to disclose or identify contributors of over \$100 by virtue of it being a "peripheral continuing political committee;" see N.J.A.C. 19:25-11.4(e)(1).

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY:


GREGORY E. NAGY
Staff Counsel

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