



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG., SUITE 1215  
28 W. STATE STREET, CN-186  
TRENTON, NEW JERSEY 08625-0185  
(609) 292-8700

STANLEY G. BEGORD  
CHAIRMAN

OWEN V. MCNAMY, JR.  
VICE CHAIRMAN

ANDREW C. ANTELL  
COMMISSIONER

DAVID LHAETT  
COMMISSIONER

FREDERICK M. HERFSMANN, Ph.D.  
EXECUTIVE DIRECTOR

JEFFREY M. GARDLE  
DEPUTY DIRECTOR

GREGORY E. RAGY  
LEGAL DIRECTOR

EDWARD J. FARMELL  
COUNSEL

August 16, 1988

Honorable Walter M. D. Kern, Jr.  
Assemblyman, District 40  
171 East Ridgewood Avenue  
Ridgewood, NJ 07450

ADVISORY OPINION 9-1988

Dear Assemblyman Kern:

The Commission has directed me to respond to your letter received on July 29, 1988 in which you requested an Advisory Opinion. You have asked whether you may make a disbursement from your campaign funds to the Bergen County Republican Organization for the purposes of paying a portion of a salary of a political employee. For the reasons stated herein, you are hereby advised that nothing contained in "The New Jersey Campaign Contributions and Expenditures Reporting Act," N.J.S.A. 19:44A-1 et seq. (hereafter, "the Act") precludes the use of your campaign funds for such a disbursement.

In your letter you state that you have been solicited by the Bergen County Republican Organization to help pay a portion of the salary of that organization's executive director. Specifically, you were asked to contribute \$1,000. The solicitation letter is directed to you and other federal and state elected officials and implies that the contributions can be made from campaign funds. You write that you contemplate making your contribution from proceeds remaining unexpended from your 1987 reelection campaign for the State Assembly. The Commission notes that you filed a final campaign report (Form R-1) for that election on January 21, 1988 indicating that you were retaining the sum of \$15,854 for a possible future candidacy.

The Commission has promulgated a regulation setting forth permissible uses for the disposition of campaign funds remaining unexpended at the termination of a candidacy, i.e., "surplus funds;" see N.J.A.C. 19:25-7.4. (A copy of the text of this regulation is enclosed for your convenience.) Among the specific permissible uses enumerated in the regulation is the following:

"(2) Transmittal to another candidate, political committee, or continuing political committee for the lawful purpose of such other candidate or committee." N.J.A.C. 19:25-7.4(b)

Honorable Walter M. D. Kern, Jr.  
August 16, 1988  
Page 2

The Bergen County Republican Organization files quarterly reports (Form R-3) with the Commission in its capacity as a "continuing political committee;" see N.J.S.A. 19:44A-8(b)(2). Therefore, applying the "surplus fund" regulation to the facts you have submitted, the Commission believes that the contribution from your campaign fund to the Bergen County Republican Organization for any lawful purpose reasonably related to its activities as a continuing political committee such as paying salaries to employees is expressly permitted.


In the event you do make a disbursement from your campaign account for this or any other purpose, that event will trigger reporting requirements. As noted, you have filed a final report for your 1987 general election candidacy. You should file a supplemental 60-day postelection report (Form R-1) disclosing this disbursement and adjusting the closing balance you are retaining for a possible future candidacy. The next filing deadline for 60-day postelection reports for the 1987 general election is September 20, 1988. For more specific filing instructions, the Commission urges you to consult with its staff.

You have also asked whether you are required to obtain prior permission from any of the persons or entities who made contributions to your 1987 general election Assembly candidacy in order for you to use your campaign funds in the manner you suggest. Nothing contained in the Act, or in the Commission regulations promulgated under it, specifically creates such a requirement. However, if any of the contributions you received were restricted by the contributing person or entity to preclude such a use, and further if the proceeds or a portion of the proceeds of such contributions are being used for this purpose, you may have acquired a contractual obligation to the contributor to obtain permission or release from the restriction. However, since nothing in your letter suggests that any of the contributions you received were so restricted, the Commission assumes that fact is not part of your inquiry.

Please do not hesitate to contact the staff of the Commission should you need any further information concerning this transaction or any other reporting issue. Thank you for your inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By   
GREGORY E. NAGY

GEN/slm  
Enclosure