



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG., 12th FLOOR
28 W. STATE STREET, CN 185
TRENTON, NEW JERSEY 08625-0185
(609) 292-8700

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COUNSEL

December 19, 1989

Jay Angoff, Chairman
CITIZENS AUTO REVOLT
11 North Willow Street
Trenton, NJ 08608

Advisory Opinion 27-1989

Dear Mr. Angoff:

The Commission has considered your request for an advisory opinion and directed me to issue this response. You have asked whether a political committee that had been advocating the adoption of a non-binding county referendum must file campaign reports in light of a recent New Jersey State Supreme Court Opinion declaring that referendum illegal and ordering it off the ballot for the 1989 general election ballot.

You write that you are the chairman and treasurer of Citizens Auto Revolt (CAR), which was a political committee formed for the purpose of advocating the adoption of a non-binding county referendum concerning automobile-insurance regulation. On September 22, 1989, the State Supreme Court unanimously ruled that the referendum cannot be included on the general election ballots of the 21 counties in the State because it did not concern a matter "pertaining to the government or internal affairs" of a county government; Board of Chosen Freeholders of Mercer County v. Szaferman, 117 N.J. 94 (1989). Prior to that opinion, county governments throughout the State had passed resolutions to place the non-binding referendum on their respective 1989 general election ballots.

The Commission notes that CAR filed a 29-day preelection report (Form R-1) for the 1989 general election on October 10, 1989, which report shows receipts of \$61,346 and expenditures of \$59,795. CAR filed an 11-day preelection report on November 9, 1989 showing receipts of \$11,015 and expenditures of \$1,075. To date, a 20-day postelection report has not been filed.

According to the report filed by CAR, this entity began receiving contributions and making expenditures to place the referendum on the ballot as early as the spring of 1989. While your letter does not provide a

description of the specific activities undertaken, the Commission presumes that such activities included activity designed to persuade the governing bodies of the county governments to approve resolutions placing the question on their respective ballots. Further, until removed from those ballots by the decision of the State Supreme Court, the Commission presumes funds were collected and expended in anticipation of promoting approval of the non-binding referendum in each county.

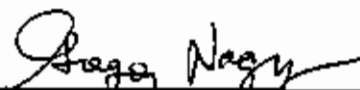
The Commission believes, therefore, that CAR is required to file reports as a political committee, and those reports must reflect all contribution and expenditure activity relevant to CAR's efforts to promote passage of these referenda. Failure to require such reporting would frustrate the salutary purposes of the Campaign Reporting Act to promote disclosure of all contributions and expenditures made for public questions; see N.J.S.A. 19:44A-2. In another earlier opinion, the State Supreme Court ruled that contributions and expenditures made even prior to approval of a public question for the ballot have been held to be subject to the Act; see ELEC. v. Citizens to Make Mayor-Council Government Work, 107 N.J. 380 (1987). The Commission believes that the mere happenstance that the questions were ultimately removed from the ballot should not preclude disclosure of the contribution and expenditure activity pertinent to those questions.

The Commission notes that this request was received on October 24, 1989. Pursuant to N.J.S.A. 19:44A-6(f), the Commission stipulates that it is precluded from imposing any penalty for late filing by CAR of the campaign reports that are the subject of this opinion, provided that the reports required by this opinion are filed no later than 10 days after receipt of this opinion.

Thank you for this inquiry.

Vary truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGY