March 27, 1978

Barbara Werber, Chairman
Democratic Committee of Bergen County
14 South State Street
Hackensack, New Jersey 07601

Re: The New Jersey Campaign Contributions and
Expenditures Reporting Act, Chapter 83, Laws
of 1973 as Amended and Supplemented ("the Act")
Your letter Dated January 13, 1978
Opinion #0-06-78

Dear Mrs. Werber:

Your letter dated January 13, 1978 to the New Jersey
Election Law Enforcement Commission ("the Commission"),
including a request for advisory opinion, has been forwarded
to me for reply.

There is no such status under the Act, as "prospective
candidate." A person is considered a "candidate," and is
therefore subject to the requirements of the Act, when he
either files a nominating petition or files a D-1 form with
the Commission or solicits contributions or makes expendi-
tures or allows others to do these things for him. Once he
becomes a candidate, he is required, by the Act, to designate
a campaign treasurer and depository and file pre-election
and post-election reports.

Whether or not specific political activity in preparation
or in furtherance of a primary election constitutes a person
a candidate, subject to the requirements of the Act, is a
question which must be addressed and answered on an indivi-
dualized basis. The Commission, therefore, would need specific
facts as to each "prospective candidate" referred to in your
letter before it could make a more definite determination of
the obligation of each under the Act.

Where a person neither files nor participates in poli-
tical activity promoting his candidacy as defined above, but
engages in activity solely aimed at exploring the possibility of whether or not to become a candidate (e.g., testing the political waters by means of a poll), the activity would not, in normal circumstances, constitute him a candidate. In such a case, he would not be required to designate a campaign treasurer or depository or file election reports with the Commission.

I have enclosed a copy of a 1976 advisory opinion which addresses substantially the same issue raised in your opinion request.

Yours very truly,

/signed/ Edward J. Farrell
Edward J. Farrell
Legal Counsel

BJF: no

Enclosure - #0-33-76

DC A. Thurston