



State of New Jersey

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September 4, 1991

Mr. Nicholas Rudi
Assistant Treasurer
1 Colby Avenue
Stratford, New Jersey 08084

Re: Advisory Opinion #0-37-1981
(Amplification of Advisory Opinion
#0-33-1981)

Dear Mr. Rudi:

A brochure published on behalf of Citizens for Feldman, Baer and Mazur, Democratic party legislative candidates in District 37, has been brought to the attention of the Commission, which has reviewed the brochure in the context of the Commission's advisory opinion 33-1981. That opinion provided, in pertinent part:

The Commission is generally of the view that, in the absence of extraordinary circumstances, an ad of this combined type which named or pictured or otherwise clearly identified the gubernatorial candidate (together with other candidates) would be allocable in an amount not less than 25% for the gubernatorial candidate.

Having reviewed the brochure, a copy of which is attached, the Commission has determined that it would be appropriate to amplify its position as to instances where an allocation to a gubernatorial candidate in an amount less than 25% of the cost of joint advertising would be appropriate. This information is being provided with specific reference to the attached brochure. However, it is the Commission's intent that this information provide future guidance in establishing and reporting allocations for joint advertising.

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Specifically, the Commission has determined that an allocation to candidate Florio in an amount equal to 5% of the cost of production and distribution of the attached brochure would be appropriate in this instance. In arriving at that percentage and in concluding that the particular design format of the brochure presented such "extraordinary circumstances" so as to justify allocation of less than 25%, the Commission considered, among other factors, that the name of the gubernatorial candidate was mentioned only once and appeared among a listing of other candidates whose names would appear on the ballot throughout the legislative district (candidates for the offices of Sheriff and Freeholder). In addition, the identification of the gubernatorial candidate was given no greater prominence than the other district-wide candidates. The brochure contained no pictures of the gubernatorial candidate. In contrast, each of the legislative candidates were mentioned by name eight separate times within the brochure. Additionally, each legislative candidate was further identified by an individual picture which was accompanied by a biography of the candidate. Other than the biographies, the only other narrative copy within the brochure refers to the individual accomplishments or projects of each of the legislative candidates.

Yours very truly,



Edward J. Farrell
General Legal Counsel

EJF:no