



## State of New Jersey

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### ELECTION LAW ENFORCEMENT COMMISSION

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January 26, 1983

Richard I. Samuel, Esq.  
Lerner, David, Littenberg &  
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195 Elm Street  
Westfield, New Jersey 07090

#### ADVISORY OPINION No. 01-1983

Dear Mr. Samuel:

Your letter to the Election Law Enforcement Commission requesting an advisory opinion has been considered by the Commission and I have been directed to issue this response. You have asked if you may be relieved of your duties under the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Act), as the campaign treasurer of a political committee, "Citizens for Jordan."

You have written that you became the treasurer for the Citizens for Jordan in 1977, and the Commission records indicate that you were designated treasurer by the political committee on a Form D-1 filed February 18, 1977. Further, campaign reports filed under the name of the committee have been certified as to correctness by Richard I. Samuel. The last campaign report filed under the name "Citizens for Jordan" was received on February 11, 1981. That report indicated a balance of \$424.72 in the campaign depository maintained by the committee. Furthermore, it reported total outstanding obligations of \$91,612.86. The total outstanding obligations included debts of \$59,655.38 to 27 creditors, and \$31,957.48 in outstanding loans from 13 individuals or groups.

In your inquiry you have stated that you were one of nine individuals who lent money to the political committee. You have stated that you paid the sum of \$4,272.82 to a bank to satisfy your portion of a bank loan. The Commission surmises that you and the eight other individuals were cosigners of a loan made by a bank, the proceeds of which were turned over to the political committee. You have written that you believe that the other eight individuals have apparently satisfied their portions of the loan.

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The Act requires political committees to appoint treasurers. N.J.S.A. 19:44A-10. Political committees are further required to file campaign reports, and the appointed treasurer must certify the correctness of these reports. N.J.S.A. 19:44A-8. Concerning the termination of reporting, N.J.S.A. 19:44A-16 provides, in pertinent part, as follows:

"Concurrent with the report filed on the fifteenth day following an election, or at any time thereafter, the campaign treasurer of a candidate or political committee or committee of a political party or the treasurer of a political information organization may certify to the Election Law Enforcement Commission that the campaign fund of such candidate, political committee or committee of a political party, or the fund of such political information organization, having been instituted for the purposes of the late election, has wound up its business and been dissolved or, in the case of a political committee or a committee of a political party or a political information organization which continues its activities beyond the election, that its business regarding the late election has been wound up; and said certification shall be accompanied by a final account of such campaign fund, or the transactions relating to such election, including the final disposition of any balance remaining in such fund at the time of dissolution or the arrangements which have been made for the discharge of any obligations remaining unpaid at the time of dissolution. Until such certification has been filed, each such treasurer shall continue to file, at the conclusion of each 60-day interval from the fifteenth day following such election, reports in the form and manner herein prescribed."

The Commission can conclude that the political committee, "Citizens for Jordan," continued to have filing obligations after the report filed on February 11, 1981. Failure to file post-election reports on a timely basis can subject a political committee to a civil penalty enforcement action. N.J.S.A. 19:44A-22. Furthermore, although your letter represents that

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there is no prospect of any change since the last campaign report was filed, your satisfaction of the bank loan was a reportable event that, other than your inquiry letter, remains undisclosed. There is no basis to conclude that with due diligence you could not obtain information on the status of any of the other loans.

Other reportable events that could be anticipated would be expenditure or expenditures of the remaining balance of \$424.72 reported in the bank account. The disposition of those funds must be disclosed. Additionally, as long as a balance in the bank account exists, the business of the campaign cannot be regarded as "dissolved" within the meaning of that term as it is used in N.J.S.A. 19:44A-16. Nothing contained in your inquiry provides a basis to conclude that in your capacity as treasurer you were unable to dispose of the bank balance in partial satisfaction of the creditors.

The requirement contained in Section 16 of the Act that a political committee "wind up" its business concerning an election campaign before it will be permitted to terminate reporting does not mean, as you infer in your inquiry, that reporting must continue indefinitely until no outstanding obligations exist. The Commission understands Section 16 to require that there be no remaining bank balance, and that there be no reasonable prospect that the political committee will at any future date satisfy, in whole or in part, any of its remaining creditors. Under such circumstances the treasurer may certify with reasonable finality that the political committee has wound up its affairs. Such certification in no way affects any legal rights or remedies any creditor may hold against a political committee, but it can terminate reporting requirements because there is no foreseeable prospect of any further financial developments. If in fact subsequent funds should become available from any source to the political committee to satisfy a remaining debt after such a certification, reporting requirements would be reimposed on the political committee by virtue of N.J.S.A. 19:44A-16.

In your inquiry, you have indicated that the candidate on whose behalf the political committee was active has not been in contact with you for six years. However, nothing contained in your letter identifies the principals of the political committee, or gives information as to your relationship currently with those principals. There is no suggestion that you do not have currently control over the bank account maintained by the committee or access to any necessary records. Therefore, based upon the information presented, the Commission concludes that you have been and continue to be in a position to update the reports of the political committee from the last report filed on February 11, 1981 to the present.

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The Act does provide for the discontinuance of the services of the treasurer prior to the termination of reporting requirements in N.J.S.A. 19:44A-10 which reads, in pertinent part, as follows:

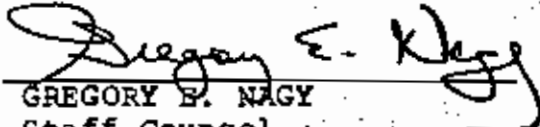
"In the case of the death, resignation or removal of its campaign treasurer, the committee shall appoint a successor as soon as practicable and shall file his name and address with the Election Law Enforcement Commission within 3 days."

The Commission anticipates that updated reports will be filed for this political committee so that the activities since the date of the last report are disclosed. If the political committee does not conclude its activities and you wish to resign, you may do so by notifying the principals of the committee and the Commission. Your notice of resignation should include the identity of the principals, and a statement as to what records are maintained in your custody and where they may be obtained by the principals. Finally, the Commission suggests that you advise the principals that they should appoint a new treasurer within three days and file a designation of that person as treasurer with the Commission.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:

  
GREGORY E. NAGY  
Staff Counsel

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