



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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OWEN V. MC NAMY

NATIONAL STATE BANK BLDG., SUITE 1210
28 W. STATE STREET, CO-100
TRENTON, NEW JERSEY 08608
(609) 291-9700

FREDERICK M. HERRMANN
EXECUTIVE DIRECTOR
EDWARD J. FARWELL
COUNSEL

February 24, 1986

Albert Porroni, Esquire
Office of Legislative Services
New Jersey State Legislature
State House Annex
CN-068
Trenton, New Jersey 08625

Re: ADVISORY OPINION 1-1986

Dear Mr. Porroni:

Your letter dated February 10, 1986 to the New Jersey Election Law Enforcement Commission ("the Commission") including a request for advisory opinion has been forwarded to me for reply.

The Commission does not have authority to advise generally with respect to the election laws, since its authority is limited to the area of its responsibility, which is the New Jersey Campaign Contributions and Expenditures Disclosure Act (N.J.S.A. 19:44A-1 and following) and certain other areas not here relevant. As you know, this Act forms only a part of the election law of New Jersey, which is contained in Title 19 of the New Jersey Statutes. The remainder of the election law is under the jurisdiction of the Attorney General of New Jersey.

The Act does not prescribe what uses of excess political funds are lawful or unlawful and the Commission is not empowered to express an opinion in this regard. The Commission has taken the position that personal use of such funds is obviously not appropriate and would in such case forward evidence of such use to the appropriate law enforcement agency. Certain other dispositions of such funds would not be challenged by the Commission, such as the transfer of the funds to the county or other political party committee of the candidate, or the return of those funds pro rata to the contributors.

I am enclosing copies of earlier opinions of the Commission 0-16-75 and 0-7-84 (draft), which may be of some help to you.

Albert Porroni, Esq.
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The Commission has in the past supported proposals to have this matter clarified by the Legislature. While the Commission has generally not expressed any view as to the specifics of such legislation, deeming that to be a policy matter for the Legislature, the Commission has supported the concept of bills such as the Perskie bill (Senate No. 1195, 1982), the Conners, Saxton, Russo bill (Senate No. 1399, 1984), and the Leanna Brown bill (Senate No. 2070, 1984). The Commission will continue to support efforts to urge the Legislature to resolve the issue.

One final comment: after discussions with the Attorney General, the Commission has proposed regulations dealing with certain aspects of the use of surplus funds (not, however, attempting to deal with the question of the use of such funds to defray the expense of an office of the legislator, or similar uses). Those draft regulations are still before the Commission. I anticipate that some effort will be made to provide regulations as suggested by the Office of the Attorney General.

I regret that we are not able to provide you with a more encompassing opinion as you had requested. I hope that the information contained in this opinion will be of use to you.

Very truly yours,


Edward J. Farrell
Counsel

EJP:no

Enclosures
0-16-75
0-07-84 (draft)