



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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NATIONAL STATE BANK BLDG., SUITE 1215
26 W. STATE STREET, CN-186
TRENTON, NEW JERSEY 08602
(609) 982-8700

FREDERICK M. HERRMANN
EXECUTIVE DIRECTOR

EDWARD J. FARFELL
COUNSEL

March 19, 1986

Gary Rosenberg, Esq.
Treasurer,
Campaign Fund of Patricia E. Koch
36 Main Street
Madison, N. J. 07940

Advisory Opinion No. 02-1986

Dear Mr. Rosenberg:

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 whether campaign funds remaining unexpended in a campaign account at the close of a candidacy, (i.e., surplus campaign funds) may be transferred by the candidate to another account and used for the purpose of publishing a newsletter covering the candidate's activities as an elected official.

You have written that Patricia E. Koch was elected to the Town Council of Morristown in the 1985 general election. According to the campaign reports filed on behalf of her candidacy with the Commission on January 27, 1986, she has an unexpended balance of \$455.34 in her campaign account. The report filed on January 27, 1986 was declared by the candidate and yourself as a final report, and no outstanding obligations or debts from the campaign are reported. In your request for an Advisory Opinion, you ask whether this balance may be transferred to a new account entitled "Friends of Patricia E. Koch," and may be applied for the purposes of publishing a newsletter to Ms. Koch's constituents.

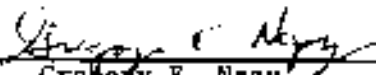
The authority of the Commission to issue Advisory Opinions is limited to questions arising under the provisions of "The New Jersey Campaign Contributions and Expenditures Reporting Act;" see N.J.S.A. 19:44A-6(f). The Reporting Act does not prescribe what uses of surplus campaign funds are permissible and, accordingly, the Commission does not have jurisdiction to express an opinion in this regard. Nevertheless, the Commission has taken the position that personal use of such surplus campaign funds may be subject to the jurisdiction of criminal authorities and, if the Commission receives evidence of such personal use, it will forward such evidence to the appropriate prosecutorial authority. The Commission believes, however, that the use of surplus campaign funds for the purpose of circulating the views of an elected office holder to the constituents of that office holder does not raise any issue of personal use.

In regard to reporting requirements concerning your contemplated use of the surplus campaign funds, the Commission agrees that the report filed on behalf of Ms. Koch on January 27, 1986 was properly designated as a final report, and as to that candidacy she has no further reporting requirements. However, in the event that Ms. Koch becomes a candidate in some future election, and uses these campaign funds for campaign purposes, reporting requirements may arise. For example, if the surplus is applied towards the cost of a newsletter that has the effect of promoting a future candidacy of Ms. Koch, the cost of the newsletter and the source of the funds used to meet those costs would be subject to reporting in the context of that future election. However, in the absence of a use that is related to some future campaign, no further reporting obligation arises.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY:



Gregory E. Nagy
Staff Counsel

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