



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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January 17, 1991

Mr. Frank E. McGuckin
720 Debra Drive
Williamstown, NJ 08094

Advisory Opinion Request No. 13-1990

Dear Mr. McGuckin:

The Commission has directed me to respond to your correspondence dated December 6, 1990 and December 18, 1990, in which you have asked the Commission to review certain campaign disbursements you reported in connection with your 1990 primary and general election candidacy for Mayor of Monroe Township in Gloucester County. For the reasons stated below, the Commission has directed me to inform you that it will not provide an advisory opinion pursuant to N.J.S.A. 19:44A-6(f).

In your correspondence you state that you expended campaign funds for the purchase of clothing "... to be worn during my bid for election." The clothing consisted of two suits, ten shirts, two ties, and one belt, at a total cost of \$560. The Commission notes that on May 7, 1990, you filed a 29-day preelection report (Form R-1) for your 1990 primary election campaign which reflected a disbursement made on March 29, 1990 for the stated purpose of "purchase for candidate clothing" in the amount of \$573.50. You further write that campaign funds were used to purchase refreshments for campaign workers and potential appointees during the League of Municipalities Convention in Atlantic City between November 14 and 16, 1990. The 20-day postelection report (Form R-1) for your 1990 general election candidacy filed with the Commission on November 26, 1990 discloses a disbursement dated November 13, 1990, for the stated purpose of "League of Municipalities Convention expenses," in the amount of \$300.

The Campaign Reporting Act authorizes the Commission to give advisory opinions "... as to whether a given set of facts and circumstances would constitute a violation of any of the provisions of this act, or whether a given set of facts and circumstances would render any person subject to any of the reporting requirements of this act;" see N.J.S.A.

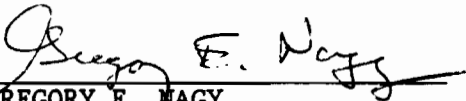
19:44A-6(f). This statute further provides that if the Commission does not reply to a request for an advisory opinion within a ten-day period after receipt, or within some other agreed upon period of time, the Commission is precluded "... from instituting proceedings for imposition of a penalty upon any person for a violation of this act arising out of the particular facts and circumstances set forth in such request"

The Commission understands this statute to mean that it has authority to advise candidates or other interested persons concerning prospective or anticipated future campaign conduct, and concerning the reporting consequences of that prospective or anticipated conduct. However, the campaign disbursements that you asked the Commission to review were undertaken on March 29, 1990, and November 13, 1990, and at this point in time the Commission is precluded from offering guidance that would result in preventing those disbursements from being made.

A candidate or other filing entity may receive protection from imposition of any Commission penalties provided that the candidate or entity seeks an advisory opinion before campaign activity is undertaken. However, under the facts you have presented, the disbursements have already been made, and the Commission therefore is not in a position to provide guidance, or to extend protection from prosecution. For these reasons, the Commission declines to issue an advisory opinion in regard to the disbursements you have asked it to review.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGY
Legal Director

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