



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Advisory Opinion 10-1993

Dear Mr. Musser:

The Commission has directed me to issue the following response to your request on behalf of Inaugural Committee '94 for an advisory opinion. You have asked several questions concerning the reporting obligations and restrictions that are imposed upon this entity as the gubernatorial inaugural fund-raising committee on behalf of Governor-elect Christine Todd Whitman. Specifically, you have asked whether Inaugural Committee '94 may accept loans from the New Jersey Republican State Committee (RSC) in excess of the \$500 inaugural contribution limit, and if the committee can ultimately turn over its proceeds without restriction to the RSC at the conclusion of its inaugural activities.

Applicable Statutes and Regulations

The term "gubernatorial inaugural fund-raising event" is defined by the Campaign Contributions and Expenditures Reporting Act (hereafter, the Act) at N.J.S.A. 19:44A-18.1 as a fund-raising event conducted after the date of the general election until a date fifteen days after the date of the inauguration (that is, February 2, 1993). The definition includes an event sponsored by an inaugural committee, the State political party committee representing the party of the Governor-elect, or any other person, and an event at which the Governor-elect is a prominent participant, or an event for which the solicitations of contributions include the name of the Governor-elect in prominent display. However, if the event is sponsored by a charity, and the contributions are payable to the charity directly, the fundraiser is exempted from the statutory definition and therefore there are no reporting requirements, see N.J.S.A. 19:44A-18.1(b).

No person may contribute in the aggregate more than \$500 to all "gubernatorial inaugural fund-raising events," see N.J.S.A. 19:44A-18.1(a).

The sponsor of such an event must make a report to the Commission of contributions and expenditures within 45 days after it has been conducted, see N.J.S.A. 19:44A-18.1(c). Further, under ELEC regulations, the sponsor must continue to report every 60 days thereafter until all obligations are liquidated and the gubernatorial inaugural account is closed, see N.J.A.C. 19:25-15.59.

Comprehensive amendments made to the Act in early 1993, which included contribution limits applicable to contributions made to State political party committees, did not change any of the statutory provisions of N.J.S.A. 19:44A-18.1, see P.L. 1993, c. 65.

Historically, inaugural committees have frequently been closely associated with the State political party committee of the Governor-elect. For example, in 1986 the inaugural committee for Governor Kean received approximately \$10,000 in start-up loans from the RSC, and at the conclusion of the inaugural event activities proceeds of some \$20,000 were turned over to the RSC. In 1990, the Democratic State Committee made start-up loans totaling some \$275,000 to the inaugural committee established on behalf of Governor Florio, and the inaugural committee repaid those loans, plus interest.

Questions Presented

1. Inaugural Committee '94 asks whether it will be treated for reporting and contribution limit purposes as a political committee, continuing political committee, political party committee, joint candidates committee, legislative leadership committee, or some other type of committee.

The terms "political committee," "continuing political committee," "political party committee," "joint candidates committee," and "legislative leadership committee," are all specifically defined in the Act, see N.J.S.A. 19:44A-3, as amended by P.L. 1993, c. 65, sec. 1. None of them are applicable to a "gubernatorial inaugural fund-raising event" because these entities are subject to filing requirements and various contribution limit restrictions that are established in terms of aiding or promoting candidates or public questions in elections. For example, a "political committee" files campaign reports on a schedule predicated on the date of a specific election, that is 29 days before an election, 11 days before an election, and 20 days after an election (see N.J.S.A. 19:44A-8(a)). Contribution limits are determined on a "per election" basis, see P.L. 1993, c. 65, sec. 18. These statutory requirements cannot be applied to an entity that exists for the inauguration of a Governor, rather than the election of a candidate.

In sum, the applicable statutory reporting and contribution limit provisions for a "gubernatorial inaugural fund-raising event" arise out of N.J.S.A. 19:44A-18.1 only.

2. The Inaugural Committee '94 asks whether it may accept a loan from the RSC. Presumably, this loan would be more than \$500.00.

The Commission agrees that Inaugural Committee '94 may accept a loan in excess of \$500.00 from the RSC.

The statutory text concerning the limit on the amount that may be contributed to inaugural fund-raising events provides: "No person, candidate or political committee, otherwise eligible to make political contributions, shall make any contribution or contributions for the purpose of any gubernatorial inaugural fund-raising event or events in the aggregate in excess of \$500.00." N.J.S.A. 19:144a-18.1(a). The term "contribution" as defined in the Act at N.J.S.A. 19:44A-3(d) includes "all loans." Since a State political party committee is not a "candidate" or a "political committee," the legal question presented is whether or not the term "person" as used in the \$500.00 contribution limit statute quoted above includes a State political party committee.

The Commission is unable to discern any legislative intent to restrict the amount of funds that a State political party committee may lend to an inaugural event for the Governor-elect of that party. The interests of both the State political party committee and the inaugural event appear co-extensive: to support the political party of the Governor-elect. Therefore, there is no cognizable danger that the State committee could exercise undue influence over the Governor-elect in the same sense that a contributing "person" might, and therefore no public purpose to be served by restricting any loan the State committee may extend to a gubernatorial inaugural event.

3. What amount of unspent funds may Inaugural Committee '94 transfer to the State political party committee after the conclusion of its activities?

Inaugural Committee '94 may transfer the proceeds of its fund-raising activities to the RSC without limitation.

The 1993 amendments to the Act which established contribution limits for various contributors do not reveal any legislative intent to limit the amount that an inaugural event may contribute to a State political party committee, see P.L. 1993, c. 65. The Commission recognizes that an individual or a "group" is restricted to a contribution of no more than \$25,000 in a calendar year to a State political party committee, see P.L. 1993, c. 65, sec. 18. However, the Commission does not read the term "group" as used in the above-cited statute to include the statutorily defined entity, "gubernatorial inaugural fund-raising event."

A gubernatorial inaugural event is not in the same posture as a "group" of contributors who may be seeking to influence a candidate, or a political party, by virtue of an unrestricted contribution. As has been previously noted, the purposes of the inaugural event and the State political party committee and the Governor-elect are coextensive: to promote the political party of the Governor-elect.

Further, a single contributor can contribute collectively to gubernatorial inaugural events a sum that cannot exceed \$500, see N.J.S.A. 19:44A-18.1(a). Therefore, the inaugural event cannot be used as a conduit for a large contributor seeking to pass substantial amounts of money exceeding any contribution limit contained in the 1993 amendments to a State political party committee.

In sum, the Commission concludes that if the Act intended to limit or otherwise restrict the amount of funds that a gubernatorial inaugural event sponsor could transfer to the State political party committee of a Governor-elect, amendments to that effect would have been made to N.J.S.A. 19:44A-18.1 by the 1993 amendments (P.L. 1993, c. 65).

4. Must the Inaugural Committee '94 report the occupation and employer of each contributor?

The requirement that the occupation and employer of a contributor be reported is contained in the 1993 amendments which changed the way political candidate committees, political committees and other committee entities must report contributions, see P.L. 1993, c. 65, sections 3 and 9. However, the 1993 amendments did not make any change to the reporting requirements in the text of the inaugural event statute at N.J.S.A. 19:44A-18.1. Therefore, the Commission concludes that there is no statutory obligation on an inaugural event to report the occupation and employer of a contributor. However, in view of the amendments made for other reporting entities, the Inaugural Committee '94 is urged to report this information on a voluntary basis.

5. What reports must be filed by Inaugural Committee '94 after the 45-day report, post-event report required by the inaugural event statute?

Commission Regulation N.J.A.C. 19:25-15.59(d) requires that the sponsor of a gubernatorial inaugural fund-raising event file reports and certify their correctness every 60 days after the filing of the 45-day post-event report required by the statute.

6. What amount may Inaugural Committee '94 contribute to charitable organization?

Nothing contained in the Act or ELEC regulations limits the amount that an inaugural event can contribute to a charity.

7. What involvement may Inaugural Committee '94 have in assisting a charity in arranging and financing a fund-raising event which features the Governor-elect if all proceeds of the event are paid directly to that charity?

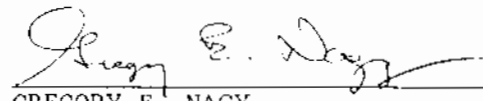
Nothing contained in the Act or ELEC regulations limits the involvement that an inaugural event may undertake in assisting a charitable organization in conducting a fund-raising event in which all the proceeds are paid directly to that charitable organization.

Thank you for your inquiry.

Very truly yours,

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

By: _____


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