



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

OWEN V. McNANY, III
CHAIRMAN

William H. Eldridge
Vice Chairman

David Linett
Commissioner

NATIONAL STATE BANK BLDG., 12th FLOOR
28 W. STATE STREET, CN 185
TRENTON, NEW JERSEY 08625-0185
(609) 292-8700

FREDERICK M. HERRMANN, PH.D.
EXECUTIVE DIRECTOR

JEFFREY M. BRINDLE
DEPUTY DIRECTOR

GREGORY E. NAGY
LEGAL DIRECTOR

September 23, 1994

The Honorable Joseph Suliga
Assemblyman, 20th Legislative District
General Assembly
State House
CN-098
Trenton, New Jersey 08625-0098

Advisory Opinion No. 01-1994

Dear Assemblyman Suliga:

The Commission has directed me to issue this response to your request for an advisory opinion concerning permissible uses of candidate funds pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Act).

In your letter, received February 3, 1994, you asked whether contributions which you have received could be used for reimbursement of travel expenses incurred by you in "commuting to Trenton or other locations for legislative business," for car phone expenses related to legislative business, and for entertainment expenses arising from legislative business or arising out of your status as a member of the State Assembly. At its meeting of March 16, 1994, the Commission determined to defer a response to your request pending its implementation of new regulations on the subject of permissible uses of candidate funds, and by letter dated March 18, 1994, advised you it would be delaying its response. At its meeting of September 20, 1994, the Commission approved the regulations, and a copy of that text is enclosed for your reference. Further, the Commission directed me to issue this response to your inquiry.

1. You have asked whether contributions received by a candidate can be used for reimbursement for a car lease, gasoline and tolls incurred commuting to Trenton or other locations for legislative business. Please note the text of N.J.A.C. 19:25-6.8, Vehicle use (page 5 in the enclosed regulations). Pursuant to subsection (a) of this section, a candidate may receive reimbursement for the use of a personal vehicle that the candidate owns (or is leasing). The rate of reimbursement for miles travelled cannot

exceed the current rate permitted by the New Jersey Department of Treasury for compensating Executive Branch employees for the use of personal vehicles (that is, \$0.29 cents per mile), or the rate provided by the Internal Revenue Service for deduction of business mile travel mileage. Please note that the reimbursement rate is based on a per-mile standard, and includes costs of gasoline, repair, and related expenses. Alternatively, pursuant to subsection (b), a candidate committee may purchase or lease a vehicle for campaign or officeholding travel by the candidate or officeholder provided that the vehicle remains as an asset of the committee and the candidate or officeholder reimburses the committee at fair market value for any travel that is not necessitated by campaign or officeholding duties.

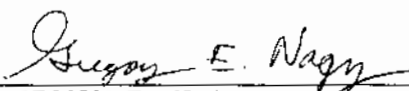
2. You have asked whether it is permissible to use candidate funds for expenses related to a car phone used in conjunction with legislative business. Please note the text of N.J.A.C. 19:25-6.7(e)2i (page 4). That regulation permits candidate funds to be used to purchase a portable telephone as an ordinary and necessary expense of officeholding, including a telephone in the vehicle used by the officeholder for official travel.

3. You have also asked whether entertainment expenses, including expenses for dinners, lunches and tickets incurred in conjunction with legislative business may be paid for with candidate funds. Please note the text of N.J.A.C. 19:25-6.7(a) (page 3), which defines the "ordinary and necessary expenses of holding public office" as meaning any expense that reasonably promotes or carries out the responsibilities of a person holding elective public office. Also, please note the text of N.J.A.C. 19:25-6.5(c) (page 1), which defines the term "personal use" as meaning any use to pay or fulfill a commitment or obligation or expense of any person that would arise or exist irrespective of the candidate's campaign or irrespective of the candidate's ordinary and necessary expense of holding public office. Therefore, in order to make a determination of whether expenses for dinners, lunches and tickets may be paid for out of candidate funds, an assessment would have to be made of the totality of the circumstances to determine whether they met the regulatory criteria cited above. If you wish to provide the particulars of any specific expense, and provide the basis on which the expense promoted or carried out your officeholding duties, the Commission will review any facts you submit concerning the circumstance of such expenses, and advise you accordingly.

Thank you for your inquiry, and for your patience while the regulatory process was being completed.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGY
Legal Director

GEN/jah
enclosure