



State of New Jersey

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September 20, 1994

The Honorable David C. Russo
Assemblyman, 40th District
22 Paterson Avenue
Midland Park, New Jersey 07432

Advisory Opinion No. 11-1994

Dear Assemblyman Russo:

The Commission has considered your request for an advisory opinion concerning the costs incurred in connection with your representation of Governor Christine Todd Whitman at a conference in the Netherlands this summer, and has directed me to issue this response.

In your letter received on August 4, 1994, you wrote that you were selected as one of two members of the New Jersey Legislature to represent the Governor at a conference concerning environmental issues conducted in the Netherlands during the week of August 6 through August 13, 1994. You further write that you have been advised that you will be reimbursed for your travel and lodging expenses by the New Jersey Department of Environmental Protection, which has received grants from two charitable foundations, the Geraldine R. Dodge Foundation and/or the German Marshall Fund, to underwrite the conference costs.

You have asked whether or not any reimbursement you may receive from the Department of Environmental Protection will be subject to any of the reporting requirements of the Commission. The Commission is charged with the responsibility of administering the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Campaign Reporting Act); the Legislative Activities Disclosure Act, N.J.S.A. 52:13C-18 et seq.; and the Gubernatorial Legislative Disclosure Statement Act, N.J.S.A. 19:44B-1 et seq. (hereafter, the Personal Financial Disclosure Act).

The Commission is satisfied that nothing contained in the provisions of the Campaign Reporting Act requires you to report any payment you receive as reimbursement for travel and lodging expenses you incurred in your capacity as a representative to this conference. Nothing contained in the Reporting Act is intended to require an officeholder to report as a campaign contribution a reimbursement or other compensation received from the State for services provided to the State. The fact that an individual has been elected to a public office does not result in the conclusion that all monies received by that individual can be construed as "contributions" as that term is defined

in N.J.S.A. 19:44A-3(d). In order to be construed as a "contribution" subject to reporting and other requirements of the Reporting Act, the individual must receive the money in the capacity of a "candidate" as that term is defined in N.J.S.A. 19:44A-3(c). Since these funds are being provided to you for the purpose of reimbursement for expenses incurred by you in connection with services you have performed for the State, you are not receiving them in the capacity of a "candidate" as that term is defined in the Reporting Act.

In regard to the Legislative Activities Disclosure Act, the Commission does not perceive any application. None of the entities listed in your letter are registered lobbyists, and you have not indicated that any lobbying communication was undertaken, see N.J.S.A. 52:13C-20f, defining the term "communication with a member of the Legislature."

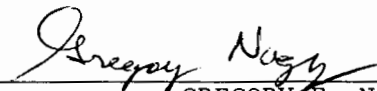
In regard to personal financial disclosure, the Commission notes that a candidate for the office of Governor or for the Senate or General Assembly must file a personal financial disclosure statement with the Commission on or before the tenth day following the deadline for filing nominating petitions, see N.J.S.A. 19:44B-2. Assuming you file nominating petitions for such office in 1995, your disclosure statement for income received during the current calendar year will be due on April 24, 1995. However, the Commission finds that the reimbursement income that is the subject of this inquiry is not subject to disclosure. Pursuant to N.J.S.A. 19:44B-4d, only if a reimbursement totalling more than \$100.00 is received from a source "...other than the State, any political subdivision thereof, a principal employer, or a nonprofit organization..." is it subject to the reporting requirements. In this request, the source of the reimbursement is the Geraldine R. Dodge Foundation, or the German Marshall Fund, entities that you write are charitable organizations. Therefore, these entities presumably are "nonprofit organizations" within the meaning of N.J.S.A. 19:44B-4d, and any reimbursement received from them, or from the Department of Environmental Protection acting as a conduit for the reimbursement, is not subject to personal financial disclosure reporting.

For the above reasons, the Commission concludes that the reimbursement that you are receiving from the Department of Environmental Protection is not subject to the reporting requirements described herein.

Thank you for your inquiry.

Very truly yours,

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

By: 

GREGORY E. NAGY
Legal Director

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