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March 21, 1995

The Honorable John O. Bennett
Senator, 12th Legislative District
615 Hope Road, Building 5
CN One
Eatontown, New Jersey 07724

Advisory Opinion No. 02-1995

Dear Senator Bennett:

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).

SUBMITTED FACTS

In your letter, received February 22, 1995, you have asked whether campaign contributions which you have received may be used to pay for the purchase of a television set and cable installation in your legislative district office. You state that the television and cable installation is needed to provide access to the New Jersey Network and coverage of the New Jersey Legislature, and would be utilized for purposes directly connected to your legislative duties. Although your letter does not so specify, the Commission presumes that the funds to purchase these items would come from the John O. Bennett III candidate committee you have established for the 1997 primary election.

COMMISSION RESPONSE

For the reasons set forth below, the Commission concludes that the statutory prohibition in N.J.S.A. 19:44A-11.2b against the use of campaign funds "...for expenses arising from the furnishing, staffing or operation of a ... (legislative district office)" precludes the use of campaign contributions for the purchase of a television set and cable installation situated within your legislative district office.

The Reporting Act was amended in 1993 to regulate the permissible uses of contributions received by candidate committees, see L. 1993, c. 65, sect. 17. That statute provides, in pertinent part, that although a candidate may use contributions to pay "ordinary and necessary" expenses of holding public office, no contribution may be used to pay for the "furnishing, staffing or operation" of an office used in connection with official duties as an elected public official, see subsections a. and b. of N.J.S.A. 19:44A-11.2. The legislative district office provided by the State to a State Senator clearly is an office facility for official duties within the meaning of the above-cited statute. Therefore, regardless of whether or not the purchase of these items may be within the ambit of "ordinary and necessary" officeholding expenses, if they are subject to the prohibition against "furnishing, staffing or operation" of the office, they are impermissible.

The words "furnishing, staffing or operation" of an office are not defined in the statute, but the Commission has promulgated definitions in its regulations. Of particular applicability are the definitions of "furnishing" at N.J.A.C. 19:25-6.7(b) and "operation" at N.J.A.C. 19:25-6.7(d), which provide, in pertinent part, as follows:

(b) The word 'furnishing'... shall be construed to prohibit the use of contributions received by a candidate...for the purchase or lease of furniture, equipment or other appointments that are physically situated at an office facility used in connection with the officeholder's official duties as an elected public official. This prohibition shall not be applicable to the purchase or lease of office furniture or equipment situated in the residence of the officeholder and used in conjunction with the officeholder's duties.

(d) The word 'operation'... shall be construed to prohibit the use of contributions received by a candidate...for the payment of any rent, utility or maintenance expense incurred for an office facility used in connection with the officeholder's official duties as an elected public official.


The Commission believes that a television set comes within the plain meanings of both "furniture" and "equipment" as those words are used in the above definitions. As your letter itself suggests, the medium making it possible to observe the broadcasts of the proceedings of the State Legislature, or any of its committees, could be a highly useful tool for the office of a State legislator, and in this sense a part of the office equipment. Further, it seems reasonable to consider the cost of installing the cable connection and the fee for the transmission of the signal as a utility expense.

Nothing expressed in this letter is intended to express any opinion by the Commission on the suitability of the purchase to your ability to carry out your duties as an officeholder. The result is determined not by any consideration of relevance of these items to officeholding duties, but solely on the basis of the statutory prohibition against the use of contribution funds to furnish or operate legislative district offices.

Thank you for your inquiry, and your interest in the Commission.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGY
Legal Director

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