



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

RALPH V. MARTIN
Chair

DAVID LINETT
Vice Chair

PAULA A. FRANZESE
Commissioner

Respond to:
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

JAMES P. WYSE
Counsel

December 18, 1996

Attorney General Peter G. Verniero
CN-080
Trenton, New Jersey 08625-0080

Re: Request for Advisory Opinion, ELEC File No. A.O. Request No. 07-1996

Dear Attorney General Verniero:

On behalf of the Commission, I am referring to your office as a request for an advisory opinion the attached Advisory Opinion Request form received from Alex Archimedes, asking whether or not a group of insurance company officers and employees may establish a continuing political committee in this State without violating the restrictions on political contributions by regulated industries contained in N.J.S.A. 19:34-32 and 19:34-45.

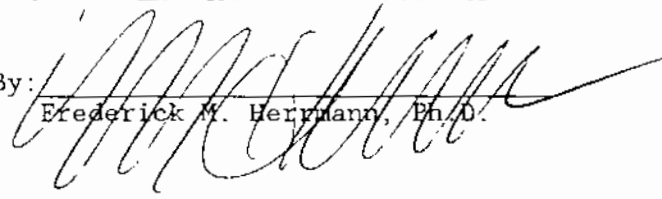
At its December 17, 1996 meeting, the Commission directed its staff to refer this request for advisory opinion consideration by your office since those statutes are not part of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., and therefore beyond the authority of the Commission to consider for advisory opinion action; see N.J.S.A. 19:44A-6f. Assistant Attorney General Mark Fleming has been kind enough to provide his assistance in coordinating this request with your office, and accordingly I am forwarding a copy of this letter to him.

Thank you for your consideration of this request. If I or my staff may be of any assistance in your consideration of this request, please do not hesitate to call upon me or the staff. Of course, the Commission would appreciate being advised of any opinion that is issued by your office.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:


Frederick M. Herrmann, Ph.D.

c. AAG Mark Fleming
Alex Archimedes

enclosure
A00796.ref

ELEC RECEIVED

DEC - 5 1996



ADVISORY OPINION REQUEST

A person, committee or entity subject to, or reasonably believing he, she or it may be subject to, any provision or requirement of the Campaign Reporting Act may request that the Commission provide an advisory opinion pursuant to N.J.S.A. 19:44A-6. Such request must be in writing (please type or print) and must include the following:

1. This request for an Advisory Opinion is being submitted on behalf of:

Full Name of Person, Committee or Entity

Alex Archimedes

Mailing Address

Day Telephone No.

Evening Telephone No.

2. Indicate if the above named person, committee or entity currently files reports with the Commission:

Yes

No

a. If yes, indicate in what capacity it is filing:

Candidate committee

Joint candidates committee

Political committee

Continuing political committee

Political party committee

Legislative leadership committee

Recall committee

Recall defense committee

Lobbyist

Legislative agent

Personal financial disclosure statement

Other (please describe): _____

b. If no, indicate if the above named person, committee or entity has in the past filed reports with the Commission, giving elections (i.e., 1992 general election) or calendar years, and identify filing capacity:

Mr. Archimedes filed quarterly reports as a legislative agent.

c. If reports are or were filed under a different name than that appearing in 1 above, provide that name:

Not applicable.

3. Please provide below a statement of the cognizable question of law arising under the Campaign Reporting Act, including specific citations to pertinent sections of the Campaign Reporting Act and Commission regulations (if known).

See attached.

4. Please provide below a full and complete statement of all pertinent facts and contemplated activities that are the subject of the inquiry. Your statement must affirmatively state that the contemplated activities have not already been undertaken by the person, committee or entity requesting the opinion, and that the person, committee or entity has standing to seek the opinion, that is the opinion will affect the person's or committee's reporting or other requirements under the Act. (Attach additional sheets if necessary).

Statement of Facts:

See attached.

5. Please provide below a statement of the result that the person, committee, or entity seeks, and a statement of the reasoning supporting that result.

The insurance company employees who desire to form the Continuing Political Committee (CPC), seek an Advisory Opinion that under the factual circumstances described herein the CPC will not violate the prohibitions set forth in N.J.S.A. 19:34-32 or N.J.S.A. 19:34-45 regarding contributions by insurers because the CPC will not be supported in any way by insurance company funds.

6. Person who is submitting request on behalf of committee or entity listed in Item 1 above:

Full Name:

Alex Archimedes

Mailing Address:

Day Telephone No.

Evening Telephone No.

Fax Number:

a. Official Capacity of Person Requesting Opinion:

Candidate

Treasurer

Organizational Treasurer

New Jersey Attorney representing requesting person, committee or entity

Other (please describe): A proposed founding member

7. I hereby consent to an extension of the 10-day response period provided in N.J.S.A. 19:44A-6f to a 30-day period for Commission response, which period shall start on the date of Commission receipt of the completed advisory opinion request. (CROSS OUT THIS PARAGRAPH IF CONSENT IS WITHHELD).

8. A request for an advisory opinion will not be considered filed until a fully completed and signed application is received by the Commission.

December 5, 1996

Dated:



Signature



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
RICHARD J. HUGHES JUSTICE COMPLEX
25 MARKET STREET
CN 117
TRENTON, NJ 08625-0117

E-Mail: lichtjos@law.dol.lps.state.nj.us

CHRISTINE TODD WHITMAN
Governor

PETER VERNIERO
Attorney General

JAYNEE LAVECCHIA
*Assistant Attorney General
Director*

(609) 633-9847

March 21, 1997

Frederick M. Herrmann, Ph.D.
Executive Director
Election Law Enforcement Commission
28 West State Street
Trenton, New Jersey 08608

Re: 97-0001: Whether a group of employees from the property and casualty insurance industry may establish a continuing political committee in New Jersey

Dear Executive Director Hermann:

You have asked whether a group of employees from the property and casualty insurance industry may establish a continuing political committee ("CPC") in New Jersey. Your inquiry was prompted by correspondence you received from Mr. Alex Archimedes, a representative of the employee group. For the following reasons, you are advised that the proposal is consistent with the New Jersey election statutes.

Pursuant to the information provided by Mr. Archimedes, the CPC would be formed and administered as follows. The CPC would be comprised of employees from the property and casualty insurance industry. No insurance company would either directly or indirectly make payments or contributions of money or property to the CPC. Rather, all fees and expenses of administration would be borne by funds voluntarily contributed to the CPC. With respect to funding, no solicitations of insurance company employees would be conducted during normal working hours or at their place of business. Instead, solicitations would be mailed to employees' homes by the CPC and all contributions would be voluntary, paid by personal check, with the CPC providing full disclosure regarding the intended use of such funds. The affairs of the CPC would be administered by an administrator not associated either directly or indirectly with any insurance company. The members of the CPC

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would conduct CPC activities away from insurance company premises and outside of normal working hours. However, if any insurance company services or facilities were utilized, the requirements outlined in the Jersey Central Power & Light Company opinion (92-0056) would be followed."

There are two statutory sections in the election law which address the question of an insurance company's involvement in the establishment of a political fund. N.J.S.A. 19:34-32 specifically forbids insurance corporations or associations doing business in this State from making any direct or indirect contributions for any political purpose whatsoever. N.J.S.A. 19:34-45 imposes a similar prohibition and provides in more comprehensive terms that:

No corporation carrying on the business of a[n] ... insurance ... company ... and no corporation, person, trustee or trustees, owning or holding the majority of stock in any such corporation shall pay or contribute money or thing of value in order to aid or promote the nomination or election of any person, or in order to aid or promote the interests, success or defeat of any political party.

However, Attorney General Formal Opinion No. 14-1979 held that the corporations specified at N.J.S.A. 19:34-45 may establish political action committees for their employees if the corporation's funds are not used to establish, administer or solicit contributions for the political fund. The opinion, a copy of which is attached, concludes:

N.J.S.A. 19:34-45 was not intended to prohibit the establishment of a separate political fund contributed to voluntarily by members of a political action committee with knowledge of the intended political use of the fund. It is further concluded, however, that a bank's corporate funds may not be used to establish, administer or solicit contributions for the political fund.

* A copy of this opinion is attached. In Opinion No. 92-0056, we advised you that, provided the company was fully and immediately reimbursed for the costs involved, N.J.S.A. 19:34-45 did not prohibit regulated industries from providing employee political action committees with corporate facilities and services.

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As explained in the above-referenced Attorney General Opinion, N.J.S.A. 19:34-45 prohibits a covered entity from using its funds to establish, administer or solicit contributions for political action committees. It does not, however, preclude employees of these corporations from forming political action committees if they are supported by the employees' voluntary contributions. Pursuant to Mr. Archimedes' proposal, all costs of the CPC would be borne by voluntary contributions and if there were any use of the company's services or facilities, the company would be reimbursed for same.*

Accordingly, the proposal appears consistent with the relevant statutes and with the specific requirements set forth in Attorney General Formal and Advisory Opinions. You are therefore advised that the establishment of a CPC, as described above, is in accordance with New Jersey law.

Sincerely yours,

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY

By: 

Josh Lichtblau
Deputy Attorney General

Enclosure

* The correspondence from Mr. Archimedes does not indicate whether other employee organizations are provided with similar accommodations. It is assumed for the purposes of this opinion that the company provides these services and facilities to other employee groups that request them to the same extent as they may be provided to the CPC. This avoids any appearance of favored treatment which may constitute an intangible benefit not susceptible to reimbursement.