



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

JERRY FITZGERALD ENGLISH
Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)

Website: <http://www.elec.state.nj.us/>

FREDERICK M. HERRMANN, Ph.D.
Executive Director

JEFFREY M. BRINDLE
Deputy Director

NEDDA G. MASSAR
Legal Director

EVELYN FORD
Compliance Director

JAMES P. WYSE
Legal Counsel

June 19, 2007

Ms. Patricia Hero
1009 Wheatsheaf Road
Linden, New Jersey 07036

Advisory Opinion No. 01-2007

Dear Ms. Hero:

The Commission considered your request for an advisory opinion at its meeting today and directed me to issue this response.

Question Presented

You have asked whether or not you may use funds remaining in your 2006 general election campaign depository to pay medical costs arising from an injury you sustained while conducting campaign activity during the 2006 general election, which costs you have charged to your personal credit card.

Commission Response

The Commission advises you that in the unique circumstances of your injury, described below, use of your 2006 general election candidate committee funds to pay \$1,168.80 in medical costs is permissible as a 2006 general election campaign expense pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 *et seq.* (hereafter, the Campaign Reporting Act), and Commission regulations. The Commission further advises you that you are permitted to use candidate committee funds to reimburse yourself for payments you have made to your credit card account from personal funds to pay for the medical expenses related to your injury.

The Commission notes that you filed the Candidate-Sworn Statement (Form A-1) for your 2006 general election candidacy, certifying that your expenditures in that election would not exceed \$3,500.00. You also filed the Single Candidate Committee-Certificate of Organization and Designation of Campaign Treasurer and Depository (Form D-1) to report that you had established a campaign depository for the 2006 general election at Columbus Bank, 701 North Wood Avenue, Linden, New Jersey. In a conversation with you on May 24, 2007, you advised that you have \$1,161.60 in funds remaining in your campaign depository. Because you filed Form A-1, you are not required by the Campaign Reporting Act to report expenditure transactions or the balance in your campaign account unless your expenditures exceed \$3,500.00; see N.J.S.A. 19:44A-16d.

Submitted Facts

You stated in your inquiry that on October 26, 2006, you were walking “door-to-door” in the “300 block of Academy Terrace,” in the First Ward in Linden, to talk with residents “about their concerns and to encourage them to vote for me.” You “tripped on a sidewalk” and fell and sought assistance from a resident who called the police. You were taken by ambulance to Robert Wood Johnson University Hospital – Rahway, where you received three stitches.

You have indicated that you do not have health insurance and do not wish to institute legal action because “it was a freak accident.” As a result of your medical treatment, you incurred two bills related to the accident, one for \$418.80 from Eastern Emergency Physicians and one for \$750.00 from Robert Wood Johnson University Hospital. You charged the two amounts, totaling \$1,168.80, to your personal credit card and have made payments to the credit card account for the medical expenses.

Discussion

The Commission finds that your inquiry raises two questions:

Question One: Does the proposed use of your 2006 general election candidate committee funds to pay costs arising from an injury you sustained while engaged in campaigning activity constitute payment of a “campaign expense,” as that term is defined at N.J.S.A. 19:44A-11.2a and N.J.A.C. 19:25-6.5(b)?

The Commission finds that the use of campaign funds to pay for medical expenses in the unique circumstances you have described is permissible as a “campaign expense,” pursuant to N.J.S.A. 19:44A-11.2a and N.J.A.C. 19:25-6.5(b). The Campaign Reporting Act limits the permissible uses of candidate committee funds to six purposes, the first of which is the “payment of campaign expenses.” N.J.S.A. 19:44A-11.2a(1). The statute defines “campaign expenses” as:

any expense incurred or expenditure made by a candidate, candidate committee . . . from a campaign . . . depository account for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for the “personal use” of the candidate (emphasis added) N.J.S.A. 19:44A-11.2a(6).

N.J.A.C. 19:25-6.5(c) defines the term “personal use” to mean:

any use of contributions to pay or fulfill a commitment, 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. (emphasis added)

The rule includes the following as examples of “personal use”: mortgage, vehicle lease, and tuition payments; payment for dues, fees or gratuities to a country club, fitness club, or other social or fraternal association; and payment of a salary to a candidate by that candidate's candidate committee. See N.J.A.C. 19:25-6.5(c)1-2 and 4-6. N.J.A.C. 19:25-6.5(c)3 further includes the “purchase of clothing, household food, and personal hygiene or health items or services” as a prohibited “personal use” of campaign funds (emphasis added).

The Commission finds that there is a difference between health items or services that “arise or exist irrespective of the candidate's campaign,” which should be treated as items for personal use, and the costs of the emergency medical care you have described. Your expenses arose “in connection with an election campaign” specifically because you were engaged in door-to-door campaign activity. These were not routine, on-going, or elective health care costs that were incurred for reasons unrelated to your 2006 general election campaign. The

Commission therefore concludes that your use of campaign funds to pay your emergency medical care costs, totaling \$1,168.80, for an injury which occurred during campaign activities is a cost “for services used in connection with an election campaign,” pursuant to N.J.S.A. 19:44A-11.2a(6), and is not a personal use of campaign funds for “an obligation . . . that would arise or exist irrespective of the candidate's campaign,” as illustrated in N.J.A.C. 19:25-6.5(c)3.

Commission Advisory Opinion 05-1998 supports this conclusion. In that opinion, the Commission permitted the use of candidate committee funds to pay for \$2,054.89 in damages to a car arising from an automobile accident that occurred while the vehicle, leased by the candidate for the use of a campaign aide, was being used by that aide to travel to a campaign-related event. The damages were not covered by the candidate’s insurance policy. In reaching that result, the Commission found that the costs related to the accident which occurred while the campaign manager was traveling to conduct campaign business were a permissible campaign-related expense. The costs related to your injury were similarly the result of specific campaign-related activity and were not covered by insurance.

You have stated that you do not wish to take legal action to recover the costs related to your injury. The Commission advises you, however, that if you should decide to take legal action to obtain payment of your medical expenses and recover any amount for those expenses, you must at that time reimburse your campaign account up to the amount of any campaign funds that were used to pay the medical expenses.

Question Two: You have asked whether or not you may use your 2006 general election campaign funds to reimburse yourself for payments you have made to your credit card account from your personal funds for the medical costs charged to your personal credit card.

You are hereby advised that it is permissible to use your candidate committee funds to reimburse the charges to your personal credit card for the medical expenses described above. Commission regulations provide instructions for a candidate committee making expenditures to reimburse a person for a charge made to a credit card account; see N.J.A.C. 19:25-12.4. A candidate committee is permitted to make an expenditure from the campaign depository to reimburse a person or entity for a charge made against that person's or entity's credit card account; see N.J.A.C. 19:25-12.4(b). You may therefore use your candidate committee funds to reimburse the payments you have made. Because you filed Form A-1 for your 2006 general election candidacy and are not required to report detailed expenditure information unless your expenditures exceed \$3,500.00, you are not required to report the specific reimbursement expenditure transactions. However, you are instructed to make and maintain detailed records of all transactions related to payment of your medical expenses; see N.J.A.C. 19:25-7.1 and 7.2.

The Commission wishes to thank you for your inquiry.

Very truly yours,

Election Law Enforcement Commission

By: _____
Nedda G. Massar, Esq.