

0-24-77

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N.J. ELECTION
LAW ENFORCEMENT
COMMISSION
July 19, 1977
(609) 291-8700

Ronald D. Eastman, Esq.
General Counsel
Democratic National Comm.
1625 Massachusetts Avenue, NW
Washington, D.C. 20036

Re: The New Jersey Campaign Contributions and Expenditures
Reporting Act, Chapter 83, Laws of 1973 as
Amended and Supplemented ("the Act")
Your Letter dated May 16, 1977
Opinion #(0-24-77)

Dear Mr. Eastman:

Your letter dated May 16, 1977 to the New Jersey Election
Law Enforcement Commission ("the Commission"), including a
request for advisory opinion, has been forwarded to me for
reply.

While there is no direct reference in our Act to national
political party committees, there is recognition throughout
the Act of a category of political party committee (which
includes the state, county and municipal committees of
political parties) as a category distinct from "political
committee" under the Act. It is the view of the Commission
that the activities of a national political party committee
are most nearly related to those of a state political party
committee, and should be subject to the filing obligations
and limitations imposed upon a state political party committee.

With respect to participation in a general election for
the office of Governor in the State of New Jersey on behalf
of a candidate who has chosen to accept public funding,
certain additional restrictions are applicable. In view of
the specific structuring of the public finance provisions of
the Act, no contributions intended for use in aid of the
candidacy of the gubernatorial candidate (allocated contributions
as defined in Section 19:25-15.7(a)(1) of the regulations of
the Commission) could be received by a national political
party committee, and no monies in the hands of a national
political party committee could be forwarded either directly
or through the state political party committee to the Commission
for match.

It is important, because of the public financing provisions of the Act, that the Commission have accurate information respecting all contributors. For this reason, a national political party committee participating in the general election for the office of Governor in the State of New Jersey on behalf of a candidate who has chosen to accept public funding must establish a depository in New Jersey and file the required pre-election and post-election reports, and must in addition provide to the Commission, on the same schedule and in the same detail as is provided by the state political party committee in its submission for match, reports of contributions to the national political party committee and the allocation by the national political party committee of such contributions on behalf of the candidate. Every such allocation will count against the \$600.00 contribution limit of the contributor, and all expenditures shall, like the expenditures of the state political party committee, be subject to the expenditure limitation contained in Section 7 of the Act.

I am enclosing a copy of the public finance regulations of the Commission, and invite your attention particularly to Section 19:25-15.16 of those regulations.

In response to your question numbered 1, the expenses for voter registration drives would not, when carried out by a national political party committee in the circumstances described in your letter, in the absence of evidence that the voter registration drive was a part of the campaign of a specific candidate, be deemed by the Commission as aiding or promoting the nomination, election or defeat of a candidate for public office and would not be deemed by the Commission to be included within the categories of Title 19, Section 44A-4.

The Commission has taken a different view with respect to get-out-the-vote drives. The expenses for a get-out-the-vote drive would, when carried out by a national political party committee in the circumstances set forth in your letter, be construed as aiding or promoting the nomination, election or defeat of such candidate for public office to the extent they are fairly allocable to a designated candidate, and would be deemed by the Commission to be included within the categories of Title 19, Section 44A-4.

In response to your paragraph numbered 2, the Commission would regard the Democratic National Committee as a political party committee. Activities and expenditures fairly attributable to candidates in an election would constitute that political party committee a political committee with respect to that election, with the obligation of filing pre-election and

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post-election reports; except that, with respect to activities on behalf of a candidate in the general election for Governor of New Jersey, the filing requirement would be the same as for the state political party committee, as described above.

With respect to question numbered 3 of your letter, there is no specific requirement that the Democratic National Committee register with the New Jersey Election Law Commission. Its activities with respect to the general election for the office of Governor are as described above. As to other elections, if its activities with respect to one or more candidates were such as to constitute it a political committee on behalf of such candidates, it must provide the Commission with the name of its treasurer and its campaign depository.

With respect to your question numbered 4, the Democratic National Committee may pay all of its expenses for a voter registration or get-out-the-vote drives from its Washington, D.C. accounts, and need not establish a New Jersey bank account; except that, with respect to activities on behalf of a candidate in the general election for the Governor of New Jersey, the filing and depository requirements would be the same as that of the state political party committee, as described above.

With respect to your question numbered 5, (and again subject to the limitations imposed with respect to the general election for the office of Governor), nothing in the Act establishes any requirement that political funds of the kind described in your question be derived from any specific source, except that certain contributions (for example, from banks, insurance companies, public utilities and gambling casino interests) are prohibited under New Jersey law; and nothing in the Act requires the limitation of solicitations to residents of New Jersey.

With respect to question number 6 of your letter, the answer will depend on the treatment of expenses. If the payment of the expenses for get-out-the-vote drives is allocated between the Democratic candidate for Governor and the Democratic National Committee in the same proportions as those drives can fairly be allocated between the candidate for Governor and the other candidates in New Jersey, so that the appropriate share of expenses attributable to the candidate is paid by the campaign committee for the candidate, then no portion of the Democratic National Committee expenses with respect to such drive would be regarded as contributions or expenditures of the Democratic National Committee on behalf of the campaign of the candidate for Governor.

Nothing in this opinion should be construed to permit contributions to a national political party committee for

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the purpose of avoiding either the disclosure or the contribution limitation provisions of the Act, and all of the activities of the national political party committee with respect to the general election for the office of Governor in New Jersey will be deemed by the Commission to be subject, as are the activities of the state political party committee, to the regulations of the Commission, including the provisions of 19:25-15.16.

The statements in this opinion are directed to the general election campaign. There are provisions in the statutes of New Jersey prohibiting or limiting the activity of state, county and municipal political party committees in primary elections. No opinion is expressed with respect to the applicability, if any, of any of those provisions to a national political party committee.

The statements contained in this opinion respecting limitation of the provisions of the Act and the regulation of the Commission to candidates seeking public funding are subject to a final determination by the Court in a case presently pending before the Supreme Court of New Jersey entitled Common Cause v. New Jersey Election Law Enforcement Commission.

Yours very truly,



Edward J. Farrell
Legal Counsel

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