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28 W. STATE STREET, CN-100
TRENTON, NEW JERSEY 08625-0100
(609) 292-6700

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November 15, 1988

Gerald A. Sinclair, Esq.
1435 Brace Road
Cherry Hill, NJ 08034

Advisory Opinion No. 14-1988

Dear Mr. Sinclair:

The Commission has directed me to respond to your letter received October 19, 1988 requesting an advisory opinion. You have asked whether unexpended campaign funds remaining after the demise of the candidate on whose behalf the funds were raised may be spent for the candidate's hospital bills or other personal expenses, or alternatively whether they may be used to establish a scholarship fund in the candidate's name.

In your inquiry, you state that the late Mayor James Perry of the Borough of Somerdale, Camden County, had surplus funds remaining from his 1987 general election candidacy. A quarterly report by a continuing political committee under the name, "Friends of Mayor James Perry," which you signed as treasurer and was filed with the Commission on October 17, 1988 shows a balance of \$4,357.

Commission regulation N.J.A.C. 19:25-7.4 (Use or Disposition of Surplus Campaign Funds) provides in subsection (a) as follows: "Surplus campaign funds shall not be converted to any personal use by the candidate or any other person." Therefore, the "Friends of Mayor James Perry" may not use the funds it controls for the payment of the late mayor's hospital or other personal expense.

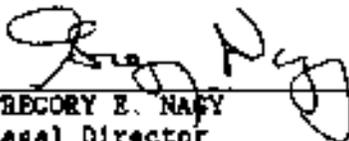
In regard to the establishment of a scholarship fund in the name of the late mayor, the "Friends of Mayor James Perry" entity, if it has in place a decision making mechanism that survived Mayor Perry, may decide to use surplus campaign funds for charitable purposes as set forth in N.J.A.C. 19:25-7.4(b)(5) (copy enclosed). If no such decision making mechanism remains in place, you in your capacity as treasurer may dedicate the funds to a bona fide charitable purpose such as the establishment of a scholarship fund in the mayor's name.

Gerald A. Sinclair, Esq.
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Thank you for your inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:  _____
GREGORY E. NAGY
Legal Director

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Enclosures