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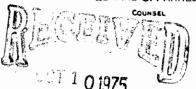
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July 25, 1975

DAVID F. NORCROSS

EXECUTIVE DIRECTOR

EDWARD J. FARRELL



ELECTION LAW ENFORCEMENT

Thomas Elm, Jr.
Councilman
44 Cathy Ann Court
Wayne, New Jersey 07470

LLECTION LAW ENFORCEMENT

Re: The New Jersey Campaign Commissions and Expenditures Reporting Act, Chapter 83, Laws of 1973, as Amended and Supplemented ("the Act") Your Letter Dated July 10, 1975

Opinion #(0-13-75)

Dear Mr. Elm:

Your letter dated July 10, 1975 to the New Jersey Election Law Enforcement Commission ("the Commission"), including a request for advisory opinion, has been forwarded to me for reply.

It is not possible to answer fully the questions contained in your letter. The implication from your letter is that the Mayor, himself, is not presently a candidate for public office, but that the letter from him as the incumbent mayor to his constituency is in fact a campaign effort on behalf of candidates from his party for seats on the council. Whether correspondence from an incumbent mayor to the constituen constituted campaign activity would depend on a number of factors, including the proximity in time to the election, the subject matter of the material, the tone and political content of the material, whether the correspondence is appropriate and customary, and the intent (either as expressed or as gleaned from the circumstances).

In the event that a complaint is filed by you, the Commission could not properly make such a determination without first allowing to the person charged notice of the charge and an opportunity to heard and to present evidence and witnesses. If as a result of such hearing the material was determined to be political, then the expenditures in connection with the material would be required to be reported

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and the expenditures (or a properly allocated portion of those expenditures) would be includable in computing the expenditures limits of the affected candidates.

Expenditures made by you, if any, in connection with a hearing would not be deemed expenditures by you in aid or furtherance of your candidacy. Whether a response of the kind described in paragraph 3 of your letter would be an expenditure on your behalf would have to be determined in light of the factors set forth above.

Yours very truly,

Edward J. Farrell
Legal Counsel