



REC'D 7:10  
 State of New Jersey  
 ELECTION LAW ENFORCEMENT COMMISSION

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January 5, 1981

Henry Ramer, Esquire  
 100 Hamilton Plaza  
 Paterson, New Jersey 07505

Re: The New Jersey Campaign Contributions and  
 Expenditures Reporting Act, Chapter 83, Laws  
 of 1973 as Amended and Supplemented ("the Act")  
 Your letter dated November 20, 1980  
 Opinion #0-47-80

Dear Mr. Ramer:

Your letter dated November 20, 1980, to the New Jersey  
 Election Law Enforcement Commission ("the Commission"), in-  
 cluding a request for advisory opinion, has been forwarded  
 to me for reply.

The responses to your questions have been set up in the  
 same numbering arrangement as the questions.

CASE ONE

A(1). No. This would specifically be excluded by the  
 language of the last five lines of Section 7 of the Act, as  
 well as by the Regulations of the Commission applying that  
 provision to campaign travel expenses generally.

A(2). Yes. The expenditure would be required to be  
 reported by the campaign committee. Expenditures by a campaign  
 committee must be reported whether or not they are Section 7  
 expenditures. See, for example, the treatment of expenditures  
 in the proposed General Election Regulation 19:25-15.27(b).

A(3). Yes. The expenditure would be included as a part  
 of the \$25,000 limit applicable to the candidate himself, even  
 though it would be excluded as a travel expenditure from the  
 general expenditure limitation contained in Section 7 of the  
 Act.

B(1). Yes, for the same reason as set forth in the answer to A(2) above. Expenditures by a committee must be reported whether or not they are excluded by virtue of the travel exemption of Section 7 of the Act.

B(2). No, again for the same reasons as set forth in the answers above.

C(1) and C(2). An in-kind contribution must be reported as a contribution by the contributor and, since it is an in-kind contribution, it must be reported as an expenditure as well. The effect to the campaign is no different than if the contributor had made a cash contribution and that cash had then been used by the committee to pay the travel expense in question. Accordingly, the answer is yes as to C(1) and yes as to C(2).

C(3). No. This is a travel expenditure and would therefore be excluded for all purposes, with the exception of the \$25,000 "own funds" limitation discussed in A(3) above. Since that limitation is not here applicable, the answer is no.

#### CASE TWO

There is no basis in your letter for assuming that the dinner described in your hypothetical case is in connection with travel. If it were in connection with travel, then the same kinds of considerations described above would be involved, and the question would require the same type of analysis. Since we are not concerned with the travel exception, however, then the sole exclusion for dinners would be the exclusion for the reasonable value of food and beverage for a testimonial affair, and that exclusion is not applicable on these facts. The sole test, therefore, would be whether it is campaign activity. If it is campaign activity, then it would be required to be paid from campaign funds and would be an expenditure for all purposes.

If the dinner was related to the fund-raising activity of the campaign, then it would be campaign activity. If it is not, then it is not possible on the limited facts you have set forth to describe the dinner as campaign activity. Accordingly, the answers would be as follows:

A(1). No, in the absence of some fund-raising context or other special facts.

A(2). No, with the same qualification.

A(3). No, with the same qualification.

B(1). Payment for the dinner out of campaign funds would represent a statement by the committee that the dinner constituted an expense of the campaign. Accordingly, the answer to B(1) would be yes, and the answer to B(2) would be yes.

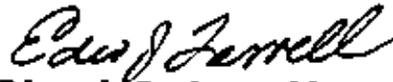
C(1). Based upon the same reasoning, the answer to C(1), in the absence of special circumstances, would be no as to both parts of questions C(1).

With respect to questions D(1) and D(2), the information contained in your letter does not include enough facts to suggest a campaign purpose, unless there is a fund-raising purpose. The fact that a person who had contributed to a campaign paid for the dinner of a candidate and an aide does not, without more, suggest any obvious campaign purpose for the dinner. Accordingly, in the absence of a fund-raising purpose or other special circumstances, the answer to D(1) would be no, and the answer to D(2) would be no.

The difference becomes clear when you consider questions E(1) and (2). Here it is implicit in your statement of the facts that a purpose or effect of the dinner was to encourage the contribution to the campaign committee. It is accordingly part of a fund-raising effort, and the answer to E(1) is yes, as to both parts of the question. The answer to E(2) is no, since, even if paid by the candidate, it would be a campaign expenditure whether or not the cost has been reimbursed by the campaign committee to the candidate.

You should be cautioned that any change in the facts of your letter, (such as the number of people involved in the dinner) might lead to a different result; the injection of any fund-raising element would clearly require the reporting of the kinds of expenditures described above.

Yours very truly,



Edward J. Farrell  
Legal Counsel

EJF:no