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April 15, 1981

E. Neal Zimmermann, Esquire
P. O. Box 6
720 Anderson Avenue
Cliffside Park, New Jersey 07010

Re: The New Jersey Campaign Contributions and
Expenditures Reporting Act, Chapter 83, Laws
of 1973 as Amended and Supplemented ("the Act")
Your letter dated March 30, 1981
Opinion #0-10-81

Dear Mr. Zimmermann:

Your letter dated March 30, 1981 to the New Jersey
Election Law Enforcement Commission ("the Commission"),
including a request for advisory opinion has been for-
warded to me for reply.

With respect to your question No. 1, the exception
for services performed on a voluntary basis is applicable
to the situation of an artist creating or painting a work
of art which is then given to the campaign of the candi-
date. In this case, the report of contribution from the
artist would be the value of the materials contributed,
and, in the case of a painter, would consist of the cost
of paints, canvas, frame, etc., as you suggest. This ex-
ception would, however, be applicable only as to works of
art painted or otherwise created for contribution to the
campaign. The exception would not be extended to cover
the contribution of paintings or other works of art created
at an earlier time and thereafter contributed to the cam-
paign, because in that event, the work of creating the
painting could not reasonably be described as voluntary
activity on behalf of the candidate. In that latter case,
the value of the contribution would be the fair market
value of the painting.


With respect to your question No. 2, the entire amount
paid by a purchaser of the work of art from the campaign

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would be a contribution subject to the contribution limit under the Act. Only so much of that contribution as constituted an amount in excess of the fair market value of the painting at the time of such purchase would be a contribution eligible for match.

With respect to your question No. 3, it is not entirely clear what is meant. The report of the contribution of the artist would be limited to the value of the materials as described in the answer to your question No. 1. It would not be necessary for that purpose to report the fair market value of the painting as an alternate valuation of the in-kind contribution from the artist. It would of course be necessary that the fair market value of the painting at the time of its sale by the campaign be established, and disclosed to the Commission, in some fashion, so as to provide a basis for the claim that an amount in excess of that fair market value is legitimately entitled to be treated as a contribution eligible for match. If you have further questions on this point, please do not hesitate to address them to the Commission.

Yours very truly,



Edward J. Farrell
Legal Counsel

EJF:no