State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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September 17, 1982

Matthew H. Powals, Esq.,
City Solicitor
City Hall of Atlantic City
Room 707, Legal Department
Atlantic City, NJ 08401

Re: Request for Advisory Opinion No. 12-1982

Dear Mr. Powals:

Your letter to the Election Law Enforcement Commission requesting an Advisory Opinion has been considered by the Commission and I have been directed to issue this response. In your capacity as City Solicitor of Atlantic City you have asked whether Michael J. Matthews and James Usry, candidates for the office of Mayor in the City of Atlantic City in the June 15, 1982 runoff election, must file reports with the Commission pursuant to the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.) for contributions they received to defray the expenses of litigation arising out of an election contest brought pursuant to N.J.S.A. 19:29-1 et seq.

The Commission has concluded that it cannot extend an Advisory Opinion to you in your capacity as City Solicitor because you have not demonstrated any legal authority to represent either of the candidates. In accordance with the statutory provisions for the issuence of advisory opinions, parties requesting advisory opinions from the Commission can acquire protection from prosecution by the Commission. N.J.S.A. 19:44A-6(f). The Commission believes that the legislative intent of the Advisory Opinion procedure was that the persons requesting such opinions have such an interest that their conduct would be guided by the opinion or have standing to represent the parties that would be affected by the opinion. The Commission fails to perceive any standing on your part. Further, if the Commission were to issue an Advisory Opinion to you on the question you have submitted, the Commission may be doing so without the benefit of pertinent facts uniquely in the control of the candidates. There would be no assurance on the record that the result would be communicated and therefore binding on the candidates, and there would appear to be no purpose in extending immunity to you in your capacity as City Solicitor.

For all these reasons, the Commission cannot extend an Advssory Opinion on the issue and facts you have submitted.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: Gregory E. Nagy
GREGORY E. NAGY
Staff Counsel

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