



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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November 9, 1982

Michael J. Matthews, Mayor
City Hall of Atlantic City
Room 707
Atlantic City, NJ 08401

ADVISORY OPINION No. 15-1982

Dear Mayor Matthews:

Your letter to the Election Law Enforcement Commission requesting an Advisory Opinion was considered by the Commission at its meetings of October 25 and November 8, 1982, and the Commission has directed me to issue this response.

You have asked whether the reporting provisions of the Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.) are applicable to non-candidate parties in post-election contest litigation brought pursuant to N.J.S.A. 19:29-1 et seq. You have advised the Commission that you were the successful candidate in the June 15, 1982 Runoff Municipal election in the city of Atlantic City. Subsequent to that election, your unsuccessful opponent initiated proceedings in Superior Court of New Jersey to contest the results of the Runoff election. You have advised the Commission that the election contest is currently continuing. By letter dated September 21, 1982, the Commission advised both candidate parties and their treasurers that disclosure of contributions and expenditures related to post-election contest litigation would be required of the candidates. A copy of that letter is enclosed.

In this inquiry, you have brought to the attention of the Commission the fact that non-candidate parties have also initiated proceedings in the Superior Court of New Jersey to contest the results of the Runoff election, and those proceedings have been consolidated with the election contest initiated by your opponent. You have asked whether non-candidates who are parties to the election contest must pursuant to the Reporting Act disclose contributions and expenditures related to that post-election proceeding. Further, you have characterized the non-candidate litigation activities as "... merely facades and a deliberate attempt to circumvent the mandate of the Campaign Contributions and Expenditures Reporting Act."

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The Commission is evenly divided on whether non-candidate parties in a post-election contest must in all cases disclose contributions and expenditures related to the litigation. Consequently, there is not a clear majority view as to whether the mere fact the object of the non-candidate initiated litigation is to contest the election returns in itself establishes a sufficient election campaign interest to support a finding that such non-candidate litigant parties have a filing obligation solely based upon their pursuit of the litigation.

The Commission is unable to anticipate all the conceivable fact circumstances under which such non-candidate parties could be deemed as having a filing obligation. However, if non-candidate litigants were under the control of, or acting in concert with a candidate they would be subject to reporting requirements.

The Commission is unable on the record before it to make any finding of fact that would support or contradict your characterization of the non-candidate litigation activities, and therefore cannot determine whether a filing obligation arises as to the non-candidate plaintiffs in the consolidated litigation. Any information which would support your contention should be forwarded to the Commission so that the record may be amplified accordingly.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

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

GEN:cej

Enclosure

cc: Tort, Jacobs, Gross & Todd