



## State of New Jersey

### ELECTION LAW ENFORCEMENT COMMISSION

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November 15, 1983

Raymond O'Grady, Treasurer  
Friends of Senator John P. "Jack" Gallagher  
13 Morningside Place  
Port Monmouth, New Jersey 07758

#### ADVISORY OPINION NO. 17-1983

Dear Mr. O'Grady:

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. You have asked whether a printed letter circulated to commuters over the name of the New York Keensburg - Long Branch Bus Company, Inc. constitutes a reportable campaign contribution under the Campaign Contribution Expenditures and Reporting Act, N.J.S.A.19:44A-1 et seq. (hereafter, the Act). For the reasons set forth below, the Commission finds that no reporting requirements arise on the facts you have submitted.

You have written that a printed letter was circulated to commuters which expressed its appreciation to Senator John P. "Jack" Gallagher for assistance in obtaining new commuter buses. The printed material appears over the name, "New York Keensburg - Long Branch Bus, Inc. Also, the text of the circular was published in at least two newspaper advertisements. Although you have not made an indication of the dates, the Commission assumes the circular was printed and circulated sometime immediately prior to the 1983 general election.

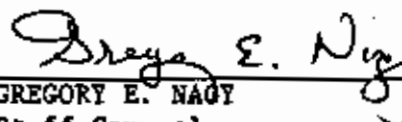
Senator John P. "Jack" Gallagher was a candidate for re-election to the State Senate in the 1983 general election. While your letter does not expressly state how the circular came to the attention of the candidate, or yourself as treasurer, the Commission infers that neither you or anyone else associated with the candidacy of Senator Gallagher had any knowledge of the circular prior to its distribution. If this understanding of the Commission is incorrect, you are hereby requested to accordingly advise the Commission and specifically provide information as to the involvement of any person associated with the candidacy of Senator Gallagher to the circular.

In the absence of any prior consultation or participation by any member of the campaign staff, the Commission believes that Senator

Gallagher does not have any reporting responsibility under the Act arising from the production and distribution of the circular. Further, assuming that no person on behalf of the candidacy had knowledge of or consulted in the newspaper advertisement, those expenditures also were not reportable by Senator Gallagher. The Act requires candidates and their treasurers to report only expenditures paid out of their campaign funds. N.J.S.A. 19:44A-16(a). The Commission recognizes that there are some circumstances under which candidates acquire reporting responsibilities for campaign costs not paid out of the campaign, but paid for by other persons. For example, if the candidate or any one on his behalf had requested that the bus company place the newspaper advertisement, the candidate would be required to report the cost of the advertisements as an "in-kind" contribution to his campaign even if the bus company paid the costs. However, the fact record before the Commission is that the expense of producing the circular and newspaper advertisements were undertaken by the bus company or some other third party without any prior consent of, or in consultation with, or with the cooperation of any person associated with Senator Gallagher's campaign. Therefore, the expenses were undertaken independently of the candidacy, and if any reporting obligation arose it would rest with the independent person or persons who incurred the expenses. See Commission Regulation N.J.A.C. 19:25-12.4 which sets forth the requirement for independent expenditure reporting.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY:   
GREGORY E. NAGY  
Staff Counsel

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