



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

COMMISSIONERS

ANDREW C. AXTELL
CHAIRMAN
ALEXANDER P. WAUGH, JR.
VICE-CHAIRMAN
MAYOR PROCTOR
OWEN V. MC NAMY

NATIONAL STATE BANK BLDG., SUITE 1219
23 W. STATE STREET, CH-100
TRENTON, NEW JERSEY 08602
TELE 292-8700

FREDERICK M. MELBY
EXECUTIVE DIRECTOR

EDWARD J. FARWELL
COUNSEL

February 25, 1987

Casper P. Boehm, Jr., Esquire
17 Main Street
Sayreville, New Jersey 08872

MAR 02 1987

Re: Advisory Opinion No. 02-1987

Dear Mr. Boehm:

Your letter dated January 22, 1987 to the New Jersey Election Law Enforcement Commission ("the Commission") including a request for advisory opinion has been forwarded to me for reply.

N.J.S.A. 19:44A-11 provides in relevant part:

"Any State, county or municipal committee of any political party, after a primary election, but not prior thereto, may receive and expend funds to be spent in furtherance and in aid of the candidacy of all the candidates of such party, or of any one or more of such candidates, in accordance with the provisions of this act."

That section of the statute has not been interpreted by the courts. A section of a statute in a different part of Title 19, which has been considered by the Court, deals with the same subject matter. The section (N.J.S.A. 19:34-52) reads as follows:

"No state, county or municipal committee of any political party shall prior to any primary election indorse the candidacy of any candidate for a party nomination or position."

That statute has been considered by the court in the case of Gillen v. Sheil, 174 N.J. Super. 386 (Law Div., 1980). The Court there determined that use of party funds and organization in aid of a candidate in a primary election was barred by the statute, but that activities of individuals, even those who are members of the county political party committee, which are taken outside the umbrella of

February 25, 1987

the committee structure, are constitutionally protected and are not barred by the statute.

Based upon the Commission's consideration of the question, including review of the opinion of the court as to a statute deemed to be in pari materia, it is the opinion of the Commission that:

(1) The county political committee may not pay for election campaign expenses or receive or expend funds to be spent in furtherance of the candidacy of a candidate in the primary election, and may not, either before or after the election, pay the primary election expenses of such candidate.

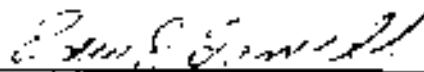
The Commission is satisfied that there is a clear legislative intent to prevent participation by the county political party committee, as such, in the candidacy of candidates in the primary election. That important public purpose could easily be subverted, if a committee, unable to make payment prior to the election, simply delayed making payment until after the date of the election. For this reason the Commission deems it important that the bar to participation by the county political party committee in the primary election extend to participation by such committee after the date of that election.

(2) The bar would extend to contributions to a political committee on behalf of such candidates, such as the organization which you described in paragraph numbered 2 of your letter.

The prohibition does not extend to members of the county political party committee, so long as such persons are acting as individuals, and do not purport to act on behalf of the county political party committee; and, in the case of contributions or expenditures, so long as the funds contributed or expended are personal funds, and not funds of the county political party committee.

Very truly yours,

NEW JERSEY ELECTION LAW
ENFORCEMENT COMMISSION

By 
Edward J. Farrell
Counsel

EJP:no