



State of New Jersey

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May 16, 1989

Joseph F. Carroll  
Freeholder, Camden County  
Court House  
Camden, NJ 08101

Advisory Opinion No. 09-1989

Dear Freeholder Carroll:

The Commission received on April 14, 1989 your letter requesting an advisory opinion and has directed me to issue this response. You have asked whether campaign funds on deposit with a continuing political committee, "Friends of Joe Carroll" can be expended for the purpose of paying you a salary to work on the reelection campaign of a freeholder candidate, and the campaign of a gubernatorial candidate. You have also asked whether you can borrow funds from this continuing political committee under a pay-back schedule.

A continuing political committee such as "Friends of Joe Carroll" may use its funds for the purposes of aiding and promoting candidates in elections. In fact, "The Campaign Contributions and Expenditures Reporting Act," (hereafter, "the Reporting Act"), specifically defines the term "continuing political committee" as an entity that contributes, or expects to contribute, at least \$2,500 in a calendar year to the aid or promotion of a candidacy of an individual, or of a candidacy of several individuals, for elective public office; see N.J.S.A. 19:44A-3(n). There is no prohibition against the continuing political committee contributing funds directly to candidates, or employing any persons to work for the election of candidates. There are, however, reporting consequences of which the continuing political committee should be aware.

First, any expenditure made for the purpose of employing any person, including yourself, to work for a candidate must be reported as a disbursement incurred on behalf of a candidate on Schedule E of Form R-3. Schedule E requires that the expenditure be prorated among all candidates receiving campaign benefits from the making of that expenditure. For example, if you employed a person at \$500 to work equally for two candidates, the expenditure would be prorated at \$250 for each candidate.

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A continuing political committee making expenditures on behalf of a candidate must provide immediate written notice to the candidate of the prorated amount spent on the candidate's behalf; see N.J.S.A. 19:44A-8(b)(2). The purpose of this statutory requirement is to enable the candidate to report receipt of the "in-kind" contribution by the continuing political committee to that candidate's campaign. Therefore, if "Friends of Joe Carroll" pays the salary of any person to work for another candidate, if the amount paid is more than \$100, a candidate who accepted the benefit of the employment of the campaign worker would have to identify "Friends of Joe Carroll" as a contributor; see N.J.S.A. 19:44A-16.

Finally, no continuing political committee or any other contributor can contribute more than \$1,500 to a candidate for Governor; see N.J.S.A. 19:44A-29, as amended by P.L. 1989, c.4. Therefore, the aggregate total value of all direct contributions or "in-kind" contributions made by "Friends of Joe Carroll" to any gubernatorial candidate in the 1989 general election may not exceed a total of \$1,500, unless the contribution is undertaken independently of the gubernatorial candidate; see N.J.A.C. 19:25-16.29 (copy enclosed). In order to avoid any inference of personal use of such funds (as discussed below), any amounts paid to yourself as compensation would have to be reasonable and have to be related to specific campaign activity.

You have further asked whether "Friends of Joe Carroll" can lend you an unspecified amount subject to a pay-back schedule. Commission Regulation N.J.A.C. 19:25-7.2 provides that funds deposited in an organizational account maintained by a continuing political committee may not be converted to any personal use by a candidate or any other person (a copy of the text is enclosed). In view of this restriction, the Commission is unaware of any circumstance that would permit a holder of public office to borrow funds controlled by a continuing political committee for any personal purposes. The fact that the funds will be distributed as a loan rather than an outright gift does not overcome the prohibition against personal use of such funds, which use has no campaign purpose.

The Commission does wish to note its intention to explore at a future date the possibility of establishing specific regulations over candidate use of campaign funds to pay to himself or herself compensation for campaign activity on behalf of the candidate, or on behalf of another candidate. You will be advised if regulations are subsequently proposed.

Thank you for your inquiry, and for your interest in the Commission.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY:   
GREGORY E. NAGY

GEN/cn  
Enclosure

19:25-16.29 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of section 7 of the act (N.J.S.A. 19:44A-7), but all such expenditures shall be subject to all of the reporting and disclosure requirements of the act. Each person or political committee making independent expenditures who is required to file election reports pursuant to N.J.A.C. 19:25-12.5 shall include in the reports required under the act a sworn statement on a form provided by the commission that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) Any advertisement which is an independent expenditure shall include a clear and conspicuous statement that the advertisement is not authorized by any candidate and shall state the name and address of the person or organization making the expenditure.

19:25-7.2 Use of funds; general

Funds so deposited may be used in accordance with the provisions of the act and of these regulations for any lawful purpose. Such funds shall not be converted to any personal use by the candidate or any other person.