



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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June 18, 1992

James C. Morford, President
New Jersey Food Council
30 W. Lafayette Street
Trenton, New Jersey 08608

Re: Advisory Opinion Request No. 07-1992

Dear Mr. Morford:

The Commission has directed me to issue this response to your recent request for an advisory opinion. You have asked the Commission to describe the reporting requirements that would arise in the event the New Jersey Food Council provides small gift bags with sample-sized food products from member companies to the New Jersey delegates attending the national political party nominating conventions to be conducted this summer.

Elections for candidates for political party office are not subject to the provisions of the New Jersey Campaign Contributions and Expenditures Reporting Act (hereafter, the Reporting Act); see N.J.S.A. 19:44A-4(d). Therefore, contributions made to delegates to the national political party conventions, whether appointed or elected, are not subject to disclosure under the Reporting Act. However, the Federal Election Campaign Act, 2 U.S.C.A. 431, et seq., and the regulations promulgated under it, contain provisions governing contributions to and expenditures by delegates to national political party conventions; see specifically 11 C.F.R. 110.14. The Commission has no jurisdiction to offer any opinion concerning the provisions of the Federal Election Campaign Act, or regulations promulgated under it, and therefore suggests that you contact the Federal Election Commission at 999 E Street, N.W., Washington, D.C. 20463, or telephone 1-800-424-9530, for guidance in regard to possible federal reporting requirements.

The Commission notes that the New Jersey Food Council (NJFC) filed an annual report of lobbying activity for calendar year 1991 as a "lobbyist" as that term is defined in the "Legislative Activities Disclosure Act of 1971" (hereafter, the Lobbying Act). Assuming that the NJFC will again meet

the statutory requirements of a "lobbyist" in calendar year 1992, reporting requirements may be generated under the Lobbying Act if any of the delegates receiving benefits provided by the NJFC are public officials covered by the Lobbying Act. Such officials include the Governor, the Governor's staff, members of the Legislature, legislative staff, and officers or staff members of the Executive Branch, as those terms are defined in Commission Regulation N.J.A.C. 19:25-20.2.

You have asked what reporting would be required of NJFC, or its member companies, if the gift bags are distributed. In regard to NJFC, expenditures of a lobbyist providing benefits to officials covered under the Lobbying Act must be reported in its Annual Report in the aggregate by category. Further, if the aggregate expenditures on behalf of any individual covered by the Lobbying Act exceed \$25.00 per day, or exceed \$200.00 for the calendar year, the expenditures together with the name of the intended recipient of the benefit must be reported along with the date and type of each expenditure, the amount of each expenditure and the name of the person on whose behalf it was made; see N.J.A.C. 19:25-20.11(b). The goods provided to such officials must be valued at their reasonable commercial value to the recipient; see N.J.A.C. 19:25-20.12. Finally, in regard to any cost incurred by the NJFC to prepare or distribute these goods, or for personnel time incurred in preparing such goods, expenditures for such purposes must be reported in the aggregate by category; see N.J.A.C. 19:25-20.11(a).

You have also asked whether any member company of the NJFC would incur reporting obligations under the Lobbying Act. The individual member companies that belong to NJFC are each subject to the requirement to file lobbying disclosure reports if any such company is conducting lobbying activity that is not reflected in the report filed on behalf of the NJFC, and if that unreflected activity exceeds the \$2,500.00 calendar year threshold set forth in N.J.S.A. 52:13C-22.1; see response to question number two in Advisory Opinion 12-1990 (copy enclosed). Therefore, in the absence of such circumstances, a member company would not be required to file an annual lobbying report solely on the basis of having contributed products or goods to NJFC. However, since the products are being contributed to NJFC with the express intent that NJFC give them to public officials covered by the Lobbying Act, NJFC must in its Annual Report identify any member who provides products which in the aggregate have a value of more than \$100.00 in a calendar year; see N.J.A.C. 19:25-20.10(a)2.

Although not of direct concern to the NJFC, the Commission notes that candidates for Governor or State Legislature in the 1993 primary and general elections will be required to file with the Commission financial disclosure statements for calendar year 1992; see N.J.S.A. 19:44B-1 et seq., requiring the filing of 1992 calendar year statements before the 1993 primary election. Therefore, if the value of any gift provided by the NJFC during 1992 to such a candidate is more than \$250.00, the source of the gift

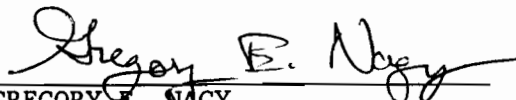
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must be reported by that candidate on the candidate's financial disclosure statement; see N.J.S.A. 19:44B-4.

Thank you for your inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGY
Legal Director

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