



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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December 16, 1992

Gerald B. Green
Assemblyman, 17th District
7-9 Watchung Avenue, Suite 204
Plainfield, New Jersey 07060-1228

Advisory Opinion No. 11-1992

Dear Assemblyman Green:

The Commission has directed me to issue the following response to your request for an advisory opinion. You have asked whether the Friends of Jerry Green, a continuing political committee of which you are chairman, may make a loan from its funds to a charitable organization, the New Jersey Church Institute for Community Development, pursuant to the requirements of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., (hereafter, the Campaign Reporting Act), and the regulations promulgated pursuant to that Act.

You write that you have been requested by a local Middlesex County Church group, the New Jersey Church Institute for Community Development, to make a loan of \$5,000.00, which funds are to be used for starting community housing. The Friends of Jerry Green is a continuing political committee filing quarterly reports (Form R-3) with the Commission. According to its most recent report, as of September 30, 1992 this entity had a balance of \$18,939.47 in its organizational account. You write that the New Jersey Church Institute for Community Development has federal tax-exempt status, and the Commission infers therefore that this organization qualifies under Section 170(c) of the Internal Revenue Code of 1954; see N.J.A.C. 19:25-7.4(b)5 (copy enclosed).^{*} You further state that neither you nor any member of your family have any personal interest in this organization, and the Commission assumes therefore that neither you or your family stand to make any financial gain by virtue of this loan.

^{*} The Commission has no knowledge of whether this entity qualifies under Section 170(c), but for purposes of this opinion is relying on your representations. If in fact the entity is not qualified, this opinion is inapplicable.

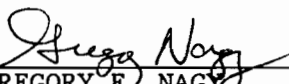
Advisory Opinion No. 02-1989 (copy enclosed) permitting a continuing political committee to purchase an equity consisting of tax-free municipal bonds. However, Commission Regulations N.J.A.C. 19:25-7.2 and 19:25-7.4 prohibit personal use of continuing political committee or candidate funds (copies of the texts of these regulations are enclosed). Therefore, in Advisory Opinion No. 24-1989 (copy enclosed), the Commission declined to approve a proposed loan from a candidate to a corporation of which the candidate was the vice president because of the possibility that the candidate could be perceived to have a personal interest beyond that of an investor making a purely commercial transaction. Similarly, a holder of public elective office was advised by the Commission not to use continuing political committee funds in order to make a personal loan to himself; see Advisory Opinion No. 09-1989 (copy enclosed).

You have written that you and your family have no financial or other interest in the charitable organization to which you propose to make a loan. Further, the Commission understands that the motivation for this loan is not financial, but rather your intention is to provide assistance to a community charitable organization so that it can begin providing housing. Your staff has advised the Commission orally that the community organization anticipates receiving grants from federal or other sources in the near future, and the loan is being made in anticipation of those expected grants. Commission Regulation N.J.A.C. 19:25-7.4(b)5 provides that application of surplus funds for donation to a charitable organization does not constitute prohibited personal use.

The Commission therefore concludes that under the facts that you have submitted the prohibition against personal use of campaign or continuing political committee funds contained in the Commission regulations will not be violated by this loan.

Thank you for your inquiry, and your interest of the work of the Commission.

ELECTION LAW ENFORCEMENT COMMISSION

By: 
GREGORY E. NAGLE
Legal Director

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attachments