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Advisory Opinion No. 08-1993

Dear Mr. Edelstein:

The Commission has directed me to issue the following response to your request for an advisory opinion. You have asked whether the New Jersey Democratic State Committee may file election-cycle reports (i.e., 29-day preelection report, 11-day preelection report, etc.) for a depository account established solely to make expenditures for the 1993 general election. For the reasons stated below, kindly be advised that the Democratic State Committee (hereafter, DSC) may not file election-cycle reports, but must file reports for all its depository accounts on a calendar year quarterly basis.

You write that the DSC established a special depository account in the spring of 1993 for the sole purpose of raising contributions and making expenditures associated with 1993 general election candidacies. The account has been designated by the DSC as "Campaign '93."

The Campaign Contributions and Expenditures Reporting Act, as amended by the Laws of 1993, c. 65, section 3(c), provides as follows:

"Each political party committee... shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question." P.L. 1993, c.65, section 3(c), amending N.J.S.A. 19:44A-8.

The text of this statute appears unambiguous. A State political party committee must file all of its contribution and expenditure information on a quarterly reporting schedule whether or not it is making expenditures to further the election or defeat of candidates in any election.

The Reporting Act establishes two separate reporting schedules for reporting entities. The campaign activities of candidates and political committees are directed at a specific election, and accordingly they are required to file on an election-cycle basis; see N.J.S.A. 19:44A-16 and 19:44A-8(a). However, political party committees or continuing political committees conduct activities that normally continue beyond any single election cycle and therefore are required to file on a calendar year quarterly basis; see N.J.S.A. 19:44A-8, as amended by P.L. 1993, c. 65, section 3. The Commission believes that this statutory distinction must be strictly observed.

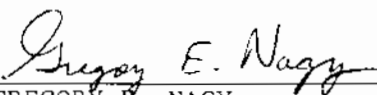
The Commission notes that according to your letter, the Campaign '93 account was established by the DSC in the spring of this year. If this account were opened prior to July 1st, contributions received into it and expenditures made from it during the period from April 1, 1993 through June 30, 1993 should have been reported on a quarterly report filed on July 15, 1993. If reports for Campaign '93 were permitted to be filed on an election-cycle basis, the information relevant to the above-cited time period would not be filed until the 29-day preelection report deadline for the 1993 general election, that is October 4, 1993, a date that is more than two months later.

The Commission also notes that the 1993 statutory amendments to the Reporting Act established annual, not election-cycle, contribution limits for State political party committees; see P.L. 1993, c. 65, section 19. Since quarterly reports must reflect the cumulative annual contributions from a contributing source, the total amount of contributions given during the course of a calendar year by a contributor is disclosed in each quarterly report. As a result, compliance with the annual contribution limits is readily observable by any person examining the State political party committee's quarterly reports. Therefore, in the opinion of the Commission, permitting a State political party committee to conduct additional campaign activity in depository accounts not subject to cumulative quarterly reporting unnecessarily confuses and possibly jeopardizes compliance with annual contribution limits.

Thank you for your inquiry.

Very truly yours,

Election Law Enforcement Commission

BY: 
GREGORY E. NAGY
Legal Director