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January 19, 1994

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Advisory Opinion No. 13-1993

Dear Mr. Gross:

The Commission has directed me to issue the following response to your recent request for an advisory opinion. You have asked whether the New Jersey Republican State Committee (hereafter, RSC) "may pay certain expenses of the Governor-elect during the transition period and thereafter as Governor of the State of New Jersey." You have further specified that these expenses will include written and electronic media communications; and travel, food, and lodging expenses associated with attendance by the Governor-elect or Governor at Republican party events.

For the reasons expressed below, the Commission holds that expenses of the Governor-elect and Governor of the kinds you have described may be paid for by the RSC as long as the Governor is not a candidate for elected office in New Jersey, or is not "testing the waters" or assessing a candidacy for New Jersey elected office.

In holding that the RSC may pay certain expenses of the Governor-elect and Governor, the Commission recognizes that many activities of a Governor-elect or Governor are performed in the capacity of leader of the state political party committee, and not either as a candidate or as the head of the Executive Branch of New Jersey government.

Your request specifically asks whether the RSC may pay for written and electronic media communications of the Governor-elect during the transition period and thereafter as Governor. The Commission assumes that your inquiry concerns communications in writing and communications in which the Governor-elect or Governor circulates in the capacity of Republican party leader or advocate.

As you have noted in your request for an Advisory Opinion, the Commission found in Advisory Opinion 12-1983 that participation of a Governor in television advertisements for legislative candidates in a non-gubernatorial election year was "in furtherance of his responsibilities as a leader of the Republican party in New Jersey." The Commission also acknowledged that the television advertisements in which the Governor appeared and which were paid for by the RSC were part of the "institutional function" of the State political party committee to promote Republican candidates in a legislative election year when the Governor was not a candidate.

In holding in Advisory Opinion No. 12-1983 that the 1983 RSC media campaign was a reportable RSC expenditure and would not be considered an expenditure subject to "testing the waters" reporting requirements for a potential 1985 gubernatorial candidacy by Governor Kean, the Commission concluded that "when the timing, context and other circumstances of the expenditure can be reasonably said to have been made on behalf of a candidate or as part of an assessment of a potential candidacy," a communication expenditure by the RSC must be considered to be on behalf of a gubernatorial candidacy or potential candidacy.

The Commission therefore holds that expenditures for written or media communications featuring the Governor-elect or Governor are permissible State political party committee expenditures if the communications expenditures are made by the RSC at a time when the Governor is not a candidate for or is not assessing a future candidacy for New Jersey elected public office.

You have also specifically asked whether RSC funds may be used to pay travel, food, and lodging expenses in connection with attendance by the Governor-elect or Governor at Republican events. The Commission addressed a related question in Advisory Opinion 08-1992 (copy enclosed). In concluding that funds of a continuing political committee could be used to pay travel and lodging expenses of delegates to the August, 1992 Republican National Convention, the Commission recognized that "attendance of delegates at a national political party convention can be an important activity of State... party organizations that furthers the interest of all State candidates of that political party."

The Commission observes that similar interests compel attendance at party events by the Governor-elect and Governor, and recognizes that attendance at party events is an integral part of the role of the Governor-elect or Governor as party leader. The Commission is of the opinion that as long as a Governor is not conducting "testing" activity for a future candidacy, or is not a candidate, no provision of the Act would prohibit payment by the RSC of the costs of the Governor-elect's or Governor's travel, food, and lodging reasonably necessary to attend Republican events.

The Commission notes that as a "political party committee" the RSC is required to file quarterly reports of its financial activity pursuant to N.J.S.A. 19:44A-8, as amended by P.L. 1993, c.65. Therefore all RSC expenditures for communications and travel, food and lodging are subject to all of the recordkeeping and reporting requirements of the Act.

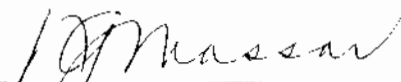
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This response is not intended to render an opinion concerning the permissibility or reporting of RSC expenditures for written and electronic media communications, and travel, food, and lodging at a time when the Governor is either assessing a future candidacy or is a candidate for New Jersey elected public office. Because expenditures at those times raise potential questions concerning application of the contribution and expenditure limit provisions of the Act, the Commission invites your inquiry at a later date.

The Commission thanks you for your inquiry.

Very truly yours,

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

BY:   
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NGM/bc/jah

enclosure