



State of New Jersey  
**ELECTION LAW ENFORCEMENT COMMISSION**

RALPH V. MARTIN  
Chair

DAVID LINETT  
Vice Chair

PAULA A. FRANZESE  
Commissioner

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Commissioner

Respond to:  
P.O. Box 185  
Trenton, New Jersey 08625-0185

(609) 292-8700

Website: <http://www.state.nj.us/lps/elec/>

FREDERICK M. HERRMANN, Ph.D.  
Executive Director

JEFFREY M. BRINDLE  
Deputy Director

GREGORY E. NAGY  
Legal Director

JAMES P. WYSE  
Counsel

October 20, 1999

Jordan Lieberman, Campaign Manager  
Election Fund of E. Martin Davidoff  
P. O. Box 555  
Dayton, New Jersey 08810

**Advisory Opinion No. 04-1999**

Dear Mr. Lieberman:

The Commission has considered your request for an advisory opinion submitted on behalf of the Election Fund of E. Martin Davidoff and has directed me to issue the following response. You have asked whether or not the candidate committee can accept a contribution from an estate.

**Submitted Facts**

E. Martin Davidoff is a candidate for the General Assembly in the 18<sup>th</sup> Legislative District (part of Middlesex County) in the 1999 general election. You write that the executor of an estate has asked if the estate may make a contribution to the candidate's committee, and you state that each of the beneficiaries has given "verbal consent" to the proposed contribution, which will not exceed \$1,800. Although not specifically included in the written request, you have amplified the facts in your request by advising the Commission staff by telephone that the contribution is from the estate of the candidate's mother, and that although there is a will it does not contain a specific bequest for the contribution. You have further advised the Commission staff that it is the executor of the estate, the candidate's brother, who has indicated he wishes to make the contribution to the candidate from his mother's estate, and none of the beneficiaries has any objection.

**Question Presented**

Is a candidate committee permitted under the provisions of the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Reporting Act) to receive a contribution from the estate of a decedent and attribute it for contribution limit purposes to that decedent?

### Commission Response

The Commission hereby advises that a candidate committee may receive a contribution from the executor of an estate admitted into probate provided that the contribution is supported by a written statement from the executor that the will of the decedent contains a specific bequest authorizing the contribution. In such case, the contribution must be treated by the candidate committee as a contribution from the decedent as an individual subject to the limit (\$1,800.00 per election) on a contribution from an individual contained in N.J.S.A. 19:44A-11.3 and N.J.A.C. 19:25-11.2. In the event that there is no specific bequest for the contribution in the will, the contribution cannot be received by the candidate committee as a contribution from the decedent and must be returned to the executor.

The executor of a probated estate is viewed under probate law as the personal representative of the decedent, see N.J.S.A. 3B:1-2, defining the term "personal representative" to include executors. The Reporting Act establishes contribution limits for various categories of contributors, such as an individual, corporation, or labor organization, but does not specifically list the estate of a decedent as a contributor category, see N.J.S.A. 19:44A-11.3. Nevertheless, there does not appear to be any public policy reason to prohibit an individual who so chooses from bequeathing money to a candidate through the estate of that individual. Therefore, if the estate is admitted to probate, and further if the will of the decedent provides a bequest to a candidate, the contribution may be received as if received from an individual. However, in the absence of a specific bequest for the contribution, there is no satisfactory proof of the decedent's intent to make a contribution to the candidate, and the contribution therefore may not be received.

You have stated that none of the estate's beneficiaries object to the making of the contribution from the estate. However, the absence of any objection by the beneficiaries of the estate to the making of the contribution demonstrates only a willingness on the part of the beneficiaries to contribute to that candidate, but not proof of an intent to make a contribution on the part of the decedent.

Please note that any contribution made to the candidate committee by the decedent prior to that individual's demise must also be included in calculating compliance with the contribution limit applicable to the decedent.

Thank you for your request, and your interest in compliance with the requirements of the Reporting Act. Please do not hesitate to contact me if you have any questions.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:   
GREGORY E. NAGY  
Legal Director



*State of New Jersey*

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Deputy Director

GREGORY E. NAGY  
Legal Director

JAMES P. WYSE  
Counsel

October 8, 1999

Jordan Lieberman, Campaign Manager  
Election Fund of E. Martin Davidoff  
P. O. Box 555  
Dayton, New Jersey 08810

Re: Advisory Opinion Request No. 04-1999

Dear Mr. Lieberman:

Your request for an advisory opinion from the Election Law Enforcement Commission was received on October 8, 1999, and has been scheduled for consideration at the Commission meeting on October 20, 1999. The meeting will begin at 10:00 a.m. at the offices of the Commission, 28 West State Street, Trenton.

Please do not hesitate to contact me if you have any questions about the advisory opinion process.

Very truly yours,

GREGORY E. NAGY  
Legal Director

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Advisory Opinion Request No. 04-1999



**ADVISORY OPINION REQUEST**

A person, committee or entity subject to, or reasonably believing he, she or it may be subject to, any provision or requirement of the Campaign Reporting Act may request that the Commission provide an advisory opinion pursuant to N.J.S.A. 19:44A-6. Such request must be in writing (please type or print) and must include the following:

1. This request for an Advisory Opinion is being submitted on behalf of:

Full Name of Person, Committee or Entity  
Election Fund of E. Martin Davidoff

Mailing Address  
P.O. Box 555

Day Telephone No.  
732 274 1600

Dayton, New Jersey 08810

Evening Telephone No.  
732 274 1600

2. Indicate if the above named person, committee or entity currently files reports with the Commission:

Yes  No

a. If yes, indicate in what capacity it is filing:

- |                                  |                                     |   |                          |
|----------------------------------|-------------------------------------|---|--------------------------|
| Candidate committee              | <input checked="" type="checkbox"/> | Recall committee                        | <input type="checkbox"/> |
| Joint candidates committee       | <input type="checkbox"/>            | Recall defense committee                | <input type="checkbox"/> |
| Political committee              | <input type="checkbox"/>            | Lobbyist                                | <input type="checkbox"/> |
| Continuing political committee   | <input type="checkbox"/>            | Legislative agent                       | <input type="checkbox"/> |
| Political party committee        | <input type="checkbox"/>            | Personal financial disclosure statement | <input type="checkbox"/> |
| Legislative leadership committee | <input type="checkbox"/>            | Other (please describe): _____          | <input type="checkbox"/> |

b. If no, indicate if the above named person, committee or entity has in the past filed reports with the Commission, giving elections (i.e., 1992 general election) or calendar years, and identify filing capacity:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. If reports are or were filed under a different name than that appearing in 1 above, provide that name:

\_\_\_\_\_  
\_\_\_\_\_

3. Please provide below a statement of the cognizable question of law arising under the Campaign Reporting Act, including specific citations to pertinent sections of the Campaign Reporting Act and Commission regulations (if known).

Can an estate contribute to my campaign?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A.O. Request No. 04-1999

4. Please provide below a full and complete statement of all pertinent facts and contemplated activities that are the subject of the inquiry. Your statement must affirmatively state that the contemplated activities have not already been undertaken by the person, committee or entity requesting the opinion, and that the person, committee or entity has standing to seek the opinion, that is the opinion will affect the person's or committee's reporting or other requirements under the Act. (Attach additional sheets if necessary).

Statement of Facts:

The Executor of an estate has asked if the estate can contribute to my campaign. Each of the beneficiaries of the estate has provided verbal consent to the contribution. It will not exceed \$1,800.

I the executor

A.O. Request No. 04-1999

5. Please provide below a statement of the result that the person, committee, or entity seeks, and a statement of the reasoning supporting that result.

May the estate make a contribution to my campaign?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Person who is submitting request on behalf of committee or entity listed in Item 1 above:

Full Name: Jordan Lieberman

Mailing Address: P.O. Box 555

Dayton, NJ 08810

Day Telephone No. 732 274 1600

Evening Telephone No. 732 274 1600

Fax Number: 732 274 1666

a. Official Capacity of Person Requesting Opinion:

- Candidate
- Treasurer
- Organizational Treasurer
- New Jersey Attorney representing requesting person, committee or entity
- Other (please describe): Campaign Manager

7. I hereby consent to an extension of the 10-day response period provided in N.J.S.A. 19:44A-6f to a 30-day period for Commission response, which period shall start on the date of Commission receipt of the completed advisory opinion request. (CROSS OUT THIS PARAGRAPH IF CONSENT IS WITHHELD). NEED ASAP.

8. A request for an advisory opinion will not be considered filed until a fully completed and signed application is received by the Commission.

10/8/99

Dated:

Jordan Lieberman  
Signature