October 18, 2001

James Bopp, Jr., Esq.
Bopp, Coleson & Bostrom
1 South 6th Street
Terre Haute, Indiana 47807-3510

Advisory Opinion No. 11-2001

Dear Mr. Bopp:

Your request for an advisory opinion on behalf of the New Jersey Committee for Life concerning contemplated issue advocacy communications by that organization was considered by the Commission at its meeting of October 18, 2001, and the Commission has directed me to issue the following response pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Reporting Act). Because the facts and issues presented in your request are similar to those addressed in Advisory Opinion 10-2001, issued on October 4, 2001 to you on behalf of the National Right to Life Committee, Inc. (hereafter, NRLC), that opinion is incorporated by reference in this response and a copy is attached.

Submitted Facts

In your letter to the Commission dated October 5, 2001, and received by the Commission on October 10, 2001, you submitted an amplified fact record on behalf of the New Jersey Committee for Life (hereafter, NJCL), and your letter is hereby incorporated in this request. In Advisory Opinion 10-2001, at page 2, the Commission declined to issue an opinion to NJCL because NJCL’s fact record represented that NJCL did not file reports with the Commission, but Commission records indicated that an entity under the name “New Jersey Committee for Life, Inc., Political Action Committee,” at the same address as that given for NJCL, was filing reports as a continuing political committee. NJCL in this request is renewing its request for an opinion pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Reporting Act), concerning
contemplated issue advocacy communications NJCL anticipates making prior to the November 6, 2001
general election in this State.

In your letter, you represent that NJCL and the New Jersey Committee for Life Political Action
Committee (hereafter, NJCLPAC) are “separate, but related” organizations. You write that both
organizations share the same physical address, but are “separate legal entities.” Specifically, NJCLPAC
maintains a separate organizational depository (as required by N.J.A.C. 19:25-4.5(a)) and does not
commingle its funds with NJCL’s funds. Solicitations made by NJCLPAC are deposited in NJCLPAC’s
organizational depository, and the contemplated “issue advocacy expenditures for communications” by
NJCL would not be made from an account owned or controlled by NJCLPAC and would not be made
from funds solicited by NJCLPAC. You conclude: “Consequently, NJCL is a separate entity from
NJCLPAC and its ensuing issue advocacy communications and expenditures are not related to
NJCLPAC.”

In all other respects, the facts submitted are identical to those submitted by NJCL in Advisory
Opinion 10-2001 (attached), and therefore are not repeated here. The questions presented are also
identical to those in Advisory Opinion 10-2001, except that one additional question has been presented
and is addressed below.

Question Presented

Do issue advocacy expenditures undertaken by NJCL generate reporting or other requirements
for NJCL pursuant to the Reporting Act?

Commission Response

The Commission finds that the amplified fact record clarifies the issues raised in Advisory
Opinion 10-2001, and accordingly NJCL can be treated for purposes of this opinion as a separate
organization entitled to make expenditures for issue advocacy communications as set forth in Advisory
Opinion 10-2001 without coming under the requirements of the Reporting Act. Critical to this
determination is the fact record submitted by NJCL to the effect that the funds of NJCL and NJCLPAC
are not commingled, and that funds solicited by NJCLPAC will not be used for the contemplated issue
advocacy expenditures. As was discussed in Advisory Opinion 10-2001, an organization that makes
issue advocacy expenditures is not subject to the Reporting Act solely because of that activity. That
result applies in this opinion also because of the separate funding of NJCL and NJCLPAC.

In addition to the questions submitted in Advisory Opinion 10-2001, NJCL has asked in this
request whether or not issue advocacy communication expenditures are considered “political
communications” within the meaning of N.J.A.C. 19:25-10.11(c), and subject therefore to the reporting
at N.J.A.C. 19:25-12, reporting of Expenditures; Independent Expenditures.

N.J.A.C. 19:25-10.11(c) provides as follows:

(c) Any political communication not prepared, made or circulated with the consent
or cooperation of a candidate and incurred or paid for by any other person or entity
shall be reported in accordance with N.J.A.C. 19:25-12.

As noted in Advisory Opinion 10-2001, the standards for a “political communication” are set
forth in subsections (a) and (b) of N.J.A.C. 19:25-10.10, see pages 3-4 of that opinion. Since an issue
advocacy communication that is not coordinated with a candidate cannot fall within the scope of either
subsection (a) or (b) of the political communication rule at N.J.A.C. 19:25-10.10, it follows also that an
issue advocacy communication cannot be construed as a political communication under subsection (c) of N.J.A.C. 19:25-10.11.

Accordingly, the Commission finds that NJCL is entitled to the same holding expressed to the National Right to Life Committee in Advisory Opinion 10-2001, with the addition of the paragraph above regarding subsection (c) of N.J.A.C. 19:25-10.11.

Thank you for submitting this request, and for your interest in the work of the Commission.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: ____________________________

GREGORY E. NAGY
Legal Director