



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

JERRY FITZGERALD ENGLISH
Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

THEODORE Z. DAVIS
Commissioner

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

(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)

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

FREDERICK M. HERRMANN, Ph.D.
Executive Director

JEFFREY M. BRINDLE
Deputy Director

NEDDA G. MASSAR
Legal Director

EVELYN FORD
Compliance Director

JAMES P. WYSE
Counsel

August 26, 2005

BY FAX & FIRST CLASS MAIL

Assemblyman Louis Greenwald
900 Whitehorse Pike
Oaklyn, New Jersey 08107

Assemblyman Samuel Thompson
5 Lincroft Avenue
Old Bridge, New Jersey 08857

Advisory Opinion No. 03-2005

Dear Assemblymen Greenwald and Thompson:

The Commission has considered your requests for an advisory opinion and directed me to issue this response. You are candidates for the State Assembly in the Sixth and Thirteenth Legislative Districts, respectively, which have been selected as the 2005 general election districts to participate in the New Jersey Fair and Clean Elections Pilot Project, pursuant to P.L.2004, c.121 (hereafter, the Act). Pursuant to the Act and recently-adopted Commission regulations, you have each filed a New Jersey Fair and Clean Elections Pilot Project Declaration of Intent (Form CE-1) to indicate that you are seeking to become certified as Clean Elections candidates in the 2005 general election.

Question Presented

You have asked whether or not, in light of the requirement in the Clean Elections Pilot Project that qualifying contributions be received by means of either a check or money order, you may use a "check card process associated with one's checking account" to accept \$5.00 and \$30.00 Clean Elections qualifying contributions.

Commission Response

The Commission advises you that it is permissible to use a "check card process" associated with a contributor's checking account, under the conditions set forth below, as a means of accepting

qualifying contributions in the 2005 Clean Elections Pilot Project. The Commission further advises you that application of this response is specifically limited to the 2005 Clean Elections Pilot Project because of the unique requirements of the program.

The Clean Elections Pilot Project

A major innovation in the ethics reform legislation enacted by the Legislature in 2004 was the New Jersey Fair and Clean Elections Pilot Project. Pursuant to the provisions of the Act, your Legislative Districts, the Sixth and Thirteenth, were selected by the chairpersons of the New Jersey Democratic and Republican State Committee as the Pilot Project districts.

To be certified as a Clean Elections Assembly candidate in the 2005 general election Pilot Project, you must, during the qualifying period (which ends at 4:00 P.M. on September 7, 2005), collect 1,500 qualifying contributions. Pursuant to P.L.2004, c.121, §3 and N.J.A.C. 19:25-23.1, qualifying contributions are contributions, totaling \$20,000, from 1,500 individuals who are registered voters in the candidate's legislative district. The 1,500 contributions are comprised of at least 1,000 contributions of \$5.00 and at least 500 contributions of \$30.00 "in the form of a check or money order" payable to the [Clean Elections] fund [established by the Department of Treasury]." (Emphasis added.)

Once certified as a Clean Elections candidate by the Commission, a candidate will receive an initial grant of public funds to conduct his or her 2005 general election campaign (\$65,100.00 in District 6 and \$59,175.00 in District 13) and may be eligible to receive additional funds under certain circumstances; see P.L.2004, c.121, §10 and §11, and N.J.A.C. 19:25-23.9 and 19:25-23.16 through 23.19.

Discussion

You have asked the Commission to determine whether or not the use of a "check card process," associated with a contributor's checking account, comports with the statutory and regulatory requirement that a Clean Elections qualifying contribution be received in the "in the form of a check or money order." The Commission concludes that the "check card process" tied to a contributor's checking account serves as the functional equivalent of a check and that it is permissible to accept a Clean Elections qualifying contribution made using a "check card" and the related checking account that are owned by the individual contributor who is making the contribution. A "check," as defined in Black's Law Dictionary (Eighth Edition), is "drawn on a bank, [and] payable on demand" The Commission believes that a "check card process" tied to an individual's checking account also possesses these characteristics and therefore functions in a manner that closely approximates a banking transaction by means of a paper check.

To ensure that the contribution reporting and recordkeeping requirements of the Act are met, the Commission advises you that the following requirements, similar to those in N.J.A.C. 19:25-10.16 for non-Clean Elections candidates, are applicable to Clean Elections contributions received by means of a "check card process":

1. The date of receipt of a "check card" contribution is the date on which the account owner authorizes the contribution;

2. The amount of the “check card” contribution is the total amount that the account owner authorizes;
3. The account used to make the “check card” contribution must be owned by the individual contributor making the contribution; and,
4. For each “check card” contribution, a written receipt shall be made and maintained, pursuant to N.J.A.C. 19:25-23.5, and the recordkeeping requirements of N.J.A.C. 19:25-23.6 shall be observed.

Thank you for submitting your requests and for your interest in the work of the Commission.

Very truly yours,

ELECTION LAW ENFORCEMENT
COMMISSION

By: _____
NEDDA G. MASSAR, ESQ.

ASSEMBLYMAN
Lou GREENWALD & 
Pam ROSEN LAMPITT
 FOR ASSEMBLY

**RECEIVED
 VIA FAX**

Via Fax: 609-777-1457

August 23, 2005

N. J. ELECTION
 LAW ENFORCEMENT
 COMMISSION

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Dr. Frederick M. Herrmann
 Executive Director
 New Jersey Election Law Enforcement Commission
 P.O. Box 185, Trenton, NJ 08625-0185

Dear Dr. Herrmann:

We are writing to ask for an immediate advisory opinion concerning the clean elections law (P.L. 2004, Ch. 121) and the regulations (19:25-23.1 et seq) promulgated therefrom.

Each of us is a "participating candidate" seeking "certification" as a New Jersey Fair and Clean Elections candidate under this law's Pilot Project for the 2005 general election.

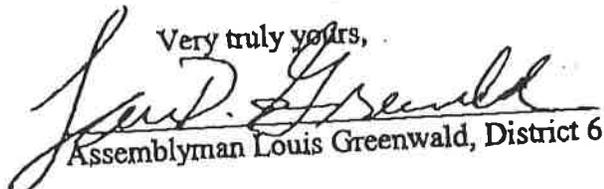
The language of the law states that qualifying contributions shall be given "in the form of a check or money order payable to the fund in support of a participating candidate".

We ask you whether that language would allow for individual contributions through the check card process associated with one's checking account.

Clearly, allowing these contributions would be consistent with the spirit of the law -- to ensure that contributions come from specific donors who live in the district, and actively are choosing to contribute -- as well as the letter of the law so long as contributions are check-account related. These contributions, moreover, will enable the full and proper reporting of all other contributor identifying requirements as required under the law.

Furthermore, we believe that such a change would help the Clean Elections Pilot Program succeed -- a goal Republicans, Democrats, the New Jersey Citizens Clean Election Commission and ELEC are working toward.

Very truly yours,


 Assemblyman Louis Greenwald, District 6

 Assemblyman Samuel Thompson, Dist. 13

Paid for by Clean Candidates Lou Greenwald and Pam Rosen Lampitt for Assembly
 900 White Horse Pike, Oaklyn, NJ 08107
 Phone: 856-858-3667 Fax: 856-858-3660
 www.districtsixdems.com



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

Louis Greenwald

Mailing Address

10 Foster Avenue, Suite B3 900Whickhorse Pike
Gibbstown, NJ 08026 Oaklyn, NJ 08107

*Day Telephone No. 856 783 0444

858-3667

*Evening Telephone No. 856 719 9059

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

Joint candidates committee

Political committee

Continuing political committee

Political party committee

Legislative leadership committee

Recall committee

Recall defense committee

Lobbyist

Legislative agent

Personal financial disclosure statement

Other (please describe):

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:

Clean EFO Law Greenwald for Assembly

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).

See attached letter to

Dr. Frederick Herrmann

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N.J. ELECTION LAW ENFORCEMENT COMMISSION

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RECEIVED

3. 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:

Please see paragraphs 2 and 3 in the attached letter.

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.

Please see paragraphs 4,5 and 6 in attached letter.

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

Full Name: Louis Greenwald

Mailing Address: Same as above

*Day Telephone No. Same as above

*Evening Telephone No. Same as above

Fax Number: 856-858-3067

7. Official Capacity of Person Requesting Opinion:

Candidate

Treasurer

Organizational Treasurer

New Jersey Attorney representing requesting person, committee or entity

Other (please describe):

~~7. I hereby consent to an extension of the 10-day response period provided by N.J.S.A. 19:44A-6f to a 30-day period for Commission response, which period shall begin on the date of Commission receipt of the completed advisory opinion request. **DELETE THIS PARAGRAPH IF CONSENT IS WITHHELD.**~~

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

Aug. 23, 2005
Dated:

Louis P. Greenwald
Signature

Sam Thompson for Assembly

5 Lincroft Ave. Old Bridge, NJ 08857

August 23, 2005

Dr. Frederick M. Herrmann
Executive Director
New Jersey Election Law Enforcement Commission
P.O. Box 185, Trenton, NJ 08625-0185

Dear Dr. Herrmann:

I am writing to ask for an immediate advisory opinion concerning the clean elections law (P.L. 2004, Ch. 121) and the regulations (19:25-23.1 et seq) promulgated therefrom.

I am a "participating candidate" seeking "certification" as a New Jersey Fair and Clean Elections candidate under this law's Pilot Project for the 2005 general election.

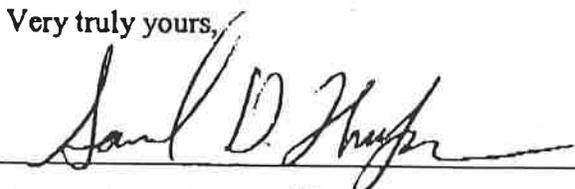
The language of the law states that qualifying contributions shall be given "in the form of a check or money order payable to the fund in support of a participating candidate".

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Clearly, allowing these contributions would be consistent with the spirit of the law -- to ensure that contributions come from specific donors who live in the district, and actively are choosing to contribute -- as well as the letter of the law so long as contributions are check-account related. These contributions, moreover, will enable the full and proper reporting of all other contributor identifying requirements as required under the law.

Furthermore, we believe that such a change would help the Clean Elections Pilot Program succeed -- a goal Republicans, Democrats, the New Jersey Citizens Clean Election Commission and BLEC are working toward.

Very truly yours,



Assemblyman Samuel Thompson, Dist. 13

N.J. ELECTION
LAW ENFORCEMENT
COMMISSION

2005 AUG 24 P 1:14

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RECEIVED
VIA FAX



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
Samuel Thompson

Mailing Address
~~725 Highway 34~~ 5 Lincroft Ave

*Day Telephone No. 732 583 5558

Matawan, NJ ~~07747~~ Old Bridge, NJ 08857

*Evening Telephone No. 732 674-4391

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): <u>Participating</u> | <input checked="" type="checkbox"/> |
| | | <u>Clean Election Candidate</u> | |

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:

Sam Thompson for Assembly
Sam Thompson Assembly F.A.C.E. (to be filed)

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).

See attached letter to

Dr. Frederick Hevman

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:

Please see paragraphs 2 and 3 in the attached letter.

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.

Please see paragraphs 4,5 and 6 in attached letter.

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

Full Name: Samuel Thompson

Mailing Address: Same as above

*Day Telephone No.

*Evening Telephone No.

Fax Number:

a. Official Capacity of Person Requesting Opinion:

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

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

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

8/24/05
Dated:

Samuel D. Thompson
Signature

*Leave this field blank if your telephone number is unlisted. Pursuant to N.J.S.A. 47:1A-1.1, an unlisted telephone number is not a public record and need not be provided on this form.