State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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November 16, 2021

Rajiv D. Parikh, Esq.
Genova Burns LLC
494 Broad Street
Newark, NJ 07102

Advisory Opinion No. 01-2021

Dear Mr. Parikh:

The Commission considered your request for an Advisory Opinion at its meeting on November 16, 2021. You have submitted the request on behalf of the New Jersey Democratic State Committee (NJDSC). You stated that the NJDSC plans to accept transfers of funds into a segregated "Housekeeping Account" that will be for specific expenses. You write that the NJDSC seeks confirmation from the Commission that funds transferred into this segregated account are not contributions under the New Jersey Campaign Contributions and Expenditures Reporting Act (Campaign Act), N.J.S.A. 19:44A-1, et seq., and therefore not subject to contribution limits. You consented to an extension of time until November 16, 2021, to respond to your request. I am issuing this response pursuant to N.J.S.A. 19:44A-6(f).

Question Presented

Is the NJDSC permitted to:

> [A]ccept funds transferred by permitted third-party individuals and entities[1] to a segregated account (the "Housekeeping Account") opened by the NJDSC to be used solely for non-political purposes – such as legal, accounting, human-resources, compliance/accounting, collective bargaining and other non-political

[1] In response to ELEC's correspondence seeking clarification, the NJDSC advised that "third-party individuals and entities" includes business entities and individuals that are "permitted to contribute to registered committees under the" Campaign Act, and provided the following examples: individuals, associations, committees registered with ELEC, corporations and unions.

> professional services, as well as capital expenses [such] as mortgage payments, rent, utilities, and taxes (the "Housekeeping Expenses") – with the recognition that such transfers are not "contributions" as defined under the … [Campaign] Act, and thus not subject to the contribution limits under the [Campaign] Act?

Commission Response

You are advised that all funds transferred by individuals, business entities, associations, groups, candidates, committees registered with ELEC, corporations, unions, and any other entity permitted to make contributions to a NJDSC segregated account used solely for non-political purposes or "Housekeeping Expenses," are contributions pursuant to the Campaign Act, and therefore subject to contribution limits.

Submitted Facts

You state that the NJDSC, a state political party committee registered with ELEC, plans to open a segregated account, referred to as the "Housekeeping Account." This Housekeeping Account will be used solely to pay NJDSC expenses for non-political purposes. The NJDSC contemplates that the expenses paid from this segregated account will be "typical business expenses that any company or organization would incur." Examples of expenses that will be paid from the Housekeeping Account are accounting, legal, and human resources expenses. You further state that these expenses will also include: internal investigations; training pertaining to harassment, bias, and intimidation; education regarding cultural sensitivity; and, expenses associated with negotiating collective bargaining agreements. Additionally, general operating and capital expenses, such as insurance, utilities, rent and taxes, will also be paid from the Housekeeping Account.

Moreover, you state that funds from the Housekeeping Account will not be used to "support or oppose any public-question election or any election for any public office in New Jersey, or for any political purpose." Further, Housekeeping Account funds will not be used to "pay compensation to employees or consultants whose job responsibilities include this type of 'political' work."

You explain that a "segregated account" means "an additional depository that will be disclosed" to ELEC, and the name of this account will include "Housekeeping Account." Further, solicitations for this segregated account "will require that checks be made payable to the New Jersey Democratic State Committee – Housekeeping Account," and payments by electronic transfers will also clarify that the Housekeeping Account is where those funds will be transferred.

Discussion

<u>Campaign Act and Commission Regulations</u>

The Campaign Act defines "contributions" as:

> [A]ll loans and transfers of money or other thing of value to … any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, … political party committee or legislative leadership committee, and all pledges or other commitments … to make any such transfer.

N.J.S.A. 19:44A-3d. Likewise, "contribution" is defined in the Commission's Regulations as follows:

> [E]very loan, gift, subscription, advance or transfer of money or other thing of value, including any in-kind contribution, made to or on behalf of any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee and any pledge or other commitment or assumption of liability to make such transfer.

N.J.A.C. 19:25-1.7. Thus, every transfer of money or other thing of value, loan, gift, or in-kind contribution, made to the NJDSC is a contribution. N.J.S.A. 19:44A-3d; N.J.A.C. 19:25-1.7. Citing to N.J.S.A. 19:44A-2 and -4, the NJDSC asserts that the Campaign Act applies only to activities related to elections for public office or public ballot questions. See Letter from the NJDSC dated October 20, 2021 (NJDSC Letter), p. 1-2. The clear language used by the Legislature and Commission to define "contribution" – all/every loan(s), transfer(s) of money or other thing of value – does not support the NJDSC's narrow reading of the scope of the Campaign Act.

Likewise, the Campaign Act requires political party committees to report "all moneys, loans, paid personal services or other things of value contributed to it" and all "expenditures made, incurred, or authorized" by the committee, "whether or not such expenditures" were made to support, defeat or provide information on any candidate or public question. N.J.S.A. 19:44A-8c (emphasis added). The plain language of N.J.S.A. 19:44A-8c also demonstrates that the Campaign Act applies to all of the NJDSC's expenditures, not just those made to support, defeat or provide information on a candidate for public office or a public ballot question.

The 1993 amendments to the Campaign Act established contribution limits for candidate committees and other reporting committees, including political party committees. Individuals, business entities, corporations, unions, associations, groups and other reporting committees cannot transfer money or other things of value, in excess of $25,000[2] per calendar year, to a state political party committee. N.J.S.A. 19:44A-11.4a(1); N.J.A.C. 19:25-11.1A and 11.2. The Legislature imposed limits on the contributions received by the state committees of each political party to restrict the potential influence of a contributor over the party. See Report dated October 22, 1990, "Findings and Recommendations of the Ad Hoc Commission on Legislative Ethics and Campaign Finance" (Report), p. 13.

The NJDSC contends that, under New Jersey law and Commission precedent, not all transfers of funds are subject to contribution limits, and that N.J.AC. 19:25-11.3(b) makes it clear that "not all transfers of money to a committee are contributions subject to the contribution limits" of the Campaign Act. NJDSC Letter, p. 3-4. N.J.A.C. 19:25-11.3(b) states:

> Notwithstanding the contribution limits set forth in N.J.A.C. 19:25-11.2 above, a candidate, or a corporation one hundred percent of the stock of which is owned by the candidate, or by the candidate's spouse, child, parent, or sibling residing in the candidate's household, may make contributions without limit to a candidate committee established by that candidate, or to a joint candidates committee established by that candidate.

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[2] A National Political Party Committee can contribute up to $72,000 per year to a State Political Party Committee. N.J.S.A. 19:44A-11.4a(2); N.J.A.C. 19:25-11.2.

N.J.A.C. 19:25-11.3(b), which recites the provisions of N.J.S.A. 19:44A-11.3d, clearly states that contributions to candidate committees can exceed the contribution limit when they are from: (1) the candidate personally, or (2) a corporation 100% owned by the candidate or certain members of the candidate's family. The Legislature imposed limits on the amount of funds that can be contributed to a candidate committee per election to limit the potential influence a single contributor (individual, entity or group of contributors) may have over an office holder and to alleviate the public perception that a person or group is contributing large amounts of money to a campaign to influence actions taken by public officials. See Report, p. 10. The Legislature promulgated the exceptions set forth in N.J.A.C. 19:25-11.3(b) for contributions from specific contributors to candidate committees only. See N.J.S.A. 19:44A-11.3d.

Neither the Campaign Act nor Commission Regulations set forth any type of exception to the $25,000 contribution limit in N.J.S.A. 19:44A-11.4a(1) or N.J.A.C. 19:25-11.2(a). Further, the Commission believes that permitting a contributor to transfer funds in unlimited amounts to a state political party (*i.e.* $100,000 or $1 million annually), thwarts the purpose of contribution limits – to restrict a contributor's potential to influence the party. The risk of influence over a political party by a contributor is not eliminated because the state committee uses the large amounts of funds transferred by that contributor to pay rent, utilities or legal fees as opposed to fund raising activities, election related advertisements, or contributions to candidates.

Advisory Opinions[3]

Advisory Opinion 01-2003. The NJDSC contends that "there are certain categories of funds received by a political party committee that are not contributions subject to the limits of" the Campaign Act, and that the Commission determined in AO 01-2003 that a mortgage obtained by the NJDSC was not a contribution. NJDSC Letter, p. 4. In AO 01-2003, the Commission concluded that a mortgage loan, obtained by NJDSC to purchase an office building (or refinance their interest in that building), made "'in the ordinary course of business' is not a 'contribution,' as that term is defined in the [Campaign] Act." AO 01-2003, p. 1. A mortgage loan obtained "in the ordinary course of business" must: (1) be from a bank/institution in the business of making loans and authorized to lend money secured by a mortgage; (2) have terms that are customary and usual and a "market rate" of interest; (3) guarantee repayment; and, (4) be a written agreement with a due date or amortization schedule. Id. at 2. The Commission found that a mortgage loan, satisfying the above-listed requirements, was not a contribution because it is an "arm's length commercial transaction with no intent or opportunity that any portion of the loan proceeds will become a contribution or exert undue influence." Id. Transfers of funds that exceed the $25,000 contribution limit to a "Housekeeping Account" are not void of the opportunity or intent to exert influence.

Advisory Opinions 10-1993 and 05-2005. The Commission has determined that an inaugural committee could receive loans from the Republican State Committee in amounts that exceed the $500 limit, as well as contributions and in-kind contributions in unlimited amounts from the NJDSC, in AOs 10-1993 and 05-2005, respectively. The Commission found that "there is no cognizable danger that the

[3] Relying on AOs 11-1993 and 13-1993, the NJDSC contends that certain expenditures are not subject to the limits of the Campaign Act. AO 11-1993 addresses expenditure restrictions and limitations imposed on a publicly financed gubernatorial candidate. AO 13-1993 pertains to the Republican State Committee paying for expenses related to attendance of the Governor-elect or Governor at Republican party events, and activities in his/her capacity as the leader of the Republican party. Both AOs were issued before the amendments establishing contribution limits for political party committees became effective. The Commission does not find these AOs to be instructive to the facts presented.

State [political party] committee could exercise undue influence over the Governor-elect in the same sense that a contributing 'person' might." AO 05-2005, p.2 (quoting AO 10-1993 at 3).

Conclusion

All transfers of funds made by individuals, business entities, associations, groups, candidates, committees registered with ELEC, corporations, unions, and any other entity permitted to make contributions to a NJDSC segregated account used solely for non-political purposes or "Housekeeping Expenses" are contributions pursuant to the Campaign Act, and therefore subject to contribution limits.

The Commission believes that allowing the NJDSC to receive unlimited amounts of funds from a single source/contributor undermines the purpose of contribution limits, even if those funds are transferred to a segregated account used solely for non-political purposes. The risk of undue influence over the party is related to the amount of money contributed, not how those particular funds are spent.

Thank you for your inquiry.

Very truly yours,
Election Law Enforcement Commission

By: _____
Demery J. Roberts, Esq.

Advisory Opinion Request
For Candidates and Committees

FOR STATE USE ONLY

ELEC RECEIVED

OCT 21 2021

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION
P.O. Box 185, Trenton, NJ 08625-0185
(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)
Website: www.elec.state.nj.us

PLEASE PROVIDE THE INFORMATION REQUESTED BELOW

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 include the following:

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

   Full name of Person, Committee, or Entity:
   New Jersey Democratic State Committee

Mailing Address:	*Day Telephone Number:
194-196 West State Street, Trenton, NJ 08608	973-535-4446
	*Evening Telephone Number: 973-535-4446

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	☐	Recall committee	☐
Joint candidates committee	☐	Recall defense committee	☐
Political committee	☐	Personal financial disclosure statement	☐
Continuing political committee	☐	Other (please describe):	☐
Political party committee	☑		
Legislative leadership committee	☐		

   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., 2005 general election) or calendar years, and identify filing capacity:

   c. If reports are or were filed under a different name than that appearing in Question #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).

   May the New Jersey Democratic State Committee (the "NJDSC) accept funds transferred by permitted third-party individuals and entities to a segregated account (the "Housekeeping Account") opened by the NJDSC to be used solely for non-political purposes — such as legal, accounting, human-resources, compliance/accounting, collective bargaining and other non-political professional services, as well as capital expenses as mortgage payments, rent, utilities, and taxes (the "Housekeeping Expenses") — with the recognition that such transfers are not "contributions" as defined under the New Jersey Campaign Contributions and Expenditure Reporting Act, and thus not subject to the contribution limits under the Act?

*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 must not be provided on this form.

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 NJDSC is a Commission-registered state political party committee. The NJDSC wishes to create the Housekeeping Account, which will be a segregated bank account that will be used solely to pay expenses of the NJDSC that are not related to political activity. Indeed, the expenses contemplated to be paid from the Housekeeping Account are typical business expenses that any company or organization would incur. For example, the NJDSC will use the Housekeeping Account to pay legal expenses, accounting expenses, and human-resources expenses. Included are expenses for internal investigations and trainings to prevent harassment, intimidation and bias, as well as educational programs for employees, officials and members focused on cultural sensitivity and compliance. In addition, the Housekeeping Account will be used to pay such capital and general operating expenses of the NJDSC as rent, utilities, insurance, and taxes. To provide one additional example, employees of the NJDSC unionized in 2021. The significant costs associated with negotiating future collective bargaining agreements with these employees will be paid for with funds from the Housekeeping Account. In contrast, no portion of the funds in the Housekeeping Account will be used to support or oppose any public-question election or any election for any public office in New Jersey, or for any political purpose, nor would the funds be used to pay compensation to employees or consultants whose job responsibilities include this type of 'political' work. Instead, the funds in the Housekeeping Account will be used solely to pay the Housekeeping Expenses. For the reasons set forth in the attached letter (which is to be incorporated as part of this request) the NJDSC seeks to confirm that funds raised into the Housekeeping Account are not contributions as defined in and subject to the restrictions of the Act.

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:

The Commission should recognize that the funds raised into the segregated Housekeeping Account and that are used solely to pay the Housekeeping Expenses are not contributions under the Act and are therefore not subject to the restrictions and limitations of the Act.

6. Person who is submitting this advisory opinion request on behalf of the committee or entity listed in Question #1:

Full Name:
Rajiv D. Parikh, Esq.

Mailing Address:	*Day Telephone Number:
494 Broad Sreet, 6th Floor, Newark, NJ 07102	973-535-4446
	*Evening Telephone Number: 973-535-4446
	Fax Number: 973-533-1112

a. Official Capacity of Person Requesting Opinion:

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

7. [redacted]

(CROSS OUT 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.

10/20/2021
Dated:

Rajiv D. Parikh
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 must not be provided on this form.

GENOVA BURNS
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OCT 21 2021

Rajiv D. Parikh, Esq.
Partner
Member of NJ and NY Bars
rparikh@genovaburns.com
Direct: 973-535-4446

October 20, 2021

VIA UPS

New Jersey Election Law Enforcement Commission
25 Stockton Street, 5th Floor
Trenton, New Jersey 08608

Re: Request for Advisory Opinion

Dear Commissioners:

We write on behalf of our client, the New Jersey Democratic State Committee (the "NJDSC"). As you know, the NJDSC is organized as and registered with the New Jersey Election Law Enforcement Commission (the "Commission") as a state political party committee. Kindly accept this request for an Advisory Opinion pursuant to the Commission's regulations regarding the NJDSC's plan to accept transfers for specific expenses into a segregated "Housekeeping Account" as set forth in more detail below.

The New Jersey Campaign Contributions and Expenditure Reporting Act[1] (hereafter "the Act") and the regulations promulgated thereunder[2], govern the receipt of political contributions by a state political party committee. While transfers of money that constitute contributions to a state political party committee are subject to the current limit of $25,000.00 per calendar year from a permitted contributor and other restrictions that apply to contributions under the Act, the Act and the Commission in previous Advisory Opinions have recognized that not all transfers of money or other things of value to a political recipient count as a contribution that is subject to the Act's limits and restrictions. The NJDSC now seeks to confirm that the Act permits funds to be transferred by permitted third-party individuals and entities to a segregated account (the "Housekeeping Account") opened by the NJDSC to be used solely for non-political purposes — such as legal, accounting, human-resources, compliance/accounting, collective bargaining and other non-political professional services, as well as capital expenses as mortgage payments, rent, utilities, and taxes (the "Housekeeping Expenses") — and that such transfers are not "contributions" as defined under the Act, and thus not subject to the contribution limits under the Act.

[1] N.J.S.A. 19:44A-1, et seq.
[2] N.J.A.C. 19:25-1, et seq.

I. FACTUAL BACKGROUND

The NJDSC is a Commission-registered state political party committee. The NJDSC wishes to create the Housekeeping Account, which will be a segregated bank account that will be used solely to pay expenses of the NJDSC that are not related to political activity. Indeed, the expenses contemplated to be paid from the Housekeeping Account are typical business expenses that any company or organization would incur. For example, the NJDSC will use the Housekeeping Account to pay legal expenses, accounting expenses, and human-resources expenses. Included are expenses for internal investigations and trainings to prevent harassment, intimidation and bias, as well as educational programs for employees, officials and members focused on cultural sensitivity and compliance. In addition, the Housekeeping Account will be used to pay such capital and general operating expenses of the NJDSC as rent, utilities, insurance, and taxes. To provide one additional example, employees of the NJDSC unionized in 2021. The significant costs associated with negotiating future collective bargaining agreements with these employees will be paid for with funds from the Housekeeping Account. In contrast, no portion of the funds in the Housekeeping Account will be used to support or oppose any public-question election or any election for any public office in New Jersey, or for any political purpose, nor would the funds be used to pay compensation to employees or consultants whose job responsibilities include this type of 'political' work. Instead, the funds in the Housekeeping Account will be used solely to pay the Housekeeping Expenses. For the reasons set forth below, the NJDSC seeks to confirm that funds raised into the Housekeeping Account are not contributions as defined in and subject to the restrictions of the Act.

II. LEGAL DISCUSSION

For the reasons set forth herein, the Commission should confirm that: (1) the NJDSC may establish the Housekeeping Account whose funds will be used solely for the non-political purposes defined as the Housekeeping Expenses, and (2) the funds raised into the Housekeeping Account are not contributions under the Act and are therefore not subject to the current annual limit of $25,000.00 per contributor for contributions under the Act.

The Act itself makes clear that its provisions apply only in connection with "any election at which a public question is to be voted upon by the voters of the State or any political subdivision thereof [and] ... any election for any public office of the State or any political subdivision thereof."[3] This statutory scope matches the Act's Declaration of Policy, which declares that it is in the public interest:

> [T]o limit political contributions and to require the reporting of all contributions received and expenditures made to aid or promote the

[3] N.J.S.A. 19:44A-4.

> nomination, election or defeat of any candidate for public office...and to require the reporting of all contributions received and expenditures made to provide political information on any candidate for public office.[4]

In contrast, the Act does not apply to activities other than public-question elections or elections for public office in New Jersey. Indeed, by the clear words of the Act's Declaration of Policy, there is no public-policy rationale for subjecting transfers of money to the Act's contribution limits when those transfers do not aid or promote the nomination, election, or defeat of any candidate for public office and do not provide political information on any candidate for public office. Therefore, the general operating expenses that are non-political in nature but instead would be incurred by any business or organization (such as professional services, rent, utilities, and taxes) that constitute the Housekeeping Expenses are not within the statutory ambit of the Act, and funds raised for use solely in the Housekeeping Account are not subject to the contribution limits of the Act.

Beyond the limited scope of the statutory definitions under the Act, this proposal complies with New Jersey law[5] and the precedent under the Act's regulations that not all transfers of money to a political recipient are contributions that are subject to the Act's limits. The Commission regulations state the following:

> Notwithstanding the contribution limits set forth in N.J.A.C. 19:25-11.2 above, a candidate, or a corporation one hundred percent of the stock of which is owned by the candidate, or by the candidate's spouse, child, parent, or sibling residing in the candidate's household, may make contributions without limit to a candidate committee established by that candidate, or to a joint candidates committee established by that candidate.[6]

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[4] N.J.S.A. 19:44A-2.

[5] In addition, it should be noted that other jurisdictions allow the raising of funds by a political party committee for "housekeeping" purposes do not count toward the limits in effect in those jurisdictions. For example, the State of New York permits Constituted and Party Housekeeping Committees, which may raise funds outside of the normal limits in effect in New York. New York ELN Section 14-124(3). We understand that the Commission is not bound by law in jurisdictions other than New Jersey; rather, this point is noted to demonstrate that the Housekeeping Account described in this request is not only permitted based on the express statutory scope of the Act and, as described below, previous Commission guidance, but is in fact very common in other jurisdictions as well.

[6] N.J.A.C. 19:25-11.3.

The regulation makes clear that not all transfers of money to a committee are contributions subject to the contribution limits of the Act. Instead, there are exceptions to these contribution limits, and the Commission should recognize that funds raised by a state political party committee into a segregated Housekeeping Account for use solely to pay the Housekeeping Expenses are also not subject to the Act's contribution limits.

In addition, the Housekeeping Account is in accordance with previous guidance issued by the Commission through advisory opinions, which have recognized that not all transfers of funds are contributions subject to the limits of the Act and its regulations.

First, the Act sets a $500.00 limit for contributions to an inaugural committee, in connection with an inaugural event.[7] However, in a series of advisory opinions, the Commission has recognized that not all transfers of funds to an inaugural committee are subject to this $500.00 limit. For example, the Commission in Advisory Opinions 10-1993 and 05-2005 advised that a state political party may make unlimited monetary contributions, monetary loans, and in-kind contributions to an inaugural committee. This is because, as noted in Advisory Opinion 10-1993, the Commission "is unable to discern any legislative intent to restrict the amount of funds that a State political party committee may lend to an inaugural event"—despite the general statutory limit of $500.00 to an inaugural committee. The Commission has thus recognized that, despite the statutory limit for an inaugural committee, the Act does not in fact subject all transfers of funds to an inaugural committee to this $500.00 limit. Here, the Commission should similarly recognize that transfers of funds to a state political party committee that will be used solely for the Housekeeping Expenses are not subject to the $25,000.00 annual contribution limit of the Act because such a limit is outside the statutory scope and Declaration of Policy of the Act, when the Housekeeping Expenses are not used for political communications or the support of any candidate for nomination or election to public office in New Jersey.

Second, the Commission recognized in Advisory Opinion 01-2003 that a state political party committee may borrow money by means of a mortgage loan to purchase an office building or refinance its interest in that office building. This is because, per Advisory Opinion 01-2003, "a mortgage loan obtained by the NJDSC 'in the ordinary course of business' is not a 'contribution,' as that term is defined in the Act." Again here, there are certain categories of funds received by a political party committee that are not contributions subject to the limits of the Act. In this case, the Commission should confirm that the funds received by the NJDSC that are segregated solely into the Housekeeping Account, and will not be used for any political purpose, are not subject to the limits of the Act. Just like the funds received by the NJDSC in Advisory Opinion 01-2003 for the use of mortgage financing that were not treated as contributions, so too should funds raised by the NJDSC to be used solely for the Housekeeping Expenses not be subject to the limits applicable to contributions under the Act.

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[7] N.J.S.A. 19:44A-18.1a.

Third, the Commission has noted as well that certain expenditures of a state political party committee are not political expenditures that are subject to limits. In Advisory Opinion 13-1993, the Commission advised that a state political party committee may pay certain expenses of the Governor-elect during the transition period and thereafter as Governor, so long as the Governor is not a candidate for elected office in New Jersey but is instead involved in party activities. Again, the Commission has recognized that it is possible to differentiate expenditures of a political party committee between expenditures that support a candidate for office as opposed to those expenditures that function as party building or general expenses. Based on Advisory Opinion 13-1993, it is only those expenditures that support a candidate for elected office in New Jersey that are subject to the limits of Act. The same conclusion is reached in Advisory Opinion 11-1993, in which the Commission advised that, despite a then-limit of $5.9 million for expenditures for a publicly financed gubernatorial campaign, a gubernatorial committee was permitted to exceed this statutory expenditure limit to pay post-election litigation expenses. The conclusion is that not all expenditures of a Commission-registered committee are subject to the restrictions and limitations of the Act. Here, the Commission should recognize that transfers of money to the NJDSC Housekeeping Account and expenditures by the NJDSC for the Housekeeping Expenses are outside of the Act's limits because they are simply and solely general expenses and will not be used to support candidates or campaigns for public office in New Jersey.

Last, the Commission has recognized, in Advisory Opinion 13-1984, that the Act does not impose reporting requirements on expenses (in this case, office expenses) incurred by officeholders that are not related to their campaign activity. This conclusion was reached because the committee requesting the opinion in that case represented that expenditures for office expenses were not election related. In this case, because the Housekeeping Expenses are not related to any campaign activity, the Commission should confirm that funds raised into the segregated Housekeeping Account are not contributions and are therefore not subject to the limitations of the Act.[8]

Accordingly, the Commission should recognize that the funds raised into the segregated Housekeeping Account and that are used solely to pay the Housekeeping Expenses are not contributions under the Act and are therefore not subject to the restrictions and limitations of the Act.

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[8] Although, in Advisory Opinion 13-1984, the Commission advised that even the reporting obligations of the Act do not apply for a segregated account that is used solely for non-campaign expenses, the NJDSC plans to fully report all contributions received into the Housekeeping Account and all expenditures made from the Housekeeping Account.

III. CONCLUSION

For the reasons stated above, the NJDSC respectfully requests that the Commission grant this request. The NJDSC also notes that it is willing to implement any additional reasonable safeguards or recordkeeping requirements that the Commission proposes.

Please contact me if you have any questions, or require any additional information.

Very truly yours,

GENOVA BURNS LLC

RAJIV D. PARIKH

ADK/RDP:dmc

On the Letter:
Avi D. Kelin, Esq.

#16137913 (21726.026)

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Member of NJ and NY Bars
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October 26, 2021

VIA ELECTRONIC MAIL ONLY (Demery.Roberts@elec.nj.gov)
Demery J. Roberts, Legal Director
New Jersey Election Law Enforcement Commission
25 Stockton Street, 5th Floor
Trenton, New Jersey 08608

Re: Request for Advisory Opinion - Follow-up

Dear Ms. Roberts:

We have received your letter, dated October 26, 2021, regarding the advisory-opinion request of our client, the New Jersey Democratic State Committee (the "NJDSC"). In particular, you asked us to clarify, with examples, the phrase "third-party individuals and entities." That phrase is intended to include individuals and business entities that are permitted to contribute to registered committees under the New Jersey Campaign Contributions and Expenditures Reporting Act. For example, upon approval of our request, individuals, corporations, unions, associations, and committees registered with the Election Law Enforcement Commission would be permitted to transfer funds without limit to the NJDSC's Housekeeping Account because, as discussed in detail in our initial request, such funds would not be used for political purposes. In contrast, we recognize that foreign nationals would not be permitted to transfer funds to the NJDSC's Housekeeping Account under applicable federal law.

Please contact me if you have any questions or require any additional information.

Very truly yours,

GENOVA BURNS LLC

s/Rajiv D. Parikh
RAJIV D. PARIKH

ADK/RDP:dmc

#16202146 (21726.026)

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October 27, 2021

VIA ELECTRONIC MAIL ONLY (Demery.Roberts@elec.nj.gov)
Demery J. Roberts, Legal Director
New Jersey Election Law Enforcement Commission
25 Stockton Street, 5th Floor
Trenton, New Jersey 08608

Re: Request for Advisory Opinion – Follow-up #2

Dear Ms. Roberts:

We have received your letter, dated October 27, 2021, regarding the advisory-opinion request of our client, the New Jersey Democratic State Committee (the "NJDSC"). In particular, you asked us to provide additional information regarding the term "segregated account." As used in our request, the term "segregated account" means an additional depository that will be disclosed to the Commission. The name of this additional depository will include the words "Housekeeping Account." To ensure that there is no confusion regarding the designated account, all NJDSC solicitations for the Housekeeping Account will require that checks be made payable to the New Jersey Democratic State Committee – Housekeeping Account. Other payment methods (for example, electronic transfers) will similarly clarify that funds are being transferred to the Housekeeping Account. In the event of uncertainty regarding the intended recipient account, the NJDSC will take reasonable steps to clarify with the transferor.

Please contact me if you have any questions or require any additional information.

Very truly yours,

GENOVA BURNS LLC

s/Rajiv D. Parikh
RAJIV D. PARIKH

ADK/RDP:dmc

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