

NEW JERSEY ELECTION LAW
ENFORCEMENT COMMISSION
Temporary Office
c/o Frank P. Reiche, Esq.
1 Palmer Square
Princeton, New Jersey 07040

A.O. 11-1973

September 22, 1973

Kenneth J. Guido, Jr., Esq.
Associate General Counsel
Common Cause
2030 M Street, N.W.
Washington, D. C. 20036

Re: The New Jersey Campaign Control and
Expenditures Reporting Act, P. L.
1973, c. 83 ("the Act")
Your Letter Dated July 3, 1973

Dear Mr. Guido:

Your letter of July 3, 1973, to the New Jersey Election Law Enforcement Commission ("the Commission"), including a request for advisory opinion, has been forwarded to me for reply. By previous correspondence, the Commission has requested an extension of time within which to reply to September 6, 1973.

1. On the facts set forth in your letter, it is not clear whether "New Jersey Common Cause" or "Common Cause" is the appropriate reporting entity. If New Jersey Common Cause exists as an unincorporated association or group of persons acting jointly, with an existence separate from that of Common Cause, then New Jersey Common Cause can properly be recognized as a political information organization and as the appropriate reporting entity. So long as the activities of New Jersey Common Cause are sufficiently separated from the activities of Common Cause that contributions to, and expenditures by New Jersey Common Cause can be identified, and the political activities of New Jersey Common Cause can be identified, New Jersey Common Cause is a political information organization.

Assuming that New Jersey Common Cause is the appropriate reporting entity, it qualifies as a political information organization and not as a political committee on the facts set forth in your letter.

2. The political information organization is required to make a report on March 1 of each year in accordance with the provisions of Section 8. It is, in addition, required to make the pre-election and post-election reports required by Section 16, if such political information organization instituted a fund for the purposes of the election, or otherwise acted in some substantial manner to aid or promote the nomination, election or defeat of any candidate or candidates for public office or aided or promoted the passage or defeat of a public question in an election. If, for example, the circumstances were such that the affected candidate would be required to report the expenditure as an expense authorized or incurred in furtherance or in aid of his candidacy, then compliance with the reporting requirements of Section 16 would be required, as for a political committee. The collection and publication of political information as to all candidates for a specific office, or as to all candidates who respond to a questionnaire or other request for information, would not be regarded as action promoting in a substantial manner the candidacy of any of such candidates, unless the surrounding circumstances, including the tone of the publication, the presence of editorial comment, or other persuasive circumstances, show that the publication is in fact an expenditure authorized or incurred in furtherance or in aid of the candidacy of the candidate and is not simply publication of political information as to all candidates.
3. All contributions, and all expenditures made, incurred or authorized to provide information on any candidate or public question or to seek to influence the content, introduction, passage or defeat of any legislation must be reported.

The Act requires the reporting of all expenditures whether or not related to political activities. With respect to such other expenditures, a statement of the total amount of such other expenditures, sufficient to show the relationship of such other expenditures to the expenditures related to political activities, will comply with the reporting requirements as to such other expenditures under the Act.

4. Assuming that New Jersey Common Cause is the appropriate reporting entity as hereinabove described, then all contributions to New Jersey Common Cause must be reported.

5. Every political information organization must designate a campaign depository, and such campaign depository must be a bank authorized by law to transact business in the State of New Jersey. American Security and Trust Company, Washington, D. C. may not be designated as the campaign depository for New Jersey Common Cause unless that institution is authorized by law to transact banking business of the State of New Jersey.

The forms required for reporting by political information organizations and by depositories will be forwarded to you in the near future.

Yours very truly,

New Jersey Election Law
Enforcement Commission

By


Edward J. Farrell, Esq.
Legal Counsel

EJF:bjv

common cause

2030 M STREET, N.W., WASHINGTON, D. C. 20036

John W. Gardner, Chairman

(202) 833-1200

0-11-73

July 3, 1973

New Jersey Law
Enforcement Commission
c/o Frank Reiche, Esquire
1 Palmer Square
Princeton, New Jersey 08540

Dear Sirs:

I am writing to request an advisory opinion of the Election Law Enforcement Commission regarding the applicability of the New Jersey Campaign Contributions and Expenditures Act to Common Cause. I have reviewed the Act carefully and have drawn some tentative conclusions, but in order to insure total compliance by Common Cause, I would like specific guidance from the Commission.

Common Cause is a Section 501(c)(4) IRC 1954 corporation for Federal income tax purposes. As such, it is not organized to, nor does it, aid or promote the nomination or defeat of any candidate or candidates for public office. Moreover, Common Cause has not nor does it presently intend to promote the passage or defeat of any referendum placed on the ballot in New Jersey, although conceivably it might do so in the future.

Primarily, Common Cause is organized for the purpose of seeking to influence the content, introduction, passage or defeat of legislation. Additionally, Common Cause provides information concerning candidates and issues to its members in pursuit of this purpose.

Common Cause conducts most of its operations on a nationwide basis. New Jersey Common Cause is not a separate legal entity; all members of our national organization who reside in New Jersey are automatically deemed members. Members of Common Cause in New Jersey conduct state activities under the name of New Jersey Common Cause and a separate bank account has been established in Washington, D.C. for their own operations. All proceeds of fundraising efforts of New Jersey Common Cause have been deposited in that account.

In the light of these facts, I would appreciate your confirming or correcting the following interpretations of the Act:

(1) New Jersey Common Cause qualifies as a political information organization and not a political committee.

Frank Reiche
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(2) The appropriate reporting entity is "New Jersey Common Cause".

(3) Common Cause is exempted from requirement to make reports more frequently than on March 1 of each year by the proviso beginning on line 21, Section 8 of the Act.

(4) The only receipts and expenditures which need be reported are those relating solely to seeking to influence the content, introduction, passage or defeat of state legislation and the distribution of information concerning candidates for state office and state issues. Specifically, expenses of mailing our national newsletter to New Jersey residents, nationally operated direct mail membership solicitations, Washington based lobbying of New Jersey Congressmen and the like, would not be within the scope of the reporting requirements even to the extent that they incidentally involve New Jersey residents.

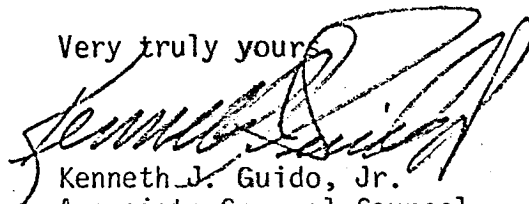
(5) Contributions by New Jersey residents to Common Cause are not reportable unless they are earmarked for activities of New Jersey Common Cause.

(6) American Security and Trust Company, Washington, D.C., in which Common Cause keeps all its funds, including the account dedicated to New Jersey activities, may be designated as the campaign depository for New Jersey Common Cause and information need be filed only with respect to the special New Jersey account.

I would appreciate the opinion of the Election Law Enforcement Commission as soon as possible on these matters. Your expeditious reply to our questions would greatly facilitate our prompt compliance with the Act.

Please send us the required forms to be filed with your Commission and with our depository. I appreciate your consideration of this matter.

Very truly yours,



Kenneth J. Guido, Jr.
Associate General Counsel