

0-35-76

STATE OF NEW JERSEY  
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September 20, 1976

Mr. Rodman E. Harris  
Suite 1118-19  
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Re: The New Jersey Campaign Contributions and  
Expenditures Reporting Act, Chapter 83, Laws of 1973  
as Amended and Supplemented ("the Act")  
Your Letter Dated September 7, 1976  
Opinion No. 0-35-76

Dear Mr. Harris:

Your letter dated September 7, 1976, to the New Jersey Election Law Enforcement Commission ("the Commission"), including a request for advisory opinion, has been forwarded to me for reply.

Your question raises essentially the test to be used by the Commission in determining whether transfer of funds by a business organization in a political setting would be regarded as a political contribution, requiring the reporting of those funds as a political contribution by those business organizations, where the purpose of the business organizations in making such transfer of funds may reasonably be claimed to be a business expenditure for advertising. There is no statute or regulation or decided case to our knowledge relating to the Act which deals directly with your question. A similar question has been raised in the context of the purchase by banks and other business organizations of advertising space in brochures published by a political party committee.

The questions which must be considered include whether the advertising is a customary kind of advertising for business organizations of this kind, whether it is undertaken customarily or in this instance, without regard to the political implications of the setting in which the advertisement takes place, whether the transfer of funds by each individual organization and the total of such transfer of funds is exactly or approximately equal to the cost of operating the

Mr. Rodman E. Harris

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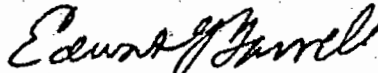
September 20, 1976

balloon race, and in general whether it is reasonably clear that prudent business men would undertake the transfer of funds in these amounts for advertising purposes without any intent or desire to provide political benefit.

The burden of showing that the transfer of funds did not constitute a political contribution would be upon the committee making that claim. Although a case might be described in which such a transfer might constitute a business advertising expense, the Commission is of the opinion that, on the facts set forth in your letter, the proposed transfer would constitute a political contribution by each such business organization.

The fact that Mr. Waligunda is a contributor to the Republican party would be irrelevant to the foregoing question, although his contribution to it, if in excess of charges made by him might be a contribution.

Yours very truly,

  
Edward J. Farrell  
Legal Counsel

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