

0-05-77

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December 12, 1977

John A. Zaleski, Trustee
Linden City Democratic Club
520 Fairway Road
Linden, New Jersey 07036

Re: The New Jersey Campaign Contributions and Expenditures
Reporting Act, Chapter 83, Laws of 1973 as
Amended and Supplemented ("the Act")
Your Letter Dated January 22, 1977
Opinion #(0-05-77)

Dear Mr. Zaleski:

Your letter dated January 22, 1977 to the New Jersey
Election Law Enforcement Commission ("the Commission"),
including a request for advisory opinion, has been forwarded
to me for reply.

Section 11 of the Act provides in part as follows:

"Any state, county or municipal committee of any political
party, after a primary election, but not prior thereto,
may receive and expend funds to be spent in furtherance
and in aid of the candidacy of all the candidates of such
party, or of any one or more of such candidates, in accor-
dance with the provisions of this Act."

Language of similar import is found in N.J.S.A. 19:34-33. The
Commission has expressed the opinion on previous occasions that
Section 11 of the Act prohibits contributions or expenditures
by state, county or municipal political party committees in
respect of primary elections.

Whether a "city wide political club" mentioned in your
letter would be deemed to be a political party committee and
therefore subject to the foregoing prohibition, would depend
on a number of circumstances. Section 19:25-4.6(b) of the
Regulations of the Commission provides:

"A political club will be deemed to be, for the purposes
of the regulations, either a political party committee or
a political committee. A club organized to promote the
candidacy of one or more candidates, without a term of
existence substantially longer than the campaign of such
candidates, is a political committee.

A political club having a permanent or continuing existence unrelated to the candidacy of particular candidates, or which receives contributions or makes expenditures from time to time unrelated to the promotion of the candidacy of a particular candidate or candidates, or carries on in fact some or all of the continuing functions of a political party committee, is deemed to be a political party committee for purposes of the pre-election and post-election reporting requirements and the annual reporting requirements of the Act, and must appoint a campaign treasurer and campaign depository on or before January 31 of each year."

An additional issue is raised by the Attorney General in Formal Opinion #9-1977. The Attorney General's Opinion, based largely on the case of Cavanagh v. Morris County Democratic Committee, 121 N.J. Super 430 (Ch. Div. 1972), held that the creation of a special subcommittee of a county committee, which subcommittee is actually an alter ego of the county committee and primarily conceived to permit the parent committee to endorse and support candidates prior to a primary election, was an attempt to effectuate an activity clearly prohibited by N.J.S.A. 19:34-33 and, therefore, invalid.

Based on the above holding of the Attorney General, organizations similar to the special subcommittee in the Cavanagh case are prohibited from endorsing candidates prior to the primary election. Individual members of a party committee are not subject to a similar prohibition on pre-primary endorsements. Where such committee members make a concerted effort to endorse a candidate, however, the alter ego doctrine of Cavanagh would seem to prohibit such activity.

Your letter does not set forth facts sufficient for us to determine whether the political club you mentioned would be deemed to be, for purposes of reports required to be filed under the Act, a political party committee or whether it falls within the prohibitions of the Attorney General's Opinion discussed above. If the club acts as a municipal political party committee or as a special committee operating thereunder, then Section 11 of the Act, as well as 19:34-33, prohibit any pre-primary expenditures. Otherwise, nothing in the Act prohibits expenditure of money by your club on behalf of candidates in primary elections.

We regret that the press of other Commission business has caused a delay in our response to your letter. You are of course protected from proceedings by the Commission

arising out of the particular facts and circumstances set forth in your request until the date of receipt by you of this opinion.

Yours very truly,



Edward J. Farrell
Legal Counsel

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