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COUNSEL

March 27, 1978

Barbara Werber, Chairman  
Democratic Committee of Bergen County  
14 South State Street  
Hackensack, New Jersey 07601

RECEIVED  
MAY 16 '78  
N.J. ELECTION  
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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 January 13, 1978  
Opinion #(0-06-78)

Dear Mrs. Werber:

Your letter dated January 13, 1978 to the New Jersey Election Law Enforcement Commission ("the Commission"), including a request for advisory opinion, has been forwarded to me for reply.

There is no such status under the Act, as "prospective candidate." A person is considered a "candidate," and is therefore subject to the requirements of the Act, when he either files a nominating petition or files a D-1 form with the Commission or solicits contributions or makes expenditures or allows others to do these things for him. Once he becomes a candidate, he is required, by the Act, to designate a campaign treasurer and depository and file pre-election and post-election reports.

Whether or not specific political activity in preparation or in furtherance of a primary election constitutes a person a candidate, subject to the requirements of the Act, is a question which must be addressed and answered on an individualized basis. The Commission, therefore, would need specific facts as to each "prospective candidate" referred to in your letter before it could make a more definite determination of the obligation of each under the Act.

Where a person neither files nor participates in political activity promoting his candidacy as defined above, but

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Barbara Werber, Chairman

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engages in activity solely aimed at exploring the possibility of whether or not to become a candidate (e.g., testing the political waters by means of a poll), the activity would not, in normal circumstances, constitute him a candidate. In such a case, he would not be required to designate a campaign treasurer or depository or file election reports with the Commission.

I have enclosed a copy of a 1976 advisory opinion which addresses substantially the same issue raised in your opinion request.

Yours very truly,

*/s/ Edward J. Farrell*

Edward J. Farrell  
Legal Counsel

EJF:no

Enclosure - #0-33-76

*cc L. Thurston*