



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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April 12, 1984

Thomas Russo, Treasurer
Friends of Matthews
45 N. Aberdeen Place
Atlantic City, New Jersey 08608

Advisory Opinion No. 08-1984

Dear Mr. Russo:

Your letter to the Election Law Enforcement Commission requesting an Advisory Opinion has been considered by the Commission and I have been directed to issue this response. You have asked whether Michael J. Matthews, a candidate for Mayor of Atlantic City in a recall election conducted on March 13, 1984 may terminate post-election campaign reporting by assuming personal liability for all remaining campaign debts.

Mr. Matthews was an unsuccessful candidate in the recall election conducted on March 13, 1984 in Atlantic City. On March 26, 1984 he filed with the Commission a 20-day post-election campaign report (Form R-1) for his recall candidacy.* That report disclosed a zero balance in the campaign depository for Mr. Matthews and bears the signatures of Mr. Matthews and yourself declaring the report to be final. The report further indicates on Schedule E outstanding obligations from six lenders which total \$153,803.51. Among the reported lenders is the Guaranteed Bank, no address given, which you state in your letter has made a personal loan to Mr. Matthews as "an in-kind contribution." The report also contains a handwritten note, on letterhead of Mr. Matthews, dated March 20, 1984 and bearing the apparent signature of Mr. Matthews, which states as follows:

"Any outstanding debts from 'Friends of Matthews' will be personally assumed by myself."

* This report indicated it was filed for the May 11, 1982 mayoralty election in Atlantic City. However, since the information contained is pertinent to the March 13, 1984 recall election and since Mr. Matthews has indicated it is a 20-day post-election report, the Commission assumes it was filed for the March 13, 1984 recall election and the reference in the report to the May 11, 1982 election is in error.

You have asked whether under such circumstances the post-election campaign reporting requirements on behalf of Mr. Matthews' 1984 recall election campaign may be terminated pursuant to the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, the Act).

The provisions governing the termination of post-election campaign reporting are set forth in N.J.S.A. 19:44A-16(b) which, in pertinent part, provides as follows:

"Concurrent with the report filed on the 20th day following an election, or at any time thereafter, the campaign treasurer of a candidate or a political committee may certify to the Election Law Enforcement Commission that the campaign fund of such candidate or political committee, having been instituted for the purposes of the late election, has wound up its business and been dissolved . . . ; and said certification shall be accompanied by a final accounting of such campaign fund, or of the transactions relating to such election, including the final disposition of any balance remaining in such fund at the time of dissolution or the arrangements which have been made for the discharge of any obligations remaining unpaid at the the time of dissolution."

The Commission finds that the assumption of a campaign debt by a candidate as a personal liability of the candidate's does not serve to wind up or dissolve the candidate's campaign fund. A distinction must be drawn between a candidate who makes a contribution from his own funds to meet the outstanding obligation remaining in his campaign and a candidate who assumes personal liability for those outstanding obligations. Where a candidate makes a contribution from his own funds, the final report will disclose the fact of the contribution and the ultimate payment or other disposition of the outstanding obligations. However, where a candidate assumes personal liability, the ultimate disposition of the outstanding obligations remains unresolved until such time as the candidate contributes the funds to pay those obligations, or they are otherwise satisfied.

The Act was recently amended to include a provision permitting political committees to terminate reporting under circumstances where outstanding obligations " . . . are likely to be discharged or forgiven." L. 1983, c. 579, section 16. There has not been any suggestion in your inquiry that the outstanding obligations are likely to be discharged or forgiven, and therefore the Commission believes that this provision has no applicability.

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The Commission notes that among the creditors listed is a banking institution. Contributions to candidates by banking corporations are prohibited. N.J.S.A. 19:34-45. The Commission understands your letter to mean that Mr. Matthews has obtained a loan from the banking institution which is secured with his personal credit. If Mr. Matthews is permitted to terminate campaign reporting at this time, the public would be unable to determine the ultimate disposition of the outstanding loan, and the possibility that the loan could be converted into a contribution violative of the statutory prohibition could not be excluded.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY: Gregory E. Nagy
GREGORY E. NAGY
Staff Counsel

GEN/ck