



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

COMMISSIONERS

ANDREW C. AKTELL
CHAIRMAN
ALEXANDER P. WAUGH, JR.
VICE-CHAIRMAN
RAYON PROCTOR
DORIS V. MC NARY

NATIONAL STATE BANK BLDG., SUITE 1215
28 W. STATE STREET, CN-185
TRENTON, NEW JERSEY 08608
(609) 282-8700

FREDERICK M. HERRMANN
EXECUTIVE DIRECTOR

EDWARD J. FARRELL
COUNSEL

January 29, 1985

Ms. Cathleen R. Litvack, Secretary
New Jersey Democrats
101 Carnegie Center, Suite 211
Princeton, New Jersey 08540

ADVISORY OPINION NO. 03-1985

Dear Ms. Litvack:

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 an entity that you describe as a testimonial dinner committee, "New Jersey Democrats," has acquired reporting requirements under "The New Jersey Campaign Contributions and Expenditures Reporting Act," H.J.S.A. 19:44A-1 et seq. (hereafter, the Act) in view of anticipated disbursements it plans to make to the New Jersey Democratic State Committee (hereafter, State Committee) to help defray existing campaign debts.

You have written that "New Jersey Democrats" was organized for the purpose of conducting a dinner honoring New Jersey United States Senator Bill Bradley. This entity filed with the Commission a Designation of Campaign Treasurer and Depository for a Political Committee (Form D-2) on January 18, 1985. "New Jersey Democrats" did not specify any election to which the form is relevant other than, "Bradley Testimonial Dinner Account." You have stated that the purpose of "New Jersey Democrats" is to assist the Democratic State Committee to retire its existing debts and obligations and "New Jersey Democrats" may choose to pay some of these debts directly and report them as "in-kind" contributions to the State Committee, or may make loans or contribute moneys directly to the State Committee. The source of such funds will be the proceeds of the testimonial dinner. There is no intention on the part of "New Jersey Democrats" to participate in any election during 1985, and you anticipate that it will conclude its existence on or about June 1, 1985.

Based on these submitted facts, you have inquired whether the Form D-3 is the correct form to file with the Commission, and what the filing obligations of the "New Jersey Democrats" are under the Act. Form D-3 is a Designation of Campaign Treasurer and Depository for use by a Continuing Political Committee. Therefore, implicit in your inquiry is the question of whether "New Jersey Democrats" should file as a "political committee," or as a "continuing political committee," as those terms are used in the Act.

The Commission believes that "New Jersey Democrats" should file reports under the provisions in the Act governing entities that conduct postelection fund raising events; see N.J.S.A. 19:44A-16. That statute provides, in pertinent part, as follows:

"If any former candidate or any political committee or any person or association of persons in behalf of such political committee or former candidate shall receive any contributions or make any expenditures with relation to any election after the date set in section 16 of this act (N.J.S.A. 19:44A-16) for the final report subsequent to such election, or shall conduct any testimonial affair or public solicitation for the purpose of raising funds to cover any part of the expenses of a candidate or political committee or organization in such election, all such contributions, expenditures, testimonial affairs or public solicitations shall be reported to the Election Law Enforcement Commission by the person or persons receiving such contributions or making such expenditures or conducting such testimonial affairs or public solicitations." (parenthetical matter added).

The Commission understands that the Democratic State Committee incurred expenses in aiding or promoting candidates in the 1984 general election and prior elections. The anticipated funds that will be raised by "New Jersey Democrats" will be used, according to the facts you have submitted, to assist the Democratic State Committee in meeting the obligations that in substantial part result from its activities in the 1984 general elections. The Act requires political committees that raise funds for future elections to file a campaign report 29 days prior to the future election for which the funds have been raised; see N.J.S.A. 19:44A-8(a). However, where funds are used for the purpose of paying the debts of a candidate or a political committee that remain at the conclusion of an election, the persons or entity responsible for conducting the fund raising event must file a financial disclosure report (Form R-1) with the Commission within 20 days after the conclusion of the event, as provided by N.J.S.A. 19:44A-18.

The Commission finds no basis for concluding that "New Jersey Democrats" should file as a "Continuing Political Committee," as that term is defined in N.J.S.A. 19:44A-3. Such continuing entities are required to file quarterly financial disclosure reports pursuant to N.J.S.A. 19:44A-8(b). The fundamental distinction between the terms "political committee," as defined in N.J.S.A. 19:44A-3(1), and the term "continuing political committee," is that the continuing entity will make campaign contributions in a timeframe that encompasses future elections; see N.J.S.A. 19:44A-3(n)(2). The facts presented in this inquiry are that "New Jersey Democrats" will assist in reducing existing obligations from past elections but will not contribute to any future election. The Commission also notes that the definition of "continuing political

Cathleen R. Litvack, Secretary
Advisory Opinion No. 03-1985
January 29, 1985
page 3

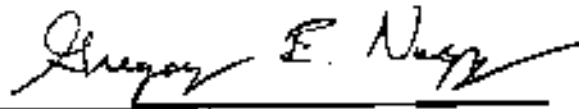
"committees" includes the state committees of the political parties; see N.J.S.A. 19:44A-3(n)(1). However, you have written that "New Jersey Democrats" is a separate entity from the Democratic State Committee, and therefore "New Jersey Democrats" cannot be viewed as a "continuing political committee" on the grounds it is the state committee of a political party.

Nothing contained in this Advisory Opinion should be construed to express any opinion as to the legal rights of creditors of the Democratic State Committee, or of "New Jersey Democrats." This Advisory Opinion is intended to provide guidance as to filing requirements under the provisions of the Act and is not intended for any other purpose.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By



GREGORY E. NAGY
Staff Counsel

GEN/cm