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February 21, 1989

Jean L. DuBois, Treasurer
Friends of Stephen Salvatore
398S Glover Road
Mullica Hill, NJ 08062

Advisory Opinion No. 03-1989

Dear Ms. DuBois:

The Commission has received your request for an advisory opinion in which you ask whether a continuing political committee, "Friends of Stephen Salvatore," may use its funds to purchase for Freeholder Salvatore memberships in private fraternal associations, such as the Rotary or Lions Club. For reasons expressed below, the Commission believes that purchase of such memberships, in the absence of a clear campaign purpose or objective not evident in this inquiry, cannot be undertaken from funds contributed to this entity.

The "Friends of Stephen Salvatore" is a continuing political committee filing quarterly reports with the Commission pursuant to N.J.S.A. 19:44A-8(a). This entity began filing quarterly reports on July 9, 1987 following the successful 1986 general election candidacy of Mr. Salvatore for the office of Gloucester County Freeholder. You have orally advised Commission staff that Freeholder Salvatore anticipates running for reelection in 1990, and that the principal purpose of the continuing political committee is to serve as a depository for contributions being made in anticipation of that candidacy. You have also noted that as a public officeholder, and a prospective candidate, Freeholder Salvatore is frequently invited to attend various functions sponsored or conducted by community or civic groups such as the ones involved in your inquiry.

Regulations promulgated by the Commission provide that contributions received by a continuing political committee "...shall not be converted to any personal use by the candidate or any other person." See N.J.A.C. 19:25-7.2 (full text enclosed). The issue presented by this inquiry is whether purchase by "Friends of Stephen Salvatore" of the contemplated memberships for Freeholder Salvatore would violate the above-cited regulation.

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In Advisory Opinion 46-1980 (copy enclosed for your convenience) the Commission was asked whether a candidate may purchase tickets to political and social functions from campaign contributions. The Commission responded that if the principal purpose of the attendance was the promotion of the candidacy, payment for the purchase of tickets would meet the definition of "expenditures" in N.J.S.A. 19:44A-3(d) and therefore would be permissible and subject to reporting. However, the Commission further noted that nothing contained in the advisory opinion could be construed to approve of the use of campaign contributions for attendance at functions not reasonably in furtherance of the attending candidate's election campaign.

There is a qualitative difference between merely attending events hosted by a private association of the type you describe and embracing membership in such an association. Membership in a private association is an expression of an individual's personal commitment to the goals and objectives of the association, and not directly undertaken to promote a political candidacy. Further, membership confers personal benefits on the member not ordinarily available to non-members. In contrast attendance at social events contemplated in A.O. 46-1980 by a candidate seeking office do not confer any personal benefit other than those incidental to attending the event; nor does attendance in itself express personal commitment to the association.

The Commission believes that costs associated with the attendance of an officeholder or prospective candidate at social events which can reasonably be described as in furtherance of duties associated with public office, or running for public office, may be permissibly paid for by a continuing political committee formed to support that officeholder or prospective candidate. However, in the absence of a more compelling fact record demonstrating a relationship between political objectives and private fraternal association memberships, the Commission cannot agree that the cost of such memberships can be characterized as political office holding or campaign expenses that fall outside of the personal use restriction contained in N.J.A.C. 19:25-7.2.

Thank you for your inquiry, and for kindly consenting to an extension of the ten-day response period provided in N.J.S.A. 19:44A-6(f).

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

BY: 
GREGORY E. NAGY

GEN/cn
Enclosures