



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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October 4, 1989

Honorable C. Louis Bassano
Senator, 21st District
324 Chestnut Street
Union, NJ 07083

Re: Advisory Opinion 24-1989

Dear Senator Bassano:

The Commission has directed me to issue this response to your request for an advisory opinion received on September 27, 1989. You have asked whether you may invest campaign funds by lending them to a corporation in which you are presently serving as vice president.

You write that you have received campaign contributions in anticipation of your reelection campaign in 1991 to the New Jersey Senate. You have invested these funds in a money market account at approximately 5-1/2% interest. You ask whether you could withdraw all or some of those funds for the purpose of lending it to the corporation for 120 days at 12% interest, an interest rate that you state would be charged if the corporation were to borrow the funds from a local bank.

Initially, the Commission notes that you are currently filing with the Commission 60-day postelection reports for your 1987 general election Senate candidacy. The most recent report (Form R-1) filed on behalf of this account on September 18, 1989 shows a closing balance of \$51,890.67. During the period of time relevant to the 60-day postelection report, you have reported on Schedule A receipt of interest earned from an investment vehicle, "Fidelity Cash Reserves," which the Commission presumes is the money market fund you are referring to in this inquiry.

You and your campaign treasurer may wish to consider closing the reporting obligations for the 1987 general election, and assuming quarterly reporting obligations as a continuing political committee in anticipation of funding your 1991 primary

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and general election Senate candidacies. For this purpose you may wish to contact Elizabeth A. Ryan, Director of Review and Investigation, who will provide detailed information on how this may be accomplished.

In regard to the substance of your inquiry, surplus or unspent campaign funds being held by candidates are subject to restrictions prohibiting personal use, as set forth in Commission Regulation N.J.A.C. 19:25-7.4 (copy enclosed). Therefore, in Advisory Opinion 09-1989 (copy enclosed), the Commission ruled that a holder of public elective office could not use any funds received by a continuing political committee associated with the officeholder for the purposes of making a personal loan to himself. The Commission recognizes that in the proposal you have submitted, the funds held by your campaign account would not be lent to you personally. However, the Commission believes that because you are the vice president of the corporation to which you propose making the loan, there is a possibility that you may be perceived to have a personal interest in this investment beyond that of an investor making a purely commercial transaction. For example, should for some unforeseen circumstance this corporation become unable to repay the loan, there might be an appearance that your selection of this corporation as an investment vehicle for your campaign funds was motivated by other than strictly investment considerations.


In prior advisory opinions, the Commission has approved the concept of candidates or officeholders investing surplus campaign funds in publicly-traded money market, mutual fund or other equity vehicles; see Advisory Opinions Nos. 2-1989 and 34-1980. However, in the facts as you have submitted them, the Commission is unable to conclude that investing your campaign funds in a corporation in which you serve as vice president would not constitute a personal use violative of N.J.A.C. 19:25-7.4(a).

Thank you for this inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By:



GREGORY E. WAGY

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