California
COMMON CAUSE
Holding Power Accountable

FAIR POLITICAL
PRACTICES COMMISSION
2006 MAY -9 PM 4:40

May 9, 2006

The Honorable Liane M. Randolph, Chair
The Honorable Sheridan Downey III, Commissioner
The Honorable Philip Blair, Commissioner
The Honorable Gene Huguenin, Commissioner
The Honorable Ray Remy, Commissioner

Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

RE: Agenda item #10: Adoption of Proposed Regulation 18438.5 and Proposed Amendments to Regulation 18438.8.

Dear Commissioners:

California Common Cause supports the adoption of proposed regulation 18438.5 and proposed amendments to regulation 18438.8 to help remove the possibility and appearance of a *quid pro quo* between policy makers and campaign contributors.

California's voters, through enactment of the Political Reform Act (PRA), declared that "...state and local government should serve the needs and respond to the wishes of all citizens equally" and that "[p]ublic officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them."[1]

By preventing certain officials from participating in proceedings involving parties from which those officials have received campaign contributions, PRA Section 84308 was intended to set a legally enforceable standard to achieve part of the voters' intent as expressed above.

Unfortunately, section 84308 does not adequately accomplish its goals. As indicated in the staff memo regarding this proposed regulatory action, "[t]hose rules have not been broad enough to effectively prevent the types of contributions the statute was designed to prevent...[R]ecent enforcement cases have found that parent or subsidiary companies

[1] Government Code Section 81001, subsections (a) and (b)

have made contributions to officials when one of their related business entities has been a "party" to a proceeding."[2]

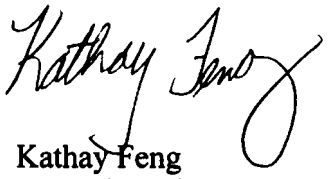
For example, an official who would be required to recuse him or herself from a proceeding involving a business entity from which that official had received a campaign contribution within the last year, would be able to participate in the same proceeding if the contribution had instead been given by a parent or subsidiary company of the business entity "party" to the proceeding.

The situation described above is contrary to the intent of California's voters and the apparent intent of the Legislature in enacting Section 84308.

To adequately ensure that public officials are not unduly influenced by campaign contributions, we support a regulation requiring the aggregating of contributions received from a party to a proceeding with contributions from parent, subsidiary and other business entities associated with that party, for the purposes of determining whether recusal is required per Section 84308.

Should you have any questions, please do not hesitate to contact me.

Thank you,



Kathay Feng
Executive Director, California Common Cause

[2] Staff memo to commission, April 25, 2006: Adoption of Proposed Regulation 18438.5 and Proposed Amendments to Regulation 18438.8.