

California Fair Political Practices Commission

*1 IN THE MATTER OF THE ALLEGED VIOLATION OF TITLE 9 OF THE CALIFORNIA GOVERNMENT CODE BY: CARMEN PERINO AND PERINO CAMPAIGN COMMITTEE, RESPONDENTS.

No. C-78/53

Dated: June 14, 1979

DECISION

This matter came on for hearing before the Fair Political Practices Commission on June 5, 1979, in Sacramento, California. All members of the Commission were present

The complainant was represented by Roger A. Brown, attorney. The respondents were represented by Laurence Drivon, attorney.

A stipulation was received and approved, arguments were heard, the hearing was closed and the matter was submitted.

FINDINGS OF FACT

Good cause appearing therefor, the Commission finds that the respondents, Carmen Perino and the Perino Campaign Committee, and each of them, negligently violated Government Code Section 84300 on five separate occasions. Said finding is based on the attached stipulation which is hereby made a part of this order.

ORDER

The Commission hereby orders that Respondent Carmen Perino pay a monetary penalty of \$250.00 to the General Fund of the State of California and that Respondent Perino Campaign Committee pay a monetary penalty of \$250.00 to the General Fund of the State of California. Monetary penalties shall be paid no later than thirty (30) days after the signing of this order.

FAIR POLITICAL PRACTICES COMMISSION

Tom K. Houston
Chairman
Robert D. Blasier, Jr.
Roger A. Brown
Martin E. Aguilar
Attorneys for Plaintiff

FAIR POLITICAL PRACTICES COMMISSION
1100 K Street
Sacramento, California 95814
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STIPULATION

The Executive Director of the Fair Political Practices Commission, Michael Bennett, and respondents, Carmen Perino and Perino Campaign Committee, Drivon & Bakerink, and Laurence E. Drivon, hereby stipulate and agree that:

The existence of certain facts which constitute violations of the Political Reform Act having been brought to the attention of the parties, they are entering into this stipulation to resolve the matter without the necessity of probable cause proceedings pursuant to Government Code Sections 83115.5 and 83116 or an administrative hearing except as hereinafter set forth.

Pursuant to 2 Cal. Adm. Code Section 18361(g), the procedural rights set forth in Section 18361 are hereby waived. In particular, the entire probable cause procedure is waived and it is agreed that probable cause exists to believe respondents violated former Section 84300 of the Government Code by accepting cash contributions of \$50 or more on five separate occasions in 1978. It is further agreed that the presiding officer need not make a finding of probable cause.

Respondents waive the provisions of Government Code Section 11505 and stipulate that the accusation attached hereto as Exhibit "A" shall be deemed to have been properly filed and served on respondents. It is the intention of the parties to submit this matter to the Commission on the attached accusation, this stipulation and oral or written arguments to be presented at a mutually agreeable time and place.

*2 CARMEN PERINO is the State Assemblyman from the 26th District. He was first elected to the Assembly in 1974. Mr. Perino was the incumbent candidate for the 26th Assembly District seat in 1976 and 1978.

The PERINO CAMPAIGN COMMITTEE is an ongoing controlled committee within the meaning of Gov. Code Section 82016 [FN1]. The Committee has been in existence and under Mr. Perino's control since 1974. The committee has not terminated and still exists as a controlled committee today.

During the 1978 campaign, the committee held several fundraising dinners and cocktail parties. Tickets for these events were sold before, after and upon entry to the event. Neither Mr. Perino nor anyone from the committee ever explained to the campaign workers that it was unlawful to accept cash contributions of \$50 or more.

On March 15, 1978, the committee held a fundraising cocktail party at the Stockton Golf & Country Club. The tickets were \$100 per couple.

The committee was aware of the \$50 cash contribution prohibition at least as early as February, 1978. That is because the Franchise Tax Board (FTB) audit reports for the period from January 7, 1975, through December 30, 1976, was adopted by FTB and received by the committee treasurer, Virginia Castillo, in February, 1978. At the time, Ms. Castillo was also the bookkeeper for Mr. Perino's printing business. Mr. Perino knew of the prohibition on \$50 cash contributions even before February, 1978.

The FTB audit report for the period January 7, 1975, through December 30, 1976, identified four separate prohibited cash contributions received by the committee during 1976. They were as follows:

Date	Contributor	Amount
6/10/76	Max Rosenthal	\$101.01
10/14/76	Knox LaRue	100.00
10/14/76	Joe Tiago, Jr.	100.00
10/14/76	Andrew & Chuck Magnasco	100.00

That FTB audit report did not identify which representative or representatives of the committee accepted the prohibited contributions.

During 1978, the committee received five prohibited cash contributions. They were as follows:

Date	Contributor	Amount	Received By
3/07/78	Gene H. Scott	\$100.00	Ray L. Patterson
3/15/78	John Cheadle	100.00	Maxine Grant
3/??/78	Ernie Setliff	100.00	Unknown
3/??/78	Mike Barkett	100.00	Unknown
11/03/78	Jack Clayton	100.00	Carmen Perino

*3 The prohibited cash contribution from Gene H. Scott was received by Ray L. Patterson who was then an administrative aide to Assemblyman Perino. Mr. Patterson claims to have given the contribution directly to Carmen Perino although the Assemblyman cannot recall having received it.

The prohibited cash contribution from John Cheadle was received by Maxine Grant who was then an administrative aide to Assemblyman Perino. She is now married to Assemblyman Perino. John Cheadle attended the March 15, 1978, cocktail party with a female companion, however a receipt was made out to him alone. Mr. Cheadle was listed on the committee campaign statement as the sole source of the contribution.

It is unknown who actually accepted the prohibited cash contributions from Mike

Barkett and Ernie Setliff or on what date they were received although the money was used for the purchase of tickets to the March 15, 1978, cocktail party. Although Mr. Barkett attended the party with a female companion, he was listed on the committee campaign statement as the sole source of the contribution.

The prohibited cash contribution from Jack Clayton was personally received by Carmen Perino at a labor league luncheon on November 1, 1978. Jack Clayton is a Stockton City Councilman. According to both Messrs. Clayton and Perino, the contribution was publicly announced to have been from Mr. Clayton and his wife, Phyllis.

Carl Burton also attended the November 3, 1978, labor league luncheon. He saw Jack Clayton give currency to Mr. Perino but did not hear any reference to "Phyllis." In addition, Mr. Burton claims to have heard Mr. Perino say, "I know I shouldn't take this but I will anyway." Mr. Perino denies having made such a statement.

Mr. Perino did not want to embarrass Mr. Clayton by publicly refusing the prohibited cash contribution. He, therefore, returned to his campaign headquarters with the \$100 bill attached to contribution checks and a note stating that the \$100 was from Jack and Phyllis Clayton. The checks and currency were then put in the safe. Mr. Perino assumed that someone on the staff would contact the Clayton's to ask that the cash be replaced with a check. Mr. Perino then forgot about the matter without having done anything to assure that the cash was returned or replaced. Mr. Perino did not inquire about the matter until after the incident was reported in the newspaper in December. The \$100 was deposited to the committee bank account and has never been returned to Mr. Clayton or replaced by a check.

The only people connected with the Perino campaign who knew of the \$50 cash contribution prohibition were Mr. Perino and his Treasurer. No staff training was conducted by Mr. Perino, his treasurer, Ms. Castillo, or anyone else connected with the campaign to inform persons who would be in a position to accept contributions that there was a limit on the amount which could be accepted in cash.

All five prohibited cash contributions received by the Perino campaign during 1978 were deposited to the committee bank account. After learning that these prohibited cash contributions had been received, Mr. Perino did nothing to cause the funds to be returned to the contributors nor did he ask any of the contributors to replace the currency with a check or money order.

*4 Respondents Carmen Perino and the Committee admit that they, and each of them, negligently violated Government Code Section 84300 on five separate occasions in 1978 by accepting cash contributions of \$50 or more from Gene H. Scott, John Cheadle, Ernie Setliff, Mike Barkett and Jack Clayton.

It is further stipulated that each of the parties shall be entitled to present oral or written arguments in mitigation or aggravation on the sole issue of

whether the Commission should impose a monetary penalty for the violations of law admitted herein and the appropriate amount of such penalty if any. It is further agreed that the Commission, if it accepts the stipulation, may not impose a monetary penalty of more than \$500 on either respondent.

Date: May 9, 1979

Michael Bennett

Executive Director FAIR POLITICAL PRACTICES COMMISSION

Date: May 10, 1979

Carmen Perino

Respondent

Date: May 11, 1979

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On Behalf of PERINO CAMPAIGN COMMITTEE

Date: May 11/79

Laurence E. Drivon

Drivon & Bakerink

Attorney for Respondents

FN1 All statutory references are to the Government Code unless indicated otherwise.