

## BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:	)	
	)	
Opinion requested by	)	No. 75-039
Senator Nicholas C. Petris	)	May 1, 1975
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BY THE COMMISSION: We have been asked by Senator Nicholas C. Petris to issue an opinion on the following questions:

The Senator Nicholas C. Petris Campaign Committee is a controlled committee within the meaning of the Political Reform Act of 1974. From time to time the Committee will make contributions in support of or in opposition to various candidates or propositions. When it makes such contributions, it will report them on Interim Form 420, "Committee Campaign Statement."

- (1) Must the Committee also file amendments to Interim Form 410, "Committee Statement of Organization," setting forth in Section 5 of that form such contributions?
- (2) If the answer is affirmative, may such amendments be set forth in a letter or must an entirely new Interim Form 410 be filed with each amendment(s)?

## CONCLUSION

The statement of organization required by Government Code Section 24101<sup>1/</sup> need not be amended when contributions are made by a controlled committee in support of or in opposition to additional candidates or propositions if such contributions are incidental to the general purpose of the controlled committee.

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<sup>1/</sup>All statutory references are to the Government Code unless otherwise noted.

## ANALYSIS

The Political Reform Act of 1974 requires certain campaign committees to file a statement of organization. Section 84101. This statement must include the name of each candidate "which the committee supports or opposes." Section 84101(d). In addition, an amendment to the statement of organization must be filed within ten days of any change in the information contained in the original statement. Section 84103.

Committees are also required to file campaign statements. These must include, inter alia, the total amount of expenditures (Section 84210(a)), itemization of each expenditure of \$50 or more (Section 84210(h)), and, in the case of a committee supporting more than one candidate or measure, a breakdown of the amount spent for each candidate or measure. Section 84210(i).

The Senator Nicholas C. Petris Campaign Committee is stated to be a controlled committee (presumably controlled by Senator Petris). The question presented to us is whether this committee "supports or opposes" candidates and propositions other than Senator Petris within the meaning of Section 84102(d) when it makes contributions to such candidates and propositions. If so, then an amendment to the committee's statement of organization would be required each time a contribution were made to a new candidate or proposition.

It is common for a campaign committee controlled by a candidate or an incumbent office-holder, incidental to the committee's general activities, to make contributions to candidates and propositions which are favored by the controlling candidate or office-holder. We conclude that so long as such contributions are incidental to the general purposes of the controlled committee, they do not constitute "support" of the candidate or proposition sufficient to require an amendment of the statement of organization under Section 84102(d).<sup>2/</sup>

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Since the question as presented to us deals with support of a candidate or proposition, our opinion is written accordingly. The analysis and conclusion would be the same, however, if the contribution were made in opposition.

Our conclusion that "support" of a candidate or proposition under Section 84102(d) means something more than an incidental contribution is based on the function of a statement of organization and on a comparison of the sections regarding statements of organization with those regarding campaign statements. Unlike the campaign statements, which contain detailed itemization of the receipts and expenditures of a committee, the statement of organization serves to identify the committee and to disclose its general nature.

This purpose would not be aided by requiring an amendment for each incidental contribution to candidates or propositions, and such incidental contributions would not evidence any ongoing "support" such as is contemplated by Section 84102(d). To require the listing of each such candidate or proposition on the statement of organization would tend to obscure rather than highlight the nature of the committee. For example, the Senator Nicholas C. Petris Campaign Committee would be identified as "supporting" numerous candidates and propositions, notwithstanding that it is essentially a committee to support Senator Petris. A candidate or office-holder who wanted to conceal the nature of his campaign committee could do so by not including his name in the name of the committee and then having the committee make small contributions to numerous other candidates.

Incidental contributions of the type presently under discussion must of course be disclosed, but they are more appropriately reported on the campaign statement than on the statement of organization. If they are in amounts of \$50 or more they must be itemized in detail under Section 84210(h). Even if they are less than \$50, they would be disclosed under Section 84210(i), which requires disclosure of the following:

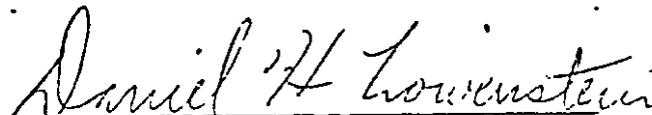
In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures for or against each candidate or measure ...

We believe the word "supports" has a different meaning in the context of a campaign statement than it has in the context of the statement of organization, based on the different functions of these two documents. Specifically, we believe that the making of an incidental contribution constitutes "support" sufficient to require itemization under

Section 84210(i) on the campaign statement, which has the purpose of itemized disclosure, but that the making of such a contribution does not constitute "support" sufficient to require amendment of the statement of organization. Not only do we thereby avoid requiring duplicative reporting, but we also avoid a possible trap for the unwary which would exist if committees which disclosed contributions on their campaign statements could run afoul of the law by neglecting to amend their statements of organization.

The question may arise whether a particular contribution by a controlled committee is "incidental." In most cases, however, we believe the answer will be clear, and whenever there is doubt the committee can avoid danger by amending the statement of organization. Such an amendment may be accomplished by letter, in the absence of a special form prescribed for that purpose.

Approved by the Commission on May 1, 1975. Concurring: Brosnahan, Miller, Waters and Lowenstein. Commissioner Carpenter was absent.

  
Daniel H. Lowenstein  
Chairman