Exhibit B
Request For Formal Commission Opinion
January 27, 2006

PIRAYOU
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FAIR POLITICAL
PRACTICES COMMISSION

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January 27, 2006

VIA OVERNIGHT MAIL AND FACSIMILE: 916-322-6440

Mark Krausse
Executive Director, Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

RE: REQUEST FOR FORMAL COMMISSION OPINION

ELLEN CORBETT, AS A CANDIDATE

FRIENDS OF ELLEN CORBETT FOR ASSEMBLY – FPPC IDENTIFICATION NUMBER 980193

FRIENDS OF ELLEN CORBETT – FPPC IDENTIFICATION NUMBER 1253363

Dear Mr. Krausse:

I serve as Legal Counsel to Ellen Corbett (Ms. Corbett) and the above-mentioned Committees and am authorized by Ms. Corbett and the Committees to act on their behalf in this matter. I write to respectfully request a Formal Opinion from the Fair Political Practices Commission (Commission), pursuant to the Political Reform Act (Act) and it regulations.[1] Reg. 18320.

In addition, I respectfully request the opportunity to present this Opinion Request to the Commission at its February 16, 2006 meeting.

I. FACTUAL SUMMARY

The undisputed factual background of this matter is set forth in the attached declarations of Ms. Corbett (Exhibit 1 - Declaration of Ms. Ellen Corbett) and Ms. Rita Copeland of River City Business Services (Exhibit 2 - Declaration of Ms. Rita Copeland) and is as follows:

1. Ellen Corbett was first elected as a Member of the California State Assembly for District 18 on November 3, 1998.
2. She was re-elected to two subsequent terms of the same office on November 7, 2000 and November 5, 2002.

[1] Unless otherwise noted, all references are to the Government Code sections §81000 et. seq. and the Commission regulations that appear at Title 2, sections 18109-18997 of the California Code of Regulations.

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3. The Friends of Ellen Corbett for Assembly committee (FPPC #980193) ("Assembly Committee") was used as the candidate-controlled campaign committee for Ms. Corbett's three elections to the California State Assembly.
4. On February 14, 2003, Ms. Corbett established the Friends of Ellen Corbett for Senate committee (FPPC #1253363) ("Senate Committee") to seek election to the California State Senate for District 10 in 2006.
5. On June 10, 2003, Ms. Corbett retained Rita Copeland of River City Business Services ("Treasurer") for treasurer and professional accounting services for both the Assembly and Senate Committees.
6. Thereafter, amended Form 410s were filed for both Committees to reflect the change in the Treasurer position and the new Treasurer obtained possession over the funds and records of both Committees.
7. Throughout the time period involved in this matter, the Treasurer maintained complete possession over the Committee's records.
8. Ms. Corbett's term as a Member of the California State Assembly expired on November 30, 2004.
9. As of December 31, 2004, the ending cash balance for the Assembly Committee was $97,851.43.
10. Prior to expiration of her final term in the California State Assembly, Ms. Corbett repeatedly asked that the Treasurer transfer the cash balance in the Assembly Committee account to the Senate Committee pursuant to section 85306.
11. Specifically, beginning in March 2004 through November 2004, Ms. Corbett recalls at least six different occasions on which she or a member of her campaign staff contacted the Treasurer by telephone to specifically ask that the transfer of funds take place and to inquire about the appropriate timeline for such transfer.
12. The Treasurer also recalls a number of occasions between March 2004 and November 2004 when Ms. Corbett or a member of her campaign staff contacted her to inquire about the transfer of the Assembly Committee funds to the Senate Committee account and timeline for the transfer of funds.
13. Both Ms. Corbett and the Treasurer recall that each time the Treasurer was contacted the Treasurer repeatedly assured Ms. Corbett or her campaign staff that she had ample time to transfer the Assembly Committee funds to the Senate Committee.
14. As a result, the Treasurer did not carry out Ms. Corbett's requests to transfer the Assembly Committee funds.
15. The Treasurer committed an error of law in erroneously interpreting regulation 18404.1(b)(1) as the correct time frame for transfer of the Assembly Committee funds.
16. Based on a good-faith misreading of regulation 18404.1(b)(1), the Treasurer believed that the Assembly Committee funds would become "surplus funds" nine months after the expiration of Ms. Corbett's final term of office.
17. As such, the Treasurer advised Ms. Corbett that the Assembly Committee was allowed to transfer the balance of funds to the Senate Committee within nine months from the date that Ms. Corbett left office.
18. However, regulation 18404.1(b)(1) solely relates to the termination requirements for post-2001 candidate-controlled committees organized for elective state office and does not address the issue of surplus funds.

19. Based upon the Treasurer's erroneous interpretation of the law, the funds in the Assembly Committee were not transferred to the Senate Committee before Ms. Corbett's State Assembly term of office expired.
20. Therefore, the Assembly Committee funds became surplus funds under section 89519(a) on November 30, 2004.
21. In April 2005, a colleague of Ms. Corbett's reviewed the Corbett Assembly Committee campaign statements and discovered that the deadline for transfer of the Assembly Committee funds had passed.
22. Ms. Corbett's colleague advised Ms. Corbett of the passing of the deadline.
23. Ms. Corbett immediately contacted the Treasurer to confirm the advice received.
24. Shortly thereafter, the Treasurer confirmed that she had made an error of law relating to surplus funds and committee termination requirements and advised Ms. Corbett that the Assembly Committee was prohibited from transferring the surplus funds to the Senate Committee.
25. Ms. Corbett's good-faith reliance on the erroneous advice of her professional Treasurer has resulted in a severe hardship to her candidacy for the State Senate in District 10, as her ability to effectively communicate to the voters of the district without the funds in her Assembly Committee is severely limited.
26. The present balance of funds in the Assembly Committee totals $81,617.
27. Ms. Corbett established the Senate Committee on February 14, 2003, with the sole intention that the substantial balance of funds in the Assembly Committee account could be transferred to the Senate Committee and used in her highly competitive Senate election.
28. As proof of her intention to use the remaining Assembly Committee funds in her Senate election, Ms. Corbett repeatedly requested throughout 2004 that the Treasurer transfer the Assembly Committee funds to the Senate committee.
29. Ms. Corbett had no other intention or purpose for the substantial balance of funds in the Assembly Committee account other than transfer to and use by the Senate Committee.
30. If the transfer of funds from the Assembly Committee to the Senate Committee is permitted by the Commission, the Senate Committee will fully disclose the transfer of the Assembly Committee funds with attribution using the appropriate accounting method per section 85306 and regulation 18536.
31. On June 17, 2005, Ms. Corbett sought a Formal Opinion from the Commission's Legal Division, requesting relief for the severe hardship due to the gross negligence of her Committees' Treasurer.
32. On July 8, 2005, the Legal Division concluded that Ms. Corbett could not transfer the balance of her Assembly Committee Funds to her Senate Committee. Corbett Letter, No. A-05-125, issued on July 18, 2005 (Corbett letter).

II. QUESTION PRESENTED

Under the unique and extraordinary facts of this case, as outlined above, may Ms. Corbett transfer the funds remaining in the Assembly Committee to the Senate Committee with attribution, per section 85306 and regulation 18536, in light of the following considerations:

1. the Act's purpose;
2. the Act's provisions relating to a candidate's duties;
3. the principles of detrimental reliance; and
4. the Commission's advice letters providing that "in extraordinary circumstances where hardship would otherwise result and the purposes of the Act would not be furthered by a strict application of the law," committees should be allowed "to remedy an error made due to a good faith misreading of the law"? See Miller Advice Letter, No. A-03-017, 2003 Cal. Fair-Pract. LEXIS 45, page 5-6, citing Tomberlin Advice Letter, No. A-97-505, 1997 Cal. Fair-Pract. LEXIS 37; Johannessen Advice Letter, No. A-96-281, 1996 Cal. Fair-Pract. LEXIS 210; and Roney Advice Letter, No. A-92-420, 1992 Cal. Fair-Pract. LEXIS 228. *See also*, Campbell Advice Letter, No. A-04-153, 2004 Cal. Fair-Pract. LEXIS 152.

III. ARGUMENTS

1. IF THE COMMISSION WERE TO GRANT MS. CORBETT'S REQUEST TO TRANSFER THE FUNDS FROM THE ASSEMBLY COMMITTEE TO THE SENATE COMMITTEE, THE COMMISSION'S DECISION WOULD BE IN FURTHERANCE OF THE ACT'S PURPOSE.

The Act states that the "people enact this title to accomplish the following purposes: (a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed **in order that the voters may be fully informed** and improper practices may be inhibited." Section 81002(a). (Emphasis added).

Clearly, the Act's primary purpose is to ensure that all campaign contributions received by a candidate are fully and truthfully disclosed and it is Ms. Corbett's intent, assuming the Commission approves her request as outlined in this letter, to fully disclose all the donors to her Senate Committee from the Assembly Committee.

In addition, the Act's secondary purpose is clearly to provide candidates with the mechanism (i.e., campaign contributions) enabling candidates to conduct voter outreach and education so that the voters are "fully informed."

In other words, the request to transfer the funds from the Assembly Committee to the Senate Committee serves another of the Act's purpose: it would allow Ms. Corbett to use the funds to contact voters, so that they may be fully informed of her qualifications and public policy initiatives. *See* Exhibit 1, Declaration of Ellen Corbett, Line 17.

Ms. Corbett is requesting relief in order to remedy both a personal and civic harm (i.e., the ability to spend $80,000 in campaign funds for voter education about her candidacy for the Senate) that directly impacts the ability of voters in the Senate district to receive information relating to Ms. Corbett's candidacy. *See* Exhibit 1, Declaration of Ellen Corbett, Line .

Thus viewed, Ms. Corbett's request does not in any way diminish the purpose of the Act. In fact, the Act's purpose would be furthered by the Commission providing relief to Ms. Corbett because it would ensure that ***the voters*** in Senate District 10 are not unjustly and unfairly punished by the grossly negligent delivery of services by a candidate's professional treasurer whom the candidate relies upon and compensates accordingly.

Finally, it is also important to mention that the facts of this case are unique and likely to be the only situation in the State of California dealing with section 85306 and regulation 18536, such that no other elected official would request similar relief from the Commission based upon its Opinion in this extraordinary case. *See* Exhibit 2, Declaration of Rita Copeland, Line 19. Given the limited case presented here, the purpose of the Act would be greatly furthered by the Commission granting Ms. Corbett's request.

2. REJECTING MS. CORBETT'S REQUEST TO TRANSFER THE FUNDS WOULD IMPOSE A DUTY ON MS. CORBETT NOT REQUIRED BY THE STRICT LANGUAGE OF THE ACT.

The general provisions relating to the duties of a candidate in the Act are set forth in the following provisions:

> A candidate . . . shall verify his or her campaign statement . . . . The verification shall be in accordance with the provisions of Section 81004 except that it shall state that **to the best of** his or her knowledge **the treasurer** of each controlled committee **used all reasonable diligence** in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004." §84213. (Emphasis added).

> A candidate must verify that **to the best of his or her knowledge** his or her own campaign statements are true and complete and must **use all reasonable diligence in the preparation of such statements**. To comply with these duties the candidate shall be subject to the same duties imposed upon treasurers as stated in [regulation 18427(a)] . . . . Reg. 18427(b), citing Reg. 18427(a). (Emphasis added).

> A candidate must verify **to the best of his or her knowledge** that the campaign statements filed by a committee he or she controls are true and complete and that **the treasurer has used all reasonable diligence in preparation** of such statements. To comply with these duties, the candidate shall:

(1) Ascertain whether the treasurer is exercising all reasonable diligence in the performance of his or her duties including those duties specified under [Reg. 18427)(a)];
(2) Take whatever steps are necessary to replace the treasurer **or raise the treasurer's performance to required standards**, if the candidate knows or has reason to know that **the treasurer is not exercising all reasonable diligence** in the performance of his or her duties;
(3) Review with care the campaign statements prepared for filing by the committee;
(4) Correct any inaccuracies and omissions in campaign statements of which **the candidate knows**, and cause to be checked, and, if necessary, corrected, any information **in campaign statements** which **a person of reasonable prudence would question** based on all the surrounding circumstances of which the candidate is aware or should be aware by reason of his or her duties under this regulation and the Act . . . . Reg. 18427(c).

Regulation 18427 sets out the duties of candidates and treasurers **only with respect to campaign statements**. Among the duties imposed by this regulation on candidates and treasurers with respect to committee campaign statements is to 'cause to be checked, and, if necessary, corrected any information . . . which a person of reasonable prudence would question based upon all the surrounding circumstances of which the treasurer [candidate] is aware or should be aware by reason of his her duties under this regulation and the Act.' The circumstances that trigger **a duty to inquire** under this standard **are limited** to those **actually known to the candidate** or treasurer and to those which he or she should be aware by carrying out his or her duties under the Act and regulation. **They do not include circumstances a candidate or treasurer 'might' or 'should have known' if he or she had gone beyond his or her required duties**. Comment, Regulation 18427.

Thus, under these provisions, the only duties imposed on Ms. Corbett by the Act were the following:

1. To verify her campaign reports stating that her Treasurer fulfilled the Treasurer's duties using "reasonable diligence" versus a more exacting standard – extraordinary diligence or perfection. §84213.

2. To use "all reasonable diligence" in helping the Treasurer prepare the campaign statements versus a more exacting standard – extraordinary diligence or perfection. Reg. 18427(b).

3. In the event Ms. Corbett had actual knowledge or "reason to know" that the Treasure was not exercising reasonable diligence, Ms. Corbett had to take actions to raise the Treasurer's performance, including taking prudent actions, such as, making specific inquiries of the Treasurer relating to the Treasurer's duties. Reg. 18427(c).

As the facts listed above establish, Ms. Corbett repeatedly inquired of her Treasurer as to the timing of the transfer of funds from her Assembly Committee to her Senate Committee and it cannot be disputed that Ms. Corbett did not meet the standards set forth in the Act and its regulations.

In fact, as the Comment to regulation 18427 set forth, Ms. Corbett is not and cannot be held to a higher standard of having to know what the law as it relates to the transfer of funds between committees, because such a requirement would be "beyond" her duties as a candidate, as set forth in the Act.

Simply put, as set forth in Ms. Corbett's Declaration and the facts provided above, Ms. Corbett made an extraordinary effort to get her Treasurer to transfer the funds into her Senate Committee; and, as the Declaration of her Treasurer makes clear, the Treasurer refused to take the requested actions of Ms. Corbett, because the Treasurer felt she had more time to implement the transfer request, based upon the Treasurer's erroneous interpretation of the Act and its regulations. Ms. Corbett, in effect, was helpless in light of the repeated assurances of the Treasurer and after using all reasonable diligence required of her by the Act.

Equally important, there is nothing in (1) the language of the Act or its regulations, as set forth above, (2) the history of the Act, or (3) the policy of the Act that compels an interpretation that punishes Ms. Corbett for the gross negligent actions of her Treasurer and requires Ms. Corbett to meet a higher standard (than reasonable diligence) in the performance of her duties as a candidate under the Act. Furthermore, any doubts relating to the Act's requirements of a candidate or the standards imposed by the Act upon Ms. Corbett as a candidate should be resolved in Ms. Corbett's favor, given the extraordinary hardship faced by Ms. Corbett as result of her Treasurer's error of law.

3. THE COMMISSION CAN USE THE PRINCIPALS OF DETRIMENTAL RELIANCE AND FUNDAMENTAL FAIRNESS, RELIED ON IN THE PAST BY THE COMMISSION AND PERMEATING THE ACT, TO PROVIDE MS. CORBETT THE RELIEF REQUESTED, AND THEREBY ALLOW THE TRANSFER OF FUNDS TO HER SENATE COMMITTEE.

The concepts of detrimental reliance and fundamental fairness are found throughout the Act, its regulations, and the Commission's advice letters, including specifically the following scenarios:

1. **Reimbursement of Gifts Exceeding Limits**. The Commission has previously allowed an officeholder, who relied on the Commission's advice, that later was deemed incorrect, to escape negative impacts of such reliance, stating as follow: "[t]herefore, we agree that **equitable considerations and fairness dictate** we revise the requirement for reimbursement in [the officeholder's] case." *See* Bagatelos Advice Letter; F.P.P.C. No. A-93-309a at 1994 Cal. Fair-Pract. LEXIS 7. (allowing Supervisor Angela Alioto not to reimburse the Chengdu Government for the portion of a gift that she accepted which was in excess of the gift limit, based upon her reliance on Commission advice). (Emphasis added).

2. **Return of Contribution Provisions**. The Commission itself has highlighted the notion of fairness in its past Opinion, stating that "[w]e believe this interpretation [disgorgement of funds received under Section 85701] . . . comports with general notions of **fairness** and justice." *See* In the Matter of Opinion Requested by LeeAnn Pelham; No. 0-00-274; 2001 FPPC Ops. LEXIS 1, at 26. (Emphasis added).

3. **Conflict of Interest Provisions**. In the context of conflict of interest provisions, the Commission's advice letters have noted that "[r]eliance on an appraisal immunizes the official only to the extent that **such reliance is reasonable** at the time of the decision." *See* Whitnell Advice Letter, F.P.P.C. No. A-01-017 at 2001 Cal. Fair-Pract. LEXIS 94. (Emphasis added).

4. **Act's Provisions**. The Act's purpose states "[l]aws and practices **unfairly** favoring incumbents should be abolished in order that elections may be conducted more **fairly**." *See* §81003(e). (Emphasis added).

5. **Act's Regulations**. As part of its regulations dealing with probable cause proceedings, the regulations provide that the "Executive Director shall consider the relevancy of the witness' proposed testimony, whether the witness has a substantial interest in the proceedings, and whether **fairness** requires that the witness be allowed to participate." Reg. 18361.4(d). (Emphasis added).

In light of this precedent, the Act clearly includes the concepts of fairness and detrimental reliance in its provisions rather than requiring a strict reading of each section of the Act without attention to each particular case and the harm created by such a strict reading.

In her years in the State Assembly (6 years) and prior to her service in the Assembly as a Mayor and Council Member in the City of San Leandro (8 years), Ms. Corbett has taken significant strides to comply with all requirements of the Act. In fact, in the nearly 15 years as a public official, Ms. Corbett has not been fined by the Commission or any other regulatory body. See Exhibit 1, Declaration of Ellen Corbett, Line 21.

In short, Ms. Corbett is before the Commission (with "clean hands") requesting equitable relief given the unique and unfortunate situation in which she wishes she did not find herself. She relied in good-faith on a professional Treasurer whose gross, inexcusable negligence has created a direct harm on Ms. Corbett's campaign and the voters in the Senate District 10 that can only be remedied by the Commission.

4. BASED UPON THE COMMISSION'S PREVIOUS ADVICE LETTERS, MS. CORBETT SHOULD BE PROVIDED RELIEF FROM A STRICT APPLICATION OF THE LAW IN HER EXTRAORDINARY CIRCUMSTANCES IN ORDER TO PRODUCE A RESULT THAT FURTHERS THE ACT'S PURPOSE AND PRINCIPLES OF FAIRNESS.

As part of the request of the Commission's Legal Division, Ms. Corbett cited several advice letters (set forth above) in support of her argument that permitting the transfer of funds would

remedy a severe hardship to Ms. Corbett caused by her Treasurer's gross error due to a misreading of the law and further the Act's purpose.

Importantly, in its July 8, 2005 letter, the Commission's Legal Division agreed that in the past, "[i]n a few extraordinary circumstances where hardship would otherwise result and the purposes of the Act would not be furthered by a strict application of the law[,] the Commission has allowed committees to remedy an error made due to a misreading of the law." Corbett Letter, page 2.

However, the Commission's Legal Division rejected Ms. Corbett's reliance on these cases and concluded that Ms. Corbett's request to transfer funds between her committees was "expressly prohibited by the statute." Corbett Letter; A-05125, citing §89519 and Reg. 18951, at page 3.

The Legal Division concluded that "[w]e do not find those circumstances to be present in the matter at issue here" because allowing the transfer request of Ms. Corbett would not "further the general purposes of the Act." Corbett Letter, page 3.

In reaching its conclusion, the Legal Division distinguished the cases citied above on two main grounds:

1. Each of the letters cited involved a mistake leading to "**a personal hardship**" on the particular candidate; and
2. The mistakes at issue in the letters flowed from a "**mistaken characterization**" of a given historical transaction or event, which had a personal consequence **after an election**, thus the correction of the mistake served to further the purposes of the Act to "accurately follow the reporting laws." (Emphasis added).

Respectfully, these distinctions are without a substantive difference. In other words, regardless of whether the impact to a candidate is financial or otherwise and regardless of whether the error was a "reporting" error or otherwise, the Commission, in furtherance of the Act and based upon equitable considerations, permitted committees to remedy errors "made due to a good faith misreading of the law" so long as the following two factors were present: (1) a severe hardship would otherwise result by the strict application of the law and (2) the Act's purpose was furthered.

Furthermore, the fact that the harm in the cited cases occurred "**after an election**" versus (in Ms. Corbett's case) **before an election** is immaterial, particularly in light of the equitable considerations and the Act's purpose. In other words, regardless of **when** the harm occurs, the harm **still results** in a negative impact on the candidate. Arguably, in Ms. Corbett's case, the fact that the harm is taking place before her very challenging Senate election is more egregious than the personal hardships cited in the cases above.

In addition, the Legal Division seems to imply that Ms. Corbett is likely not to suffer any harm by stating as follows:

> [w]e note that section 85310 now allows a candidate to return all or part of any contribution to the donor who made the contribution at any time, regardless of whether other contributions are returned. Thus, nothing prohibits Ms. Corbett from returning her contributions . . . to contributors who might be identified as willing in turn to make a contribution to her future Senate committee. Corbett Advice Letter, footnote 4, at page 3.

However, in a fiercely contested Senate election, it is very likely that previous donors to her Assembly committee could just as easily decide to **not** make a donation to her Senate Committee and Ms. Corbett could not command any action otherwise. Additionally, Ms. Corbett would also incur substantial transactional costs associated with returning the funds remaining in her Assembly Committee account. *See* Exhibit 2, Declaration of Rita Copeland, Line 18. Furthermore, Ms. Corbett would have to expend a substantial amount of her personal time and effort – at the expense of her ability to conduct other important campaign activities (e.g., voter education efforts) – without any guarantee, as mentioned above, that the donors would agree to her request to contribute again to her Senate Committee. It is also important to note that nearly $19,000 of the funds in the Assembly Committee are funds collected before the enactment of Proposition 34 and could have been transfer without attribution to her Senate Committee. In short, given these factors, Ms. Corbett has clearly suffered an identifiable hardship that can only be remedied by the approval of the transfer of the Assembly funds to the Senate Committee.

The Legal Division's conclusion in Ms. Corbett's case does not serve to further the Act's purpose, as cited above, of having a more informed electoral in Senate District 10. It is difficult to understand why the principles of equitable relief versus strict construction of the statute (in this case the Act's surplus provisions found in section 89519) should be applied to circumstances where a candidate's personal finances are protected while the voters' rights to have information are not. Such a result seems to place the Act's purpose on its head versus furthering it. In fact, it is even more difficult to imagine any other conclusion in Ms. Corbett's case given Ms. Corbett's efforts to fulfill her duties under the Act, the Act's stated purpose to have fully informed voters, and the substantial permeation of concepts of detrimental reliance and fairness in the Act, its regulations, and Commission's advisory opinions.

IV. CONCLUSION

On behalf of Ms. Corbett, I would greatly appreciate your consideration of our request for an expedited Commission Opinion. If you have any questions, please feel free to contact me at (408) 297-3795 or mailing address listed below.

Very truly yours,

PIRAYOU LAW OFFICES

By: Ash Pirayou

ASH PIRAYOU
ATTORNEY AT LAW

cc: Ms. Ellen Corbett

THE CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

IN THE MATTER OF:	DECLARATION OF ELLEN CORBETT
OPINION REQUESTED BY	Number: T.B.D. Date: T.B.D.
ELLEN CORBETT	

I, Ellen Corbett, declare as follows:

1. I was first elected as a Member of the California State Assembly for District 18 on November 3, 1998.
2. I was re-elected to two subsequent terms of the same office on November 7, 2000 and November 5, 2002.
3. I used the Friends of Ellen Corbett for Assembly committee, FPPC #980193, ("Assembly Committee") as my candidate-controlled campaign committee for my three elections to the California State Assembly.
4. On February 14, 2003, I established the Friends of Ellen Corbett for Senate committee (FPPC #1253363), ("Senate Committee") to seek election to the California State Senate for District 10 in 2006.
5. On June 10, 2003, I retained Rita Copeland of River City Business Services ("Treasurer") for treasurer and professional accounting services for both the Assembly and Senate Committees.
6. Thereafter, the Treasurer obtained possession over the funds and records of both Committees.
7. My term, as a Member of the California State Assembly, expired on November 30, 2004.
8. As of December 31, 2004, the ending cash balance for the Assembly Committee was $97,851.43.
9. Prior to expiration of my final term in the California State Assembly, I or a member of my campaign staff repeatedly asked that the Treasurer transfer the cash balance in the Assembly Committee account to the Senate Committee.

10. Specifically, beginning in March 2004 through November 2004, I, or my campaign staff, made at least six different attempts to contact the Treasurer by telephone to specifically ask that the transfer of funds take place and to inquire about the appropriate timeline for such transfer.
11. Each time, the Treasurer assured me or my campaign staff that I had ample time to transfer the Assembly Committee funds to the Senate Committee.
12. As a result, the Treasurer did not implement my requests to transfer the Assembly Committee funds.
13. Based upon the Treasurer's erroneous interpretation of the law, the funds in my Assembly Committee were not transferred to my Senate Committee before my State Assembly term of office expired.
14. In April 2005, a colleague reviewed my Assembly Committee campaign statements and discovered that the deadline for transfer of the Assembly Committee funds had passed.
15. I immediately contacted the Treasurer to confirm the advice received.
16. Shortly thereafter, the Treasurer confirmed that she had made an error of law relating to surplus funds and committee termination requirements and advised me that the Assembly Committee was, indeed, prohibited from transferring the surplus funds to the Senate Committee.
17. My good-faith reliance on the erroneous advice of my professional Treasurer has resulted in a severe hardship to my candidacy for the State Senate in District 10, as I am not able to effectively communicate with the voters of the district without the funds in my Assembly Committee.
18. The present balance of funds in the Assembly Committee totals approximately 81,617.
19. I established the Senate Committee on February 14, 2003, with the intention that the substantial balance of funds in the Assembly Committee account could be transferred to my Senate Committee and used in my highly competitive Senate election.
20. I had no other intention or purpose for the substantial balance of funds in my Assembly Committee account other than transfer to and use by my Senate Committee.
21. In my nearly 15 years of public service, neither I, nor any of my controlled committees, have ever been sanctioned by the Fair Political Practices Commission or any other regulatory body.
22. If the Commission were to provide the relief requested by me, I intend to fully and completely disclose all donations to the Senate Committee from the Assembly Committee.

I declare under penalty of perjury under the laws of the State of California that the foregoing is correct and was executed on 1/26/06, in City of San Leandro, California.

ELLEN CORBETT

THE CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

IN THE MATTER OF:	)	
	)	DECLARATION OF RITA COPELAND
	)	
	)	Number: T.B.D.
OPINION REQUESTED BY	)	Date: T.B.D.
	)	
ELLEN CORBETT	)	
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I, Rita Copeland, declare as follows:

1. I am the owner of River City Business Services, a full-service accounting and political compliance firm with expertise in preparing campaign-finance reports pursuant to the Political Reform Act, and serve as the Treasurer for a number of candidate controlled committees.
2. On June 10, 2003, Ms. Ellen Corbett retained my firm as Treasurer for the Friends of Ellen Corbett for Assembly committee, FPPC #980193, ("Assembly Committee") and the Friends of Ellen Corbett for Senate committee (FPPC #1253363) ("Senate Committee").
3. Thereafter, amended Form 410s were filed for both Committees to reflect the change in the Treasurer position and my firm obtained possession over the funds and records of both Committees.
4. Throughout the time period involved in this matter, my firm maintained complete possession over the Committee's records.
5. Ms. Corbett's term, as a Member of the California State Assembly, expired on November 30, 2004.
6. As of December 31, 2004, the ending cash balance for the Assembly Committee was $97,851.43.

7. Prior to expiration of her final term in the California State Assembly, Ms. Corbett repeatedly inquired about the transfer of the cash balance in the Assembly Committee account to the Senate Committee.
8. Specifically, I recall a number of occasions between March 2004 and November 2004 when Ms. Corbett or a member of her campaign staff contacted my firm to inquire about the Assembly Committee funds to be transferred to the Senate Committee account and to inquire about the timeline for the transfer of funds.
9. Each time my firm was contacted, I repeatedly assured Ms. Corbett or her campaign staff that she had ample time to transfer the Assembly Committee funds to the Senate Committee.
10. As a result, my firm did not implement Ms. Corbett's requests to transfer the Assembly Committee funds, as requested.
11. I discovered later that I had committed an error of law in interpreting regulation 18404.1(b)(1) as the correct time frame for transfer of the Assembly Committee funds.
12. Based on my good-faith reading of regulation 18404.1(b)(1), I believed that the Assembly Committee funds would become "surplus funds" nine months after the expiration of Ms. Corbett's final term of office.
13. As such, I advised Ms. Corbett that the Assembly Committee was allowed to transfer the balance of funds to the Senate Committee within nine months from the date that Ms. Corbett left office.
14. However, I subsequently learned that regulation 18404.1(b)(1) relates to the termination requirements for post-2001 candidate controlled committees organized for elective state office and does not address the issue of surplus funds.
15. Based upon the my erroneous interpretation of the law, the funds in the Assembly Committee were not transferred to the Senate Committee before Ms. Corbett's State Assembly term of office expired.
16. As such, the Assembly Committee funds became surplus funds under section 89519(a) on November 30, 2004.
17. In April of 2005, I confirmed with Ms. Corbett that I had made an error of law relating to surplus funds and committee termination requirements and advised Ms. Corbett that the Assembly Committee was, indeed, prohibited from transferring the surplus funds to the Senate Committee.
18. Ms. Corbett's good faith reliance on the erroneous advice of my firm has resulted in a severe hardship to her candidacy for Senate in District 10, as the process of refunding donations to contributors is costly and quite likely will result in most donors requesting refunds.
19. To the best of my knowledge as a professional campaign treasurer, I believe that Ms. Corbett's situation is unique and she is likely to be the only candidate in the State of California that did not transfer funds between her committees when permitted by the Act.

I declare under penalty of perjury under the laws of the State of California that the foregoing is correct and was executed on Jan 26, 2006, in Sacramento, California.

Rita Copeland

RITA COPELAND