

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Alleged)
Violation of Title 9 of the)
California Government Code by:)

DWIGHT K. TRIPP III; ELECT DWIGHT)
TRIPP IN THE 16TH COMMITTEE;)
HARRIET ROSS; DONALD C. BERNDT)

No. SI-57/78
OAH No. 11567

Respondents.)
_____)

DECISION

This matter came on for hearing before the Fair Political Practices Commission on December 6, 1978, in Sacramento, California. All members of the Commission were present. Robert R. Coffman, an Administrative Law Judge of the Office of Administrative Hearings, presided.

The complainant was represented by Roger Brown, attorney.

Respondents Dwight K. Tripp III and the Elect Dwight Tripp in the 16th Committee were represented by Lewis R. Wiener. Respondent Harriet Ross appeared in person and represented herself. Respondent Donald G. Berndt was not present or otherwise represented.

Evidence was received, the hearing was closed and the record was held open to permit complainant to submit additional documentary evidence as to proof of service of pleadings and papers upon Respondent Berndt. Additional documentary evidence was received, marked as an Exhibit, and the record was closed.

The Commission makes the following

FINDINGS OF FACT

I

Michael Bennett made the Accusation in his official capacity as Executive Director of the Fair Political Practices Commission.

II

At all times material herein, Dwight K. Tripp III was a candidate for the State Assembly, 16th District in the 1976 General Election; Harriet Ross was Treasurer of the Elect Dwight Tripp in the 16th Committee (hereafter referred to as the "Committee"); the Committee was a committee within the meaning of Government Code Section 82013⁹; and the Committee was controlled by Candidate Dwight K. Tripp within the meaning of Section 82016.

Donald C. Berndt was the Campaign Manager and agent of Dwight K. Tripp III and the Committee from February 5, 1976, through August 5, 1976.

III

Following proceedings held in compliance with the applicable statutes and regulations, a Finding of Probable Cause of violation of the Political Reform Act ("Act") was made on September 10, 1978.

IV

Respondents Tripp and Ross failed to keep and maintain the following records:

1. A ledger of expenditures.
2. A ledger of contributions.
3. A record of persons providing services if other than the payee.
4. Records which would allow deposits to the bank account to be traced to individual contributions.
5. A record of petty cash expenditures.
6. Records of the names of contributors who gave less than fifty dollars (\$50) to permit cumulation of such contributions for itemization purposes when such cumulative contributions totalled fifty dollars (\$50) as to each contributor.

* / All statutory references are to the Government Code.

V

Section 84100(d) makes it the duty of every candidate and treasurer to keep such detailed records as shall be required by Commission regulations.

The applicable Commission regulation, 2 Cal. Adm. Code Section 18401, requires the keeping of such detailed records as shall be reasonably necessary to comply with the campaign disclosure provisions (Chapter 4) of the Act.

2 Cal. Adm. Code Section 18401 became effective August 20, 1976. Prior to August 20, 1976, there were no Commission regulations implementing Section 84100(d).

Most of the campaign activities and transactions for which detailed records were not kept occurred prior to August 20, 1976. Under the circumstances herein it is found that the failure to keep such records does not constitute a violation of the Act.

VI

Respondents Ross and the Committee negligently failed to report \$385 in expenditures of less than fifty dollars (\$50) each made by Campaign Manager Donald C. Berndt during the period from February 5, 1976, through August 5, 1976.

VII

Respondents Ross and the Committee negligently failed to report \$2,435 in expenditures of more than fifty dollars (\$50) each made by Donald C. Berndt during the period from February 5, 1976, through August 5, 1976.

VIII

Respondent Berndt made \$2,820 in expenditures during the period from February 5, 1976, through August 5, 1976, and negligently failed to make known to the candidate or Committee the information required by the Act and failed to file a campaign statement reporting expenditures.

IX

Respondent Berndt made expenditures of \$2,820 but negligently failed to keep records of such expenditures. Such expenditures were not reported on campaign statements filed by the Committee.

The expenditures were evidenced by numerous checks all signed by Berndt. Berndt was the payee on most such checks. The use to which Berndt put such funds was not established.

X

Ross agreed to act as treasurer for the campaign out of friendship and a sense of obligation to Tripp for his help in her appointment to political committees.

Ross accepted the position with the understanding that she was to sign campaign statements but was not responsible for detailed record keeping. She would not have accepted the position otherwise, as most of her time was devoted to caring for her daughter and full time employment as an attorney.

In 1976 Ross was not aware of campaign requirements under the Act, including the obligations of a treasurer.

DETERMINATION OF ISSUES

I

Respondents Ross and the Committee negligently violated Sections 84210(e) and (h) under the facts contained in Findings VI and VII.

II

Respondent Berndt negligently violated Section 84303 under the facts contained in Finding VIII.

III

It was not established that Respondents Tripp and Ross violated Section 84100(d) under the facts contained in Finding IV.

IV

Cause was established under Determinations I and II for the issuance of an order pursuant to Section 83116.

ORDER

1. Respondent Committee shall pay a monetary penalty of \$1,410 to the General Fund of the State of California.

2. Respondent Donald C. Berndt shall pay a monetary penalty of \$1,410 to the General Fund of the State of California.

3. Respondent Harriet Ross shall pay a monetary penalty of \$100 to the General Fund of the State of California.

Dated: January 16, 1979

FAIR POLITICAL PRACTICES COMMISSION

By: Daniel H. Lowenstein
Daniel H. Lowenstein
Chairman