

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)	
)	
Opinion requested by:)	No. 78-011
Melinda Welsh, Staff)	Nov. 7, 1978
Director, Valley Oak)	
Institute for Voter)	
Participation)	
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BY THE COMMISSION: Melinda Welsh, staff director of the Valley Oak Institute for Voter Participation, has asked whether Valley Oak will incur any reporting obligations under the campaign finance disclosure provisions of the Political Reform Act by reason of its voter registration activities.

FACTS

Valley Oak Institute is a non-profit organization whose goal is to encourage full citizen participation in government. The organization's bylaws prohibit active participation in behalf of any candidate for political office. To accomplish its goals, Valley Oak has raised and spent money for a voter registration program in Yolo, Sonoma, Solano and Napa Counties. The voter registration programs are not designed to register persons preferring a particular party, candidate or political belief. The organization has solicited funds from various organizations and individuals stretching across the political spectrum and is currently contracting with Napa County and Sonoma County to provide voter registration services. Valley Oak is not affiliated with any other organization or with any candidate, but will provide voter registration assistance free of charge to partisan political groups and candidates. Such assistance will be provided without regard to the political affiliations of the group or candidate assisted.

CONCLUSION

Valley Oak Institute will incur no reporting obligation under the Political Reform Act by reason of its voter registration activities.

ANALYSIS

Under the Political Reform Act a person or organization qualifies as a "committee", if it receives contributions or makes expenditures over certain threshold amounts. Government Code Section 82013.^{1/} Once an organization becomes a committee, it will incur an obligation to file statements disclosing its finances. Sections 84200, et seq.

By regulation the Commission has defined the terms "contribution" and "expenditure." 2 Cal. Adm. Code Sections 18215, 18225. Any payment made to a committee controlled by a candidate, an official committee of a political party or an organization formed or existing primarily for political purposes for which full and adequate consideration is not received is a contribution. 2 Cal. Adm. Code Section 18215(b). Similarly, any payment made by a controlled committee, an official committee of a political party or an organization formed or existing primarily for political purposes is an expenditure. 2 Cal. Adm. Code Section 18225(b). Therefore, if Valley Oak were a controlled committee, an official committee of a political party or an organization formed or existing primarily for political purposes, any money spent or received by it would be a contribution or expenditure and would be counted in determining whether Valley Oak had reached the contribution and expenditure thresholds which trigger committee status pursuant to Section 82013. Conversely, if Valley Oak is not such a committee or organization, only certain of its payments received or made (as defined by 2 Cal. Adm. Code Sections 18215(d) and 18225(c) and (d)) will be contributions or expenditures.

The facts presented to us indicate that Valley Oak Institute is neither controlled by a candidate nor is it the official committee of a political party. We also conclude that Valley Oak cannot be considered an organization formed or existing primarily for political purposes.

^{1/} All statutory references are to the Government Code unless otherwise noted.

Regulation 18225 defines "political purpose" as:

...for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates,^{2/} or the qualification or passage of any measure.^{2/}

2 Cal. Adm. Code
Section 18225(a).

The primary purpose of Valley Oak is to carry out a voter registration program. Therefore, in order to determine whether the organization is formed or existing primarily for political purposes, we must decide whether the voter registration activities of Valley Oak have a political purpose.

Clearly, it is possible to organize and conduct a voter registration program in a manner that assures that a large percentage of voters registered will ultimately vote in a certain manner. For example, party organizations may attempt to contact and register voters who have moved but were registered with the party at their previous residences. See Opinion requested by Ken Sobieski, 2 FPPC Opinions 73 (No. 75-204, June 1, 1976). In such a case the voter registration is aimed at influencing potential voters for or against a candidate or candidates.

^{2/} The definition of a "committee" in Section 82013 contains a similar limitation. In order to qualify as a committee an organization must make expenditures or receive contributions "for the purpose of influencing or attempting to influence the action of the voters...." Section 82013. For an organization such as Valley Oak which is engaged in essentially only one activity, it does not matter whether the analysis of its reporting obligation is based upon Section 82013 or 2 Cal. Adm. Code Sections 18215 and 18225 since the result will be the same with either analysis. Under the analysis required by Section 82013, even if it is assumed every payment an organization makes is an expenditure or contribution, the organization will not become a committee if those contributions or expenditures do not have the requisite "political purpose." Under the analysis of 2 Cal. Adm. Code Sections 18215 and 18225, payments are not contributions or expenditures if they do not have the requisite political purpose. Under Section 82013 an organization cannot become a committee if it makes no contributions or expenditures.

But it is also possible to carry out a voter registration program in a manner not designed to influence voters for or against particular candidates. We think that a voter registration program is non-partisan if:

(1) The program is not controlled by any candidate or partisan organization or committee;

(2) The program is designed to register voters irrespective of party or political views;

(3) Any services are offered to any organization; and,

(4) Any solicitation of funds is not directed at candidates or organizations of a particular political party.

The Valley Oak program is organized in a manner which indicates that it is non-partisan in nature and aimed at increasing participation in the political process on the part of all segments of the population. Valley Oak is not affiliated with any partisan groups. Its program is aimed at reaching unregistered voters irrespective of those voters' political preferences. Although it has solicited funds from and offered to provide assistance on voter registration matters to partisan political groups, both the solicitations and offers of assistance have been made without regard to political affiliation. In addition, Valley Oak has contracted with Sonoma County and Napa County to provide voter registration services pursuant to the mandate of Elections Code Section 304 that counties "design and implement programs intended to identify qualified electors who are not registered voters, and to register such persons to vote."

These facts convince us that, under the criteria set out above, the Valley Oak voter registration program is non-partisan and not aimed at influencing the action of the voters for or against any particular candidates or measures. Accordingly, we conclude that Valley Oak Institute is not an organization formed or existing primarily for political purposes.

Having determined that Valley Oak is not formed or existing primarily for political purposes and, therefore, not an organization for which all payments are contributions or expenditures, we must now determine whether, under 2 Cal. Adm. Code Section 18225(c) and (d), any of the payments made by Valley Oak are "expenditures" and whether, under 2 Cal. Adm. Code 18215(d), any of the payments received by Valley Oak are "contributions."

2 Cal. Adm. Code Section 18225(c) defines an expenditure as a payment:

...that is used for communications which expressly advocate the nomination, election or defeat of a clearly identified candidate or candidates, or the qualification, passage or defeat of a clearly identified ballot measure.

In essence, this definition is one which requires a payment to have a political purpose before it is considered an expenditure. However, the subsection (c) definition of political purpose is narrower in scope than the one found in Section 82013 and 2 Cal. Adm. Code Sections 18215(a) and 18225(a). A payment may be made to influence the voters in some manner but that payment may be unrelated to communications which expressly advocate a particular election result. Since we have decided above that the Valley Oak's voter registration activity does not have a political purpose under the broader standard of Section 82013 and 2 Cal. Adm. Code Sections 18215(a) and 18225(a), we must also conclude that payments for such voter registration activities do not have a political purpose under the narrower standard of 2 Cal. Adm. Code Section 18225(c). Therefore, Valley Oak's payments for voter registration activities cannot be considered expenditures under the standards of 2 Cal. Adm. Code Section 18225(c).^{3/}

Any payment used to make contributions is also an expenditure. 2 Cal. Adm. Code Section 18225(d). The technical assistance services Valley Oak may provide to voter registration programs of candidates and their controlled committees may be considered to be in-kind contributions. However, those services will be provided without regard to the political affiliation or views of the recipient. Under circumstances where services will be provided on a non-discriminatory basis, one cannot ascribe a political purpose to those services. We therefore conclude that in this case the provision of voter registration services to candidates and their controlled committees is not an in-kind contribution by Valley Oak. See Opinion requested by H. L. Masini, 2 FPPC Opinions 38 (No. 75-171-B, Feb. 4, 1976). In that opinion we decided that the payment of costs of publication of a candidate's statement of qualifications does not make an organization a committee if the payment is offered to

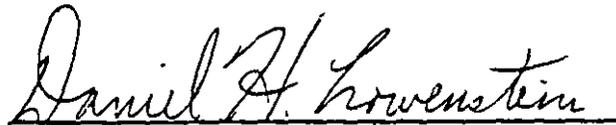
^{3/} This conclusion does not mean that Valley Oak will never make an expenditure. At some time in the future it may make payments to expressly advocate a particular election result.

all candidates on an equal basis. In such a situation the organization cannot be said to be attempting to influence the action of the voters for or against any particular candidate. 2 FPPC Opinions at 40.

The definition of "contribution" in 2 Cal. Adm. Code Section 18215(d) is tied to the definition of "expenditure" in 2 Cal. Adm. Code Section 18225(c). Payments received by a group which is not a controlled committee, official party committee or an organization formed or existing primarily for political purposes are contributions only if they are earmarked for the making of expenditures. Since we have concluded that none of Valley Oak's activity will constitute the making of expenditures, it follows that none of the money it receives can be earmarked for the making of expenditures.

In summary, we conclude that Valley Oak will have no reporting obligations under the Political Reform Act's campaign disclosure provisions by reason of its voter registration activities.

Adopted by the Commission on November 7, 1978.
Concurring: Lapan, Lowenstein, McAndrews and Quinn. Commissioner Remcho was absent.



Daniel H. Lowenstein
Chairman