

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

August 15, 1984

Patty Yocom
Office of Senator John Garamendi
State Capitol, Room 313
Sacramento, CA 95814

Re: Advice Letter No. A-84-165

Dear Ms. Yocom:

This letter is to clarify our discussions concerning the campaign reporting required by the Friends of Frank Barbaro Committee and the Senate Majority Leader's Fund. The letter that I wrote to you on July 25, 1984, is no longer applicable.

FACTS

A fundraiser was held by the Friends of Frank Barbaro Committee to help to retire the Committee's campaign debt. Those attending the event were aware that it was held for Mr. Barbaro, but all of the checks were made out to the Senate Majority Leader's Fund, which is controlled by Senator Garamendi. A total of \$5,000 in contributions were collected. In the case of three contributors, the Barbaro Committee promised that the amount they contributed (\$1,800) would be used to partially pay off loans on which the contributors are guarantors. The remaining amount (\$3,200) was divided between the Friends of Frank Barbaro Committee and the Senate Majority Leader's Fund. After depositing the checks, the Senate Majority Leader's Fund kept its \$1,600 payment and forwarded a check to the Barbaro Committee for \$3,400 (\$1,800 to pay off the loans plus \$1,600, which is the Committee's share of the \$3,200 remainder).

QUESTION PRESENTED

Under the Political Reform Act, how should these transactions be reported?

DISCUSSION

The following describes, in detail, how the transactions must be reported:

The Friends of Frank Barbaro Committee:

On Schedule A (Contributions Received), the Committee will disclose the receipt of \$3,200 in contributions (\$5,000 total contributions minus the \$1,800 which is to be used to repay the loans). Each contributor of \$100 or more will be itemized. Following the itemization of these contributors, the Committee will disclose, in a lump-sum, any contributions of less than \$100. After these entries, a notation should be made that: "These contributions were received by the Senate Majority Leader's Fund (the Fund's address and I.D. number) which was acting as an intermediary for the Barbaro Committee."

On Schedule B, Part 2 (Loans Repaid, Forgiven or Paid by a Third Party), the Committee will disclose the three individuals or entities who provided the \$1,800 which is to be used to partially repay the Committee's loans. The name and address of each contributor will be listed separately, along with the amount that the contributor provided for the repayment. After these entries, a notation should be made that: "These loan repayments were received through the Senate Majority Leader's Fund (the Fund's address and I.D. number) which was acting as an intermediary for the Barbaro Committee."

On Schedule E (Payments and Contributions Made), the Committee will report that it made a \$1,600 contribution to the Senate Majority Leader's Fund.

The Senate Majority Leader's Fund:

On Schedule G (Miscellaneous Adjustments to Cash Position), the Fund will show that it received \$5,000 in contributions earmarked for the Friends of Frank Barbaro Committee. In a separate entry, it will report a \$1,600 payment to the Barbaro Committee. (This \$1,600 payment was not physically returned to the Barbaro Committee, but, rather, it was retained by the Senate Majority Leader's Fund as a contribution from the Barbaro Committee.) (See discussion below re Schedule A.) This second, Schedule G, entry is primarily for the purpose of making the Fund's records balance.

Patty Yocom
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On Schedule E (Expenditures), the Senate Majority Leader's Fund will report the \$3,400 check that it wrote to the Barbaro Committee.

On Schedule A (Contributions Received), the Senate Majority Leader's Fund will report the receipt of a \$1,600 contribution from the Friends of Frank Barbaro Committee.

If you have any questions about this advice, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Staff Counsel
Legal Division

JSM:plh

State of California



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August 15, 1984

John Hanna
Friends of Frank Barbaro Committee
517 N. Main, 2nd Floor
Santa Ana, CA 92701

Re: Advice Letter No. A-84-165

Dear Mr. Hanna:

This letter is to clarify our discussions concerning the campaign reporting required by the Friends of Frank Barbaro Committee and the Senate Majority Leader's Fund. The letter that I wrote to you on July 25, 1984, is no longer applicable.

FACTS

A fundraiser was held by the Friends of Frank Barbaro Committee to help to retire the Committee's campaign debt. Those attending the event were aware that it was held for Mr. Barbaro, but all of the checks were made out to the Senate Majority Leader's Fund, which is controlled by Senator Garamendi. A total of \$5,000 in contributions were collected. In the case of three contributors, the Barbaro Committee promised that the amount they contributed (\$1,800) would be used to partially pay off loans on which the contributors are guarantors. The remaining amount (\$3,200) was divided between the Friends of Frank Barbaro Committee and the Senate Majority Leader's Fund. After depositing the checks, the Senate Majority Leader's Fund kept its \$1,600 payment and forwarded a check to the Barbaro Committee for \$3,400 (\$1,800 to pay off the loans plus \$1,600, which is the Committee's share of the \$3,200 remainder).

QUESTION PRESENTED

Under the Political Reform Act, how should these transactions be reported?

DISCUSSION

The following describes, in detail, how the transactions must be reported:

The Friends of Frank Barbaro Committee:

On Schedule A (Contributions Received), the Committee will disclose the receipt of \$3,200 in contributions (\$5,000 total contributions minus the \$1,800 which is to be used to repay the loans). Each contributor of \$100 or more will be itemized. Following the itemization of these contributors, the Committee will disclose, in a lump-sum, any contributions of less than \$100. After these entries, a notation should be made that: "These contributions were received by the Senate Majority Leader's Fund (the Fund's address and I.D. number) which was acting as an intermediary for the Barbaro Committee."

On Schedule B, Part 2 (Loans Repaid, Forgiven or Paid by a Third Party), the Committee will disclose the three individuals or entities who provided the \$1,800 which is to be used to partially repay the Committee's loans. The name and address of each contributor will be listed separately, along with the amount that the contributor provided for the repayment. After these entries, a notation should be made that: "These loan repayments were received through the Senate Majority Leader's Fund (the Fund's address and I.D. number) which was acting as an intermediary for the Barbaro Committee."

On Schedule E (Payments and Contributions Made), the Committee will report that it made a \$1,600 contribution to the Senate Majority Leader's Fund.

The Senate Majority Leader's Fund:

On Schedule G (Miscellaneous Adjustments to Cash Position), the Fund will show that it received \$5,000 in contributions earmarked for the Friends of Frank Barbaro Committee. In a separate entry, it will report a \$1,600 payment to the Barbaro Committee. (This \$1,600 payment was not physically returned to the Barbaro Committee, but, rather, it was retained by the Senate Majority Leader's Fund as a contribution from the Barbaro Committee.) (See discussion below re Schedule A.) This second, Schedule G, entry is primarily for the purpose of making the Fund's records balance.

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On Schedule E (Expenditures), the Senate Majority Leader's Fund will report the \$3,400 check that it wrote to the Barbaro Committee.

On Schedule A (Contributions Received), the Senate Majority Leader's Fund will report the receipt of a \$1,600 contribution from the Friends of Frank Barbaro Committee.

If you have any questions about this advice, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Staff Counsel
Legal Division

JSM:plh

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement • • Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

July 25, 1984

Mark Hite
Office of Senator John Garamendi
State Capitol, Room 313
Sacramento, CA 95814

Re: Your Request for Advice,
Our Advice No. A-84-165

Dear Mr. Hite:

Thank you for your request for advice on the campaign reporting provisions of the Political Reform Act.

FACTS PRESENTED

Last month a fundraiser was held to help retire the campaign debt of former Senate candidate Frank Barbaro. Those attending the event were aware that it was held for Mr. Barbaro, but all of the checks were made out to the "Senate Majority Leader's Fund," which is controlled by Senator Garamendi. Of the \$5,000 raised at the event, \$3,400 will be sent to the "Friends of Frank Barbaro Committee," and the remaining \$1,600 will stay in the Senate Majority Leader's Fund to cover the cost of the fundraiser.

QUESTION PRESENTED

Under the Political Reform Act, how should these transactions be reported?

DISCUSSION

The contributions received by the Senate Majority's Leadership Fund are "earmarked" contributions because, although they were received by the Fund, they were intended for the Frank Barbaro Committee. The Fund acted as an intermediary for the committee in receiving the funds. As an intermediary, the Fund must provide the Barbaro Committee with all of the information the Committee needs to disclose the required information

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concerning the contributors, the Fund, and any expenditures made by the Fund. In making expenditures to vendors on behalf of the Barbaro Committee, the Senate Majority Leadership Fund acted as an "agent" for the Committee and the Committee must report the payments to the vendors in the same detail as if it had made the payments itself.

The following describes, in detail, how the transactions must be reported:

The Senate Majority Leader's Fund

On Schedule G (Miscellaneous Adjustment to Cash Position), the Fund will show that it received \$5,000 in contributions earmarked for the Friends of Frank Barbaro Committee.

On Schedule E (Payments and Contributions Made), the Fund will show that a \$1,600 expenditure was made for a fundraiser for Frank Barbaro. The expenditures will be itemized on the campaign forms filed by the Friends of Frank Barbaro Committee, rather than on the forms filed by the Fund. However, the Fund will note, next to the \$1,600 lump-sum expenditure, that the details concerning the expenditure can be found on the forms filed by the Friends of Frank Barbaro. Schedule E will also state that the Fund gave the Friends of Frank Barbaro Committee \$3,400 in earmarked funds that the Fund received.

The Friends of Frank Barbaro Committee

On Schedule A (Contributions Received), the Committee will state: "The following contributions were received through the Senate Majority Leader's Fund (the Fund's address and I.D. number) which was acting as an intermediary...." Following this explanatory note, each contributor of \$100 or more will be itemized. Following the itemization of these contributors, the Committee will disclose, in a lump-sum, any contributions of less than \$100. For the purpose of this disclosure, the contributions are considered to have been received on the date that they were received by the Fund, not the date they were received by the Barbaro Committee. The Senate Majority Leader's Fund must provide the Committee with the information needed for this disclosure, i.e., the name, address, occupation and employer of each contributor, and the amount contributed.

On Schedule E (Payments and Contributions), the Committee will state that a payment of \$1,600 was made to the Senate

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Majority Leader's Fund "in order to allow the Fund to pay the following vendors...." The expenditures to each vendor will then be itemized in the manner described in the enclosed copy of 2 Cal. Adm. Code Section 18431. (This regulation was approved by the Commission and is currently receiving expedited review by the Office of Administrative Law.) Any expenditures which are not required to be itemized may be reported in a lump-sum. The Senate Majority Leader's Fund must provide the Friends of Frank Barbaro Committee with the information needed for this disclosure, i.e., the name and address of the payee, the description of the goods or services received, and the amount of the expenditure.

If I can be of any additional help to you, please feel free to contact me at 916/322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel, Legal Division

JSM:km
Enclosure



F P P C
John Garamendi
JUN 1 SENATE MAJORITY LEADER

June 12, 1984

Ms. Carla Wardlow
Fair Political Practices
Commission
1100 "K" Street
Sacramento, CA 95814

Dear Carla:

Pursuant to our conversation this afternoon, I would like to have further clarification as to the Prop. 9 reporting requirements for the funds we received for former Senate candidate Frank Barbaro.

As I mentioned this morning, last month a fundraiser was held to help retire Mr. Barbaro's campaign debt. Those who attended knew the event was for Barbaro but checks were made out to the "Senate Majority Leader's Fund" which is controlled by Senator Garamendi. Of the \$5,000 that was raised at this event, \$3,400 will be sent to the "Friends of Frank Barbaro" with the remaining \$1,600 staying in the Senate Majority Leader's Fund.

I would appreciate specific direction from the Commission as to how these monies are to be reported, both by Senator Garamendi and by Frank Barbaro. I appreciate your willingness to assist in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Mark".

MARK HITE

MH/py