

# State of California



## Fair Political Practices Commission

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October 10, 1984

Thomas J. MacBride, Jr.  
Graham and James  
One Maritime Plaza, Third Floor  
San Francisco, CA 94111

Re: Your Request for Advice,  
Our No. A-84-227

Dear Mr. MacBride:

This letter is written in response to your request for advice on the lobbying provisions of the Political Reform Act.

### QUESTION PRESENTED

Do campaign contributions constitute "payments to influence legislative or administrative action" for the purposes of Government Code Section 86108(b)?<sup>1/</sup>

### CONCLUSION

Campaign contributions do not constitute "payments to influence legislative or administrative action" for the purposes of Section 86108(b).

### DISCUSSION

Section 86108(b) provides that any person who directly or indirectly makes payments to influence legislative or administrative action of two thousand five hundred dollars (\$2,500) or more in value in any calendar quarter must file lobbyist employer statements, unless all of the payments are of the type described in Section 82045(c). Payments described in

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<sup>1/</sup> Hereinafter all statutory references are to the Government Code, unless otherwise indicated.

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Section 82045(c) are those which directly or indirectly benefit any elective state official, legislative official or agency official or a member of the immediate family of any such official. The type of benefit referred to in 82045(c) is a personal benefit to an official or a member of his or her immediate family. Campaign contributions do not confer any personal benefits, and thus are not included under Section 82045(c).

Although making campaign contributions cannot cause a person to have reporting obligations under Section 86108(b), you should note that a person who satisfies the criteria of Section 86108(b) as a result of other types of payments must file reports in which disclosure of campaign contributions is required. Section 86109(f).

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  
*by BAM*

JSM:nwm

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August 30, 1984

WRITER'S DIRECT DIAL NUMBER

Mr. John Keplinger, Executive Director  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804

Dear Mr. Keplinger:

This letter constitutes a request for written advice, pursuant to 2 Cal. Admin. Code § 18329, concerning the reporting requirements for campaign contributions under the Political Reform Act of 1974 (the "Act"). Our inquiry focuses on how campaign contributions fit into the ambient of Government Code § 86108(b) reporting requirements for payments to influence legislative or administrative action. Specifically, (1) are contributions reported under Chapter 4 of the Act, intended to be included as payments to influence legislative or administrative action ("payments") for purposes of § 86108(b); and if so, (2) do such contributions fall within the § 82045(c) reporting exception available when all payments fall within the scope of § 82045(c); and if so, (3) under what circumstances are § 82045(c) payments not excepted from § 86108(b) reporting?

We note that there is no express inclusion of campaign contributions in either Government Code § 86108(b) or § 82045, which defines payment to influence legislative or administrative action. Moreover, contributions are already reported pursuant to the requirements of Chapter 4. Finally, in what we regard as an expression of intent to segregate the reporting of "contributions" from the reporting of activities resulting in more direct benefit to public officials, § 82030 excludes reportable contributions from the definition of "income." A public official receiving some benefit would thus either report that benefit as either "income" under Chapter 7 or as a "contribution" under Chapter 4, but not both. The same result should logically apply to reporting by donors as well.

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We presume that any argument that campaign contributions are reportable under § 82045 and 86108(b) must rely solely on § 82045(c). If so, contributions will, nonetheless, not be reportable under § 86108(b) if, in the language of § 86108(b), "all the payments [during the calendar quarter] are of the type described in § 82045(c)."

Should you conclude that contributions reported under Chapter 4 require duplicate reporting under Chapter 6, we ask further whether the underscored portion of the above citation from § 86108(b) precludes the application of a rule of reason. For example, must an entity which makes \$3000 in payments solely described under § 82045(c) file a report if \$10 in § 82045(d) payments are also made?

Respectfully yours,

  
Thomas J. MacBride, Jr.  
of  
GRAHAM & JAMES

TJM:caj