

State of California



Fair Political Practices Commission

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

May 22, 1985

Jonathan Wiltshire
P. O. Box 337
San Marcos, CA 92069

Re: Our File No. A-85-075

Dear Mr. Wiltshire:

This is in response to your letter of March 21, 1985, and to confirm advice I provided to you in subsequent telephone conversations on April 25 and 26, 1985, regarding the campaign disclosure provisions of the Political Reform Act (Government Code Sections 81000-91014). The history of our conversations and the facts, as I understand them, are as follows:

In October 1984 a non-profit corporation, Citizens for Healthy Air in San Marcos (CHASM), was formed to gather and disseminate information regarding a proposal to build a trash-burning plant in San Marcos. CHASM began receiving membership dues and other donations for this purpose. At approximately the same time, CHASM began making expenditures to prepare and qualify an initiative to prohibit development of such an industry in San Marcos. The costs associated with writing the initiative and printing the petitions probably exceeded \$500 during 1984, but you have stated that at the time you were unaware of the requirement to disclose monies raised and spent in connection with the qualification of an initiative.

In January 1985 you were notified that the initiative had qualified for the ballot and that the election was scheduled for April 30, 1985. At that time, CHASM formed a recipient committee, Citizen's Voice for Intelligent Planning (CVIP), to report the funds received and spent to support the measure. CVIP filed two disclosure reports, covering January 1, 1985 through March 16, 1985, and March 17, 1985 through April 13, 1985 (the first and second pre-election reports). However, in March 1985, the San Marcos City Clerk wrote to you requesting that CHASM file a campaign statement disclosing its activities during 1984 and 1985 to qualify the initiative.

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During this same period, a lawsuit was filed challenging the initiative and on April 9, 1985, the initiative was declared invalid and the City was ordered to stop preparing ballots. The court's decision is currently being appealed.

On March 27, 1985, you wrote requesting confirmation of my March 12 telephone advice that nothing in the Political Reform Act would prohibit CHASM from making contributions to CVIP to pay approximately \$3,000 in legal fees associated with the lawsuit, and that the payments should in fact be made through and reported by CVIP. At that time, we did not discuss CHASM's activities in connection with qualifying the initiative.

In a subsequent conversation on approximately April 3, 1985, you indicated that CHASM had received some funds which were intended by the donors to be used for the initiative, and I explained the method CVIP should use to report CHASM as an intermediary for those contributions.

On April 25, 1985, you requested confirmation of the City Clerk's notice that the expenditures made by CHASM to qualify the initiative were reportable and we discussed how CHASM would determine which, or what portion, of its receipts and expenditures should be reported. I also told you that because CHASM and CVIP are virtually the same entity, with CVIP acting as CHASM's political arm, it was not necessary to register CHASM as a separate recipient committee and that CHASM's activities could be included on the campaign disclosure statements filed by CVIP. I also advised you that once CHASM began circulating petitions to qualify the initiative, all or nearly all of the funds received by CHASM were probably reportable "contributions." This advice was based on FPPC regulation 2 Cal. Adm. Code Section 18215, which states in part that:

"Contribution" includes any monetary or nonmonetary payment for which full and adequate consideration is not made to the donor that is received by any person or organization other than a candidate, controlled committee, official committee of a political party, or organization formed or existing primarily for political purposes if the payment is "earmarked" for the making of contributions or expenditures. A payment is "earmarked" when, at the time of making the payment, the donor knows or has reason to know that the payment or funds with which the payment will be commingled will be used to make contributions, as defined in Government Code Section 82015 and this regulation, or expenditures, as defined in Government

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Code Section 82025 and 2 Cal. Adm. Code Section 18225.
If the donor knows or has reason to know that only
part of the payment will be used to make contributions
or expenditures, the payment shall be apportioned on a
reasonable basis in order to determine the amount of
the contribution....

During our telephone conversation of April 26, 1985, you
informed me that because CHASM's qualification efforts began
at approximately the same time CHASM was formed, and because
most or all of CHASM's funds had been or will now be used in
connection with the litigation, you would file statements
reporting all of the funds received and spent by CHASM. You
stated that CVIP would file a disclosure statement covering
January 1, 1984 through February 14, 1985 to report the qualif-
ication activities, and that you would amend the first pre-election
statement filed by CVIP, covering January 1, 1985 through
March 16, 1985, to cover the period February 15, 1985 through
March 16, 1985. and would amend both pre-election statements
to report all funds raised and spent by both CHASM and CVIP.

If you have any questions about the foregoing, or if you
need additional assistance, please let me know.

Sincerely,



Carla Wardlow
Political Reform Consultant

cc: City Clerk



CITIZENS FOR HEALTHY AIR IN SAN MARCOS

March 21, 1985

Carla Warolow
Fair Political Practices Commission
1100 K Street
Sacramento, CA 90012

Dear Carla,

This is to confirm our phone conversation on March 12th when you answered my question regarding our Recipient Committee. You will recall I asked if our non-profit corporation, Citizens for Healthy Air in San Marcos, (CHASM) is allowed to contribute funds to our Recipient Committee, Citizen's Voice for Intelligent Planning, (CVIP). Your answer was affirmative.

I also asked if our legal fees in defense of our initiative should be paid by CVIP and your answer was again affirmative. We would very much appreciate it if you will affirm your responses to us in writing.

We are grateful for your time and consideration. Each time I have called for information you have been most helpful. Thank you, Carla.

Sincerely,

Jonathan Wiltshire
Jonathan Wiltshire by Rhonda Wiltshire

JW:rw