



California Fair Political Practices Commission

November 8, 1985

Palmer Madden
McCutchen, Doyle, Brown & Enersen
1855 Olympic Boulevard, Third Floor
Post Office Box V
Walnut Creek, CA 94596-1270

Re: Your Request for Advice,
Our File No. A-85-223

Dear Mr. Madden:

Thank you for your letter of October 18, 1985, asking about the filing requirements of independent committees. You have asked when two independent committees will be considered to be "acting in concert" and be required to file campaign statements as a single committee. I assume that by "independent" committees you mean committees which are not controlled by a candidate.

CONCLUSION

Two independent committees should file as a single committee under Section 82013(a) whenever the committees use most of their money to make joint expenditures, or whenever they commingle their funds or accounts. The fact that two independent committees discuss or agree upon policies or expenditures does not, by itself, require them to file as a single committee.

DISCUSSION

In my letter of October 4, 1985, I discussed the issue of "control" of a committee by a candidate. The standards for determining whether a candidate controls a committee are not the same as for determining whether two committees must file as a single committee. A candidate may, for example, control two separate committees; the two controlled committees can file separate campaign statements.

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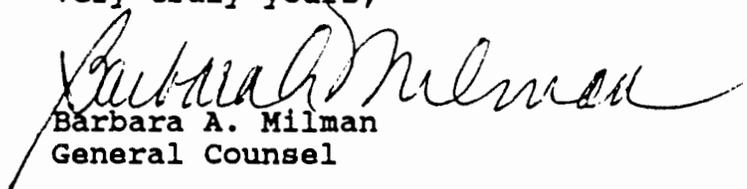
Two independent committees must file as one committee (formed pursuant to Section 82013(a)) when those committees share all or most of their funds. For example, if the two committees maintain a single bank account, they should file as one committee. If they treat their funds as joint funds, pooling most of the funds to make joint expenditures, they should file as one committee.

On the other hand, if the two independent committees keep their funds separate, and, for the most part, make separate expenditures, they can file as separate committees. This is true even if they discuss strategy or expenditures, or if they make some coordinated expenditures.

Although I cannot give you a hard and fast rule, in general you should look at whether the committees are actually operating as one entity, rather than as two separate entities, most of the time. If they are acting as one entity, they should file as one committee.

If any specific factual situations arise as to which you have questions, please feel free to ask for further advice. However, I would like to remind you that we ordinarily will not give advice in response to hypothetical questions. See 2 Cal. Adm. Code Section 18329 (copy enclosed).

Very truly yours,


Barbara A. Milman
General Counsel

BAM:nwm
Enclosure