



# California Fair Political Practices Commission

August 25, 1986

John M. Seitman, President  
San Diego County Bar Association  
1434 Fifth Avenue  
San Diego, CA 92101

Re: Your Request for Formal  
Written Advice  
Our File No. A-86-250

Dear Mr. Seitman:

Thank you for your letter requesting advice concerning the campaign disclosure provisions of the Political Reform Act.<sup>1/</sup> Your letter to Mr. Leidigh has been referred to me for a response.

## QUESTION

You have written seeking confirmation of preliminary telephone advice regarding the campaign reporting implications under the Political Reform Act (the "Act") of certain planned actions by your organization in opposition to Proposition 61, the "Gann Initiative" on the November 1986 ballot. Those activities generally involve volunteer services and the use of your organization's newsletter, without incurring any additional costs.

## CONCLUSION

So long as your organization's activities are confined to those described in your letter as set forth below, the San Diego County Bar Association will not incur any reporting obligations under the Act.

## FACTS

Your letter states the following facts for our consideration:

"We (the San Diego County Bar Association) contemplate the following activities:

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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"1. Formation of an ad hoc group to evaluate the initiative and make recommendations to the Board of Directors. This group would also act as an information bank for our members on the subject of the initiative.

"2. DICTA, the San Diego County Bar Association's monthly publication would carry an article designed to educate our membership concerning the proposition and to urge their active opposition through their vote, their volunteer efforts, and financial contributions to Californians for Quality government. Such an article would be written by a member of the Association. In addition, I plan to devote one of my monthly President's Page columns to that same subject matter. DICTA has been published by our Association for many years, carries a variety of articles and neither its length or cost would be increased in any way by the contemplated articles.

"3. We have for many years sent a monthly mailer to our membership with information on a variety of topics. On an experimental basis, we recently changed its format to a newsletter. We would plan to include one or more articles on the subject of Proposition 61 in that newsletter. Again, the newsletter originated without regard to Proposition 61 and neither its length or cost would be increased by the inclusion of such an article or articles.

"4. Interested members of the Association on a volunteer basis would establish and participate in a telephone bank to contact members and encourage their participation and financial contribution to the campaign. Those volunteers would be solely calling members who practice locally and no cost for long distance telephoning would be incurred.

"5. Interested members of the Association may meet with other members and also act as speakers on the subject of Proposition 61. To the extent they do, we would not reimburse any travel expenses nor would they receive any honorarium for speaking.

"6. The volunteers who encourage other members to make financial contribution in opposition to Proposition 61 would ask that checks be made payable to Californians for Quality Government and may ask that the check be mailed to the San Diego County Bar

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Association office. Those checks would simply be accumulated by us and forwarded to Californians for Quality Government. Our purpose in utilizing this procedure is simply so that we can monitor the effect of our efforts.

"7. It is possible that, if asked, the Association may vote to lend its endorsement to the opposition to Proposition 61 in one or more advertisements in the media, which advertisements would be paid for by others.

"The idea to play an active role in opposition to Proposition 61 was generated by a number of our members who are very concerned about the adverse effect that that proposition's passage would have on the administration of justice in this county and elsewhere. To the extent our volunteers write articles on the subject or make speeches, their content would be solely determined by us independent of any efforts of Californians for Quality Government.

"As we also discussed on the telephone, we do not contemplate forming our own PAC in this county. We do wish, however, to be assured that so long as we confine our activities to those outlined above, we will not be deemed to be making any kind of political contribution which might require our filing reports. Incidentally, the San Diego County Bar Association does not contemplate any expenditure of funds in support of the activities outlined above. To the extent our volunteer efforts do generate funds for Californians for Quality Government, we trust it will appropriately report those to you."

#### ANALYSIS

You have inquired generally whether any of the activities described in paragraphs 1 through 7, inclusive, will trigger the filing of campaign reports by the San Diego County Bar Association.

The Act requires campaign reporting by candidates and committees, among others. Sections 84200, et seq. The San Diego County Bar Association ("SDBC") would only be required to file statements if it were to become a "committee," which is defined in Section 82013 as follows:

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"Committee" means any person or combination of persons who directly or indirectly does any of the following:

(a) Receives contributions totaling five hundred dollars (\$500) or more in a calendar year;

(b) Makes independent expenditures totaling five hundred dollars (\$500) or more in a calendar year; or

(c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees. A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.

Thus, the SDBC would become a "committee" if it receives "contributions" from others (such as its members) totaling \$500 or more, makes "independent expenditures" totaling \$500 or more, or spends its own moneys to make contributions totaling \$10,000 or more. Each of these will be examined separately as it relates to the contemplated activities.

#1. Formation of an ad hoc group to evaluate Proposition 61 does not fit into any any of the three categories involved. No money is changing hands and volunteer personal services are not a contribution under Section 82015, which states, inter alia:

\* \* \*

Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

Section 82015.

#2. Articles in DICTA, the SDBC's monthly publication which increase neither its length nor its cost do not constitute "expenditures" within the meaning of Section 82025 and regulation 2 Cal. Adm. Code Section 18225 (copy enclosed), which states inter alia:

\* \* \*

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(4) Notwithstanding the provisions of this subsection, the term expenditure does not include costs incurred 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 measure or measures by:

\* \* \*

(C) A regularly published newsletter or regularly published periodical, other than those specified in paragraph (b)(4)(A), whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication. This paragraph applies only to the costs regularly incurred in publishing and distributing the newsletter or periodical. If additional costs are incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size or format, the additional costs are expenditures....

Consequently, SDBC is not an "expenditure committee" (Section 82013(b)) as a result of the DICTA articles.

Because the articles will be prepared by members of the SDBC who are acting independently and without consultation or coordination with the Californians for Quality Government ("No on 61") Committee, the communications in DICTA will not constitute "nonmonetary contributions" ("in-kind contributions"), because they are not "made at the behest" of the No on 61 Committee. See regulation 2 Cal. Adm. Code Section 18215, copy enclosed. Consequently, SDBC will not become a "major donor committee" (Section 82013(c)) as a result of publication of the DICTA articles.

The moneys collected by SDBC have not been "earmarked" for political purposes since SDBC has never previously engaged in any activities for "political purposes" and the members of SDBC could not have known when they paid their dues that the moneys would be used for political contributions or expenditures. Consequently, SDBC does not become a "recipient committee" (Section 82013(a)) as a result of having received dues from its members and ultimately determining to use some of those funds for political purposes. See, Hay Advice Letter No. A-76-027, copy attached; Laddish Advice Letter No. A-76-512, copy attached; and 2 Cal. Adm. Code Section 18215(c). Cf., McAklin Advice Letter, No. A-85-235, copy attached.

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#3. The analysis relative to the newsletter is the same as that, above, for DICTA.

#4. The telephone bank is a volunteer activity, similar to the ad hoc group discussed in #1, and the analysis is the same.

#5. The speakers bureau is subject to the same analysis as the other volunteer activities in #1 and #4.

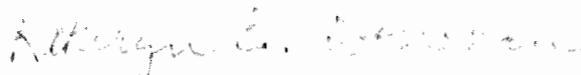
#6. The transmission of contribution checks voluntarily given by others out of their own funds, made payable to the Californians for Quality Government ("No on 61") Committee, does not make SDBC a "recipient committee" nor a contributor (i.e., "major donor committee") since it is merely transmitting the checks. This is no different from holding a fundraiser in your home and soliciting contribution checks for a candidate which are then turned over to the candidate. See, Hasseltine Advice Letter, No. A-83-295, fn.6, copy enclosed.

However, it is important that all contributors of \$25 or more be identified (2 Cal. Adm. Code Section 18401, copy enclosed). Consequently, your organization should be sure to obtain the required information (name, address, employer and occupation) for each contributor providing you with a check for transmission. This information should be forwarded with the checks to assist the No on 61 Committee with its recordkeeping efforts.

#7. The mere lending of the organization's name to an endorsement list would not constitute a contribution or an expenditure under the Act. See, Christiansen Opinion, 1 FPPC Opinions 170 (No. 75-082, Dec. 2, 1975) (copy enclosed).

I trust that this letter adequately responds to your inquiries. Should you have further questions, I may be reached at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan  
Counsel  
Legal Division

KED:plh  
Enclosures

President  
**John M. Seitzman**

President-Elect  
**Daniel T. Broderick, III**

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**Judith M. Copeland**  
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**SAN DIEGO COUNTY  
BAR ASSOCIATION**

1434 FIFTH AVENUE • SAN DIEGO, CALIFORNIA 92101

TELEPHONE 231-0781

Treasurer  
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Executive Director  
**Julie A. Hegg**

August 1, 1986

Robert Leidigh, Esq.  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, California 95804-0807

Re: Proposition 61

Dear Mr. Leidigh:

This will confirm our recent telephone conversations during which I told you that the San Diego County Bar Association, acting through its Board of Directors and interested members, wishes to take an active role in opposing Proposition 61. We contemplate the following activities:

1. Formation of an ad hoc group to evaluate the initiative and make recommendations to the Board of Directors. This group would also act as an information bank for our members on the subject of the initiative.

2. DICTA, the San Diego County Bar Association's monthly publication would carry an article designed to educate our membership concerning the proposition and to urge their active opposition through their vote, their volunteer efforts, and financial contributions to Californians for Quality Government. Such an article would be written by a member of our Association. In addition, I plan to devote one of my monthly President's Page columns to that same subject matter. DICTA has been published by our Association for many years, carries a variety of articles and neither its length or cost would be increased in any way by the contemplated articles.

3. We have for many years sent a monthly mailer to our membership with information on a variety of topics. On an experimental basis, we recently changed its format

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6. The volunteers who encourage other members to make financial contributions in opposition to Proposition 61 would ask that checks be made payable to Californians for Quality Government and may ask that the check be mailed to the San Diego County Bar Association office. Those checks would simply be accumulated by us and forwarded to Californians for Quality Government. Our purpose in utilizing this procedure is simply so that we can monitor the effect of our efforts.

7. It is possible that, if asked, the Association may vote to lend its endorsement to the opposition to Proposition 61 in one or more advertisements in the media, which advertisements would be paid for by others.

The idea to play an active role in opposition to Proposition 61 was generated by a number of our members who are very concerned about the adverse effect that that proposition's passage would have on the administration of justice in this county and elsewhere. To the extent our volunteers write articles on the subject or make speeches, their content would be solely determined by us independent of any efforts of Californians for Quality Government.

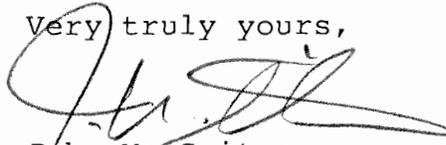
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As we also discussed on the telephone, we do not contemplate forming our own PAC in this county. We do wish, however, to be assured that so long as we confine our activities to those outlined above, we will not be deemed to be making any kind of political contribution which might require our filing reports. Incidentally, the San Diego County Bar Association does not contemplate any expenditure of funds in support of the activities outlined above. To the extent our volunteer efforts do generate funds for Californians for Quality Government, we trust it will appropriately report those to you.

I look forward to hearing from you and appreciate your cooperation.

Very truly yours,



John M. Seitman  
President  
San Diego County Bar Association

JMS/ncr

cc: Ms. Julie A. Hegg



# California Fair Political Practices Commission

August 5, 1986

John M. Seitman  
San Diego County Bar Association  
1434 Fifth Avenue  
San Diego, CA 92101

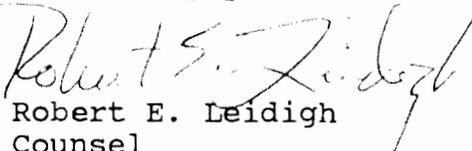
Re: 86-250

Dear Mr. Seitman:

Your letter requesting advice under the Political Reform Act has been received on August 4, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within ~~21~~<sup>7</sup> working days.

Very truly yours,

  
Robert E. Leidigh  
Counsel  
Legal Division

REL:plh