



# California Fair Political Practices Commission

December 30, 1986

William L. Crocker  
Assistant to the Executive Vice President  
TCS Enterprises, Inc.  
3878 Old Town Avenue, Suite 202  
San Diego, CA 92110

Re: Your Request for Informal  
Assistance  
Our File No. I-86-321

Dear Mr. Crocker:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act ("the Act").<sup>1/</sup>

## QUESTIONS

1. When does a potential candidate for state office have to begin reporting expenses, and what regulations govern the use of personal funds in the early stages of a campaign? Should potential candidates form recipient committees to which they can contribute their personal funds?

2. Are there contribution thresholds that require a potential candidate to form a committee or officially declare candidacy? How does a person form a recipient committee and officially declare his or her candidacy for state office? Do additional reporting requirements accompany such a declaration?

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<sup>1/</sup>Government Code Sections 81000-91015, copy enclosed. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

As we discussed during our telephone conversation of December 18, 1986, your letter states only general questions and does not meet the requirements for issuance of a formal opinion as set out in Regulation 18320 (copy enclosed) or formal advice pursuant to Regulation 18329 (copy enclosed). Therefore, we consider it to be a request for informal assistance pursuant to subsection (c) of Regulation 18329. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329 (c)(3).)

3. What steps are necessary to form a political action committee? In the case of an independent PAC, who is legally liable for the PAC's activities? Who would be the liable party in a corporate PAC?

#### CONCLUSIONS

1. Once an individual qualifies as a "candidate" under the Act (Section 82007), all money raised or spent in connection with the individual's candidacy must be reported. The Act and Commission regulations contain no prohibitions or restrictions in connection with use of a candidate's personal funds. However, personal funds used in connection with an individual's candidacy are contributions and must be reported in the same manner as other funds received for political purposes. (Section 82015.)

Candidates are not required to form recipient committees. Candidates who receive contributions from others may not commingle those funds with their personal funds (Section 84307) and must open a separate account into which such funds are deposited. Although the Act and regulations do not prohibit direct payments out of a candidate's personal funds, it is strongly recommended that candidates deposit personal funds into a separate campaign account prior to making campaign expenditures.

2. As noted above, candidates are not required to form recipient committees. The Act also does not regulate how recipient committees are formed, other than to specify that each recipient committee must have a treasurer and to require the filing of a statement of organization (Form 410, copy enclosed). To formally establish a recipient committee, a statement of organization must be filed with the Secretary of State. With regard to declaring candidacy, the Act contains no provisions for formal declaration. You should contact the County Clerk or Registrar of Voters in your jurisdiction to obtain information about when and where to file a formal declaration of candidacy.

At the time an individual files a formal declaration of candidacy for state office, he or she must also complete and file a statement of economic interests (Form 721, copy enclosed) disclosing certain investments and interests in real property held within the state.

3. As noted in No. 2 above, the Act does not regulate how recipient committees are formed. A person, group of persons or entity which receives funds for political purposes must file a statement of organization within 10 days of receiving \$500 or more in a calendar year. (Section 84101.) Recipient committees must have a treasurer who is responsible for receiving contributions, making expenditures, keeping records and preparing disclosure reports. (Section 84100, Regulation Section 18427, copies enclosed.)

With respect to liability, any person with duties under the Political Reform Act who violates any provision of the Act, or who purposely or negligently causes any other person to violate any provision of the Act, is liable for administrative, civil or criminal penalties. (Sections 83116, 83116.5, 91000-91014.)

#### ANALYSIS

Section 82007 states that a "candidate" is:

...an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time...

Section 82015, which defines the term "contribution" as used in the Act, states that "contribution" includes "the candidate's own money or property used on behalf of his or her candidacy...."

During our telephone conversation of November 14, 1986, we discussed payments a potential candidate might make out of personal funds prior to becoming a "candidate" under Section 82007. I advised you that expenditures made which are exploratory in nature, such as travel expenses incurred to meet with potential supporters, or some types of surveys (Advice Letter to Shelba Powell (No. A-85-241, copy enclosed) are not reportable if made from the individual's personal funds. However, I also advised you that if contributions are received from others in connection

with these activities, or if the individual makes other expenditures directly in connection with running for office (e.g., setting up a campaign headquarters or purchasing supplies), he or she would qualify as a candidate under Section 82007 and must file reports disclosing all activities. (Sections 84200-84217.)

Section 82013(a) defines recipient "committee" as a person or combination of persons who "receives contributions totaling five hundred dollars (\$500) or more in a calendar year." Recipient committees must file a statement of organization within 10 days of receiving \$500. (Section 84101.) A candidate's controlled committee (Section 82016) and an independent general purpose recipient committee (Section 82027.5) are both types of recipient committees.

The campaign disclosure provisions for the Act (Sections 84100-84400) require candidates as well as committees to disclose all funds received or spent in connection with campaign activities. For this reason, candidates are not required to file a statement of organization unless they wish to form a committee. However, a candidate who wishes to identify himself or herself with a committee name (e.g., Committee to Elect Jones) should file a statement of organization. There is nothing in the Act which prohibits a candidate from acting as his or her own committee treasurer.

The disclosure obligations for candidates and committees are fully described in the following documents, which are enclosed:

- 1986 Information Manual on Campaign Disclosure Provisions of the Political Reform Act
- Recordkeeping Manual for Candidates and Committees
- Guide for Candidates and Treasurers

These materials will be updated for 1987 and will be available in late January. Please contact me at that time to obtain the updated versions.

In addition to the campaign disclosure requirements, Sections 87200 and 87201 require candidates for elected state office to file, no later than the final filing date of a declaration of candidacy, a statement of economic interests (Form 721) disclosing certain investments and interests in real property. Once elected, such individuals must file annual statements of economic interests disclosing investments,

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interests in real property and income (including gifts and loans) held or received during the previous calendar year. (Section 87203.)

Section 83116 authorizes the Commission to administratively impose monetary and other penalties on persons who violate the Act. In addition, Section 83116.5 states:

Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. Provided, however, that this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing or directing any activity regulated or required by this title....

Sections 91000-91015 set forth the civil and criminal penalties which can be imposed for violations of the Act.

Please do not hesitate to contact me at (916) 322-5662 if you have additional questions.

Sincerely,

Diane M. Griffiths  
General Counsel

*Carla Wardlow*

By Carla Wardlow  
Political Reform Consultant

DMG:CW:cah

Enclosures



TCS ENTERPRISES, INC.

F P D C  
Nov 19 8 47 AM '86

November 17, 1986

Ms. Diane Griffiths  
General Counsel  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804

Dear Ms. Griffiths:

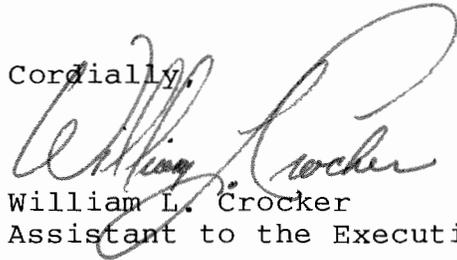
I am writing to request your legal opinion on a few issues that I find unclear. Specifically, could you please provide me with interpretations of the laws as they pertain to the following questions:

1. When does a potential candidate for state office have to begin reporting expenses, and what regulations govern the usage of personal funds in the early stages of a campaign? Do you recommend potential candidates to form recipient committees to which they can contribute their personal funds?
2. Are there contribution thresholds that require a potential candidate to form a committee and/or officially declare candidacy? How does a person form a recipient committee and officially declare his/her candidacy for state office? Are there additional reporting requirements that accompany such a declaration?
3. What steps are needed to form a political action committee? In the case of an independent PAC, who is legally liable for the PAC's activities? Who would be the liable party in a corporate PAC?

Ms. Griffiths  
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Your expert response to my questions will be greatly appreciated. Should you have any questions or need clarification of my request, please don't hesitate to call. Thank you for your time and consideration.

Cordially,

A handwritten signature in cursive script, appearing to read "William L. Crocker". The signature is written in dark ink and is positioned above the typed name and title.

William L. Crocker  
Assistant to the Executive Vice President

WLC/jf

cc: James B. Kylstad



# California Fair Political Practices Commission

November 24, 1986

William L. Crocker  
TCS Enterprises, Inc.  
3878 Old Town Avenue, Suite 202  
San Diego, CA 92110

Re: 86-321

Dear Mr. Crocker:

Your letter requesting advice under the Political Reform Act was received on November 19, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Jeanne Pritchard".

Jeanne Pritchard  
Chief  
Technical Assistance and Analysis  
Division

JP:plh