



# California Fair Political Practices Commission

March 6, 1987

David L. Llewellyn, Jr.  
Attorney at Law  
The Boardwalk, Suite 204  
Santa Ana, CA 92705

Re: Your Request for Advice  
Our File No. A-86-322

Dear Mr. Llewellyn:

You have requested advice on behalf of Christian Resource Press with regard to the campaign disclosure provisions of the Political Reform Act.<sup>1/</sup>

## FACTS

Approximately two months prior to the November 1986 general election, the Christian Resource Press (CRP) published a "Christian Voters Guide" (the "Guide") which asked the reader questions about four public issues and identified how various candidates for statewide office had answered those questions. CRP received donations of more than \$500 to cover the costs of publishing the "Guide".

## QUESTION

Is CRP required to file campaign disclosure statements reporting the payments it received and made in connection with publishing the "Guide"?

## CONCLUSION

CRP has no reporting obligation in connection with publishing the "Guide" because it has not received "contributions" or made "expenditures" as defined in the Act.

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

ANALYSIS

The Act requires candidates, officeholders and committees to file periodic reports disclosing money raised and spent in connection with campaign activity. (Sections 84200-84217.) In Section 82013(a), the Act defines "committee" as any person or combination of persons who directly or indirectly receives contributions totaling \$500 or more in a calendar year.

Donations received by CRP would be "contributions" only to the extent that they are used to make contributions to or "expenditures" on behalf of candidates or committees. (Section 82015; Regulation 18215(c).)<sup>2/</sup> The term "expenditure" has been defined to include:

...any monetary or non-monetary payment made by any person, ... that is used 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 ballot measure...

(2) A communication "expressly advocates" the nomination, election or defeat of a candidate or the qualification, passage or defeat of a measure if it contains express words of advocacy such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," "reject," "sign petitions for" or otherwise refers to a clearly identified candidate or measure so that the communication, taken as a whole, unambiguously urges a particular result in an election....

Section 18225(b).

Our review of the November 1986 edition of the "Christian Voters Guide" which you provided revealed nothing which could be construed as "expressly advocating" the election or defeat of a particular candidate or measure. Therefore, payments received by CRP to publish the "Guide" are not "contributions" and need not be reported under the Act's campaign disclosure provisions, either by CRP or by anyone who donated funds in connection with publication of the "Guide".

In your letter of January 28, 1987, you indicated that CRP is registered with the Secretary of State as a recipient committee (I.D. No. 870012). I have reviewed the Secretary of

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<sup>2/</sup>Regulation 18215(c) defines contribution to include payments for political purposes if they are "earmarked" for the making of contributions or expenditures."

Mr. David L. Llewellyn, Jr.  
Page Three

State's records with regard to CRP, and it appears that a Statement of Organization (Form 410) was filed by you in connection with publication of the "Guide", but only as a precautionary measure. Because it has been determined that publication of the "Guide" will not result in any filing obligation for CRP, I recommend that you complete the enclosed Statement of Termination (Form 415) and file it with the Secretary of State with a cover letter explaining that CRP never qualified as a "committee" under the Act. You may also wish to request a refund of the late filing penalty imposed by the Secretary of State.

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:cv

Enclosures



# California Fair Political Practices Commission

December 8, 1986

David Llewellyn  
Attorney at Law  
The Boardwalk, Suite 204  
550 North Parkcenter Drive  
Santa Ana, CA 92705

Re: Your Request for Advice  
Our File No. 86-322

Dear Mr. Llewellyn:

Your letter requesting advice under the Political Reform Act<sup>1/</sup> was received on December 1, 1986, by the Fair Political Practices Commission. Before we can respond to the questions in your letter, we will need a supplemental letter from you providing the additional information described below.

In your letter you request an "advisory opinion" with respect to the duties of a publisher of a voter's guide and the donors who contributed to its publication. It is not clear if you are requesting an opinion from the Commission or formal written advice. Generally, the Commission will issue an opinion if the question presented is not covered by the Commission's regulations or raises a substantial question requiring interpretation. (See Regulation 18320(f).) An opinion or written advice may be requested by any person whose duties under the Act are in question or by his or her authorized representative. In this instance, it appears your letter can be adequately answered by written advice.

Please send us a supplemental letter of clarification if you are requesting formal written advice. Please be aware that an opinion takes several months to finalize and formal written advice is generally available within 21 working days of request. Your letter must also include the names and addresses

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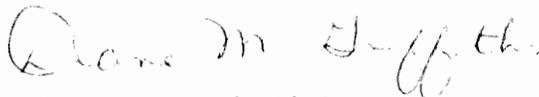
David Llewellyn  
December 8, 1986  
Page 2

of the persons on whose behalf you request advice, as well as a statement that you have been authorized to request this advice on their behalf. (Regulation 18329(b).) Also include a copy of the voter's guide referred to in your letter.

Enclosed for your review are copies of Regulation 18320 (Requests for Opinions) and Regulation 18329 (Formal Written Advice and Informal Assistance). If your letter is requesting advice relating to past conduct, the Commission will decline to give advice. (Regulation 18329(b)(8)(A).)

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 after we receive your supplemental letter. 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. If you have any questions about your advice request, you may contact Jeanette Turvill, in the Legal Division, directly at (916) 322-5901.

Very truly yours,



Diane M. Griffiths  
General Counsel

DMG:plh

# DAVID LLEWELLYN

FEB 3 8 59 AM '87

LAW OFFICE

The Boardwalk, Suite 204  
550 North Parkcenter Drive  
Santa Ana, California 92705  
(714) 835-1180

January 28, 1987

Diane M. Griffiths  
General Counsel  
California Fair Political Practices Commission  
P. O. Box 807  
Sacramento, CA 95804-0807

Re: Request for Advice, File No. 86-322

Dear Ms. Griffiths:

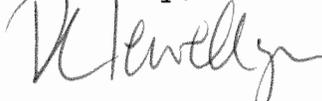
In response to your December 8, 1986, letter, I am submitting this as the requested supplemental letter to my November 26 request for advice.

Since your letter indicates that my question can be adequately answered by written advice, please treat my letter as a request for formal written advice rather than an advisory opinion.

I am requesting your advice on behalf of Christian Resource Press, a California corporation, and on my own behalf as treasurer of Christian Resource Press in its capacity as a recipient committee (number 870012), and I am authorized to request this advice on behalf of the corporation and myself. A copy of the "Christian Voters Guide" is enclosed.

If your procedures permit, I would like an opportunity to review any preliminary findings or tentative opinions and to submit possible observations and comments before a final, formal opinion is completed.

Sincerely,



DAVID L. LLEWELLYN, JR.

DLL:rk

Enclosure: Christian Voters Guide

cc: Christian Resource Press

*"Justice, justice thou shalt pursue."*

# DAVID LLEWELLYN

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LAW OFFICE

The Boardwalk, Suite 204  
550 North Parkcenter Drive  
Santa Ana, California 92705  
(714) 835-1180

November 26, 1986

Fair Political Practices Commission  
428 J Street  
Sacramento, CA 95814

Re: Request for an advisory opinion

Gentlemen:

Pursuant to Government Code Section 83114, on behalf of clients I am requesting an advisory opinion with respect to the duties of the publisher and the donors in the following fact situation under the Political Reform Act and the rules and regulations of the Fair Political Practices Commission.

Assume the following facts:

Approximately eight weeks prior to the recent general election on November 4, 1986, a person published a "voter's guide" which was made available for free throughout the State of California. The publisher and the publication were totally independent of any officeholder, candidate or committee both in terms of control and financial support.

The publication did not expressly advocate the election or defeat of any candidate for any office, did not refer to any ballot measure, and, taken as a whole and in context, did not unambiguously urge a particular result in an election.

The publication consisted of the following. The first three pages encouraged the reader to determine which candidates best reflected the reader's values and concerns. At page 3 the reader was asked how he would vote on four public issue questions (not pending legislation) which had been asked of

*"Justice, justice thou shalt pursue."*

November 26, 1986  
Page Two

candidates statewide. Page 4 identified the candidates for statewide races and pages 5-33 identified the candidates for congressional, state Senate and state Assembly races, presenting their names, political party, responses to the same four questions presented to the reader at page 3, and two votes on selected past legislation. This information was obtained from research conducted by various interested organizations. The final three pages presented the names of books, newsletters and organizations that could help the reader become better informed and more involved in public issues.

The publication did not tell the reader how he or she, or any candidate, should vote. It did not state a position as to what an answer should be to any of the survey questions, nor did it suggest that the information presented was necessary or sufficient to decide how to vote.

Assume that funding for this publication included donations from a "Major Donor Committee" and other donors in excess of \$500.00.

Under these facts, what are the duties, if any, (a) of the publisher and (b) of the donors with regard to reporting to the Fair Political Practices Commission?

Thank you for your attention to this request.

Sincerely,



DAVID L. LLEWELLYN, JR.

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General Counsel

*Carla Wardlow*

By Carla Wardlow  
Political Reform Consultant

DMG:CW:cv

Enclosures

# DAVID LLEWELLYN

FEB 3 8 59 AM '87

January 28, 1987

LAW OFFICE  
The Boardwalk, Suite 204  
550 North Parkcenter Drive  
Santa Ana, California 92705  
(714) 835-1180

Diane M. Griffiths  
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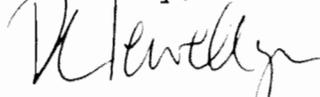
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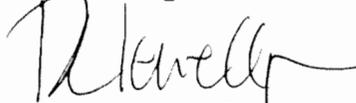
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