



California Fair Political Practices Commission

March 26, 1987

Michael A. Pastrick, Treasurer
Friends of Dan Boatwright Committee
4086 Poplar Avenue
Concord, CA 94521

Re: Your Request for Advice
Our File No. A-87-063

Dear Mr. Pastrick:

You have requested advice on behalf of Senator Daniel Boatwright concerning the campaign reporting provisions of the Political Reform Act (the "Act").^{1/} This letter confirms the telephone advice provided to you on February 20, 1987.

QUESTION

Does Senator Boatwright control a local recall committee if he makes monetary contributions to the committee and permits it to list him as "honorary co-chairman" on its stationery?

CONCLUSION

Senator Boatwright does not control a local recall committee if he only makes monetary contributions to the committee and permits it to list him as "honorary co-chairman" on its stationery, but does not otherwise act jointly with the recall committee in connection with the making of expenditures or exert a significant influence on the actions or decisions of the recall committee.

FACTS

You are the treasurer of Senator Boatwright's campaign committee. Senator Boatwright wishes to support a recall effort against a local hospital district director. He intends to permit the recall committee to list him as "honorary co-chairman" on its stationery. He also will make various monetary contributions to the recall committee from his campaign committee.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

ANALYSIS

Section 82016 defines "controlled committee" as follows:

"Controlled committee" means a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

Thus, if Senator Boatwright acts jointly with the recall committee in connection with the making of expenditures, the recall committee would be controlled by Senator Boatwright. Similarly, Senator Boatwright would control the recall committee if he, his agent, or any other committee he controls has a significant influence on the actions or decisions of the recall committee.

You have informed us that Senator Boatwright's involvement with the recall committee would be limited to making monetary contributions from his campaign committee (a controlled committee) and permitting the recall committee to list him as "honorary co-chairman" on its stationery. If Senator Boatwright, his agent and his controlled committee are not otherwise involved in making the campaign decisions or expenditures of the recall committee, the Senator will not control the recall committee.

In your letter, you stated that Senator Boatwright, his campaign committee, and his agents will neither act jointly with the recall committee in the making of expenditures nor have a significant influence on the actions or decisions of the recall committee. However, their involvement will actually depend on the specific facts of the situation. (See, Madden Advice Letter, No. A-85-197, copy enclosed.) In our telephone conversation, I advised you that the recall committee would not be controlled by Senator Boatwright if the Senator makes a generous monetary contribution to support the recall effort, permits the use of his name as "honorary co-chairman," but is not otherwise involved in the activities of the recall committee. It is not clear from your letter whether Senator Boatwright's involvement in the recall campaign will be so limited.

In our telephone conversation, we discussed certain contacts you might have with the recall committee. You stated that the recall committee might occasionally contact you with questions concerning the proper method of reporting a campaign contribution or expenditure. You also indicated that the recall committee might ask for your recommendation regarding a printer or other vendor with

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whom the recall committee would contract for supplies or services. If your contacts with the recall committee are limited to occasional informational assistance of the type you described, the recall committee would not become the Senator's controlled committee. Our advice would differ, however, if your contacts with the recall committee include assistance with campaign strategy, contact with vendors on behalf of the recall committee, or the direct payment of campaign expenses on behalf of the recall committee. The recall committee also would be a controlled committee if both Senator Boatwright and the recall committee were to make expenditures for campaign literature in support of the recall campaign and there was coordination between the Senator and the recall committee in making those expenditures (i.e. use of the same or similar literature or use of the same vendors).

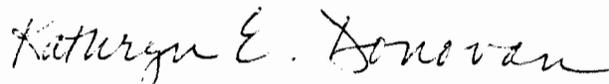
In our telephone conversation, we specifically discussed the possibility that Senator Boatwright would instruct the recall committee to send him the bills for its campaign expenses. The Senator or his controlled committee would then pay those bills for the recall committee. I advised you that we would consider the recall committee to be controlled by the Senator in that situation. (See In re Anna Sparks, et al., No. SI-84/256; In re Yes on Proposition Two Committee, No. SI-79/82, copies enclosed.) Similarly, if the amount and timing of the monetary contributions Senator Boatwright makes to the recall committee are based on the specific expenses incurred by the recall committee, we would conclude that Senator Boatwright controls the recall committee (i.e., he would be acting jointly with the recall committee in connection with the making of expenditures).

As you noted in your letter, even if the recall committee is not a controlled committee, Senator Boatwright's campaign committee may be required to file a supplemental preelection campaign statement pursuant to Section 84202.5 as a result of making contributions to the recall committee. In addition, the Senator's campaign committee may be required to file late contribution reports because of contributions it makes to the recall committee. (Section 84203.)

If you have any further questions concerning this matter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: Kathryn E. Donovan
Counsel, Legal Division

KED:plh

PLEASE REPLY TO:

- SACRAMENTO ADDRESS
ROOM 3086, STATE CAPITOL
SACRAMENTO 95814
TELEPHONE: (916) 445-6083
- DISTRICT OFFICE
1035 DETROIT AVENUE
SUITE 200
CONCORD 94518
TELEPHONE: (415) 689-1973

Senate
California Legislature

DANIEL E. BOATWRIGHT
CHAIRMAN
Committee on Appropriations

February 20, 1987

MEMBER:

- Election Committee
- Housing and Urban Affairs Committee
- Revenue And Taxation Committee
- Joint Committee on Prison Construction and Operations
- California Public Procurement Advisory Committee

CHAIRMAN:

- Select Committee on State Procurement and Expenditure Practices

REPRESENTING:

- Seventh Senatorial District
- Contra Costa County

Kathryn Donovan, Attorney
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804



Dear Ms. Donovan,

Pursuant to our telephone conversations of 2/19/87 and 2/20/87, I am writing to request an "advice letter" concerning the activities of our campaign committee and that of a local recall committee.

As you will recall, the Senator is in support of a recall effort against a local hospital district director. The Senator intends to lend the use of his name as "Honorary Co-Chairman" (my emphasis) and will be making various campaign contributions from his "Friends of Dan Boatwright" committee (ID No: 745833) to the recall committee. Neither the Senator, his campaign committee, nor any of his agents will act jointly with the recall committee in the making of expenditures or have a significant influence on the actions or decisions of the recall committee.

It is my understanding that the recall committee will not be a "controlled committee" of the Senator by the mere fact that the Senator will be named as "Honorary" Co-Chairman and will make certain campaign contributions to the recall committee. The campaign contributions made to the recall committee will be in the form of direct contributions from the Senator's campaign committee; we will not be making non-monetary/in lieu contributions.

It is also my understanding, that we will be required to file a Form 495 Supplemental Pre-Election Campaign Statement if we make contributions totalling \$5,000 or more to the recall committee and the contributions were made during the period beginning six months prior to the election and ending 17 days before the election. It is also my understanding that any contributions totalling

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\$1,000 or more made to the recall committee after the closing date of the Supplemental Pre-Election Statement will require us to file a Notice of Late Contribution Report within 24 hours of the making of the contribution.

Thank you for your assistance in helping me structure our relationship with the recall committee. The "advice letter" should be sent to me at the address listed below.

Sincerely yours,



Michael A. Pastrick, Treasurer
Friends of Dan Boatwright Committee (ID No: 745833)
4086 Poplar Avenue
Concord, CA 94521
(209) 466-3487 (daytime)
(415) 798-9728 (evening)



California Fair Political Practices Commission

February 25, 1987

Michael A. Pastrick, Treasurer
Friends of Boatwright Committee
4086 Poplar Avenue
Concord, CA 94521

Re: 87-063

Dear Mr. Pastrick:

Your letter requesting advice under the Political Reform Act was received on February 25, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn E. Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

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 "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh