



California Fair Political Practices Commission

October 28, 1987

Kirk Alan Pessner
Paralegal Administrator
Political Reports Unit
Nielsen, Merksamer, Hodgson, Parrinello & Mueller
650 California Street
San Francisco, CA 94108

Your Request for Advice
Our File No. A-87-263

Dear Mr. Pessner:

You have asked for advice on behalf of your clients concerning the campaign disclosure provisions of the Political Reform Act.^{1/}

QUESTION

If it is discovered, after the filing of a post-election campaign statement, that a candidate or committee did not file a required "late contribution report" or "late independent expenditure report," is the candidate or committee required to file the report?

CONCLUSION

Campaign statements which are required by the Act must be filed even if the statements are late. The Commission is prohibited from granting exemptions to the filing requirements imposed by the Act. Therefore, when it is discovered that a candidate or committee has failed to file a late contribution report or a late independent expenditure report by the filing deadline, the only remedy is to file the statement late. No exemption may be provided even though the information on the statement is dated or even if the information has been disclosed on a later filing.

^{1/}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.

However, when late contribution reports or late independent expenditure reports are filed after the late contributions or late independent expenditures have been reported on a subsequent campaign statement, the reports may be filed by regular mail, rather than by mailgram, telegram, guaranteed overnight mail or personal delivery as prescribed by the Act.

ANALYSIS

The Act provides that officeholders, candidates and committees must file all campaign statements required by Sections 84200, et seq. Section 84203 requires that "late contribution reports" be filed, and Section 84204 requires that "late independent expenditure reports" be filed.

There is nothing in the Act that would negate the requirement to file any report required under the Act. In fact, with regard to campaign disclosure statements, Section 84400 states:

Notwithstanding any other provision of the law, the commission shall have no power to exempt any person, including any candidate or committee, from any of the requirements imposed by the provisions of this chapter.

Therefore, in the situation you described, the reports required by Sections 84203 and 84204 must be filed as soon as the candidate or committee discovers that they were not filed at the times prescribed by the law. This is true even though the information which will be disclosed on the report will be filed after the election and, therefore, does not accomplish the purpose of the requirement to file such reports, and even though the information has already been disclosed on a semi-annual campaign statement.

Sections 84203 and 84204 require that late contribution reports and late independent expenditure reports be filed within 24 hours of making the late contribution or late independent expenditure, and that the reports be filed by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery.

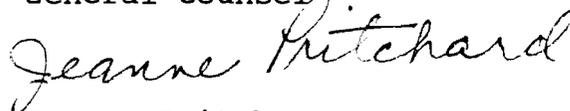
The purpose for the special filing requirements for such reports is to provide information to the public about contributions and independent expenditures which are made just prior to an election. When it is discovered after the election and after the contributions and expenditures have been reported on a semi-annual campaign statement that the late reports were not filed as set out

in Sections 84203 and 84204, the late contribution report or late independent expenditure report may be filed by regular mail, rather than by one of the special filing methods described in Sections 84203 and 84204.

If you have any questions about this advice letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

A handwritten signature in cursive script that reads "Jeanne Pritchard". The signature is written in dark ink and is positioned to the right of the typed name.

By Jeanne Pritchard
Chief, Technical Assistance
and Analysis Division

JP:kt

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FILE NUMBER

September 29, 1987

A-87-263

Ms. Jeanne Pritchard
Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804-0807

Re: Filing Late Contribution or Late
Independent Expenditure Notices

Dear Jeanne:

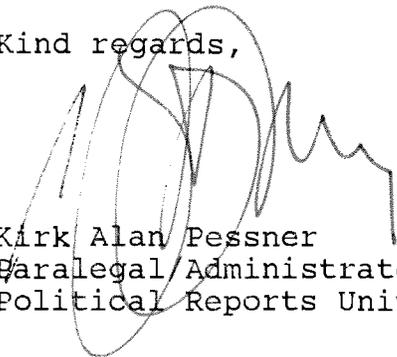
Over the years, we have been asked to review campaign contribution and independent expenditure activity of various clients to determine if the activity undertaken and the reports filed comply with the provisions of the Political Reform Act of 1974, as amended.

On a number of occasions, we have discovered that a client failed to make a "late contribution" or a "late independent expenditure" notice in a timely manner. The client usually has filed the post-election campaign statement disclosing the contribution or independent expenditure.

If such an omission is discovered after the filing of the post-election statement with the proper disclosure, is the filer obligated to prepare a late contribution or a late independent expenditure notice?

I would appreciate your response to this inquiry.

Kind regards,



Kirk Alan Pessner
Paralegal Administrator
Political Reports Unit

KAP:ryb