



# California Fair Political Practices Commission

December 23, 1987

Michael B. Rutberg  
Superior Court Judge  
Superior Court of Los Angeles County  
P.O. Box 4118  
West Covina, CA 91791

RE: Your Request for Information  
Our File No. A-87-292

Dear Judge Rutberg:

You have requested information regarding the campaign provisions of the Political Reform Act of 1974.<sup>1/</sup>

### QUESTION

Do you have a reporting obligation for payment made by California Lincoln Clubs PAC for production and mailing of a slate mailer in which you were endorsed?

### ANSWER

Since there was prior knowledge of and coordination between you and the PAC for your endorsement on a slate mailer, you do have a reporting obligation in the amount of the California Lincoln Clubs PAC contribution for the slate mailer.

If, however, the slate mailer included more than one candidate or measure endorsed and sponsored by the PAC, the reportable amount contributed to your campaign by the PAC is the PAC's total contribution divided by the number of candidates and measures the PAC's contribution helped to endorse. For example, since the PAC contributed \$6,000 to the mailer, if the PAC endorsed five candidates on the slate mailer, your reportable in-kind contribution would be \$1,200.

---

<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.

Rutberg, Michael B.  
Page Two

FACTS

After completing a questionnaire and interview seeking the endorsement of the California Lincoln Clubs PAC, you were told that publication of a mass mailer endorsing your candidacy "was one form of publicity under consideration" by the PAC in their attempt to influence the voters of your district. Shortly before the election, you received a copy of the mass mailer in the mail; this was the first time you had confirmation that the mailer had been sent. In late July, you were contacted by the PAC and told that due to this mailer, you had an obligation to report \$19,695.51 as an in-kind contribution from the PAC on your campaign statements. You reported this contribution on your semi-annual campaign report.

Of the \$69,000 spent for production and sending of the mailer, the PAC contributed \$6,000 for inclusion of your candidacy and that of others in the mailing. At the time of the mailing, you were unaware that the PAC had collaborated with other parties to pay for the mailer.

ANALYSIS

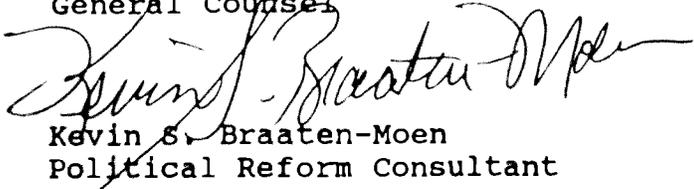
The Act requires that you report all contributions received, including in-kind contributions. (Sections 84211 and 82015.) An in-kind contribution is an expenditure "made at the behest of a candidate," defined as a payment made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate. (Regulation 18215 (b).) Since the California Lincoln Clubs PAC payment for the mailer was made in consultation with you, the PAC payment is considered an in-kind contribution which must be reported on your campaign statement.

The fact that you were unaware of any other group's contributions to the mailer means that contributions made by them for the production and sending of the mailer were independent expenditures, and, therefore, not reportable on your campaign statement. (Section 82031.)

If you have additional questions, you may call me at (916) 322-5662.

Sincerely,

Diane Griffiths  
General Counsel

  
By: Kevin S. Braaten-Moen  
Political Reform Consultant

cc: Franchise Tax Board

87-292

**CITIZENS TO ELECT  
JUDGE MICHAEL B. RUTBERG  
TO THE SUPERIOR COURT OF LOS ANGELES COUNTY**

---

P.O. BOX 4118 • WEST COVINA, CA 91791 • (818) 969-7711 • I.D. # 860278



November 6, 1987

Mr. Kevin Braaten-Moen, Consultant  
Fair Political Practice Commission  
428 J Street  
Sacramento, CA 95814

Dear Mr. Braaten-Moen:

The above referenced committee is under audit by the Franchise Tax Board. A question has arisen concerning an expenditure made by the California Lincoln Clubs PAC shortly before the June 1986 primary election. I am a contributing member of this organization but not active in its committees. The auditor, Mr. Otis Hopkins, indicated that this expenditure included some reporting requirements on the part of my committee. I strongly feel that this expenditure was made independently and that my committee had no reporting requirements under the Political Reform Act.

I hereby request your advice in this matter. The chronology of my involvement is as follows:

I was contacted by the Lincoln Clubs PAC and asked to submit a questionnaire. The questionnaire was reviewed by a committee of the Lincoln Clubs PAC. One possible outcome of the process was an endorsement by the California Lincoln Clubs PAC. Endorsed candidates were publicized by the PAC in its discretion and as funds allowed.

When I submitted my questionnaire and talked with the PAC's representative about the endorsement process, a mass mailing was one form of publicity under consideration. At that time, financing had not been arranged for such a mailing and the decision to produce the mailing had not been made. Shortly before the election I received in the mail a copy of an endorsement mailing which included my name. In late July I received a letter from California Lincoln Clubs PAC official, Tim Carey, indicating that I should report \$19,695.51 in-kind contributions because of this mailing. I promptly reported as requested.

I have discovered that this procedure was in error. According to California Lincoln Clubs PAC executive director, Jackie Clair, the initiative campaigns contributed \$63,000 of the \$69,000 total cost of this mailing. The Lincoln Clubs PAC contributed the other \$6,000. It is my understanding that the entire \$69,000 cost was allocated by the Lincoln Clubs PAC for reporting purposes among the Judicial Candidates they endorsed.

I believe the correct characterization of this incident is that the initiative campaigns bought in to the mass mailing. The \$6,000 contributed by the Lincoln Clubs PAC was an independent expenditure that did not trigger a report requirement on the part of the endorsed judge's committee.

Thank you for your attention. I look forward to hearing from you soon.

Very truly yours,



Michael B. Rutberg  
Judge

MBR:efa



# California Fair Political Practices Commission

November 18, 1987

Honorable Michael B. Rutberg  
Judge  
Citizens to Elect Judge Michael B. Rutberg  
P.O. Box 4118  
West Covina, CA 91791

Re: 87-292

Dear Judge Rutberg:

Your letter requesting advice under the Political Reform Act was received on November 16, 1987 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 if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

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,

*Jeanne Pritchard* by *jet*

Jeanne Pritchard  
Chief  
Technical Assistance and Analysis  
Division

JP:plh