



California Fair Political Practices Commission

March 3, 1988

Jonathan Rothman
Assistant Attorney and Staff
Counsel, FCPC
Legal Department
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

Re: Your Request for Advice
Our File No. I-87-323

Dear Mr. Rothman:

You have requested advice under the campaign disclosure provisions of the Political Reform Act.^{1/} Because you are inquiring about the filing obligations of a political action committee which has not authorized you to do so, your request for advice is considered to be informal assistance.^{2/}

QUESTION

What are the filing requirements of a city general purpose recipient committee?

CONCLUSION

City general purpose committees file the original and one copy of their campaign statements with the city clerk.

ANALYSIS

Section 82027.5(d) defines a city general purpose committee as a "committee to support or oppose candidates or measures voted on in only one city."

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/}Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 84113; Regulation 18329(c)(3); copy enclosed.)

Section 84215(e) states in part that "...city general purpose committees shall file the original and one copy with the clerk of the city..."

General purpose committees are required to disclose on their Statement of Organization, Form 410, the committee's principal activity if not supporting or opposing specific candidates or measures and the committee must indicate if its level of activity will be city, county or state. (See Section VI of the "Statement of Organization" (Form 410), copy enclosed.) If a general purpose committee indicates on its Statement of Organization that the intent of the committee is to make contributions to various statewide candidates and state measures, in addition to its intent to make contributions on behalf of local candidates and local measures, the general purpose committee will fall within the category of a "state general purpose committee" and be required to file its campaign statements at the state level.

Section 82027.5(b) defines a state general purpose committee as "a committee to support or oppose candidates or measures voted on in a state election, or in more than one county."

~~However, a committee active primarily within a single city or a single county, which makes occasional contributions to state candidates or state measures, would not meet the definition of a state general purpose committee. (Whitaker Advice letter, No. A-87-115.) However, if the committee begins to regularly make contributions to candidates for state office, or becomes involved to any significant degree in state elections, it should begin filing as a state general purpose committee. (Ibid.)~~

If there is any question as to the filing obligations of a local general purpose committee, that committee should contact the Technical Assistance and Analysis Division.

I hope the above answers your questions. Should you need additional assistance concerning this matter, please contact me at 916/322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

Mary Ann Kvasager KMT

By: Mary Ann Kvasager
Political Reform Consultant

Enclosures



Legal Department
Martin Luther King, Jr.
Civic Center Building
2180 Milvia Street
Berkeley, California 94704

89-323

City of Berkeley

DEC 24 6 06 PM '87



December 21, 1987

(415) 644-6380
TTY (415) 644-6915

Ms. Mary Anne Ksager
Technical Assistance and Analysis Division
Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, California 95804

Dear Mary Anne:

I am enclosing a copy of an October letter received in my office which is the subject of this correspondence and request for assistance and/or an opinion with respect to the issue it raises. ~~Please feel free to forward this inquiry as appropriate.~~

The query concerns an interpretation of the Political Reform Act provided to the Los Angeles County Registrar-Recorder by the Secretary of State. A local Berkeley political committee formed primarily for the purpose of local candidate/measure activity in Berkeley elections was informed by Registrar-Recorder that it was a state general purpose committee, pursuant to Government Code Section 82027.5(b), and thus had various statewide campaign disclosure statement filing obligations. It appears that this determination of status was attributed to the committee's notation of various statewide candidates and measures as part of its "Allocation of Contributions and Expenditures" included in its campaign disclosure filing; the Secretary of State and the Registrar-Recorder have apparently construed such identification as meeting the requisites of Section 82027.5(b), that the committee was making contributions or expenditures to support or oppose state candidates and/or measures, etc.

Unfortunately, this interpretation appears contrary to Government Code Section 84215(e), the section which in effect defines local political committees and identifies their respective campaign disclosure filing obligations. It references committees "formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city..." Specific reference is made to committees which are primarily formed for local election purposes; by definition, this recognizes and invites the possibility of such committees involving themselves in candidate and measure elections in addition to those within the city. On the assumption that such beyond-the-city activity was not the primary purpose of the committee, it would appear that the local political committee involved in this issue, as well as numerous others active in Berkeley political campaigns, would be considered city, rather than state, campaigns, with corresponding local, and not statewide, disclosure filing obligations.

This resolution of this issue is particularly important to the City of Berkeley and the city's Fair Campaign Practices Commission. Local candidates, their committees, and proponents and opponents of local ballot measures satisfy their filing obligations under the Political Reform Act by adherence to the Berkeley Election Reform Act and filing with the City Clerk. It is uncertain whether a committee primarily organized for and active in Berkeley elections but otherwise (now) determined to be a state general purpose committee under Section 82027.5(b) would maintain a local, as opposed to statewide, campaign disclosure filing obligation. Local ordinance viability, recognized in Section 81009.5(b), would seem to be compromised.

More importantly, the campaign disclosure ordinance in Berkeley, and -- for that matter -- any other locality, cannot comport with the requirements of Section 81009.5(b) if the interpretation of the Registrar-Recorder is a correct one. Because of the "quick trigger" approach to the phrase "formed or existing primarily to support or oppose," it is difficult, if not impossible, to envision how a local ordinance can apply only to, among other things, "committees formed or existing primarily to support or oppose a candidate or local ballot measure which is being voted on only in that jurisdiction, and to a city ... general purpose committee active only in that city..." Listing ~~state or county-wide candidates and measures supported by a local political committee~~ certainly provides the voters with useful information, but it is a hollow accomplishment when local disclosure is abruptly and inappropriately removed from local voter perusal.

We view the Registrar-Recorder's interpretation of Section 82027.5(b) as applied to this situation to be incorrect and in conflict with Sections 81009.5(b) and 84215(e). We are thus requesting an opinion pursuant to Government Code Section 83114(b) from the Fair Political Practices Commission to resolve the conflict, thereby assisting the Fair Campaign Practices Commission in performing its duties and providing guidance and direction to the treasurers of various local political committees in Berkeley. Should you and the Commission determine some other resolution would be more appropriate, an alternative clarification would be acceptable.

I thank you in advance for your assistance. Happy holidays!

Yours,



JONATHAN ROTHMAN

Assistant Attorney and Staff Counsel, FCPC

JR:ca



City of Berkeley



Legal Department
Martin Luther King, Jr.
Civic Center Building
2180 Milvia Street
Berkeley, California 94704
October 6, 1987

(415) 644-6380
TTY (415) 644-6915

Ms. Priscilla Smith
Los Angeles County Registrar Recorder
5557 Ferguson Drive
P.O. Box 30450
Los Angeles, California 90030

Re: Filing Obligations of BCA Campaign '86 I.D.#860691
and Similar Organizations

Ms. Smith:

It has come to my attention that the above committee received notice from your office that it is required to file a campaign disclosure statement with you and is subject to a late-filing penalty for not having done so. The purpose of this letter is to inquire into the basis for such a determination, as it has always been our understanding and practice that this political committee and others like it formed locally and primarily active in local political campaigns, are and have been required to timely and accurately file all appropriate campaign disclosure statements with the City Clerk, the local filing officer.

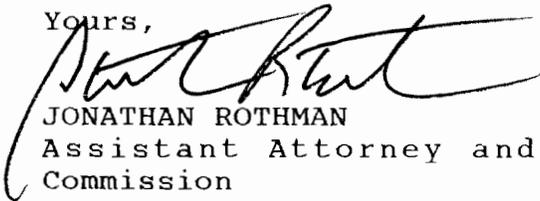
You appear to be suggesting that the committee is obligated for filing purposes under Government Code Section 84215(a), and not, as the City has understood for such committees, under Section 84215(e). Since Section 84215(f) limits to one original and one copy the disclosure statements required to be filed by a committee with respect to a local filing officer, we understood this committee's filing obligation satisfied when it timely filed with the City Clerk on or before July 31, 1987.

If this committee and others similar to it are now being held to have incurred a different set of filing obligations, I would appreciate receiving a clarifying opinion which both explains the policy and the reason why the policy is now being enforced after many elections in which the identical filing obligations had been satisfied with local filing. If the basis for your inquiry to the above-named committee concerns the criteria for determining whether a committee is a local or a state committee for purposes of filing obligations, I would appreciate receiving from you some indication of the manner in which such a determination is made.

Ms. Priscilla Smith
October 6, 1987
Page 2.

Thank you for your attention to and assistance in this matter.
It is the intention of this office to assist and cooperate in the
enforcement of all campaign disclosure filing requirements.

Yours,

A handwritten signature in black ink, appearing to read "Jonathan Rothman", written in a cursive style.

JONATHAN ROTHMAN
Assistant Attorney and Counsel, Fair Campaign Practices
Commission

JR:ca



REGISTRAR-RECORDER COUNTY OF LOS ANGELES

5557 FERGUSON DRIVE — P.O. BOX 30450, LOS ANGELES, CALIFORNIA 90030

CHARLES WEISSBURD
REGISTRAR-RECORDER

October 14, 1987

RECEIVED
OCT 19 1987
CITY ATTORNEY

Jonathan Rothman, Assistant Attorney and Counsel
Fair Campaign Practices Commission
Legal Department
Martin Luther King Jr.
Civic Center Building
2180 Milvia Street
Berkeley, California 94704

Dear Mr. Rothman:

In re: Campaign statement
Berkeley Citizens Action Campaign 86
I.D. No. 860691
Covering period: 1/1/87 thru 6/30/87

This is in response to your letter of October 6, in which you requested clarification for the classification of the Berkeley Citizens Action Campaign 86 Committee and its filing obligations.

For your information, the Secretary of State's Office was consulted and advised this office that the Berkeley Citizens Action Campaign 86 Committee is a state general purpose committee pursuant to Government Code Section 82027.5 (b).

The Political Reform Act defines a state general purpose committee as one which makes contributions or expenditures to support or oppose state candidates and/or measures, or candidates or measures being voted upon in more than one county.

State law requires state general purpose committees to file an original and one copy of the campaign statement with the Secretary of State and to also file copies with the City and County of San Francisco, the Registrar-Recorder of Los Angeles County and the committee's county of domicile. The failure to file in any of these locations in a timely manner is cause for a penalty assessment.

The committee is also required to file semi-annual campaign statements in January and July of each year until the committee terminates and notifies the Secretary of State and local filing officers by filing a statement of termination (Form 415).

Enclosed are copies of the Statement of Organization and amendments thereto, filed by the Berkeley Citizens Action Campaign 86 Committee and on file with the Secretary of State's Office.

The Political Reform Act provides that if any of the information on the statement of organization changes, the committee must file an amendment to the statement within ten days of the change.

The Political Reform Act does not permit penalties to be waived if the copy of a campaign statement is not filed within ten days after written notification of the filing obligation is sent. For your information, on August 10, a written notice was sent to Lawrence Gordon, Treasurer, stating that the required statement had not been received and that a penalty would be assessed if the statement was not filed within ten days. The appropriate forms were enclosed.

Because the Berkeley Citizens Action Campaign 86 Committee filed the required semi-annual statement after the legal deadline (September 23 - 54 days after the deadline and 35 days after the ten-day grace period) the penalty assessed to the committee was the appropriate action taken pursuant to Government Code Section 91013 (b).

On October 27, the matter of non-payment is due to be referred to the Department of Treasurer and Tax Collector, Collections Division for appropriate action.

Please call me at (213) 725-5776, if you have any questions.

Very truly yours,

CHARLES WEISSBURD
Registrar-Recorder



STELLA MATTHEWS, Head
Campaign Reporting Section



California Fair Political Practices Commission

December 24, 1987

Jonathan Rothman
Civic Center Bldg.
2180 Milvia Street
Berkeley, CA 94704

Re: 87-323

Dear Mr. Rothman:

Your letter requesting advice under the Political Reform Act was received on December 24, 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,

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

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:jaj