



California Fair Political Practices Commission

June 17, 1988

Charles H. Bell, Jr.
Nielsen, Merksamer, Hodgson,
Parrinello & Mueller
770 L St., Ste. 800
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-88-166

Dear Mr. Bell:

You have requested advice on behalf of your clients, the California Medical Association Political Action Committee ("CAL-PAC") and the members of the California Association of Professional Liability Insurers ("CAPLI"), concerning the lobbying and campaign disclosure provisions of the Political Reform Act.^{1/} Although it was not stated in your letter, you confirmed by telephone on June 2, 1988, that you are CAPLI's authorized representative.

QUESTIONS

You have asked what reporting consequences will result if the members of CAPLI make contributions to CAL-PAC which will be placed in a separate CAPLI account, and specifically whether the CAPLI members will be required to disclose CAL-PAC's contributions on their individual lobbyist employer reports (Form 635).

CONCLUSIONS

If the members of CAPLI make contributions aggregating \$1,000 or more during a calendar year to a separate CAPLI account, CAPLI will qualify as a "recipient committee" and must file campaign disclosure reports. If the members' contributions are made through CAL-PAC, the CAPLI committee must report CAL-PAC as an intermediary on its disclosure reports. If CAL-PAC and the CAPLI

^{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.

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committee act jointly in the making of contributions or expenditures, each must disclose that fact on its statement of organization (Form 410). The members of CAPLI must disclose CAL-PAC's and the CAPLI committee's contributions on their individual lobbyist employer reports if they "sponsor" the committees.

FACTS

Certain liability insurance companies, which are individual lobbyist employers, have formed a separate organization called the California Association of Professional Liability Insurers ("CAPLI"). The members of CAPLI plan to make contributions to the California Medical Association Political Action Committee ("CAL-PAC") which will be placed in a separate CAPLI account. Although your letter indicates that CAL-PAC's executive committee will have final approval authority with regard to contributions made from the CAPLI account, you stated during our telephone conversation of May 11, 1988, that the CAPLI funds are to be used at the discretion of Gordon Cologne, who is the registered lobbyist for each of the members of CAPLI as well as for the California Medical Association, for the purpose of attending campaign fundraisers. You also stated that CAPLI will be identified on the checks drawn from the CAPLI account.

ANALYSIS

The Act provides as one of its purposes that:

Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

Section 81002(a).

To accomplish this purpose, the Act requires recipient committees to file the campaign disclosure statements prescribed in Section 84100, et seq. A recipient "committee" is defined in Section 82013 as a person or combination of persons which directly or indirectly receives contributions totaling \$1,000 or more in a calendar year.

When members of an organization make contributions totaling \$1,000 or more in a calendar year to a separate account for the purpose of making contributions to or expenditures on behalf of candidates or committees, and the contributions or expenditures are made under the name of the organization, the organization will qualify as a recipient "committee" under Section 82013. The fact

that contributions are made to the account through another recipient committee and the fact that the organization has designated the other committee as having final approval authority over expenditures made from the account do not alter this conclusion. However, the committee through which the member contributions pass is acting as an intermediary for the members and this fact must be disclosed as provided in Section 84302.

Your letter, which assumes that CAPLI will not qualify as a separate recipient committee, states that CAL-PAC will amend its statement of organization (Form 410) to list CAPLI or its members as acting jointly with CAL-PAC in the making of expenditures. Section 84102(e) requires a recipient committee to provide on its Form 410 the name of each candidate or committee with which it acts jointly. If a committee acts jointly with individuals or entities which are not candidates or committees, it would be incorrect to list them as acting jointly on the Form 410. In this case, it also will not satisfy the requirement that CAPLI must register and file reports as a recipient committee. If CAL-PAC and the CAPLI committee act jointly, each must state that fact on its statement of organization. (Section 84102(e).)

Finally, a lobbyist employer is required to disclose on its quarterly reports (Form 635) contributions totaling \$100 or more which it makes, or which are made by a committee the lobbyist employer "sponsors," to elected state officers, candidates for elective state office, their controlled committees and committees which are primarily formed to support such officeholders or candidates. (Section 86116.) A person, other than a candidate, proponent or other individual, sponsors a committee if:

(1) The committee receives all or nearly all of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

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Therefore, if the members of CAPLI are sponsors of CAL-PAC or the CAPLI committee, they must disclose contributions made by the committees when required by Section 86116.

I hope the foregoing adequately responds to your questions. Please call me at (916) 322-5662 if you need additional assistance.

Sincerely,

Diane M. Griffiths
General Counsel

Carla Wardlow

By Carla Wardlow
Political Reform Consultant

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TELEPHONE (916) 446-0752

MAY 3 4 02 PM '88
FILE NUMBER
6205.02

May 2, 1988

HAND DELIVERED

Ms. Diane Griffiths
General Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Dear Diane:

The undersigned represents California Medical Association ("CMA") and its sponsored state recipient committee California Medical Political Action Committee ("CAL-PAC").

Certain doctor-owned liability insurance companies have formed a separate organization, the California Association of Professional Liability Insurers ("CAPLI"). These companies individually registered as lobbyist employers under Chapter 6 of the Political Reform Act.

As it is now envisioned, the members of CAPLI would make contributions to CAL-PAC which would be placed in a special CAL-PAC account designated "CAPLI Account". CAL-PAC's Executive Committee would have final approval authority with respect to contributions to legislative candidates and officeholders using the CAPLI member's contributions. CAPLI members would have no actual control over CAL-PAC's contribution decisions.

This letter requests your advice as to the reporting consequences of this proposed relationship, specifically:

- (1) Would CAPLI or the individual companies be required to list any CAL-PAC contributions on Part IV of their Form 635s?
- (2) Will there be any other foreseeable reporting consequences of this relationship?

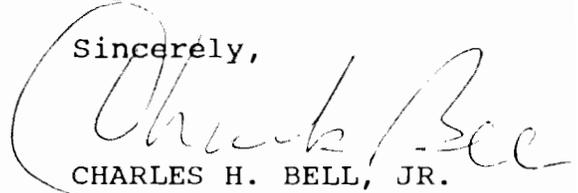
For purposes of your response to question number 2, we assume that CAL-PAC will identify CAPLI, or its members, as acting jointly on Part III of the CAL-PAC Form 410, Statement of Organization, and on the cover page of each Form 420 recipient committee campaign statement. The CAPLI members' registered lobbyist, Gordon Cologne, is separately registered to lobby for

Ms. Diane Griffiths
May 2, 1988
Page 2

CMA. We do not believe either CAPLI or the CAPLI members would be required to be listed as the true source of CAL-PAC contributions, or that CAL-PAC be listed as "intermediary", in view of the fact that CAL-PAC's Executive Committee would have decision-making authority over the CAPLI member's contributions.

Thank you very much for your response.

Sincerely,

A handwritten signature in cursive script that reads "Charles H. Bell, Jr." is written over a circular stamp. The signature is written in dark ink and is positioned to the right of the typed name below it.

CHARLES H. BELL, JR.

CHB:ss



California Fair Political Practices Commission

May 4, 1988

Charles H. Bell, Jr.
Nielsen, Merksamer, Hodgson,
Parrinello & Mueller
770 L Street, Suite 800
Sacramento, CA 95814

Re: 88-166

Dear Mr. Bell:

Your letter requesting advice under the Political Reform Act was received on May 3, 1988 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. Code of Regs. 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
Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh

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F P F O
MAY 3 4 03 PM '88
FILE NUMBER
6205.02

May 2, 1988

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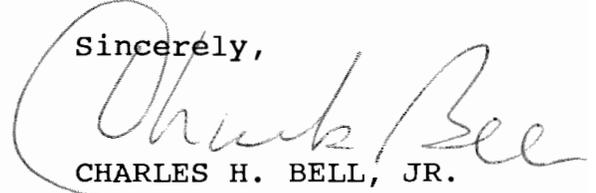
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